U.S. Department of the Interior
Bureau of Land Management
Uncompahgre Field Office
2465 South Townsend Avenue
Montrose, CO 81401

Decision Record

DOI-BLM-CO-S050-2014-0017 EA

Project Name: Montrose County West-End Pit Free-Use Permit

DECISION: It is my decision to issue Montrose County a free-use permit for 400,000 tons of pit-run fill material over a 10-year period. The permit is to excavate fill material (including cobbles, pebbles, gravel and sand) over a 20.9 acre area. Topsoil and overburden (if present) will be stripped, stockpiled and seeded with the BLM seed mix (stipulations).

Required reclamation will reduce the gravel pit high wall faces to a 3:1 (horizontal to vertical) slope configuration. Overburden material (if necessary) and the stockpiled topsoil will be placed on all disturbed areas before the BLM approved weed-free seed mix is applied. Compliance with CDRMS and BLM reclamation standards is required before releasing reclamation liability.

This decision is subject to the Special Stipulations found in attachment 1.

MITIGATION MEASURES: Special Stipulations (attachment 1) serve as mitigation.

MONITORING: Stipulations contain provisions for monitoring and compliance. Compliance monitoring will occur periodically throughout the life of the project, including production verification monitoring and site restoration.

RATIONALE: The decision to allow the Proposed Action does not result in any undue or unnecessary environmental degradation and is in conformance with the San Juan/San Miguel Resource Management Plan. It has been made in consideration of the impacts to the affected resources.

COMPLIANCE WITH MAJOR LAWS: The decision is in compliance with applicable laws, regulations and policy, including the Endangered Species Act, Migratory Bird Treaty Act, Clean Water Act, Clean Air Act, National Historic Preservation Act, as amended (17 Stat.91), Materials Act of 1947 (61 Stat 681), the Federal Land Policy Management Act (FLPMA) of 1976 (43 U.S.C. 1701 et seq.), and the Code of Federal Regulations (CFR) at 43 CFR 3600.

FINDING OF NO SIGNIFICAN IMPACT: A Finding of No Significant Impact (FONSI) was prepared, based on the information contained in the EA and my consideration of criteria for significance (40 CFR 1508.27). It is my determination that: 1) the implementation of the

Proposed Action will not have significant environmental impacts; 2) the Proposed Action is in conformance with the San Juan/San Miguel Resource Management Plan; and 3) the Proposed Action does not constitute a major federal action having significant effect on the human environment. Therefore, an Environmental Impact Statement is not necessary.

APPEALS: This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4, and Form 1842-1 (Attachment 2). If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error. If you wish to file a petition pursuant to regulation 43 CFR 4.21, for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413), at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted (Form 1842-1).

NAME OF PREPARER: Robert Ernst

NAME OF ENVIRONMENTAL COORDINATOR: [signature]

DATE June 5, 2014

SIGNATURE OF AUTHORIZED OFFICIAL Barbara Sharrow

Barbara Sharrow
Field Manager
Uncompahgre Field Office

DATE SIGNED 6/16/14

Attachments: 1) Special Stipulations
2) Form 1842-1 (Information on Taking Appeals to the Interior Board of Land Appeals

Attachment 1

Special Stipulations to COC - 76506

1. Montrose County recognizes the importance of the control of non-native, invasive plant species (noxious weeds). The county agrees that to have a successful and thorough noxious weed control program, a BLM approved weed-free seed mix regimen, and/or a strict herbicide application strategy is needed. If applications of herbicide are required, it will be the responsibility of Montrose County to insure compliance with all local, state and federal laws and regulations, as well as labeling directions specific to the use of any given herbicide.

2. Montrose County will be responsible for all firefighting suppression costs for any wild land fire resulting from operations or practices associated with this authorized FUP.

