

**DECISION RECORD**  
**BLM CATEGORICAL EXCLUSION (CX) – WY-070-CX12-111**  
**City of Buffalo, Tisdale Mine, WYW-168353**  
**Bureau of Land Management, Buffalo Field Office**

**DECISION:**

BLM approves City of Buffalo’s (City) Tisdale Mine, Free Use Permit WYW-168353, as described in CX WY-070-CX12-111. This project is the result of collaboration between the Buffalo Field Office (BFO) and the City. This project involves removal of up to, but not exceeding, 14,000 cubic yards of sand and gravel from an existing disturbance of 8.3 acres of BLM-administered mineral lands in the area indicated below. The surface disturbance is inclusive of all support infrastructure to include but not limited to roads, staging areas, etc.

**Compliance.** This decision complies with:

- Federal Land Policy and Management Act of 1976 (FLPMA) (43 USC 1701); Interior Department Order 3310.
- The Materials Act of 1947 (30 USC 601 et seq.), as amended; 43 CFR 3600 et seq.
- National Environmental Policy Act of 1969 (NEPA) (42 USC 4321).
- Buffalo Resource Management Plan (RMP) and Records of Decision (RODs) 1985, 2001, 2003, 2011.
- Supplement to Memorandum of Understanding No. WY 19 Between the US DOI BLM and the WDEQ LQD for Management of Surface Mining and Exploration for Mineral Materials (Saleable [sic] Minerals) on Public Lands; 2003.

The following summarizes details of the approval. The project description and site-specific mitigation measures are found in the CX document (WY-070-CX12-111).

County	Feature	TWN	RNG	Sec	Subdivision	Acres
Johnson	City of Buffalo, Tisdale Mine	49 N.	82 W.	3	S2SE	
TOTAL						8.3

**Limitations.** Approval of this project is dependent on compliance with the attached Standard Stipulations, and the following Special Stipulations:

- **No surface-disturbing or disruptive activities (i.e., mining or crushing of sand/gravel) shall occur within 0.5 miles of Nest 13117 (0.3 miles from the Mine), from February 1 through July 31, annually, prior to a nesting survey. This timing limitation will be in effect unless surveys determine the nest to be inactive.**
  - Surveys shall be conducted by a biologist following BLM protocol. All survey results shall be submitted in writing to a Buffalo BLM Biologist, and approved prior to surface-disturbing activities.
  - If a new nest is located within 0.5 miles of the Tisdale Mine, the above timing limitation may also apply to the new nest.
- **If an undocumented raptor nest is located during project construction or operation, the BLM Buffalo Field Office (307-684-1100) shall be notified within 24 hours.**

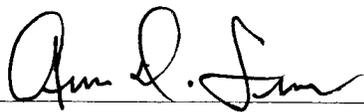
**THE FINDING OF NO SIGNIFICANT IMPACT.** Analysis of the CX, WY-070-CX12-111, found the project comports to findings that this type of action is categorically excluded from having significant impacts on the human environment, thus an EIS or environmental analysis are not required.

**COMMENT OR NEW INFORMATION SUMMARY.** Public scoping for Free Use Permits is not required by 43 CFR 3600, although BLM will post the decision to its website.

**DECISION RATIONALE.** The BLM approves the project for the following reasons:

1. BLM and the City added design features and mitigation measures which reduced environmental impacts while meeting the project's need:
  - a. BLM approves the Free Use Permit as submitted by the City to extract an additional 14,000 cubic yards of sand and gravel from an existing disturbance of 8.3 acres of BLM-administered minerals, contingent upon compliance with other conditions of approval and reclamation; and
  - b. BLM's analysis further conditionally approves the City to extract a total of, but not exceeding, 14,000 cubic yards of sand and gravel from an existing disturbance of 8.3 acres of BLM-administered minerals contingent upon results of:
    - i. Wildlife (raptor) nesting survey to be completed annually.
2. The approved project will not result in any undue or unnecessary environmental degradation and complies with 43 CFR 3604, Free Use of Mineral Materials.
3. The approved project will help meet the nation's mineral materials needs.
4. The approved project will help ensure continued public health and safety by meeting needs for nearby road maintenance.
5. The approved project will help stimulate local economies by maintaining workforce stability.
6. The Operator committed to:
  - a. Comply with all applicable federal, state, and local laws and regulations.
  - b. Reclaim the mine to the standards in the WY BLM Reclamation Policy found in Appendix 1 to CX F.10, WY-070-CX12-111.
7. The Operator certified it has posted an acceptable bond.
8. The project is clearly lacking in wilderness characteristics as it is smaller than 5,000 acres and offers no outstanding opportunities for solitude.
9. BLM reviewed the 12 extraordinary circumstances and none apply, 43 CFR 46.215.

