CATEGORICAL EXCLUSION DOCUMENTATION

CX No. DOI-BLM-ID-B030-2014-0009-CX

A. BACKGOUND

BLM Office: Owyhee Field Office
Lease/Serial/Case File No.: IDI-34273-01
Proposed Action Title/Type: Gem Highway District Free Use Permit for sand and gravel to be used for road Maintenance.

Location of Proposed Action: Lots 6,7, Section 15, T. 2N., R. 4W., and E2NWNENW, Section 22, T. 2N., R. 4W.

1. **Description of Proposed Action:** Excavate up to 40,000 cubic yards of sand and gravel to be used for road maintenance.

B. LAND USE PLAN CONFORMANCE

This proposed Action is subject to the following land use plan: Owyhee Resource Management Plan

Date Plan Approved: December 30, 1999

The proposed action is in conformance with the LUP, even though it is not specifically provided for, because it is clearly consistent with the following LUP decision(s) (objectives, terms, and conditions): On page 34, under Mineral Materials, Objective MMAT 1, it states: "The Materials Act of July 31, 1947 as amended (30 USC 601) and the Mining and Mineral Policy Act of 1970 declares that it is the continuing policy of the federal government to foster and encourage private enterprise in the development of domestic mineral resources. The FLPMA, Section 102 reiterates that the Mining and Minerals Policy Act of 1970 is to be implemented and directs that the public lands are to be managed in a manner which recognizes the Nation's need for domestic sources of minerals and other resources." Sand and gravel are not specifically mentioned.

C: COMPLIANCE WITH NEPA:

The proposed action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9 F(10)

Category Description: *"Disposal of mineral materials, such as sand, stone, gravel, pumice, pumicite, cinders, and clay, in amounts not exceeding 50,000 cubic yards or disturbing more than 5 acres, except in riparian areas. Category description: Sale of clay mineral material in amount not exceed 50,000 cubic yards or exceed 5 acres of surface disturbance."*

This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances that would introduce potential effects that may significantly affect the

environment. The proposed action has been reviewed, and none of the extraordinary circumstances described in 516 DM6 apply.

The following list of Extraordinary Circumstances (516 DM 2, Appendix 2) was considered:

1. **Have significant impacts on public health or safety.**
   Comments/Explanation:
   No impacts are anticipated with this action. This is a request for the renewal of a free use permit for gravel. The site is currently a Free Use Permit (FUP) site for Gem Highway District for the same material. It is also a Community Pit (IDI-22446, Marsing) and a Free Use Permit for South Board of Control (IDI-34117), which is also seeking renewal. Gem Highway District would like to continue to use the same site as a source for road maintenance. No public health or safety issues have been raised in the previous ten years this free use permit has been active. The proposed action is identical to the existing action.

   The Proposed Action would not have any significant impacts to public health or safety.

   Specialist Signature/Date: _____ 6/27/14

2. **Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; or ecologically significant or critical areas, or is not in compliance with the Fish and Wildlife Coordination Act.**

   Comments/Explanation:
   No impacts are anticipated to the above listed items. The proposed action is essentially the same as what has been authorized for the past ten years, and was analyzed in 2004 Environmental Analysis EA-ID-096-2004-017, April 12, 2004.

   Specialist Signature/Date: _____ 6/27/14

3. **Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].**
   Comments/Explanation:
   No adverse effects to the environment have been noted in the previous authorized action, and no new effects are anticipated in the proposed action.

   Specialist Signature/Date: _____ 6/27/14

4. **Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.**
   Comments/Explanation:
   No adverse effects are anticipated by the proposed action. No unknown environmental risks are anticipated by the proposed action.

   Specialist Signature/Date: _____ 6/27/14

5. **Establish a precedent for future actions or represent a decision in principle about future actions with potentially significant environmental effects.**

Comments/Explanation:

No new precedent will be set by the proposed action. Removal of pit run sand and gravel is not a proposed action that has never been analyzed.

