CHECKLIST ENVIRONMENTAL ASSESSMENT

Project Name:	DSL Temporary Asphalt Plant Request
Proposed Implementation Date:	Spring 2024
Proponent:	AM Welles, Inc PO Box 2808 Norris MT, 59745
Location:	T5S – R1W – Section 16 W2SE4
County:	Madison

I. TYPE AND PURPOSE OF ACTION

AM Welles in conjunction with Riverside Contracting henceforth referred to as the proponent(s), have requested to locate and operate a temporary asphalt plant within the boundaries of the DSL gravel pit, MT DEQ Opencut #674. The request is to mobilize the asphalt plant to the site on or after April 1, 2024, and demobilize the plant on or before June 8, 2024. The plant would create asphalt to complete a repaving job along MT HWY 287 between Ennis and Viginia City. The plant would be expected to operate intermittently during the overall proposed time. According to the proponent, the asphalt plant is expected to be operational for approximately 10 days total. The plant is only expected to operate during daylight hours. The plant operator would be Riverside Contracting of Missoula, Montana. It is customary for contractors to share resources to complete infrastructure projects around Montana. The request is consistent with the Montana DNRC's aggregate take and remove permit G-1273-94 which states, "The use of an asphalt plant will be requested by the permittee and approved or denied by the department on a written case-by-case basis." This review will analyze the impacts of the alternatives given in section 3 of this document. This review will not contemplate the impacts of other mining activities outside of the operation of the asphalt plant. Those impacts were previously evaluated in an assessment completed by the Forestry and Trust Lands Division (FTLD) in May of 2023 for the expansion of the DSL pit. That analysis can be read here: https://dnrc.mt.gov/_docs/environmental-documents/minerals/05-23-23_Final-EA-Ennis-DSL-Pit.pdf

The proponent has obtained a DEQ Opencut Mining standard permit from the Montana Department of Environmental Quality's Opencut Mining Section. This permit allows for the operation of an asphalt plant within the boundaries of the permitted area, along with other mining and related activities. The DEQ's environmental analysis and their permit can be found on their website.

II. PROJECT DEVELOPMENT

1. PUBLIC INVOLVEMENT, AGENCIES, GROUPS OR INDIVIDUALS CONTACTED:

Provide a brief chronology of the scoping and ongoing involvement for this project.

A request to locate and operate a temporary asphalt plant within the boundaries of the DSL pit, was received by the FTLD on November 1, 2023. Initial proposal scoping notice letters were sent to landowners within one-half mile of the project, as well as the FTLD's surface lessee. The same letter was sent to the FTLD's email list compiled from commentors on the previous expansion of the pit. A press release was issued in the Madisonian (Ennis, MT) January 25, 2024. In that same edition, a legal notice was also issued. Finally, the same legal notice was issued one week later, in the February 1, 2024 edition of the Madisonian. All documents are on file and can be requested by the public.

A 30-day initial scoping public comment period was opened on February 1, 2024 and closed on March 2, 2024. Comments were collected via US mail, and Microsoft forms (digitally). Scoping comment will be included in the final analysis as Appendix A, which is incorporated herein by reference. Each comment was read and analyzed to develop the resource issues and concerns within each section. Many of the comments provided similar resource issues and concerns.

Through internal and external scoping, the project development team identified the most prevalent resource issues and concerns which are listed at the beginning of each resource section within this document. If there are no issues and concerns listed, none were identified for that resource.

On March 7th, 2024, the FTLD published a draft environmental assessment on the DNRC website. Also on March 7th, 2024, the FTLD published legal notice in the Madisonian (Ennis, MT) that included a link to the draft environmental assessment and provided a date, time, and instruction to register for the public hearing. This notice was also emailed to all scoping commentors that provided an email address in their scoping comment. Additionally, it was emailed to all commentors from the previous expansion project.

On March 18th, 2024, the FTLD held a virtual public hearing via zoom at 6 p.m. This hearing provided the public and other interested parties the opportunity to testify as to the adequacy of the draft environmental assessment. Furthermore, the FTLD allowed for the submission of written testimony from the beginning of the public hearing until 5 p.m. the following day. A recording of the virtual public hearing was posted on the Department's website on March 19, 2024. A transcript of the hearing was completed on March 20, 2024. The transcript, as well as written comment have been added to this document as Appendix B and are incorporated herein by reference.

The public involvement for this project was modeled after that of an Environmental Impact Statement (EIS). Public involvement for an Environmental Assessment (EA) is largely discretionary. However, knowing the public interest in this specific site from previous projects, the FTLD offered multiple opportunities over the course of more than six weeks for the public to be heard. Substantive comments informed the project development team of issues that were important to the public, and they have helped guide the analysis within this document.

In accordance with the MEPA rules, the proponent was given until Friday March 22, 2024, to respond to oral and written testimony offered at the public hearing. A response was received from Riverside Contracting, and is included in this document as Appendix C, it is also incorporated herein by reference.

The DNRC Forestry and Trust Lands Division has responded categorically to resource issues and concerns raised during scoping comments and public hearing testimony. It is included in this document as Appendix D and is incorporated herein by reference.

2. OTHER GOVERNMENTAL AGENCIES WITH JURISDICTION, LIST OF PERMITS NEEDED:

To locate and operate an asphalt plant within this specific site, the proponent must obtain and maintain the following:

- Authorization letter for temporary asphalt plant – Montana DNRC – Forestry and Trust Lands Division – Minerals Management Bureau
- Any water used in the process must have a permitted water right from the DNRC WRD
- Opencut Mining Permit 674 – Montana DEQ Opencut Section
- With respect to air and water quality the proponent must comply with all federal regulations set forth by the Environmental Protection Agency (EPA) and state regulations set forth by the Montana Department of Environmental Quality (DEQ).
- An asphalt plant requires a DEQ Air Quality Bureau permit.
- A spill prevention, control and countermeasure plan (SPCC)

3. ALTERNATIVES CONSIDERED:

***No Action Alternative*:** The request to operate a temporary asphalt plant within the boundaries of the DSL pit would be denied via a denial letter. If this alternative is selected, Riverside Contracting has communicated to the FTLD that they would utilize an alternate location for the asphalt plant near Alder, Montana which is approximately 26 road miles from the DSL pit. The Alder site is not owned by State of Montana Trust Lands. Under this alternative, gravel would be hauled from the DSL pit, through the repaving project area in which the asphalt is needed, to the Alder site and stockpiled. It would then be made into asphalt through the asphalt plant, hauled east along MT highway 287 back towards the project, then utilized for the paving job. It should be noted

that if the no action alternative is selected, impacts to the environment at the DSL site as it relates to an asphalt plant are expected to be negligible or none.

