

DECISION RECORD
BLM CATEGORICAL EXCLUSION (CX) – WY-070-CX13-004
Chapman Contracting, Ullery Sand/Gravel Pit, WYW-168389
Bureau of Land Management, Buffalo Field Office, Wyoming

DECISION:

BLM approves Chapman Contracting’s (Chapman) Ullery Sand/Gravel Pit, non-competitive sale, WYW-168389, as described in CX WY-070-CX13-004. This project is the result of collaboration between the Buffalo Field Office (BFO) and Chapman. This project involves removal of up to, but not exceeding, 10,000 cubic yards of sand/gravel from an existing disturbance of approximately 5 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-CX13-004).

County	Feature	TWN	RNG	Sec	Subdivision	Acres
Johnson	Chapman Contracting, Ullery Sand/Gravel Mine	43 N.	79 W.	3	S2N2SENWNESE, and S2SENWNESE	
TOTAL						5

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

- **If an undocumented raptor nest is located, the BLM Buffalo Field Office (307-684-1100) shall be notified.**

THE FINDING OF NO SIGNIFICANT IMPACT. Analysis of the CX, WY-070-CX13-004, 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 noncompetitive sales 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 Chapman added design features and mitigation measures which reduced environmental impacts while meeting the project's need:
 - a. BLM approves the non-competitive sale as submitted by Chapman to extract 10,000 cubic yards of sand/gravel from an existing disturbance of approximately 5 acres of BLM-administered mineral lands, contingent upon compliance with other conditions of approval and reclamation; and,
 - b. If an undocumented raptor nest is located, the BLM Buffalo Field Office (307-684-1100) shall be notified. The project may be modified, if needed, to mitigate or avoid affects to nesting raptors.
2. The approved project will not result in any undue or unnecessary environmental degradation and complies with 43 CFR 3602.30 through .34, Noncompetitive Sales.
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 WY-070-CX13-004.
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. This project is not located in or near a floodplain, wetland, or riparian area.
10. 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: 2/27/13

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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-EA10-282, approved April 13, 2011, for Sussex Sand & Gravel’s Ullery Sand/Gravel Mine (transferred to Chapman Contracting on April 26, 2012); see BLM casefile WYW-170198.

BLM CASEFILE NO.: WYW-168389; See also WYW-170198.

TITLE OF PROPOSED ACTION: New Sales Contract for Chapman Contracting’s Ullery Sand/Gravel Mine.

PROPOSED ACTION: Mine additional 10,000 cubic yards (CY) sand/gravel from existing mine, over 5 years’ time.

LEGAL DESCRIPTION:

County	Feature	TWN	RNG	Sec	Subdivision	Acres
Johnson	Chapman Contracting, Ullery Sand/Gravel Mine	43 N.	79 W.	3	S2N2SENWNESE, and S2SENWNESE	
TOTAL						5

APPLICANT: Chapman Contracting, (Chapman), P.O. Box 467, Edgerton, WY, 82635.

Description of Proposed Action: Chapman Contracting (Chapman) proposes to mine an additional 10,000 cubic yards (CY) of sand/gravel from an existing mine, Ullery Mine. This mine is currently permitted under BLM casefile number WYW-170198. This mine is situated entirely on privately-owned surface underlain entirely by BLM-administered federal minerals. This mine encompasses approximately 5 acres of disturbance consisting of the actual mine area, which is situated less than 1 mile north of Sussex Road (Wyoming State Highway 192); see Attachment A, Figure 1. 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 Chapman added design features and mitigation measures which reduced environmental impacts while meeting the project's need:
 - BLM approves the non-competitive sale as submitted by Chapman to extract 10,000 cubic yards of sand/gravel from an existing disturbance of approximately 5 acres of BLM-administered minerals, contingent upon compliance with other conditions of approval and reclamation; and,
 - If an undocumented raptor nest is located, the BLM Buffalo Field Office (307-684-1100) shall be notified. The project may be modified, if needed, to mitigate or avoid affects to nesting raptors.
- The approved project will not result in any undue or unnecessary environmental degradation and complies with 43 CFR 3602.30-.34, Noncompetitive Sales.
- The approved project will help meet the nation's mineral materials needs.
- 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 WY-070-CX13-004.
- The Operator certified it has posted an acceptable bond.
- This project is not located in or near a floodplain, wetland, or riparian area.
- 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:

- Don Brewer; BLM Biologist
- Seth Lambert; BLM Archaeologist
- John Kelley; BLM NEPA Coordinator
- Kerry Aggen; BLM Geologist, Project Lead, and Document Preparer

D: SIGNATURE

Field Manager:  Date: 2/27/13

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

ATTACHMENTS:

Figure 1. Map showing location of Chapman’s Ullery Sand/Gravel Mine project.

