**REQUEST FOR PRE-APPLICATION MEETING**

DEQ strongly recommends Operators request a meeting before submitting an application. In response, an Opencut scientist will contact the Operator and schedule a visit to provide guidance on the application process and recommendations on the proposed Opencut operation. Before the site meeting the Operator should:

1. Refer to the Opencut webpage and guidance found there at: [https://deq.mt.gov/mining/](http://deq.mt.gov/Mining/opencut)
2. Start completing the required application forms at: <https://deq.mt.gov/mining/assistance>
3. Stake the proposed Opencut area boundary and show the boundary on an attached air photo site map.
4. Submit to the State Historic Preservation Office a *File Search Request Form* to check for cultural resources in the area. The form is at: <https://deq.mt.gov/mining/assistance>, under *B-Permit and Amendment Applications*.  There is a minimum $25 fee for this service.
5. Dig and photograph the required number of soil test pits, if preparing a Permit or Amendment application. Refer to the Soil Guideline found on the “Forms” tab located here: <https://deq.mt.gov/mining/assistance>
6. Have a detailed list of questions ready to discuss with the Opencut scientist.

**Site Name:**

**County:**

**OPERATOR Name:**

**Address:**

**City:**

**State:**

**Zip:**

**Phone:**

**Email:**

**LANDOWNER Name**:

**Address:**

**City:**

**State:**

**Zip:**

**Phone:**

**Email:**

1. This request is in preparation for the following type of application (check one):

[ ] Permit [ ] Amendment [ ] Assignment [ ] Convert a Limited Opencut Operation to a Permit

[ ] Request to Modify Bonded Acreage

1. If for a currently permitted site, or an existing Limited Opencut Operation, the **Opencut number** is:
2. Attach an airphoto site map showing the proposed Opencut permit boundary.
3. Provide **WGS 84 Decimal Degree** coordinates for the approximate center of the site:

Latitude:

Longitude:

1. Site approximate size: [ ] <20 acres [ ] 20-50 acres [ ] 50-100 acres [ ] 100-200 acres [ ] >200 acres
2. Describe how to get to the site from the nearest town or public road:

1. Check the material(s) to be mined at this site:

**[ ]  Gravel [ ]  Sand [ ]  Clay [ ]  Scoria [ ]  Soil [ ]  Peat [ ]  Bentonite**

**[ ]  Mixtures including any of the above materials (e.g. borrow material)**

**[ ] \*Bedrock and/or Fractured Bedrock [ ] \*Rip Rap and/or Landscaping Boulders**

**[ ] \*Talus/Scree**

**\*** If chosen, this activity is not regulated as an Opencut operation and use of this form is not appropriate.

You must instead contact the DEQ Hard Rock Mining Program at 406-444-4953, or visit their website at <https://deq.mt.gov/mining/Programs/hardrock> and inquire about filing a *Small Miner Exclusion Statement*

1. Purpose of completing this Pre-Application Meeting form (check all that apply):

**[ ]  Onsite Inspection with DEQ**

**[ ]  Phone Discussion with DEQ about Site**

**[ ]  Informing DEQ of a pending application**

1. Additional comments on timing of Pre-Application Meeting and Project (if applicable):

**Email this completed form and attached airphoto site map to** **DEQopencut@mt.gov****.**

**Contact Name:**

**Phone:**

**Topics & Guidance**

**(If you have questions on the below, ask the scientist during the Pre-App meeting or call DEQ Opencut at 406-444-4970. All forms can be found at this link:** [**https://deq.mt.gov/mining/assistance**](https://deq.mt.gov/mining/assistance) **under Opencut Mining Forms)**

