

Finding of No Significant Impact And Decision Record

High Plains Ventures, LLC Sand and Gravel Mine

July 2013

BLM

Pinedale Field Office



The BLM's multiple-use mission is to sustain the health and productivity of the public lands for the use and enjoyment of present and future generations. The Bureau accomplishes this by managing such activities as outdoor recreation, livestock grazing, mineral development, and energy production, and by conserving natural, historical, cultural, and other resources on public lands.

BLM/WY/PL-13/030+1310

WY-100-EA12-158

Finding of No Significant Impact Determination:

The BLM has reviewed environmental assessment (EA) WY-100-EA12-158. Based on the analysis of potential environmental impacts contained in the attached EA, and considering the significance criteria in 40 Code of Federal Regulations (CFR) 1508.27, the BLM has determined that Alternative 2 as described and analyzed in the EA, will not have significant effects on the human environment, affected region, the affected interests and the locality. There are no significant impacts beyond those analyzed in the Pinedale Field Office Resource Management Plan (RMP) Record of Decision (ROD) to which this EA is tied. Therefore, an environmental impact statement is not required. This finding and conclusion is based on my consideration of the Council on Environmental Quality's (CEQ) criteria for significance (40 CFR 1508.27), both with regard to the context and the intensity of impacts described in the EA.

Context:

The project is a site-specific action directly involving up to 40.11 acres of privately owned land and BLM owned minerals. The impacts of the High Plains Ventures, LLC project would be seasonal and short term affecting residents who live adjacent to the project. Though there are temporary, localized impacts to resources, no significant long term impacts resulting from the proposed action would occur.

Intensity:

The following discussion is organized around the Ten Significance Criteria described in 40 CFR 1508.27 and incorporated into BLM's Critical Elements of the Human Environment list (H-1790-1), and supplemental Instruction Memorandum, Acts, regulations and Executive Orders. The following have been considered in evaluating intensity of impacts for this proposal:

1. Impacts that may be both beneficial and adverse.

The environmental assessment has considered both beneficial and adverse impacts for sand and gravel mining. The proposed project is similar in intensity and frequency to that which has been in existence since 1979. The adverse impact is short term industrial activity associated with the aggregate mining. Beneficial impacts would include revenue and employment opportunities for the local economy and a local supply of aggregate materials for construction projects for the life of the mine.

2. The degree to which the proposed action affects public health or safety.

Alternative 2 will have no adverse or beneficial effects to public health or safety.

3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

The project area exhibits none of the unique characteristics in question.

4. The degree to which the effects on the quality of the human environment are likely to be highly controversial.

No anticipated project specific effects are likely to be considered highly controversial. The development of the homes in the adjacent area has occurred alongside the gravel pit

operation and the nature of the operation currently proposed is similar to that which has been occurring for almost 35 years.

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

Implementation of Alternative 2 would not pose highly uncertain, unique or unknown risks to the human environment. Project Design Features have been built in to Alternative 2 to reduce or avoid any adverse effects to area resources. The project will be regulated and inspected by Wyoming Department of Land Quality, Wyoming Department of Environmental Quality (DEQ), Air Quality Division (AQD), and Bureau of Land Management.

6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

The decision to implement Alternative 2 will not establish a precedent for future actions.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.

No significant cumulative impacts have been identified in the EA. Current local air contaminant sources include agricultural, soil disturbance, oil and gas drilling and production, livestock operations, operations from an adjacent gravel pit, dirt roads, residential wood stove particulates, smoke and particulate matter from wildland fires, county road traffic, a nearby state highway, and wind-blown dust from disturbed or vacant land. The sand and gravel operation site, and asphalt mixing plant would add to these sources but would be regulated under the Wyoming DEQ AQD.

8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places (NRHP) or may cause loss or destruction of significant scientific, cultural, or historical resources.

Alternative 2 will not adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the NRHP. The proposed action would not cause the loss of significant scientific, cultural, or historical resources.

9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.

Alternative 2 will not adversely affect any endangered or threatened species or its habitat. Water depletion from the Colorado River watershed is below the threshold that would require mitigation; therefore, the proposed project would not impact the Colorado River fish species or the proposed and ongoing recovery actions.

10. Whether the action threatens a violation of federal, state, or local laws or requirements imposed for the protection of the environment.

10. Whether the action threatens a violation of federal, state, or local laws or requirements imposed for the protection of the environment.

Alternative 2 does not threaten a violation of federal, state, or local laws or requirements imposed for the protection of the environment. Necessary permits will be obtained and permit conditions will apply to the project.

Based on the analysis of potential environmental impacts detailed in the attached EA, and in accordance with the National Environmental Policy Act (NEPA) and the RMP ROD (November 2008), and the applicable NEPA documents listed in the "Context" section above, I have determined that the impacts of the proposed action, when coupled with mitigation measures and environmental protection measures presented and detailed in the EA and accompanying Record of Decision, are not significant per the definition of significance in 40 CFR 1508.27 and grant implementation of the proposed action. Therefore, preparation of an environmental impact statement is not required.



Shane DeForest
Field Manager
Pinedale Field Office

7-16-13

Date

This decision is subject to administrative review under BLM regulation in accordance with 43 CFR 3165.3. Any request for administrative review of this decision must include the information required under 43 CFR 3165.3(b), including all supporting documentation. Such a request must be filed in writing with the State Director (920), Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003, within 20 business days of the date such notice of decision was received or considered to have been received. This decision will be considered to have been received seven (7) business days from the date it is mailed. This decision shall take effect immediately upon the date it is signed and shall remain in effect while any appeal is pending unless the State Director or the Interior Board of Land Appeals issues a stay.

The decision of the State Director may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR 3165.4.

A petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- The relative harm to the parties if the stay is granted or denied,
- The likelihood of the appellant's success on the merits,

Appeal procedures for this decision are outlined in Title 43 CFR, Part 4. In accordance with Title 43 CFR 4.410, any party to a case who is adversely affected by the decision of an officer of the BLM shall have a right to appeal to the Interior Board of Land Appeals (Board). In accordance with title 43 CFR 4.411, a person who wishes to appeal the decision must file a notice that he wishes to appeal in the office of the authorized officer who made the decision. In accordance with Title 43 CFR 4.413, within 15 days of filing the notice of appeal and any petition for stay, the appellant must serve a copy of the appeal and any petition for stay on any person named in the decision and on the Office of the Solicitor in the manner prescribed in Title 43 CFR 4.401(c).

The office to file notice of appeal and a copy of the notice to appeal:

Bureau of Land management
Pinedale Field Office
PO Box 768
1625 West Pine Street
Pinedale, WY 82941

Office of the Regional Solicitor
Rocky Mountain Region
755 Parfet Street Suite 151
Lakewood, Colorado, 80215

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. In accordance with Title 43 CFR 4.411(b), the notice of appeal may include a statement of reasons for the appeal, a statement of standing if required by Title 43 CFR 4.412(b) and any arguments the appellant wishes to make. In accordance with Title 43 CFR 4.412(a), if the notice of appeal did not include a statement of reasons for the appeal or the appellant wishes to file additional statements of reasons, the appellant shall file such statements with the Board within 30 days, after the appeal was filed. The address to file such statements to the Board is:

Board of Land Appeals
Office of Hearing and Appeals
802 North Quincy Street
Arlington, VA 22203

If statement of reasons for appealing were filed with the "Notice of Appeal," no additional statement is necessary. Pursuant to Title 43 CFR 4.21(b), an appellant also may petition for a stay of the final decision pending appeal by filing a petition for stay along with the notice of appeal. At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (Title 43 CFR 4.422(c)(2)).

Decision Record

Decision:

It is my decision to authorize the High Plains Ventures, LLC project proposal as described in Alternative 2 of WY-100-EA12-158 (FONSI attached).

My decision is based on the rationale below.

Alternatives Considered:

The No Action Alternative was also analyzed in the EA. The No Action Alternative would imply the proposed action would not be approved or the continued mining and processing of sand and gravel would occur without the use of a mobile asphalt plant. Other alternatives considered but not analyzed in detail included approval of sand and gravel mining while denying the use of a mobile asphalt plant. The mineral materials are the estate of the U.S. Government; the project surface is on land owned by the project proponent. Consideration of a non-Federal connected action such as the proposed asphalt plant is limited in NEPA analysis, because the NEPA process is focused on agency decision making (40 CFR 1500.1(c), 40 CFR 1508.18, 40 CFR 1508.23). In this case, the authority to approve the asphalt plant lies with the Department of Environmental Quality, Land Quality Division and Air Quality Division and BLM has no regulatory authority to deny operation of the asphalt plant.

Rationale for Decision:

Based on the analysis in the High Plains Ventures, LLC EA, the BLM has determined Alternative 2 is in conformance with the approved 2008 Pinedale RMP and is consistent with plans and policies of neighboring local, county, state, tribal governments, and federal agencies. Factoring in the decision is the fact that the proposal is a continuation of the use and operation of the gravel pit that has been occurring for the last 34 years.

The Environmental Assessment analyzed a reasonable range of alternatives. A 30-day public scoping process occurred for this EA. Issues identified during scoping have been considered and discussed within the EA. The decision to implement Alternative 2 has the potential to produce benefits to the local economy.

Appeal Procedures:

All of the documents supporting this decision are available for review by the public. Appeal procedures for this decision are outlined in Title 43 CFR, Part 4. In accordance with Title 43 CFR 4.410, any party to a case who is adversely affected by the decision of an officer of the BLM shall have a right to appeal to the Interior Board of Land Appeals (Board). In accordance with title 43 CFR 41411, a person who wishes to appeal the decision must file a notice that he wishes to appeal in the office of the authorized officer who made the decision. In accordance with Title 43 CFR 4.413, within 15 days of filing the notice of appeal and any petition for stay, the appellant must serve a copy of the appeal and any petition for stay on any person named in the decision and on the Office of the Solicitor in the manner prescribed in Title 43 CFR 4.401(c).

The office to file notice of appeal and a copy of the notice to appeal:

Bureau of Land management
Pinedale Field Office
PO Box 768
1625 West Pine Street
Pinedale, WY 82941

Office of the Regional Solicitor
Rocky Mountain Region
755 Parfet Street Suite 151
Lakewood, Colorado, 80215

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. In accordance with Title 43 CFR 4.411(b), the notice of appeal may include a statement of reasons for the appeal, a statement of standing if required by Title 43 CFR 4.412(b) and any arguments the appellant wishes to make. In accordance with Title 43 CFR 4.412(a), if the notice of appeal did not include a statement of reasons for the appeal or the appellant wishes to file additional statements of reasons, the appellant shall file such statements with the Board within 30 days, after the appeal was filed. The address to file such statements to the Board is:

Board of Land Appeals
Office of Hearing and Appeals
802 North Quincy Street
Arlington, VA 22203

If statement of reasons for appealing were filed with the "Notice of Appeal," no additional statement is necessary. Pursuant to Title 43 CFR 4.21(b), an appellant also may petition for a stay of the final decision pending appeal by filing a petition for stay along with the notice of appeal. At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (Title 43 CFR 4.422(c)(2)).



Shane Deforest
Field Manager
Pinedale Field Office

7-16-13

Date