

**United States Department of the Interior  
Bureau of Land Management**

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**Categorical Exclusion  
for the  
CDOT Highway 139 Burnt Shale Borrow Pit Expansion**

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Grand Junction Field Office  
2815 H Road  
Grand Junction, Colorado 81506

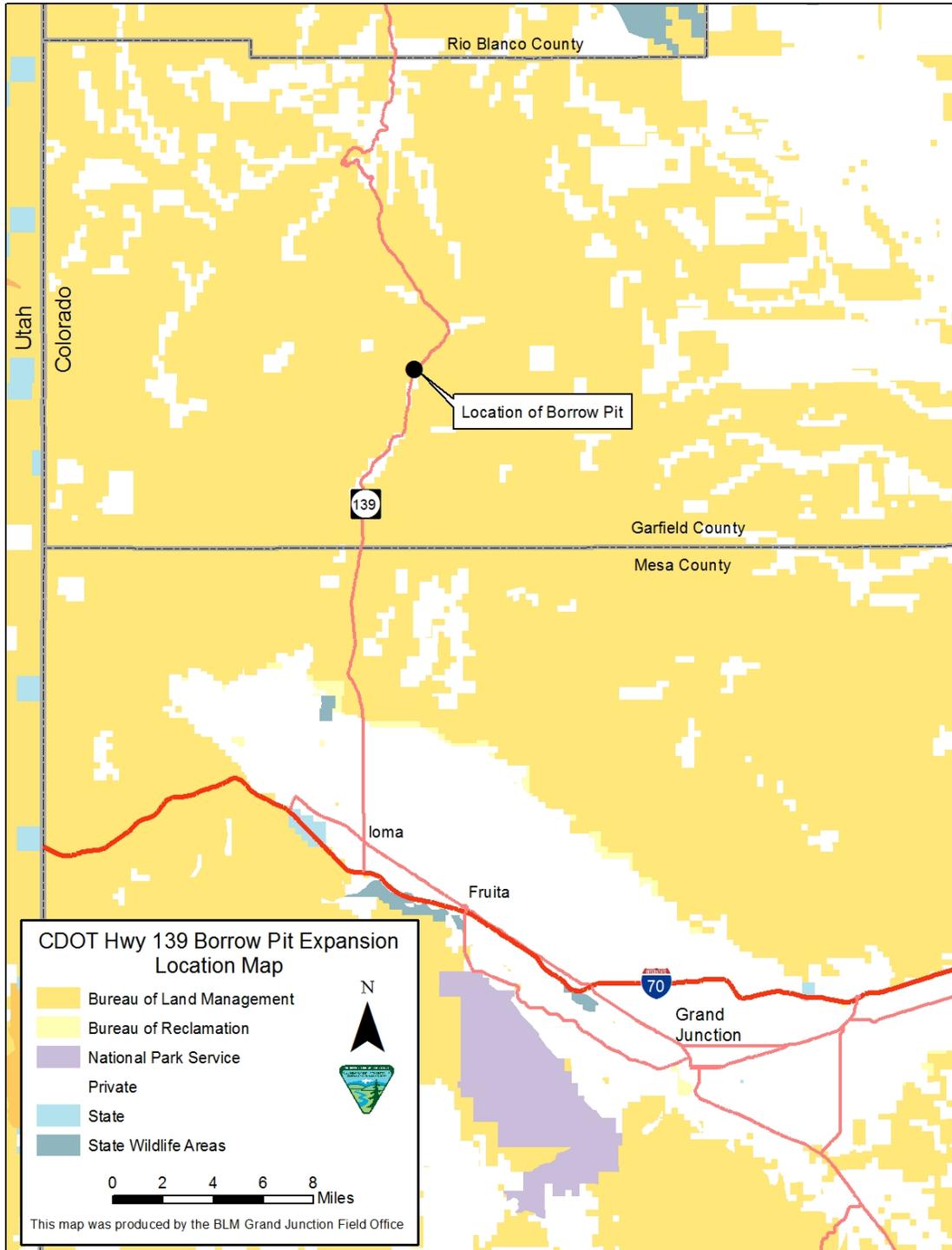
DOI-BLM-CO-130-2013-0040-CX

**November 2014**



LEGAL DESCRIPTION AND LOCATION MAP:

The legal land description is Lots 5 and 7, Section 9, Township 7 South, Range 102 West, 6<sup>th</sup> PM in Garfield County, Colorado.



