



Brian Schweitzer, Governor
Richard H. Opper, Director

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April 16, 2012

Dear Reader:

On January 13, 2012, Noble Excavating Inc., (Noble), filed an application for issuance of an operating permit by the Department of Environmental Quality under the Metal Mine Reclamation Act (MMRA). In the application, Noble proposes to expand a quarry currently operating under a Small Miner Exclusion Statement. The quarry consists of metamorphosed sedimentary rock and glacial gravel. The rock will be used for asphalt, fill, riprap and other uses.

The quarry is located approximately 2.5 miles northwest of Libby, MT on private property in Section 30, Township 31 North, Range 31 West, in Lincoln County.

The proposed permit area would consist of approximately 172 acres, with 151 acres disturbed over the life of the mine, which is estimated to be eighty years. The total disturbance, including what has already been disturbed, would be about 34 acres over the first five years, and about 85 acres over the next twenty years.

Equipment used to quarry the rock would likely consist of loaders, dozers, articulated trucks, and excavators. There would also be conveyors, a portable screen/crushing plant, and possibly a portable asphalt plant. Removal of the material would require blasting. This would be performed about twice a year by a contract certified blaster. Existing roads would be used to access the quarry site. Mining, screening, and crushing operations would normally take place during daylight hours from 7 a.m. to 7 p.m, but work may occur during off hours and weekends to meet demand.

DEQ issued a Draft Checklist Environmental Analysis (CEA) on March 9, 2012 evaluating the potential environmental impacts from the proposed quarry, and inviting comments on the proposed quarry. The Draft CEA addressed issues and concerns raised during public involvement and from agency scoping. A number of comment letters, emails, and phone calls were received on the Draft CEA. Please see the attachment.

DEQ determines that the application and the final permit meet the substantive requirements of the MMRA and administrative rules adopted under the MRMA. DEQ estimates the cost to the State to ensure compliance with Title 75, chapters 2 and 5, the MMRA, the administrative rules adopted under the MMRA, and the final permit is \$340,431. Noble is required to submit a reclamation bond in this amount pursuant to

Section 82-4-338(1), MCA. DEQ will issue a final permit upon receipt and approval of the reclamation bond pursuant to Section 82-4-337(h), MCA.

Warren D. McCullough
Warren D. McCullough, Chief
Environmental Management Bureau

4/10/12
Date

File: 00182.70

OP /OP_Applications/Noble Excavating 00182 /Final EA Reader Cover letter

Response to Comments on the Draft Expanded Checklist Environmental Assessment for Noble Excavating Nickelback Quarry

A number of comments expressed concerns with dust, traffic, and noise impacts. The substantive requirements of the Metal Mine Reclamation Act do not address dust, traffic, odor, and noise impacts. Therefore, DEQ does not have authority to regulate these impacts. These impacts were discussed in the Draft Expanded Checklist Environmental Assessment (EA) for the purpose of public disclosure under the Montana Environmental Policy Act (MEPA). The Air Resources Management Bureau (ARMB) administers the Clean Air Act and the Montana Department of Transportation (MDOT) has authority over public roads in Montana. Both of these entities were sent a copy of the EA.

Comment No. 1:

The statement is made that there is no asbestiform material in the soil. Was actual testing done, by whom, and how were the tests performed?

Response:

In the Geology and Soil Quality, Stability and Moisture Resource Section, the EA states that the rock to be quarried does not contain asbestiform minerals. Rock samples were sent to a lab (RJ Lee Group, Inc.) which used Transmission Electron Microscopy and Polarized-Light Microscopy testing. The tests did not detect asbestiform minerals. In addition, the EPA has routinely tested the rock from this site because the EPA is using the rock product in a reclamation project in Libby.

Comment No. 2:

Is there a potential for landslides?

Response:

The quarry should not create any greater potential for landslides than what currently exists. Minor slumping along the access road has been noted in the past. Once vegetation has been reestablished on those areas where the road has been widened, minor slumping should no longer be a concern.

Comment No. 3:

Where is the applicant going to get fill to replace what is taken during reclamation, and why doesn't Noble Excavating dig there?

Response:

The quarried would not be backfilled. The highwalls of the quarry would be regraded to 2:1 slopes, creating a three sided amphitheatre with an entrance from the north. Overburden that has been stripped and stockpiled would be spread across the facility area and mine roads to a depth of approximately one foot. Soil material that has been stripped and stockpiled then would be placed on the regraded highwall and the facility area and mine roads to a depth of one foot.

Comment No. 4:

Blowing dust may affect fish in the river.

Response:

The amount of dust generated by the quarry operation should not cause a problem. The EA has been sent to the U.S. Fish and Wildlife Service, and Montana Department of Fish, Wildlife and Parks.

Comment No. 5:

The risk to water supply wells is not acceptable.

