

CHAPTER 1.0

PURPOSE AND NEED

1.1 BACKGROUND

In 2002, L&W Stone (the Applicant) submitted a Proposed Amended Plan of Operations to continue quarrying flagstone (Three Rivers Stone) at the Three Rivers Stone Quarry, located about 5 miles east of the town of Clayton in Custer County, Idaho, just north of the confluence of the East Fork Salmon and Salmon rivers (Figure 1.1-1). L&W Stone proposed to expand the Three Rivers Stone quarry in order to increase mine production and to begin exploration to determine if additional marketable flagstone exists on their mining claims.

The main product quarried is large-diameter sheets of flat rock, termed flagstone. The rock is used in both indoor and outdoor decorative construction. Three Rivers Stone is shipped throughout the United States and is considered unique because it is only found in relatively small quantities in one location and because it has a combination of exceptional hardness and durability; the ability to be easily split into large, thin sheets; a weathering-resistant surface; and aesthetically pleasing colors and textures. Because of these characteristics which command an exceptional market value, the Bureau of Land Management (BLM) has determined that such rock is a locatable mineral under the General Mining Laws (30 USC 21 *et seq.*, 161, 611).

Interest in Three Rivers Stone began as early as 1966, with mining claims filed for the rock in the early 1970s. By 1981 about 400 tons of rocks had been removed. Quarrying occurred intermittently through 1990. In late 1992 the BLM completed an Environmental Assessment (EA) for a Plan of Operations for mining at the site and the BLM signed a Finding of No Significant Impact (FONSI) allowing the mining operation to disturb up to 16 acres. As a result of unauthorized expansion at the quarry, the BLM required and began processing the Amended Plan of Operations that was submitted by L&W Stone in 2002. In 2004, an EA was completed that evaluated the Amended Plan of Operations and alternatives. The proposed operations included enlarging the two existing quarries, developing waste rock storage sites, defining exploration areas, and developing a new reclamation plan. The BLM signed a FONSI and Decision Record in July 2004 that authorized implementation of Alternative 2, as described in the 2004 EA, contingent upon submittal of a revised Plan of Operations and an acceptable bond for full reclamation of the operations.