***Action Alternative*:** The request to operate a temporary asphalt plant within the boundaries of the DSL pit would be authorized via an authorization letter. If this alternative is selected, the proponent or Riverside Contracting would be allowed to locate and operate an asphalt plant within the boundaries of the DSL pit for the requested period of April 1, 2024, to June 8, 2024. It shall be noted that if the action alternative is selected, impacts to the environment at the Alder site are expected to be negligible or none. If the action alternative is selected, the gravel permit G-1273-94 would be amended to collect a one-time rental use fee of $4,000 for the temporary use of the asphalt plant.

SUMMARY OF POTENTIAL IMPACTS TO THE PHYSICAL AND HUMAN ENVIRONMENT

The impacts analysis identifies and evaluates direct, secondary, and cumulative impacts.

• **Direct impacts**: impacts that occur at the same time and place as the action that causes the impact

• **Secondary impacts**: further impacts to the human environment that may be stimulated, or induced by, or otherwise result from a direct impact of the action.

• **Cumulative impacts**: collective impacts on the human environment of the proposed action when considered in conjunction with other past and present actions related to the proposed action by location or generic type. Related future actions must also be considered when these actions are under concurrent consideration by any state agency through pre-impact statement studies, separate impact study evaluation, or permit processing procedures.

Where impacts are expected to occur, the impacts analysis estimates the duration and severity of the impact.

The duration of an impact is quantified as follows:
• **Short-term**: impacts that would not last longer than the proposed operation of the site, including reclamation of the site.
• **Long-term**: impacts that would remain or occur following reclamation of the proposed site.

The severity of an impact is measured using the following:
• **No impact**: There would be no change from current conditions.
• **Negligible**: An adverse or beneficial effect would occur but would be at the lowest levels of detection.
• **Minor**: The effect would be noticeable but would be relatively small and would not affect the function or integrity of the resource.
• **Moderate**: The effect would be easily identifiable and would change the function or integrity of the resource.
• **Major**: The effect would alter the resource

III. IMPACTS ON THE PHYSICAL ENVIRONMENT

- *RESOURCES potentially impacted are listed on the form, followed by common issues that would be considered.*
- *Explain POTENTIAL IMPACTS AND MITIGATIONS following each resource heading.*
- *Enter "NONE" If no impacts are identified or the resource is not present.*

4. GEOLOGY AND SOIL QUALITY, STABILITY AND MOISTURE:

Consider the presence of fragile, compactable or unstable soils. Identify unusual geologic features. Specify any special reclamation considerations. Identify any cumulative impacts to soils.

Issues and Concerns:

- The operation of an asphalt plant will be detrimental to soils.

Current conditions:

Geology: No unique or unusual geologic features are present within the DSL pit. If the action alternative is selected the asphalt plant would be stationed on the DSL gravel pit floor which is comprised of compacted gravel. The gravel deposit is alluvial terrace in nature and is situated within a large bench west of the Madison River. Immediately beneath the gravel layer that is being mined, is interlaid clay and sands. This can be observed in adjacent well logs.

The FTLD is unaware of the nature of geology at the Alder site.

Soils: All topsoil within the DSL pit operating area has been stripped, stockpiled, and saved for mining reclamation. The area of the proposed asphalt plant location does not contain any soils, rather it is compacted gravel that is on the pit floor. The pit floor is underlain with multiple layers of clay, sand, and silt.

The FTLD has been informed by Riverside Contracting that the Alder site is also stripped of topsoil.

Alternatives

***No Action Alternative*:**

Direct Impacts: The selection of the no action alternative would place the asphalt plant at the Alder site. Riverside informed the FTLD that the site at Alder has been stripped of topsoil. No impacts to geology and soil quality, stability and moisture are expected to occur from the selection of the no action alternative.

Secondary Impacts: The selection of the no action alternative is not expected to have any secondary impacts on geology and soil quality, stability, and moisture.

Cumulative Impacts: The selection of the no action alternative is not expected to change the cumulative impacts to geology, soil quality, stability, and moisture.

Duration: No impacts were identified from the selection of the no action alternative. Therefore, duration is not applicable.

***Action Alternative*:**

Direct Impacts: No impacts to geology and soil quality, stability and moisture would be expected from the selection of the action alternative. This is because soils in the area in which the asphalt plant would be located, have already been stripped and stockpiled for gravel mining purposes.

Secondary Impacts: There are no secondary impacts expected to geology and soil quality, stability, and moisture from the selection of the action alternative.

Cumulative Impacts: There are no cumulative impacts expected to geology and soil quality, stability, and moisture from the selection of the action alternative.

Duration: No impacts were identified from the selection of the action alternative. Therefore, the duration of impacts is not applicable.

5. WATER QUALITY, QUANTITY AND DISTRIBUTION:

Identify important surface or groundwater resources. Consider the potential for violation of ambient water quality standards, drinking water maximum contaminant levels, or degradation of water quality. Identify cumulative effects to water resources.

Issues and Concerns

- Contaminants from the asphalt plant may escape containment and seep into the groundwater or run off into surface water nearby, therefore impacting the resource.
- The asphalt plant will consume groundwater.
- The bank of the Madison River is no place to put an asphalt plant.

Current Conditions

Surface Water: Section 16 contains an irrigation ditch that draws water from Moore Creek. Moore Creek is a tributary of the Madison River and ultimately drains into Fletcher Channel and then Ennis Lake. Moore Creek is located east of this irrigation ditch and flows mostly parallel to Fletcher Channel prior to their confluence just south of Ennis Lake. Ennis lake and the main channel of the Madison River are approximately 1.5 miles from the DSL pit. The irrigation ditch most near the project (950 ft at its closest point) flows through what appears to be a series of detention basins prior to entering Ennis Lake.

Alder, MT is located near the Ruby River, which flows into the Beaverhead River just upstream of the Beaverhead's confluence with the Big Hole River. The confluence of the Beaverhead and the Big Hole, form the Jefferson River which is one of the "Three Forks" that form the headwaters of the Missouri River.

Ground Water: A search of the Montana Ground Water Information Center's website yields 3 groundwater wells directly adjacent to the DSL site. Two of the wells, on the south side of the pit, are statewide monitoring network wells. Figures 1 and 2 show the variance in depth to ground water overtime for these wells compared to ground surface. Additionally, a well was completed by Valley Garden Land and Cattle (325450) in January 2023 just north of the pit boundary, this well reports a static water level of 41 feet below ground surface. Figure 3 shows the wells' spatial relation to the DSL pit. From lidar data published by the Montana State Library, the surface elevation of the groundwater wells was estimated. By subtracting the minimum depth to water from the elevation, a maximum calculated elevation of groundwater is obtained. The average maximum calculated elevation of groundwater from the three wells listed above is 4874.33 ft asl (above sea level). The lowest elevation within the pit area according to Montana State Library lidar is 4914 ft asl. It is therefore estimated that the pit floor and ground water table are separated by approximately 40 ft. Additionally, all three of the GWIC wells' logs report interlaid sands and clays that are immediately beneath the pit floor.