Figures 2 through 4. Photographs of Chapman’s Ullery Sand/Gravel Mine project.

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:

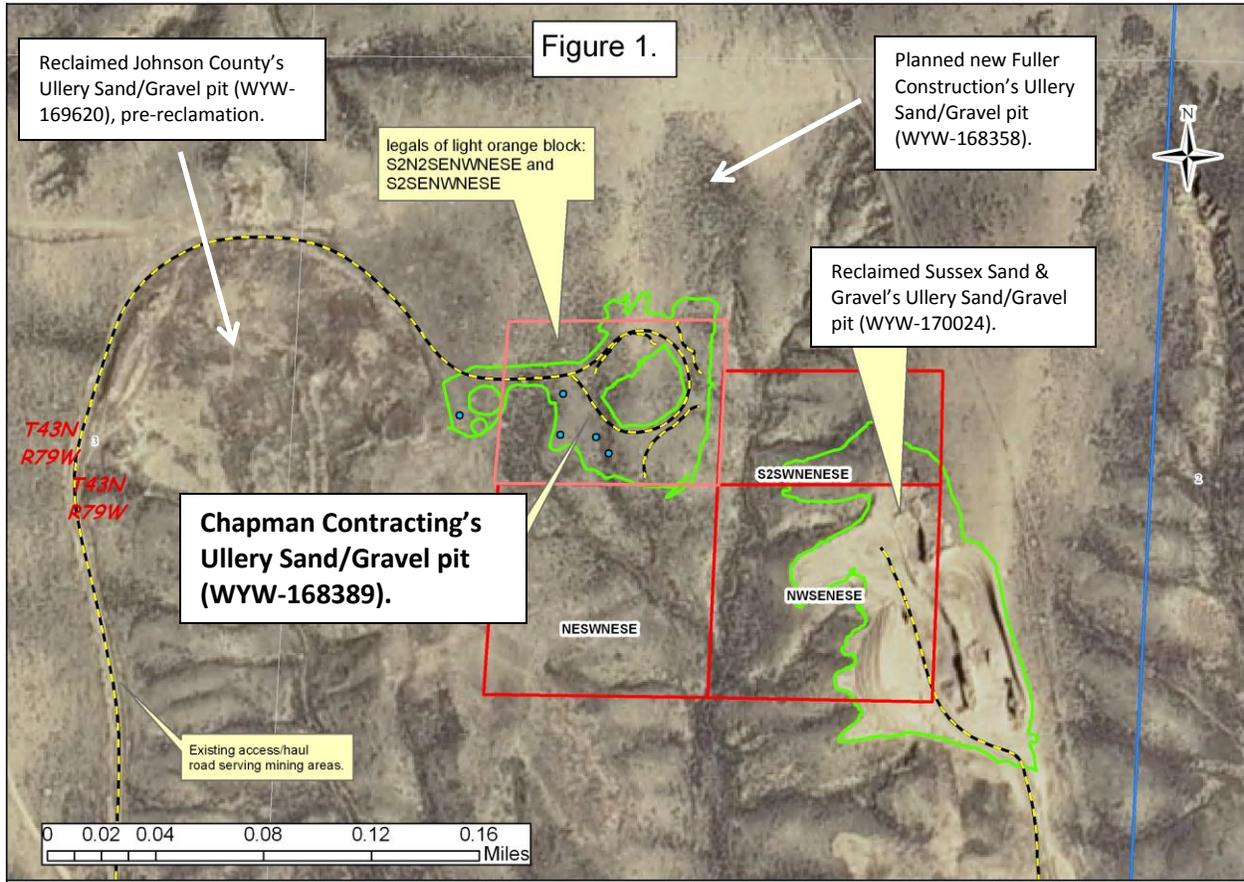
This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed action has been reviewed, and none of the extraordinary circumstances described in 516 DM 2 (and BLM NEPA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

