

**NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)
COMPLIANCE RECORD FOR CATEGORICAL EXCLUSIONS (CX)
U.S. Department of Interior
Bureau of Land Management**

PART I – PROPOSED ACTION

BLM Office: Tucson Field Office

NEPA No.: DOI-BLM-AZ-G020-2016-0013-CX

Proposed Action Title: Tombstone Free Use
Permit - South

Case File No.: AZA-036879

Applicant: City of Tombstone

Location of the Proposed Action:

Gila and Salt River Meridian, T20S R22E Sec 01 NW¹/₄ of the SE¹/₄, SW¹/₄ of the SE¹/₄, and SE¹/₄ of the SE¹/₄, Walnut Gulch near Gleeson Road, Tombstone, AZ.

Description of Proposed Action:

The City of Tombstone has submitted an application for a mineral material free use permit for the removal of common variety sand and gravel located on portions of Walnut Gulch in T. 20 S, R. 22 E, Section 01, NW¹/₄ of the SE¹/₄, SW¹/₄ of the SE¹/₄, and SE¹/₄ of the SE¹/₄. The City of Tombstone proposes to remove up to 49,000 tons of sand and gravel from the wash running across the subject parcel where the City owns the surface estate and the federal government retains the mineral estate.

The proposed free use permit area is under lode mining claims. A letter was sent to the claimant on December 22, 2015 requesting the claimant return a signed mineral material waiver. The claimant has not responded to this request. On February 16, 2016 the Tucson Field Office Geologist prepared a determination of public interest as required by 43 CFR §3601.14.

PART II – PLAN CONFORMANCE REVIEW

This proposed action is subject to the following land use plan(s):
Safford Resource Management Plan, 1992.

Decisions and page nos.:

MI01 Consistent with Bureau of Land Management policy the Safford District will encourage and foster the development of energy and mineral resources located on public land while assuring that undue or unnecessary degradation on these or nearby lands does not occur.

Entry, sale and lease of mineral and energy resources will be managed through the use of appropriate regulations, withdrawals, and stipulations to avoid undue or unnecessary impacts to other resource values.

Mining notices and plans of operations received under the surface management regulations (43 CFR 3809) will be reviewed for impacts to other resources. Mitigation and reclamation measures will be provided to prevent undue or unnecessary degradation of the environment. As mandated by Bureau policy reclamation bonds will be required for all mining plans of operation involving locatable minerals. Partial ROD I page 8.

This proposed action has been reviewed for conformance with these plans (*43 CFR 1610.5-3, BLM Manual 1601.04.C.2*).

PART III – NEPA COMPLIANCE DETERMINATION REVIEW

A. 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. 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.];

And

B. Extraordinary Circumstances Review: In accordance with **43 CFR 46.215**, any action that is normally categorically excluded must be subject to sufficient environmental review to determine if it meets any of the 12 Extraordinary Circumstances described. If any circumstances applies to the action or project, and existing NEPA documentation does not adequately address it, then further NEPA analysis is required.

IMPORTANT: Appropriate staff should review the circumstances listed in Part IV, comment and initial for concurrence. Rationale supporting the concurrence should be included in the appropriate block.

PART IV – EXTRAORDINARY CIRCUMSTANCES DOCUMENTATION

PREPARERS:

DATE:

Daniel Moore, Geologist, Project Lead	DM, May 09, 2016
Amy Sobiech, Archaeologist	AS, May 09, 2016
Darrell Tersey, Natural Resource Specialist	DT, May 09, 2016
Heather Swanson, Natural Resource Specialist	HS, May 09, 2016

/s/ Amy Markstein

May 16, 2016

PLANNING & ENVIRONMENTAL SPECIALIST

DATE

The action has been reviewed to determine if any of the extraordinary circumstances (43 CFR 46.215(a)-(1)) apply. The project would:

(a) Have significant impacts on public health or safety.

Yes	No X	Rationale: Pit operations will occur on City of Tombstone surface estate and comply with State of Arizona mining regulations.	Preparer's Initials DM
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(b) 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; and other ecologically significant or critical areas.

Yes	No X	Rationale: The proposed mining activities would be conducted in the active channel of a wash and on a floodplain area previously disturbed by blading and grading. Therefore, the likelihood for disturbance of cultural resources through the proposed activities is very low.	Preparer's Initials DM, AS, HS, DT
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(c) Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102 (2) (E)].