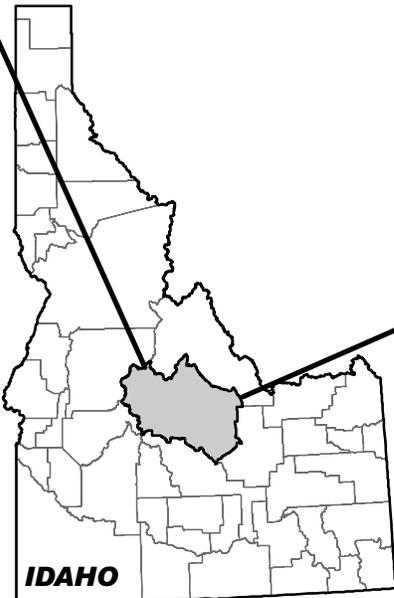
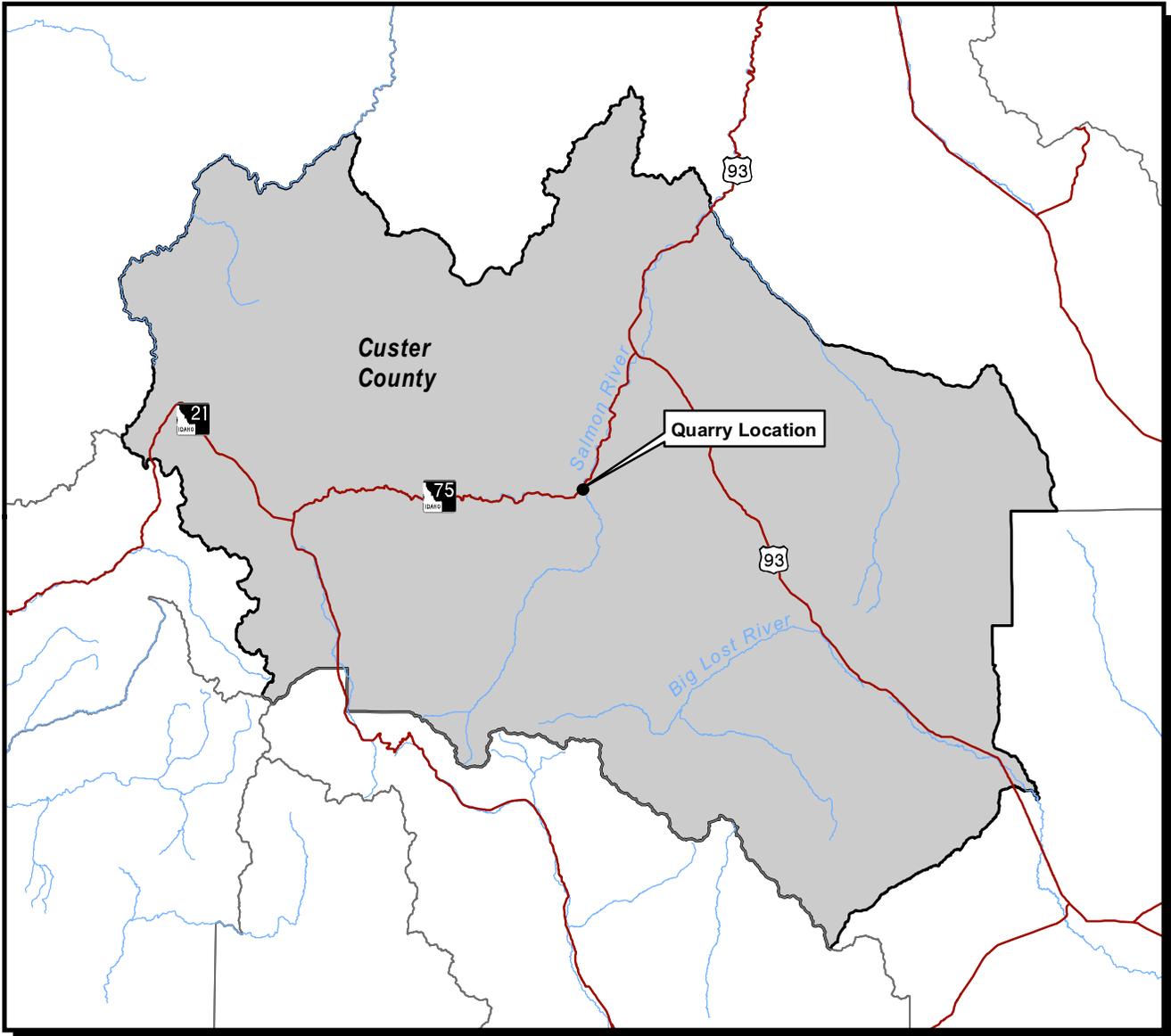


Figure 1.1-1. Location Map

Three Rivers Stone Quarry



The FONSI for the Amended Plan of Operations was challenged in court by the Western Watersheds Project (WWP). In February 2005, U.S. District Court Judge Lynn Winmill denied a motion by WWP for a preliminary injunction against expansion and any new ground-disturbing operations at the Three Rivers Stone Quarry. On May 6, 2005 Judge Winmill ruled that the BLM violated NEPA by not allowing sufficient public input on the Draft EA of mining operations at the quarry. Judge Winmill ordered the BLM to prepare an Environmental Impact Statement (EIS). Judge Winmill has allowed L&W Stone to continue to operate under an Interim Mine Plan until the EIS is completed.

On October 21, 2005, the BLM published a Notice of Intent (NOI) to prepare an EIS and initiated the public scoping process in the Federal Register (Appendix A). The NOI described the location of the L&W Stone Quarry, summarized the environmental review that had previously been conducted, and stated BLM's intention to hold agency and public scoping meetings. The initial scoping period ran for 45 days and concluded on December 5, 2005.

