

STATE OF MONTANA  
AGGREGATE AND ROCK MINING PERMITNO. G-1273-94

2022 Renewal

This license agreement, herein referred to as permit, made and entered into by and between the State of Montana, acting through its Department of Natural Resources and Conservation, hereinafter referred to as Department, and the person, persons, company or corporation herein named and hereinafter referred to as permittee, under and pursuant to the terms and provisions of 77-3-201, et seq, MCA, as amended.

The Department, in consideration of the rental and royalties to be paid and covenants to be kept and performed by the permittee, hereby grants a permit to the permittee for the purpose of prospecting and exploring for, and of mining and extracting SAND AND GRAVEL located in or under the lands hereinafter described and as specified in the attached plat, and for the purpose of building such structures, excavations, openings, ditches, drains, buildings and other improvements upon the premises as may be necessary or proper in order to prospect and explore for and to extract, save, care for, dispose of, and remove the above mentioned minerals from the premises, and for the purpose of providing places on the premises for such improvements, and for the purpose of free egress and ingress from the workings on the premises, all of the lands or reserved mineral rights herein described as follows:

Name & address of Permittee: A. M. Welles Inc.  
P O Box 2808  
Norris, MT 59745

Permit located: Township 5 South, Range 1 West  
Section 16: W½SE¼

County: Madison

Total number of acres: Approximately 63.2 Acres

This permit expires on: December 31, 2023

Royalty: One Dollar and Fifty Cents (\$1.50) Per Cubic Yard

Annual Advance Royalty: \$500 (five-hundred dollars)

Rental: Waived

Bond: Waived

This permit is limited to a maximum of 300,000 cubic yards unless otherwise stated by the Department in writing.

#### 1. EFFECTIVE DATE

This permit is effective **January 1, 2022** and shall remain in full force and effect until its expiration date, unless cancelled on account of sale of the land or other good and sufficient reason. The permittee shall have a preferential right of renewal of a producing permit under such adjustment of terms and conditions as the Department may determine to be necessary in the interest of the State.

#### 2. PURPOSE

Unless additional uses are specified in paragraph 35. SPECIAL PROVISIONS, the permittee hereby agrees to occupy and use the above described property solely for the purpose of mining the materials permitted herein. Permittee must obtain Department approval for any other activities not directly related to the mining of permitted materials. Indirectly related activities include, but are not limited to the installation of asphalt or cement batch plants, construction or project offices, or use of premises for parking construction equipment. It is in the Department's sole discretion whether or not such additional activities may be allowed. In order to be mined under this permit such materials as sand, gravel, topsoil, rock, rip rap, scoria, etc. must be named specifically, even though they may be found in association with other materials in the permit area.

#### 3. ROYALTY AND QUARTERLY REPORTS

The permittee agrees to pay the Department a royalty for all materials as they are taken and removed from the permit area unless waived by the Department. On or before the last day of each quarter (March, June, September, December) the permittee shall submit a report and royalty payment to the Department on a form prescribed by the Department showing:

the weight and cubic measurements of material produced and the price received for all materials mined, sold, shipped, or removed from the permit area during the preceding quarter and any additional information required.

Such report shall also include for informational purposes that material which was produced and stockpiled. Royalty

is not paid on produced and stockpiled material until it is sold or removed from the permit area. The applicable royalty rate is that which is in effect at the time the stockpiled material is removed from the permit area. Records of the materials mined in the permit area shall be kept and preserved separate from records of materials mined from non-permitted lands. The Department reserves the right to restrict the royalty in kind. The decision of whether royalty shall be paid in cash or in kind shall be solely within the discretion of the Department.

4. **ANNUAL ADVANCE ROYALTY**

The permittee shall be required to pay an annual advance minimum royalty unless waived by the Department. The amount of such royalty is set forth above. This minimum royalty is not refundable in the event that actual production royalty is less. In the event such actual production royalty is greater, permittee is obligated to pay the greater amount. Failure to pay any royalty when due will result in automatic cancellation of this permit.

5. **RENTAL**

The permittee shall be required to pay an annual rental unless waived by the Department. The amount of such rental is set forth above. Failure to pay any rental when due will result in automatic cancellation of this permit.

6. **PERMIT BOUNDARIES**

The permittee agrees the permitted area shall not exceed the acreage and boundaries included in the approved plat as required in the plan of operations or reclamation contract as required by the Opencut Bureau of the Department of Environmental Quality whichever is smaller. If no reclamation contract or reclamation plan is required by applicable mine reclamation laws, the permit boundaries shall be those shown on the plat or map which shall be attached to this permit.

