

Finding of No Significant Impacts and Decision Record

**Mining and Reclamation Plan
Prepared by La Pianta, LLC on February 2, 2007**

**T-Abbs Allotment, 109-1G & 1H,
Muckleshoot Tribe, Auburn, Washington**

EA Number OR-130-07-EA-001

BLM Spokane District, October 2, 2007

Finding of No Significant Impact (FONSI) and Decision Record
For Sand and Gravel Operation
Mining and Reclamation Plan (February 1, 2007)
Environmental Assessment (EA) OR-130-07-EA-001
(Muckleshoot Indian Reservation T-Abbs Allotment, 109-1G & 1H)

Introduction

This Finding of No Significant Impacts (FONSI)/Decision Record (DR) describes BLM and BIA findings regarding the significance of environmental impacts from a proposed mining and reclamation plan, and sand and gravel operation on Muckleshoot Indian Reservation Land, and BLM and BIA decisions regarding the proposed plan and operation. In accordance with the National Environmental Policy Act (NEPA) of 1970, as amended, (Title 40, Code of Federal Regulations, 1501-4[b]) an environmental assessment (EA) was prepared for development, mining operations, and reclamation of a proposed sand and gravel mining operation. The site is located in Section 20, T. 21 N., R. 5 E., W.M. in the southeastern part of Auburn, Washington along State Route 18. This sand and gravel pit will encompass approximately 13 acres. Mining this material will benefit the Muckleshoot Tribe, its members, families and the community by supplying revenue and construction materials. Sand and gravel mining has taken place on the surrounding 240 acres in the vicinity of this site since the 1940's.

The analysis (OR-130-07-EA-001) considered three alternatives for this project: the Proposed Action-Alternative A (Mining 500,000 cubic yards of material and leaving 130,000 cubic yards for the Tribe's future use); Alternative B (Mining all 630,000 cubic yards of material on the property to grade); and Alternative C (No Action.) On March 1, 2007, BLM and BIA issued a finding of no significant impact and decision record on this proposed action. In that decision BLM stated there would be a subsequent decision to approve the proposed mine and reclamation plan.

Scope and Content of the Environmental Assessment

The Bureau of Land Management (BLM) and the Bureau of Indian Affairs (BIA) have independently reviewed Environmental Assessment OR-130-07-EA-001 prepared by La Pianta LLC, and assume responsibility for its scope and content.

Finding of No Significant Impact (FONSI)

The Department of the Interior, Bureau of Land Management (BLM) and the Bureau of Indian Affairs (BIA) have completed a review and analysis of the proposed plan submitted by La Pianta, LLC (La Pianta) to mine sand and gravel from the T-Abbs Allotment, 109-1G & 1H on the Muckleshoot Indian Reservation near Auburn, Washington.

La Pianta and its consultants conducted various geologic, cultural, engineering and related investigations to evaluate current environmental conditions and proposed changes that would result from the proposed mining project. This resulted in the development of an EA that evaluated a Proposed Action and two alternatives. La Pianta also completed Environmental

Assessment OR-130-07-EA-001 to determine the potential impacts from this proposed project. This assessment identifies potential impacts to soils, cultural resources, air quality, vegetation, wildlife, and visual resources. It also identifies potential impacts from noise, light, and traffic. However, all of these impacts are insignificant or will be reduced to further insignificant levels through mitigation and reclamation. The required mitigations (Conditions of Approval) for this proposed project include:

1. All lease exploration, development and reclamation operations shall be conducted in a manner which complies with all applicable Federal laws and regulations and with State and local laws and regulations to the extent that such State and local laws are applicable to mining on Indian lands. Copies of any required applicable Tribal, local, State, and Federal permits, leases, rights-of-way, licenses, reviews, etc., shall be provided to the BLM Spokane District Office. Copies of the Plan and these authorizations shall be maintained at the mine site.
2. The Plan currently requires a reclaimed slope of 2H: 1V (Horizontal to Vertical) to facilitate reclamation and curtail slope or rill erosion. A Plan modification shall be implemented should additional slope stabilization efforts are required.
3. If the current methods of dust control described in the Plan are not sufficient to control dust emissions during operations and/or reclamation, the lessee shall initiate, after consultation with BLM, such additional mitigation measures as are necessary including, but not limited to mulching, water sprinklers, wind fences, trenches, and erosion matting, etc.
4. Materials (i.e., run of mine, processed product, overburden, topsoil, etc.) from separate permits/leases (ownership) or adjoining private land(s) shall not be commingled.
5. Annually, on a calendar year basis, the lessee shall prepare and submit to the BLM, surveys and calculation reports tabulating the BCY (bank cubic yard) volume of mine-run sand, gravel, rock, and all other resources produced from the lease site for all materials transported off of the lease during the calendar year. Surveys and calculations shall also include on-site stockpiles and waste piles with appropriate conversion to BCY's.
6. An initial (pre-mining) topographical survey shall be completed by a Washington State Licensed Surveyor after top soil has been removed and prior to opening up a new mining area within the leased site. This survey shall include a sufficiently wide boundary survey which extends onto adjoining properties along the west and south side of the Allotment's common boundaries to allow future quantity calculations noted below. The lessee shall notify BLM two weeks in advance about all planned surveys before they are conducted. Subsequent initial surveys shall be combined into previous initial surveys as they are performed, creating a record of how the site changes. These initial surveys shall be provided to BLM within one month following the date of each survey.