APPLICANT: Colorado Department of Transportation (CDOT)

INTRODUCTION: The purpose of the proposed action is to permit a 2.2 acre expansion of an existing 2 acre burnt shale borrow pit to provide CDOT with an appropriate local rock source to stabilize and repair highway 139. BLM's need is to allow disposal of mineral material to CDOT for ongoing maintenance of highway 139 where it is constructed on an active landslide area at Douglas Pass, if this is determined to be an appropriate source based on the needs of other resources. The rock is used along the shoulder of highway 139 where it is constructed over an active landslide on the south side of Douglas Pass. The shale rock helps direct the water runoff away from the road prism and prevents erosion of the roadway. When portions of the landslide move and damage the road prism, the shale rock is used to stabilize the mud prior to applying road base gravels.

DESCRIPTION OF PROPOSED ACTION: The borrow pit has existed and been used intermittently by CDOT since 1967. NEPA has not been completed up to this point. CDOT proposes to expand the 2 acre borrow pit by 2.2 acres to ensure they will have enough burnt shale to repair highway 139 when it is damaged by future landslide activity. During expansion of the pit vegetation would be removed and top soil would be salvaged for future reclamation. Once the burnt shale is exposed it would be mined using heavy equipment (e.g., a bull dozer or a back hoe).

Benches would be created above the cliffs and the burnt shale would be pushed over the cliffs to the flat area along highway 139. The mined shale would then be processed through an iron grizzly to create smaller, fractured pieces of rock.

CDOT has obtained a permit from the Colorado Division of Reclamation, Mining and Safety (CDRMS) for the state mining permit. There is a more detailed description of the mining and reclamation plan the CDRMS will be requiring in the CDRMS application.



### PLAN CONFORMANCE REVIEW:

The Proposed Action is subject to and has been reviewed for conformance with (43 CFR 1610.5, BLM 1617.3) the following plan:

Name of Plan: Grand Junction Resource Management Plan

Date Approved: JANUARY, 1987

Decision Number/Page: p. 2-8 and 2-11

Decision Language: To make available areas for the disposal of mineral material while protecting other resource values. Allow disposal of mineral material on public land not closed to such development.

### CATEGORICAL EXCLUSION REVIEW:

The proposed action qualifies as a categorical exclusion under: H-1790-1, Appendix 4, Letter: F. Solid Minerals (10). When no extraordinary circumstances apply, the following types of Bureau actions normally do not require the preparation of an EA or EIS: "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."

### EXTRAORDINARY CIRCUMSTANCES

There are no extraordinary circumstances having effects, which may significantly affect the environment. I considered the following resource conditions in determining whether extraordinary circumstances related to the proposed action warranted further analysis and documentation in an EA or EIS (516 DM 2, Appendix 2):

**1. Have significant adverse effects on public health and safety.**

The proposed action is not expected to significantly impact public health and safety because it involves a 2.2 acre expansion of an already existing borrow pit next to highway 139. There are no known effects to public health or safety.

**2. Have adverse effects 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, floodplains; national monuments; migratory birds; and other ecologically significant or critical areas.**

**HISTORIC AND CULTURAL RESOURCES:** A records search of the general project area, and a Class III inventory of the Area of Potential Effect (APE), as defined in the National Historic Preservation Act (NHPA), was completed by Colorado Department of Transportation archaeologists in August 2014 (GJFO CRIR 11514-01). No cultural resources were found in the APE. The project inventory and evaluation is in

compliance with the NHPA, the Colorado State Protocol Agreement, and other federal law, regulation, policy, and guidelines regarding cultural resources.

**SPECIAL DESIGNATIONS:** Colorado State Highway 139 is part of the Dinosaur Diamond National Scenic Byway which highlights the area's unique paleontological resources and scenery. The existing quarry pre-dates the designation of the Byway (designated in 1997). Expansion of the quarry would likely temporarily increase the visual effects (contrast in form, line, color and texture) for travelers along that section of the Byway.

**DRINKING WATER AQUIFERS; WETLANDS, FLOODPLAINS:** The proposed action would not occur within any drinking water aquifers. East Salt Creek and associated alluvial sediments and floodplain are buffered from the existing mine area by highway 139 and would not be directly impacted through mining operations. However, surface disturbance greater than 1 acre would require stormwater permitting through the State to be compliant with CWA regulations.

