



Montana Department of
ENVIRONMENTAL QUALITY

Brian Schweitzer, Governor

P. O. Box 200901

Helena, MT 59620-0901

(406) 444-2544

Website: www.deq.mt.gov

February 23, 2012

Bruce Anderson
Deer Lodge Asphalt, Inc.
1206 Kelley Street
Deer Lodge, Montana 59722

Dear Mr. Anderson:

Montana Air Quality Permit #3274-01 is deemed final as of February 23, 2012, by the Department of Environmental Quality (Department). This permit is for a portable gravel crushing and screening facility. All conditions of the Department's Decision remain the same. Enclosed is a copy of your permit with the final date indicated.

For the Department,

Vickie Walsh
Air Permitting Program Supervisor
Air Resources Management Bureau
(406) 444-9741

Ed Warner
Environmental Engineer
Air Resources Management Bureau
(406) 444-2467

VW:EW
Enclosure

Montana Department of Environmental Quality
Permitting and Compliance Division

Montana Air Quality Permit #3274-01

Deer Lodge Asphalt, Inc.
1206 Kelley Street
Deer Lodge, Montana 59722

February 23, 2012



MONTANA AIR QUALITY PERMIT

Issued To: Deer Lodge Asphalt, Inc.
1140 Kelley Street
Deer Lodge, Montana 59722

MAQP: #3274-01
Administrative Amendment (AA) Request
Received: 1/30/12
Department's Decision on AA: 2/7/12
Permit Final: 2/23/12
AFS #:777-3274

A Montana Air Quality Permit (MAQP), with conditions, is hereby granted to Deer Lodge Asphalt, Inc. (Deer Lodge Asphalt) pursuant to Sections 75-2-204 and 211 of the Montana Code Annotated (MCA), as amended, and Administrative Rules of Montana (ARM) 17.8.740, *et seq.*, as amended, for the following:

SECTION I: Permitted Facilities

A. Plant Location

Deer Lodge Asphalt operates a portable gravel crushing/screening facility, which will initially be located in the NE ¼ of the SE ¼ of Section 17, Township 10 North, Range 7 West, in Powell County, Montana. However, MAQP #3274-01 applies while operating at any location in Montana, except those areas having a Department of Environmental Quality (Department)-approved permitting program, areas considered tribal lands, or areas in or within 10 kilometers (km) of certain particulate matter with an aerodynamic diameter of 10 microns or less (PM₁₀) nonattainment areas. *A Missoula County air quality permit will be required for locations within Missoula County, Montana.* An addendum will be required for locations in or within 10 km of certain PM₁₀ nonattainment areas.

B. Current Permit Action

On January 30, 2012, the Department received a request to amend Deer Lodge Asphalt's MAQP #3274-00 to incorporate limits which maintain potential emissions below 80 tons per year (TPY). This request was made as part of a project created by the Department to address those sources with existing federally enforceable permit limits that were established to keep potential emissions below major source permitting thresholds. The project encouraged these sources to further reduce emissions to avoid additional monitoring and increased inspections required under the Compliance Monitoring Strategy (CMS) in connection with the U. S. Environmental Protection Agency (EPA). The permitting action amends this MAQP to incorporate limits and conditions to maintain potential emissions below 80 TPY. In addition, the permit action updates the rule references, permit format, and the emissions inventory.

SECTION II: Conditions and Limitations

A. Emission Limitations

1. All visible emissions from any Standards of Performance for New Stationary Source (NSPS) – affected crusher shall not exhibit an opacity in excess of the following averaged over 6 consecutive minutes (ARM 17.8.340 and 40 CFR 60, Subpart OOO):
 - For crushers that commence construction, modification, or reconstruction on or after April 22, 2008: 12% opacity

- For crushers that commence construction, modification, or reconstruction after August 31, 1983 but before April 22, 2008: 15% opacity
2. All visible emissions from any other NSPS-affected equipment (such as screens and conveyors) shall not exhibit an opacity in excess of the following averaged over six consecutive minutes (ARM 17.8.340 and 40 CFR 60, Subpart OOO):
 - For equipment that commence construction, modification, or reconstruction on or after April 22, 2008: 7% opacity
 - For equipment that commence construction, modification, or reconstruction after August 31, 1983 but before April 22, 2008: 10% opacity
 3. All visible emissions from any non-NSPS affected equipment shall not exhibit an opacity of 20% or greater averaged over 6 consecutive minutes (ARM 17.8.304).
 4. Water and spray bars shall be available on-site at all times and operated as necessary to maintain compliance with the opacity limitations in Sections II.A.1, II.A.2, and II.A.3 (ARM 17.8.749).
 5. Deer Lodge Asphalt shall not cause or authorize the use of any street, road or parking lot without taking reasonable precautions to control emissions of airborne particulate matter (ARM 17.8.308).
 6. Deer Lodge Asphalt shall treat all unpaved portions of the haul roads, access roads, parking lots, or the general plant area with water and/or chemical dust suppressant, as necessary, to maintain compliance with the reasonable precautions limitation in Section II.A.5 (ARM 17.8.749).
 7. Deer Lodge Asphalt shall not operate more than three crushers at any given time and the total combined maximum rated design capacity of the crushers shall not exceed 248 tons per hour (TPH) (ARM 17.8.749).
 8. Deer Lodge Asphalt shall not operate more than three screens at any given time and the total combined maximum rated design capacity of the screens shall not exceed 551 TPH (ARM 17.8.749).
 9. Deer Lodge Asphalt shall not operate or have on-site more than three diesel engines/generators. The total maximum combined capacity of the engines that drive the generators shall not exceed 1,034 horsepower (hp) (ARM 17.8.749).
 10. Operation of the diesel engines driving the generators shall not exceed 4,900 hours each during any rolling 12-month time period (ARM 17.8.1204).
 11. If the permitted equipment is used in conjunction with any other equipment owned or operated by Deer Lodge Asphalt, at the same site, production shall be limited to correspond with an emission level that does not exceed 250 tons during any rolling 12-month period. Any calculations used to establish production levels shall be approved by the Department (ARM 17.8.749).

12. Deer Lodge Asphalt shall comply with all applicable standards and limitations, monitoring, reporting, recordkeeping, testing, and notification requirements contained in 40 CFR 60, Subpart OOO, *Standards of Performance for Nonmetallic Mineral Processing Plants* (ARM 17.8.340 and 40 CFR 60, Subpart OOO).
13. Deer Lodge Asphalt shall comply with all applicable standards and limitations, and the reporting, recordkeeping, and notification requirements contained in 40 CFR 60, Subpart IIII, *Standards of Performance for Stationary Compression Ignition Internal Combustion Engines* and 40 CFR 63, Subpart ZZZZ, *National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines*, for any applicable diesel engine (ARM 17.8.340; 40 CFR 60, Subpart IIII; ARM 17.8.342 and 40 CFR 63, Subpart ZZZZ).

