

USDI, Bureau of Land Management
Burns District
28910 Hwy 20 West
Hines, Oregon 97738

FINDING OF NO SIGNIFICANT IMPACT
and
DECISION RECORD
for

GREEN OBSIDIAN MINE PLAN OF OPERATIONS/
ENVIRONMENTAL ASSESSMENT

OR-025-02-063

INTRODUCTION

In September 2002, John Faust provided to the Burns District, Bureau of Land Management (BLM) a Plan of Operations for mining obsidian on mining claim CBC#1, ORMC 153808. This claim is located approximately 8 miles northwest of Burns, Oregon. The claim covers approximately 20 acres west of the Skull Creek Road in T. 22 S. R. 29 E., Section 24 NW $\frac{1}{4}$ NW $\frac{1}{4}$. The mining claim and access road are entirely on public land with Federal mineral estate.

The regulations at 43 CFR 3809.411(3) (iii) do not allow BLM to approve a Plan of Operations until completion of environmental analysis and the Plan of Operations is made available for public comment. The Mining Law Regulations at 43 CFR 3809.101 state that minerals that may be common variety minerals, such as obsidian may not be mined until BLM has prepared a mineral examination report to determine whether or not the mineral is a common or uncommon variety. The BLM may process a mine Plan of Operations for those claims for the interim until the mineral examination report is completed if the claimant makes payments into an escrow account for the appraised value of the possible common variety minerals removed. Approval of a Plan of Operations may be subject to changes or conditions that are necessary to meet the performance standards of 43 CFR 3809.420 and to prevent undue and unnecessary degradation of public land.

The obsidian in the claim area is desirable for its various shades of green, blue, and silky black colors. The unique coloration of this obsidian and limited distribution creates a high demand for the marketing of this material. It is marketed to rock shops for collectors and as material for working into replicas of ancient tools such as arrowheads, knives, and spearheads. The mining operations would provide this unique colored obsidian to help fill the public demand for this material.

It is desirable to use mechanized equipment in mining under a Plan of Operations because it is difficult to cut juniper trees, stockpile topsoil, excavate, backfill excavations, and respread topsoil with hand tools as a casual use activity.

SUMMARY OF PROPOSED ACTION

The proposed action is to conduct small-scale mining on the 20-acre mining claim CBC#1, ORMC 153808. The Plan of Operations is available as Appendix 1 of the attached Environmental Assessment (EA). The operator would be Craig Ratzat, who is also the claimant.

Since the Plan of Operations was written, J.M. and John Faust are no longer claimants nor operators. There was also a minor omission in the plan which since has been added and that is no catch basins resulting in standing water would be left on the claim.

Mining would be conducted seasonally, between May 5 to October 31, as road conditions on Skull Creek Road and Industrial Fire Precaution Levels allow. Mining would be conducted using a small excavator and dump truck. All work would be done during daylight hours. No explosives would be used.

Access to the claim would be from Skull Creek Road and the existing unbladed road (map titled Figure 1 in the attached EA). The unbladed road forks at the base of the ridge, with a steeper road on the right and a gentler road on the left. The steeper road to the claim discovery post dates back to 1971 and is shown on Figure 1. The gentler road was pioneered without blading in 1999 and is not on Figure 1. The claimants/operators would reclaim the steeper road and any additional routes that they use for access within the claim. The claimants/operators propose to not reclaim the gentler road from Skull Creek Road to the 1971 claim discovery post.

Under this Plan of Operations the claimants/operators would be allowed to cut trees, blade routes, and drive cross-country anywhere within the claim as desired. They would need to conduct ongoing reclamation in order to keep total surface disturbance below the 5-acre threshold for permitting by the Oregon Department of Geology and Mineral Industries. Their reclamation cost would be reviewed annually by BLM and the operators would revise their financial guarantee as needed to cover the cost of reclamation by a third party.

At the beginning of excavating each test pit, topsoil would be set aside in stockpiles. Test pits with undesirable rock would be backfilled within 24 hours. Test pits with desirable rock would be enlarged, mined by hand-sorting to remove commercially useable rock, and backfilled within 5 days of the start of excavation. At the conclusion of backfilling each site, the ground surface would be shaped to blend with the adjacent ground and the topsoil stockpile would be spread over the surface.