EXTRAORDINARY CIRCUMSTANCES:		
1. Have significant impacts on public health or safety.		
Yes	No XX	<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 nearby oil/gas development roads to help keep them passable year-round. These roads are used year-round by employees and operators of these oil and gas operations, and neighboring ranchers. State and federal employees also use this road to access many of these operations to conduct inspections and other required activities.</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 XX	<p>A previously reviewed and accepted Class III cultural resource inventory (BFO #70110031) adequately covered the proposed project area. No cultural resources are in the Area of Potential Effect (APE). On February 13, 2013, Seth Lambert, BLM Archaeologist, electronically notified the Wyoming State Historic Preservation Office (SHPO) following Section VI(A)(1) of the Wyoming State Protocol, of a finding of no effect for the proposed project.</p> <p>There are no Areas of Critical Environmental Concern, Wilderness Study Areas, Monuments, or other areas with special designation in or near the project area.</p> <p>The project area does not occur in, nor will it affect, a floodplain, wetland, or riparian area. It occurs on a fairly gentle slope (less than 20 degrees) adjacent to an unnamed intermittent stream channel. The nearest riparian area is along the Powder River, approximately 1.4 miles south of, and across Wyoming State Highway 192 (aka Sussex Road) from, the project area. There is a small wetland area (pond) associated with several houses approximately 0.7 miles southeast of the project area, also on the opposite side of Wyoming State Highway 192. Neither of these areas will be affected by the projects' operations.</p> <p>No nesting raptors were observed during the Spring 2011 survey.</p>
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102 (2) (E)].		

EXTRAORDINARY CIRCUMSTANCES:		
Yes	No XX	This project involves continued mining from an existing mine. This mine has been in existence since early 2011, when it was first constructed. Two reclaimed sand/gravel mines occur within 0.25 miles: Sussex Sand & Gravel's Ullery Sand/Gravel Mine (WYW-170024) to the east, and Johnson County's Ullery Sand/Gravel Mine (WYW-169620) to the west. A new mine is planned for less than 0.25 miles north: Fuller Construction's Ullery Sand/Gravel Mine (WYW-168358). The impacts of this project are similar to other mineral materials projects that have been implemented and monitored, such as Sussex Sand & Gravel's. 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	No XX	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	No XX	This project will not have a potentially significant environmental effect.
6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.		
Yes	No XX	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	No XX	The project area consists of entirely previously disturbed areas. No Cultural Resources, including historical properties, will be affected however. 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	No XX	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	No XX	This mining operation is currently permitted by WDEQ LQD under #1291ET.
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).		
Yes	No XX	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.
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).		

EXTRAORDINARY CIRCUMSTANCES:		
Yes	No XX	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	No XX	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 Chapman Contracting's Ullery Sand/Gravel Mine project (middle figures, outlined in green). Sussex Sand & Gravel's reclaimed Ullery sand/gravel pit can be seen to the right (east) of the project area, also outlined in green. Wyoming State Highway 192 (aka Sussex Road) lies approximately 0.5 miles to the south of the project area. Green-outlined areas and access roads were GPSed on December 1, 2010, by Kerry L. Aggen.



This map is not to be used for purposes not intended by BLM.

Figure 2. Photograph of Chapman's Ullery Sand/Gravel Mine project. Entire operation can be seen in middle ground. The size sorting and stockpiling equipment is visible. Reclaimed Johnson County sand/gravel pit lies in the foreground (cow grazing on it). New Fuller Construction sand/gravel pit is planned for just south (to the left) of Chapman's operation. Reclaimed Sussex Sand & Gravel sand/gravel pit lies just east of this operation, and cannot be seen in this photograph. Taken looking east from access road by Kerry L. Aggen on September 12, 2012.

