



United States Department of the Interior
BUREAU OF LAND MANAGEMENT
Boise District Office
Four Rivers Field Office
3948 Development Avenue
Boise, Idaho 83705



Categorical Exclusion Review

Gem County Road & Bridge - Old Freezeout Rd Free Use Permit (FUP)

CE No.: DOI-BLM-ID-B010-2010-0081-CX

Lease/Serial/Case File No.: IDI-32098-01

Purpose and Need for Action: The Gem County Road and Bridge Department has requested a renewal of their Free Use Permit (FUP) in this pit to remove sand used to sand area county roads in the winter. The Bureau of Land Management's (BLM's) authority to dispose of sand, gravel, and other mineral and vegetative materials that are not subject to mineral leasing or location under the mining laws is the Act of July 31, 1947, as amended (30 U.S.C. 601 *et seq.*), commonly referred to as the Materials Act. This authority applies to sale and free use of these materials. (b) Section 302 of the Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 1732) provides the general authority for BLM to manage the use, occupancy and development of the public lands under the principles of multiple use and sustained yield in accordance with the land use plans that BLM develops under FLPMA.

Description of Proposed Action: Renewal of a ten-year FUP for removal of up to 20,000 cubic yards of pit run sand within previously disturbed areas of the site. The 5-acre site has been in use as a sand quarry since at least 1984 when the sand was quarried under a Mining Plan of Operations as a locatable mineral by Unimin. Unimin continued quarrying at the site until 1996 when the high-grade, locatable sand source was depleted. The Gem County Road Department (now Gem County Road and Bridge Department) was granted a 10-year FUP in 1997 for the removal of up to 20,000 cubic yards of sand from this previously disturbed site. Gem County Road and Bridge will minimize environmental impacts by adhering to the provisions of their mining and reclamation plan and the stipulations listed below (Attachment A).

Project Location:

Off of Old Freezeout Road, South of Emmett, Idaho. T. 6N., R. 1W., Sec. 29, NWNENW

Applicant (if any):

Gem County Road and Bridge Department

Part I – Plan Conformance Review

This proposed Action is subject to the following land use plan: Cascade Proposed Resource Management Plan and Final Environmental Impact Statement (RMP-FEIS) that was signed in August 1987 and the Record of Decision (RMP-ROD) that was signed in July 1988.

Date Plan Approved: July 1988.

References:

USDOI BLM. 1987. U.S. Department of the Interior, Bureau of Land Management, Boise District, Cascade Proposed Resource Management Plan and Final Environmental Impact Statement (Cascade RMP-FEIS).

USDOI BLM. 1988. U.S. Department of the Interior, Bureau of Land Management, Boise District, Cascade Resource Management Plan Record of Decision

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):

Resource Management Guidelines (pg 56):

Mineral, Energy, and Geologic Resources

Saleable Minerals (Sand and Gravel) – Mineral materials are discretionary actions. All mineral disposals will be made in accordance with 43 CFR § 3600. The general policy shall be to promote the use of existing sites. New sites may be set up if it is determined that an existing site will not meet the applicant’s needs and site impacts can be sufficiently mitigated.

Remarks: The proposed renewal of the FUP will stay within the footprint of the existing surface disturbance.

Part II – NEPA Review

Categorical Exclusion Review: This proposed action qualifies as a categorical exclusion under 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.

- A. Departmental List of Extraordinary Circumstances Review: Before any non-Energy Act CX is used, you must conduct sufficient review to determine if any of the following extraordinary circumstances apply (516 DM 2, Appendix 2). If any of the extraordinary circumstances are applicable to the action being considered, either an EA or an EIS must be prepared for the action. Part 516 of the Departmental Manual (516 DM 2, Appendix 2) states that extraordinary circumstances exist for individual actions within CXs which may:

List of Extraordinary Circumstances

1. Have significant impacts on public health or safety.

Yes

No

Specialist Signature/Date: /S/ Valerie Lenhartzen 5/12/2011

Comments/Explanation:

No impacts are anticipated with this action. This is a renewal of a free use permit for sand. No public health or safety issues have been raised in the previous 20 years this FUP has been active. The proposed action is identical to the existing action. Potential hazardous conditions such as highwalls, fire fighting, unsafe equipment and other hazards are covered in the stipulations (Attachment A).

