

**UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT**

Twin Falls District  
Burley Field Office  
15 East, 200 South  
Burley, ID 83318  
Phone: (208) 677-6600

**DECISION RECORD**  
for the  
**Middle Mountain Plans of Operations**

**NEPA No. DOI-BLM-ID-T020-2012-0015-EA**

**I. Decision**

I have decided to select the Proposed Action with the attached stipulations for implementation as described in the Middle Mountain Plans of Operations (POOs) Environmental Assessment (EA). The EA is available at this web address, <https://www.blm.gov/epl-front-office/eplanning/projectSummary.do?methodName=renderDefaultProjectSummary&projectId=30460>. Based on my review of the EA and project record, I have concluded that the proposed action was analyzed in sufficient detail to allow me to make an informed decision. I have selected this alternative because the Proposed Action will meet the applicant's needs, and will provide for the current and future demand for Oakley Stone.

**Terms / Conditions / Stipulations:**

Gillette Sharp Corporation

1. Quarry activities that would involve disturbance to the flora at the Project Area would be limited to the time-frame annually between July 15 and February 28 as a mitigation measure to prevent impacts to BLM sensitive birds and other migratory birds that may nest and/or forage within the Project Area.
2. In the unlikely event that human remains or any previously unidentified cultural, historical, or archaeological resource or vertebrate paleontological resources are discovered during quarrying activities, Gillette would immediately cease all activities within 200 feet of the discovery, ensure that the discovery is properly protected, and immediately notify the BLM by telephone. Work would not resume until the discovery is evaluated by the BLM and the BLM issues notification that quarrying operations can proceed.
3. Land disturbance associated with the Proposed Action could be conducive to infestation of non-native invasive noxious weeds. Noxious weeds would be treated a minimum of once per year or as often as necessary to control them. For

Scotch Thistle, herbicides should be applied in the summer months between the rosette and pre-bud stages. Other noxious weeds, if found would also be treated with herbicides, or as otherwise approved by the BLM.

4. Solid waste and wastewater would be generated at the Project Area as a result of the fact that workers would live at the Project Area in mobile homes. Solid wastes should be collected and taken to the Oakley waste transfer station or disposed of in a manner consistent with the POO.
5. Gillette agrees to reclaim the Project Area in accordance with the Reclamation Plan found within the Mining and Reclamation Plan.
6. All disturbed areas would be re-seeded with a BLM approved seed mix during final reclamation. Reclamation would not be deemed complete until seeding is deemed successful by the authorized officer. Additional seeding would be required if initial seedings are unsuccessful.

#### Oakley Mountain Corporation

1. Quarry activities that would involve disturbance to the flora at the Project Area would be limited to the time-frame annually between July 15 and February 28 as a mitigation measure to prevent impacts to BLM sensitive birds and other migratory birds that may nest and/or forage within the Project Area.
2. Blasting would be limited to the time frame between July 1 and March 15 as a mitigation measure to prevent impacts to lekking, and nesting sage-grouse.
3. In the unlikely event that human remains or any previously unidentified cultural, historical, or archaeological resource or vertebrate paleontological resources are discovered during quarrying activities, Oakley Mountain would immediately cease all activities within 200 feet of the discovery, insure that the discovery is properly protected, and immediately notify the BLM by telephone. Work would not resume until the discovery is evaluated by the BLM and the BLM issues notification that quarrying operations can proceed.
4. Land disturbance associated with the Proposed Action would create disturbance areas that could be conducive to infestation of non-native invasive noxious weeds. Noxious weeds would be treated a minimum of once per year or as often as necessary to control them. For Scotch Thistle, herbicides should be applied in the summer months between the rosette and pre-bud stages. Other noxious weeds, if found would also be treated with herbicides, or as otherwise approved by the BLM.
5. Solid waste and wastewater would be generated at the Project Area as a result of the fact that workers would live at the Project Area in mobile homes. Solid wastes should be collected and taken to the Oakley waste transfer station or disposed of in a manner consistent with the POO.
6. Oakley Mountain agrees to reclaim the Project Area in accordance with the Reclamation Plan found within the Mining and Reclamation Plan.
7. All disturbed areas would be re-seeded with a BLM approved seed mix during final reclamation. Reclamation would not be deemed complete until seeding is deemed successful by the authorized officer. Additional seeding would be required if initial seedings are unsuccessful.