B. Testing Requirements

1. Within 60 days after achieving maximum production, but no later than 180 days after initial start-up, an Environmental Protection Agency (EPA) Method 9 opacity test and/or other methods and procedures as specified in 40 CFR Part 60.675 must be performed on all NSPS-affected equipment to demonstrate compliance with the emission limitations contained in Section II.A.1 and II.A.2 (ARM 17.8.340 and 40 CFR 60, Subpart A and Subpart OOO). Additional testing may be required by 40 CFR 60, Subpart OOO (ARM 17.8.340 and 40 CFR 60, Subpart OOO).
2. All compliance source tests shall conform to the requirements of the Montana Source Test Protocol and Procedures Manual (ARM 17.8.106).
3. The Department may require further testing (ARM 17.8.105).

C. Operational Reporting Requirements

1. If this crushing/screening plant is moved to another location, an Intent to Transfer form must be sent to the Department and a Public Notice Form for Change of Location must be published in a newspaper of general circulation in the area to which the transfer is to be made, at least 15 days prior to the move. The proof of publication (affidavit) of the Public Notice Form for Change of Location must be submitted to the Department prior to the move. These forms are available from the Department (ARM 17.8.749 and ARM 17.8.765).
2. Deer Lodge Asphalt shall supply the Department with annual production information for all emission points, as required by the Department in the annual emission inventory request. The request will include, but not be limited to, all sources of emissions identified in the emission inventory contained in the permit analysis.

Production information shall be gathered on a calendar-year basis and submitted to the Department by the date required in the emission inventory request. Information shall be in the units required by the Department. This information may be used for calculating operating fees, and/or to verify compliance with permit limitations (ARM 17.8.505).

3. Deer Lodge Asphalt shall notify the Department of any construction or improvement project conducted, pursuant to ARM 17.8.745, that would include ***the addition of a new emissions unit***, change in control equipment, stack height, stack diameter, stack flow, stack gas temperature, source location, or fuel specifications, or would result in an increase in source capacity above its permitted operation. The notice must be

submitted to the Department, in writing, 10 days prior to startup or use of the proposed de minimis change, or as soon as reasonably practicable in the event of an unanticipated circumstance causing the de minimis change, and must include the information requested in ARM 17.8.745(l)(d) (ARM 17.8.745).

4. Deer Lodge Asphalt shall maintain on-site records showing daily hours of operation and daily production rates for the last 12 months. The records compiled in accordance with this permit shall be maintained by Deer Lodge Asphalt as a permanent business record for at least 5 years following the date of the measurement, must be available at the plant site for inspection by the Department, and must be submitted to the Department upon request (ARM 17.8.749).
5. Deer Lodge Asphalt shall document, by month, the hours of operation of the diesel engines/generators. By the 25th day of each month, Deer Lodge Asphalt shall total the hours of operation for the diesel engines/generators for the previous month. The monthly information will be used to demonstrate compliance with the rolling 12-month limitation in Section II.A.10. The information for each of the previous months shall be submitted along with the annual emission inventory (ARM 17.8.749).
6. Deer Lodge Asphalt shall annually certify that its emissions are less than those that would require the source to obtain an air quality operating permit as required by ARM 17.8.1204(3)(b). The annual certification shall comply with the certification requirements of ARM 17.8.1207. The annual certification shall be submitted along with the annual emissions inventory information (ARM 17.8.749 and ARM 17.8.1204).

SECTION III: General Conditions

- A. Inspection – Deer Lodge Asphalt shall allow the Department's representatives access to the source at all reasonable times for the purpose of making inspections or surveys, collecting samples, obtaining data, auditing any monitoring equipment (continuous emissions monitoring system (CEMS) or continuous emissions rate monitoring system CERMS) or observing any monitoring or testing, and otherwise conducting all necessary functions related to this permit.
- B. Waiver – The permit and all the terms, conditions, and matters stated herein shall be deemed accepted if Deer Lodge Asphalt fails to appeal as indicated below.
- C. Compliance with Statutes and Regulations – Nothing in this permit shall be construed as relieving Deer Lodge Asphalt of the responsibility for complying with any applicable federal or Montana statute, rule, or standard, except as specifically provided for in ARM 17.8.740, *et seq.* (ARM 17.8.756)
- D. Enforcement – Violations of limitations, conditions and requirements contained herein may constitute grounds for permit revocation, penalties or other enforcement as specified in Section 75-2-401, *et seq.*, MCA.
- E. Appeals – Any person or persons jointly or severally adversely affected by the Department's decision may request, within 15 days after the Department renders its decision, upon affidavit setting forth the grounds therefor, a hearing before the Board of Environmental Review (Board). A hearing shall be held under the provisions of the Montana Administrative Procedures Act. The filing of a request for a hearing does not stay the Department's decision, unless the Board issues a stay upon receipt of a petition and a finding that a stay is appropriate under Section 75-2-211(11)(b), MCA. The issuance of a

stay on a permit by the Board postpones the effective date of the Department's decision until conclusion of the hearing and issuance of a final decision by the Board. If a stay is not issued by the Board, the Department's decision on the application is final 16 days after the Department's decision is made.

- F. Permit Inspection – As required by ARM 17.8.755, Inspection of Permit, a copy of the air quality permit shall be made available for inspection by Department personnel at the location of the permitted source.
- G. Air Quality Operation Fees – Pursuant to Section 75-2-220, MCA, failure to pay the annual operation fee by Deer Lodge Asphalt may be grounds for revocation of this permit, as required by that section and rules adopted thereunder by the Board.
- H. Duration of Permit – Construction or installation must begin or contractual obligations entered into that would constitute substantial loss within 3 years of permit issuance and proceed with due diligence until the project is complete or the permit shall expire (ARM 17.8.762).
- I. The Department may modify the conditions of this permit based on local conditions of any future site. These factors may include, but are not limited to, local terrain, meteorological conditions, proximity to residences, etc.
- J. Deer Lodge Asphalt shall comply with the conditions contained in this permit while operating in any location in Montana, except within those areas that have a Department-approved permitting program or areas considered tribal lands.

Montana Air Quality Permit (MAQP) Analysis
Deer Lodge Asphalt, Inc.
MAQP #3274-01

I. Introduction/Process Description

Deer Lodge Asphalt, Inc. (Deer Lodge Asphalt) owns and operates a portable gravel crushing/screening facility.

