



September 12, 2016

Riverside Contracting Inc.  
Attn: Dennis Devous  
5571 Alloy South  
Missoula, MT 59808

RE: Deficiency Notice  
Application for Opencut Mining Permit  
RS 1 Site, Opencut #2824  
Park County

Dear Mr. Devous:

The Department of Environmental Quality (DEQ) received this application on 04/20/2016. For administrative purposes, this site has been assigned Opencut #2824. Please include this Opencut number on all future correspondence about the site.

DEQ performed an acceptability review of the application in accordance with the requirements of §§ 82-4-432 and 434, MCA, of the Opencut Mining Act and its implementing rules (ARM Title 17, chapter 24, subchapter 2). In accordance with § 82-4-432(10), this letter serves as notice to you that the application contains deficiencies, which must be corrected before the application can be approved. A detailed identification of all deficiencies is provided below. As a result of these deficiencies, DEQ disapproves the application as submitted.

Pursuant to the provisions of § 82-4-432 of the Opencut Mining Act, you have the following options for addressing the deficiencies identified by DEQ in the application:

1. Submit revised application materials that resolve all deficiencies, and after DEQ's review confirms the application is acceptable, the permit will be issued;
2. Submit revised application materials that do not resolve all deficiencies, and after DEQ's review determines the application is not yet acceptable, it will be disapproved and a Deficiency Notice will be issued; or,
3. Do not submit revised application materials, and 1 year after the date of DEQ's latest Deficiency Notice, DEQ will notify you that the application will be abandoned and void unless you provide the requested information within 30 days of DEQ's notification.

Should you disagree with DEQ's decision to disapprove your application based on the identified deficiencies, you are entitled pursuant to § 82-4-427(1)(a), MCA, to appeal DEQ's decision to the Board of Environmental Review by submitting a written request to the board within 30 days of the date of this Deficiency Notice.

Upon receipt of all required materials, DEQ will review your revised application and determine whether it is acceptable. DEQ will notify you of its determination within 30 days after the date all your revised materials are received [§ 82-4-439(2)(b)&(c), MCA]. DEQ may extend this review period by another 30 days if it notifies you of the extension prior to the end of the original review period.

Submit revised application materials that resolve all the deficiencies identified below to DEQ Opencut Mining Section in Helena as one package. Submit complete versions of any forms you revise, but do not resubmit the whole application package. For example, if you make changes to the *Plan of Operation and Application* resubmit that entire form, but do not resubmit unchanged documents attached to it. The contents of an application constitute legal documents and become part of the permit; therefore, all required certifications and approvals must be signed and dated.

Please provide revised documents in type-written form. Creating electronic versions now will make it easier for you to update the documents in the future. Electronic versions of Opencut Section forms are available at: <http://deq.mt.gov/Land/opencut/opencutpermitforms>.

### **Opencut Mining Plan of Operation and Application**

1. **A1-6**: The legal description provided is not consistent with the location of the proposed permit boundary created from the *Boundary Coordinate Table*. The proposed permit boundary locates the site in Sections 7 & 8. Therefore, provide a legal description that is consistent with the application [§ 82-4-432(1)(d), MCA].
2. **B3-2**: In addition to the land uses you checked, Cropland/Hayland and existing historical structures were found to exist within 1,000 feet of the proposed permit area and therefore must also be checked. Utilize the “Other” box for items not found in the list provided [§ 82-4-403(11)(b), MCA].
3. **B4-1**: In addition to the manmade structures you checked that are located within the proposed permit area, check the “other” box and describe the archeological features and homestead found to exist within the permit boundary [MCA82-4-434(n) & ARM 17.24.218(1)].
4. **B4-2**: In addition to the manmade structures you checked, check the “other” box and describe the archeological features found to exist within 1,000 feet of the permit boundary. In addition, check “farming,” “roads” and “underground utilities” [MCA82-4-434(n) & ARM 17.24.218(1)].
5. **B5-1 & 2**: Public comments and aerial photography indicate there are several water features, including wetlands, within 1,000 feet of the proposed permit boundary. Therefore, closely inspect the surrounding area and check the appropriate boxes to account for the surface water features within the proposed permit area and within 1,000 feet of the proposed permit boundary. In addition, name the surface water features, if applicable, and show their locations on the site and area map as applicable. Any setbacks

from water features must be shown on the site map and described in Section D3-4 [ARM 17.24.218(1) & 17.24.221].

