# 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; ARM 17.24.206.

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

**Operator Name:**

**Site Name:**

**County:**

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 DEQ and its representatives may access the site to inspect the permit area at any reasonable time. While DEQ attempts to provide reasonable notice of an inspection, inspections may be conducted without prior notice to determine whether Opencut operations are being conducted in compliance with the permit, Opencut Act, and Administrative Rules of Montana. MCA § 82-4-422(1)(d) and 425 & ARM 17-24-206(2)(f) and 206(3).
2. The Operator shall complete reclamation: **a)** as required by the terms of the approved Permit, concurrently with operations, if 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, but understands the operator would use the road.

**[ ]  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,** ARM 17.24.219(1)(b) requires a description of the type and volume of mine material(s) to be left:

Type of mine material(s) to be left: **[ ] Gravel [ ] Sand [ ] Other:**

Total volume of mine material to be left in **cubic yards:**

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** (ARM 17.24.219(1)(b))

If **Yes,** refer to applicable section in the Permit Application.

**LANDOWNER SECTION (Continued):**

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

1. The Operator is applying for a permit to conduct opencut operations regulated by: **a)** the Opencut Mining Act (MCA Title 82, Chapter 4, Part 4); **b)** its implementing rules (ARM Title 17, Chapter 24, Subchapter 2); and **c)** the site-specific Permit.
2. The Landowner: **a)** owns the land, mineral rights and the legal rights to all its earthen materials; **b)** has been consulted by the Operator about the proposed permit application; and **c)** understands the Montana Department of Environmental Quality (DEQ) may require the Operator to revise the application before the permit or amendment is approved.
3. If DEQ approves the permit, the following will apply to the permitted area:
4. The Operator will have the exclusive right to conduct Opencut operations.
5. The Operator and any 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 cannot authorize Opencut operations by another party without the Operator’s permission.
7. Even if the Landowner revokes or otherwise terminates the Operator's right to mine, the Landowner expressly agrees that the Operator can continue to access the site until the Operator completes the required reclamation and that DEQ can inspect the site to inspect, monitor, or evaluate reclamation activities until final reclamation is completed.
8. DEQ enforces the Opencut Act, ARMs, and Permit. Any other arrangements or understandings between the Landowner and Operator are private matters that should be stated in a separate written agreement.
9. The Act authorizes DEQ to inspect the operations and/or reclamation at the permitted area at any reasonable time. Landowner understands and expressly agrees that Operator and DEQ’s agents or contractors have the right to access the site to complete reclamation as required by the Permit.
10. The Operator may request Phase I or Phase II release of the Permit if the site is fully or partially reclaimed according to the Permit. DEQ will notify Operator and 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. Prior to selling land containing this site, Landowner must disclose this form to any prospective purchaser and advise the purchaser of the status of the Opencut Mining Permit.
13. If a pond remains at final reclamation, Landowner may be required to obtain a water right from the DNRC.
14. Landowner is not aware of any conservation easements, covenants or other land use restrictions that would affect opencut operations.

**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**

**[ ]  Standard Sites: Alternate seed mix as chosen in Section E [ ]  Dryland Sites: Seed mix approved by Landowner**

**F. LANDOWNER SIGNATURE:**

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

**Address:**

**City:**

**State:**

 **Zip:**

**Phone#:**

**Cell Phone# (optional):**

**Email (optional):**

**Landowner Signature:**

**Date:**