Approximately one truckload of rock would be hauled from the claim per week and approximately 25 cubic yards of obsidian would be removed per year during the mining season. If hauling on the Skull Creek Road is done during wet conditions or if more than five truckloads per day are hauled, then the operators would help pay for road maintenance at a rate determined by the BLM.

No open holes would be left at the site when equipment is removed for the winter. Hand-dug holes, including unauthorized digging on the claim, would be backfilled by the operators. The operator would be responsible for providing erosion control measures as needed and seeding the disturbed areas in the fall using a weed-free seed mix approved by Burns District BLM. The operators would obtain BLM specifications and approval before constructing any temporary fence to aid in reclamation. The operator is responsible for all costs required for reclamation, including all necessary materials and labor.

FINDING OF NO SIGNIFICANT IMPACT

This proposal is in conformance with the Three Rivers Resource Management Plan (RMP) and the specific objectives for mineral materials, energy and mineral, and objectives for obsidian use contained in this land use plan. This proposal is in conformance with Harney County land use plan as well as applicable Federal, Tribal, State and County plans, statutes, and regulations. The EA was prepared in compliance with the National Environmental Policy Act, the Surface Management Regulations at 43 CFR 3809, and the Mining Use and Occupancy Regulations at 43 CFR 3715.

Based on the analysis of potential environmental impacts contained in the EA and all other information, I have determined that the proposed action and alternative analyzed do not constitute a major Federal action that would significantly impact the quality of the human environment. Therefore, an Environmental Impact Statement is not necessary and will not be prepared.

Rationale:

This determination is based on the following: The following critical elements of the human environment are not known to be present in the project area or affected by enacting either alternative: Areas of Critical Environmental Concern, environmental justice, prime or unique farmlands, floodplains, air quality, Special Status plant species, hazardous materials, American Indian religious concerns, paleontology, water quality, wetlands and riparian zones, Wild and Scenic Rivers, wilderness, Wilderness Study Areas, and adverse energy impacts. All potentially impacted resources were analyzed in the EA specific to the proposed action. The following resources were analyzed in the EA: cultural resources, migratory birds, noxious weeds, solid waste, fire management, geology/mineral resources, lands/reality, livestock grazing management, recreation, Visual Resource Management, vegetation/woodlands, and wildlife. Impacts to these resources are considered nonsignificant (based on the definition of significance in 40 CFR 1508.27) for the following reasons:

Cultural Resources

There is one prehistoric archaeological site known to exist within the claim boundary and there are three additional prehistoric quarry sites adjacent to the claim boundary. Mining operations would present the potential for accidental damage, artifact collection by unauthorized people, and destruction of site integrity. This would be mitigated by providing a map to the operators of the location of the quarry site that is on the claim to help them avoid it, and having the mine operators mark the claim boundary to ensure avoidance of the off claim sites.

Migratory Birds

Species that prefer dense juniper or mountain mahogany habitat would be disturbed and would relocate temporarily as excavation occurs selectively across the 20-acre claim.

Noxious Weeds

Noxious weeds may establish in areas disturbed by mining. Opportunities exist for weed seed introduction on equipment and vehicles. The more times equipment or vehicles come to the site from elsewhere, the more likely introductions would occur. Measures listed in the proposed action would prevent noxious weed invasion on the claim.

Solid Waste

There would be no accumulation of garbage or other solid waste on the claim due to removal and proper disposal by the operators.

Fire Management/Closures and Restrictions

Removal of dense juniper and mountain mahogany vegetation at selected sites within the 20-acre claim would reduce wildland fire fuel at the sites. Equipment activity at the sites would increase the likelihood of a fire at the sites but it is mitigated by the operators following fire closures and restrictions.

Geology/Mineral Resources

Up to 20 acres would be disturbed (the total area of the claim) and approximately 500 cubic yards of rock could be removed from the claim (25 cubic yards per year multiplied by 20 years) and provided to purchasers to meet demand.

Thundereggs have been observed within the claim. These mineral resources may be mined by the claimants/operators under this Plan of Operations/EA if they are mined in the same manner and degree as mining obsidian described in the proposed action.

Lands/Realty

Continuous, heavy hauling of mined material on Skull Creek Road, particularly during wet conditions, could result in road damage such as rutting, powdering, and washboarding. This would create unsafe conditions, erosion, and sedimentation until road maintenance work is done.

The claimants/operators would reclaim tracks established by their repeated use within the claim beyond those already established, they would reclaim the steep road within the claim, and they would establish no new tracks outside the claim.

