

Term and Conditions (T&Cs) for the:
Black Hills Bentonite, LLC., North Fork of the Powder River Amendment
Bentonite (WY) Permit to Mine 339C, Mine Plan of Operation (POO), WYW-168310
ENVIRONMENTAL ASSESSMENT (EA), WY-070-EA12-16
Bureau of Land Management, Buffalo Field Office, Wyoming

POO Name: Permit to Mine 339C-North Fork Amendment (NFA)

Field Office: Buffalo Field Office
 Address: 1425 Fort Street
 Buffalo, Wyoming 82834
 Office Telephone Number: 307-684-1100

BLM approves the following 8 bentonite mining pits and associated infrastructure:

Pit No.	Section	Projected Opening Dates	Pit Area + Associated Disturbance	
27	26	2012-2013	1.8	acres
60	22	2012-2013	3.8	acres
28	26	2013-2014	2.3	acres
61	22	2013-2014	1.7	acres
29	26	2014-2015	2.4	acres
62	22	2014-2015	1.5	acres
63	22	2015-2016	2.3	acres
64	22	2015-2016	2.1	acres
TOTAL		8 pits	17.9	acres

The projected dates are only estimates and may change based on weather and market conditions.

Permit to Mine 339C-North Fork Amendment includes an area of about surface 200 acres having mixed federal, state, and private ownership. The approved POO calls for about 17.9 acres of surface disturbance on federal surface. Black Hills Bentonite (BHB) holds a mining contract and mineral lease agreement with the Cash Family Limited Partnership and Curuchet et. al. for the mining claims in the NFA area that are held by the Cash Family Limited Partnership and Curuchet et al. The following tabulates the unpatented mining claims on federal acreage in the boundary of Wyoming Department of Environmental Quality (WDEQ), Land Quality Division (LQD) Permit to Mine No. 339C – NFA. The above 8 bentonite mining pits are spread between the federal lands on Sections 22 and 26, below.

Claim Name	Serial #	Qtr/Qtr	Section	TNP	RNG	Claimant
Cash 95-1	WMC249508	NENE	22	45N	83W	Cash & Curuchet et al
Curuchet 98-3	WMC254753	NENE	26	45N	83W	Cash & Curuchet et al

Limitations. There are no denials or deferrals.

SITE-SPECIFIC T&Cs (conditions of approval)

In addition to the operator committed measures, and those incorporated from the Buffalo and PRB FEISs and Records of Decision (RODs), the BLM is including the site-specific T&Cs to alleviate environmental impacts and avoid unnecessary or undue degradation.

Surface Use

1. The BLM will evaluate reclamation success using the requirements set forth in the EA's Appendix B, Reclamation Policy, aka the State Wide Reclamation Policy revised 2011 which is incorporated here by reference.
2. Whenever possible, reclamation will be conducted concurrently with mining activities in order to restore the lands to pre-mining conditions as soon as possible.

Wildlife

1. BHB will locate facilities so that noise from the facilities at any nearby sage grouse or sharp-tailed grouse display grounds does not exceed 49 decibels (10 dBA above background noise) at the display ground.

Migratory Birds

1. In order to mitigate possible impacts to migratory birds, all attempts will be made to remove vegetation outside of the nesting season (February 1 – August 31) in order to prevent take of migratory birds, nests, and chicks. If it is not possible to remove topsoil outside of the nesting season, then prior to topsoil stripping, a migratory bird survey will be conducted on the proposed disturbance area within the North Fork Amendment Area (NFAA), including a buffer of 0.5 miles (1 mile for ferruginous hawks). If migratory birds, nests, or chicks are observed on proposed disturbance areas as a result of the survey, BHB will delay mining activities until the end of the nesting season.

Threatened and Endangered Species

1. In the event that a threatened or endangered species (plant or animal) should become established on or immediately adjacent to the NFAA project area, BHB will contact the U.S. Fish and Wildlife Service, the Wyoming Game and Fish Department, and the BLM, as required, in order to develop and implement the necessary mitigation measures to prevent disturbances or impacts to any such species.

Greater Sage-Grouse

1. No surface occupancy will be allowed within one-quarter (1/4) mile of the Mesa Corrals Lek. In order to mitigate potential audio impacts to GSG during the breeding season (March 1 – May 15), noise levels at the core lek perimeters should not exceed 10dBA above ambient noise levels from 6:00 pm to 8:00 am.
2. The permanent reclamation seed mixture shall be formulated in order to reestablish native grasses, shrubs, and forbs which are desirable to GSG in terms of forage and habitat.
3. If a previously unknown lek is identified during surveys (April 1-May 7), a Buffalo BLM biologist shall be notified.
4. Surface disturbing activities or surface occupancy is prohibited or restricted on or within one quarter (0.25) mile radius of the perimeter of occupied or undetermined sage-grouse lek.
5. Disruptive activity is restricted on or within one quarter (0.25) mile radius of the perimeter of occupied or undetermined sage-grouse leks from 6 pm to 8 am from March 15-May 15.

Raptors

1. BHB will conduct mining to minimize impacts to any active nests that are currently present and any nests that may establish during the breeding season of February through July.

2. In the event that a raptor nest is on or immediately adjacent to the NFA area and it becomes necessary to "take" or remove a raptor nest, the U.S. Fish and Wildlife Service (USFWS) would be contacted as soon as a "take" situation is anticipated. Sufficient lead time would be allowed for developing and implementing a mitigation plan, and to avoid disrupting the mining operation.

Programmatic mitigation measures identified in the PRB FEIS ROD

Programmatic mitigation measures are those, determined through analysis, which may be appropriate to apply at the time of mine plan approval if site specific conditions warrant. These mitigation measures can be applied by BLM, as determined necessary at the site-specific NEPA mine plan analysis stage, as T&Cs and will be in addition to stipulations applied at the time of lease issuance and any standard T&C. This will include the submission of as-built or as-mined maps to the BLM.