A. Permitted Equipment

- Up to three crushers with a combined maximum rated design capacity not to exceed 248 tons per hour (TPH).
- Up to three screens with a combined maximum rated design capacity not to exceed 551 TPH.
- Up to three diesel engines/generators with a total combined maximum rated design capacity not to exceed 1,034 horsepower (hp).
- Associated equipment.

B. Source Description

Deer Lodge Asphalt's initial location is the home pit located in the NE ¼ of the SE ¼ of Section 17, Township 10 North, Range 7 West, in Powell County, Montana.

Deer Lodge Asphalt uses this crushing/screening plant to crush and sort sand and gravel materials for use in various construction operations. For a typical operational setup, unprocessed materials are loaded into the crushing/screening plant by a hopper and transferred by conveyor and passed through the crushers, where the material is crushed. Materials are crushed and sent to the screens, where materials are separated and conveyed to stockpile.

C. Permit History

Deer Lodge Asphalt was issued **MAQP #3274-00** on August 5, 2003 for a portable gravel crushing/screening facility. Permitted equipment at that time consisted of a portable 1965 Cedar Rapids (10"x36") jaw crusher (up to 33 TPH), a 1965 Cedar Rapids (25"x30") rolls crusher (up to 85 TPH), a 1975 Symons (4') cone crusher (up to 130 TPH), a 1978 Kolman (4'x8') Buzzer screen (up to 87 TPH), a 1965 Cedar Rapids (4'x10') 2-deck screen (up to 131 TPH), a 1968 EL-Jay (6'x16') 3-deck screen (up to 333 TPH), a diesel motor (up to 230 hp), a diesel motor (up to 335 hp), a diesel generator (up to 350 kilowatts (kW)), and associated equipment. The MAQP was written in a de minimis-friendly manner to allow Deer Lodge Asphalt the flexibility to make equipment changes that would not trigger the need for a permit modification, as long as the current equipment did not exceed the operational capacities as specified in the MAQP.

D. Current Permit Action

On January 30, 2012, the Department of Environmental Quality (Department) received a request to amend Deer Lodge Asphalt's MAQP #3274-00 to incorporate limits which maintain potential emissions below 80 tons per year (TPY). This request was made as part of a project created by the Department to address those sources with existing federally

enforceable permit limits that were established to keep potential emissions below major source permitting thresholds. The project encouraged these sources to further reduce emissions to avoid additional monitoring and increased inspections required under the Compliance Monitoring Strategy (CMS) in connection with the U. S. Environmental Protection Agency (EPA). The permitting action amends this MAQP to incorporate limits and conditions to maintain potential emissions below 80 TPY. Permit conditions that limited annual crushing and screening capacity were removed because they were deemed to be redundant since other conditions are in place that limit the maximum combined rated design capacities of the crushers and screens. In addition, the permit action updates the rule references, permit format, and the emissions inventory. **MAQP #3274-01** replaces MAQP #3274-00.

E. Additional Information

Additional information, such as applicable rules and regulations, Best Available Control Technology (BACT)/Reasonably Available Control Technology (RACT) determinations, air quality impacts, and environmental assessments, is included in the analysis associated with each change to the permit.

II. Applicable Rules and Regulations

The following are partial explanations of some applicable rules and regulations that apply to the facility. The complete rules are stated in the Administrative Rules of Montana (ARM) and are available, upon request, from the Department. Upon request, the Department will provide references for locations of complete copies of all applicable rules and regulations where appropriate.

A. ARM 17.8, Subchapter 1 – General Provisions, including, but not limited to:

1. ARM 17.8.101 Definitions. This rule includes a list of applicable definitions used in this chapter, unless indicated otherwise in a specific subchapter.
2. ARM 17.8.105 Testing Requirements. Any person or persons responsible for the emission of any air contaminant into the outdoor atmosphere shall, upon written request of the Department, provide the facilities and necessary equipment (including instruments and sensing devices) and shall conduct tests, emission or ambient, for such periods of time as may be necessary using methods approved by the Department.
3. ARM 17.8.106 Source Testing Protocol. The requirements of this rule apply to any emission source testing conducted by the Department, any source, or other entity as required by any rule in this chapter, or any permit or order issued pursuant to this chapter, or the provisions of the Clean Air Act of Montana, 75-2-101, *et seq.*, Montana Code Annotated (MCA).

Deer Lodge Asphalt shall comply with the requirements contained in the Montana Source Test Protocol and Procedures Manual, including, but not limited to, using the proper test methods and supplying the required reports. A copy of the Montana Source Test Protocol and Procedures Manual is available from the Department upon request.

4. ARM 17.8.110 Malfunctions. (2) The Department must be notified promptly by telephone whenever a malfunction occurs that can be expected to create emissions in excess of any applicable emission limitation or to continue for a period greater than 4 hours.

5. ARM 17.8.111 Circumvention. (1) No person shall cause or permit the installation or use of any device or any means that, without resulting in reduction of the total amount of air contaminant emitted, conceals or dilutes an emission of air contaminant that would otherwise violate an air pollution control regulation. (2) No equipment that may produce emissions shall be operated or maintained in such a manner as to create a public nuisance.

B. ARM 17.8, Subchapter 2 – Ambient Air Quality, including, but not limited to:

1. ARM 17.8.204 Ambient Air Monitoring
2. ARM 17.8.210 Ambient Air Quality Standards for Sulfur Dioxide
3. ARM 17.8.211 Ambient Air Quality Standards for Nitrogen Dioxide
4. ARM 17.8.212 Ambient Air Quality Standards for Carbon Monoxide
5. ARM 17.8.213 Ambient Air Quality Standard for Ozone
6. ARM 17.8.214 Ambient Air Quality Standard for Hydrogen Sulfide
7. ARM 17.8.220 Ambient Air Quality Standard for Settled Particulate Matter
8. ARM 17.8.221 Ambient Air Quality Standard for Visibility
9. ARM 17.8.222 Ambient Air Quality Standard for Lead
10. ARM 17.8.223 Ambient Air Quality Standard for PM₁₀
11. ARM 17.8.230 Fluoride in Forage

Deer Lodge Asphalt must maintain compliance with the applicable ambient air quality standards.