7. **PLAN OF OPERATIONS**

Permittee hereby agrees to submit to the Department two copies of an operating plan or an amendment to an existing operating plan, which describes the permittee's proposed prospecting or mining activities. No activity shall occur on the permit area until such operating plan or amendment has been approved in writing by the Department. The plan or amendment shall include the following:

- a. A complete description of each activity planned, locations of each activity, scheduled starting date, and expected duration of each.
- b. Plat or map (1:24,000 scale or larger) showing location of existing and new access routes, road construction, pipelines, utilities, buildings, structures, fences, and other uses and improvements.
- c. Plans, to include resource protection measures for trenching, auguring, mining, milling, waste disposal, sanitation, wildfire prevention, soil erosion and air and water pollution, and land reclamation procedures.
- d. Other information necessary for the Department to assess probable impacts upon surface and other resources.

The Department shall not approve the Plan until the permittee has submitted all necessary information and no work will be conducted without written approval of the Operating Plan.

8. **AMENDMENTS**

Upon application to the Department by the permittee, on such form as the Department shall require and accompanied by a revised plat, the permittee may request additional material, time, or acreage subject to all existing terms and conditions and such modified terms as the Department may require, including but not limited to adjustments in royalty, bonding and reclamation requirements. Whether such application is approved is solely within the discretion of the Department.

9. **ASSIGNMENTS**

The permittee shall not assign or sublease this permit without the consent of the Department. The approval of any assignment filed and supported may not be withheld where the rights or interests of the state in the premises assigned will not, in the judgment of the Department, be prejudiced thereby. Assignments shall not extend the expiration date of the original permit. All covenants and agreements herein set forth between the parties hereto shall extend to and bind their heirs, successors, assigns, and legal representatives. Failure to obtain the necessary approval from the Department shall be grounds for cancellation of the permit without renewal.

10. **FINANCIAL AGREEMENTS**

All contracts made in relation to the mineral interest granted herein, such as but not limited to assignments, subleases, joint ventures, overriding royalties operating agreements, project financing, back-in rights, or other similar agreements, whether verbal or written between the permittee herein and any other person or corporation must be approved by the Director of the Department. The Department reserves the right to deny any agreement that results in excessive profit taking by the permittee which does not bear a commensurate financial risk and which deprives the school trust of fair compensation for trust assets. It will be the Department's sole discretion whether the proposed agreement is approved. The Department may consider payment of a reasonable compensatory bonus based on a negotiated percentage of the excess profit as adequate mitigation for the proposed agreement.

11. RENEWAL

If the permittee desires to renew this permit, he shall notify the Department of such fact at least 30 days but not more than 60 days prior to expiration. It is within the Department's sole discretion whether to grant renewal of this permit. Any renewal will be subject to such terms and conditions as the Department may deem necessary including but not limited to adjustments in royalty, bonding and reclamation requirements.

12. DUE DILIGENCE

The permittee agrees to commence prospecting or mining operations on the permit area promptly after execution of this permit and thereafter to diligently mine and seek markets for the materials extracted. Such diligence may be satisfied by payment of advance royalties as described herein.

13. BOND

Permittee agrees prior to execution of this permit, to furnish a bond to the Department in the penal sum as specified above unless waived by the Department. Such bond shall be conditioned upon compliance with all permit terms and implied covenants including but not limited to the payment of royalties, advance royalties, and surface restoration. The Department may require additional bonds at any time during the term of the permit when necessary for a reasonable cause.

14. ANNUAL PROGRESS REPORTS

Permittee hereunder shall file an annual progress report with an updated plat showing the areas mined, reclaimed, stripped, stockpiled, and specifically topsoil stockpile areas. Such requirements may be fulfilled by submitting a copy of the annual progress report as required by the Opencut Mining Section, Industrial and Energy Minerals Bureau, Department of Environmental Quality.

15. ACTIVITIES MAY BE DENIED

Surface activities may be denied on all or portions of the permit area if the Director determines in writing after an opportunity for an informal hearing with the permittee that the proposed surface activity will be detrimental to Trust resources and is therefore not in the best interest of the School Trust.

16. SOLE RIGHTS NOT GRANTED

Further the Department expressly reserves the right to lease, sell, grant easements or otherwise dispose of the premises hereby permitted insofar as the surface is not necessary for the use of the permittee in connection with operations under this permit. (77-3-207, MCA) The permittee agrees that he will not make any claims to interest or estate of any kind or extent whatsoever in the premises by virtue of this permit or his occupancy or use hereunder. The Department reserves the right to grant other mineral permits and leases and to grant other mineral related activities within the permit area provided that such grants do not prevent the permittee from operating as permitted.

