

ENVIRONMENTAL ASSESSMENT

This environmental assessment (EA) is required under the **Montana Environmental Policy Act (MEPA)**. An EA functions to identify, disclose and analyze the impacts of an action, in this case operating a gravel pit over which the state must make a decision. MEPA sets no environmental standards even though it requires analysis of both the natural and human environment. This document may disclose many impacts that have no legislatively required standards or over which there is no regulatory authority. The state legislature has provided no authority in MEPA to allow DEQ (or any other state agency) to require conditions or impose mitigations on a proposed permitting action that are not included in the permitting authority and operating standards in the governing state law, such as the Opencut Mining Act, the Clean Air Act of Montana, or any other applicable state environmental regulatory law. Beyond that, a company may agree to voluntarily modify its proposed activities or accept permit conditions.

The state law that regulates gravel-mining operations in Montana is the **Opencut Mining Act**. This law and its approved rules place operational guidance and limitations on a project during its life, and provide for the reclamation of land subjected to opencut materials mining. This law requires that a bond, cash deposit or other financial instrument be submitted to the state to cover the complete costs of reclaiming the site to its approved, post-mining land use.

The permit decision cannot be based upon the popularity of the project, but upon whether or not the proponent has met the requirements of the Opencut Mining Act, pursuant rules, and other laws pertaining to his proposed actions.

SITE NAME: Joan Poston APPLICANT: Jim Gilman Excavation, Inc.
 LOCATION: NE ¼ NW ¼ Sec 33, T7N R2E COUNTY: Broadwater

TYPE AND PURPOSE OF ACTION: Jim Gilman Excavating proposes to remove 103,000 cubic yards of gravel from an over grazed pasture located on the flat bench above Deep Creek about 5 miles east of Townsend, Montana. Material would be used to improve Highway 12 just west of the proposed site. The site is proposed to be 10 acres in size. Final reclamation back to a tame pasture would be accomplished by November, 2008.

All application materials required under the Opencut Mining Act and the Rules and Regulations thereunder have been submitted. The proponent commits to properly conducting opencut operations and reclaiming the site. A reclamation performance bond in the amount of \$32,247 would be held by the State of Montana until the site was fully reclaimed and back in a condition of productive use. The proponent would be legally bound by the permit .

A: Significant Unavoidable Impacts **B:** Insignificant as a result of conditioned mitigation **C:** Insignificant as proposed
L: Long Term Potential Impacts **S:** Short term Potential Impacts

POTENTIAL IMPACTS						
	A	B	C	L	S	EXPLANATION
PHYSICAL ENVIRONMENT						
1. <u>TOPOGRAPHY</u>			X	X		The proponent plans to remove a portion of a bench. The excavation would be at grade with the topography at the bottom of the bench. While excavation of approximately 20' of gravel would alter the topography, this site would not change the general configuration of the land because all surfaces would be blended with the surrounding terrain.
2. <u>GEOLOGY</u> ; Stability			X		X	The site would be reclaimed to a stable condition.
3. <u>SOILS</u> ; Quality, Distribution			X		X	Soil materials would be salvaged and placed on areas prepared for soil redistribution or stockpiled for later reclamation use. The plan states that approximately 6 inches of overburden and 12 inches of soil would be stripped and used for site reclamation.

