# LANDOWNER CONSULTATION

This form is required for **all** applicants applying for an Opencut Mining permit **or** for an amendment that will: ***a)***add acreage, an asphalt plant, or a concrete plant; ***b)*** change the postmining land use; or ***c)*** extend the reclamation date [MCA 82-4-432(2)(d); ARM 17.24.206].

**OPERATOR SECTION: All fields must be completed**.

**Operator Name:**

**Site Name:**

**County:**

**Section**  **Township**  **[ ]** N *or* **[ ]** S **Range**  **[ ]** E*or* **[ ]** W *and* **Section**  **Township**  **[ ]** N *or* **[ ]** S **Range**  **[ ]** E*or* **[ ]** W Additional legal description if necessary:

The person signing below represents that (*check one box*):

 **[ ]**  I am an officer or an employee of the Operator and I am duly authorized to bind the Operator, which is a corporation, limited partnership, limited liability company, or other corporate entity in good standing and authorized to do business in Montana, and in this capacity I acknowledge and certify that:

 Or

 **[ ]**  I am the Operator and I acknowledge and certify that:

1. The Operator consents to and acknowledges that the DEQ and its representatives may access the site to inspect the permit area at any reasonable time, and that while the DEQ attempts to provide reasonable notice of an inspection to the operator when practicable under the circumstances, inspections may be conducted without prior notice as necessary to determine whether Opencut operations are being conducted in compliance with the permit, Act, and rules [82-4-422(1)(d) and 425, MCA] & [ARM 17-24-206(2)(f) and 206(3)].
2. The Operator shall complete reclamation: ***a)*** in accordance with the approved Plan of Operation and as concurrent with operations as feasible; ***b)*** within one year of the cessation of operations or the termination of the right to conduct operations; and ***c)*** no later than the permitted final reclamation date.

|  |  |  |  |
| --- | --- | --- | --- |
| By: |  |  |  |
|  | **Signature** |  | **Legibly print or type name** |
|  |  |  |  |
|  | **Title**  |  | **Date** |

**LANDOWNER SECTION: All fields must be completed.** A private road may be included as affected land only with the landowner’s consent [MCA 82-4-403(1)].

**A. Does the Landowner want the Operator to permit an access road(s)** (i.e. existing or proposed non-public road that connects an Opencut operation to a public access)**?**

**[ ]  Not applicable:** The site will be accessed from the immediately adjacent public road.

**[ ]  No:** The landowner does not want an access road included in the permit.

**[ ]  Yes and: [ ]  Access road will be reclaimed at final reclamation or [ ]  Access road will remain at final reclamation**:

Access Road 1 **Width:** feet, Location must be identified on the site map and reclamation map.

Access Road 2 **Width:** feet, Location must be identified on the site map and reclamation map.

**B. Does the Landowner want stockpile(s) of mine material left at the conclusion of Opencut operations? [ ] No [ ] Yes**

Note: ***a)*** mine material must be left in a location that will be accessible by road; ***b)*** the total volume of mine material left is typically 10,000 cubic yards or less (to help ensure it can be consumed and the site reclaimed within 5-10 years); and ***c)*** once consumed, the Landowner is responsible for reclaiming the area using a soil stockpile left by the Operator for that purpose.

If **Yes,** as per ARM 17.24.219(1)(b), describe the type and volume of mine material(s) to be left:

1. Type of mine material(s) to be left: **[ ] Gravel [ ] Sand [ ] Other:**
2. Total volume of mine material to be left in **cubic yards:**
3. If the total is more than 10,000 cubic yards, identify potential local uses consistent with it being consumed within 5-10 years:

**C. Does the Landowner consent to allow the burial of onsite generated asphalt on their land within the permitted boundaries?**

**[ ] No [ ] Yes** (in accordance withARM 17.24.219(1)(b))

If **Yes,** refer to section D7-1 of the Opencut Mining Plan of Operation and Application.

**LANDOWNER SECTION (Continued):**

**D. Landowner acknowledges and affirms the following:**

1. The Operator is applying for a permit to conduct operations in accordance with: ***a)*** the Opencut Mining Act (Title 82, chapter 4, part 4, MCA); ***b)*** its implementing rules (ARM Title 17, chapter 24, subchapter 2); and ***c)*** the site-specific Plan of Operation.
2. The Landowner: ***a)*** owns the land and the legal rights to all its earthen materials are owned or have been obtained; ***b)*** has been consulted by the Operator about the proposed Plan of Operation; and ***c)*** understands the Montana Department of Environmental Quality (DEQ) may require the Operator to revise that Plan before the permit or amendment is approved.
3. If the DEQ approves the permit, the following will apply to the permit area:
4. The Operator will have the exclusive right to conduct Opencut operations.
5. The Operator and future assignees (party assuming the permit) may allow another party to conduct permitted Opencut operations only if the Operator retains control over that party’s activities and the Operator remains responsible for any violations that may occur.
6. The Landowner may not authorize Opencut operations by another party until that party obtains the Operator’s permission.
7. The Landowner authorizes the Operator access to the site to perform reclamation in accordance with the approved Plan of Operation, even if the landowner revokes or otherwise terminates the Operator's right to mine.
8. The DEQ can enforce requirements of the Act, rules, and permit. Any other arrangements or understandings between the Landowner and Operator are private matters that should be stated in a separate written agreement between those two parties.
9. DEQ personnel have the right to access the site to inspect the permit area at any reasonable time. The Operator and DEQ’s agents or contractors have the right to access the site to complete reclamation in accordance with the Plan of Operation.
10. The Operator may request Phase 1 or Phase 2 release of the permit once the site or a portion of it has been reclaimed according to the Plan of Operation. DEQ will notify the Operator and the Landowner of its decision regarding each release request.
11. DEQ typically releases a site reclaimed to cropland after one successful crop; a site reclaimed to perennial vegetation (i.e. rangeland and/or pasture) is typically released after two complete growing seasons or when revegetation is established, whichever is longer.
12. It is the Landowner’s responsibility to disclose this form to any purchaser of the site prior to closing and to advise the purchaser of the status of the Opencut Mining permit.
13. If a pond remains at final reclamation, it may be the landowner’s responsibility to obtain a water right from the DNRC if one is required.

**E. The following must be filled out for sites located in Sage Grouse Habitat:**

If the site is in Sage Grouse habitat designated by Executive Orders 12-2015 and 21-2015, and any part of the proposed permit area is privately owned, the private Landowner acknowledges that he/she:

* Has knowledge of the Montana Sage Grouse Habitat Conservation Program letter contained in the Opencut permit application, and understands the letter provides recommendations for reclamation of this site to maintain sage grouse populations and habitat so Montana can manage its own lands, wildlife, and economy, and a listing under the Endangered Species Act will not be warranted.
* Understands Executive Order 12-2015 stipulates that:
* Reclamation should re-establish native grasses, forbs, and shrubs to achieve cover, species composition, and life form diversity commensurate with the surrounding plant community and replace sage grouse habitat to the degree conditions allow.
* Landowners should be consulted on the desired plant mix on private land and have the option of deciding whether the site will be reclaimed with the recommended sage grouse seed mix or an alternate seed mix.

Landowner chooses the following seed mix:

**[ ]  Recommended seed mix for sage grouse habitat [ ]  Alternate seed mix as chosen in Section E6-4 of the application**

**F. LANDOWNER SIGNATURE:**

**Landowner Name (print or type):**

**Address:**

**City:**

**State:**

 **Zip:**

**Phone#:**

**Cell Phone# (optional):**

**Email (optional):**

**Landowner Signature:**

**Date:**