C. ARM 17.8, Subchapter 3 – Emission Standards, including, but not limited to:

1. ARM 17.8.304 Visible Air Contaminants. This rule requires that no person may cause or authorize emissions to be discharged into the outdoor atmosphere from any source installed after November 23, 1968, that exhibit an opacity of 20% or greater averaged over 6 consecutive minutes.
2. ARM 17.8.308 Particulate Matter, Airborne. (1) This rule requires an opacity limitation of less than 20% for all fugitive emission sources and that reasonable precautions be taken to control emissions of airborne particulate matter. (2) Under this rule, Deer Lodge Asphalt shall not cause or authorize the use of any street, road, or parking lot without taking reasonable precautions to control emissions of airborne particulate matter.
3. ARM 17.8.309 Particulate Matter, Fuel Burning Equipment. This rule requires that no person shall cause or authorize to be discharged into the atmosphere particulate matter caused by the combustion of fuel in excess of the amount determined by this section
4. ARM 17.8.310 Particulate Matter, Industrial Processes. This rule requires that no person shall cause or authorize to be discharged into the atmosphere particulate matter in excess of the amount set forth in this section.
5. ARM 17.8.322 Sulfur Oxide Emissions--Sulfur in Fuel. This rule requires that no person shall burn liquid, solid, or gaseous fuel in excess of the amount set forth in this section.

6. ARM 17.8.324 Hydrocarbon Emissions--Petroleum Products. (3) No person shall load or permit the loading of gasoline into any stationary tank with a capacity of 250 gallons or more from any tank truck or trailer, except through a permanent submerged fill pipe, unless such tank truck or trailer is equipped with a vapor loss control device as described in (1) of this rule.

7. ARM 17.8.340 Standard of Performance for New Stationary Sources. This rule incorporates, by reference, 40 CFR Part 60, Standards of Performance for New Stationary Sources (NSPS). This facility is not currently an NSPS affected source because it does not meet the definition of any NSPS subpart defined in 40 CFR Part 60; however, because the permit is written in a de minimis-friendly manner the following requirements may become applicable with future equipment.
 - a. 40 CFR 60, Subpart A – General Provisions apply to all equipment or facilities subject to an NSPS Subpart as listed below:

 - b. 40 CFR 60, Subpart OOO – Standards of Performance for Nonmetallic Mineral Processing Plants. In order for a crushing plant to be subject to this subpart, the facility must meet the definition of an affected facility and, the affected equipment must have been constructed, reconstructed, or modified after August 31, 1983. Based on the information submitted by Deer Lodge Asphalt, the portable crushing equipment to be used under MAQP #3274-01 is not subject to this subpart based on the age of the equipment. However, because the permit is written in a de minimis-friendly manner it may become applicable with future equipment.

 - c. 40 CFR 60, Subpart IIII - Standards of Performance for Stationary Compression Ignition Internal Combustion Engines (CI ICE). Owners and operators of stationary CI ICE that commence construction after July 11, 2005, where the stationary CI ICE are manufactured after April 1, 2006, and are not fire pump engines, and owners and operators of stationary CI ICE that modify or reconstruct their stationary CI ICE after July 11, 2005, are subject to this subpart. Based on the information submitted by Deer Lodge Asphalt, the CI ICE equipment to be used under MAQP #3274-01 is subject not to this subpart based on the age of the equipment. However, because the permit is written in a de minimis-friendly manner it may become applicable with future equipment.

8. ARM 17.8.342 Emission Standards for Hazardous Air Pollutants for Source Categories. This rule incorporates, by reference, 40 CFR Part 63, National Emission Standards for Hazardous Air Pollutants (NESHAPs) for Source Categories. Deer Lodge Asphalt may be considered a NESHAP-affected facility under 40 CFR Part 63 and subject to the requirements of the following subparts.
 - a. 40 CFR 63, Subpart A – General Provisions apply to all equipment or facilities subject to a NESHAPs Subpart as listed below.

 - b. 40 CFR 63, Subpart ZZZZ - National Emissions Standards for Hazardous Air Pollutants (HAPs) for Stationary Reciprocating Internal Combustion Engines (RICE). An owner or operator of a stationary reciprocating internal combustion engine (RICE) at a major or area source of HAP emissions is subject to this rule except if the stationary RICE is being tested at a stationary RICE test cell/stand. An area source of HAP emissions is a source that is not a major source. Based on the information submitted by Deer Lodge Asphalt, the RICE equipment to be

used under MAQP #3274-01 is potentially subject to this subpart because the RICE would meet the definition of a stationary RICE at an area source of HAP emissions if they operated at the same location for longer than 12 months.

D. ARM 17.8, Subchapter 5 – Air Quality Permit Application, Operation, and Open Burning Fees, including, but not limited to:

1. ARM 17.8.504 Air Quality Permit Application Fees. This rule requires that an applicant submit an air quality permit application fee concurrent with the submittal of an air quality permit application. A permit application is incomplete until the proper application fee is paid to the Department. A permit fee is not required for the current permit action because the permit action is considered an administrative permit change.
2. ARM 17.8.505 Air Quality Operation Fees. An annual air quality operation fee must, as a condition of continued operation, be submitted to the Department by each source of air contaminants holding an air quality permit, excluding an open burning permit, issued by the Department.

An air quality operation fee is separate and distinct from an air quality permit application fee. The annual assessment and collection of the air quality operation fee, described above, shall take place on a calendar-year basis. The Department may insert into any final permit issued after the effective date of these rules, such conditions as may be necessary to require the payment of an air quality operation fee on a calendar-year basis, including provisions that pro-rate the required fee amount.

E. ARM 17.8, Subchapter 7 – Permit, Construction, and Operation of Air Contaminant Sources, including, but not limited to:

1. ARM 17.8.740 Definitions. This rule is a list of applicable definitions used in this chapter, unless indicated otherwise in a specific subchapter.
2. ARM 17.8.743 Montana Air Quality Permits--When Required. This rule requires a person to obtain an air quality permit or permit modification to construct, modify, or use any asphalt plant, crusher or screen that has the potential to emit (PTE) greater than 15 tons per year of any pollutant. Deer Lodge Asphalt has a PTE greater than 15 tons per year of particulate matter (PM), nitrogen oxides (NO_x), and carbon monoxide (CO); therefore, an air quality permit is required.
3. ARM 17.8.744 Montana Air Quality Permits--General Exclusions. This rule identifies the activities that are not subject to the Montana Air Quality Permit program.
4. ARM 17.8.745 Montana Air Quality Permits--Exclusion for De Minimis Changes. This rule identifies the de minimis changes at permitted facilities that do not require a permit under the Montana Air Quality Permit Program.
5. ARM 17.8.748 New or Modified Emitting Units--Permit Application Requirements.
(1) This rule requires that a permit application be submitted prior to installation, modification, or use of a source. A permit application was not required for the current permit action because the permit change is considered an administrative permit change. (7) This rule requires that the applicant notify the public by means of legal publication in a newspaper of general circulation in the area affected by the application for a permit. An affidavit of publication of public notice was not required for the current permit action because the permit change is considered an administrative permit change.

