

U.S. EPA Region 8 NPDES Inspection Report

National Database Information	
Inspection Date: May 14, 2024	Inspection Type: Compliance Evaluation Inspection
Entry / Exit Time: 15:40 / 16:23	NPDES ID: MTU000074
Major / Non-Major Facility: Non-Major	NPDES Program Sector(s): Stormwater Industrial
NAICS Code: 212321 (Construction Sand and Gravel Mining)	Inspection ID: 202405_MTU000074
Lead inspector and affiliation: Akash Johnson / U.S. EPA Region 8	
Inspector and affiliation: Lisa-kay Prideaux / U.S. EPA Region 8	

Site/Facility Location Information	
Site/Facility Name & Location: Uffelman Property (inactive sand and gravel mine) 45.538706, -107.673056 Big Horn County, Montana	Email Report to: Scott Uffelman (b) (6)

Contact Information	
	Name(s)/Title
Site/Facility Contacts	Scott Uffelman / Property Owner (present)
Indian Health Service Contacts	N/A
Tribal Government Contacts	Marvin (Wes) Stops, Jr. / Environmental Director / Crow Tribe (not present)

Permit/Site/Facility Information	
Permit on site and available: N/A – no NPDES permit	Permit Application Date: N/A – no NPDES permit
Effective Date: N/A – no NPDES permit	Expiration Date: N/A – no NPDES permit
Latitude: 45.538706	Longitude: -107.673056
Receiving Water(s): Potentially: Big Horn Canal, which can flow into a drainage to the Bighorn River	
Weather Conditions: During inspection: overcast; no precipitation	
Inspector's source of information: Facility representatives, MTDEQ records, EPA records and databases, Google Earth Pro, and inspection observations.	

Areas Evaluated During Inspection		
Permit	Self-Monitoring Program	Pretreatment
<u>Records</u>	Compliance Schedule	<u>Pollution Prevention</u>
<u>Facility Site Review</u>	Laboratory	<u>Stormwater</u>
<u>Effluent/Receiving Waters</u>	<u>Operations and Maintenance</u>	Combined Sewer Overflow
Flow Measurement	Sludge Handling/Disposal	Sanitary Sewer Overflow

Report Review and Signature		
Lead Inspector Name/Signature/Final Date	Draft Date	Contact Information
AKASH JOHNSON Digitally signed by AKASH JOHNSON Date: 2024.07.05 09:17:46 -06'00'	June 28, 2024	U.S. EPA Region 8 Denver, Colorado johnson.akash@epa.gov (303) 312-6067
Reviewer Name	Review Date	Contact Information
Lisa-kay Prideaux	July 1, 2024	U.S. EPA Region 8 Helena, Montana prideaux.lisakay@epa.gov (406) 457-5022
Management Reviewer Name/Signature/Date		Contact Information
EMILIO LLAMOZAS Digitally signed by EMILIO LLAMOZAS Date: 2024.07.03 15:27:46 -06'00'		U.S. EPA Region 8 Denver, Colorado llamozas.emilio@epa.gov (303) 312-6407
Emilio Llamozas, NPDES and Wetlands Enforcement Section Supervisor		

Inspection Narrative and Facility Description

1.0 Introduction

On Tuesday, May 14, 2024, I, U.S. Environmental Protection Agency (EPA) inspector Akash Johnson, accompanied by EPA inspector Lisa-kay Prideaux (collectively, “we”), conducted a compliance evaluation inspection of an inactive sand and gravel mine (mine; site), located in Big Horn County, Montana, within the exterior boundaries of the Crow Reservation (Reservation). The property on which the mine was located was owned by Scott Uffelman, who accompanied us for the entirety of the inspection. A letter notifying the Crow Tribe of the EPA’s inspection presence on the Reservation was sent on April 14, 2024. I called Scott Uffelman the day before the inspection, May 13, 2024, to announce the inspection and coordinate inspection logistics. The purpose of the inspection was to evaluate compliance with applicable Clean Water Act (CWA) and National Pollutant Discharge Elimination System (NPDES) requirements. Throughout the inspection, we took notes on our discussions and observations in bound logbooks. Photographs taken during the inspection are included in the enclosed photo log.

