



January 11, 2026

Dear Commissioners Vero, Strohmaier, and Slotnick,

Thank you for the opportunity to comment on the proposed opencut gravel mine and asphalt plant being considered in the Blackfoot River corridor at 14815 Highway 200.

As you are aware, Protect the Clearwater is challenging a similar permit in Missoula County. In April 2023, the Montana Department of Environmental Quality (DEQ) approved a 21-acre opencut gravel mine and asphalt plant in a critical wildlife migration corridor, 1300 feet uphill from the Clearwater River, and bordering the Blackfoot Clearwater Wildlife Management Area. The habitat is three miles north of Clearwater Junction on public land managed by the Department of Natural Resources and Conservation (DNRC). The area was designated as Resource Protection 1 in the Seeley Lake Regional Plan adopted by the Missoula County Board of County Commissioners in 2010. The Clearwater-State opencut permit #3473 allows 365/24/7 gravel mining until 2040.

We would like to share observations from our experience with the permitting process as you consider the costs and risks associated with gravel mining in the Blackfoot River corridor.

It is important to understand that Montana's opencut mining laws do not regulate groundwater quality or quantity. They do not provide DEQ with the authority to consider potential impacts to property values in the permit analysis and do not give the agency oversight over zoning, noise and visual impacts, or hours of operation.

Opencut permit #3473 was granted in just 35 days. DEQ relied on the word of the mining company (applicant) that mining would not affect ground and surface water. A storm water management plan was not submitted. DEQ did not address the impact of storing 5000 cubic yard of asphalt on the site. No public meetings were held about the project even though neighboring landowners asked.

DEQ created a checklist Environmental Assessment (EA) as part of the permitting process. Below are examples from the EA that raise concerns about the level of due diligence in the DEQ assessment.

When considering WATER QUALITY, QUANTITY, AND DISTRIBUTION the EA states: "DEQ does not anticipate an impact to surface water or groundwater quality or quantity and distribution management" relying on certifications by the permit applicant. However, the applicant admitted in court they did nothing to analyze potential effects to groundwater before signing the permit application. Three 14 foot test holes were dug for the 20 foot excavation approved by DEQ.



In their analysis of the AIR QUALITY, DEQ states: “minor impacts to air quality, including odor, could be expected due to an asphalt facility emitting a limited amount of air pollutants. Impacts from mining activities would be mitigated by the revegetation of soil stockpile.” Also, “Any impacts to the air would be short-term and would be negligible as a result of the proposed permit application based on commitments and certifications made by the Applicant in the application.” Yet, when mining started in June 2023, topsoil, native grasses, and old growth trees were removed and large amounts of dust escaped from the site. That uncontrolled particulate matter landed in the Clearwater River and on homes in the area. Neighbors contacted the Missoula County Health Department with concerns.

In the analysis of TERRESTRIAL, AVIAN AND AQUATIC LIFE AND HABITATS: DEQ acknowledges the Resource Protection 1 designation “due to this value to wildlife”, but determined that “impacts to biota and habitats, which are resources of significant statewide and societal importance, would likely be temporary and negligible.” The EA further concludes: “Any displaced animals could find other suitable habitat nearby and return to the project area shortly after the project conclusion.” Yet, the agency failed to include any site specific scientific data readily available from an EA drafted for the same location in 2009 by the US Fish and Wildlife Service. That detailed EA was required for a land swap (costing \$1.6 million dollars) between the Montana Department of Transportation and Montana Fish, Wildlife, and Parks to preserve the wildlife corridor on the northern border of the mine site and a highway project to improve traffic safety on Hwy 83.

In assessing the DEMAND FOR GOVERNMENT SERVICES, DEQ states: “Traffic load would depend on site activity and is unknown at this time. Occasional increases in construction-related traffic may occur. The daily traffic that would be leaving the site can vary greatly. Local roads may be improved. Impacts would be short-term and moderate.” Police and fire protection were not addressed. Traffic studies were not referenced as part of DEQ evaluations of whether substantial traffic would be added to existing roads.

Addressing LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS: Again, DEQ acknowledges Resource Protection 1 designation but concludes: “Missoula County zoning clearance has been obtained. The site is not zoned. Thus, impacts from or to locally-adopted environmental plans and goals would not be expected as a result of this project.”

The DEQ draft Environmental Assessment was not released for public comment as required by the Montana Environmental Policy Act (MEPA). DEQ has testified it does not have time to provide such documents to the public, even though the law mandates public notice and participation before an agency decision is finalized. Without public comment, DEQ did not receive any input from independent geohydrological, traffic safety, environmental planning, or wildlife experts.



As reported by Derrick Perkins of The Flathead Interlake in March 2022, DEQ confirmed that the end goal of the agency is to issue permits. When asked at a public meeting if the state ever denies permits, a DEQ opencut mining program official responded, "I guess the short answer is no."

In July 2023, Protect the Clearwater filed for a temporary restraining order in the 4th District Court in Missoula. The court agreed that irreparable injury to health, wildlife, and the natural environment were likely if mining continued. The judge's ruling favored preserving the landscape in its natural state while litigation played out. Subsequently, the MT Supreme Court reversed that order on procedural grounds without addressing the underlying merits of the case.

Once Permit #3473 was issued, it became the responsibility of adversely affected citizens to take action to preserve the natural environment and resources integral to the health of our community. Local property owners were tasked not only with appealing the permitting process before the Board of Environmental Review (BER) but also in the court system. PTC is challenging Montana DEQ's actions as violations of the Montana Environmental Policy Act (MEPA), the Montana Public Participation Act and the Montana Constitution in the 4th District Court. A decision from the April 7, 2025 hearing is pending. This has been a very expensive, complex, and time-consuming process.

In all of these cases, DEQ has partnered with the mining company to oppose our efforts.

It has been the experience of Protect the Clearwater that DEQ relied heavily on information provided by the opencut mining applicant to complete an EA in just 35 days. In the case of Clearwater-State Permit #3473, important information about water resources, local wildlife, health and human safety, demand for local government services, and locally adopted environmental plans and goals was omitted from consideration in the Draft Environmental Assessment. DEQ failed to take a "hard look" at the impacts of the project.

Protect the Clearwater supports the efforts of the Blackfoot River Community to enact interim zoning to protect public health, safety, community welfare, and the Blackfoot River, and to hold a public hearing as soon as possible so community members can share their concerns and be meaningfully heard.

We hope the Commissioners find this information helpful. We would be happy to meet with you to talk more about our experience.

Please log this comment in the public record and notify us of any upcoming meetings or opportunities for public input related to this issue.

Thank you.

Gayla Nicholson, Terry Martin-Denning, and Jon Watson
Board Members
Protect the Clearwater
<https://protecttheclearwatermt.org/>