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.		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: /S/ Valerie Lenhartzen 5/12/2011
<i>Comments/Explanation:</i> This is a renewal of an existing free use permit for a sand pit and the proposed action is virtually identically the same as what has been authorized for the past 20 years. The operation will be contained within the existing disturbed 5-acre area and therefore will not pose impacts that would adversely affect the above listed items.		
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: /S/ Valerie Lenhartzen 5/12/2011
<i>Comments/Explanation:</i> The impacts of sand and gravel extraction are known and understood by the BLM and others. They are not controversial.		
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: /S/ Valerie Lenhartzen 5/12/2011
<i>Comments/Explanation:</i> The operation of this site over the past 20 years has not produced any high environmental risks, or indicated any potentially high environmental risks for the future. No adverse effects or unknown environmental risks are anticipated by the proposed renewal action.		
5. Establish a precedent for future actions or represent a decision in principle about future actions with potentially significant environmental effects.		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: /S/ Valerie Lenhartzen 5/12/2011
<i>Comments/Explanation:</i> This renewal is being requested because it is congruent with the promoted policy to use existing mineral material sites whenever possible as opposed to requesting a new site. The amount of material requested to be extracted and the surface area footprint to be disturbed, meet the guidelines for a categorical exclusion analysis. No new precedent will be set by this proposed action because it follows the NEPA handbook as well as the promoted policy of using existing sites when possible. Lastly, this renewal is being analyzed (as should every new authorization) on its own merit and environmental conditions and factors according to law and policy. No new precedent would be set by the proposed action, since the action is being proposed based on law and policy.		
6. Have a direct relationship to other actions with individually insignificant, but cumulatively significant environmental effects.		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: /S/ Valerie Lenhartzen 5/12/2011
<i>Comments/Explanation:</i> This FUP is one of two quarry operations that are located within 10 miles of the Emmett Valley area. Each site is 5 acres or less in size. Unimin has a site on private ground that is within 5 miles of the Old Freezeout site. No effects for this FUP site or the other sites mentioned here have been brought to the BLM's attention over past 20 years. No significant cumulative effects are anticipated.		
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.		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: /S/ Dean C. Shaw 5/13/2011
<i>Comments/Explanation:</i> Cultural Resource Class I & III surveys were conducted by Ted Weasma in 1987, Cultural Resource Class I was performed by Dean Shaw in 1997. These surveys did not reveal any cultural materials or historical properties. In 2008, a Class III survey was again performed by Kimberly Stephen and Dean Shaw, Four Rivers Field Office Archaeologist, evaluated Stephen's survey and concluded that no historic properties were found. Shaw recommended granting renewal of FUP for 10 years.		
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.		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date for Plants: /S/ Amy J. Stillman 5/16/2011 Specialist Signature/Date for Wildlife: /S/ Jill Holderman 5/16/2011 Specialist Signature/Date for Aquatics: /S/ J. Allen Tarter 5/16/2011
<i>Plants Comments/Explanation:</i> Allium asseae Elemental Occurrence (E.O. #17) is found within 500 feet of this site, but none were found during the survey completed in May 2008 by Amy Stillman. Because this project does not involve disturbance to any previously undisturbed areas, no impacts would occur to any currently known T & E or Bureau sensitive plant species. Full clearance is recommended.		
<i>Wildlife Comments/Explanation:</i> The area already has been disturbed and used for the past 20 years, and although there could be some use of the project site by special status wildlife species such as the ferruginous hawk, it is expected to be minimal due their adaptation of ongoing activities. The impact area of the project should be confined to the existing disturbed area. The area surrounding the pit is a relatively intact Wyoming sagebrush/Purshia tridentate/bunchgrass plant community. A stipulation (#5 below) was added to avoid impacts to the pristine sagebrush habitat outside the disturbed area at this site. No impact is expected to any special status species. Full clearance is recommended.		
<i>Aquatics Comments/Explanation:</i> N/A		
9. Violate a Federal, State, local, or tribal law or requirement imposed for the protection of the environment.		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: /S/ Valerie Lenhartzen 5/12/2011
<i>Comments/Explanation:</i> No known environmental laws or imposed environmental requirements would be violated by the action as proposed.		
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: /S/ Valerie Lenhartzen 5/12/2011
<i>Comments/Explanation:</i> There are no low income or minority populations living in the project area. Low income or minority visitors to the area would not be affected any differently by the proposed activities than any other visitor.		
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).		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: /S/ Dean Shaw 6/15/2011
<i>Comments/Explanation:</i> This is a renewal of an existing site that has conducted identical activities over the past twenty plus years and there have been no instances of access limiting or adverse impacts to any such sacred sites reported in the area. Old Freezeout Road is the existing paved road that provides access both to the north towards Emmett, and also east to HWY 16 (which travels north/south.) These multiple directions provide multiple accesses without any new or adverse impact for any such ceremonial or Indian sacred site. No impacts to access or use of ceremonial or Indian		