**Air Quality:** Surface disturbing actions should not occur when wind speeds exceed 35 mph.

**MIGRATORY BIRDS:** The proposed action includes restrictions on vegetation disturbance during the peak breeding season. Proposed disturbance does not include areas with nesting raptor concerns, expansion of the disturbance area beyond that outlined in the diagram on page 4 would require raptor surveys.

**PALEONTOLOGY:** Paleontological resources may be present in the project area. If any vertebrate fossil resources are discovered during mining, operations will halt in the area of the discovery and the BLM geologist/paleontology coordinator will be notified.

**3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources.**

The impacts of borrow pits are generally well known and documented in the academic and practicing communities. Therefore the environmental effects are not likely to be controversial.

**4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.**

Borrow pits have a long history in the region and pose no unique or unknown risks.

**5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.**

This decision is like one of many that have previously been made and will continue to

be made by BLM responsible officials regarding borrow pits on public lands. The decision is within the scope of the Resource Management Plan and is not expected to establish a precedent for future actions. The decision does not represent a decision in principle about a future consideration.

**6. Be directly related to other actions with individually insignificant but cumulatively significant environmental effects.**

This is a stand-alone project. There are no projects with significant environmental impacts known to BLM that would result directly or indirectly from implementation of this project.

**7. Have adverse effects on properties listed, or eligible for listing, in the National Register of Historic Places.**

No Historic properties are present in the proposed expansion area.

**8. Have adverse effects on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these species.**

There are no listed or proposed plants, fish, or wildlife species or critical habitat impacted by this project.

**9. Have the potential to violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment.**

This decision complies with other Federal, State, or local laws and requirements imposed for the protection of the environment.

**10. Have the potential for a disproportionately high and adverse effect on low income or minority populations.**

The minority and low-income populations of the county are small relative to state-wide averages and such populations are dispersed throughout the county. Therefore, no minority or low-income populations would suffer disproportionately high and adverse effects as a result of the Proposed Action.

**11. Restrict access to and ceremonial use of Indian sacred sites by Indian religious practitioners or adversely affect the physical integrity of such sacred sites.**

The Ute have a generalized concept of spiritual significance that is not easily transferred to Western models or definitions. As such the BLM recognizes that the Ute have identified sites that are of concern because of their association with Ute occupation of the area as part of their traditional lands. No traditional cultural properties, unique natural resources, or properties of a type previously identified as being of interest to local tribes, were identified during the cultural resources inventory

of the project area. The project would not limit access if such properties were not known to the agency. Consultation letters and contact was made with the Ute Indian Tribe of the Uintah and Ouray Reservation, the Southern Ute Indian Tribe and the Ute Mountain Ute Tribe for this project. If additional information comes out in consultation, aspects of the project may be changed in response to tribal concerns.

**12. Significantly, 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.**

CDOT should incorporate the expansion of this pit into their Highway 139 weed plan to ensure that weed management is properly conducted on the existing borrow pit and on the proposed expansion area.

INTERDISCIPLINARY REVIEW:

<u>Name</u>	<u>Title</u>	<u>Area of Responsibility</u>
Alissa Leavitt-Reynolds	Archaeologist	Cultural Resources, Native American Religious Concerns
Nate Dieterich	Hydrologist	Soil, Water, Air
Anna Lincoln	Ecologist	Special Status Species
Heidi Plank	Wildlife Biologist	Wildlife, Fisheries, Special Status Species
Chris Pipkin	Outdoor Recreation Planner	Recreation, Special Designations, Travel/Transportation, Visual, Wilderness
Scott Gerwe	Geologist	Minerals, Geology, Paleontology
Sparky Taber	Range Management Specialist	Weed Coordinator, Invasive, Non- Native Species
Alan Kraus	Hazardous Materials Specialist	Hazardous Materials
Scott Clarke	Range Management Specialist	Vegetation, Range