Air Quality

1. During construction, emissions of particulate matter from mining pit and resource road construction will be minimized by application of water, or other dust suppressants, with at least 50 percent control efficiency. Roads and well locations constructed on soils susceptible to wind erosion could be appropriately surfaced or otherwise stabilized to reduce the amount of fugitive dust generated by traffic or other activities, and dust inhibitors (surfacing materials, non-saline dust suppressants, and water) could be used as necessary on unpaved collector, local and resource roads that present a fugitive dust problem. The use of chemical dust suppressants on BLM surface will require prior approval from the BLM authorized officer.

STANDARD

General

1. If any cultural values [sites, artifacts, human remains (Appendix L FEIS and ROD)] are observed during operation of this lease/permit/right-of-way, they will be left intact and the Buffalo Field Manager notified. The authorized officer will conduct an evaluation of the cultural values to establish appropriate mitigation, salvage or treatment. The operator is responsible for informing all persons in the area who are associated with this project that they will be subject to prosecution for knowingly disturbing historic or archaeological sites, or for collecting artifacts. If historic or archaeological materials are uncovered during construction, the operator is to immediately stop work that might further disturb such materials, and contact the authorized BLM officer (AO). Within five working days the AO will inform the operator as to:
 - whether the materials appear eligible for the National Register of Historic Places;
 - the mitigation measures the operator will likely have to undertake before the site can be used (assuming in situ preservation is not necessary); and,
 - a time-frame for the AO to complete an expedited review under 36 CFR 800.11 to confirm, through the State Historic Preservation Officer, that the findings of the AO are correct and that mitigation is appropriate. The AO will provide technical and procedural guidelines for the conduct of mitigation. Upon verification from the AO that the required mitigation has been completed, the operator will then be allowed to resume construction measures.
2. If paleontological resources, either large or conspicuous, and/or a significant scientific value are discovered during construction, the find will be reported to the Authorized Officer immediately. Construction will be suspended within 250 feet of said find. An evaluation of the paleontological discovery will be made by a BLM approved professional paleontologist within five (5) working days, weather permitting, to determine the appropriate action(s) to prevent the potential loss of any significant paleontological values. Operations within 250 feet of such a discovery will not be resumed until written authorization to proceed is issued by the Authorized Officer. The applicant will bear the

cost of any required paleontological appraisals, surface collection of fossils, or salvage of any large conspicuous fossils of significant scientific interest discovered during the operation.

3. Please contact the authorized officer (field manager), at (307) 684-1100, Bureau of Land Management, Buffalo, if there are any questions concerning the following surface use T&Cs. We may be able to clarify an issue, resolve a question, or as long as we retain jurisdiction, to re-issue a corrected copy of T&Cs if necessary.

MINING AND PRODUCTION OPERATIONS

Miscellaneous Conditions

1. Any changes to the approved Plan of Operations and/or these Terms and Conditions shall be approved by the BLM-Buffalo Field Office authorized officer prior to being implemented.

SURFACE USE STANDARD

A. Construction

1. Maintain a minimum 20-foot undisturbed vegetative border between toe-of-fill of pad and/or pit areas and the edge of adjacent drainages, unless otherwise directed by the BLM Authorized Officer.
2. The minimum diameter for culverts will be 18 inches. However, all culverts will be appropriately sized in accordance with standards in BLM Manual 9113.
3. Construction and other project-related traffic will be restricted to approved routes. Cross-country vehicle travel will not be allowed.
4. Maximum design speed on all operator constructed and maintained roads will not exceed 25 miles per hour.
5. During construction, emissions of particulate matter from mine pit and road construction would be minimized by application of water or other non-saline dust suppressants with at least 50 percent control efficiency. Dust inhibitors (surfacing materials, non-saline dust suppressants, and water) will be used as necessary on unpaved roads that present a fugitive dust problem. The use of chemical dust suppressants on public surface will require prior approval from the BLM Authorized Officer.
6. The operator shall submit a Modification for the Mine Plan to BLM for approval prior to any new surface disturbing activities that are not specifically addressed in the approved Plan of Operations.

B. Reclamation

1. All disturbed lands associated with this project, including the mining pits, access roads, etc., will be expediently reclaimed and reseeded in accordance with the surface use plan and any pertinent site-specific T&Cs.
2. Disturbed lands will be re-contoured back to conform to existing undisturbed topography. No depressions will be left that trap water or form ponds.
3. Before the location has been reshaped and prior to redistributing the topsoil, the operator will rip or scarify the mining areas and access roads to a depth of at least 12 inches. The rippers are to be no farther than 24 inches apart.
4. Distribute the topsoil evenly over the entire location and other disturbed areas. Prepare the seedbed by disking following the contour.

5. Waterbars are to be constructed at least one (1) foot deep, on the contour with approximately two (2) feet of drop per 100 feet of waterbar to ensure drainage, and extended into established vegetation. All waterbars are to be constructed with the berm on the downhill side to prevent the soft material from silting in the trench. The initial waterbar should be constructed at the top of the backslope. Subsequent waterbars should follow the following general spacing guidelines:

Slope (percent)	Spacing Interval (feet)
< 2	200
2 - 4	100
4 - 5	75
> 5	50

6. BLM will not agree that the performance bond may be released until the area has been successfully revegetated (evaluation will be made after the second complete growing season) and has met all other reclamation goals of the surface owner and surface management agency.
7. Soil fertility testing and the addition of soil amendments may be required to stabilize some disturbed lands.
8. Any mulch utilized for reclamation needs to be certified weed free.