

# Proposed open-pit gravel mine controversial among Arlee residents



Jennifer Knoetgen stands in her yard outside her longtime home in Arlee on Oct. 21.

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Daily Inter Lake | October 27, 2022 12:00 AM

After a summer of Jocko valley residents' attempts to have their concerns formally heard, it's a waiting game to see if further stages of review will be triggered.

A 2021 Montana law regarding open-pit gravel mining, HB 599, has recently drawn criticism from Arlee residents. Opponents of the proposal feel their constitutional rights are being infringed upon by the permitting process of the 157-acre open-pit mine in Arlee.

If approved, the operation would take place off of White Coyote Road near the Garden of One Thousand Buddhas. Among other concerns they may see an estimated 80,000 gravel truck loads over 20 years and diminished property values.

Last April, Riverside Contracting, Inc., applied for a permit to remove up to one-million cubic yards of material, accompanied by an asphalt plant operating for up to 20 years – with the area eventually being reclaimed. The permit was found to be deficient by the Montana Department of Environmental Quality (DEQ), and the company filed an amended application on Sept. 21.

Initially, there were not enough resident responses received by the DEQ to initiate a public hearing, whereby public comment would have been included in the permitting process. HB 599, introduced by Rep. Steve Gunderson (R-Libby), raised the required public response threshold that would trigger a hearing from 30% to 51%, decreased the distance from the pit where responses need to be collected, and changed wording to redefine what qualified as a residence.

## Residents question permitting process

The integrity of this process has been questioned by residents, including Jennifer Knoetgen. The 20-year resident of the area founded Friends of the Jocko to oppose the large open-pit mine.

“The permit seems as though it will be approved. They seem to be rubber stamping all of them,” Knoetgen said.

According to prior reporting by Daily Inter Lake, proponents of HB 599 claimed it would remove red tape and redundancies to speed up the permitting process. Opponents said the bill rolled back water-quality safeguards, limited public notice and input, and eliminated noise and visual disruption regulations.

The proposed open-pit mine is located on private land within the Confederated Salish and Kootenai Tribes’ (CSKT) Flathead Reservation. Though commonly called “gravel pits,” an open-pit mine such as this would allow the permit holder to remove 12 feet of topsoil on 157 acres—almost a half-mile long on each side.

Without an official public hearing, the CSKT requested a separate meeting with the DEQ in late September. The DEQ testified before the tribal council during a hybrid session where officials responded to questions from the tribe and the public. Rebecca Harbage, public policy director for the DEQ, said in a recent interview.

## Gravel pits "a necessary evil"

“What we strictly deal with is that if this is mined, it is mined within the parameters of the law,” said Sonja Nowakowski, the air, energy, and mining division administrator for the DEQ.

The open-pit mine proposed outside of Arlee had previously been permitted in 2000 but that permit expired in 2010, according to Harbage, and in 2021 the company applied for a new permit. The DEQ’s website shows four other gravel pits permitted in Lake County.

“Gravel pits are a necessary evil,” Gale Decker, District 2 Lake County commissioner said. “Governments and contractors need to have a source of gravel.”

According to Decker, the county currently sources gravel from St. Ignatius for the Arlee area, and is searching for a local source to maintain roads at the southern end of the county.

“There’s been more development in the area,” he said of changes since the last permitting process. “More folks moved in.”

Knoetgen, who lives within a half-mile of the proposed open-pit mine, said the previous permit was not as extensive, claiming it did not include an asphalt plant.

“The fact that a permit was there before is irrelevant,” she said.

Decker was quick to note that Lake County is not involved in the permitting process. While the new permitting system under HB 599 has faced criticism, the county doesn’t have any “veto” power, Decker said. In the end, the DEQ will decide whether or not to approve the permit.

“People are aware that this permit is being renewed, and they wanted to be included in the process,” he said.

## Neighbors seek more input

The DEQ emphasizes that the permitting process is ongoing, leaving room for public comment. However, neighbors like Knoetgen want more input in the process.