6. ARM 17.8.749 Conditions for Issuance or Denial of Permit. This rule requires that the permits issued by the Department must authorize the construction and operation of the facility or emitting unit subject to the conditions in the permit and the requirements of this subchapter. This rule also requires that the permit must contain any conditions necessary to assure compliance with the Federal Clean Air Act (FCAA), the Clean Air Act of Montana, and rules adopted under those acts.
7. ARM 17.8.752 Emission Control Requirements. This rule requires a source to install the maximum air pollution control capability that is technically practicable and economically feasible, except that BACT shall be utilized. The required BACT analysis is included in Section III of this permit analysis.
8. ARM 17.8.755 Inspection of Permit. This rule requires that air quality permits shall be made available for inspection by the Department at the location of the source.
9. ARM 17.8.756 Compliance with Other Requirements. This rule states that nothing in the permit shall be construed as relieving Deer Lodge Asphalt of the responsibility for complying with any applicable federal or Montana statute, rule, or standard, except as specifically provided in ARM 17.8.740, *et seq.*
10. ARM 17.8.759 Review of Permit Applications. This rule describes the Department's responsibilities for processing permit applications and making permit decisions on those permit applications that do not require the preparation of an environmental impact statement.
11. ARM 17.8.762 Duration of Permit. An air quality permit shall be valid until revoked or modified, as provided in this subchapter, except that a permit issued prior to construction of a new or modified source may contain a condition providing that the permit will expire unless construction is commenced within the time specified in the permit, which in no event may be less than 1 year after the permit is issued.
12. ARM 17.8.763 Revocation of Permit. An air quality permit may be revoked upon written request of the permittee, or for violations of any requirement of the Clean Air Act of Montana, rules adopted under the Clean Air Act of Montana, the FCAA, rules adopted under the FCAA, or any applicable requirement contained in the Montana State Implementation Plan (SIP).
13. ARM 17.8.764 Administrative Amendment to Permit. An air quality permit may be amended for changes in any applicable rules and standards adopted by the Board of Environmental Review (Board) or changed conditions of operation at a source or stack that do not result in an increase of emissions as a result of those changed conditions. The owner or operator of a facility may not increase the facility's emissions beyond permit limits unless the increase meets the criteria in ARM 17.8.745 for a de minimis change not requiring a permit, or unless the owner or operator applies for and receives another permit in accordance with ARM 17.8.748, ARM 17.8.749, ARM 17.8.752, ARM 17.8.755, and ARM 17.8.756, and with all applicable requirements in ARM Title 17, Chapter 8, Subchapters 8, 9, and 10.
14. ARM 17.8.765 Transfer of Permit. (1) This rule states that an MAQP may be transferred from one location to another if the Department receives a complete notice of intent to transfer location, the facility will operate in the new location for less than 1 year, the facility will comply with the FCAA and the Clean Air Act of Montana, and

the facility complies with other applicable rules. (2) This rule states that an air quality permit may be transferred from one person to another if written notice of intent to transfer, including the names of the transferor and the transferee, is sent to the Department.

- F. ARM 17.8, Subchapter 8 - Prevention of Significant Deterioration of Air Quality, including, but not limited to:
1. ARM 17.8.801 Definitions. This rule is a list of applicable definitions used in this subchapter.
 2. ARM 17.8.818 Review of Major Stationary Sources and Major Modifications--Source Applicability and Exemptions. The requirements contained in ARM 17.8.819 through ARM 17.8.827 shall apply to any major stationary source and any major modification with respect to each pollutant subject to regulation under the FCAA that it would emit, except as this subchapter would otherwise allow.

This facility is not a major stationary source because it is not a listed source and the facility's PTE is less than 250 tons per year of any pollutant (excluding fugitive emissions).

- G. ARM 17.8, Subchapter 12 – Operating Permit Program Applicability, including, but not limited to:
1. ARM 17.8.1201 Definitions. (23) Major Source under Section 7412 of the FCAA is defined as any stationary source having:
 - a. PTE > 100 tons/year of any pollutant;
 - b. PTE > 10 tons/year of any one hazardous air pollutant (HAP), PTE > 25 tons/year of a combination of all HAPs, or lesser quantity as the Department may establish by rule; or
 - c. PTE > 70 tons/year of particulate matter with an aerodynamic diameter of 10 microns or less (PM₁₀) in a serious PM₁₀ nonattainment area.
 2. ARM 17.8.1204 Air Quality Operating Permit Program Applicability. (1) Title V of the FCAA Amendments of 1990 requires that all sources, as defined in ARM 17.8.1204 (1), obtain a Title V Operating Permit. In reviewing and issuing MAQP #3274-01 for Deer Lodge Asphalt, the following conclusions were made:
 - a. The facility's PTE is less than 100 tons/year for any pollutant.
 - b. The facility's PTE is less than 10 tons/year for any one HAP and less than 25 tons/year of all HAPs.
 - c. This source is not located in a serious PM₁₀ nonattainment area.
 - d. This facility is potentially subject to current NSPS: 40 CFR 60, Subpart A – General Provisions; 40 CFR 60, Subpart OOO – Nonmetallic Mineral Processing Plants; and 40 CFR 60, Subpart IIII – Stationary CI ICE.
 - e. This facility is potentially subject to current NESHAP standards: 40 CFR 63, Subpart A – General Provisions and 40 CFR 63, Subpart ZZZZ – Stationary ICE.

- f. This source is not a Title IV affected source
- g. This source is not a solid waste combustion unit.
- h. This source is not an EPA designated Title V source.

Deer Lodge Asphalt requested federally-enforceable permit limitations to remain a minor source of emissions with respect to Title V. Based on these limitations, the Department determined that this facility is not subject to the Title V Operating Permit Program. However, in the event that the EPA makes minor sources that are subject to NSPS obtain a Title V Operating Permit, this source may be subject to the Title V Operating Permit Program.

- i. ARM 17.8.1204(3). The Department may exempt a source from the requirement to obtain an air quality operating permit by establishing federally enforceable limitations which limit that source's PTE.
 - i. In applying for an exemption under this section the owner or operator of the facility shall certify to the Department that the source's PTE does not require the source to obtain an air quality operating permit.
 - ii. Any source that obtains a federally enforceable limit on PTE shall annually certify that its actual emissions are less than those that would require the source to obtain an air quality operating permit.
- 3. ARM 17.8.1207 Certification of Truth, Accuracy, and Completeness. The compliance certification submittal by ARM 17.8.1204(3) shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this subchapter shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

III. BACT Determination

A BACT determination is required for each new or modified source. Deer Lodge Asphalt shall install on the new or modified source the maximum air pollution control capability which is technologically practicable and economically feasible, except that BACT shall be utilized.