L&W Stone is now proposing an expansion of the approved operations which is the subject of this EIS. Roads would be upgraded, pits expanded, exploration for additional flagstone completed, and a well drilled under an approved water right. Reclamation would include recontouring, stabilizing slopes, and minimizing view-shed impacts. At peak production, the quarry would employ 112 people, and production would average 300,000 tons per year (produced flagstone and wasterock) with an expected mine life of up to 40 years.

1.2 THE APPLICANT

L&W Stone Corporation is a privately owned stone retailer with corporate offices in Orland, California. L&W Stone produces natural stone products and services retailers in the landscaping, nursery and building supply markets. L&W Stone operates several other quarries in the United States that produce building stone.

1.3 PURPOSE AND NEED FOR THE PROPOSED ACTION

1.3.1 The Purpose of the Proposed Action

The purpose of the proposed action is to expand the Three Rivers Stone Quarry under the authority of BLM Title 43 Code of Federal Regulations (CFR) Subpart 3809. Based on the requirements of these regulations, L&W Stone has described the methods they would utilize to mine the flagstone, dispose of the waste that is generated during their mining, conduct exploration to determine if additional flagstone exists on their mining claims, and reclaim the lands that have been disturbed by their exploration and mining activities.

1.3.2 The Need for the Proposed Action

The need for the proposed action is to provide L&W Stone the opportunity to mine sufficient flagstone to meet the market demand, which has increased substantially since 2000, and is expected to continue to increase. Even though L&W Stone's quarry production has increased over the years, it has been unable to keep up with the demand for its flagstone products. The Amended Plan of Operations that was submitted to the BLM in 2002 was based on actual and projected demand for this stone by the building industry.

To meet this increased demand for stone products, the 102 companies operating 104 decorative stone quarries in 34 states have continued to increase production. In 2005, \$285 million worth of domestic, decorative stone was used in the United States (USGS 2006). In addition, approximately \$146 million worth of domestic stone was exported. Including imports, exports and domestic use, the decorative stone market in 2005 was a \$2.5 billion industry. This represents an increase of \$530 million worth of stone consumption over 2004 figures.

According to the U.S. Geological Survey (USGS), the demand for stone products is predicted to increase well into the future. This prediction is based on the fact that stone continues to be a construction material of choice because of the long lasting and low maintenance aspects of natural stone products along with the variety of stone products that are available to meet a wide range of needs. The increased use of stone products is the result of a number of factors including improvements in technology and finishes, as well as the fact that quarrying methods have resulted in stone becoming a cost-effective material when compared to other construction materials.

The USGS projects that world reserves for building stone are sufficient to meet the market needs; however, variation in local markets and availability of certain stone products can influence reserves. The USGS estimates reserves for all dimensional stone operations did not change between 2004 and 2005 and remained at 1.46 million tons of stone. This means that quarry operations were able to meet stone demand through a combination of improved technology and expansion of known reserves at existing quarries, resulting from additional exploration.

1.4 LEAD, COOPERATING AND PARTICIPATING AGENCIES

The BLM is the Federal agency responsible for the preparation of the Draft and Final EIS and the associated analysis. The area of the Three Rivers Stone Quarry Expansion Project (Proposed Project) is located entirely within the BLM Challis Field Office administrative boundary and is entirely sited on public land that is administered by the BLM.

Cooperating agencies are Federal agencies that have jurisdiction by law (40 CFR 1501.6) and will make a decision relative to the Proposed Project based on the analysis disclosed in this EIS. Cooperating agencies may also have special expertise or have information that will assist in development of the analysis. In this analysis, the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) will provide concurrence for the Biological Assessment prepared by the BLM on the effects of the Proposed Project on Threatened and Endangered species.

1.5 GOVERNMENT-TO-GOVERNMENT CONSULTATION

The United States has a unique legal relationship with Indian tribal governments as set forth in the Constitution of the United States, treaties, statutes, Executive Orders, and court decisions. The Federal Government has enacted numerous statutes and promulgated numerous regulations that establish and define a trust relationship with Indian Tribes. As a land and resource manager, the BLM has a trust responsibility to honor treaty rights and make land management decisions and take actions that do not harm or abrogate treaty rights. The BLM must do this while still meeting its regulatory and management responsibilities to all the nation's people. As part of this analysis, the BLM has formally initiated consultation with the sovereign nation of the Shoshone-Bannock Tribes in the manner requested by the Tribes.