17. NOTICE

The permittee agrees to notify the Department 30 days prior to commencement of initial surface disturbance unless otherwise agreed to by the Department in writing and further agrees to notify the surface lessee before mining activity takes place. Permittee shall compensate surface lessee for actual damages to his leasehold interest or improvements caused by this activity and maintain a record of such compensation. Permittee agrees to notify the Area Land Office prior to beginning any new activities or on going operations which have been dormant for more than 30 days. The Department's Area Manager (or his representative) who may be contacted regarding matters pertaining to the permitted premises is:

Unit Manager, Bozeman Unit Office, DNRC, 151 Evergreen, Suite C, Bozeman, MT 59715,  
telephone (406) 586-5243.

18. INSPECTIONS

The Department's officers, agents, geologists, engineers or others so authorized on its behalf shall have the right but not the obligation at all reasonable times to enter said land in order to inspect, examine, select samples or materials, survey or measure same, or for any other lawful purpose provided that the exercise of said right shall be conducted in such a way as not to unnecessarily interfere or conflict with the operations of the permittee and the Department shall also have the right at all reasonable hours, through its agents or employees, to inspect and examine any books or records of the permittee relating to the quantity, quality and price of the materials removed from the subject land or any agreements related thereto. The permittee shall cooperate with the Department in all reasonable ways, in order to facilitate the exercise of said rights.

19. WASTE PROHIBITED

All prospecting and mining operations shall be done in good and workmanlike manner in accordance with approved methods and practices using such methods to insure the extraction of the greatest amount of material, having due regard for the prevention of waste of the materials developed on the land, the protection of the environment and all natural resources, the preservation and conservation of the property for future uses, and for the health and safety of workmen and employees. If the Department has reasonable belief that the operations are not so being conducted, the permittee shall be so notified in writing, and if compliance is not promptly obtained and the delinquency fully satisfied, the Department may at its option, after thirty (30) days notice by certified mail to the permittee, cancel the permit.

20. TOPSOIL

All topsoil must be stripped and saved from both mine areas and stockpile areas prior to beginning operations. No topsoil may be used or sold for any purpose except reclamation of this permit area without specific written permission from the Department.

21. STEWARDSHIP

The permittee will take all reasonable precautions to prevent or minimize damage to natural (i.e., vegetation, soil, water, wildlife) and cultural resources within the areas of the permit. The permittee shall maintain the permit area in a neat and orderly manner and will allow no waste, litter, or debris to accumulate thereon.

22. COMPLIANCE WITH ALL LAWS

This permit is subject to further permitting under the provisions of Title 75 or 82, Montana Code Annotated. The permittee shall fully comply with all applicable state and federal laws, rules, and regulations, including but not limited to those concerning permits and leases on State lands, safety, environmental protection and reclamation.

23. RECLAMATION

The permittee shall reclaim any land disturbed pursuant to this permit, regardless of whether the mining is subject to state reclamation laws pursuant to Title 82, Chapter 4, MCA. The permittee shall conduct and reclaim the operation in accordance with the performance and reclamation standards of applicable mine reclamation laws. The exemption of permittee's operations from applicable reclamation laws does not relieve the permittee from the obligation to conduct and reclaim the operations in accordance with the performance and reclamation standards of those laws. All disturbances must be reclaimed to the satisfaction of the Department prior to release of any bond and within 30 days of termination for any reason. Prior to commencement of reclamation work permittee shall contact the appropriate area land office for approval of seeding mixture and weed control.

24. RESOURCE DATA

Permittee agrees to submit all geological data including, reports, core samples, material testing, maps, logs, and other pertinent data regarding trust resources to the Department upon request or upon termination of this permit.

25. EASEMENTS

It is the responsibility of the permittee to obtain all appropriate and necessary easements from adjacent landowners to gain access to the above described permit area prior to commencement of any prospecting or mining activities upon the above described lands.

26. WATER RIGHTS

It is further agreed that the permittee shall not in any manner interfere with any right or rights which have been acquired, held or exercised legally by any person, corporation, co-partnership, association or group whatsoever, prior to the granting of this permit, in any water, on or beneath the permitted land, and that the permittee shall be solely responsible for the invasion of any such right. The permittee shall not, during the life of this permit, sell or otherwise dispose of any water rights existing or acquired for use upon the permitted premises.

27. LIABILITIES

The permittee agrees that permittee will assume responsibility for fires that may result from mining, processing, and hauling operations and further agrees that he shall save the Department harmless from all claims or lawsuits that may result from any and all damages or death to persons and/or property that occur upon or about said land caused by or arising out of permittee's operations hereunder. The permittee shall pay all expenses and charges for which it becomes liable in connection with its operation on the lands described above and shall save the State of Montana and its agents harmless from all claims and liens arising out of such operations. The permittee shall, at its own expense, procure and maintain Worker's Compensation Insurance required by law.