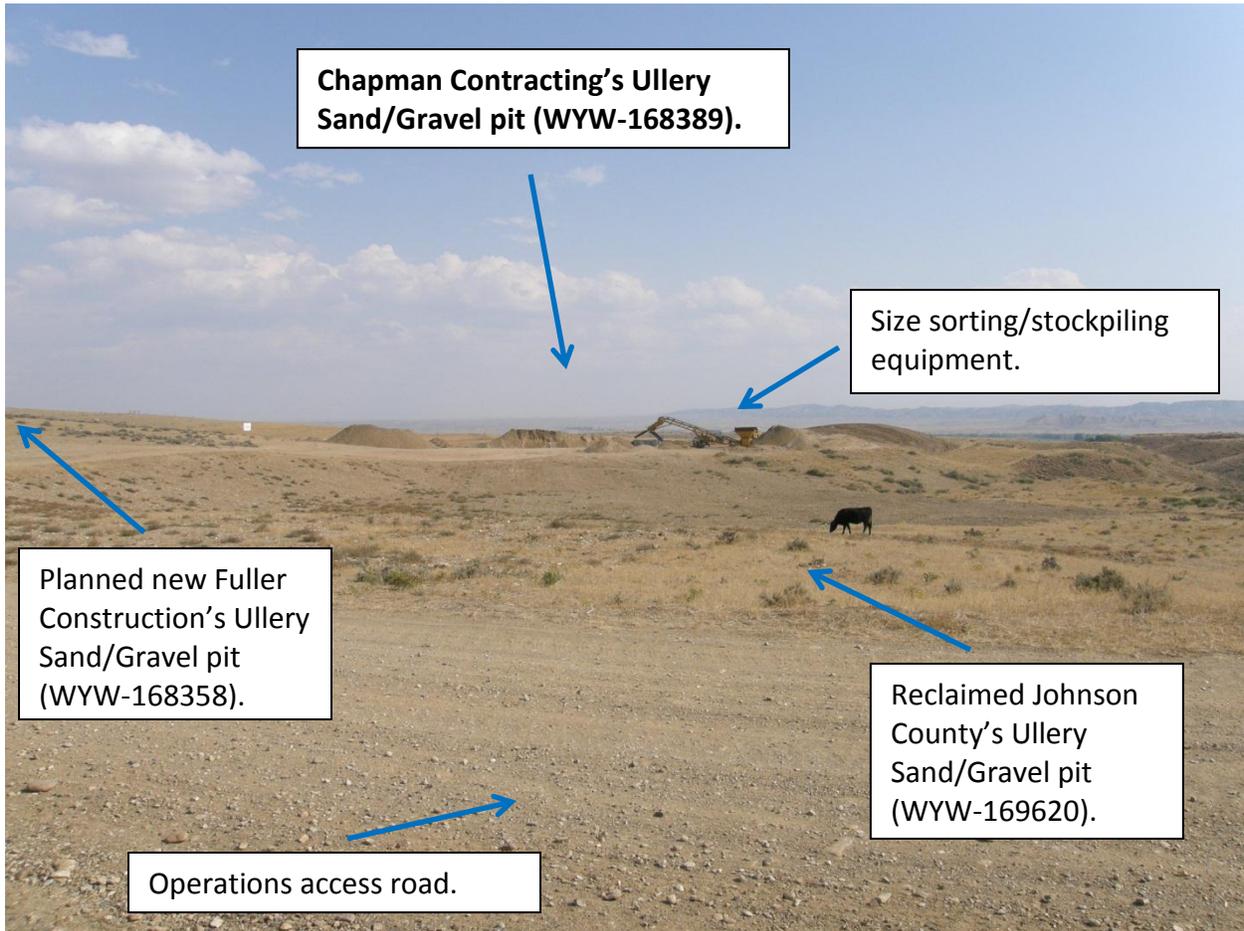


Figure 3. Photograph of Chapman’s Ullery Sand/Gravel Mine project. Entire operation can be seen in middle ground. The size sorting and stockpiling equipment is visible to the west (right). Reclaimed Johnson County sand/gravel pit lies to the west, unseen in this photograph. New Fuller Construction sand/gravel pit is planned for the low hill to the north (foreground). Reclaimed Sussex Sand & Gravel sand/gravel pit lies to the east, with just a portion of it visible here along top of low ridge across the wash. Taken looking south by Kerry L. Aggen on September 12, 2012.