1.6 CONFORMANCE WITH EXISTING LAND USE PLAN

The Challis Resource Management Plan (RMP) was approved by the Record of Decision dated July 1999. The RMP acknowledges that the development of minerals is a valid use of the public lands – Minerals Section – Goal 3: “Maintain the availability of public lands for locatable mineral exploration and development. Minimize adverse effects of locatable mineral development activity on other resources” (USDI-BLM 1999, p. 44). The RMP also states that, “Wild and Scenic River (WSR) segments which are found suitable or have a suitability finding deferred until a later coordinated suitability study will be open to mineral development, if consistent with the maintenance of WSR values and management of mineral development in riparian areas” (USDI-BLM 1999, p. 41). The proposed action and alternatives to the proposed action would conform to the Challis RMP.

1.7 SCOPING

On October 28, 2005 a public Scoping Notice Newsletter was prepared and mailed to Federal, state and local agencies, Tribes, interest groups, and members of the general public having a potential interest in the Proposed Project. Local and regional media also received the scoping statement and a press release. The scoping statement explained the Proposed Project and requested comments regarding issues and concerns that should be addressed in

the Draft EIS. Two public scoping meetings were held, one each in the cities of Challis on November 16, 2005 and in Boise on November 17, 2005 with nine total attendees. Initial scoping comment letters were encouraged through December 5, 2005 to help the BLM identify issues that would guide the formulation of alternatives to the proposed action. A total of 12 written comments were received. Eight comments were received from individuals, one was received from a Federal agency, and three were received from interest groups. A list of all respondents is presented in Chapter 5.

1.7.1 Relevant Issues Identified and Used to Develop Alternatives

NEPA requires Federal agencies to identify and analyze relevant issues related to a proposed action and its alternatives. Relevant issues primarily serve as the basis for developing and comparing alternatives. While the focus of the analysis is on relevant issues identified, all issues brought forward through the scoping process are considered. The following is a list of relevant issues that were identified by the Shoshone-Bannock Tribes, the public, BLM, and other governmental organizations that were used to develop alternatives and assess impacts of the Proposed Project. The relevant issues addressed in this Draft EIS include the following.

Special Designations – Commenters expressed concern over the potential impacts of the quarry expansion on the East Fork Salmon River Bench Area of Critical Environmental Concern/Research Natural Area (ACEC/RNA). L&W Stone would continue to mine in Pit 1, of which a portion is within the boundary of the ACEC/RNA. However, this mining would occur in the bottom of Pit 1, and thus there would be no increase in the 4-acre surface disturbance that already exists within the ACEC/RNA.

Wild and Scenic Rivers – The existing quarry and its proposed expansion would be visible by users of the Salmon River. The Salmon River and East Fork Salmon River in the vicinity of the quarry has been inventoried and found eligible for possible designation as a Wild and Scenic River.

Socioeconomics – Most of the comments under this analysis topic were concerned with how the Proposed Project would affect the local economy. The majority of the comments were centered on the belief that the Proposed Project would provide positive economic benefits to the local communities by providing jobs and increased levels of spending. One comment expressed the possibility that the Proposed Project could attract families with children that would attend local schools.

Visual – There was concern that the Proposed Project would have negative impacts to the scenic values associated with surrounding areas. The Challis RMP designates the area where the quarry is located as a Visual Resource Management Class II area. Commenters recommended a rehabilitation/reclamation plan be required and included in the analysis of potential affects.

Fish and Wildlife – There were concerns about the loss of wildlife habitat through the surface disturbance associated with the Proposed Project. One comment expressed concern about the possibility that wildlife habitat adjacent to the Proposed Project area could be degraded by activities associated with the quarry (i.e., blasting, dust, traffic). Concerns were raised regarding the potential affect of the quarry on salmonid fish species, which include threatened and endangered species and a valuable sport fishery, in the East Fork Salmon and Salmon rivers.