6. **B6-1:** The vegetation described at this site is inadequate and incorrect. Numerous additional plants and forbs were observed during the Opencut Section's inspection. In addition, creeping juniper was not found within the proposed permit boundary during the Opencut Section's inspection. The Montana Natural Heritage Program also identified the following plant species of concern that may or may not be present at this site: Wedge-leaf Saltbrush. Therefore, re-inspect the site and provide a comprehensive list of vegetation present at this site [ARM 17.24.219(h) & 17.24.222].
7. **B6-2:** Noxious weeds were observed during the Opencut Section's inspection. Check the appropriate boxes to indicate which noxious weeds are present within the proposed permit boundary [ARM 17.24.219(h) & 17.24.222].
8. **B7-1:** The Montana Natural Heritage Program identified several Montana Species of Concern that must be included in this section. Therefore, check the "other" box and include the following wildlife: Great Blue Heron, Bald Eagle, Yellowstone Cutthroat and Wolverine [MCA 82-4-434(3)(n)]. Also, several other species are likely to inhabit or use the area and must be identified within this application.

In addition, public comments have identified that the basalt cliff to the north and Highway 89 to the south of the proposed site restrict wildlife movement. Public comments stated the area is used by elk, deer and other wildlife, and the proposed Opencut operation could disrupt the migration of these animals. Therefore, either 1) hire the appropriate wildlife biologist or other expert to conduct a wildlife study that addresses the potential impacts of this proposed operation and contains viable proposed mitigations for wildlife, or 2) provide studies, documentation and other information from the Montana Fish Wildlife & Parks that describes how this area is utilized by wildlife, and address the potential impacts of this operation and proposed mitigations for wildlife [MCA 82-4-402].

9. **B8:** Several wells are located within 1,000 feet of the proposed permit boundary. MCA 82-4-434(3)(l) & ARM 17.24.218(1)(g) tasks Opencut with ensuring "that surface water and ground water will be given appropriate protection, consistent with state law, from deterioration of water quality and quantity that may arise as a result of the Opencut operation." Therefore, DEQ will require the Operator to identify the actual location of all wells within 1,000 feet of the proposed permit boundary on the area map and/or site map as applicable [ARM 17.24.221(3)]. In addition, submit all well logs and ensure page 1 of the application is consistent with the changes made in this section.
10. **C1:** The Operator must include more information for this section to be adequately reviewed by DEQ. The topography of the site varies by 20+ feet or more; therefore, the Operator will need to describe whether the entire site will be mined to the maximum mine depth, if mining will be limited to the higher terrace, or if it will vary across the entire site. If excavation occurs to the maximum mine depth on the lower terrace, the

Operator may encounter groundwater. Therefore, provide documentation that verifies the seasonal high water table through monitoring wells or other similar means. Keep in mind that in accordance with ARM 17.24.218(1)(g), the final reclaimed ground surface must be at least three feet above the seasonal high water table to achieve a rangeland and/or pasture post mining land use.