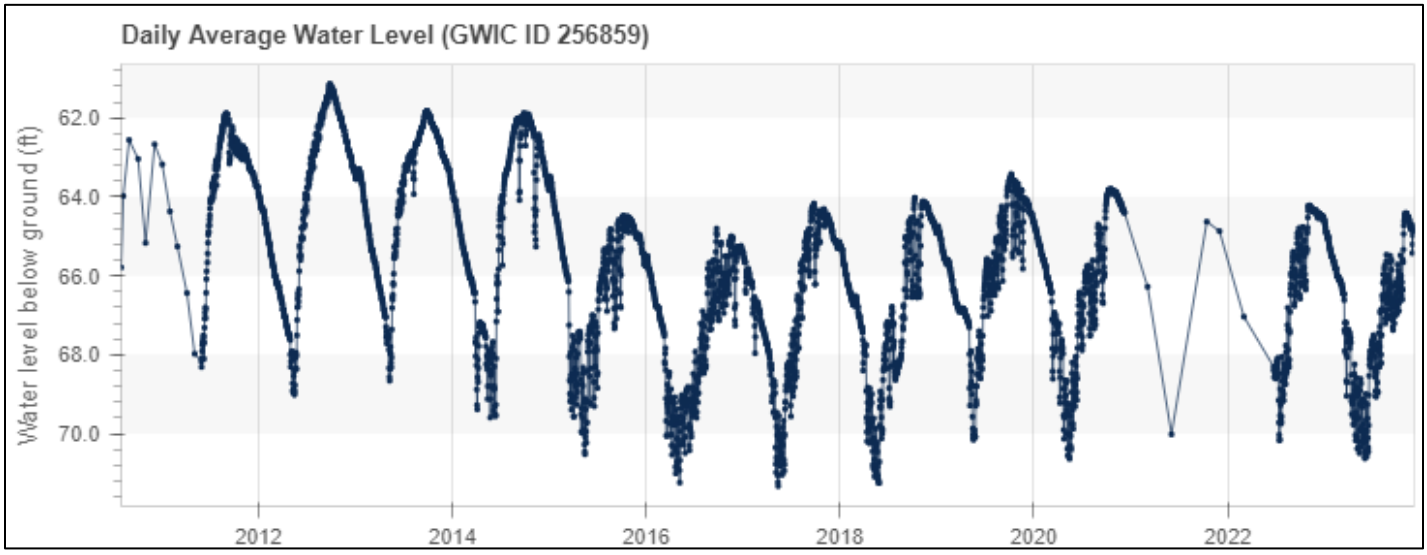

Figure 1: Variance in water level below ground surface over time. GWIC Well 256859

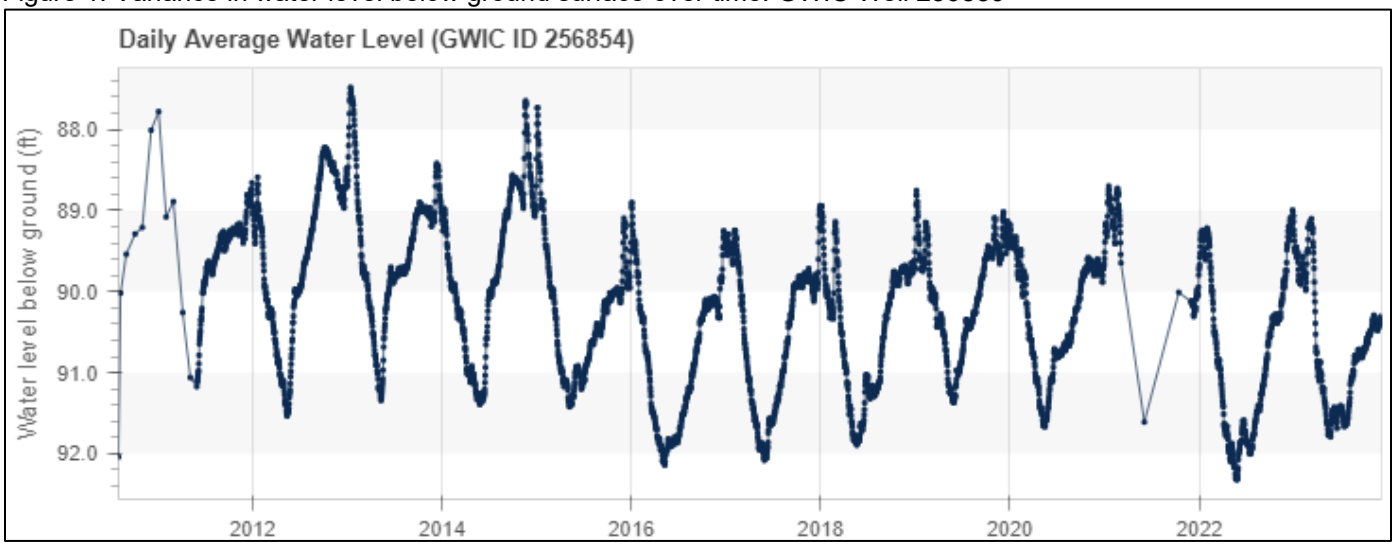

Figure 2: Variance in water level below ground surface over time. GWIC Well 256854

Figure 3: Spatial Relation of GWIC Wells to DSL Pit

The FTLD is unaware of the nature of the groundwater near the Alder Site.

Alternatives

***No Action Alternative*:**

Direct Impacts: There would be no changes of impacts to water quality, quantity or distribution near the DSL site from the selection of the no action alternative. The Forestry and Trust Lands Division does not know the nature of the site at Alder, its relation to ground or surface water, or the presence or lack of berms to control runoff. Therefore, it is difficult for the Forestry and Trust Lands Division to determine whether impacts to water quality, quantity, or distribution would occur. The mobile asphalt plant that would be utilized for this project consists of several trailers that combine to form a closed loop, drum style system, in which byproducts enter and asphalt exits. Some aggregate fines are discharged from the baghouse on the plant, most of which are recycled back into the plant. The aggregate fines that are not recycled back into the plant, are typically spread on the pit floor, and recycled in gravel mining operations. The fines consist of the same components as the gravel and do not contain chemicals or toxins. The plant utilizes propane for burner fuel and a diesel generator for power. The plant also uses some amounts of water for the creation of asphalt. The Forestry and Trust Lands Division is unaware of the water rights or usage at the Alder site. The DNRC Forestry and Trust Lands Division is non-regulatory and has no authority over the operation of an asphalt plant on lands in which they do not own. The Forestry and Trust Lands Division is not able to make an accurate assessment on the impacts to water at the Alder site, nor is it under the purview of the Forestry and Trust Lands Division.

Secondary Impacts: Secondary impacts to water quality, quantity and distribution are unknown at the Alder site.

Cumulative Impacts: The selection of the no action alternative would utilize water in the operation of the asphalt plant. The FTLD is unaware of the nature of water rights or usage at the Alder site. The usage of water in the asphalt plant would not be expected to have appreciable changes to cumulative impacts on water.