Water Quality – There were concerns about the affect of the quarry operations on water quality in the East Fork and Main Salmon Rivers. These concerns included the potential for sediment and minerals leached from the waste rock piles reaching the Salmon River.

Noise – Noise concerns were based on the use of explosives at the quarry site. Comments focused on the impact that this noise would have on surrounding residents and wildlife. One letter expressed concern about the adequacy of noise monitoring associated with the EIS process.

Dust – There was concern about the amount of dust that would be generated by the Proposed Project. One comment requested that the EIS contain an analysis of the various sources and amounts of dust that would occur under each alternative. It also suggested that dust suppression would be an appropriate mitigation measure during quarry operations.

Purpose and Need – There was one comment concerned with the narrowness of the stated purpose and need of the Proposed Project printed in the original newsletter and NOI. The comment questioned the adequacy of the existing statement of purpose and need for the Proposed Project and was concerned that it too greatly constrained the range of alternatives for the analysis of environmental impacts.

Tribal Treaty Rights – The Shoshone-Bannock Tribes requested that the 1868 Fort Bridger Treaty, the Wild and Scenic Rivers Act, and the official government-to-government consultation requirements be included in the EIS on the list of required laws and statues the Federal agencies must follow. In addition, they felt that planning criteria must be developed that do not compromise Tribal values and resources.

1.7.2 Other Issues and Concerns

Other issues and concerns were identified by the Shoshone-Bannock Tribes, the public, BLM, other governmental organizations, and special interest groups regarding the proposed mine expansion. They are listed below and described in more detail in Chapter 3 of this Draft EIS.

- Wild Horses
- Access
- Cultural Resources
- Range Resources
- Geology and Soils
- Weeds/Invasive Species
- Recreation
- Hazardous Materials
- Conformance with Existing Land Use Plan
- Vegetation

1.7.3 Issues Deemed Outside the Scope of the EIS

Alternative Mining Areas or Other Sources of Flagstone

L&W Stone holds mining claims at the location of the existing Three Rivers Stone Quarry. Although similar flagstone deposits may occur in the area, L&W Stone does not have mining claims on those deposits. Therefore, development and analysis of alternatives for quarrying at alternate sites or for alternative sources of flagstone are not included in this EIS.

1.8 FEDERAL AND STATE LAWS AND REGULATIONS

L&W Stone is mining flagstone from unpatented mining claims that have been properly recorded with the BLM pursuant to 43 CFR 3830. The BLM has determined that the flagstone is an uncommon variety of building stone and hence, a locatable mineral. The General Mining Laws of the United States give the locator of a valuable mineral deposit a possessory right to the mineral, which can be extracted and sold without payment or royalty to the United States (*locatable minerals*). Locatable mineral exploration and development are a statutory right on unappropriated and unreserved public lands, except where specifically withdrawn from mineral entry. The public lands on which the L&W Stone operations are located are open for mineral entry, and their operations are in conformance with the Mining and Minerals Policy Act of 1970 (30 USC 21a). The details of the operations are governed by BLM surface management regulations (43 CFR 3809).

The Upper Salmon River Recreation Area Management Plan (RAMP) (USDI-BLM 1986a) sets the recreation management direction for the Upper Salmon River Special Recreation Management Area. In 1999, upon completion of the Challis RMP, the designated corridor, which consisted of 0.25 miles on each side of the Salmon River, was widened and also expanded to include lands along the East Fork Salmon River. Objectives of the RAMP have been expanded to include the widened corridor. The L&W Stone operation falls within this corridor. The actions in the RAMP are designed to enhance high quality recreation opportunities and to preserve the river's natural and scenic characteristics within the designated corridor. The RAMP focuses on recreation issues; however, it contains the following objective regarding the development of minerals: "Regulate mining claims, oil and gas leases, and geothermal lease[s] to protect the natural, scenic, cultural, and recreation values from unnecessary and undue degradation" (USDI-BLM 1986a, p. 17). The proposed alternatives are designed to achieve that objective.