On December 31st of each calendar year, or within one week prior to this date, the lessee, shall have the site topographically surveyed. Mined volumes of material removed (since the prior survey) as well as materials stockpiled onsite for volumetric and royalty calculations shall be developed from these surveys by a Washington State Licensed Surveyor. The map(s) shall have a scale that is suitable to verify surveyed volumes and inventoried stockpiles shall be identified by type(s) of material. The lessee shall ensure that subsequent annual surveys and a final (post-mining) survey shall be conducted by a similarly qualified individual. This post-mining survey is also discussed in Item 8 shown below.

7. In compliance with 25 CFR 216.9, an annual operations report shall be submitted by the lessee within 30 days after the end of each calendar year (i.e., no later than February 1st of the year following the reporting year) to the BIA Puget Sound Agency and to the BLM Spokane District Office.
8. The lessee shall maintain and protect the existing ground control and/or survey points, and shall periodically report any changes to BLM as a result of operations (refer to COA 12 for additional related details). Prior to abandonment or cessation of mining operations, a final (post-mining) topographic survey shall be performed by the lessee to determine a mine closure volume.
9. The lessee shall provide a map(s) and volume calculations of all inventoried stockpiles (topsoil, overburden, sand, gravel, etc.) located on lease held by the lessee. This map shall accurately represent inventory as of the date at the end of the annual royalty reporting period for that calendar year. This map shall have a scale suitable to verify surveyed mined volumes and all inventoried stockpile volumes and shall identify all type(s) of material. The lessee shall provide BLM with the stockpile location map(s) and all volumetric calculations within 30 days after the end of each calendar year (i.e., no later than February 1st of the year following the reporting year).
10. No materials shall be brought into the leased premises for deposition or disposal (i.e. asphalt, fill, fines, oversize, boulders, etc.). All garbage shall be routinely and regularly removed from the lease and disposed of in an approved disposal facility.
11. Archeological, Cultural, and Historic Resources shall be protected. Lessee agrees that whenever in the course of construction / mining on the leased premises, any indication of heretofore undetected subsurface sites of archeological, cultural, or historic resource is encountered, the operation shall be halted and the involved area re-evaluated by a qualified archeologist acceptable to the Secretary of Interior, to prevent inadvertent destruction of such non-renewable resources. The lessee shall comply with the recommendations for mitigation made by the archeologist and approved by the Advisory Council on Historic Preservation in accordance with applicable rules and regulations. The cost of any required archeological re-evaluation shall be borne by the lessee and any archeological, cultural or historic resources shall be provided to the BIA and/or the Muckleshoot Tribe for appropriate disposition. The Muckleshoot Tribal Culture Staff, the Puget Sound BIA office, and State of Washington State Department of Archaeology and Historic Preservation staff must be notified

immediately of any discovery. Work in the area may not re-commence until the Designated Officer from BIA provides approval to recommence operations. Additionally, protocol for contacting the King County Sheriff's Office as well as the King County Medical Examiner in the event that human remains are uncovered, as well as the above listed Tribal, State, and Federal contacts, should be communicated to those individuals excavating on-site.

12. For all approved surface disturbance activities, the following requirements and guidelines shall apply:

A. Identified corner monument(s) that will or may be disturbed during surface disturbance activities, and the restoration process.