Duration: Impacts from the selection of the action alternative are expected to be short-term.

Action Alternative:

Direct Impacts: The mobile asphalt plant that would be utilized for this project consists of several trailers that combine to form a closed loop, drum style system, in which byproducts enter, and asphalt exits. Some aggregate fines are discharged from the baghouse on the plant, most of which are recycled back into the plant. The aggregate fines that are not recycled back into the plant, are typically spread on the pit floor, and recycled in mining operations. The fines consist of the same components as the gravel and do not contain chemicals or toxins. The plant utilizes propane for burner fuel and a diesel generator for power. The plant uses water for the creation of asphalt. AM Welles is authorized to utilize water via an exempt water well at the DSL pit. AM Welles shall abide by the terms and quantities of their water right, issued by the DNRC Water Rights Division. The DNRC Forestry and Trust Lands Division has no authority over the amount of water utilized from the ground water well. An exempt well in its nature, has minor or negligible impacts upon water quantity in its general vicinity. It is why the well is exempt from further permitting and regulation. Since the plant is a closed loop system, it is not anticipated that it will have significant impacts upon water quality, in the project area. If a spill of binder, diesel or any other chemical occurs, the proponent shall report and clean the incident in accordance with applicable MT DEQ and EPA laws. If a spill were to occur, it would not be expected to infiltrate to the ground water table due to the clay layers present between the pit floor and the groundwater aquifer. Multiple commentors have expressed concerns over the porous nature of the subsurface at the DSL site. While the pit floor is porous, there are prevalent clay layers between the base of the pit floor and the freshwater aquifer that act as a barrier between the pit floor and aquifer. The berms surrounding the DSL pit are expected to contain any contaminants that may be leaked, from exiting the pit during surface runoff events. If stormwater is not retained during precipitation events, the pit operator must apply for and obtain further permitting from the Montana DEQ Water Quality Bureau. If somehow, in the unlikely event that any chemical was to escape the boundaries of the pit, it would be expected to settle in the lowland bench area immediately east of the pit boundary, it would not be expected to reach the irrigation ditch, Moore Creek, the Madison River, or Ennis Lake. Comments that assert the asphalt plant would be placed on the banks of the Madison River, are simply untrue. The asphalt plant would be placed within the boundaries of the DSL pit, which complies with the regulated setbacks of ARM 17.24.227. Riverside has a spill prevention, control, and countermeasure plan for the mobile asphalt plant. Overall, there are no impacts to ground or surface water quality expected from the selection of the action alternative. Impacts to

quantity and distribution are expected to be minor or negligible and occur from the usage of water in the project operations from the exempt well.

Secondary Impacts: There are no secondary impacts expected to water quality, quantity, or distribution resulting from the selection of the action alternative.

Cumulative Impacts: The selection of the action alternative would utilize water in the operation of the asphalt plant. AM Welles has a permitted exempt water right from the DNRC's Water Rights Division and the usage of the water in the plant is not expected to appreciably change the cumulative impacts to water in the area.

Duration: Impacts from the selection of the action alternative are expected to be short-term.

Mitigations

The potential selection of the action alternative would include the following stipulations in the authorization letter.

- The asphalt plant must be regularly maintained and inspected to ensure it is not leaking fluids.
- If a spill of any hazardous liquid occurs, the permittee must report the incident in accordance with applicable MT DEQ and EPA laws.
- Any plans or regulations required by law regarding spill prevention and control, or water quality protection must be followed.
- Any fuel or other hazardous liquids must be stored in impermeable containers.
- All laws and permits related to the use and storage of water must be followed.

6. AIR QUALITY:

What pollutants or particulate would be produced? Identify air quality regulations or zones (e.g. Class I air shed) the project would influence. Identify cumulative effects to air quality.

Issues and Concerns

- Emissions from the asphalt plant and trucking will pollute the air with greenhouse gasses.
- Emissions from the asphalt plant contain carcinogenic toxins that impact human health and wildlife health.
- Dust would be created from asphalt plant operations.
- The Asphalt plant would emit PFAS, forever chemicals.

Current Conditions

Currently the emissions sources that impact air quality in the area are dust particulates created from gravel mining operations at the DSL pit, agriculture activities, and vehicle travel on gravel roads. Additionally, local vehicle traffic, home heating, and industrial and agricultural activities emit greenhouse gasses to the atmosphere. Seasonally, wildfires may have a significant impact upon air quality in the area.

Air quality and emissions are regulated by the Montana DEQ and Environmental Protection Agency.

Alternatives

No Action Alternative:

Direct Impacts: The selection of the no action alternative would locate the asphalt plant near Alder, Montana. Asphalt plant emissions are expected to be the same in both the action alternative and no action alternative. To create enough asphalt to complete the road project, Riverside Contracting estimates 41,895 gallons of propane will be used as burner fuel, and 5,500 gallons of diesel fuel will be used to power the generator.

Carbon Dioxide is the principal greenhouse gas (GHG) created from the burning of diesel and propane. Other GHG's such as methane, nitrous oxides, and fluorinated compounds are also emitted. The US Energy Information Administration shows that one gallon of propane creates 12.68 pounds of carbon dioxide emissions. To create the asphalt needed to complete the road project, the required volume of 41,895 gallons of propane would be expected to create 531,229 pounds of carbon dioxide. Also, according to the US Energy Information Administration and the EPA, Diesel fuel creates 22.45 pounds of carbon dioxide per gallon of fuel. Therefore, the creation of the necessary asphalt would create 123,475 pounds of carbon dioxide from the burning of diesel fuel. Combined, the burning of diesel and propane for asphalt generation is equal to 654,704 pounds or 297 metric tons of carbon dioxide.

The no action alternative would be expected to utilize 28,895 gallons of diesel fuel for trucking. Again, utilizing a coefficient of 22.45 pounds of carbon dioxide per gallon of diesel fuel burned, it is expected that the no action alternative will create 648,693 pounds or 294 metric tons of carbon dioxide from trucking.

In total, the no action alternative would be expected to emit 591 metric tons of carbon dioxide According to the US Energy Information Center, it was estimated that Montana emitted 28.5 million metric tons of energy-related carbon dioxide in 2021.

According to the Montana DEQ, asphalt plants produce particulate matter (PM), oxides of nitrogen (NOx) and carbon monoxide, which are regulated by the DEQ and the EPA. Any other toxins including PFAS, or other chemicals released from asphalt plant emissions would also be regulated by these agencies.

Every asphalt plant in Montana must be registered with the Montana DEQ and the operator must notify DEQ of any proposed new location 15 days prior to production. Asphalt plants must follow the rules and regulations set forth by Montana DEQ Air Quality Bureau and the Environmental Protection Agency.

