

DECISION RECORD
DOI-BLM-WY-R010-2011-0069-EA
Meeteetse Draw Amendment to
Wyoming Mining Permit 321C

I. DECISION

It is my decision to implement Alternative 1, “the Proposed Action with stipulations and operated committed measures.” The authority for this decision is contained in 43 CFR §3809.411.

Compliance and Monitoring:

In compliance with 43 CFR §3809.401 the operator has submitted a monitoring plan, which includes: A proposed plan for monitoring the effect of the operations. Monitoring plans must be designed to meet the following objectives: To demonstrate compliance with the approved plan of operations and other Federal or State environmental laws and regulations, to provide early detection of potential problems, and to supply information that will assist in directing corrective actions should they become necessary. Where applicable, the operator must include in monitoring plans details on type and location of monitoring devices, sampling parameters and frequency, analytical methods, reporting procedures, and procedures to respond to adverse monitoring results.

In addition 43 CFR § 3809.600 states that

At any time, BLM may inspect your operations, including all structures, equipment, workings, and uses located on the public lands. The inspection may include verification that your operations comply with this subpart.

Terms / Conditions / Stipulations:

See attached Plan of Operations approval letter and Programmatic Agreement Among the Bureau of Land Management, Wyoming State Historic Preservation Officer, and Wyo-Ben, Inc., Regarding Mitigation of Adverse Effects to Historic Properties Resulting From the Meeteetse Draw Bentonite Mine In Hot Springs County, Wyoming

II. PLAN CONFORMANCE AND CONSISTENCY:

The proposed action conforms to the Record of Decision and Approved Resource Management Plan for the Grass Creek Resource Area dated 1998. The decisions in the Grass Creek Resource Management Plan provide general management direction and allocation of uses and resources on the public lands in the area.

III. ALTERNATIVES CONSIDERED

The Environmental Assessment (EA) for the project considered the No Action and Proposed Action Alternatives.

No Action –

No action implies that on-going development and other land use activities would be allowed to continue in the area, but the proposed action would be disapproved. Additional plans of operation would be considered by the BLM on a case-by-case basis.

Proposed Action –

The Meeteetse Draw Mine Plan of Operations proposes an open pit bentonite mine of no more than 500.4 acres of disturbance that would occur on haul roads and be excavated in multiple phases using standard castback mining techniques and procedures. The proposed action involves the mining of bentonite in proposed surface mining pit locations where Wyo-Ben Inc., the operator, has located placer claim locations within Hot Springs County within the 6th Principle Meridian. There are existing dirt roads that the operator would maintain to BLM standards or upgrade as needed, that would be used as transportation routes for the mined product that would be hauled to a processing plant in Lucerne. An easement was established in 1981 and construction for the existing haul road (HR 27.2) was begun in 1981. Permitting and bonding for the haul road occurred during Mine Amendment 5, in 1985. Additional haul roads are proposed.

IV. RATIONALE FOR DECISION

The decision to approve the proposed action is based upon the following: 1) consistency with resource management plan and land use plan; 2) national policy; 3) agency statutory requirements; 4) relevant resource and economic issues; 5) application of measures to avoid or minimize environmental impacts; 6) and public comments. Alternative 1 was chosen as being the most environmentally sound alternative. This decision is in conformance with the Grass Creek Resource Management Plan.

- 1) Resource Management Plan Conformance: This decision is in conformance with the Grass Creek Resource Management Plan, 1998.
- 2) National Policy: Exploration and development of locatable minerals on federal lands is permitted under the authority of the Mining Law of 1872 as amended. Mining operations are managed by §43 CFR 3809 under the authority of 16 U.S.C. 22; 30 U.S.C. 612, 43 U.S.C. 1201, and 43 U.S.C. 1732, 1733, 1740, 1781, and 1782.
- 3) Agency Statutory Requirements: The decision is consistent with all federal, state, and county authorizing actions required for implementation of the Proposed Action.
- 4) Relevant Resource and Economic Issues: Potential environmental impacts to surface and subsurface resources from the Wyo-Ben mining proposal were identified in the EA and are considered acceptable. Economic benefits to area communities derived from implementation of the Proposed Action in the form of continuing employment opportunities, equipment, services, and potential revenue are considered important.
- 5) Stipulations and Mitigation Measures: Stipulations and operator committed mitigation measures deemed necessary for this action are noted in the Plan Approval Letter as per §43 CFR 3809.411(d)(2) and are considered a part of the approval of this alternative.
- 6) Opportunity for Public Involvement: The proposed mine plan was logged in to the BLM Wyoming NEPA register and posted on the WFO internet page. The public was invited to comment on the proposed project during a Public Review process for 30 days beginning August 1, 2011 and ending on August 30, 2011. Comments received were incorporated into the analysis.

Native American consultation was initiated by the BLM and included the Crow, Eastern Shoshone, Northern Arapaho, Northern Cheyenne, Salish-Kootenai, and Shoshone-Bannock.

The draft EA was available for review from August 16 through September 14, 2012. There was one comment received during the review period from the Wyoming Game and Fish Department, in favor of the Operator Committed Measures and Mitigation analyzed in the EA.

V. APPEALS

If you are adversely affected by this decision, you may request that the BLM Wyoming State Director review this decision. If you request a State Director Review, the request must be received in the BLM Wyoming State Office at P.O. Box 1828, Cheyenne, Wyoming 82003, no later than 30 calendar days after you receive or have been notified of this decision. The request for State Director Review must be filed in accordance with the provisions in 43 CFR 3809.805. This decision will remain in effect while the State Director Review is pending, unless a stay is granted by the State Director. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the State Director does not make a decision on your request for review of this decision within 21 days of receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the BLM Wyoming State Office to determine when the BLM received the request for State Director Review. You have 30 days from the end of the 21-day period in which to file your Notice of Appeal with this office at 101 South 23rd Street, Worland, Wyoming 82401, which we will forward to IBLA.

If you wish to bypass a State Director Review, this decision may be appealed directly to the IBLA in accordance with the regulations at 43 CFR 3809.801(a)(1). Your Notice of Appeal must be filed in this office at 101 South 23rd Street, Worland, Wyoming 82401, within 30 days from receipt of this decision. As the appellant you have the burden of showing that the decision appealed from is in error. Enclosed is BLM Form 1842-1 that contains information on taking appeals to the IBLA.

This decision will remain in effect while the IBLA reviews the case, unless a stay is granted by the IBLA. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Request for a Stay—

If you wish to file a petition pursuant to regulations 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by Interior Board of Land Appeals (IBLA), the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of this notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the IBLA and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay—

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal must show sufficient justification based on the following standards:

1. The relative harm to parties if the stay is granted or denied.
2. The likelihood of the appellant's success on the merits.
3. The likelihood of immediate and irreparable harm if the stay is not granted.
4. Whether the public interest favors granting the stay.

/s/ Becky Spurgin
Authorized Officer

October 12, 2012
Date

Attachments –

Plan of Operations Approval Letter

EA -- DOI-BLM-WY-R010-2011-0069-EA

FONSI -- DOI-BLM-WY-R010-2011-0069-EA

Programmatic Agreement Among the Bureau of Land Management, Wyoming State Historic Preservation Officer, and Wyo-Ben, Inc., Regarding Mitigation of Adverse Effects to Historic Properties Resulting From the Meeteetse Draw Bentonite Mine In Hot Springs County, Wyoming