- a. The PLSS/Cadastral monuments must be the base for locating "reference monuments".
- b. The section corner, quarter corner or subdivision corner will be referenced prior to any monument disturbance. Assistance locating the true corner monument can be provided through the Geographic Coordinate Data Base (GCDB).
- c. Ideally, the establishment of "reference monuments" should be in accordance with the Manual of Surveying Instructions 1973, Chapter 4. Alternatively, with GPS technology available, referencing variations to the Manual are acceptable if the utmost regard to the fixed location of the corner monument has been observed, and all necessary steps have been taken to provide for an efficient and accurate corner restoration process in an effort to protect the location of the disturbed monument.
- d. When the monument(s) referencing work is complete, a copy of the corner monument description(s) as well as a map at an appropriate scale showing and describing the "reference monuments" and their bearing and distance relationship to the corner monument, shall be submitted to the BLM Spokane District Field Office for placement into the case file.
- e. The BLM Spokane Field Office will then forward a copy to the BLM Oregon State Office (OSO) Cadastral Survey Section.
- f. At any time after the monument has been properly referenced, the corner monument may be disturbed. If disturbance is simply the burial of the corner monument, the monument may be left in place. If the monument will be destroyed or damaged, the corner monument will be referenced, removed and retained until restoration can take place.
- g. During reclamation or at the completion of the activity, the removed corner monument(s) will be restored back in their original location from the established "reference monuments".

B. Identified corner monument(s) that have been disturbed or destroyed, and the reestablishment process.

- a. The reestablishment of corner monuments shall be in accordance with the Manual of Surveying Instructions 1973, its circulars and amendments.

- b. If the reestablishment of PLSS/Cadastral monumentation is being conducted by a Washington State PLS, monumentation requirements must be in accordance with the Washington Revised Statutes.
 - C. In the event a corner monument can not be restored or reestablished when it is impracticable to occupy the corner monument location, e.g. under water, rock cliff, swamp/marsh, etc., the restoration or reestablishment of a corner monument is not required. Any retained corner monument(s) (stone/wood post/brass cap) will then be delivered to the BLM Spokane Field Office and returned to the BLM Oregon State Office Cadastral Survey Section.
13. The lessee shall comply with all applicable Federal laws and regulations and with State and local laws and regulations to the extent that such State and local laws are applicable to mining on Indian lands. with regards to fire, health, and safety, including but not limited to 30 CFR Part 56.
 14. The mine’s standard hours of operation shall be 6 a.m. to 7 p.m., Monday through Saturday. Alternate hours and / or Sunday operations may be considered for approval for specific projects when proposed by the operator contingent upon BLM approval.
 15. Any changes to be made to the Mining or Reclamation Plan shall be approved by the BIA and BLM approving officer in accordance with 25 CFR 216.7.

Based on the effects discussed in the EA, we have determined that the Proposed Action with mitigation measures identified above is not a major federal action which would significantly affect the quality of the human environment, individually or cumulatively with other actions in the general area. None of the environmental effects identified meet the definition of significance in context or intensity as defined in 40 CFR 1508.27. Therefore, an environmental impact statement is not necessary and will not be prepared. This finding is based on the following:

Context:

Resource	Impact identified in the EA	Context considerations and reason not significant
Topography	Elevation will be reduced by 35 to 50 feet.	The resulting contour will be in line with that of adjacent lands. With the untouched strip of land on the eastern edge, and after reclamation the resulting topography should appear to be a complimenting part of the rest of the landscape. (See EA page 8.)
Soils	The organic layer of soil will be removed and stockpiled during	This impact is only temporary since the soil will be returned to the site during reclamation. (See EA page 9.)

	mining operations, then re-distributed over the mined area.	
Air Quality	Exhaust from mining equipment and vehicles will contribute to reduced air quality. Dust from mining operations and vehicles will contribute particulate matter to the air.	Equipment and vehicles are required to meet State emission standards. The mining operation will be in an area where other mining and industrial equipment is already operating. It will also be near a major State highway. Dust will be controlled by applying water as needed. Hence the amount of exhaust and dust contributed by this action will be inconsequential. (See EA page 10.)
Vegetation	Vegetation will be removed during mining operations, and replanted during reclamation.	This effect is only temporary since the area will be reseeded during reclamation. (See EA page 12.)
Wildlife	Birds and small mammals will be displaced by mining activities and removal of vegetation. Forage/vegetation will be removed. Forage will return after reclamation.	This effect is only temporary since the area will be reseeded during reclamation and mining operations will cease, allowing wildlife to return to the site. Also, adjacent vacant lands will provide some habitat for the displaced animals. No special status species will be affected. (See EA pages 12 – 13.)
Noise and light	Mining operations and haul trucks will cause noise.	Implementation of mitigation measures will restrict mining operating hours to minimize the noise and light effects on local residents. (See EA page 14, and Condition of Approval #14 above.)
Truck Traffic	Haul trucks will add additional traffic to the roads used.	The trucks will use the same roads as those used by trucks from the adjacent mining operation. The trucks will only use 1.2 miles of local road before entering the State highway, where the minor additional traffic will be negligible. (See EA page 15.)
Employment	Mining operations will provide additional employment in the	This is a beneficial effect; although negligible considering that the action will occur in a large urban area (Seattle-