Dust generation created from loading, hauling, and dumping of aggregate would be expected to be greater in the no action alternative when compared to the action alternative. In the action alternative, the aggregate would be taken directly from the DSL pit, loaded into the asphalt plant onsite and then sent to the project to be utilized. In contrast, the no action alternative would require aggregate to be loaded into trucks which would then have to be hauled approximately 26 miles to Alder and stockpiled onsite. The stockpiled aggregate would then be loaded into the asphalt plant and asphalt would be generated and sent back to the project area to be utilized.

Overall, when compared to the emissions of the Montana energy-related emissions, the impacts to air quality from the selection of the no action alternative are expected to be minor.

Secondary Impacts: There are no secondary impacts expected to air quality from the selection of the no action alternative.

Cumulative Impacts: The 591 metric tons of carbon dioxide that would be expected to be produced from the selection of the no action alternative, would enter the atmosphere, and disperse among the current components of the atmosphere. The addition of 591 metric tons of carbon dioxide would not be expected to significantly impact air quality at a local, statewide, national, or global level. Cumulative impacts from the selection of the no action alternative are expected to be minor.

Duration: Impacts to air quality resulting from the selection of the no action alternative would be expected to be short-term.

Action Alternative:

Direct Impacts: The selection of the action alternative would locate the asphalt plant in the DSL pit. Asphalt plant emissions are expected to be the same in both the action alternative and no action alternative. To create enough asphalt to complete the road project, Riverside Contracting estimates 41,895 gallons of propane will be used as burner fuel, and 5,500 gallons of diesel fuel will be used to power the generator.

Carbon Dioxide is the principle GHG created from the burning of diesel and propane. Other GHG's such as methane, nitrous oxides, and fluorinated compounds are also emitted. The US Energy Information

Administration shows that one gallon of propane creates 12.68 pounds of carbon dioxide emissions. To create the asphalt needed to complete the road project, the required volume of 41,895 gallons of propane would be expected to create 531,229 pounds of carbon dioxide. Also, according to the US Energy Information Administration, Diesel fuel creates 22.45 pounds of carbon dioxide per gallon of fuel. Therefore, the creation of the necessary asphalt would create 123,475 pounds of carbon dioxide from the burning of diesel fuel. Combined, the burning of diesel and propane for asphalt generation is equal to 654,704 pounds or 297 metric tons of carbon dioxide.

The action alternative would be expected to utilize 12,614 gallons of diesel fuel for trucking. Again, utilizing a coefficient of 22.45 pounds of carbon dioxide per gallon of diesel fuel burned, it is expected that the no action alternative will create 283,184 pounds or 128 metric tons of carbon dioxide from trucking.

In total, the action alternative would be expected to emit 425 metric tons of carbon dioxide. For comparison, it was estimated that Montana emitted 28.5 million metric tons of energy-related carbon dioxide in 2021.

According to the Montana DEQ, asphalt plants produce particulate matter (PM), oxides of nitrogen (NOx) and carbon monoxide, which are regulated by the DEQ and the EPA. Any other toxins including PFAS, or chemicals released from asphalt plant emissions would also be regulated by these agencies.

Every asphalt plant in Montana must be registered with the Montana DEQ and the operator must notify DEQ of any proposed new location 15 days prior to production. Asphalt plants must follow the rules and regulations set forth by Montana DEQ Air Quality and the EPA.

Dust generation created from loading, hauling, and dumping of aggregate would be expected to be greater in the no action alternative when compared to the action alternative. In the action alternative, the aggregate would be taken directly from the DSL pit, loaded into the asphalt plant onsite and then sent to the project to be utilized. In contrast, the no action alternative would require aggregate to be loaded into trucks which would then have to be hauled approximately 26 miles to Alder and stockpiled onsite. The stockpiled aggregate would then be loaded into the asphalt plant and asphalt would be generated and sent back to the project area to be utilized.

Overall, the impacts to air quality from the selection of the action alternative are also expected to be minor, but less than those expected from the selection of the no action alternative.

Secondary Impacts: There are no secondary impacts to air quality expected from the selection of the action alternative.

Cumulative Impacts: The 425 metric tons of carbon dioxide that would be expected to be produced from the selection of the action alternative, would enter the atmosphere, and disperse among the current components of the atmosphere. The addition of 425 metric tons of carbon dioxide would not be expected to significantly impact air quality at a local, statewide, national, or global level. Cumulative impacts from the selection of the no action alternative are expected to be minor.

Duration: Impacts to air quality from the selection of the action alternative would be expected to be short-term.

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7. VEGETATION COVER, QUANTITY AND QUALITY:
What changes would the action cause to vegetative communities? Consider rare plants or cover types that would be affected. Identify cumulative effects to vegetation.

Issues and Concerns

- The operation of an asphalt plant will negatively impact flora in the area.

Current Conditions

The DSL site and the Alder site have already been stripped of topsoil and vegetation.

Alternatives

***No Action Alternative*:**

Direct Impacts: Riverside Contracting informed the FTLD that the site at Alder has already been stripped of vegetation and topsoil. The selection of the no action alternative is not expected to have any direct impacts upon vegetation cover, quantity, and quality.

Secondary Impacts: The selection of the no action alterative would not be expected to have any secondary impacts upon vegetation cover, quantity, and quality.

Cumulative Impacts: The selection of the no action alternative would not be expected to change cumulative impacts upon vegetation cover, quantity, and quality.

Duration: No impacts have been identified from the selection of the no action alternative. Therefore, the duration of impacts in not applicable for this resource section.

***Action Alternative*:**

Direct Impacts: The action alternative would locate the asphalt plant within the DSL site. Vegetation and topsoil at the DSL site have already been stripped and stockpiled for reclamation. No further stripping of vegetation or soil would be required from the selection of the action alternative. No direct impacts are expected to result from the selection of the action alternative.

Secondary Impacts: The selection of the action alternative would not be expected to have any secondary impacts upon vegetation cover, quantity, and quality.

Cumulative Impacts: The selection of the action alternative would not be expected to change cumulative impacts upon vegetation cover, quantity and quality.

Duration: No impacts have been identified from the selection of the no action alternative. Therefore, the duration of impacts in not applicable for this resource section.

8. TERRESTRIAL, AVIAN AND AQUATIC LIFE AND HABITATS:

Consider substantial habitat values and use of the area by wildlife, birds or fish. Identify cumulative effects to fish and wildlife.

Issues and Concerns

- An asphalt plant will disturb wildlife.
- An asphalt plant will impact wildlife's ability to effectively reproduce.
- The proposed project timeline will coincide with calving season for mammals in Montana.

Current Conditions

The general area surrounding the DSL pit provides habitat for a variety of wildlife species. Deer, elk, moose, and antelope all inhabit the Madison valley. Migratory, predatory and songbird species all inhabit the Madison Valley and may be in the project vicinity. Approximately 1.5 miles east of the DSL pit, is the main channel of the Madison River which runs into Ennis Lake. The lake, river, and their tributaries contain multiple species of trout, artic grayling, and other fish species. They also provide habitat for amphibians and reptiles such as snakes and frogs. Other species that may be present in the area include foxes, coyotes, wolves, badgers, and other burrowing species such as mice and gopher.