3. If cultural or paleontological resources are discovered during operations under this FUP, Montrose County shall immediately notify the Uncompahgre Field Office (UFO) Manager and shall not disturb such discovered resources until the UFO Manager has issued specific instructions. Montrose County agrees to strictly adhere to the following conditions:
   - Pursuant to 43CFR10.4(g), the UFO Manager must be notified, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43CFR10.4 (c) and (d), activities must stop in the vicinity of the discovery and the discovery must be protected for 30 days or until notified to proceed by the UFO Manager or their delegated representative.
   - If in connection with operations under this FUP, the county, or any authorized contractors, sub-contractors, or other authorized employees, discovers, encounters or becomes aware of any objects or sites of cultural or paleontological value or scientific interest such as historic or prehistoric ruins, graves or grave markers, fossils, or artifacts, the operator shall immediately suspend all operations in the vicinity of the cultural or paleontological resource and shall notify the UFO Manager of the findings (16 U.S.C. 470h-3, 36CFR800.112). Operations may resume at the discovery site upon receipt of written instructions and authorization by the UFO Manager.
   - Within 5 working days after notification of the discovery of any culturally related findings, the UFO Manager shall evaluate any cultural resources discovered and shall determine whether any action may be required to protect or to preserve such discoveries.

4. The gravel pit operation and reclamation will at all times be in compliance with CDRMS permit number M-1992-017. Montrose County further agrees to:
   a. contact the UFO five (5) days prior to beginning reclamation activities, and
   b. reclamation of the site will be considered successful when the soil is erosionally stable and the re-vegetated plant community is at least 75% of the adjacent area's plant cover.

5. Montrose County will comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the county will comply with the Toxic Substances Control Act of 1976, as amended (15 USC 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the permit area as authorized under this FUP. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193). Additionally, any release of toxic substance (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b (CERCLA). A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be

furnished to the UFO Manager concurrent with the filing of the reports to the involved Federal agency or State government. Montrose County will ensure that hazardous materials/hazardous wastes, trash or other solid waste will not be disposed of on public lands and acknowledges that the storage of leaking equipment, fuel, oil or other containerized substances is prohibited on public lands. All releases of these substances will be promptly reported to the UFO Manager, immediately cleaned up and properly disposed of by the county.

6. The county agrees to the employment of any other practices as prescribed by the UFO Manager which will enhance and protect the public interests and which may be prescribed after due investigation of the circumstances.

7. For public safety purposes, Montrose County will maintain a locked gate to limit access to the operation site during periods of non-use, including nightly closure.

8. Whenever excessive dust conditions exist, Montrose County agrees to employ dust abatement measures including but not limited to applying water or magnesium chloride to pit operations including the pit access road for the purpose of reducing or eliminating airborne dust produced by operations authorized under this FUP. To help control fugitive dust impacts, during operations and interim inactive periods until final reclamation is achieved, the county agrees to seed the overburden and the stockpiled topsoil material with a BLM approved weed-free seed mix (see design feature 10 below).

9. Montrose County provides the following that:
   - annual production reports will be reported to the UFO Manager by March 1,
   - production verification and compliance inspections will be permitted regularly until the project is completed,
   - the county is permitted to extract gravel only in the area approved in the FUP,
   - the pit boundaries will be identified by visible boundary markers and checked by the representative of the UFO Manager prior to any surface disturbance, and
   - the county will obtain all required approvals from other federal, state, and local agencies prior to conducting any operations associated with this FUP.

10. To better re-establish important winter range and sagebrush habitats post reclamation, the following seed mix shall be required for all BLM surface lands and is recommended for the private surface portion of the project unless the land owner desires something different.

    BLM places the following requirements on seed mixes which are put on BLM lands:

    a) Use the following minimum PLS (Pure Live Seed) tolerances

PLS tested %	Tolerance % points
81-100	-7
61-80	-6
41-60	-5
21-40	-4
0-20	-3

    b) All seed must comply with BLM and Colorado weed seed guidelines. There should be no prohibited species seed, and no more than allowable levels of restricted species seed. In addition, there should be no more that 0.5% total weed seed, less than 2% other seed, and no trash larger than ¼" in length. Seed shall not be stored in burlap bags.
    c) The UFO places additional local restrictions on seed to minimize cheatgrass spread. If

seed tests show any *Bromus tectorum* or *Bromus japonicus*, the BLM should be consulted with for approval. No mix placed on BLM shall contain more than 150 *Bromus tectorum* and/or *Bromus japonicus* seeds per pound.