**ADMINISTRATIVE APPEAL.** This decision is subject to administrative review in accordance with 43 CFR 3601.80. Request for administrative review of this decision must include information required under 43 CFR 4 and is appealed to the Interior Board of Land Appeals, as provided in 43 CFR 3601.80 and 43 CFR 4. A party adversely affected by a decision of the authorized officer or State Director made pursuant to subpart 43 CFR 3600, et. al., has the right of appeal to the Interior Board of Land Appeals, Office of Hearings and Appeals, pursuant to 43 CFR 4 and 43 CFR 1840.

Field Manager:  Date: 2/14/13  
*Acting*

**BLM CATEGORICAL EXCLUSION (CX) – WY-070-CX12-111**  
**City of Buffalo, Tisdale Mine, WYW-168353**  
**Bureau of Land Management, Buffalo Field Office**

**BLM Categorical Exclusion (pursuant to 516 DM 11.9) F-10.** 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.

**A. BACKGROUND**

**OFFICE:** BLM, Buffalo Field Office (BFO), 1425 Fort St., Buffalo, WY 82834.

**TRACKING NUMBERS:** WY-070-CX12-111  
 EA WY-070-EA07-185, approved September 11, 2007, for City of Buffalo’s Tisdale Mine; see BLM Casefile WYW-169820.

**BLM CASEFILE NO.:** WYW-168353.

**TITLE OF PROPOSED ACTION:** New Free Use Permit for City of Buffalo’s Tisdale Mine.

**PROPOSED ACTION:** Remove an additional 14,000 cubic yards (CY) sand and gravel from the existing mine, over additional 5 years’ time.

**LEGAL DESCRIPTION:**

County	Feature	TWN	RNG	Sec	Subdivision	Acres
Johnson	City of Buffalo, Tisdale Mine	49 N.	82 W.	3	S2SE	
<b>TOTAL</b>						<b>8.3</b>

**APPLICANT:** City of Buffalo (City), 46 N. Main Street, Buffalo, WY, 82834.

**Description of Proposed Action:** City of Buffalo (City) proposes to mine an additional 14,000 cubic yards (CY) of sand and gravel from their existing Tisdale Mine. This mine is situated entirely on privately-owned surface underlain entirely by BLM-administered federal minerals. This mine encompasses approximately 8.3 acres of disturbance consisting of the actual mined areas, a short access road, and stockpiles of topsoil just outside the mined areas. This Mine is composed of 2 separate mine areas: one on the west side of Trabling Road, and the other on the east side of Trabling Road. The East Pit can be accessed directly off Trabling Road, and the West Pit can be accessed from a relatively short (less than 0.5 miles) access road that joins Trabling Road. See Attachment A, Figure 1, for a map of the mine and showing access, and Figures 2 through 7 for photographs of the pits. All equipment needed to mine this pit will be operated and/or housed within the existing area of disturbance.

## **B. LAND USE PLAN CONFORMANCE**

**Land Use Plan:** Buffalo Resource Management Plan (RMP) approved 1985; Amended 2001, 2003, and 2011.

### **The proposal conforms to the applicable RMP because it is specifically provided for in the following RMP decision(s):**

Buffalo Resource Management Plan (RMP), 1985, page 8; MM-8: The entire resource area is available for mineral materials sales initiated either by the BLM or by application. This does not include sites designated by the BLM for free use by city, county, and state entities.

## **C. COMPLIANCE WITH NEPA**

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9: F. Solid Minerals, 10. "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."

This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed action has been reviewed, and none of the extraordinary circumstances described in 516 DM 2 (and BLM NEPA Handbook H-1790-1, Appendix 5) apply.