Response:

As indicated in the EA, the nearest water well is 1,280 feet away from the proposed permit boundary and 320 feet below the floor of the proposed quarry. Because of the distance both laterally and in elevation, the proposed quarry should not impact any water wells in the area. If a water well is unexpectedly impacted, the owner may file a complaint with DEQ pursuant to Section 82-4-355, MCA. DEQ is required to perform an investigation. If DEQ determines that a water loss is caused by the quarry activity, DEQ is required to order Noble to provide the needed water immediately on a temporary basis and within a reasonable time replace the water in like quality, quantity and duration.

Comment No. 6:

Haul trucks are not covered, leaving clouds of dust and mud on the highway.

Response:

As indicated previously, the substantive requirements of the Metal Mine Reclamation Act do not address dust, traffic, and noise impacts and, therefore, the DEQ's Environmental Management Bureau does not have authority to regulate these impacts. Noble, however, has agreed to control dust by spraying water or water mixtures containing dust abatement compounds during quarrying, screening, and hauling operations. Based on Noble's agreement, these dust control measures become enforceable provisions of its operating permit.

Issues of dust and mud on the highway fall under the jurisdiction of the MDOT. A copy of the EA has been sent to that agency.

Comment No. 7:

Other wildlife species found in the area are not listed in the EA.

Response:

DEQ agrees with this comment. The EA indicated that 1) deer, elk and moose were found in the proposed permit area; 2) listed the species of special concern that were in the vicinity of the proposed permit area; and 3) the grizzly bear was the only endangered species that has suitable habitat in the proposed permit area. Undoubtedly there are additional wildlife species that are found in the proposed permit area. The scope of the EA, however, was only to analyze impacts on wildlife species listed as species of special concern and those federally listed as threatened or endangered. The EA has been sent to the U.S. Fish and Wildlife Service, and Montana Fish, Wildlife and Parks.

Comment No. 8:

The proposed quarry is clearly visible from the highway.

Response:

The EA acknowledges that there will be a visual impact from the proposed quarry. The proposed quarry is in a forest basin, about 500 feet above and 2,000 feet away from Highway 2. Thus, the site has extremely limited visibility from the valley below.

Comment No. 9:

There would be noise from Jake brakes and equipment, as well as odors from the proposed asphalt plant.

Response:

As indicated previously, the substantive requirements of the Metal Mine Reclamation Act do not address noise and odor impacts. Therefore, DEQ does not have authority to regulate these impacts. These impacts were discussed for the purpose of public disclosure under MEPA.

DEQ, however, is aware that Noble has installed mufflers to reduce noise from Jake brakes, which meet MDOT standards. The asphalt plant would be set up on a temporary basis and, therefore, any odor impacts should be temporary as well.

Comment No. 10:

The proposed quarry will make the air unsuitable to breathe, destroy the peacefulness of the area by its noise, and threaten the water supply.

Response:

As indicated previously, the substantive requirements of the Metal Mine Reclamation Act do not address noise impacts. Therefore, DEQ does not have authority to regulate this impact. These impacts were discussed for the purpose of public disclosure under MEPA. Potential impacts to water wells is discussed in the Response to Comment No. 5.

The DEQ-Air Resource Management Bureau (ARMB) would require the facility to obtain a Montana Air Quality Permit (MAQP) upon a determination that the facility has the potential to emit greater than 15 tons per year of any regulated pollutant. If an MAQP is required, the ARMB would establish conditions limiting the facility's emissions to protect the ambient air quality standards. Regardless of whether or not a permit is obtained, the facility would be required to take reasonable precautions to control emissions of airborne particulate matter.

Comment No. 11:

There will likely be more traffic accidents as haul trucks turn onto Highway 2 from the access road.

Response:

The EA discloses the average and peak number of truckloads per day expected from the proposed quarry as required under MEPA. The substantive requirements of the Metal Mine

Reclamation Act, however, do not address the occurrence of traffic accidents in hauling the mined product from the site. Therefore, DEQ does not have authority to regulate this impact.

These concerns were noted in the EA as a public disclosure. The MDOT has authority over public highways in Montana and was sent a copy of the EA. The entry from the access road onto Highway 2 is regulated by MDOT.

There is currently an approach permit on file with the MDOT for the current use of the existing access to US Highway 2 at milepost 28.4. However, with the proposed change in use a new approach permit will be required to be approved by the MDOT. Noble will need to contact the MDOT Kalispell Office and complete a Driveway Approach Application & Permit; and an Environmental check list. Approaches need to be constructed to MDOT's approach standards, meet sight distance requirements and have no negative effect on the transportation system or adjacent existing accesses. With the proposal indicating a volume of up to 250 haul trucks per day, then the approach permit will go through MDOT's Systems Impact Analysis Process in Helena and a Traffic Impact Study may be required to mitigate traffic impacts to adjacent highways.

Comment No. 12:

The location of the quarry is not creating the jobs, it is the mining that creates jobs.

Response:

The quarry is sited where the mineral resource is located, and can be obtained. The applicant has the right to extract this mineral resource as long as all legal requirements are met.

