

# CHAR-KOOSTA NEWS

The Official News Publication of the Flathead Indian Reservation

## Friends of the Jocko file Complaint against MT DEQ over Arlee asphalt plant, gravel pit

From Friends of the Jocko Jun 15, 2023 0

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ARLEE — Friends of the Jocko — a Montana nonprofit corporation based in Arlee Montana — filed on June 2nd a Complaint in Montana’s 20th Judicial District Court for Lake County against the Montana Department of Environmental Quality (DEQ). The Complaint challenges the DEQ’s issuance of its Final Environmental Assessment (EA) and approval of Riverside Contracting’s Opencut Mining Permit #3415 for the Marvín Rehbein asphalt plant and gravel pit near Arlee Montana.

The Rehbein operation’s permit was filed with the DEQ on April 4th, 2022 for a plan to mine one million cubic yards of gravel on 157 acres, and operate an asphalt plant. The permit allows for 24/7 operation of the industrial complex, and attaches no mitigations on the impacts of the gravel pit and asphalt plant. The location at the end of White Coyote Road, just over a mile north of Arlee, and a half mile east of the Garden of 1,000 Buddhas is an inappropriate location for such a major industrial development. The operation imposes a major impact to the environmental, social and cultural values of the area. including major impacts to the Flathead Reservation’s Confederated Salish and Kootenai Tribes (CSKT) and EWAM’s Garden of 1,000 Buddhas.

The challenge was filed by Friends of the Jocko’s attorneys, Ferguson & Copes, of Missoula MT, who have worked with the plaintiffs through the process of commenting on the permit, analyzing and commenting on the Draft EA, and scrutinizing the EA and its compliance (or lack thereof) with the Montana Environmental Policy Act (MEPA).

The Complaint challenges the legal validity of the Final EA and decision to approve the permit, on many grounds including: the DEQ’s failure to perform certain constitutionqal duties related to the environment and public participation; that the EA is inadequate and fails to meet MEPA’s “hard look” standard; the EA disregards the significance of the CSKT’s historical and cultural uniqueness and living relationship with the land; the EA fails to adequately analyze the significant impacts to air & water quality, impacts on wildlife & fish or adverse impacts to threatened and endangered wildlife species; and additional social, governmental and cultural impacts.

Friends of the Jocko is asking District Court for Declaratory Judgement arising from the agency’s arbitrary and capricious process and decision, demanding that the DEQ void the permit, due to the illegal process that led to its approval.

“This case revolves around the degradation of the DEQ’s willingness to uphold citizens’ rights to a clean and healthful environment and public process. From the very beginning of the DEQ’s handling of Riverside Contracting’s permit, it was apparent that the agency had fallen victim to the Governor and Legislature’s ‘red tape’ initiative. Which is to say that the goal was to cut the public out of the process and alleviate the agencies ability to adequately protect citizen rights and the environment.

Nothing is more emblematic of the current atmosphere in state government than the Legislature’s attempts to put undo burdens on citizens seeking relief for illegal governmental activities than their (failed) recent attempt to exempt DEQ from MEPA. We expect that DEQ and other state agencies will continue to erode citizens’ rights to a clean and healthful environment and public process as they allow egregious industrial developments like this to move forward, unimpeded. This lawsuit aims to redirect DEQ towards a more balanced and lawful approach that would come to a different decision regarding the Rehbein asphalt plant and gravel pit.”

View our Complaint and supporting materials at our website: <http://www.friendsofthejocko.org>

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