Specialist Signature/Date: [signature] 6/27/14

6. **Have a direct relationship to other actions with individually insignificant, but cumulatively significant environmental effects.**

Comments/Explanation:

There are three permitted activities occurring at this site. Additionally, Gem Highway District has an active stockpile of Bureau of Reclamation (BOR) managed lands adjacent to this site just to the west. The western most boundary of the BOR managed lands is Highway 78, which is predominately north-south at this location. There is a farm land under cultivation or in orchard to the north, west and east of this site. There are three decorative stone community pits within seven miles of this site.

Specialist Signature/Date: [signature] 6/27/14

7. **Have significant impacts on properties listed or eligible for listing on the National Register of Historic Places as determined by either the bureau or office.**

Comments/Explanation:

The proposed action will have no known impacts on known or potentially historic properties. Gravel source will be restricted to areas that were previously disturbed with the previous Free Use Permit and Community Pit.

Specialist Signature/Date: Kelli Barnes 7/30/14

8. **Have significant impacts on species listed or proposed to be listed on the List of Endangered or Threatened Species, or on designated Critical Habitat for these species.**

Comments/Explanation:

Special status plant species within the project area: Confirmed: *Cryptantha propria*. Suspected: *Penstemon janishiae* (within 125 yards or project area). Historical, non-specific records of *Glyptopleura marginata* and *Chaenactis cusicki* are also within the area.

Although no field exam was conducted specifically for this permit renewal, previous clearances and special status plant monitoring has occurred in the project area. The special status plant *Cryptantha propis* (Malheur cryptantha) is known from partially stabilized and undisturbed edges of the gravel pit within the project area. In addition, *Penstemon janishiae* (Janish's penstemon) is known from within 125 yards of the project area, and historical collections of two other special status plants have been recorded from the area. Expansion of the gravel pit area would affect the occurrence of Malheur cryptantha, and could affect Janish's penstemon and possibly Cusick's pincushion and white margined wax plant.

Due to the known and suspected special status plants in the project area, I recommend that the gravel permit renewal stipulate that disturbance and removal activities be limited to the existing gravel pit footprint. This would eliminate further impacts to special status plants at this site. In addition, I reiterate recommendations from the 2001 clearance to stipulate that over-burden be kept within the boundaries of the existing pit (not dumped over the side), and limit public access to discourage trash dumping.

Plants Specialist Signature/Date: 7-2-2014

Comments/Explanation:
Five golden eagle nests occur within approximately 2.5 miles of the project area. The distance exceeds the recommended 0.5 mile golden eagle nest seasonal restriction disturbance buffer. Various migratory bird species and several BLM special status reptile species could occur within or adjacent to the project area. No other BLM special status wildlife species are known to occur within the project area. Due to the possibility of incidental take of migratory birds and special status reptile habitat fragmentation within the project area, it is recommended that Free Use Permit activities be limited to the footprint of the existing gravel pits within the project area.

Wildlife Specialist Signature/Date: 7/11/2014

Comments/Explanation:

Aquatics Specialist Signature/Date: N/A

9. **Violate a Federal, State, local, or tribal law or requirement imposed for the protection of the environment.**
Comments/Explanation:
No known environmental laws will be violated by the action as proposed. This project was brought before the Shoshone-Paiute Tribes during the June 19, 2014 Wings and Roots Consultation Campfire. Tribal representatives had no input nor comment on the project.

Specialist Signature/Date: 6/27/14

10. **Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).**
Comments/Explanation:
No adverse effects are anticipated by the proposed action. By allowing county road maintenance departments free use of mineral materials, fewer tax dollars are needed to procure such materials, thereby keeping taxes lower.

Specialist Signature/Date: 6/27/14

11. **Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).**
Comments/Explanation:
No impacts to access or use of ceremonial or Indian sacred sites are anticipated by this action. No impacts have been noted as a result of the activities in the past ten years the site has been active.

Specialist Signature/Date: 6/27/14

12. **Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).**
Comments/Explanation:

The proposed action is essentially the same as exists under the current free use permit. No new activity is proposed. Stipulations for the operation of the pit area are attached, with steps for combating noxious and invasive weed stated. At a minimum, annual compliance inspections will be conducted by BLM personnel, any problems will be identified to the permit holder for prompt remediation.