- 11. C2-2:** Five test pits are identified in this section of the application and seven test pits are identified on the site map. Revise this section to include test pits 6 & 7. In addition, upon further inspection of the site by Opencut staff, and review of public comments, it was evident that test holes were only dug on the terrace and are not spaced representatively to describe the proposed permit area. During the Opencut Section's June 9, 2016 site inspection, DEQ found deeper soil existed at the base of the terrace than was identified by the Operator from the test holes dug on the terrace. Therefore, provide at least two additional test holes; one located in the southeast corner and one located in the southwest corner, below the terrace, that meet the requirements of ARM 17.24.218(c).
- 12. C2-4:** During the Opencut Section's June 9, 2016 inspection, Opencut scientists dug one test pit and viewed one historic pit on the lower terrace level and identified 24"+ of soil/growth media. In addition, DEQ has reviewed the photos provided and has identified a substantially larger quantity of soil than identified in this application. Refer to deficiency C2-2 above, and once the additional test pits are provided, recalculate the average depth of soil that exists at this site. If needed, hire the appropriate soil scientist or other experts to quantify the actual soil depth in each soil test pit. Revise this section and the Reclamation Bond Spreadsheet for consistency [ARM 17.24.218(1)(c)].
- 13. C5:** In accordance with MCA 82-4-434(3)(m) & ARM 17.24.218(1)(f), DEQ may not accept a Plan of Operation unless it provides that noise and visual impacts on residential areas will be minimized to the degree practicable through berms, vegetation screens, and reasonable limits on the hours of operation. The hours of operation proposed in this section would allow for all Opencut activities, 24 hours a day, 7 days a week, 365 days a year. DEQ does not view these hours as reasonable given the proximity of the nearby residents, bed & breakfast inns, and other businesses. Therefore, the hours of operation will be restricted to 8 am to 5 pm, Monday through Friday. These restrictions apply unless adjacent property owners are adequately notified of temporary extended hours for special projects. Extended hours are 6 a.m. to 8 p.m. Monday through Saturday, and must not exceed more than 15 consecutive days with no more than four weeks of extended hours in any six month period. At least 30 days must elapse between periods of extended hours. Prior to commencing temporary extended hours the operator must notify the adjacent property owners within ½-mile of the permit boundary, the Opencut Section, and the Park County Commissioners, and publish notice in the local newspaper at least seven days prior to commencing operations in extended hours. The operator must also keep and maintain a complete and accurate record of all the hours operated during the life of the permit. The operator shall submit the record to the Opencut Section within two work days after receipt of a request from DEQ. Revise the application accordingly.

- 14. C7:** The site markers were not present for all corners of the proposed permit boundary. The site must be marked with durable boundary markers at all corners [ARM 17.24.218(1)(a)].
- 15. C8-1:** Information from the State Historic Preservation Office (SHPO) and a 6/15/2016 site visit by DEQ indicates that archaeological and/or historical values may be affected by the proposed Opencut operation. As a result, before DEQ can conduct further review of the Opencut application, the Operator must obtain concurrence from SHPO regarding the methods and measures required to: **a)** evaluate the archaeological and historical values at the site; and **b)** ensure that archaeological and historical values are given appropriate protection [82-4-434(h), MCA and ARM 17.24.212(5)].

To obtain concurrence from SHPO; do not conduct any testing, digging, or surface disturbances at the site, and complete the following steps:

- A.** Retain the services of an archaeological professional to conduct a Class III Cultural Resources Inventory of the site. This inventory typically entails the professional reviewing archaeological and historical information for the vicinity, and conducting a thorough visual inspection of the site. A Class III report is produced and submitted to the DEQ archaeologist for review. Provided no changes are required after review, the DEQ archaeologist will submit the report to SHPO for concurrence with the findings of the report.
- i. Submit the Class III report to the DEQ archeologist at the address below.
- DEQ Archaeologist  
Directors Office  
P.O. Box 200901  
Helena, MT 59620
- B.** If no sites are identified, or all identified sites are determined not eligible for the National Register of Historic Places (NRHP) and concurrence is received from SHPO, then work may proceed with no adverse effects to historic properties. The Operator must update the Opencut application to include any requirements of the report, and submit the revised application and SHPO concurrence to the Opencut Section.
- C.** If the Class III Inventory identifies sites that are either recommended eligible, potentially eligible or undetermined, the Operator's archaeologist must prepare and submit to the DEQ archaeologist either: **a)** a Testing Plan that describes the additional methods and means (e.g. digging or surface disturbance) proposed to further investigate the site; or **b)** an Avoidance Plan that describes the measures proposed to ensure that archaeological and historical values at the site will be given appropriate protection.
- The DEQ archeologist will:
- i. Review the proposed plan to determine if the proposed Testing Plan or Avoidance Plan provides that the archaeological and historical values would be given appropriate protection, or if further treatment or mitigation must be developed.
- ii. If no changes to the plan are necessary, the DEQ archaeologist will submit the plan to SHPO for concurrence.