1. **Which Permit do I Need:** A Dryland and Standard Opencut Mining Permit are offered through DEQ Opencut. Use the “*Which Opencut Permit Application is Required?”* flowchart found at this link <https://deq.mt.gov/files/Land/OpenCut/Forms/2021-Which%20Opencut%20Permit%20Application%20do%20I%20Need%20How%20To.pdf> to determine which application to use for your site.
2. **Opencut Operation/Activity** [MCA 82-4-403(8)]**:** Any ground-disturbing activity including, but not limited to, mining, driving, parking, excavating, soil stripping, stockpiling, BMP installation and maintenance, reclamation, etc. Site must be permitted before any of these activities can take place.
3. **Soil/Growth Media** [MCA 82-4-403(15)]**:** "Soil" means the dark or root-bearing surface matter that has been generated through time by the interaction of biological activity, climate, topography, and parent material and that is capable of sustaining plant growth and is recognized and identified as such by standard authorities and methods. ALL soil/growth media must be stripped and stockpiled for reclamation before any Opencut activities occur in a given area. Soil and overburden must be handled separately and stockpiled separately (i.e. no mixing of the two). Stockpiles must be kept out of drainages and off slopes steeper than 3:1. Soil stockpiles must be seeded as soon as possible. Refer to the Soil Guideline found here: <https://deq.mt.gov/files/Land/OpenCut/Forms/2021-Guideline-Soil.pdf?ver=2021-05-18-064343-933>.
4. **Slope Requirements: 5:1 or flatter** for Cropland/Hayland, pond ingress/egress, **4:1 or flatter** in sandy soils, **3:1 or flatter** for all other uses. Operator must ensure an adequate distance is left between the highwall and the permit boundary to successfully reclaim the highwall to the permitted slopes using the cut/fill method. If proposing backfill, describe the source and methods explicitly within the permit application, and bond for backfill material appropriately.
5. **Public Notice Dryland Application** [MCA 82-4-432(14) & C1 of Dryland Application]**:** Operator is required to conduct public notice prior to the submittal of the Dryland Opencut Mining Permit Application. Public notice must be conducted as required in ARM 17.24.211(2).
6. **Public Notice Standard Application** [MCA 82-4-432(5 & 6)]: Operator is required to populate the Department’s *Operator Certification of Surface Landowners and Occupied Dwelling Units for a Standard Permit* with the surface owners located within ½ mile of the boundary of the proposed Opencut permit area using the most current known owners of record as shown in the records of the clerk and recorders in the county where the proposed Opencut operation is to occur [MCA 82-4-432(2)(b)(vi)]. Official public notice is to be completed on the Department’s forms by the Operator only after the Department deems the application complete. Parcels may have multiple surface owners.
7. **Boundary Markers** [ARM 17.24.218(1)(a) & C6 of Standard Application & ARM 17.24.211(5) & C4 of Dryland Application]**:** Boundary Markers must be durable (e.g. metal T-posts, etc.), highly visible, and placed in line-of-sight. Markers must be placed at every bend or turn in the permit boundary, at every bend or turn in the boundary between bonded and non-bonded areas, and at every bend or turn along a proposed access road. Every coordinate on the Boundary Coordinate Table should be represented by a boundary marker.
8. **Access Roads versus Internal Roads** [ARM 17.24.202(1)]**:** “Access Roads” are roads that connect a public road with the permit boundary. Access roads do not extend into the main permit boundary. If new road(s) will be constructed to obtain access to Opencut materials, they are considered "affected land" and **must** be included in the permit. Existing roads that connect a public access to the permit boundary only need to be included in the permit if requested by the Landowner [MCA 82-4-403(1)]. “Internal Roads” are roads contained within the permit boundary. Internal roads are **not** permitted as an access road. Roads are left in-place or reclaimed in accordance with the postmining land use chosen by the Operator in section E2.
9. **Contract between Landowner and Operator:** The Department is bound by the permit and can only enforce those items contained within the approved permit. Any special agreements – if not in the permit – are between the Operator and the Landowner only. Therefore, the Department suggests that the Operator and Landowner have a written contract that defines any agreements that have been made.
10. **Landowner Consultation:** The Operator should keep the Landowner updated on any changes made to the application throughout the permitting process (i.e. deficiencies, etc.) as those changes may conflict with prior commitments and agreements.
11. **Permit Boundary Size:** Create a permit boundary that is large enough to contain all proposed and future Opencut operations and activities to avoid unnecessary amendments. Whenever possible, avoid boundaries that conflict with actual site topography, terminate at the immediate edge of the resource, toe of slope, mid-slope, or that follow edge of a ridge, etc. Allow ample room to provide for complete reclamation of the site and to avoid conducting Opencut activities outside of the permitted or bonded boundary.
