



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

TRES RIOS FIELD OFFICE

29211 Highway 184

Dolores, CO 81323

<https://www.blm.gov/colorado>

In Reply Refer To:

3600 (COS01000)

COC-74302 (17)

March 18, 2019

CERTIFIED MAIL - Return Receipt Requested

7018 1830 0000 8205 6887

Ms. Glenda Hankins

Hankins Stone Company Inc.

P.O. Box 164

Dove Creek, CO 81324

RE: Request for Exception - Dry Creek Quarry Permit Renewal EA and Decision Record

Dear Ms. Hankins:

On February 20, 2019, the Bureau of Land Management (BLM) Tres Rios Field Office (TRFO) received a request from Hankins Stone Company (Hankins) for an exception to the Dry Creek Quarry Permit Renewal Environmental Assessment (EA) (NEPA No. DOI-BLM-CO-TRFO-S010-2016-003-EA) and Decision Record. Both the Decision Record and associated Mineral Materials Sales Contract (COC-74302 (17)) stipulated that no mining operations would be allowed at the quarry beginning December 16 and ending April 30 in order to protect wildlife resources in the area. Hankins has requested an exception to this stipulation from February 15, 2019, to April 30, 2019, in order to sort, package, transport and sell previously extracted and stockpiled stone from the Dry Creek Quarry in Section 27, Township 45 North, Range 17 West.

The TRFO Management Team has carefully considered Hankins' EA exception request in consultation with our local BLM wildlife biologists and other specialists. The Decision Record for the 2016 Dry Creek Quarry Permit Renewal EA clearly stipulated winter closure at the mine was required to protect Gunnison sage-grouse, Designated Critical Habitat and lek sites, and also protect big game critical winter range. The timing limitation is in conformance with the BLM TRFO Record of Decision and Resource Management Plan (RMP), approved February 27, 2015 (see Standards 2.4.34 and 2.4.38, and Guidelines 2.4.49 and 2.4.61, in the 2015 BLM TRFO RMP posted at <https://eplanning.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=dispatchToPatternPage¤tPageId=92880>). It has been determined that the proposed 2019 winter access travel plan and quarry activities would not allow the BLM to remain in conformance with the 2015 BLM TRFO RMP. Adverse impacts would result from the increased vehicular traffic and noise during the requested winter months on the subject wildlife populations and habitat. In addition, this request would also require driving by the only active lek in Dry Creek Basin during the peak of lekking season. Lastly, the federal revenues obtained


from the occasional increase in mineral materials sales would not outweigh the expected public benefits gained by continued implementation of this wildlife protective stipulation. Therefore, it is the decision of the BLM TRFO to deny the Hankins Dry Creek Quarry Permit Renewal EA exception request.

This decision may be appealed directly to the Board of Land Appeals (IBLA), Office of Hearings and Appeals, in accordance with the regulations contained in 43 CFR, Part 4, and the information found in the enclosed Form 1842-1 (Enclosure 1). If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. A copy of the Notice of Appeal and any Statement of Reasons, written arguments, or briefs must also be served on the Office of the Solicitor at the address shown on Form 1842-1. The form also includes instructions for filing a petition for stay of any decisions appealed. The appellant has the burden of showing that the decision appealed is in error.

You may file a notice of appeal by paper hardcopy only. The BLM will not accept a notice of appeal transmitted electronically (e.g., by email, facsimile, or social media means). Also, the BLM will not accept a petition for stay that is transmitted electronically (e.g., by email, facsimile, or social media means). Even if the BLM has previously corresponded with you by email, facsimile, or social media means, the BLM will not accept a notice of appeal transmitted electronically. Both the notice of appeal and any petition for stay must be received on paper at the office address above.

If you have any questions or concerns regarding this matter, please contact the BLM project lead, Ms. Pamela Leschak, Geologist at (970) 385-1342 or (970) 769-3254 or by email at pleschak@blm.gov.

Sincerely,



Connie Clementson
Tres Rios Field Manager

Enclosure

1 - Form 1842-1

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

- | | |
|-----------------------------|---|
| 1. NOTICE OF APPEAL..... | A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that he wishes to appeal. A person served with the decision being appealed must transmit the <i>Notice of Appeal</i> 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. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a <i>Notice of Appeal</i> in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413). |
| <hr/> | |
| 2. WHERE TO FILE | |
| NOTICE OF APPEAL..... | Field Manager
BLM Tres Rios Field Office
29211 Highway 184
Dolores, CO 81323 |
| WITH COPY TO SOLICITOR... | U.S. Department of the Interior, Regional Solicitor, Rocky Mountain Region
755 Parfet Street, Suite 151, Lakewood, Colorado 80215 |
| <hr/> | |
| 3. STATEMENT OF REASONS | Within 30 days after filing the <i>Notice of Appeal</i> , file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the <i>Notice of Appeal</i> , no additional statement is necessary (43 CFR 4.412 and 4.413). |
| WITH COPY TO SOLICITOR..... | U.S. Department of the Interior, Regional Solicitor, Rocky Mountain Region
755 Parfet Street, Suite 151, Lakewood, Colorado 80215 |
| <hr/> | |
| 4. ADVERSE PARTIES..... | Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the <i>Notice of Appeal</i> , (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413). |
| <hr/> | |
| 5. PROOF OF SERVICE..... | Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)). |
| <hr/> | |
| 6. REQUEST FOR STAY..... | Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a <i>Notice of Appeal</i> (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your <i>Notice of Appeal</i> (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the <i>Notice of Appeal</i> 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 (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 regulations, 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, and (4) whether the public interest favors granting the stay. |

Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 4.402). Be certain that all communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, Subpart B for general rules relating to procedures and practice involving appeals.

43 CFR SUBPART 1821--GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State Office ----- Alaska
Arizona State Office ----- Arizona
California State Office ----- California
Colorado State Office ----- Colorado
Eastern States Office ----- Arkansas, Iowa, Louisiana, Minnesota, Missouri
and, all States east of the Mississippi River
Idaho State Office ----- Idaho
Montana State Office ----- Montana, North Dakota and South Dakota
Nevada State Office ----- Nevada
New Mexico State Office ----- New Mexico, Kansas, Oklahoma and Texas
Oregon State Office ----- Oregon and Washington
Utah State Office ----- Utah
Wyoming State Office ----- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.

(Form 1842-1, September 2006)