28. CANCELLATION OR TERMINATION

The Department shall have the right to cancel all or portions of this permit at any time when permittee violates the terms of this permit, including but not limited to mining materials beyond permit boundaries stated herein, mining materials beyond cubic yardage stated herein, mining materials not specifically allowed herein, not abiding by State Reclamation laws, permittee not taking responsibility for liabilities stated herein (fire, weeds, notification of lessee, and compensation to lessee for actual damages), permittee using said land for purposes other than stated herein, and permittee not reporting and paying royalties.

Such termination shall become effective 10 days after written notice by the Department. The permittee has the right to terminate this permit at any time by giving the Department 10 days written notice. Permittee is not relieved of any obligation under this permit by such notice or termination.

29. PROPERTY REMOVAL

At the expiration of this permit or upon earlier termination of this agreement pursuant to terms in this permit, the permittee shall immediately surrender the premises and shall have sixty (60) days, or such additional time as may be approved in writing by the Department, in which to remove all tools, machinery, structures, and other property owned by it, including materials stored on the premises on which royalty has been paid. The applicable royalty rate for such material is that which is in effect at the time of removal, or the rate existing at permit termination. Any property remaining on the premises after 60 days shall become the property of the State, unless otherwise specified in writing by the Department.

30. OCCUPANCY

In the event the possession or occupancy of the permitted premises is denied or contested, the Department does not undertake to place the permittee in possession by process of law or otherwise, or to defend him in such occupancy. The rights of the permittee hereunder are subject further to the prior rights of any other mineral, oil and gas, and/or gem lease or leases now in force, or renewals thereof, to enjoy the free use of so much of the permitted premises as is necessary and incidental to their operations thereunder.

31. WEATHER CONDITIONS

The Department reserves the right to restrict or preclude any surface activity during periods of adverse weather and other conditions which may attribute to accelerated erosion, fire hazard, disruption of seasonal wildlife, or any other condition which in the opinion of the Department may have an adverse effect on trust land.

32. ARCHAEOLOGY

These tracts may contain significant archaeologic, historic, or paleontologic resources. If any resources are located, the permittee shall cease operations and contact the appropriate Area Land Office and the Department Archaeologist in Helena immediately. The Department reserves the right to require a cultural resource survey of the area intended for disturbance and to restrict surface activity for the purpose of protecting significant cultural resources.

33. STREAMBED PRESERVATION

Prior to the commencement of any activities within the ordinary high water mark of perennial streams on the permitted premises, the permittee shall obtain a 310 Permit from the appropriate Conservation District. A copy of such permit shall be submitted to the Department.

34. NOXIOUS WEED CONTROL

The Permittee shall be responsible for controlling any noxious weeds introduced by Permittee's activity on State-owned land and shall prevent or eradicate the spread of those noxious weeds onto land adjoining the leased premises. The Permittee's methods of control shall be reviewed by the Department's Area Field Office that has jurisdiction for that locale.

35. SPECIAL PROVISIONS

- a. A 10- to 12-foot-high berm of topsoil will be created along Highway 287 for aesthetic reasons and seeded to grasses and wildflowers.
- b. A barbed wire fence shall be constructed around the permitted DEQ opencut boundaries.
- c. Cattle guards shall be installed at the fence line along the highway and where the access road enters the pit area.
- d. Signs indicating 'truck entering' the highway shall be posted so they are visible from both directions on the highway.
- e. Crushing activities shall be limited to daylight hours only.
- f. Any additional expansion of the pit will require prior approval from the Department.
- g. All disturbed areas shall be seeded with State of Montana Certified or Registered seed in the amounts and species specified by the DNRC Bozeman Unit Office. The seeding will be repeated until a satisfactory stand is established as determined by the Bozeman Unit Office.
- h. Permittee shall work with the DNRC Bozeman Unit Office to develop and implement a weed management plan before closure of the permit.
- i. The use of an Asphalt plant will be requested by the permittee and approved or denied by the Department on a written case-by-case basis.

36. NON-WARRANTY OF TITLE

Regardless of any of the above provisions of the said permit, actual or implied, the State of Montana does not warrant title to its lands.

Dated this 25 day of January, 2022.

A. M. WELLES INC.



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APPROVAL OF PERMIT  
Department Use Only

Approved this 4<sup>th</sup> day of FEBRUARY, 2022.

STATE OF MONTANA, DEPARTMENT OF  
NATURAL RESOURCES AND CONSERVATION  
AMANDA KASTER, DIRECTOR

BY:



Trevor Taylor  
TREVOR TAYLOR, MINERALS MANAGEMENT BUREAU CHIEF  
TRUST LAND MANAGEMENT DIVISION