						POTENTIAL IMPACTS	
	A	B	C	L	S	EXPLANATION	
4. <u>WATER</u> ; Quality; Quantity; Distribution						No impacts to surface or ground water are expected. The pre-mine condition is such that there appears to be little or no surface water run-off and all run-off from disturbed areas would be contained during operations and reclamation of the site. The proponent does not plan on mining below the current elevation of the bottom the bench and therefore would not intercept the ground water. All water resources would be protected during operations from contamination. Water used for dust control or in manufacturing of the product would be hauled in from an off-site source.	
5. <u>AIR</u> ; Quality			X		X	The crusher and asphalt plants would have air quality permits. Fugitive dust would be controlled with the use of water trucks. Air quality reduction would be minimal.	
6. <u>UNIQUE, ENDANGERED, FRAGILE, or LIMITED</u> environmental resources						None identified.	
BIOLOGICAL ENVIRONMENT							
1. <u>TERRESTRIAL, AVIAN, and AQUATIC</u> ; species and habitats			X		X	The operation would have minimal impact because of the relatively small area of habitat that would be disturbed, the relatively short timeframe for disturbance, and the general poor pre-mine condition of the site.	
2. <u>VEGETATION</u> ; quantity, quality, species			X	X		The pre-mine condition of the vegetation was poor due to gross over grazing. It appeared as though some vegetation may emerge from what little root mass may be left in the soil. Mine reclamation and proper grazing operations after reclamation could have a positive effect on the post-mine condition of the vegetation.	
3. <u>AGRICULTURE</u> ; grazing, crops, production			X		X	The impact to agriculture at the site and to the surrounding area would be minimal.	
HUMAN ENVIRONMENT							
1. <u>SOCIAL</u> ; structures and mores						No impacts are anticipated.	
2. <u>CULTURAL</u> uniqueness/diversity			X		X		
3. <u>POPULATION</u> quantity/diversity			X		X		
4. <u>HOUSING</u> ; quantity/distribution			X		X		
5. <u>HUMAN HEALTH & SAFETY</u>			X		X	With control of air emissions, mining would not cause significant adverse health effects to local residents.	
6. <u>COMMUNITY & PERSONAL INCOME</u>			X		X		
7. <u>EMPLOYMENT</u> ; quantity, distribution			X		X		
8. <u>TAX BASE</u> ; state/local tax			X		X		
9. <u>GOVERNMENT SERVICES</u> ;			X		X		

						POTENTIAL IMPACTS	
	A	B	C	L	S	EXPLANATION	
10. <u>INDUSTRIAL, COMMERCIAL, and AGRICULTURAL</u> activities			X		X		
11. <u>HISTORICAL and ARCHAEOLOGICAL</u>			X		X	A walkover of the area did not reveal any artifacts or signs of occupation. If resources were to be discovered during operations, activities would be halted and temporarily moved to another area until SHPO was contacted and the importance of the site was determined.	
12. <u>AESTHETICS</u>			X		X	<p>Visual: An opencut operation can create a substantial visual impact. The proposed site is visible from Highway 12 and to the near-by residences. There is an existing gravel site with concrete batching directly across Highway 12. The proponent has committed to placing topsoil berms around the site to limit visibility of the operation. Ultimately, the site would be graded, resoiled, and revegetated for a postmining land use of pasture.</p> <p>Noise: The proposed opencut operation would increase noise levels in the area. No numerical standards for off-site sound levels apply to opencut operations. The key mitigative measures include following specified hours of operation (7:00 a.m. to 5:30 p.m. Monday through Friday), establishing soil berms around the site, and locating facilities and stockpiles on the pit floor as soon as possible.</p>	
13. <u>ENVIRONMENTAL PLANS, GOALS</u> ; local and regional			X		X		
14. <u>DEMANDS</u> on <u>ENVIRONMENTAL RESOURCES</u> of land, water, air and energy			X		X		
15. <u>TRANSPORTATION</u> ; networks and traffic flows			X		X	The impact of gravel trucks on Highway 12 would be minimal in comparison to those impacts associated with improvements to the highway itself.	

REGULATORY IMPACT ON PRIVATE PROPERTY: The analysis done in response to the Private Property Assessment Act indicates no impact. The Department does not plan to deny the application or impose conditions that would restrict the use of private property so as to constitute a taking.

PUBLIC INVOLVEMENT: Landowner, Natural Heritage Program, State Historic Preservation Office. One near by resident requested a copy of the EA but no comments were received.

OTHER GROUPS OR AGENCIES CONTACTED OR WHICH MAY HAVE OVERLAPPING JURISDICTION: Air Resources Management Bureau, Mining Safety and Health, MT Dept. of Transportation, Broadwater County Commissioners, Broadwater County Weed Board

ALTERNATIVES CONSIDERED: Denial, Approval, or Approval with Stipulation.

RECOMMENDATIONS CONCERNING PREPARATION OF AN EIS: Unnecessary, No Significant Impacts