

Decision Record- Memorandum— Brandon Niles Suction Dredge Plan Of operations (Marion Creek)

DOI-BLM-AK-F-030-2013-0005-EA

Case File AKFF 096535 (380910) and AKFF 096552 (3715)

Selected Action

The Bureau of Land Management prepared an Environmental Assessment (DOI-BLM-AK-F-030-2013-0005-EA) which analyzed the effects of a Plan of Operations for suction dredge mining and use and occupancy, operated by Brandon Niles, in the Koyukuk Mining District within the Central Yukon Field Office. The EA considered the Action and no action Alternatives

The Selected Action includes suction dredge operations on five federal mining claims along Marion Creek, near Wiseman, Alaska. The claims associated with the proposed plan of operations are located approximately three miles upstream from the Dalton Highway on Marion Creek. The analysis conducted on these five claims included access, suction dredge mining, exploration, and reclamation. Additionally, analysis was performed on the limited use of mechanical equipment in stream for the movement and stabilization of large boulders and logs for safety purposes only. Along with the mining plan of operations, a Use and Occupancy application has been submitted that includes lodging facilities, an outhouse, fuel storage, and solid waste collection point along the mining access road.

Table 1. Brandon Niles Mining Claim List

Claim Name	Claim Number	Type of Mining Disturbance Planned
Sunset Association #6	AKFF 092874	Mining with 8" Suction Dredge
Sunset A-8	AKFF 094648	Bulk Sampling with 8" Suction Dredge
Sunset A-5	AKFF 092826	Bulk Sampling with 8" Suction Dredge
Sunset A-4	AKFF 092825	Bulk Sampling with 8" Suction Dredge
Sunset A-3	AKFF 092824	Bulk Sampling with 8" Suction Dredge

Compliance

The proposed operation is compliant with §43 CFR 3809 Surface Management and §43 CFR 3715 Use and Occupancy regulations. The Proposed Action is consistent with the Utility Corridor Resource Management Plan and Final environmental Impact Statement for mineral development on Public Lands. There are no endangered species in the approved mine area as identified by the Endangered Species Act. Design features and mitigation measures have been outlined in the EA to protect historic and cultural resources, fisheries, and wildlife resources that may exist in the area of the Proposed Action. The Proposed Action is a suction dredge operation that will operate consistent with state and federal regulations. All required permits for water use and operations near waters of the United States have been approved for this operation by the Alaska Department of Fish and game, the Army Corps of Engineers, and the State of Alaska Department of Environmental Conservation.

ANILCA Section 810 Compliance:

The proposed action will not significantly restrict federal subsistence uses, decrease the abundance of federal subsistence resources, alter the distribution of federal subsistence resources, or limit qualified federal subsistence user access.

Compliance and Monitoring Plan:

Compliance and monitoring shall be in conformance with §43 CFR 3809.600 Surface Management and §43 CFR 3715.7 Use and Occupancy compliance and enforcement requirements.

Conditions of Approval

1. Mining is only allowed within the active channel. Mining within the active stream channel that results in undercutting, littoral channeling, or that otherwise results in erosion of a streambank is prohibited.

This COA would reduce erosion, sedimentation, turbidity, the unnecessary disturbance of riparian vegetation, thereby preventing UUD on public lands.

2. Motorized winches or other motorized equipment shall not be used to move boulders, logs, or other natural obstructions within the active channel, unless the obstructions present a safety hazard. If an obstruction is determined to be a safety hazard, mechanized equipment can be used to move or stabilize the obstruction, with stabilization of the obstruction preferable to moving the obstruction. If moved, the obstructions are to remain as close to their original location and elevation as possible and be returned to the original location and elevation prior to making a new mine cut.

This COA prevents UUD by minimizing or avoiding practices that would result in erosion, exceeding state water quality standards for turbidity, and that would facilitate the reclamation of the stream channel to the standards outlined in 43 CFR 3809.420.

3. Tailings and cobbles that are moved by hand must not be stacked in a manner that significantly alters the streamflow or results in accelerated streambank erosion.

This COA prevents UUD by minimizing or avoiding practices that would result in erosion, exceeding state water quality standards for turbidity, and that would facilitate the reclamation of the stream channel to the standards outlined in 43 CFR 3809.420.