12. **Bonded and Non-Bonded Area** [MCA 82-4-433(1)]**:** Operator has the option to bond a portion of their permitted boundary with the remainder being designated as Non-Bonded area. Non-Bonded area must remain undisturbed by any Opencut operation or activity. The boundary between the Bonded and Non-Bonded areas must be clearly marked in the field and portrayed on the Site Map. All features and mining methods of any area to be designated as Non-Bonded must still be clearly described in the application. Opencut operations/activities occurring outside of the permit boundary or bonded boundary would likely result in a violation and enforcement action. Non-Bonded area becomes bonded area by submitting a *Request to Modify Bonded Acreage* form, with an updated *Reclamation Bond Spreadsheet*, Site Map and bond. The Department does not have a statutory timeframe for the review but strives to complete the review within 30-days.
13. **Reclamation Bond Spreadsheet and Bond** [MCA 82-4-433(1)]**:** The Act requires the Operator to secure a bond that provides enough money to adequately reclaim the site for what it would cost the Department to reclaim, assuming the worst-case scenario (i.e. all bonded area disturbed, etc.). Ensure the *Reclamation Bond Spreadsheet* is consistent with the application (i.e. acreages, slopes, highwall length & height, mine depth, asphalt stockpiles, etc.) and ensure the bond amount matches or exceeds the dollar amount shown on the *Reclamation Bond Spreadsheet*. The acreage shown on the bond must exactly match the bonded acreage shown on the *Reclamation Bond Spreadsheet*.
14. **Erosion Control and Best Management Practices (BMPs):** Obtain necessary stormwater permits from the DEQ Water Protection Bureau. Sediment must be contained within the permit boundary and must be kept out of drainages, streams and other state waters. The Department recommends designing and maintaining self-contained mines whenever and wherever possible.
15. **10,000 Cubic Yard Exemption** [82-4-431(3)]**:** This exemption **does not** apply to your proposed operation. The exemption applies only to landowners for personal or agricultural use on their land.
16. **Streams, Ephemeral Drainages & Other State Waters** [MCA 82-4-431(1)(b), 82-4-432(1)(b) & ARM 17.24.209]**:** A minimum 50-foot setback from the edge of the channel (i.e. ordinary high-water mark/bank-full level) is required unless otherwise approved in writing by the Department. The buffer must be shown on the Site Map and described in the Standard Opencut Mining Permit Application.
17. **Water Tables:** Use the *Determining Depth the Groundwater Worksheet* to determine seasonal high and low water tables.For dryland postmining land uses, maintain a minimum of three feet of separation between the seasonal high-water table and reclaimed ground surface. If water will be encountered during opencut operations, include a pond and/or wetland as a post-mining land use. Pond and wetland creation requires the *Pond and Wetland Design Worksheet* be submitted with the application [See section E3 of the Standard Opencut Mining Permit Application]. The *Determining Depth to Groundwater Worksheet* can be found here: <https://deq.mt.gov/files/Land/OpenCut/Forms/2021-Worksheet-DeterminingDepthtoGroundwater.docx?ver=2021-05-17-075320-953>
18. **Anticipated Processing Equipment and Facilities** [MCA 82-4-403(13)]**:** Consider permitting for all anticipated processing equipment and facilities that may be used at the site. Any additions or changes to equipment or facilities would require the Operator to amend their permit.
19. **Just Because You Have an Opencut Permit Does Not Mean You Have the Legal Right to Mine:** The operator is responsible to ensure that all necessary permits have been acquired before any Opencut operations or activities occur. Issuance of an Opencut permit does not guarantee that all permits necessary to commence mining operations have been obtained. Other permits that may be necessary include, but are not limited to, road approach permits, Section 404 and other federal permits, 320 state permits, air quality permits, stormwater discharge permits, etc.
20. **Mineral Rights:** Ensure that the surface landowner(s) own the rights to the earthen materials being sought. Operators can inquire with government agencies involved with land administration, such as the U.S. Department of the Interior (DOI), Bureau of Land Management (BLM), and the Montana Department of Natural Resources and Conservation (DNRC). Verifying the mineral estate may also require the services of a deed researcher, professional landman, or real estate attorney. If a split-estate is identified, enter into a separate agreement with the owner of the mineral estate before applying for a permit or amendment.
21. **Maintaining Control of Your Permitted Site:** The Operator will have the exclusive right to conduct Opencut operations in the permit area and the Operator must retain control over operations conducted by another party (even operations conducted by the landowner). The Operator should make it their policy not to allow any other party to operate in the permit area without first informing the landowner and ensuring the other party understands the conditions of the permit. The Operator (permittee) is responsible for any violations or enforcement actions (and resulting penalties) that occur within the permitted boundary, regardless of who violated the permit.
22. **Amendments:** Keep a digital copy of the current permit to use when applying for a future amendment.
23. **Permits:** Keep a paper copy of the permit onsite at all times.