A BACT determination was not required for the current permit action because the permit change is considered an administrative permit change.

IV. Emission Inventory

Emission Source	TPY						
	PM	PM ₁₀	PM _{2.5}	NO _x	CO	VOC	SO ₂
Cold Aggregate Storage Piles	3.99	1.89	0.29	--	--	--	--
Cold Aggregate Handling/Conveyors	5.41	1.78	0.50	--	--	--	--
Cold Aggregate Screens	5.31	1.79	0.12	--	--	--	--
Crushers	1.30	0.59	0.11				
Haul Roads / Vehicle Traffic	5.68	1.57	0.16	--	--	--	--
Diesel Engine(s): 1,035 hp @ 4900 hrs ^a	5.58	5.58	5.58	78.63	16.94	6.38	5.20
Total Emissions	27.27	13.18	6.75	78.63	16.94	6.38	5.20

Footnotes:

a. Inventory reflects enforceable limits on hours of operation on the diesel engines to keep allowable emissions below the Title V threshold and 80 tpy as part of the Department's S Source project.

CO = carbon monoxide

HAPs = hazardous air pollutants

hp = horsepower

lb = pound

N/A = not applicable

ND = no data available

NO_x = oxides of nitrogen

PM = particulate matter

PM₁₀ = particulate matter with an aerodynamic diameter of 10 microns or less

PM_{2.5} = particulate matter with an aerodynamic diameter of 2.5 microns or less

SO₂ = sulfur dioxide

TPH = tons per hour

TPY = tons per year

VOC = volatile organic compounds

yr = year

Calculations

Cold Aggregate Storage Piles

Maximum Process Rate = 551 ton/hr (Maximum plant process rate)

Maximum Hours of Operation = 8,760 hrs/yr

Number of Piles = 1 piles (simplified as max rate in one pile)

Filterable PM Emissions:

Predictive equation for emission factor provided per AP 42, Sec. 13.2.4.3, 11/06.

Emission Factor = $k (0.0032) * (U/5)^{1.3} * (M / 2)^{-1.4} = 0.00331 \text{ lb/ton}$

Where: k = particle size multiplier = 0.74 (Value for PM < 30 microns per AP 42, Sec. 13.2.4.3, 11/06)

U = mean wind speed = 10 mph (Estimate based on values provided in AP 42, Sec. 13.2.4.3, 11/06)

M = material moisture content = 3% (Estimate based on values provided in AP 42, Sec. 13.2.4.3, 11/06)

Control Efficiency = 50% (Water or chemical spray)

Calculation: $(551 \text{ ton/hr}) * (8760 \text{ hrs/yr}) * (0.00331 \text{ lb/ton}) * (\text{ton}/2000 \text{ lb}) * (1 \text{ piles}) = 7.98 \text{ ton/yr}$

Calculation: $(551 \text{ ton/hr}) * (8760 \text{ hrs/yr}) * (0.00331 \text{ lb/ton}) * (\text{ton}/2000 \text{ lb}) * (1 \text{ piles}) * (1 - 50/100) = 3.99 \text{ ton/yr}$

Filterable PM₁₀ Emissions:

Predictive equation for emission factor provided per AP 42, Sec. 13.2.4.3, 11/06.

Emission Factor = $k (0.0032) * (U/5)^{1.3} * (M / 2)^{-1.4} = 0.00156 \text{ lb/ton}$

Where: k = particle size multiplier = 0.35 (Value for PM < 10 microns per AP 42, Sec. 13.2.4.3, 11/06)

U = mean wind speed = 10 mph (Estimate based on values provided in AP 42, Sec. 13.2.4.3, 11/06)

M = material moisture content = 3% (Estimate based on values provided in AP 42, Sec. 13.2.4.3, 11/06)

Control Efficiency = 50% (Water or chemical spray)

Calculation: $(551 \text{ ton/hr}) * (8760 \text{ hrs/yr}) * (0.00156 \text{ lb/ton}) * (\text{ton}/2000 \text{ lb}) * (1 \text{ piles}) = 3.77 \text{ ton/yr}$

Calculation: $(551 \text{ ton/hr}) * (8760 \text{ hrs/yr}) * (0.00156 \text{ lb/ton}) * (\text{ton}/2000 \text{ lb}) * (1 \text{ piles}) * (1 - 50/100) = 1.89 \text{ ton/yr}$

Filterable PM_{2.5} Emissions:

Predictive equation for emission factor provided per AP 42, Sec. 13.2.4.3, 11/06.

Emission Factor = $k (0.0032) * (U/5)^{1.3} * (M / 2)^{-1.4} = 0.00024 \text{ lb/ton}$

Where: k = particle size multiplier = 0.053 (Value for PM < 2.5 microns per AP 42, Sec. 13.2.4.3, 11/06)

U = mean wind speed = 10 mph (Estimate based on values provided in AP 42, Sec. 13.2.4.3, 11/06)

M = material moisture content = 3% (Estimate based on values provided in AP 42, Sec. 13.2.4.3, 11/06)

Control Efficiency = 50% (Water or chemical spray)

Calculation: $(551 \text{ ton/hr}) * (8760 \text{ hrs/yr}) * (0.00024 \text{ lb/ton}) * (\text{ton}/2000 \text{ lb}) * (1 \text{ piles}) = 0.57 \text{ ton/yr}$

Calculation: $(551 \text{ ton/hr}) * (8760 \text{ hrs/yr}) * (0.00024 \text{ lb/ton}) * (\text{ton}/2000 \text{ lb}) * (1 \text{ piles}) * (1 - 50/100) = 0.29 \text{ ton/yr}$

Conveyor Transfer Point

Maximum Process Rate = 551 ton/hr (Maximum single screen process rate estimate)

Maximum Hours of Operation = 8,760 hrs/yr

Number of Transfers = 16 transfer

Filterable PM Emissions:

Emission Factor = 0.00014 lb/ton (0.0030 uncontrolled, 0.00014 controlled, AP 42, Table 11.19.2-2, 8/04)

Calculation: $(551 \text{ ton/hr}) * (8760 \text{ hrs/yr}) * (0.00014 \text{ lb/ton}) * (\text{ton}/2000 \text{ lb}) * (16 \text{ transfer}) = 5.41 \text{ ton/yr}$