NAME OF PREPARER: Scott Gerwe

NAME OF ENVIRONMENTAL COORDINATOR: Christina Stark

DATE: 11/18/14

**Table 1– Potentially Impacted Resources**

Resources	Not Present On Location	No Impact	Potentially Impacted	Mitigation Necessary?	BLM Evaluator Initial & Date	Comments
<b>PHYSICAL RESOURCES</b>						
Air and Climate	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	ND 8/14/14	See NEPA Notification
Water (surface & subsurface, floodplains)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	ND 9/24/13	See NEPA Notification
Soils	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	ND 9/24/13	See NEPA Notification
Geological/Mineral Resources	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	DSG 8/6/13	
<b>BIOLOGICAL RESOURCES</b>						
Special Status Plants	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	AL 7/29/14	
Special Status Wildlife	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	HLP 8/5/14	
Migratory Birds	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	HLP 8/5/14	See NEPA Notification
Other Important Wildlife Habitat	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	HLP 8/5/14	
Vegetation, Forestry	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SC 9/23/14	See NEPA Notification
Invasive, Non-native Species	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	MT 1/24/14	
Wetlands/Riparian Zones	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	CS 1/2/14	
<b>HERITAGE RESOURCES AND HUMAN ENV.</b>						
Cultural or Historical	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	NFC 11/6/13	
Paleontological	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	DSG 8/6/13	
Tribal& American Indian Religious Concerns	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	NFC 11/6/13	
Visual Resources	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	CPP 8/01/14	Require reclamation/visual mitigation following mineral disposal
Social/Economic	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	DSG 10/21/14	
Transportation and Access	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	CPP 8/01/14	
Wastes, Hazardous or Solid	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	AK 10/24/14	
<b>LAND RESOURCES</b>						
Recreation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	CPP 8/01/14	
Special Designations (ACEC, SMAs, WSR)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	CPP 8/01/14	Dinosaur Diamond National Scenic Byway – see NEPA Notification
Wilderness & Wilderness Characteristics	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	CPP 8/01/14	
Range Management	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	SC 9/23/14	
Wild Horse and Burros	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	JRD 10/29/14	
Land Tenure, ROW, Other Uses	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	RBL 5/13/14	
Fire/Fuels	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	JP 10/25/13	

**UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
GRAND JUNCTION FIELD OFFICE**

**DECISION DOCUMENT**

**CDOT Highway 139 Burnt Shale Borrow Pit Expansion  
DOI-BLM-CO-130-2014-0040-CX**

**DECISION:**

I have reviewed this document and have decided to implement the CDOT Highway 139 Burnt Shale Borrow Pit Expansion project and described above in the proposed action along with the requirements described in the stipulations attached to this decision. This project is categorically excluded from documentation in an EA or EIS under H-1790-1, Appendix 4, Letter: F. Solid Minerals (10). When no extraordinary circumstances apply, the following types of Bureau actions normally do not require the preparation of an EA or EIS: “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.”

**RATIONALE:**

This action is listed in the handbook as an action that may be categorically excluded. I have evaluated the action relative to the 12 criteria listed above and have determined that no extraordinary circumstances exist.

The borrow pit has existed and been used intermittently by CDOT since 1967. The proposed pit expansion of 2.2 acres will ensure that CDOT has enough burnt shale to repair highway 139 following damage by future landslide activity. The rock is also used along the shoulder of highway 139 in areas constructed over an active landslide on the south side of Douglas Pass. The shale rock helps direct the water runoff away from the road prism and prevents erosion of the roadway. When parts of the landslide move and damage the road prism, the shale rock is used to stabilize the mud prior to road base gravels being applied.

**PUBLIC INVOLVEMENT:**

No formal public scoping was conducted for this project. Public notification of the project was completed by posting the project information on the BLM Grand Junction Field Office web site. Internal scoping for the project included presentation and discussion of the project at BLM interdisciplinary meetings (IDT).

**PLAN CONSISTENCY:**

Based on information in the CX, the project record, and recommendations from BLM specialists, I conclude that this decision is consistent with the 1987 Grand Junction Resource Management Plan as amended, the Endangered Species Act; the Native American Religious Freedom Act; other cultural resource management laws and regulations; the Migratory Bird Treaty Act; the Clean Water Act; the Clean Air Act; the National Historic Preservation Act; Executive Order 12898 regarding

Environmental Justice; and Executive Order 13212 regarding potential adverse impacts to energy development, production, supply and/or distribution.