4. Mining through concentrated silt and clay should be avoided. The permittee shall use reasonable care to avoid mining through silt and clay materials that would result in a significant increase in turbidity. Reasonable care includes moving the suction dredge to a new location, or reducing the volume of effluent discharged by limiting the operating speed of the suction dredge.

This COA prevents UUD by minimizing or avoiding practices that would result in erosion and exceeding state water quality standards for turbidity.

5. Equipment used for mining must not release petroleum products. Equipment surfaces must be free of oil and grease, and must be checked for fuel and oil leaks prior to the start of operation on a daily basis. In addition, a readily biodegradable hydraulic fluid must be used in the hydraulic systems of all heavy equipment used in the stream.

This COA prevents UUD by addressing the control and containment of petroleum based products and preventing the violation of water quality standards in Marion Creek pertaining to petroleum spills.

6. Refueling of the suction dredge and portable winch shall consist of exchanging empty portable marine tanks fitted with quick connect fittings with pre-filled tanks (as pictured in the 2013 Plan of Operations). Absorbent towels designed specifically to be hydrophobic and to absorb hydrocarbons such as oil and gasoline shall be used during tank connect and disconnect operations. Transfer of fuel from bulk storage tanks into the portable marine tanks shall occur on land at the fuel storage facility.

This COA prevents UUD by addressing the control and containment of petroleum based products and preventing the violation of water quality standards in Marion Creek pertaining to petroleum spills.

7. Within Mine Area #1 and #2 (depicted in 2013 Plan of Operations), a survey depicting the longitudinal profile of the stream along its thalweg and in cross sectional view at topographic breaks (riffle, pool, run) or a maximum intervals of 60 feet along the thalweg shall be conducted prior to mining and following reclamation. The survey will be conducted by personnel technically qualified and experienced with survey using common techniques as described in Appendix A. Longitudinal stations shall be established at a maximum of 30 foot intervals, as proposed, and cross section stations shall be established so as to describe the general cross sectional bed topography of the stream. In addition, the following minimum complement of cross section stations will be included in the survey: top of stream bank (left and right), base of stream bank (left and right), water surface edge (left and right), and thalweg. All survey notes and plots of the longitudinal and cross-sectional profiles shall be provided to BLM prior to mining and following reclamation.

This COA prevents UUD by minimizing or avoiding practices that would result in erosion, exceeding state water quality standards for turbidity, and that would facilitate the reclamation of the stream channel to the standards outlined in 43 CFR 3809.420.

8. Water quality monitoring will be conducted on a daily basis when operating to ensure turbidity and settleable solids meet State water quality standards at the downstream limit of the authorized mixing zone (500 feet from the operation). Records will be provided on request and show date and time of measurements. Turbidity measurements will be reported in nephelometric turbidity units (NTU) and settleable solids will be reported in ml/L. The methods and equipment to be used to monitor water quality shall be presented to and approved by BLM prior to mining.

This COA prevents UUD by minimizing or avoiding practices that would result in erosion and exceeding state water quality standards for turbidity.

9. Repeatable photo points shall be established. Pictures from the photo points shall clearly show the distribution of large in-channel boulders and the streambanks within Mine Areas #1 and #2 (2013 Plan of Operations). Pictures are to be submitted to BLM prior to mining and following reclamation.

This COA prevents UUD by ensuring the reclamation of the stream channel will meet the standards outlined in 43 CFR 3809.420.

10. To minimize the short and long-term erosion and sediment contribution, the number of trails, size of the clearing, and the removal of live vegetation should be minimized. At closure the site should be mechanically de-compacted and planted with vegetation similar to that of surrounding plant cover. Successful achievement of this mitigation measure would be evaluated based on having similar species composition, density, and vigor of the surrounding landscape.

This COA prevents UUD by minimizing or avoiding practices that would result in erosion and exceeding state water quality standards for turbidity.

11. The applicant will be required to sign on to the Marion Creek road maintenance agreement as a full participating member prior to mining. This agreement was previously established between Ralph Hamm and Q4M Productions LLC as a mechanism to ensure that road repair and maintenance issues identified along the Marion Creek mine access road are addressed in a timely manner.

This COA prevents UUD by minimizing or avoiding practices that would result in erosion and exceeding state water quality standards for turbidity.