Filterable PM₁₀ Emissions:

Emission Factor = 0.000046 lb/ton (0.00110 uncontrolled, 0.000046 controlled, AP 42, Table 11.19.2-2, 8/04)

Calculation: $(551 \text{ ton/hr}) * (8760 \text{ hrs/yr}) * (0.000046 \text{ lb/ton}) * (\text{ton}/2000 \text{ lb}) * (16 \text{ transfer}) = 1.78 \text{ ton/yr}$

Filterable PM_{2.5} Emissions:

Emission Factor = 0.000013 lb/ton (0.000013 controlled, AP 42, Table 11.19.2-2, 8/04)

Calculation: $(551 \text{ ton/hr}) * (8760 \text{ hrs/yr}) * (0.000013 \text{ lb/ton}) * (\text{ton}/2000 \text{ lb}) * (16 \text{ transfer}) = 0.50 \text{ ton/yr}$

Screening

Maximum Process Rate = 551 ton/hr (Maximum plant process rate)

Maximum Hours of Operation = 8,760 hrs/yr

Number of Screens = 1 screen(s) (using max plant rate with 3 screens in operation)

Total PM Emissions:

Emission Factor = 0.0022 lb/ton (0.025 uncontrolled, 0.0022 controlled, AP 42, Table 11.19.2-2, 8/04)

Calculation: $(551 \text{ ton/hr}) * (8760 \text{ hrs/yr}) * (0.0022 \text{ lb/ton}) * (\text{ton}/2000 \text{ lb}) * (1 \text{ screen(s)}) = 5.31 \text{ ton/yr}$

Total PM₁₀ Emissions:

Emission Factor = 0.00074 lb/ton (0.0087 uncontrolled, 0.00074 controlled, AP 42, Table 11.19.2-2, 8/04)

Calculation: $(551 \text{ ton/hr}) * (8760 \text{ hrs/yr}) * (0.00074 \text{ lb/ton}) * (\text{ton}/2000 \text{ lb}) * (1 \text{ screen(s)}) = 1.79 \text{ ton/yr}$

Total PM_{2.5} Emissions:

Emission Factor = 0.00005 lb/ton (0.000050 controlled, AP 42, Table 11.19.2-2, 8/04)

Calculation: $(551 \text{ ton/hr}) * (8760 \text{ hrs/yr}) * (0.00005 \text{ lb/ton}) * (\text{ton}/2000 \text{ lb}) * (1 \text{ screen(s)}) = 0.12 \text{ ton/yr}$

Crushing

Maximum Process Rate = 248 ton/hr (Application information, max plant rate with 1 crusher)

Maximum Hours of Operation = 8,760 hrs/yr

PM Emissions:

Emission Factor = 0.0012 lb/ton (tertiary crushing (controlled), AP 42, Table 11.19.2-2, 8/04)

Calculation: $(248 \text{ ton/hr}) * (8760 \text{ hrs/yr}) * (0.0012 \text{ lb/ton}) * (\text{ton}/2000 \text{ lb}) = 1.30 \text{ ton/yr}$

PM₁₀ Emissions:

Based on AP-42

Emission Factor = 0.00054 lb/ton (tertiary crushing (controlled), AP 42, Table 11.19.2-2, 8/04)

Calculation: $(248 \text{ ton/hr}) * (8760 \text{ hrs/yr}) * (0.00054 \text{ lb/ton}) * (\text{ton}/2000 \text{ lb}) = 0.59 \text{ ton/yr}$

PM_{2.5} Emissions:

Emission Factor = 0.0001 lb/ton (tertiary crushing (controlled), AP 42, Table 11.19.2-2, 8/04)

Calculation: $(248 \text{ ton/hr}) * (8760 \text{ hrs/yr}) * (0.0001 \text{ lb/ton}) * (\text{ton}/2000 \text{ lb}) = 0.11 \text{ ton/yr}$

Diesel Engine(s): 1,035 hp

Operational Capacity of Engine = 1,035 hp

Hours of Operation = 4,900 hours

Total PM/PM₁₀/PM_{2.5} Emissions:

Emission Factor = 0.0022 lbs/hp-hr (All PM < 1 mm, AP-42, Sec. 3.3, Table 3.3-1, 10/96)

Calculation: $(4,900 \text{ hours}) * (1,035 \text{ hp}) * (0.0022 \text{ lbs/hp-hr}) * (\text{ton}/2000 \text{ lb}) = 5.58 \text{ ton/yr}$

NO_x Emissions:

Emission Factor = 0.031 lbs/hp-hr (AP-42, Sec. 3.3, Table 3.3-1, 10/96)

Calculation: $(4,900 \text{ hours}) * (1,035 \text{ hp}) * (0.031 \text{ lbs/hp-hr}) * (\text{ton}/2000 \text{ lb}) = 78.63 \text{ ton/yr}$

CO Emissions:

Emission Factor = 0.00668 lbs/hp-hr (AP-42, Sec. 3.3, Table 3.3-1, 10/96)

Calculation: $(4,900 \text{ hours}) * (1,035 \text{ hp}) * (0.00668 \text{ lbs/hp-hr}) * (\text{ton}/2000 \text{ lb}) = 16.94 \text{ ton/yr}$

VOC Emissions:

Emission Factor = 0.0025141 lbs/hp-hr (AP-42, Sec. 3.3, Table 3.3-1, TOC, Exhaust & Crankcase, 10/96)

Calculation: $(4,900 \text{ hours}) * (1,035 \text{ hp}) * (0.0025141 \text{ lbs/hp-hr}) * (\text{ton}/2000 \text{ lb}) = 6.38 \text{ ton/yr}$

SO₂ Emissions:

Emission Factor = 0.00205 lbs/hp-hr (AP-42, Sec. 3.3, Table 3.3-1, 10/96)

Calculation: $(4,900 \text{ hours}) * (1,035 \text{ hp}) * (0.00205 \text{ lbs/hp-hr}) * (\text{ton}/2000 \text{ lb}) = 5.200 \text{ ton/yr}$

Haul Roads

Vehicle Miles Traveled (VMT) per Day = 5 VMT/day (Estimate)

VMT per hour = $(5 \text{ VMT/day}) * (\text{day}/24 \text{ hrs}) = 0.21 \text{ VMT/hr}$

Hours of Operation = 8,760 hrs/yr

PM Emissions:

Predictive equation for emission factor for unpaved roads at industrial sites provided per AP 42, Ch. 13.2.2, 11/06.

