

## DEQ OPENCUT FREQUENTLY ASKED QUESTIONS

- 1. What is the difference between a complete application and an acceptable application?**
  - ◆ Upon receiving an application, Opencut has 5 working days to review the application and notify the applicant as to whether the application is complete. MCA § 82-4-432(a)(i).
  - ◆ An application is “complete” if it contains all of the items listed in MCA § 82-4-432(1) and (2)<sup>1</sup>. This includes information like: adequate maps, a demonstration of legal rights to mine the site, and bond or security, etc.
  - ◆ If the application is not complete, Opencut notifies the applicant in writing by issuing an “Incomplete Letter” – a detailed identification of information necessary to make the application complete. MCA § 82-4-432(4).
  - ◆ Opencut’s determination that an application is complete does not mean that an application is acceptable. Once an application is deemed complete, Opencut begins reviewing the application for acceptability. Opencut may inspect the proposed site during the acceptability review process and if the application does not meet the requirements of the Opencut act, would issue a deficiency letter requesting additional information. MCA § 82-4-432(4)(b)(i).
  - ◆ An application is “acceptable” when it meets the requirements of the Opencut Act and provides a viable reclamation plan.
  
- 2. If I have concerns about an Opencut application, how can I get involved in the process?**
  - ◆ For public awareness, Opencut posts each complete application on the Department’s website. <https://deq.mt.gov/mining> MCA § 82-4-432(4)(d).
  - ◆ Opencut encourages public comment on applications throughout the review process. Public comments can help inform Opencut of local concerns or special circumstances pertaining to a site. Opencut reviews every public comment submitted. If a comment has legal merit under the Opencut Mining Act, Opencut may incorporate it into a Deficiency Letter for the Operator to address. Deficiency letters may be issued during the acceptability review period to provide the applicant with a detailed identification of deficiencies preventing the application from being deemed acceptable.
  - ◆ If an application is determined to be acceptable, Montana’s Opencut laws require the department to issue the opencut permit. MCA § 82-4-432(10)(a)(c).
  
- 3. I have concerns that a proposed Opencut site will negatively impact my property values, what can I do?**
  - ◆ Montana’s Opencut laws do not provide the agency with the authority to consider potential impacts to property values in the permit analysis. As part of every permit action, DEQ completes an environmental review that includes an evaluation of potential human impacts in the area such as analysis of population density, housing, recreational activities, locally adopted environmental plans, employment, and cultural uniqueness.
  
- 4. I have concerns about impacts to water, including groundwater, wells, springs, or other nearby surface water, what can I do?**
  - ◆ Montana’s Opencut laws do not regulate groundwater quality or quantity. However, other programs at DEQ regulate potential impacts to water quality, and the Department of Natural Resources and Conservation (DNRC) generally regulates water quantity. Some opencut sites may need to acquire

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<sup>1</sup> Here is the link to the Opencut Act and Administrative Rules of Montana: <http://deq.mt.gov/Mining/opencut>.

additional permits or approvals related to water resources prior to beginning Opencut operations. (See next question for more detail)

- ◆ If you are concerned about impacts to your water that are potentially the result of a current opencut operation,
  - Complaints about water **quality** can be made by telephone to DEQ Enforcement at (406) 444-0379, or on-line, <http://deq.mt.gov/reporting>
  - Complaints about water **quantity** are generally addressed through the DNRC at (406) 444-6999

**5. Do Opencut applicants also need to get a permit from the Water Protection Bureau?**

- ◆ Each operation is unique and may or may not require an operator to acquire additional permits. If an Opencut operation discharge wash water, transport water, scrubber water, or other process water to state surface waters, they are required to obtain MPDES permit coverage.
- ◆ Refer to the Opencut website for the Water Protection Bureau Permitting Guide. <https://deq.mt.gov/mining>

**6. Do Opencut applicants also need to get an air quality permit and mitigate dust, for example, at an opencut site?**

- ◆ While each operation is unique, some may use equipment such as crushers or asphalt plants onsite. DEQ's Air Quality Bureau regulates such equipment, which can potentially emit air pollutants. Refer to the Opencut website for the DEQ Air Quality FAQ. <https://deq.mt.gov/mining>

**7. I have concerns about safety issues resulting from gravel trucks on public roads, where do I voice those concerns?**

- ◆ Public roads are maintained by the Montana Department of Transportation and/or the local county/city/town.
- ◆ Law enforcement issues citations for violations of traffic and vehicle safety issues.

**8. I have concerns about noise and visual impacts from equipment and operations at an Opencut site, what can I do?**

- ◆ Montana's Opencut laws do not give DEQ oversight over zoning, noise and visual impacts, or hours of operation. However, counties, cities, or towns may have local ordinances or restrictions in place. This information can often be found on a local government website or by directly contacting the local government where the site is located.

**9. Who can I contact with questions about land use/zoning and/or the regulation of hours of operation?**

- ◆ Counties, cities, or towns may have local ordinances or restrictions in place concerning land use and/or zoning or noise ordinances that could restrict the hours of operation at a proposed site. This information can often be found on a local government website or by directly contacting the local government where the site is located.

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**10. After a permit is deemed "acceptable" and issued, can I still be involved in the outcome?**

- ◆ Within 30 days of Opencut's final decision, a person whose interests are, or may be, adversely affected, can file an appeal before the Board of Environmental Review (<http://deq.mt.gov/DEQA1dmin/ber>). MCA § 82-4-427(1)(a).
- ◆ If formal public notice was required in law, to appeal, a person must have submitted a public comment to Opencut during the review of the application or at a public meeting. MCA § 82-4-427(1)(b).