Species at the Alder site would be expected to be similar to those listed above.

Alternatives

***No Action Alternative*:**

Direct Impacts: The no action alternative would locate the asphalt plant near Alder. Some exhaust and odor would be emitted from the plant, which could temporarily alter animal travel routes and land use near the plant. However due to the short-term nature of the proposed project, these emissions are not expected to permanently impact any wildlife species or their habitats in the area. Without knowing the specific impacts to water of the no action alternative, it is difficult to determine whether fish species would be impacted.

The FTLD does not make any assertion to the accuracy of comments received regarding asphalt plant emissions impacting the reproductive success of animals. The Montana DEQ and the Environmental Protection Agency regulate the allowable emissions from an asphalt plant. Wildlife near the Alder site may experience minor impacts from the asphalt plant mostly in the form of aesthetic disturbances (noise, vision, and smell).

The additional trucking miles that would be included in the selection of the no action alternative would increase the potential for vehicular-wildlife collisions along the haul route when compared to the action alternative.

Overall, the direct impacts of the no action alternative to terrestrial and avian habitats in the area would be expected to be minor. Impacts to aquatic life are unknown.

Secondary Impacts: The selection of the no action alternative would not be expected to have any secondary impacts on terrestrial or avian life and habitats. Impacts to aquatic life are unknown.

Cumulative Impacts: Human disturbances such as highways, roads, houses, agricultural and industrial activities all impact wildlife species in the Alder area. The additional impacts introduced from the selection of the no action alternative would not be expected to significantly alter the impacts to wildlife that are currently present in the area.

Duration: The impacts of the selection of the no action alternative are expected to be short-term.

***Action Alternative*:**

Direct Impacts: Terrestrial and avian life and habitats near the DSL pit may be impacted by the selection of the action alternative. Aquatic life is not expected to be impacted. Some exhaust and odor would be emitted from the plant, which could temporarily alter animal travel routes and land use near the plant. However, due to the short-term nature of the proposed project, these emissions would not be expected to permanently impact any wildlife species or habitats in the area. No impacts to fish or aquatic species are expected to occur from the selection of the action alternative.

The FTLD does not make any assertion to the accuracy of comments received regarding asphalt plant emissions impacting the reproductive success of animals. The Montana DEQ and the Environmental Protection Agency regulate the allowable emissions from an asphalt plant. Wildlife near the DSL site may experience minor impacts from the asphalt plant mostly in the form of aesthetic disturbances (noise, vision and smell).

The additional trucking miles that would be included in the selection of the no action alternative would increase the potential for vehicular-wildlife collisions along the haul route when compared to the action alternative.

Overall, the direct impacts of the action alternative to terrestrial, avian and aquatic life would be expected to be minor. The selection of the action alternative would be expected to have lesser impacts on terrestrial, avian and aquatic life than the no action alternative.

Secondary Impacts: The selection of the action alternative would not be expected to have any secondary impacts on terrestrial, avian and aquatic life and habitats.

Cumulative Impacts: Human disturbances such as highways, roads, houses, agricultural and industrial activities all impact wildlife species in the greater Madison Valley. Additionally, the DSL pit has existed at this site for the entirety of an animal's life in the project area. They have become conditioned to the presence of the pit. The additional impacts introduced from the selection of the action alternative would not be expected to significantly alter the impacts to wildlife that are currently present in the area.

Duration: The impacts of the selection of the action alternative are expected to be short-term.

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9. UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES:
Consider any federally listed threatened or endangered species or habitat identified in the project area. Determine effects to wetlands. Consider Sensitive Species or Species of special concern. Identify cumulative effects to these species and their habitat.

Issues and Concerns

- The Madison Valley provides habitat for sensitive species and species of concern. The impacts of an asphalt plant would be detrimental to these species.

Current Conditions

An inventory of the Montana Natural Heritage Program's animal Species of Concern database was conducted for the DSL area. The project area yielded no observations for species of concern. However, there were observations within the project vicinity. Observations in the project area vicinity included: wolverine, artic grayling, Ferruginous Hawk, long-billed curlew, American White Pelican, and Great Blue Heron. Other sensitive species or species of concern may also be in the area.

Within the general vicinity of Alder, MT there were species point observations for American White Pelican, Brewer's Sparrow, Cassin's Finch, Common loon, Golden Eagle, Great Blue Heron, and White-faced Ibis. Other sensitive species or species of concern may also be in the area.

Alternatives

***No Action Alternative*:**

Direct Impacts: The no action alternative would locate the asphalt plant near Alder. Some exhaust and odor would be emitted from the asphalt plant, which could temporarily alter individuals of species of concern travel routes and land use near the plant. However, these emissions are not expected to significantly impact any species of concern or their habitats in the area due to the short-term nature of the project.

The FTLD does not make any assertion to the accuracy of comments received regarding asphalt plant emissions impacting the reproductive success of animals. The Montana DEQ and the Environmental Protection Agency regulate the allowable emissions from an asphalt plant. Sensitive species or species of concern near the Alder site may experience minor impacts from the asphalt plant mostly in the form of aesthetic disturbances (noise, vision and smell).

The additional trucking miles that would be included in the selection of the no action alternative would increase the potential for vehicular-wildlife collisions that may include sensitive species or species of concern along the haul route when compared to the action alternative.

Overall, the direct impacts of the no action alternative to unique, endangered, fragile or limited environmental resources in the area would be expected to be minor.

Secondary Impacts: The selection of the no action alternative would not be expected to have any secondary impacts on unique, endangered, fragile or limited environmental resources.

Cumulative Impacts Human disturbances such as highways, roads, houses, agricultural and industrial activities all impact wildlife species in the greater Madison Valley. The additional impacts introduced from the selection of the no action alternative would be expected to be negligible. The additional impacts would not be expected to appreciably change current impacts upon unique, endangered, fragile or limited environmental resources.

Duration: The impacts of the selection of the no action alternative are expected to be short-term.

Action Alternative:

Direct Impacts: Some exhaust and odor would be emitted from the asphalt plant, which could temporarily alter individuals of species of concern travel routes and land use near the plant. However, these emissions are not expected to significantly impact any species of concern or their habitats in the area due to the short-term nature of the project. The placement of the asphalt plant in the DSL pit would be expected to have no impacts upon wetlands.

The FTLD does not make any assertion to the accuracy of comments received regarding asphalt plant emissions impacting the reproductive success of animals. The Montana DEQ and the Environmental Protection Agency regulate the allowable emissions from an asphalt plant. Wildlife near the DSL site may experience minor impacts from the asphalt plant mostly in the form of aesthetic disturbances (noise, vision, and smell.)

The additional trucking miles that would be included in the selection of the no action alternative would increase the potential for vehicular-wildlife collisions that may include sensitive species or species of concern along the haul route when compared to the action alternative.