- iii. If further treatment or mitigation must be developed, the DEQ archaeologist will confer with SHPO and notify the Operator's archaeologist of the needed changes.
- D.** When the Operator obtains written concurrence from SHPO on #C above, the Operator may proceed with the Testing Plan (e.g. digging or surface disturbance), which must be implemented by the Operator's archaeologist.
- E.** If the Operator receives SHPO concurrence on an avoidance plan, the Operator must update the Opencut application to include any requirements of the report, and submit the revised application and SHPO concurrence to the Opencut Section.
- F.** If the Operator is required to conduct a Testing Plan, the Operator's archaeological professional must prepare a report providing results of the testing and recommendations on NRHP eligibility and submit the report to the DEQ archaeologist.
- G.** If no sites are NRHP eligible, and no changes to the report are necessary, the DEQ archaeologist will submit it to SHPO for concurrence. When the Operator obtains written concurrence from SHPO, the Operator must update the Opencut application to include any requirements of the report, and submit the revised application and SHPO concurrence to the Opencut Section.
- H.** If one or more sites are determined eligible for the NRHP, the Operator's archaeologist must prepare a Mitigation or Treatment Plan and submit it to the DEQ Archaeologist.
  - i. If no changes are necessary to the Mitigation or Treatment Plan, the DEQ Archaeologist will submit the plan to SHPO for concurrence.
  - ii. Upon completion of any mitigation, a detailed report of the mitigation and its findings must be submitted to DEQ and SHPO for comment and review.
  - iii. When the Operator obtains written concurrence from SHPO, the Operator must update the Opencut application to include any requirements of the report, and submit the revised application and SHPO concurrence to the Opencut Section.

*Note: The Montana Antiquities Act prohibits the disclosure of archaeological site information to the public. Therefore, do **not** include any archaeological locational information in the Opencut application (i.e. Plan of Operation, application forms, maps, or attachments).*

- 16. D1-2:** Refer to deficiency D1-12 below and ensure this section is consistent.
- 17. D1-3:** The site slopes to the south and would drain offsite. Therefore, contact the DEQ's Water Quality Division and obtain the necessary stormwater permits for this site. Ensure this application is updated to be consistent with any additional stormwater requirements [MCA 82-4-434(3)(1)]
- 18. D2-1:** Public comments received by the Opencut Section have identified that the area where the site is proposed to be located is subject to high winds. Water is important to ensure that dust is controlled at this site while Opencut operations are occurring. Also, it is the Operator's responsibility to control dust once the site is disturbed, to prevent wind scour and airborne dust, even when the site is not being actively worked/mined. In

addition, deficiency D10 requires the Operator to plant and maintain (i.e. irrigate) vegetated plantings along the west, south, and east sides of the site. Currently, this application states that water would be obtained from offsite. It may be more efficient to irrigate the trees and bushes with an onsite well. Therefore, provide a detailed description in this section of the application that explains how dust will be controlled during both active and inactive periods of time and where water would be obtained in adequate quantities to ensure dust control and viable irrigation of vegetated plantings. If water is to be stored onsite, show the location on the site map [MCA 82-4-434(3)(l)].