The Friends of the Jocko has hired a law firm in Missoula, Fergusson and Coppes PPLC. The group has outlined official comments claiming that the DEQ has a mandate to respect citizens’ rights to a clean and healthful environment and right to public participation.

Knoetgen said pursuing legal action isn’t a certainty and isn’t her intended outcome, but she has serious concerns about her constitutional rights being violated.

“At a certain point we don’t have any other choice,” she said.

Even though the DEQ did not grant the residents of Arlee a public forum, there are avenues for them to submit public comments under the Montana Environmental Policy Act. The DEQ is currently conducting an Environmental Assessment (EA), the first part of the MEPA analysis, and the DEQ takes note of public comments during this period.

“If, after preparing the EA, DEQ determines there is likely to be a significant impact, we would consider developing an Environmental Impact Statement (EIS), which is a more detailed study of the possible significant impacts,” the DEQ said in a recent email.

The Tribes asked for the full MEPA process to be implemented, as they noted that the DEQ found deficiencies in Riverside’s permit that were of concern. If the DEQ found the operation would cause significant impacts, it would prompt an EIS—which has opportunities for public comment.

When taken together the deficiencies are “deeply concerning to local community members and the Tribes,” the letter from CSKT said.

On Aug. 17, the applicant’s permit was found to have deficiencies and they were told to respond with more information.

“We make all our decisions based on the law,” Harbage added.

## Water is the biggest concern

The DEQ’s letter of deficiency noted that Pellew Creek bisected the property, as is seen on historical United States Geological Survey maps. However, the revised permit from Riverside submitted on Sept. 21 says that there is no evidence of Pellew Creek currently existing in the area.

“Water is probably everyone’s biggest concern,” Knoetgen said.

This was echoed by a neighbor of Knoetgen, Shelly Fyant, who lives outside of the half-mile radius of the proposed open-pit mine. Fyant’s family moved to the area in the 1960s, and she’s a former member of the CSKT’s Tribal Council.

Fyant estimates that she lives three-quarters of a mile from the project, and she was not able to comment to the DEQ on whether there should be a public hearing. Fyant expressed concern that the underground water flows from the site into the Jocko River, where millions have been spent on restoring native trout populations.

For Knoetgen and Fyant, the lack of participation can be directly attributed to HB 599.

Knoetgen explained that the law changed who notifies residents about the proposed project, shifting responsibility from the DEQ to the contractor. In this case the contractor sent out the outdated form claiming 30% of residents’ responses could trigger a public hearing.

According to Knoetgen this may have made some residents think the threshold would have been met easily, and therefore may have been a reason that some people didn’t respond. “This sets a bad precedent for public involvement in our state,” Knoetgen said.

Fyant said that she understands gravel pits are necessary, but the size of the project and the accompanying asphalt plant make the situation more complex. Fyant speculated that the open-pit mine may help with future construction on Highway 93, and noted the importance of jobs related to open-pit mining.

“We’re just trying to educate people and get them to submit a public comment, but short of a public hearing it’s hard to get everyone’s attention,” Fyant said.

She suspects that about 13 people total could have responded to the DEQ asking for a public hearing, and she’s aware of three people who claimed to have responded, but were not recorded in a public records request filed with the DEQ.

“As native people we were given the prime responsibility to speak for those who can’t. Who is speaking for the fish, who is speaking for the water, who is speaking for the air?” Fyant said.

The CSKT expressed concern in their letter to the DEQ that several tribal members were counted as one person – since the owner of the property is the CSKT – but there may be multiple people living on these lands, and therefore they may not have been notified or counted properly.

The CSKT ends the letter asking that the DEQ hold a meeting to solicit feedback from local community members.

Riverside Contracting and the CSKT were not available for comment. The DEQ is reviewing comments while drafting an EA, and comments can be submitted with the help of this link: <https://deq.mt.gov/News/publiccomment-folder/news-article10>

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