Livestock Grazing Management

Cattle may graze on newly-seeded areas and as a result there may be slow reclamation success unless a temporary fence is installed around newly-seeded areas. Claim operations would have no effect on livestock grazing management as long as operations do not begin until after May 5 each year as proposed. There would be no necessary adjustment of AUMs on grazing permits to take into account mining on 20 acres.

Recreation

The claimants/operators would be allowed to block recreationists and others from driving within the claim boundaries along access routes established by the operators in order to help protect exposed obsidian from removal by the general public. The general public would still be allowed to walk across the claim or drive elsewhere across the claim or remove obsidian from obsidian collection areas surrounding the claim.

Backfilling test pits with undesirable rock within 24 hours and backfilling test pits with undesirable rock within 5 days would help keep casual recreationists from removing obsidian that the claimants prize the most.

Visual Resource Management

Removal of trees and other vegetation by mining operations on the 20-acre claim would result in a change in the landscape. However, the claim is approximately one-half mile from Skull Creek Road, so small individual pits and stumps would probably not be noticed by the casual observer.

Vegetation/Woodlands

This Plan of Operations would not impact the Bureau Tracking species.

There would be fewer juniper and mountain mahogany trees on the 20-acre claim area with potential that all of the 20-acre claim area would be covered with shrubs, grasses, and forbs.

Seeding disturbed areas with a mix of shrubs, grasses, and forbs would provide vegetative cover for soil protection, a varied plant community structure, and palatability for wildlife and livestock.

Repeated seeding by the claimants/operators until reclamation success is reached would establish a competitive plant community to limit the establishment of nonnative invasive cheatgrass at sites that were disturbed by previous claimants.

This project would not impact juniper cutting projects planned in the future.

Cutting juniper trees on the 20-acre claim would not appreciably impact bough harvesting due to the small size of the claim.

Wildlife

Species that prefer dense juniper or mountain mahogany habitat would be displaced as excavation occurs selectively across the 20-acre claim area. Forage productivity and forage quality would be enhanced over the long term by the establishment of desirable forage species, especially bitterbrush, in the 20-acre claim area.

No disturbance would occur to the wintering mule deer as long as the time of mining operation is limited to May 5 through October as proposed.

MITIGATING MEASURES

Mitigation measures are included within the proposed action; therefore, no additional mitigating measures are required.

DECISION RECORD

DECISION: Having considered the range of alternatives and associated impacts and based on the analysis in the Green Obsidian Mine Plan of Operations EA, it is my decision to implement the proposed action as analyzed in the EA. This analysis proposes to remove approximately 25 cubic yards of obsidian per year from the 20 acres within the claim which would amount to approximately 500 cubic yards removed over the 20-year period. Total surface disturbance would consist of up to 20 acres which is the entire claim with not more than 5 acres disturbed at any given time. The claimant is responsible for all reclamation of the site as described in detail in the proposed action.

Rationale for Decision: I have selected the proposed action for the following reasons:

The analysis determined that there would be no negative cumulative effects with the implementation of the proposed action and the claimant has a valid claim to mine the obsidian from the claim. The reclamation of the site will be completed by the claimant and will avoid any long-term negative visual or environmental effects.

The proposed action is consistent with the Three Rivers Resource Area Land Use Plan of 1992 and State, local, and Tribal land use plans and regulations. It is also consistent with the Surface Management Regulations at 43 CFR 3809 and the Mining Use and Occupancy Regulations at 43 CFR 3715.

I have also considered the no action alternative which equates to mining with hand tools on the same claim which would not allow the amount of obsidian to be mined in the period outlined. This would result in more open pits over a longer period of time. There would also not be the financial guarantee to ensure site management and reclamation as outlined in the proposed action.

This decision may be appealed to the Interior Board of Appeals, Office of the Secretary, in accordance with regulations contained in 43 CFR, Part 4 and Form 1842-1. If an appeal is filed, your notice of appeal must be filed in the Burns District Office, 28910 Highway 20 West, Hines, Oregon 97738 by August 9, 2004. The appellant has the burden of showing that the decision appealed is in error.

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 the Board, the petition for stay must accompany your notice of appeal. A petition for stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals 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 shall show sufficient justification based on the following standards:

1. The relative harm to the 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 or not the public interest favors granting the stay.

_____ signature on file _____
Joan M. Suther
Three Rivers Resource Area Field Manager

_____ 7/28/2004 _____
Date