19. **D3-1:** Refer to deficiency C1 above and ensure this section is consistent with answers provided in section C1 and the remainder of the application.
20. **D3-2:** Road and underground utility easements are adjacent to the site. Therefore, mark the appropriate boxes and show the easement locations on the site map. If the easements are within the proposed site's permit boundary, provide the documentation required in D1-2b. In addition, the documentation provided from Park Electric Cooperative only addresses Section 7. It does not address Section 8. Therefore, provide additional documentation from Park Electric Cooperative for the utilities located within Section 8 [MCA 82-4-434 & ARM 17.24.218(1)(k) & 17.24.221].
21. **D3-3:** During the June 9, 2016 site inspection, the Operator stated they planned on demolishing the existing historic onsite buildings. Once concurrence is granted on an archaeological plan from the State Historic Preservation Office (SHPO) to either mitigate or avoid the structures, mark the appropriate boxes in this section and provide the necessary details in the space provided and labeled as *Mitigation* [MCA 82-4-434(3)(h) & ARM 17.24.212(5)].
22. **D3-4:** As required by ARM 17.24.221(3), identify the surface water feature(s) and setback on the site map.
23. **D4-1:** Without further explanation, this section conflicts with section C5. Therefore, additional information is needed in this section. Provide a detailed description of how this site will be worked intermittently.
24. **D4-2a:** The "All" box was checked in this section, indicating all the items listed in this section would be moved on and off site. This is not consistent with the list of equipment checked in section A1-8. Either check additional equipment in section A1-8 or check the equipment to move on and off site.
25. **D4-5 & 6:** Refer to deficiencies C1, C8-1, D2-1, D10 and other applicable sections of the application and ensure the proposed mining directions are still applicable. In addition, provide additional information that details the progression of mining across the site.
26. **D4-8:** Using the scenarios in this section, and the "other scenario" box, describe the Operator's mine plan. Refer to the other deficiencies in this application, and once they

are corrected, update this section with a detailed description of how Opencut operations would occur at this site. Ensure all aspects of the application are accounted for and describe what the site would look like after reclamation, and how Opencut operations would occur at the site in accordance with the requirements of MCA 82-4-434(3). Specifically address the following in the mining description:

- Describe how mining would occur in and around the existing overhead power lines.
- How Opencut operations will be conducted to avoid range and wildland fires. Approval of the plan for fire prevention and control under this part does not relieve the operator of the duty to comply with the air quality permitting and protection requirement of Title 75, chapter 2.
- How Opencut operations would be conducted in or around areas of archaeological significance.
- How reclamation will be as concurrent with the opencut operation as feasible and will be completed within a specified length of time.
- How surface water and ground water will be given appropriate protection, consistent with state law, from deterioration of water quality and quantity that may arise as a result of the opencut operation.
- How noise and visual impacts on residential areas will be minimized to the degree practicable through berms, vegetation screens, and reasonable limits on hours of operation.
- Describe any additional procedures, including monitoring, that are necessary, consistent with the purposes of this part, to prevent significant physical harm to the affected land or adjacent land, structures, improvements, or life forms and how it will be implemented.

**27. D10:** As this is a long-term project, DEQ will require that, within the first year of Opencut activities occurring at the site, a vegetated berm at least eight feet high above existing grade be constructed along the entire east side (i.e. P1 to P2 to P3 to P4 to P5) and the entire west side (i.e. P8 to P9) of the permit boundary to minimize noise and visual impacts on adjacent residential areas. The berms would be considered vegetated once the species from the approved seed mix have established and stabilized the berm. If necessary, irrigate the berm to establish the vegetated grasses from the approved seed mix. Therefore, check the "Other/Additional information" box and provide the dimensions of the berms to be constructed, what materials they would be constructed with, and the measures to be taken to ensure vegetative success. In addition, discuss whether the berm would remain or be taken and used for final reclamation.

In addition to the vegetated berms, the operator will be required to plant a vegetated screen consisting of trees and bushes along the east, west and south sides of the permit boundary in front of any berms (nearest permit boundary), but within the permitted boundary. Therefore, provide a plan that describes the type of plant species that will be used (i.e. trees, shrubs, etc.), when planting will take place, density of plantings and how vegetation will remain viable (i.e. irrigation). Describe how the vegetated screens will be irrigated and where the water will come from. Additionally, detail the location of the vegetated screens in front of the berm and explain how the vegetated screens will be protected when/if the berm is removed. It is required that the plants chosen would reach



a minimum height of 15 feet within 5 years of the beginning of operation to ensure a viable screen. Therefore state in the application that the operator will guarantee that the vegetated screen is a minimum of 15 feet high within 5 years of the first disturbance at the site. Show the berm and screen locations on the site map.