Comment No. 13:

Property values will decrease, lowering tax revenues. The workers would be seasonal. After being employed by Noble, workers will seek unemployment benefits at the cost of the taxpayers.

Response:

Under the Local and State Tax Base and Tax Revenues section in the EA it is noted that tax revenue would remain the same or be increased, since the number of employees would remain nearly the same as currently exists. It is unknown what would happen to property values, and eventually real estate taxes.

Sale or market value of adjacent property may be negatively affected by the presence of the Noble quarry, but DEQ has no specific information on this issue at this site.

In the context of DEQ's regulation of gravel pits under the Opencut Mining Act, DEQ contracted a study to determine whether the existence of a gravel pit and gravel operation impacted the value of surrounding real property. The study (Rygg, February 1998) involved some residential property near two gravel operations in the Flathead valley. Rygg concluded that DEQ authority under the Opencut Mining Act to protect air quality, to minimize noise and visual impacts to the degree practicable through the use of berms, vegetation screens, and limits on hours of operation, to otherwise prevent significant physical harm to adjacent land, and to require reclamation of the site was effective in preventing decrease in taxable value of those lands surrounding the gravel

pits. In his review of the study, Jim Fairbanks, Region 3 Manager of the Montana Department of Revenue, Property Assessment Division, said:

In the course of responding to valuation challenges of ad valorem tax appraisals, your reviewer has encountered similar arguments from Missoula County taxpayers regarding the presumed negative influence of gravel pits, BPA power lines, neighborhood character change, and traffic and other nuisances. In virtually ALL cases, negative value impacts were not measurable. Potential purchasers accept newly created minor nuisances that long-time residents consider value diminishing.

Also, in reference to the permitting of gravel pits; gravel mining and gravel crushing operations create the possibility of reducing the attractiveness of home sites to potential homebuyers seeking a quiet, rural/residential type of living environment and could affect the marketability of existing homes.

Since the number of employees would remain nearly the same, with no change in seasonal type of work, the unemployment benefits should not change.

Comment No. 14:

The wear and tear on the road system would create the need for resurfacing the highway and roads in town sooner than what now exists, as well as create safety hazards from trucks pulling in and out of the access road to Highway 2.

Response:

The issue of impacts to the surface of Highway 2 caused by an increase in truck traffic is not directly addressed in the EA. The issue of increase traffic on Highway 2 creating the need for resurfacing the highway and roads in town sooner than what now exists fall under the jurisdiction of the MDOT. The issue of safety is partly addressed in the EA under the Human Health and Safety section. Both of these issues are indirect impacts that would occur outside the proposed permit boundary, and are beyond the regulatory authority of the MMRA. The EA has been sent to the MDOT for their review.

Comment No. 15:

There would be an increased danger of wild fire from equipment. Homes downwind of the site would be threatened.

Response:

Under the Demand for Government Services section in the EA the question of increased demand for government services is addressed. It is not expected that additional government services for control of fires would be needed. The application notes that fire extinguishers would be available in mobile equipment. It is not expected that there would be an increase in fire danger from operation of the quarry. The action of mining would remove vegetation from the site during operations, which may decrease the threat of a wild fire moving across the landscape, the site becoming in essence a fire break.

Comment No. 16:

The site abuts the Cabinet Mountains Wilderness Area and animal movement has already been impacted by the mine operation.

Response:

The quarry is not adjacent to the Cabinet Mountains Wilderness Area. The site borders the Kootenai National Forest. There are no expected impacts to species of special concern, or threatened and endangered animals. The EA has been sent to the USFS in Libby, the US Fish and Wildlife Service, and Montana Fish, Wildlife and Parks.

Comment No. 17:

The noise and dust would make it unpleasant for people who come to view the area and watch the animals.

Response:

As previously discussed, the substantive requirements of the Metal Mine Reclamation Act do not address dust and noise impacts. Therefore, DEQ does not have authority to regulate these impacts. These impacts were discussed for the purpose of public disclosure under the Montana Environmental Policy Act (MEPA). However, Noble has agreed to control dust by spraying water or water mixtures containing dust abatement compounds during quarrying, screening, and hauling operations.

Comment No. 18:

Lifestyles will be disrupted. The quarry will destroy the beauty, peacefulness and quiet solitude of the area.

Response:

The EA acknowledges that operation of the quarry will result in noise and dust impacts. These impacts will most directly affect those living near the access road. As previously discussed, the substantive requirements of the Metal Mine Reclamation Act do not address dust and noise impacts. Therefore, DEQ does not have authority to regulate these impacts. These impacts were discussed for the purpose of public disclosure under the Montana Environmental Policy Act (MEPA). However, Noble has agreed to control dust by spraying water or water mixtures containing dust abatement compounds during quarrying, screening, and hauling operations.

Comment No. 19:

The existing quarry has already impacted the use of property and homes in the area.

Response:

Under the Private Property Impacts section it is noted that issuance of an operating permit would not restrict the use of the applicant's private property. Impacts to private property owners near the proposed mine are beyond the scope of MMRA.