In 1995, the BLM adopted the Interim Strategy for Managing Anadromous Fish-Producing Watersheds in Eastern Oregon and Washington, Idaho, and portions of California, commonly referred to as PACFISH (USDA-FS and USDI-BLM 1995). PACFISH provides Riparian Management Objectives and Standards and Guidelines for managing riparian resources.

Also in 1995, the BLM implemented the Bull Trout Habitat Conservation Strategy known as INFISH (USDA-FS 1995). INFISH is virtually identical to PACFISH except that it applies to land management activities that influence bull trout habitats, rather than anadromous fisheries habitats.

A Biological Assessment was prepared to assess the impacts of the Proposed Project as outlined in the 2004 EA on threatened and endangered fish (USDI-BLM 2003a). Consultation as required by the Endangered Species Act (ESA) of 1973, as amended, has been completed with the National Oceanic and Atmospheric Administration (NOAA) Fisheries (concurrence letter dated January 16, 2004) and the USFWS (concurrence letter dated December 21, 2003). Both agencies have concurred that the L&W Stone operation as described in Alternative 2 (Preferred Alternative in the 2004 EA), which is similar to Alternative B in this document, would not likely adversely affect Federally listed salmonids, or their proposed or designated critical habitats, and that PACFISH and INFISH Riparian Management Objectives for managing salmonid habitats would be met. Further consultation with USFWS and NOAA would occur as needed to meet the requirements of the ESA.

The only Federal, state, or local permitting requirements to implement the Proposed Project is a permit from the Idaho Department of Water Resources for the proposed water well or the current water withdrawal from the Salmon River. The proposed operations would be

authorized by the General Mining Laws and the implementing regulations found in 43 CFR 3809. The Idaho Department of Lands must approve the reclamation plan for the proposed operations, regardless of approval of the Plan of Operations by the BLM (Idaho Administrative Procedures Act (IDAPA) 20.03.02.069.05).

The Proposed Project is consistent with the Challis Field Office Integrated Weed Management Program (USDI-BLM 2003b). The overall weed control strategy for lands managed by the Challis BLM was identified as: “Keep noxious weed-free areas weed-free. Survey weed-free areas every 1 to 5 years, and eradicate any noxious weeds found, including new invaders, using the most effective means” (USDI-BLM 2003b, p.3).

The project site is in an area covered by the Challis Wild Horse Herd Management Area Plan (USDI-BLM 1989). This Plan was reviewed and no conflicts were identified from the proposed actions.

As required by the Wild and Scenic Rivers Act of 1968 (Public Law 90-542) and by BLM policy, the BLM completed an inventory in 1993 to determine which rivers flowing through BLM administered public lands within the Challis Field Office area would be eligible for further study for possible inclusion in the National Wild and Scenic Rivers System. The East Fork Salmon River and the Salmon River were both found eligible for further study, with suitability findings deferred until a coordinated river study with the State of Idaho and with the U.S. Forest Service is completed (USDI-BLM 1998, p.99; USDI-BLM 1999, p. 76 and Map H).

The Native American Graves Protection and Repatriation Act (NAGPRA) under 43 CFR 10 regulates, among other things, the inadvertent discovery of Native American ancestral human remains or funerary cultural items on Federal lands. All Federal authorizations to carry out land use activities on Federal lands must include a requirement for the holder of the authorization to notify the appropriate Federal official immediately upon the discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony. NAGPRA, at 43 CFR 10.4, provides for a minimum mandatory 30-day hold on any activities that cause the inadvertent discovery of such remains and items. The potential exists for inadvertent discovery or disturbance of items protected by NAGPRA during implementation of the proposed activities.

The National Historic Preservation Act of 1966, as amended (NHPA; regulations under 36 CFR 800) established the Federal government policy and programs on historic preservation. Section 106 of NHPA requires agencies to consider the effects of their action on historic properties (cultural resources determined to be eligible for the National Register of Historic

Places) prior to project implementation. The NHPA specifically requires Federal agencies to identify and manage historic properties on Federally owned and managed lands, and to consult and cooperate with sovereign tribal governments, other Federal and state agencies, and the public. Those requirements have been met for the proposed actions.