Overall, the direct impacts of the action alternative to unique, endangered, fragile or limited environmental resources in the area would be expected to be minor and less than those of the no action alternative.

Secondary Impacts: The selection of the action alternative would not be expected to have any secondary impacts to unique, endangered, fragile or limited environmental resources.

Cumulative Impacts: Human disturbances such as highways, roads, houses, agricultural and industrial activities all impact wildlife species in the greater Madison Valley. Additionally, the DSL pit has existed at this site for the entirety of an animal's life in the project area. They have become conditioned to the presence of the pit. The additional impacts introduced from the selection of the action alternative would not be expected to significantly alter the impacts to wildlife that are currently present in the area.

Duration: The impacts of the selection of the action alternative are expected to be short-term.

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10. HISTORICAL AND ARCHAEOLOGICAL SITES:
Identify and determine effects to historical, archaeological or paleontological resources.

Current Conditions

In both the action alternative and no-action alternative, the ground in which the asphalt plant would be placed has been stripped of topsoil and vegetation. Therefore, neither would be likely to contain historical or archaeological sites. If previously undiscovered archaeological or paleontological resources, are found during mining activities, AM Welles is required to stop work and notify the DNRC per the requirements of their aggregate take and remove permit.

Alternatives

No Action Alternative:

Direct Impacts: The asphalt plant would be placed upon pre-disturbed ground near Alder. No further digging or stripping of the ground's surface would be anticipated from the selection of the no action alternative. The no action alternative would not be expected to have any impact on historical and archaeological sites.

Secondary Impacts: There are no secondary impacts expected to historical and archaeological sites from the selection of the no action alternative.

Cumulative Impacts: There are no changes to cumulative impacts for historical and archaeological sites expected from the selection of the no action alternative.

Duration: No impacts identified; therefore, duration is not applicable.

Action Alternative:

Direct Impacts: The selection of the action alternative would place asphalt plant within the boundaries of the DSL gravel pit. The plant would be placed upon the pit floor which is approximately 20 feet lower than the original ground surface. The area in which the asphalt plant would be placed is void of vegetation and soil. No impacts to historical and archaeological sites would be anticipated, resulting from the selection of the no action alternative.

Secondary Impacts: There are no secondary impacts expected, resulting from the selection of the action alternative.

Cumulative Impacts: There are no changes to cumulative impacts for historical and archaeological sites expected from the selection of the no action alternative.

Duration: No impacts are anticipated; therefore, the duration of impacts is not applicable.

11. AESTHETICS:

Determine if the project is located on a prominent topographic feature or may be visible from populated or scenic areas. What level of noise, light or visual change would be produced? Identify cumulative effects to aesthetics.

Issues and Concerns

- An asphalt plant will introduce an odor that will be noticed by residents, recreationists, and wildlife near the project site.
- An asphalt plant will introduce additional noise.
- An asphalt plant will produce a visual disturbance either in the form of exhaust emitted from the plant or the plant will be visible itself.

Current Conditions

The DSL pit is located approximately three miles north of the town of Ennis, Montana along US highway 287. It is also approximately 1.5 miles south of the Troutdale subdivision and three miles south of the town of McAllister, Montana. The alternative site near Alder, Montana is approximately 23 road miles to the West of Ennis. The exact location of the site in Alder is unknown, as well as its proximity to residences. The DSL pit currently contributes aesthetic impacts to residences and recreationists nearby in the form of audible and visual disturbances. Highway 287 is also a large contributing factor to the audible disturbances of residences and recreationists near the pit. Alder experiences less traffic at slower velocities than the DSL site. Both Ennis and Alder are proximate to rivers that experience large amounts of recreation in the spring and summer months. Ennis and the DSL pit are near the Madison River, while Alder is near the Ruby River.

Alternatives

***No Action Alternative*:**

Direct Impacts: The no action alternative would place the asphalt plant near Alder, Montana. Direct aesthetic impacts would be noticed most largely by the employees of Riverside Contracting. The employees would be most near the asphalt plant during its operation. The asphalt plant would be expected to emit noise, visible exhaust, and odor. The employees of Riverside Contracting and should wear all proper personal protective equipment in accordance with occupational safety and health standards to mitigate impacts to themselves. The direct impacts to aesthetics are expected to be moderate.

Secondary Impacts: Secondary aesthetic impacts to residents and recreationists in the Alder area would occur form the selection of the no action alternative. The exhaust from the asphalt plant would be visible from the surrounding areas. The plant itself, may be visible from adjacent areas. Dependent upon proximity to the plant, wind speed, and wind direction; odor and noise from the plant may be realized by residents or recreationists. These impacts would be expected to be greatest when the asphalt plant is operational which is expected to be intermittent within the overall timeframe. Additionally, the selection of the no action alternative would include approximately 22,356 more vehicle miles travelled by the proponent to complete the project. The extra truck miles would impact visual and audible aesthetics along the additional miles of the haul route from the DSL pit to the asphalt plant location in Alder. Secondary impacts to aesthetics resulting from the selection of the action alternative are expected to be moderate.

Cumulative Impacts: The cumulative impacts expected from the selection of the no action alternative would be moderate. Overall, it is expected that aesthetic impacts related to increased traffic in the Alder area and along the MT highway 287 haul route would likely be the most noticeable. Alder is a rural community that does not experience much audible, visual, or other forms of aesthetic disturbance. The operation of the asphalt plant in the area would introduce moderate, additional, cumulative aesthetic impacts to an area mostly void of them currently.

Duration: The duration of aesthetic impacts from the selection of the no action alternative would be short-term and would be most noticeable when the plant is operational.

***Action Alternative*:**

Direct Impacts: The action alternative would place the asphalt plant within the boundaries of the DSL pit. Direct aesthetic impacts would be noticed most largely by the employees of Riverside Contracting and AM Welles. The employees would be most near the asphalt plant during its operation. The asphalt plant would be expected to emit noise, visible exhaust, and odor. The employees of Riverside Contracting and AM Welles should wear all proper personal protective equipment in accordance with occupational safety and health standards in order to mitigate aesthetic impacts to themselves. The direct impacts to aesthetics are expected to be moderate.

Secondary Impacts: Secondary aesthetic impacts to residents and recreationists near the DSL pit would occur. The exhaust from the asphalt plant would be visible from the surrounding areas. The plant itself, may be visible from adjacent areas. Dependent upon proximity to the plant, wind speed, and wind direction; odor and noise from the plant may be realized by residents or recreationists. These impacts would be expected to be greatest when the asphalt plant is operational which is expected to be intermittent within the overall timeframe. Additionally, the selection of the action alternative would save approximately 22,356 more vehicle miles travelled by the proponent to complete the project. The elimination of extra truck miles would decrease overall visual and audible aesthetics along the haul route of MT Highway 287. Secondary impacts to aesthetics resulting from the selection of the action alternative are expected to be moderate.