Yes	No X	Rationale: The City of Tombstone owns the surface estate. Any conflicts in the use of the surface estate would be addressed through local processes. The proposed free use permit area is under lode mining claims. A letter was sent to the claimant on December 22, 2015	Preparer's Initials DM, HS, DT
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		requesting the claimant return a signed mineral material waiver. The claimant has not responded to this request. On February 16, 2016 the TFO Geologist prepared a determination of public interest as required by 43 CFR §3601.14.	
(d) Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.			
Yes	No X	Rationale: Sand and gravel mining using conventional equipment has no unique or unknown environmental risks.	Preparer's Initials DM, DT
(e) Establish a precedent for future action or represent a decision in principal about future actions with potentially significant environmental effects.			
Yes	No X	Rationale: The issuance of mineral material free use permits is a routine agency action.	Preparer's Initials DM
(f) Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.			
Yes	No X	Rationale: The Tombstone area is a historic mining district and mineral exploration projects are routinely undertaken. However, there are no currently active mines in the vicinity. The City of Tombstone has applied for an additional Free Use Permit in Walnut Gulch at a site approximately one mile downstream of this proposed action	Preparer's Initials DM
(g) Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by the bureau.			
Yes	No X	Rationale: The proposed mining activities would be conducted in the active channel of a wash and on a floodplain area previously disturbed by blading and grading. Therefore, the likelihood for disturbance of cultural resources through the proposed activities is very low.	Preparer's Initials AS
(h) Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.			
Yes	No X	Rationale: The Yellow Billed Cuckoo may utilize forage in the project area. The forage in the project area represents a very small portion of the forage available to the cuckoo and the impact of the proposed pit on forage is not expected to be significant.	Preparer's Initials HS, DT
(i) Violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment.			

Yes	No X	Rationale: The proposed action is in compliance with all applicable laws. The City of Tombstone is responsible for compliance with applicable laws.	Preparer's Initials DM
(j) Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).			
Yes	No X	Rationale: The proposed action will provide benefits to the Tombstone community by providing mineral materials for use in road and water line projects. Low income or minority populations are not adversely impacted by the proposed action.	Preparer's Initials DM
(k) 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).			
Yes	No X	Rationale: The proposed mining activities would be conducted in the active channel of a wash and on a floodplain area previously disturbed by blading and grading. Therefore, the likelihood for disturbance of cultural resources through the proposed activities is very low.	Preparer's Initials AS
(l) 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).			
Yes	No X	Rationale: The City of Tombstone already uses its surface estate for the operation and storage of City equipment. The proposed action will not change the potential for transporting weed species from the current condition. City owned equipment operates within the Tombstone vicinity and is not expected to introduce weed/weed seed from other locations.	Preparer's Initials DM, DT

PART V – COMPLIANCE REVIEW CONCLUSION

I have reviewed this plan conformance and NEPA compliance record, and have determined that the proposed project is in conformance with the approved land use plan and that no further environmental analysis is required.

MITIGATION MEASURES/OTHER REMARKS:

1. Permittee must submit an annual production report summarizing the tonnage of material removed for the calendar year.
2. Any archaeological or historic artifacts or remains, or vertebrate fossils discovered during operations shall be left intact and undisturbed; all work in the area shall stop immediately; and the Assistant Field Manager shall be notified immediately. Commencement of operations shall be allowed upon clearance by the Assistant Field Manager.
3. An additional cultural and/or paleontological resource survey may be required in the event the project location is changed or additional surface disturbing operations are added to the project after the initial survey. Any such survey must be completed prior to commencement of such operations.
4. If in connection with operations under this authorization, any human remains, funerary objects, sacred objects, or objects of cultural patrimony as defined in the Native American Graves Protection and Repatriation Act (:L. 101-601; Stat. 3048; 25 U S. C. 3001) are discovered, the permittee shall stop operations in the immediate area of the discovery, protect the remains and objects, and immediately notify the Assistant Field Manager for Resources of the discovery. The permittee shall continue to protect the immediate area of the discovery until notified by the Assistant Field Manager that operations may resume.

APPROVING OFFICIAL: /s/ Melissa Warren

DATE: May 17, 2016

TITLE: Tucson Field Manager

Note: The signed conclusion on this compliance record is part of an interim step in the BLM’s internal decision process and does not constitute an appealable decision. A separate decision to implement the action should be prepared in accordance with program specific guidance.