2.0 Mining Operations and Site Use

A 2023 aerial image of the site is shown in Figure 1. Based on estimates made using the “Polygon” measurement tool and aerial imagery available in Google Earth Pro, approximately 15-20 acres have been disturbed at the site. Based on historical aerial imagery and information provided by Scott Uffelman during the inspection, the site was generally undeveloped prior to the commencement of mining activities. Scott Uffelman indicated sand and gravel mining and asphalt batch plant operations at the site had been conducted by Century Companies, Inc. (Century) during a 2-3 month window in the latter half of 2020 to support nearby construction activities associated with “Rotten Grass Highway.”

Scott Uffelman indicated he had granted Century permission to mine the site but otherwise had not been involved in day-to-day mining operations. Any contracts or other agreements that may exist between Scott Uffelman and Century were not evaluated during the inspection. Scott Uffelman indicated commercial use of the site generally ceased after the 2-3 month window of mining in 2020, and Century was no longer involved with the site. Scott Uffelman indicated the site was currently used for personal recreation and he was considering further developing the site for personal use. Scott Uffelman indicated general site conditions had remained relatively unchanged since active mining and asphalt batch plant operations ceased through the time of the inspection.



Figure 1. Aerial image of the site and surroundings
Imagery Date: September 17, 2023
Source: Google Earth Pro

3.0 Permitting History

The Montana Department of Environmental Quality (MTDEQ) issued an Opencut Mining Permit (Opencut #: 3217) for the site to Century Companies, Inc. on July 15, 2020. During the inspection, Scott Uffelman stated he did not intend to utilize the site for any future commercial purposes and was engaged in communications with MTDEQ regarding his intention to terminate the site's MTDEQ Opencut Mining Permit, which was originally scheduled to expire December 2035. Applicability of and compliance with any MTDEQ permits were not evaluated during the inspection.

Prior to the inspection, I performed cursory searches of the EPA's internal Integrated Compliance Information System (ICIS) database and public Enforcement and Compliance History Online (ECHO) database and did not identify any NPDES permits associated with the site.

4.0 Inspection Narrative and Site Description

The inspection began when we arrived onsite at approximately 15:40, parked our vehicles in the northern portion of the site, and convened with Scott Uffelman outdoors. We presented our inspector credentials and explained the purpose and scope of the inspection. Scott Uffelman provided a brief overview of site use over the past several years, discussed Section 2. We then proceeded to walk through the site to make observations and collect photographs.

Inspection Narrative and Facility Description

Historical aerial imagery of the undeveloped site shows natural drainages and outward slopes around the northern, western, and southern site boundaries. The Big Horn Canal bounded the site to the west-northwest. During the inspection, it appeared the majority of the disturbed area would immediately drain to either constructed basins located in the western portion of the site or the southern portion of the site. Drainage in these areas is discussed further in paragraphs below. Several pieces of earthmoving equipment and a small shed were maintained at the site; Scott Uffelman indicated these were his personal property.

We began our site walk in the northern portion of the site (Photograph 33) and walked south. Much of the site's ground surface appeared to comprise gravel (Photographs 33-35). Stockpiles of soil and asphalt millings were present in the northwest portion of the site (Photograph 34); Scott Uffelman indicated the asphalt batch plant had been located in the vicinity of these stockpiles. A single metal drum was present in the northwest portion of the site (Photograph 34); we did not attempt to identify the contents of the drum during the inspection. Soil stockpiles were also present in the northeastern portion of the site (Photograph 35).

Two constructed drainage basins were present in the western portion of the site, referred to in this report as the North and South Basins (Photographs 36-38). Approximately 1-2 feet of water was present in both basins; it was unclear whether this water comprised precipitation, groundwater, or a mixture of both. In the North Basin, an outlet had been cut into the northwest section of the basin wall to allow water to flow out of the basin if it accumulated beyond a certain depth (Photographs 36 and 38). Water was not flowing out of the North Basin through the outlet during the inspection (Photograph 38). Standing water was observed in a smaller depression located just northeast and downgradient of the outlet; no water was flowing in or out of this depression during the inspection (Photograph 38). We did not identify any outlets from the South Basin, which was larger than the North Basin and mostly dry. Any water leaving the basins would presumably flow into natural drainages along the northern and western site perimeter, towards the Big Horn Canal.