sacred sites are anticipated by this action.		
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).		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>/S/ Lonnie Huter 6/15/2011</i>
<i>Comments/Explanation:</i> The proposed action is essentially the same as exists under the current free use permit. No new activity is proposed. Noxious or invasive weed issues have not been raised in the 20+ years the permit has been in place. Stipulations for the operation of the pit area are attached, with steps for combating noxious and invasive weeds stated. Annual compliance inspections will be conducted by BLM personnel, any problems will be identified to the permit holder for prompt remediation.		
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. Remarks:		
Authorizing Official: <u><i>/S/ Terry A. Humphrey</i></u> Date: <u><i>5/24/2011</i></u>		
Name: Terry A. Humphrey Title: Field Manager, Four Rivers Field Office		

**ATTACHMENT A
FREE USE PERMIT
STANDARD STIPLAUTIONS**

1. All materials removed would 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 CFR § 3601.6).
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) would be left intact and immediately brought to the attention of the district manager or his authorized representative.
3. The permittee shall maintain the area free of trash, refuse, and invasive plants during operations and termination of the contract.
4. Permittees shall be responsible for suppression costs of any fires resulting from actions under this permit or contract.
5. To conserve and protect habitat for local wildlife, permittees would not disturb sagebrush that is growing on the slopes of the hill surrounding the pit.
6. Each year, within 30 days of January 1st and 30 days prior to the expiration date of the permit, the permittee would submit a statement to the BLM indicating the type and volume of materials removed from the permit area during the previous year.
7. The approved mining and reclamation plan is part of this permit as special conditions governing all operations under the permit.
8. Any deviations from the approved reclamation plan and these stipulations would be subject to approval by the BLM authorized officer prior to such actions.
9. Upon expiration of the permit the permittee would, within 90 days, remove all equipment, personal property, and other improvements from the area.
10. 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 § 3601.61).
11. The 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.
12. The subject site and haul roads shall be sprayed as necessary with water or other suitable material to minimize dust created by these activities.
13. Proper mufflers and spark arresters shall be maintained on equipment used in this project to reduce noise levels 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.

14. The 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.
15. 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.
16. Whenever possible, reclamation should proceed concurrently with excavation.
17. Upon completion of this project, the authorized officer would inspect the site to determine which quarry walls may be left intact for use as nesting sites for raptors. Sites not left intact shall be sloped to a minimum of 3:1 ratio. Overburden would be replaced and all remaining disturbed areas would be seeded with a mixture of seed and rate to be specified by the BLM at the time of reclamation.
18. This permit does not grant the permittee exclusive use of the public lands identified herein. The Bureau of Land Management reserves the right to remove materials from the land and the right to authorize other governmental agencies or individuals to obtain materials from the site, consistent with safe and orderly use of the lands.
19. 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. Permittees who contract crushing and screening of materials are responsible for ensuring that contractors have met all of the above requirements. Additional information may be obtained from the internet at www.msha.gov/.
20. Noxious weed and invasive plant control would be the responsibility of the permit holder. Best management practices would 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 of disturbed areas for noxious or invasive weeds for three (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.
 - 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 that a self-sustaining population of BLM-approved native plants has been established.