The Fort Bridger Treaty of 1868 (15 Stat. 673) specifically reserves the right of the Shoshone and Bannock people to hunt, fish, and gather natural resources located on unoccupied lands. The BLM has a Federal trust responsibility to honor treaty rights, to make land management decisions and take actions that do not harm or abrogate treaty rights, treaty resources, and other tribal interests. Part of the Federal trust responsibility entails conducting government-to-government consultation with Indian groups when a project has the potential to impact the exercise of treaty reserved rights.

Table 1.8-1 lists all authorizing actions required for project compliance with all relevant Federal and state laws.

Table 1.8-1. Federal and State Authorities and Actions for the Proposed Project.

Agency	Action	Authority
U.S. Bureau of Land Management	Draft EIS, Final EIS, and Record of Decision preparation	NEPA, 40 CFR Parts 1500-1508; Federal Land Policy and Management Act of 1976 (as amended), Public Law 94-579
	Approve Plan of Operations	U.S. Department of the Interior, Federal Land Policy and Management Act of 1976 (as amended) Public Law 94-579; 43 CFR 3809
	Designate a community pit and issue free use permits for mineral material sales	43 CFR 3602 (sales) 43 CFR 3603 (community pits) and 3604 (free use permits)
U.S. Fish and Wildlife Service	Review impact on Federally listed or proposed TES species of fish, wildlife, plants, and migratory birds Preparation of Biological Opinion of potential project impacts on Threatened and Endangered species	Fish and Wildlife Coordination Act of 1934, as amended 1946, 1977 (16 U.S.C. 661-667e); Endangered Species Act of 1973 (16 U.S.C. Sections 1531 <i>et seq.</i>); Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. 703 <i>et seq.</i>); Bald Eagle Protection Act (16 U.S.C. 668-668d) and Bald and Golden Eagle Protection Act
National Oceanic and Atmospheric Administration	Review impact on Federally listed or proposed TES species of Salmon and Steelhead	Fish and Wildlife Coordination Act of 1934, as amended 1946, 1977 (16 U.S.C. 661-667e); Endangered Species Act of 1973 (16 U.S.C. Sections 1531 <i>et seq.</i>)

Table 1.8-1. Federal and State Authorities and Actions for the Proposed Project.

Agency	Action	Authority
Idaho Department of Fish and Game	Review impacts to, wildlife, and wildlife habitat and assist in developing mitigation measures	Fish and Wildlife Coordination Act of 1934, as amended 1946, 1958, 1977 (U.S.C. 661-667e)
Idaho Department of Lands	Review and approve reclamation plan	Idaho Administrative Procedures Act (IDAPA) 20.03.02.069.05
Idaho Department of Environmental Quality	Dust control and vehicle emissions Individual National Pollution Discharge Elimination System Permit	Clean Air Act of 1970, as amended (42 USC 7401 <i>et seq.</i>) Federal Water Pollution Control Act (Clean Water Act) of 1972, as amended
Idaho State Historic Preservation Office	Consult with BLM regarding cultural resource eligibility determinations and the effects of the Proposed Project on historic properties	National Historic Preservation Act of 1966, as amended (16 U.S.C. 470)
U. S. Bureau of Alcohol, Tobacco and Firearms	Explosives for blasting	CFR Title 27, Alcohol, Tobacco and Firearms, Revised April 1, 2003
Idaho Department of Water Resources	Approve water rights for well	Section 42-229, Idaho Code (water rights); Section 42-235, Idaho Code (drilling permits); Section 42-238, Idaho Code, IDAPA 37-03 Chapter 9 (well construction standards and rules)

1.9 DECISIONS TO BE MADE

1.9.1 Bureau of Land Management

Upon evaluating the 2002 Amended Plan of Operations through this DEIS, the BLM must:

- approve the Amended Plan as submitted;
- approve the Amended Plan subject to changes or conditions necessary to meet the performance standards of 43 CFR 3809.420 and to prevent unnecessary and undue degradation; or
- withhold approval of the Amended Plan because the proposed operations cannot be modified to prevent unnecessary or undue degradation of public lands (43 CFR 3809.411).