Further, the area chosen by the Operator to set up its crusher, screen, asphalt plant, mineral stockpiles, etc. is located adjacent to a residence, well, and several archaeological features, making it a poor choice. Therefore, propose an alternate location that is several hundred feet to the east. Additionally, as DEQ will require restricted hours of operation, check the "restricted hours" box as well as any other measures which will be used to mitigate visual impacts [MCA 82-4-434(3)(m) & ARM 17.24.218(1)(h)].

- 28. D12-1:** The Opencut Mining Act (Act) and its implementing rules stipulate that the Plan of Operation must ensure that:
- A.** Surface water and ground water will be given appropriate protection from deterioration of water quality and quantity that may arise as a result of the Opencut operation, consistent with state law [MCA 82-4-434(3)(l) and ARM 17.24.218(1)(h)].
  - B.** Additional procedures will be implemented to prevent significant physical harm to the affected or adjacent land, structures, improvements, or life forms, including monitoring surface water and ground water quality and quantity before, during, and after Opencut operations inside and outside the permit area [MCA 82-4-434(3)(n) & ARM 17.24.212(6); and ARM 17.24.219(1)(c)(viii)].
  - C.** The water rights of other parties will be protected, and any adversely affected water source that has a beneficial use will be replaced [ARM 17.24.218(1)(h)].

DEQ notes that Opencut operations use fuel, solvents, and chemicals in vehicles, generators, and earth moving equipment. In addition, facilities at this site would include an asphalt plant. Spillage is the most common way for a release of petroleum or other hazardous substance from an Opencut operation to impact soil and water quality. Costs to investigate and remediate spills are often substantial, so in addition to protecting human health and the environment, a thorough, well thought-out spill prevention and response plan also helps reduce an operator's potential for liability and financial loss.

Soil and subsurface materials at the site are highly permeable sand and gravel, ground water could potentially lie within 10 to 12 feet below grade, and the operation is adjacent to home sites relying on shallow water supply wells. As a result, any petroleum, solvents, or chemicals released at the proposed Opencut operation could adversely impact groundwater quality and the water wells used by local residents for potable and domestic needs. In addition, depending on the location of the spill, it could impact nearby surface water.

DEQ observes the following discrepancies between the above requirements, current condition of the site and the application submitted by the Operator:

- The application submitted to the Opencut Section does not identify the nearby surface water feature(s) or how they would be protected.
- The application submitted to the Opencut Section does not identify the nearby water wells or how they would be protected.

- The application submitted to the Opencut Section does not adequately address groundwater.
- The application submitted to the Opencut Section does not address how fueling will occur, or where.
- The application submitted to the Opencut Section does not adequately address measures to be taken to prevent, contain or clean up spills.

Furthermore, DEQ cannot accept a plan that does not ensure “*that any additional procedures, including monitoring, that are necessary, consistent with the purposes of this part, to prevent significant physical harm to the affected land or adjacent land, structures, improvements, or life forms will be implemented* [MCA 82-4-434(3)(n)].

Therefore, in accordance with D1-1f, provide a comprehensive site specific spill prevention plan for this site and update the application to addresses the above concerns.

29. **E2-2**: Refer to deficiency C1 above and revise this section as applicable.
30. **E3**: Refer to deficiency C1 above and revise this section as applicable.
31. **E4-4**: During DEQ’s June 9, 2016 site inspection, the Operator indicated that they were planning to excavate both the lower and upper terraces. If this were to occur, the Operator would leave a depression which could collect water. If appropriate, check the “Yes” box here and indicate if a runoff collection area in the bottom of the depression would remain, and complete the remainder of this section. Ensure this section is consistent with changes made in the application.
32. **E6-4**: The seed mix checked in this section is not appropriate for portions of the site if groundwater is not encountered. This is an arid region and the appropriate seed mix would be Native Rangeland (for arid regions) for those areas not near groundwater. Revise this section to reflect the reclaimed site’s proximity or non-proximity to water and postmining land use(s) to ensure successful vegetation. It may require multiple seed mixes.