Specialist Signature/Date: Forrest Griggs 6/27/14

D: SIGNATURE

I certify that none of the Departmental exceptions (Extraordinary Circumstances) listed in the above Part II (516 DM 2, Appendix 2) apply to this action; therefore, this categorical exclusion is appropriate for this situation.

Authorizing Official: Michelle Adams Acting For 8/7/14

Loretta V. Chandler
Field Manager
Owyhee Field Office

Prepared By/Contact Person:

Forrest Griggs, Geologist

FREE USE PERMIT

STANDARD STIPLAUTIONS

1. All materials removed will be extracted in accordance with approved conservation practices so as to preserve to the maximum extent feasible, all scenic, recreational, watershed and other values of the land and resources (43 CR § 3621.4)

2. When American antiquities or other objects of historic or scientific interest including, but not limited to; historic or prehistoric ruins, vertebrate fossils or artifacts are discovered in the performance of this contract, the item(s) or condition(s) will be left intact and immediately brought to the attention of the district manager or his authorized representative.

3. Permittee shall maintain the area free of trash, refuse, and invasive plants during operations and termination of the contract.

4. Permittee shall be responsible for suppression costs of any fires resulting from actions under this permit or contract.

5. Each year, within 30 days of January 1, the permittee shall submit a statement to the BLM indicating the type and volume of materials removed from the permit area during that year.

6. The approved mining and reclamation plan is part of this permit as special conditions governing all operations under the permit.

7. Any deviations from the approved reclamation plan and these stipulations will be subject to approval by the BLM authorized officer prior to such actions.

8. Upon expiration of the permit, the permittee will, within 90 days, remove all equipment, personal property, and other improvements from the area.

9. The authorized officer may cancel the permit if the permittee fails to observe its terms and conditions, or if the permit has been issued erroneously (43 CFR §3621.1).

10. Permittee shall indemnify and save harmless the United States of America against any liability for damages to life, person, or property arising from the use of the lands under this permit.

11. The subject site and haul roads shall be sprayed as necessary with water or other suitable material to hold down the dust created by these activities.

12. Proper mufflers and spark arresters shall be maintained on equipment used in this project to reduce noise level and to limit the potential for fires. In addition, the permittee and any contractors or subcontractors shall maintain and have on the site adequate fire prevention and extinguishing equipment.

13. Permittee shall remove only as much overburden and vegetation as is needed for each operation so as to keep visual, wildlife, and land stability impacts to a minimum. **All activity related to this permit must occur within already disturbed areas. No new disturbance is authorized. Overburden will not be pushed out onto undisturbed areas of the site. Contact the Owyhee Field Office Geologist before moving any overburden.**

14. No construction waste material or other debris may be hauled onto the site, stockpiled or used as fill material, other than that material which was found on the site at the time of signature of this contract.

15. Whenever possible, reclamation should proceed concurrently with excavation.

16. Upon completion of this project, all pit walls shall be sloped to a minimum of 2:1 ratio; overburden shall be replaced, and all disturbed areas shall be seeded with a mixture of seed and at a rate to be specified by the BLM at the time of reclamation.

17. This permit does not grant the permittee exclusive use of the public lands identified herein.

18. All operators are required to provide employee training sufficient to meet the requirements of Title 30, CFR, Part 46 and 62, regarding operator safety training and noise exposure standards. Permittee's who contract crushing and screening of materials are responsible for insuring that contractor have met all of the above requirements. Additional information may be obtained from the internet at www.msha.gov.

19. Noxious weed and invasive plant control will be the responsibility of the permit holder. Best management practices will be followed. These include, but are not limited to:

a. Washing the undercarriage of all vehicles prior to use in any work area.