### **I considered:**

- BLM and the City added design features and mitigation measures which reduced environmental impacts while meeting the project's need:
  - BLM approves the Free Use Permit as submitted by the City to extract an additional 14,000 cubic yards of sand and gravel from an existing disturbance of 8.3 acres of BLM-administered minerals, contingent upon compliance with other conditions of approval and reclamation; and
  - BLM's analysis further conditionally approves the City to extract a total of, but not exceeding, 14,000 cubic yards of sand and gravel from an existing disturbance of 8.3 acres of BLM-administered minerals contingent upon results of:
    - Wildlife (raptor) nesting survey to be completed annually.
- The approved project will not result in any undue or unnecessary environmental degradation and complies with 43 CFR 3604, Free Use of Mineral Materials.
- The approved project will help meet the nation's mineral materials needs.
- The approved project will help ensure continued public health and safety by meeting needs for nearby road maintenance.
- The approved project will help stimulate local economies by maintaining workforce stability.
- The Operator committed to:
  - Comply with all applicable federal, state, and local laws and regulations.
  - Reclaim the mine to the standards in the WY BLM Reclamation Policy found in Appendix 1 to CX F.10, WY-070-CX12-111.
- The Operator certified it has posted an acceptable bond.
- The project is clearly lacking in wilderness characteristics as it is smaller than 5,000 acres and offers no outstanding opportunities for solitude.

**Persons and Agencies Consulted**

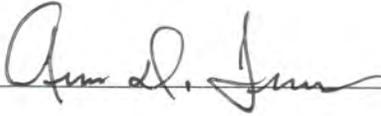
The following individuals and agencies were consulted and contributed to this document:

- Darci Stafford; BLM Biologist
- Clint Crago; BLM Archaeologist
- Kerry Aggen; BLM Geologist, Project Lead, and Document Preparer

**D: SIGNATURE**

Field Manager: \_\_\_\_\_

*Aggen*



Date: \_\_\_\_\_

*2/14/13*

**CONTACT PERSON:** Kerry Aggen, Geologist, Buffalo Field Office, 1425 Fort Street, Buffalo, WY, 82834, 307-684-1196.

## **ATTACHMENTS:**

Figure 1. Map showing location of the City's Tisdale Mine.

Figures 2 through 7. Photographs of West and East Pits of City of Buffalo's Tisdale sand/gravel Mine.

## **APPENDIX 1: RECLAMATION REQUIREMENTS, WY BLM**

*The following Reclamation Requirements apply to all surface disturbing activities, including BLM-initiated activities, and must be addressed in each reclamation plan. These requirements also must be met prior to release of the bond and/or the reclamation liability. Where these Reclamation Requirements differ from other applicable federal, laws, rules, and regulations, those requirements supersede this policy. State and/or local statutes or regulations may also apply.*

1. **Manage all waste materials:**
  - a. Segregate, treat, and/or bio-remediate contaminated soil material.
  - b. Bury only authorized waste materials on site. Buried material must be covered with a minimum of three feet of suitable material or meet other program standards.
  - c. Ensure all waste materials moved off-site are transported to an authorized disposal facility.
2. **Ensure subsurface integrity, and eliminate sources of ground and surface water contamination:**
  - a. Properly plug all drill holes and other subsurface openings (mine shafts, adits etc.).
  - b. Stabilize, properly back fill, cap, and/or restrict from entry all open shafts, underground workings, and other openings.
  - c. Control sources of contamination and implement best management practices to protect surface and ground water quality.
3. **Re-establish slope stability, surface stability, and desired topographic diversity:**
  - a. Reconstruct the landscape to the approximate original contour or consistent with the land use plan.
  - b. Maximize geomorphic stability and topographic diversity of the reclaimed topography.
  - c. Eliminate highwalls, cut slopes, and/or topographic depressions on site, unless otherwise approved.
  - d. Minimize sheet and rill erosion on/or adjacent to the reclaimed area. There shall be no evidence of mass wasting, head cutting, large rills or gullies, downcutting in drainages, or overall slope instability on/or adjacent to the reclaimed area.
4. **Reconstruct and stabilize water courses and drainage features:**
  - a. Reconstruct drainage basins and reclaim impoundments to maintain the drainage pattern, profile, and dimension to approximate the natural features found in nearby naturally functioning basins.
  - b. Reconstruct and stabilize stream channels, drainages, and impoundments to exhibit similar hydrologic characteristics found in stable naturally functioning systems.
5. **Maintain the biological, chemical, and physical integrity of the topsoil and subsoil (where appropriate):**
  - a. Identify, delineate, and segregate all salvaged topsoil and subsoil based on a site-specific soil evaluation, including depth, chemical, and physical characteristics.
  - b. Protect all stored soil material from erosion, degradation, and contamination.