	local area.	Tacoma-Bellevue Metropolitan Area). (See EA page 15.)
Income	The sale of materials will generate royalties for the Tribe.	This is a beneficial effect. (See EA page 16.)
Aesthetics	Removal of vegetation and soil, and change in topography will change the visual landscape. Soil will be returned and vegetation replanted during reclamation.	This effect is only temporary. Once soil and vegetation have returned it will likely be unnoticed. Also, with other mining and industrial operations in the area, the view will be similar to that of the surroundings. (See EA page 16.)

Intensity:

1. Beneficial, adverse, direct, indirect, and cumulative environmental impacts discussed in the EA have been disclosed. The physical and biological effects are limited to the site of the proposed action and adjacent lands.
2. Public health and safety would not be adversely impacted due to existing fences and topographic barriers (see EA page 17).
3. There would be no adverse impacts to wetlands, floodplains, areas with unique characteristics or ecologically critical areas because none exist in the vicinity of the proposed action (see EA page 10).
4. No highly controversial effects on the environment were identified. A previous FONSI and DR related to this EA was made available to the public. The City of Auburn appealed the FONSI/DR, but later withdrew their appeal. This appeal challenged the findings regarding impacts from traffic, light, and noise. BLM agreed to include a Condition of Approval to limit operating hours (see Condition #14 above), which eliminated the Cities concern regarding light and noise. The applicant is working out an agreement with the City regarding use and repair of City streets by haul trucks. BLM received no other comments or appeals.
5. There are no known effects that are highly uncertain or involve unique or unknown risk. BLM was able to obtain enough information to sufficiently analyze potential impacts
6. This alternative does not set a precedent for other projects that may be implemented in the future because the proposed action and impacts are common to the types of mining and reclamation plans, and mineral operations frequently approved by BLM and BIA respectively.
7. No cumulative impacts related to other actions that would have a significant adverse impact were identified or are anticipated (see EA pages 19 – 20).

8. Based on previous and ongoing cultural resource surveys, and through required mitigation, no adverse impacts to cultural resources were identified or anticipated (see EA page 9)..

9. No adverse impacts to any threatened or endangered species or their habitat that was determined to be critical under the Endangered Species Act were identified (see EA page 12).

10. This alternative is in compliance with relevant Federal, State, and local laws, regulations and requirements for the protection of the environment.

Decision and Rationale

Based on the subject EA (OR-130-07-EA-001), and considering the mining and reclamation plan, cumulative effects, the FONSI above, and other information available, the BIA authorizes issuing sand and gravel lease for this project and BLM approves the Mining and Reclamation Plan. Anticipated environmental impacts from the plan, as described in the EA and Mining and Reclamation Plan, are minimal. This lease, and mining and reclamation plan will provide for the need described in the EA: “to achieve an optimal use of the vacant and unused Williams Property resulting in royalty income for the benefit of the Tribe and its members. In addition, the remaining material on the property will be readily accessible to the Tribe for its own future projects. It will also increase the development potential of the parcel by reducing its elevation with respect to surrounding parcels.”

Appeals

As specified in 43 CFR 3000.4 (Appeals) and 43 CFR 4.411, any party that feels they are adversely affected by BLM’s decision has 30 days from the date this decision is made available at the Spokane District Office to file an appeal. The document will also be available on the District internet site at <http://www.blm.gov/or/districts/spokane/plans>. This decision is effective upon expiration of this appeals period.

A notice of appeal must be sent to:

District Manager
Spokane District, Bureau of Land Management
1103 N. Fancher Rd. Spokane, WA 99212

A copy of your notice of appeal must also be sent to:

Regional Solicitor Pacific Northwest Region
U.S. Department of the Interior
500 N.E. Multnomah St., Suite 607
Portland, OR 97233

You may include a statement of reasons when you file the notice of appeal with the BLM District Manager and Regional Solicitor, or you may file the statement of reasons within 30 days after you file the appeal. If you file the statement of reasons separately, you must send it to:

Interior Board of Land Appeals Office of Hearings and Appeals
801 N. Quincy Street, Suite 300
Arlington, VA 22203

Any appeal should be sent certified mail, return receipt requested.

Robert B. Towne
Spokane District Manager
Bureau of Land Management

Date

Judith R. Joseph
Superintendent Puget Sound Agency
Bureau of Indian Affairs

Date