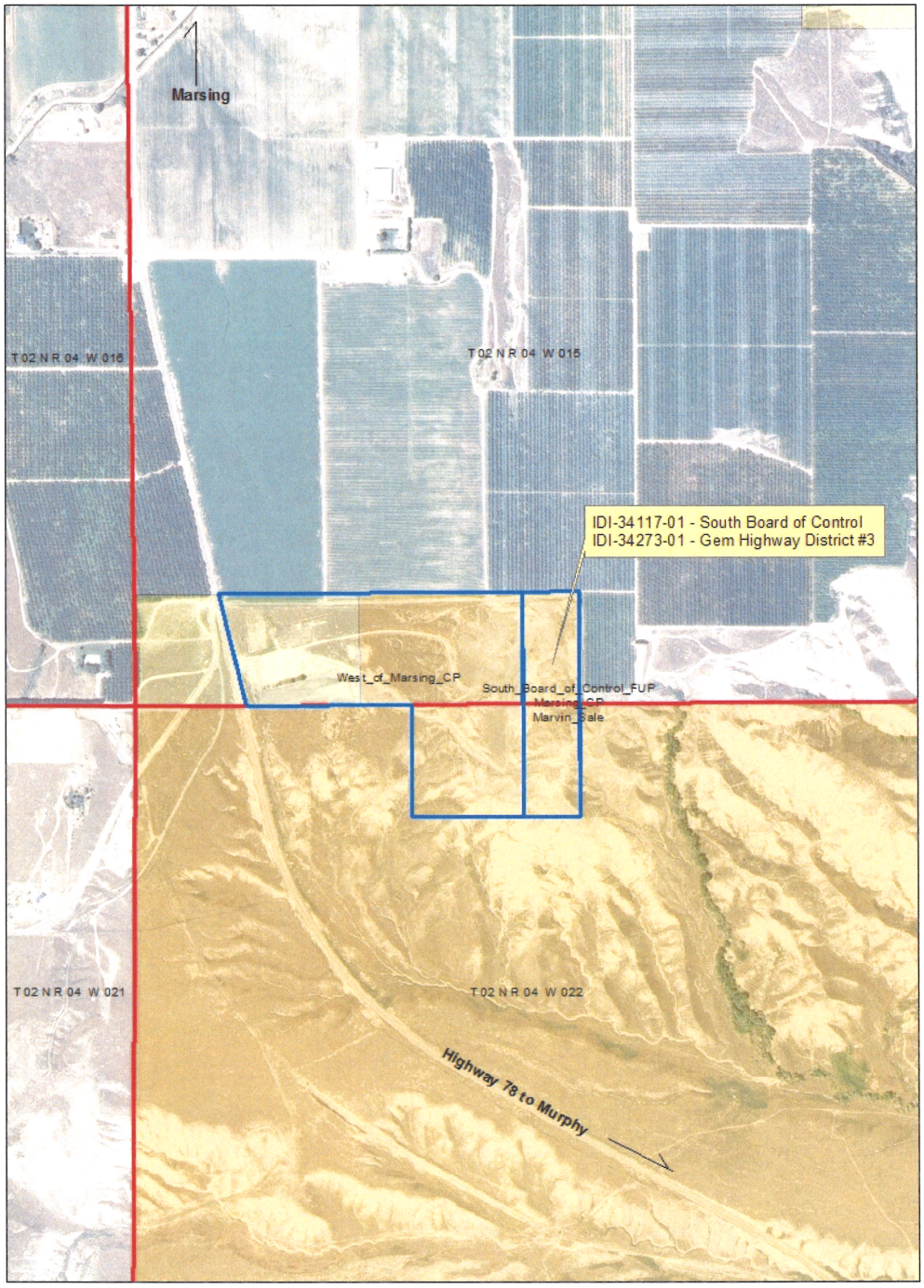
b. Monitoring and treatment of disturbed areas for noxious or invasive weeds for 3 years after work completion.

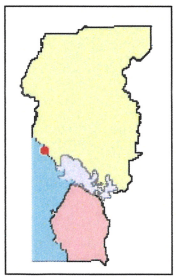
c. Prompt treatment action after identification of noxious or invasive weed infestation, including proper application of BLM approved herbicides, or physical removal and disposal. Treatment is to

be an ongoing obligation that starts with the area where material is to be removed, stockpiled and used.

d. At the completion of the permit, replanting with a BLM approved seed mix to help prevent weed infestation

e. Monitoring the site after completion of the permit to ensure a self-sustaining population of BLM approved native plants has been established.





IDI-34117-01 South Board of Control FUP
IDI-44273-01 Gem Highway District #3 FUP

0 0.03 0.06 0.12 Miles

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