## **Compliance and Monitoring**

The sites will be monitored in accordance with BLM Policy including the 3809 Handbook and the regulations at 43CFR3809.600. The handbook specifies that POO level operations be inspected at a minimum of twice annually.

## **Plan Conformance and Consistency**

My decision is in conformance with the Cassia Resource Management Plan (RMP, 1985) as the public lands listed in the POOs are available for exploration and development, subject to applicable regulations and Federal and State law for exploration and development. My decision will also provide for the orderly development of the Oakley Stone Resources on Middle Mountain as stated in the Cassia in RMP Management Area 4-Middle Mountain Area. My decision also complies with the 1872 Mining Law [30 USC 22 *et seq.*], the Federal Land Policy and Management Act (FLPMA) of 1976 (Public Law 94-579), the National Environmental Policy Act of 1969 (NEPA), and the Idaho Instruction Memorandum (IM) 2012-43, Greater-Sage Grouse Interim Management Policies and Procedures.

## **II. Finding of No Significant Impact**

I have reviewed the direct, indirect, and cumulative effects of the proposed activities documented in the EA for the Middle Mountain Plans of Operations, DOI-BLM-ID-T020-2012-0015-EA. I have also reviewed the Finding of No Significant Impact (FONSI) and the project record for this analysis. I have determined that authorizing Gillette Sharp Corporation to operate one quarry for Oakley Stone and Oakley Mountain Corporation to operate one quarry and one millsite as described in the EA will not significantly affect the quality of the human environment. Accordingly, I have determined that the preparation of an Environmental Impact Statement is not necessary.

## **III. Other Alternatives Considered**

A No Action alternative was considered in the EA and is described on page 12 of the EA. The No Action Alternative included rejecting the POO's and requiring that all existing disturbance be reclaimed. This alternative was not selected because it does not meet the purpose and need, as well as it would not be consistent with the Mining Law of 1872 and the regulations at 43 CFR 3809. The claimants have valid existing rights to the mineral resources existing on the claims and the POO's with the attached stipulations would not result in unnecessary or undue degradation of the BLM lands involved.

Alternative C was also considered and is described on page 12 of the EA. The EA analyzed Alternative C and the effects were essentially similar to those of the Proposed Action.

## **IV. Public Involvement**

This project has been listed on the NEPA Register since May 2, 2012. On July 3, 2012

scoping packages were mailed to 6 interested organizations and 15 interested members of the public. The scoping package solicited comments for a 30 day period. BLM received comments from two organizations during this period. These comments were helpful in developing issues and alternatives and are addressed in the EA on pages three and four.

A draft EA was posted through BLM's E-Planning Website on November 21, 2012. Letters were mailed out to 18 individuals, 1 Government Agency, and 2 Non-Governmental Organizations soliciting comments regarding the project and the draft EA for a 30 day period. No comments were received.

## **V. Appeals**

This decision may be appealed to the Interior Board of Land Appeals (IBLA), Office of the Secretary, in accordance with the regulations contained in 43 CFR Part 4. Any appeal must be filed within 30 days of this decision. Any notice of appeal must be filed with Michael C. Courtney, Burley Field Manager, 15 East, 200 South, Burley, ID 83318. The appellant shall serve a copy of the notice of appeal and any statement of reasons, written arguments, or briefs on each adverse party named in the decision, not later than 15 days after filing such document (see 43 CFR 4.413(a)). Failure to serve within the time required will subject the appeal to summary dismissal (see 43 CFR 4.413(b)). If a statement of reasons for the appeal is not included with the notice, it must be filed with the IBLA, Office of Hearings and Appeals, U. S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, VA 22203 within 30 days after the notice of appeal is filed with Michael C. Courtney, Burley Field Manager.

Notwithstanding the provisions of 43 CFR 4.21(a)(1), filing a notice of appeal under 43 CFR Part 4 does not automatically suspend the effect of the decision. If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal.

A petition for a stay is required to show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of immediate and irreparable harm if the stay is not granted; and
- (4) Whether the public interest favors granting the stay.

In the event a request for stay or an appeal is filed, the person/party requesting the stay or filing the appeal must serve a copy of the appeal on the Office of the Field Solicitor, 960 Broadway Ave., Suite 400, Boise, ID 83706.

/s/Jim Tharp for  
Michael C. Courtney  
Burley Field Manager

1/23/2013  
Date

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