- c. Incorporate stored soil material into the disturbed landscape.
  - d. Seed soils to be stored beyond one growing season, with desired vegetation.
  - e. Identify stockpiles with appropriate signage.
6. **Prepare site for revegetation:**
- a. Redistribute soil materials in a manner similar to the original vertical profile.
  - b. Reduce compaction to an appropriate depth (generally below the root zone) prior to redistribution of topsoil, to accommodate desired plant species.
  - c. Provide suitable surface and subsurface physical, chemical, and biological properties to support the long term establishment and viability of the desired plant community.
  - d. Protect seed and seedling establishment (e.g. erosion control matting, mulching, hydro-seeding, surface roughening, fencing, etc.)
7. **Establish a desired self-perpetuating native plant community:**
- a. Establish species composition, diversity, structure, and total ground cover appropriate for the desired plant community.
  - b. Enhance critical resource values (e.g. wildlife, range, recreation, etc.), where appropriate, by augmenting plant community composition, diversity, and/or structure.
  - c. Select genetically appropriate and locally-adapted native plant materials based on the site characteristics and ecological setting.
  - d. Select non-native plants only as an approved short term and non-persistent alternative to native plant materials. Ensure the non-natives will not hybridize, displace, or offer long-term competition to the endemic plants, and are designed to aid in the re-establishment of native plant communities.
8. **Reestablish complementary visual composition:**
- a. Ensure the reclaimed landscape features blend into the adjacent area and conform to the land use plan decisions.
  - b. Ensure the reclaimed landscape does not result in a long-term change to the scenic quality of the area.
9. **Manage Invasive Plants:**
- a. Assess for invasive plants before initiating surface disturbing activities.
  - b. Develop an invasive plant management plan.
  - c. Control invasive plants utilizing an integrated pest management approach.
  - d. Monitor invasive plant treatments.
10. **Develop and implement a reclamation monitoring and reporting strategy:**
- a. Conduct compliance and effectiveness monitoring in accordance with a BLM- (or other surface management agency-) approved monitoring protocol.
  - b. Evaluate monitoring data for compliance with the reclamation plan.
  - c. Document and report monitoring data and recommend revised reclamation strategies.
  - d. Implement revised reclamation strategies as needed.
  - e. Repeat the process of monitoring, evaluating, documenting/reporting, and implementing, until reclamation goals are achieved.