Emission Factor = $k * (s / 12)^a * (W / 3)^b = 12.46 \text{ lb/VMT}$

Where: k = constant = 4.9 lbs/VMT (Value for PM₃₀/TSP, AP 42, Table 13.2.2-2, 11/06)

s = surface silt content = 7.1 % (Mean value, sand/gravel processing, material storage area, AP 42, Table 13.2.2-1, 11/06)

W = mean vehicle weight = 54 tons (1994 average loaded/unloaded or a 40 ton truck)

a = constant = 0.7 (Value for PM₃₀/TSP, AP 42, Table 13.2.2-2, 11/06)

b = constant = 0.45 (Value for PM₃₀/TSP, AP 42, Table 13.2.2-2, 11/06)

Control Efficiency = 50% (Water spray or chemical dust suppressant)

Calculation: $(8760 \text{ hrs/yr}) * (0.21 \text{ VMT/hr}) * (12.46 \text{ lb/VMT}) * (\text{ton}/2000 \text{ lb}) = 11.37 \text{ tons/yr}$ (Uncontrolled Emissions)

Calculation: $(8760 \text{ hrs/yr}) * (0.21 \text{ VMT/hr}) * (12.46 \text{ lb/VMT}) * (\text{ton}/2000 \text{ lb}) * (1-50/100) = 5.68 \text{ tons/yr}$ (Apply 50% control efficiency)

PM₁₀ Emissions:

Predictive equation for emission factor for unpaved roads at industrial sites provided per AP 42, Ch. 13.2.2, 11/06.

Emission Factor = $k * (s / 12)^a * (W / 3)^b = 3.43 \text{ lb/VMT}$

Where: k = constant = 1.5 lbs/VMT (Value for PM₁₀, AP 42, Table 13.2.2-2, 11/06)

s = surface silt content = 7.1 % (Mean value, sand/gravel processing, material storage area, AP 42, Table 13.2.2-1, 11/06)

W = mean vehicle weight = 54 tons (1994 average loaded/unloaded or a 40 ton truck)

a = constant = 0.9 (Value for PM₁₀, AP 42, Table 13.2.2-2, 11/06)

b = constant = 0.45 (Value for PM10, AP 42, Table 13.2.2-2, 11/06)

Control Efficiency = 50% (Water spray or chemical dust suppressant)

Calculation: (8760 hrs/yr) * (0.21 VMT/hr) * (3.43 lb/VMT) * (ton/2000 lb) = 3.13 tons/yr (Uncontrolled Emissions)

Calculation: (8760 hrs/yr) * (0.21 VMT/hr) * (3.43 lb/VMT) * (ton/2000 lb) * (1-50/100) = 1.57 tons/yr (Apply 50% control efficiency)

PM_{2.5} Emissions:

Predictive equation for emission factor for unpaved roads at industrial sites provided per AP 42, Ch. 13.2.2, 11/06.

Emission Factor = $k * (s / 12)^a * (W / 3)^b = 0.34 \text{ lb/VMT}$

Where: k = constant = 0.15 lbs/VMT (Value for PM2.5, AP 42, Table 13.2.2-2, 11/06)

s = surface silt content = 7.1 % (Mean value, sand/gravel processing, material storage area, AP 42, Table 13.2.2-1, 11/06)

W = mean vehicle weight = 54 tons (1994 average loaded/unloaded or a 40 ton truck)

a = constant = 0.9 (Value for PM2.5, AP 42, Table 13.2.2-2, 11/06)

b = constant = 0.45 (Value for PM2.5, AP 42, Table 13.2.2-2, 11/06)

Control Efficiency = 50% (Water spray or chemical dust suppressant)

Calculation: (8760 hrs/yr) * (0.21 VMT/hr) * (0.34 lb/VMT) * (ton/2000 lb) = 0.31 tons/yr (Uncontrolled Emissions)

Calculation: (8760 hrs/yr) * (0.21 VMT/hr) * (0.34 lb/VMT) * (ton/2000 lb) * (1-50/100) = 0.16 tons/yr (Apply 50% control efficiency)

V. Existing Air Quality

This permit is for a portable facility to originally be located in the NE ¼ of the SE ¼ of Section 17, Township 10 North, Range 7 West, in Powell County, Montana. Powell County, and those areas for which this facility is permitted to operate have been designated unclassified/attainment with all ambient air quality standards and there are no major air pollution sources in the surrounding area.

VI. Air Quality Impacts

The Department determined that there will be no additional impacts from this permitting action because this permitting action is considered an administrative action. Therefore, the Department believes this action will not cause or contribute to a violation of any ambient air quality standard.

VII. Ambient Air Impact Analysis

Based on the information provided and the conditions established in MAQP #3274-01, the Department determined that there will be no additional impacts from this permitting action. The Department believes it will not cause or contribute to a violation of any ambient air quality standard.

VIII. Taking or Damaging Implication Analysis

As required by 2-10-105, MCA, the Department conducted the following private property taking and damaging assessment.

YES	NO	
X		1. Does the action pertain to land or water management or environmental regulation affecting private real property or water rights?
	X	2. Does the action result in either a permanent or indefinite physical occupation of private property?
	X	3. Does the action deny a fundamental attribute of ownership? (ex.: right to exclude others, disposal of property)
	X	4. Does the action deprive the owner of all economically viable uses of the property?
	X	5. Does the action require a property owner to dedicate a portion of property or to grant an easement? [If no, go to (6)].
		5a. Is there a reasonable, specific connection between the government requirement and legitimate state interests?
		5b. Is the government requirement roughly proportional to the impact of the proposed use of the property?
	X	6. Does the action have a severe impact on the value of the property? (consider economic impact, investment-backed expectations, character of government action)
	X	7. Does the action damage the property by causing some physical disturbance with respect to the property in excess of that sustained by the public generally?
	X	7a. Is the impact of government action direct, peculiar, and significant?
	X	7b. Has government action resulted in the property becoming practically inaccessible, waterlogged or flooded?
	X	7c. Has government action lowered property values by more than 30% and necessitated the physical taking of adjacent property or property across a public way from the property in question?
	X	Takings or damaging implications? (Taking or damaging implications exist if YES is checked in response to question 1 and also to any one or more of the following questions: 2, 3, 4, 6, 7a, 7b, 7c; or if NO is checked in response to questions 5a or 5b; the shaded areas)

Based on this analysis, the Department determined there are no taking or damaging implications associated with this permit action.

IX. Environmental Assessment

This permitting action will not result in an increase of emissions from the facility and is considered an administrative action; therefore, an environmental assessment is not required.

Analysis Prepared By: Ed Warner
Date: 2/3/12