## Maps

Note: *The Montana Antiquities Act prohibits the disclosure of archaeological site information to the public. Therefore, do **not** include any archaeological locational information in the Opencut application (i.e. Plan of Operation, application forms, maps, or attachments).*

33. **All Maps**: The legal description on all maps is incorrect. The proposed site is also located in section 8. Update all maps so they are correct and in compliance with the Opencut Act and associated rules.

**Map(s) Note:** If changes are made to the application that affects the map(s), submit a revised map(s). Map requirements can be found at ARM 17.24.221 (1-7) and in the Map Guideline at <http://deq.mt.gov/Portals/112/Land/OpenCut/Documents/Forms/MapGuideline.pdf>.

**34. Site Map:** Refer to deficiency D10 above and ensure the below pertinent mapping items are shown on the revised site map. All required map features are not shown on the site map or are inconsistent with the application documents [ARM 17.24.221(3)]. Site maps must be displayed on an aerial photo base. Submit a revised map that shows all required map features including, but not limited to the following:

- a. permitted access roads, including the location, width, waterway crossings, and surfacing;
- b. permit boundaries;
- c. bonded area boundary;
- d. non-bonded area boundary;
- e. excess overburden and fines disposal sites;
- f. sedimentation ponds and other water quality control structures;
- g. staging areas;
- h. heavy equipment parking areas;
- i. fuel storage areas;
- j. sight and sound barriers and berms;
- k. vegetated screens;
- l. surface waters and associated buffers;
- m. soil stockpile areas;
- n. overburden and excess overburden stockpile areas;
- o. material stockpile areas;
- p. processing facilities, including approximate locations of:
  - q. crusher;
  - r. asphalt plant;
  - s. wash plants; and
  - t. concrete plant;
- u. detention ponds;
- v. concrete and asphalt recycling stockpile area;
- w. soil and overburden test hole and observation point locations;
- x. existing and proposed monitoring well locations;
- y. water system and structures, including:
  - i. location of water storage;
  - ii. supply wells;
  - iii. water recycling and settling ponds;
  - iv. surface water extraction points;
  - v. discharge points for water used in opencut operations; and
  - vi. all surface waters including, but not limited to, ponds, lakes, wetlands, and defined and/or eroded channels of waterways including, but not limited to, rivers, creeks, intermittent streams, drainages, ditches, and other waterways;
- z. above and below ground utilities and easements;
- aa. roads crossing areas where opencut activities are prohibited by ARM 17.24.218(1)(j) at a 90-degree angle or as close to a 90-degree angle as site conditions allow;

- bb.** erosion controls;
- cc.** historic disturbances within or adjacent to permit area boundary;
- dd.** the data point and map identification number for each pair of coordinates the operator provided on the boundary coordinate table that is required by (8); and
- ee.** any other pertinent features that are necessary to ensure compliance with the Act and Rules.

**35. Area Map:** In accordance with ARM 17.24.221(4), the area map must be displayed on an aerial photo base and must show and identify the following features within 1,000 feet outside of the permit boundary (including but not limited to):

- a.** roads leading to the site;
- b.** access roads from the public road turnoff to the permit area (if roads go beyond the area map, show the full extent on the location map) including the location, width, waterway crossings, and surfacing;
- c.** water wells;
- d.** natural and man-made drainage features including, but not limited to, ephemeral, intermittent, and perennial streams, wetlands, ponds, springs, ditches, and impoundments in and within 500 feet of access roads and show the defined and/or eroded channel of any such feature and any setback areas, along with a description of the use of any man-made feature;
- e.** other opencut operations;
- f.** above and below ground utilities;
- g.** significant geographical features;
- h.** surface waters;
- i.** residential areas and structures that could be impacted by opencut operations, such as inhabitable dwellings and commercial and industrial facilities; and
- j.** any other pertinent features that are necessary to ensure compliance with the Act and this subchapter.