*Kate A. Stone*

Field Manager  
Grand Junction Field Office

*11/18/14*

Date

Attachment:  
Stipulations

## **Stipulations:**

### **Cultural:**

All persons in the area who are associated with this project shall be informed that any person who, without a permit, injures, destroys, excavates, appropriates or removes any historic or prehistoric ruin, artifact, object of antiquity, Native American remains, Native American cultural item, or archaeological resources on public lands is subject to arrest and penalty of law (16 USC 433, 16 USC 470, 18 USC 641, 18 USC 1170, and 18 USC 1361). Strict adherence to the confidentiality of information concerning the nature and location of archeological resources would be required of the proponent and all of their subcontractors (Archaeological Resource Protection Act, 16 U.S.C. 470hh)

Inadvertent Discovery: The National Historic Preservation Act (NHPA) [16 USC 470s., 36 CFR 800.13], as amended, requires that if newly discovered historic or archaeological materials or other cultural resources are identified during the Proposed Action implementation, work in that area must stop and the BLM Authorized Officer (AO) must be notified immediately. Within five working days the AO will determine the actions that will likely have to be completed before the site can be used (assuming in place preservation is not necessary).

The Native American Graves Protection and Repatriation Act (NAGPRA) [25 USC 3001 et seq., 43 CFR 10.4] requires that if inadvertent discovery of Native American Human Remains or Objects of Cultural Patrimony occurs, any activity must cease in the area of discovery, a reasonable effort made to protect the item(s) discovered, and immediate notice be made to the BLM Authorized Officer, as well as the appropriate Native American group(s) (IV.C.2). Notice may be followed by a 30-day delay (NAGPRA Section 3(d)).

The operator may relocate activities to avoid the expense of mitigation and delays associated with this process, as long as the new area has been appropriately inventoried and has no resource concerns, and the exposed materials are recorded and stabilized. Otherwise, the operator shall be responsible for mitigation costs. The BLM authorized officer will provide technical and procedural guidelines for relocation and/or to conduct mitigation. Upon verification from the BLM authorized officer that the required mitigation has been completed, the operator will be allowed to resume construction.

Antiquities, historic ruins, prehistoric ruins, and other cultural or paleontological objects of scientific interest that are outside the authorization boundaries but potentially affected, either directly or indirectly, by the proposed action shall also be included in this evaluation or mitigation. Impacts that occur to such resources as a result of the authorized activities shall be mitigated at the operator's cost, including the cost of consultation with Native American groups.

**Weeds:** CDOT needs to keep the pit in their plan for weed management when conducting treatments in the Hwy 139 corridor.

**Hydrology/Soils:** Surface disturbance greater than 1 acre requires a stormwater permit through the State. CDOT should reference the permit number they will be operating under and implement all applicable stormwater BMPs.

**Wildlife:** A site visit was conducted on May 2, 2014. Evidence of Raptor nesting was observed in dense trees over 20 feet tall in the northeast portion of the pit expansion area. The CDOT representative present at the site visit felt that expansion into this area would not occur for five years or more. Should expansion occur into this area trees should be removed between August 15 and February 15 to avoid impacting nesting raptors. Vegetation removal in the remainder of the pit area should not occur between May 15 and July 15 to minimize impacts to nesting migratory birds.

**Paleontology:** If any vertebrate fossil resources are discovered during mining, operations will halt in the area of the discovery and the BLM geologist/paleontology coordinator will be notified.

**Vegetation:** The expansion would remove 2.2 acres of vegetation but the top soil would be salvaged for reclamation in the future. Once the mining is completed, the top soil would need to be replaced and seeded with a BLM approved seed mix (see below) to allow recovery of the vegetation from impacts of the project.

**Seed Mix:**

COMMON NAME	BOTANICAL NAME	RATE LBS PLS/ACRE
Sand dropseed	<i>Sporobolus cryptandrus</i>	1.0
Sandberg bluegrass	<i>Poa secunda ssp. sandbergii</i> 'High Plains'	2.0
Alkali sacaton	<i>Sporobolus airoides</i>	1.0
Galleta grass	<i>Pleuraphis jamesii</i>	1.5
Indian ricegrass	<i>Achnatherum hymenoides</i> 'Paloma'	2.0
Bottlebrush squirreltail	<i>Elymus elymoides</i>	1.3
Arrowleaf balsamroot	<i>Balsamorhiza sagittata</i>	0.8
Scarlet globemallow	<i>Sphaeralcea coccinea</i>	0.1
Fourwing saltbush	<i>Atriplex canescens</i>	0.8
<b>TOTAL</b>		<b>10.5</b>

**SEEDING APPLICATION:** Drill seed 0.25 inch to 0.5 inch into the soil. In small areas not accessible to a drill, hand broadcast or hydroseed at double the rate and rake 0.25 inch to 0.5 inch into the soil.