Public Comments on Lack of Public Comment Option in HB 599

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There was a lot of folks at the Tribal Council meeting with the DEQ about the proposed gravel pit near Arlee.

*DEQ meets with Tribal Council and Jocko Valley residents about proposed gravel pit*

Char-Koosta News

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PABLO — The crowd in the Tribal Council Chambers last Thursday looked like a pre-COVID Quarterly crowd. But it wasn’t a Quarterly. The chamber was packed with many folks from the Jocko Valley including the Friends of the Jocko group members, landowners and others concerned about the proposed open-cut gravel pit mine and asphalt plant just north of Arlee.

The elephant in the room was the Republican backed House Bill 599, sponsored by Rep. Steve Gunderson (R- HD 1 – Libby) that passed in the 2021 Legislative session. It essentially gutted the previous legislative bill related to gravel pit mining that, among other things, eliminated the right for public comment on such proposed projects. It is viewed as an industry-favored bill that loosened and/or eliminated regulations in the permitting process and fits comfortably with Gov. Greg Gianforte’s mantra that Montana is open for business.

On April 7, 2022 Riverside Contracting, Inc., owned by Marvin Rehbein, applied for a 20-year open-cut mining permit with the Montana Department of Environmental Quality for 157.1 acres of land Rehbein owns north of Arlee. It is located 1.3 miles east off of Highway 93 on White Coyote Road to the Martz Drive T-intersection. The permit from the Montana Department of Environmental Quality (DEQ) is pending approval but it is a sure bet that it will be green lighted by the DEQ.
The folks in the Jocko Valley as well as the Flathead Nation Tribal Council have many concerns, not the least of which is the opportunity for the public’s right to comment on the open-cut gravel mine and the potential effects on the water quality. Among the other concerns are noise levels, dust control, increased road traffic and related safety issues, air pollution, on-site fuel storage safety, operational hours, property devaluation, wildlife impacts, the effects on the rural ambiance and the potential of man-camps on the Rehbein property.

Due to the lack of robust public comment opportunities — only landowners within a half-mile radius of the gravel mine can comment — the Tribal Council in a September 20th letter requested the DEQ meet with them and the public.

The letter to the director of the DEQ Chris Dorrington stated, “The CSKT and local residents have a number of concerns about the potential impacts of the proposed gravel mine, including potential noise pollution, dust/air pollution, water quality impacts, and wildlife impacts, as well as impacts to the rural character of the area.”

The Tribal Council said they had two requests of the DEQ: a full Montana Environmental Policy Act (MEPA) analysis and a public meeting so local affected folks could voice their opinions.

Dorrington and DEQ Mining Bureau Chief Dan Walsh met with the Tribal Council and quickly dashed any hopes of a public meeting be it for affected land owners or the Jocko Valley community as a whole because that process was not a part of HB 599.

Dorrington said a MEPA analysis would be highly unlikely based on present application criteria.

On the issue of a public meeting, Walsh said “Based on the number of requests for a public meeting, we are not intending to hold a public meeting. But we are welcoming comments. The comments we receive in written form are quite helpful in getting us information that is of concern to residents.”
Walsh said the law was direct in its mandates and the DEQ was following the process it laid out in it.

The Tribal Council and others had issues with the fact that all the trust land in the area be it occupied by tribal members or not was treated as one parcel not as individual parcels.

Dorrington said water, air quality or material storage wouldn’t be considered, according to the existing law.

Director of the Flathead Nation’s Natural Recources Department Rich Janssen said Rehbein has his eyes on the reconstruction of the Flathead Indian Irrigation Project (FIIP) and the reconstruction of US Highway 93.

The Riverside Contracting, Inc. website, states: “We specialize in State and Federally-funded construction Contracts large and small.”

Riverside Contracting specializes in “complete” road reconstruction and ancillary asphalt plants, and structural concrete and all that requires gravel pits. It operates in Montana, Wyoming and Idaho.

The Flathead Nation’s $1.9 billion Federal Reserved Water Rights Compact settlement has earmarked $900 million to reconstruct FIIP. The NRD in partnership with the Montana Department of Transportation is submitting a grant request for $62 million for the Highway 93 reconstruction.

“He (Rehbein) seen this coming and Is gearing up for the Flathead Indian Irrigation Project and Highway 93 reconstruction projects,” Janssen said.

Janssen said the Flathead Reservation is the Homeland of the Salish, Pend d’Oreille and Kootenai people and it requires constant vigilance to protect it and HB 599 in the latest incarnation that has to be parried before in inflicts damage on the Homeland.
“What we need to do as a Tribe is look at House Bill 599, how it was written and why it was written,” he said. “Our department is looking at the impacts of this proposed open-cut mine and the impacts on our resources because we live here. We’re going to live here in perpetuity. Our Ancestors were here, our grandchildren will be here, this is our last best place. And we’re going to do everything we can to make sure our resources aren’t impacted.”

Former Tribal Council Chair Shelly Fyant said there are concerns about the gravel pit’s effects on health of the Jocko Valley community. “The DEQ hasn’t looked at this aspect,” she said. “I ask them to take this into consideration.”

President of the Friends of the Jocko Jim Coefield said he and others were concerned about the potential of man-camps similar to those in the Bakken oil fields in North Dakota that were fraught with illegal activities related to drugs and prostitution as well as homicides. He said the Friends of the Jocko will seek legal remedy to the issue.

Jocko Valley resident Michelle “Sunny” Bradshaw who lives on Jocko Road said she was concerned about the potential effects the open pit mine has on health, water quality, the rural and tribal ambiance, and natural beauty of the Jocko Valley.

Former Arlee resident and Pablo District Tribal Councilman Martin Charlo encouraged folks to vote in the upcoming election. “There is a really important election this fall,” he said. “Vote to elect people that are more concerned about the environment.”

Dorrington in his closing comment said DEQ will consider the comments and look at a couple of concerns raised.
“I am encouraged that the community is becoming aware of this and are against it,” said Jennifer Knoetgen, who owns property adjacent to the proposed gravel pit. “I am discouraged by the DEQ’s response that they’re just following the law.”

Knoetgen said the landowners only had a 30-day window to comment and some landowners weren’t even aware of the proposed gravel mine until they read it in news coverage.

“I wish we had more time in the beginning,” she said. “This has been pretty much rubber-stamped early on. If this is approved, we’ll take this to court — we don’t want to do that but it would be our only option.”