**36. Reclamation Map:** In accordance with ARM 17.24.221(5), reclamation maps must be displayed on an aerial photo base and must show and identify all the following existing and proposed features:

- a.** all postmining land uses;
- b.** mined area backfill sites;
- c.** landowner material stockpile areas to remain;
- d.** all roads or portions of roads proposed to remain open, at the request of the landowner, at the conclusion of opencut operations, including road locations, intended use, final width, and surfacing;
- e.** long and short axis cross-sections of any pond or depression in which water is expected to collect;
- f.** arrows depicting the anticipated direction of water flow across the reclaimed site; and
- g.** any other pertinent features that are necessary to ensure compliance with the Act and this subchapter.

**37. Location Map:** Although the location map is shown on an aerial photo base with the location of the site and town of Emigrant identified, it is difficult to see roads and other

features that would assist in finding the location. Therefore, label the pertinent roads on the location map and other pertinent features to ensure it meets the requirements of ARM 17.24.221.

### Supplemental Documents

- 38. Weed Form:** Although a signed *Weed Board Notification of Opencut Operation* form was received with the application, a letter signed by all three Park County commissioners dated June 28, 2016 was sent to the Opencut Section stating that Riverside Contracting did not notify the Park County Weed Board about this application. Ensure the directions on the Weed Board Notification of Opencut Operation form are followed. In addition, it is the Opencut Section's understanding that state law requires a site specific weed plan before Opencut operations could occur. This site specific weed plan is not required to be submitted to Opencut.
- 39. Landowner Consultation Form:** The legal description provided is not consistent with the location of the boundary created from the *Boundary Coordinate Table*. Provide a new form with correct legal description that is consistent with the application [§ 82-4-432(1)(d), MCA]. Refer to deficiency A1-6 above.
- 40. Zoning Compliance Form:** The legal description provided is not consistent with the location of the boundary created from the *Boundary Coordinate Table*. Provide a new form with legal description that is consistent with the application [§ 82-4-432(1)(d), MCA]. Refer to deficiency A1-6 above.
- 41. Surface Landowners List – 1st Submittal:** The first submittal does not match the 2<sup>nd</sup> submittal.
- 42. Surface Landowners List – 1st Submittal and 2 Submittal:** The landowner(s) of the proposed Opencut permit area identified in item A1-4 of the Opencut Mining Plan of Operation and Application are not on the 1<sup>st</sup> submittal or the 2<sup>nd</sup> submittal of the Surface Landowner List. Submit a revised 1st and 2<sup>nd</sup> submittal that includes the site landowner(s).
- 43. Reclamation Bond Spreadsheet:** The reclamation bond spreadsheet submitted to DEQ is on a form that had an error in calculating the required bond for the site. Therefore, download a new form, complete it and resubmit. The form can be found at <http://deq.mt.gov/Portals/112/Land/Opencut/Documents/Forms/2016-ReclBondSpreadsheet.xlsx>. In addition, ensure the following items are consistent with changes made in the application [ARM 17.24.220]:

  - a. Acreages
  - b. Highwall height and length
  - c. Reclamation slope
  - d. Highwall backfill (if applicable)
  - e. Soil and overburden depths
  - f. Bonding for fencing
  - g. Any other pertinent items

**44. Bond:** Due to deficiencies listed above there will be a change to the bond. Submit a revised bond to match the Reclamation Bond Spreadsheet.

DEQ strongly recommends that you use the above-listed deficiencies as a checklist to confirm that your revised application materials are complete and acceptable prior to resubmittal.

**If you have any questions contact the Opencut Section at (406) 444-4970.**

Sincerely,



J.J. Conner  
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Opencut Mining Section  
Department of Environmental Quality  
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Enc: Inspection Report

C: Interested Parties  
Park County Commissioners