**REVIEW AND DOCUMENTATION FOR EXTRAORDINARY CIRCUMSTANCES:**

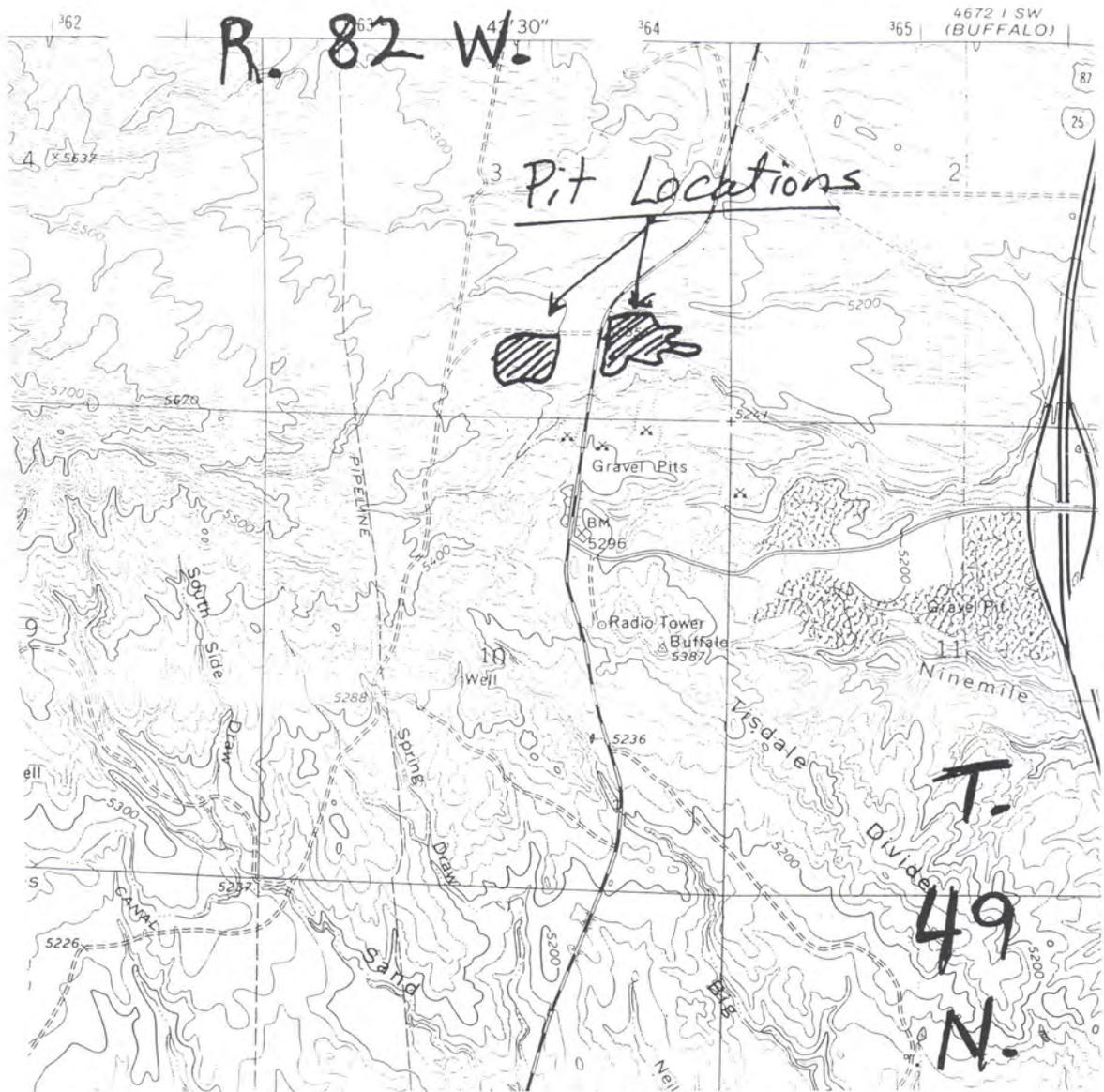
This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed action has been reviewed, and none of the extraordinary circumstances described in 516 DM 2 (and BLM NEPA Handbook H-1790-1, Appendix 5) apply.

EXTRAORDINARY CIRCUMSTANCES:		
1. Have significant impacts on public health or safety.		
Yes	No <b>XX</b>	<p>This project will have significant <i>positive</i> impacts on public health and safety. The mineral materials obtained from the project area will be used on roads in and around the city of Buffalo, WY, to help keep them passable year-round. These roads are used year-round by residents and visitors, for purposes of employment, leisure, recreation, and tourism. In addition, the City currently has no other source of acceptable materials for road maintenance nearby.</p> <p>Any potentially negative impacts on public health and safety are mitigated for and/or minimized through the Standard and Special Stipulations attached to the project.</p>
2. Have significant impacts 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 (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.		
Yes	No <b>XX</b>	<p>No Cultural Resources of any kind, including historic places, will be affected by approval of this project, as none occur in or near the project area (see DBU_WY_2012_836, 6/18/2012). There are no Areas of Critical Environmental Concern, Wilderness Study Areas, Monuments, or other areas with special designation in or near the project area. The project area does not occur in, nor will it affect, a floodplain or wetland area; it occurs on a nearly flat to gently sloping rises (less than 20 degrees) less than 1 mile upslope from Eder Draw (an intermittent stream).</p> <p>One nesting raptor (red-tailed hawk) was observed during the on-site visit on June 21, 2012, in Nest 13117, approximately 0.3 miles from the project area. However, to mitigate potential disturbances to nesting raptors, the following 2 Special Stipulations will be applied:</p> <ul style="list-style-type: none"> <li>• <b>No surface-disturbing or disruptive activities (i.e., mining or crushing of sand/gravel) shall occur within 0.5 miles of Nest 13117 (0.3 miles from the Mine), from February 1 through July 31, annually, prior to a nesting survey. This timing limitation will be in effect unless surveys determine the nest to be inactive.</b> <ul style="list-style-type: none"> <li>○ Surveys shall be conducted by a biologist following BLM protocol. All survey results shall be submitted in writing to a Buffalo BLM Biologist, and approved prior to surface-disturbing activities.</li> <li>○ If a new nest is located within 0.5 miles of the Tisdale Mine, the above timing limitation may also apply to the new nest.</li> </ul> </li> <li>• <b>If an undocumented raptor nest is located during project construction or operation, the BLM Buffalo Field Office (307-684-1100) shall be notified within 24 hours.</b></li> </ul>