12. The permittee will report to the BLM any invasive plant species observed within the permitted development area, along access roads and in areas reclaimed within the past 5 years. Current species of concern include white sweetclover, bird vetch, perennial sowthistle, yellow toadflax, foxtail barley, and ox-eye daisy. Tips for identifying these species are provided in informational booklets that are provided to permittees by the BLM. If the permittee can either positively identify or even suspects that one of these species is present in a given area they are required to report this to the BLM by the end of the calendar year. Their report should include a detailed description of the infested area and a photograph of the plant.

This COA is needed to prevent establishment of non-native, invasive plants on BLM-managed lands.

13. Destruction of active bird nests, eggs, or nestlings can result from spring and summer vegetation clearing, grubbing, as well as other site preparation and construction activities. Under the Migratory Bird Treaty Act (MBTA) it is illegal for anyone to “take” migratory birds, their nests, or their eggs. In interior Alaska the recommended time frame for avoiding vegetation clearing, thus minimizing the chances of “take”, is May 1-July 15.

This COA is needed to ensure mining operations are preventing UUD by maintaining compliance with 43 CFR 3809.420(5) *Compliance with other Laws*.

14. Human waste shall be handled in accordance with Alaska Department of Environmental Conservation, Wastewater regulations, pit privy guidelines outlined in 18 AAC 72 at least 100 feet from surface water.

This COA is needed to ensure mining operations are preventing UUD by maintaining compliance with 43 CFR 3809.420(5) *Compliance with other Laws*.

15. Solid waste (garbage, trash) shall be removed off site to an Alaska Department of Environmental Conservation approved disposal facility. Burial of solid waste is not authorized.

This COA is needed to ensure mining operations are preventing UUD by maintaining compliance with 43 CFR 3809.420(5) *Compliance with other Laws*.

16. The Federal government shall not be held responsible for protection of the applicant's structures or their personal property from wildfire.

This COA is needed to ensure mining operations are preventing UUD by maintaining compliance with 43 CFR 3809.420(5) *Compliance with other Laws*.

17. Permittee will be held financially responsible for any actions or activity that results in a wildfire. Costs associated with wildfires include but are not limited to; Damage to natural resources and costs associated with any suppression action taken on the fire.

This COA is needed to ensure mining operations are preventing UUD by maintaining compliance with 43 CFR 3809.420(5) *Compliance with other Laws*.

Public Involvement:

No controversial issues were identified in the EA, however, public review and comment of the EA was available online through the BLM's National NEPA register page throughout the writing and analysis process

http://www.blm.gov/ak/st/en/info/nepa/fdo_nepa_register.html

Rationale:

It is my decision that the Proposed Action, as outlined in the Brandon Niles Plan of Operations and the Environmental Assessment, be implemented. Mining is a nondiscretionary action subject to the federal regulations outlined in 43 CFR 3809. If the operator can meet the various State and Federal requirements, the stipulations, and required operating procedures to this Environmental Assessment, the mining plan must be approved.

Appeal or Protest Opportunities:

If you believe this decision is in error, you may file an appeal with the Interior Board of Land Appeals (Board), Office of the Secretary, within 30 days of your receipt of this decision. In deciding whether to file an appeal, you have the burden of showing this decision is in error.

If you decide to file an appeal, you must carefully follow the procedure described on the enclosed form 1842-1. If you don't file your appeal at the locations specified on the form within 30 days, the Board may dismiss your appeal as untimely without considering its merits. Be sure to send a copy of your notice of appeal to each party named in this decision and to all of the addresses on the enclosed form 1842-1.

How to Obtain a Stay of This Decision While Your Appeal is Pending

You may also ask the Board to stay or suspend the effect of this decision while your appeal is pending. If you desire a stay, you must enclose your request for a stay with your notice of appeal. You have the burden of showing a stay is justified.

The Board will grant a stay only if you provide sufficient justification based on the following standards:

1. The relative harm to the parties if the Board grants or denies the stay,

2. The likelihood of the success of your appeal on its merits,
3. The likelihood of immediate and irreparable harm if the Board doesn't grant the stay, and
4. Whether the public interest favors granting a stay.

43 Code of Federal Regulations Parts 4.21 or 2804.1

Authorizing Official:

S/ Nichelle Jacobson
Nichelle Jacobson
Field Manager Central Yukon Field Office

5/20/2013
Date

Contact Person

For additional information concerning this Finding, contact.

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