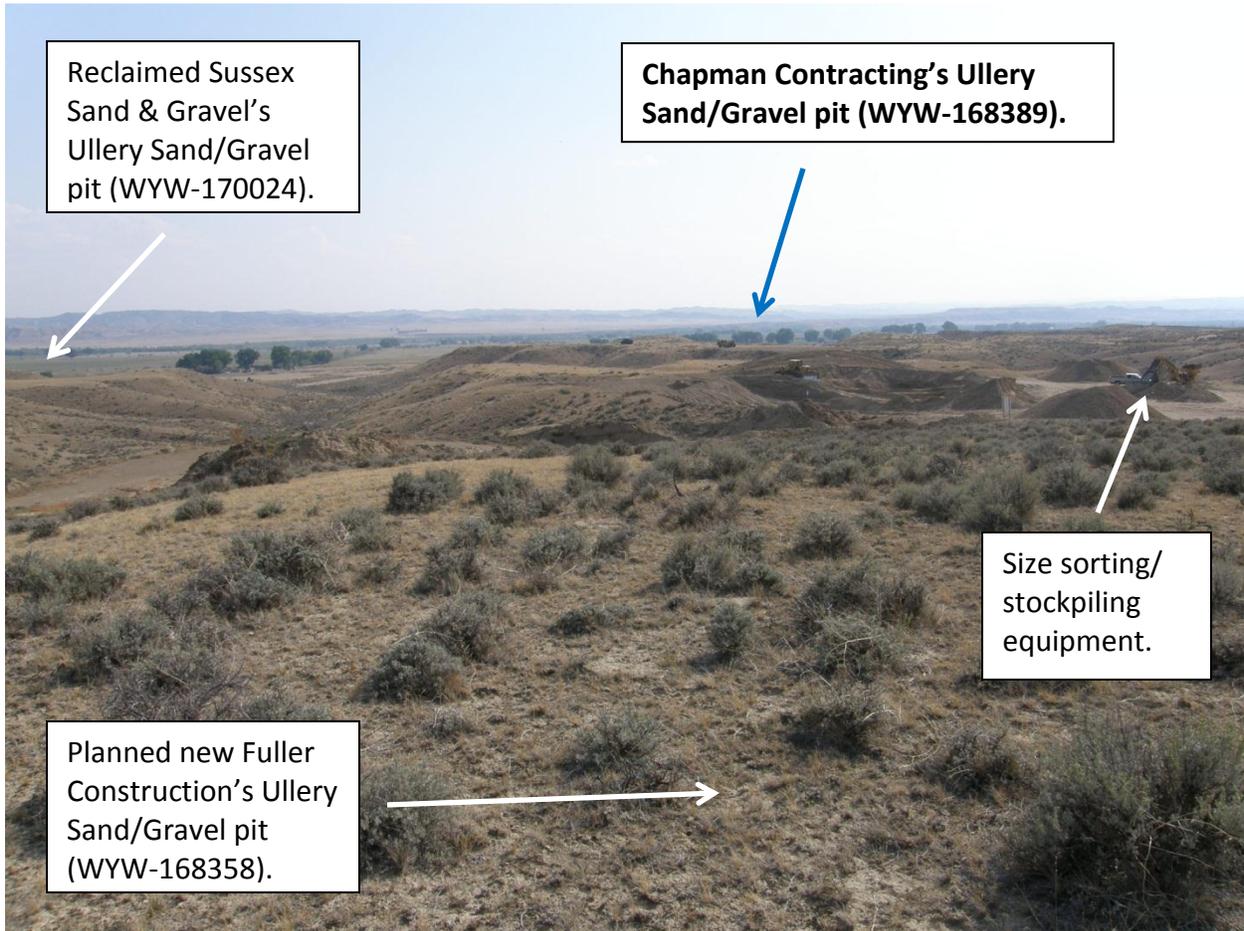


Figure 4. Photograph of Chapman's Ullery Sand/Gravel Mine project. Most of operation can be seen. A portion of the size sorting and stockpiling equipment is visible to the west (right). Taken looking south by Kerry L. Aggen on September 12, 2012.