We continued walking to the southern end of the site (Photographs 39-42). Based on inspection observations and aerial imagery, the only route of vehicle ingress and egress at the site was an east-west access road from a bridge over the Big Horn Canal onto the site along the southern site boundary. Near the top of a natural drainage at the southern end of the site, a pipe had been placed through a berm (Photographs 39 and 40). Scott Uffelman indicated he installed the pipe after active mining had ceased to drain precipitation accumulation in the southern portion of the site. Scott Uffelman also pointed out he had placed some rock riprap beneath the pipe outlet (not pictured), intended to mitigate potential erosion. Based on inspection observations and aerial imagery, the natural drainage that would receive any water from this pipe flowed south and eventually west, towards the Big Horn Canal. No water was flowing through the pipe or drainage during the inspection.

We then walked back to the north end of the site along the eastern site boundary (Photograph 42). The majority of the site was bounded to the east by a vegetated rise (Photographs 35 and 42).

Throughout our site walk, we explained to Scott Uffelman that, due to the nature of industrial activities that had occurred at the site, any discharges of stormwater or groundwater from the site to waters of the United States could potentially be subject to CWA and NPDES requirements. Scott Uffelman indicated he had not observed any discharges from the site flowing into the nearest surface water, the Big Horn Canal, and that he could close off the potential outlets we observed in the North Basin (Photographs 36

Inspection Narrative and Facility Description

and 38) and the southern end of the site (Photographs 39-40) and regrade portions of the site to minimize the likelihood of stormwater flowing offsite.

To conclude the inspection, we exited the site in our vehicle, parked on the western side of the bridge for the access road over the Big Horn Canal, and reconvened with Scott Uffelman outdoors while he closed the access gate to the site. While observing the access road from the west side of the canal, we discussed with Scott Uffelman the potential for runoff from the access road, including adjacent disturbance and drainage ditches, to flow into the Big Horn Canal (Photograph 43). No water was flowing into the Big Horn Canal from the access road or surrounding areas during the inspection. The inspection ended when we left the area at approximately 16:23.

4.0 Conclusion

Findings, requested Corrective Actions, and Recommendations identified pursuant to this inspection are included in the section below.

Findings and Recommendations

Finding 1: Stormwater discharges from the site could potentially enter waters of the United States and be subject to CWA and NPDES requirements.

In several areas of the site, notably, the outlet from the North Basin (Photographs 36 and 38), the pipe in the berm at the southern end of the site (Photographs 39 and 40), and the access road near the Big Horn Canal (Photographs 43), the site exhibited potential to discharge stormwater associated with industrial activity (e.g. mining or construction) into the Big Horn Canal, which can flow into a drainage to the Bighorn River.

Statutory Requirements:

In order to restore and maintain the integrity of the nation's waters, section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant by any person into waters of the United States, unless authorized by certain other provisions of the CWA, including section 402 of the CWA, 33 U.S.C. § 1342.

Section 402 of the CWA, 33 U.S.C. § 1342, establishes the NPDES program, under which the EPA, and states with authorization from the EPA, may permit discharges of pollutants into navigable waters, subject to specific terms and conditions.

Regulatory Requirements:

40 C.F.R. § 122.26 outlines NPDES permit applicability for discharges of stormwater, including discharges associated with industrial activity, which includes mining and construction.

NPDES Permitting Requirements:

Coverage under the EPA's Multi-Sector General Permit (MSGP) for Stormwater Discharges Associated with Industrial Activity may be required if the site retains potential to discharge stormwater into waters

Findings and Recommendations

of the United States and commercial industrial activities resume at the site. Information on the EPA's MSGP can be found online here: <https://www.epa.gov/npdes/stormwater-discharges-industrial-activities-epas-2021-msgp>

Coverage under the EPA's Construction General Permit (CGP) for Stormwater Discharges from Construction Activities may be required if the site retains potential to discharge stormwater into waters of the United States and construction disturbance greater than 1 acre occurs at the site. Information on the EPA's CGP can be found online here: <https://www.epa.gov/npdes/2022-construction-general-permit-cgp#2022cgp>

General information on the NPDES permitting program can be found online here: <https://www.epa.gov/npdes/npdes-permit-basics>

Corrective Action:

Ensure no discharges requiring NPDES permit coverage occur from the site or obtain appropriate NPDES permit coverage before such discharges occur. In a response to the EPA, provide a description of the corrective actions taken to address this finding.

Recommendation:

Safely evaluate the contents of the drum in the northwest portion of the site (Photograph 34) and dispose of the contents in accordance with applicable local, Tribal, state, and federal regulations.