<b>EXTRAORDINARY CIRCUMSTANCES:</b>		
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102 (2) (E)].		
Yes	<b>No XX</b>	This project involves the continued mining of a previously-disturbed area, which has been under BLM Free Use Permits to City of Buffalo and/or Wyoming Department of Transportation continuously since the East Pit was first constructed in 1975 and the West Pit in 1986; both Pits have been permitted continuously to the City since 1989. In addition, the impacts of this project are similar to other mineral materials projects that have been implemented and monitored. Therefore, impacts of the proposed project are well-known, and will be overwhelmingly positive (see #1 above).
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		
Yes	<b>No XX</b>	The proposed action generally has very predictable consequences well established as insignificant.
5. Establish a precedent for future action or represent a decision in principal about future actions with potentially significant environmental effects.		
Yes	<b>No XX</b>	The proponent will not expand the area of disturbance of this mine in the future, but instead close and reclaim it when the sand/gravel deposit has been exhausted.
6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.		
Yes	<b>No XX</b>	This project does not have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.
7. Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by the bureau.		
Yes	<b>No XX</b>	The project area consists of entirely previously-disturbed areas. No Cultural Resources, including historical properties, will be affected. See also #2 above.
8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.		
Yes	<b>No XX</b>	No T & E species, or their critical habitat, occurs in/near the project area.
9. Violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment.		
Yes	<b>No XX</b>	This mining operation is currently permitted by WDEQ LQD under Permit to Mine #313.
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).		
Yes	<b>No XX</b>	Neither low-income nor minority populations will be impacted. The nearest residents to the project area are ranchers, who own adjacent surface and/or mineral lands.

<b>EXTRAORDINARY CIRCUMSTANCES:</b>		
11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).		
Yes	<b>No XX</b>	No sacred sites exist in or near the project area, therefore access to sacred sites will not be affected by approval of this project. See also #2 above.
12. 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 (Federal Noxious Weed Control Act and Executive Order 13112).		
Yes	<b>No XX</b>	Operator has agreed to abide by the Standard and Special Stipulations attached to the approval of this project. These stipulations include requirements that the operator take necessary actions to prevent the introduction and/or spread of noxious or non-native invasive species in the project area.

Figure 1. Map showing location of City of Buffalo's Tisdale sand/gravel Mine, and access to it.



## City of Buffalo – Tisdale Sand/Gravel Mine, West Pit

Figure 2. West Pit, showing the largest sand/gravel stockpile and a series of topsoil stockpiles. The topsoil stockpiles are situated along the westernmost boundary of this pit. Photo taken looking south, on 6/8/2012 by Kerry L. Aggen.



Figure 3. West Pit, showing close-up of the largest sand/gravel stockpile. This stockpile contains approximately 600 CY. Photo taken looking west, on 6/8/2012 by Kerry L. Aggen.



## City of Buffalo – Tisdale Sand/Gravel Mine, West Pit

Figure 4. West Pit, showing the 2 smaller sand/gravel stockpiles and several more topsoil stockpiles. These topsoil stockpiles are situated along the easternmost boundary of this pit. The East Pit is beyond the propane storage yard in left-hand background. Photo taken looking south-southeast, on 6/8/2012 by Kerry L. Aggen.



Figure 5. West Pit, showing close-up of the 2 smaller sand/gravel stockpiles. These contain a total of approximately 400 CY. Photo taken looking north, on 6/8/2012 by Kerry L. Aggen.



## City of Buffalo – Tisdale Sand/Gravel Mine, West Pit

Figure 6. East Pit, showing the single sand/gravel stockpile and several topsoil stockpiles. These topsoil stockpiles are situated along the southernmost boundary of this pit. Trailing Road can be seen in the right middle ground. Photo taken looking south, on 6/8/2012 by Kerry L. Aggen.



Figure 7. East Pit, showing close-up of the sand/gravel stockpile. This stockpile contains approximately 1000 CY. Photo taken looking south-southwest, on 6/8/2012 by Kerry L. Aggen.