d) BLM requires additional seed tests on seeding projects that are greater than 20 acres and/or require over 200 lbs. of seed. For these seeding projects, the project proponent should have the seed supply company store the purchased seed prior to mixing, and pull samples to be sent to a certified laboratory, preferably Wyoming State Laboratory at the following address. Seed test results must comply with the criteria listed above before seed is mixed, shipped and applied to the project area:

Wyoming State Laboratory
749 Road 9
Powell, WY 82435

e) BLM will need copies of seed tags and test results for all seed applied regardless of project size.

f) Only State Certified weed free mulch shall be used.

	A	B	C	D	E
Species	Desired % of planting	Multiplier (A x 0.01)	PLS lbs. for full stand	PLS lbs. per acre needed for mix (B x C)	PLS lbs. per acre for project (D x # acres)
Western Wheatgrass *(Pascopyrum smithii)* Variety Arriba	35	0.35	10	3.5	
Bottlebrush squirreltail *(Elymus elemoides)*	20	0.2	8	1.6	
Indian Ricegrass *(Acnatherum hymenoides)* Variety Paloma	14	0.14	8	1.12	
Sand Dropseed (*Sporobolus cryptandra*)	5	0.05	1	0.05	
Lewis Flax (*Linum lewisii*) Maple Grove	5	0.05	2.25	0.11	
Annual Sunflower (*Helianthus annuus*)	3	0.03	10	0.3	
Four-Wing Saltbush *(Atriplex canescens)* from western Colorado, E Utah	5	0.05	6	0.3	
Wyoming Big Sagebrush *(Artemisia tridentata wyomingensis)*	13	0.13	1	0.13	
Totals	100	1.0		7.11	

Form 1842-1
(September 2006)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS
1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

NOTICE OF APPEAL.....	A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that he wishes to appeal. A person served with the decision being appealed must transmit the *Notice of Appeal* in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a *Notice of Appeal* in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).
2. WHERE TO FILE NOTICE OF APPEAL.....	U.S. Department of the Interior Bureau of Land Management Uncompahgre Field Office 2465 S. Townsend Ave. Montrose, CO 81401
WITH COPY TO SOLICITOR...	Office of the Solicitor Rocky Mountain Region 755 Parfet St, Suite 151, Lakewood, CO 80215
3. STATEMENT OF REASONS	Within 30 days after filing the *Notice of Appeal,* file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the *Notice of Appeal,* no additional statement is necessary (43 CFR 4.412 and 4.413).
WITH COPY TO SOLICITOR.....	Office of the Solicitor Rocky Mountain Region 755 Parfet St, Suite 151 Lakewood, CO 80215
4. ADVERSE PARTIES.....	Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal,* (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413).
5. PROOF OF SERVICE.....	Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).
6. REQUEST FOR STAY.....	Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a *Notice of Appeal* (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your *Notice of Appeal* (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the *Notice of Appeal* and Petition for a Stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. Standards for Obtaining a Stay. Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards: (1) the relative harm to the parties if the stay is granted or denied, (2) the likelihood of the appellant's success on the merits, (3) the likelihood of immediate and irreparable harm if the stay is not granted, and (4) whether the public interest favors granting the stay.

Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 4.402). Be certain that all communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part4, Subpart B for general rules relating to procedures and practice involving appeals.

(Continued on page 2)

43 CFR SUBPART 1821-GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State Office ----------Alaska
Arizona State Office --------- Arizona
California State Office ------- California
Colorado State Office-------- Colorado
Eastern States Office --------- Arkansas, Iowa, Louisiana, Minnesota, Missouri
and, all States east of the Mississippi River
Idaho State Office ---------- Idaho
Montana State Office--------- Montana, North Dakota and South Dakota
Nevada State Office ---------- Nevada
New Mexico State Office---- New Mexico, Kansas, Oklahoma and Texas
Oregon State Office---------- Oregon and Washington
Utah State Office---------- Utah
Wyoming State Office -------- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.

(Form 1842-1, September 2006)