Cumulative Impacts: The cumulative impacts expected from the selection of the action alternative would be additive to the current aesthetic impacts of the DSL gravel mine and Highway 287. Machinery used to dig, crush, load and transport gravel are all present in the DSL pit. This machinery creates noise which can be heard by those proximate to the pit. The pit is largely shielded by berms from the Madison River, Ennis Lake and Highway 287. There have been reports of blowing dust from those recreating or living in the area. The operation of an asphalt plant would add some additional noise to the area. This additional noise is expected to blend with that of the current pit operations and vehicle traffic on highway 287. There may be some increases in truck traffic to and from the pit along Highway 287 during project operations, which would have both audible and visual impacts. This would be expected to occur in the no action alternative as well. Overall, the additional cumulative aesthetic impacts from the selection of the action alternative would be expected to be moderate.

Duration: The duration of aesthetic impacts is expected to be short-term and intermittent when the plant is operational.

Mitigations

The potential selection of the action alternative would include the following stipulations in the authorization letter.

- The asphalt plant may operate during daylight hours only.

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12. DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AIR OR ENERGY:
Determine the amount of limited resources the project would require. Identify other activities nearby that the project would affect. Identify cumulative effects to environmental resources.

Current Conditions

The current conditions of land, water, and air are included in sections 4, 5, 6 and 7 in this section. Energy sources in the form of diesel fuel and propane are readily available in the surrounding area.

Alternatives

No Action Alternative:

Direct Impacts: The no action alternative would place the asphalt plant at the Alder site. The impacts related to land, water and air are evaluated previously in this document in their respective resource sections. Energy resources needed for the project would include diesel fuel and propane. Both commodities are abundant in the area. The no action alternative would utilize more diesel fuel for trucking when compared to the action alternative. The most limited resource needed for the project is gravel. Both alternatives would utilize gravel

from the DSL pit. Other sources of commercial gravel are scarce in the area, making it a limited resource. Overall, impacts to limited resources would be expected to be minor.

Secondary Impacts: Secondary impacts related to land, water and air are evaluated previously in this document, in their respective sections. There are no secondary impacts to energy or other limited resources from the selection of the no action alternative.

Cumulative Impacts: The cumulative impacts of the no action alternative to land, water, and air are evaluated previously in their respective resource sections. Energy resources in Montana are abundant but not unlimited. The selection of the no action alternative would utilize more diesel fuel than the action alternative. However, the difference is expected to have a negligible impact on the availability and access of energy in the area.

Duration: The duration of impacts resulting from the selection of the no action alternative are expected to be short-term.

Action Alternative:

Direct Impacts: The action alternative would place the asphalt plant at the DSL site. The impacts related to land, water and air are evaluated previously in this document in their respective resource sections. Energy resources needed for the project would include diesel fuel and propane. Both commodities are abundant in the area. The no action alternative would utilize more diesel fuel for trucking when compared to the action alternative. The most limited resource needed for the project is gravel. Both alternatives would utilize gravel from the DSL pit. Other sources of commercial gravel are not readily available in the area, making it a limited resource. Overall, impacts to limited resources would be expected to be minor.

Secondary Impacts: Secondary impacts related to land, water and air are evaluated previously in this document, in their respective sections. There are no secondary impacts to energy or other limited resources from the selection of the action alternative.

Cumulative Impacts: The cumulative impacts of the action alternative to land, water, and air are evaluated previously in their respective resource sections. Energy resources in Montana are abundant but not unlimited. The selection of the no action alternative would utilize more diesel fuel that action alternative. However, the difference is expected to have a negligible impact on the availability and access of energy in the area.

Duration: The duration of impacts resulting from the selection of the action alternative are expected to be short-term.

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13. OTHER ENVIRONMENTAL DOCUMENTS PERTINENT TO THE AREA:

List other studies, plans or projects on this tract. Determine cumulative impacts likely to occur as a result of current private, state or federal actions in the analysis area, and from future proposed state actions in the analysis area that are under MEPA review (scoped) or permitting review by any state agency.

Issues and Concerns

- The authorization of an asphalt plant would harm the grazing lessee.

Current Conditions

The tract currently has an operational gravel pit which is permitted via the Montana DNRC through aggregate take and remove permit G-1273-94 and the Montana DEQ through Opencut permit 674. An expansion of this pit was evaluated and permitted by both agencies in 2022 and 2023. Both agencies completed an environmental assessment associated with the expansion which are on the Department's website. The DEQ opencut permit 674 and the accompanying environmental analysis, includes the ability to operate an asphalt plant and the impacts expected from the Montana DEQ.

The tract also contains a grazing lease, in which Valley Garden Land and Cattle is the lessee.

Alternatives

No Action Alternative:

Direct Impacts: Although the asphalt plant would be placed in Alder under the selection of the no action alternative, it is still anticipated that the project would utilize gravel from the DSL pit, which is authorized under aggregate take and remove permit G-1273-94 and Montana DEQ Opencut permit #674. The utilization of gravel from the pit would have a positive impact for the gravel permittee and State of Montana Trust Lands. The no action alternative would have no impact to the State of Montana Trust Lands grazing lease on the DSL tract.

Secondary Impacts: The no action alternative would not have any secondary impacts on other plans or projects on the tract, as the asphalt plant would be located at the Alder site.

Cumulative Impacts: The no action alternative would not be expected to have any cumulative impact upon the plans or projects on the tract, as the asphalt plant would be located at the Alder site.

Duration: No impacts are anticipated, therefore the duration of impacts is not applicable.

Action Alternative:

Direct Impacts: As listed above in the current conditions portion of this resource section, this tract contains two separately permitted activities by the Montana DNRC. The first is an aggregate take and remove permit, which authorizes, in conjunction with a Montana DEQ opencut permit, the ability to mine gravel on State of Montana Trust Lands. Additionally, there is a State of Montana Trust Lands Grazing lease on this tract. It is held by Valley Garden Land and Cattle. The selection of the action alternative would utilize gravel from the DSL pit to generate asphalt onsite. The selection of the action alternative would be expected to have positive impacts for the aggregate take and remove permittee as well as State of Montana Trust Lands. If livestock are present on the tract during the temporary authorization of the asphalt plant, the selection of the action alternative would be expected to have some minor impact on the State of Montana Grazing Lessee. These impacts would include noise from asphalt generation, sights of exhaust from the asphalt plant, and an odor from asphalt generation. These impacts are expected to be minor both to the livestock and the individuals managing them and should in no way impact the monetary value of the lease or the sustenance of forage.

Secondary Impacts: There are no secondary impacts to other plans or projects on the tract expected from the selection of the action alternative.

Cumulative Impacts: There are no additional cumulative impacts from the selection of the action alternative to plans or projects on the tract.

Duration: The duration of impacts resulting from the selection of the action alternative are expected to be short-term.

IV. IMPACTS ON THE HUMAN POPULATION

- *RESOURCES potentially impacted are listed on the form, followed by common issues that would be considered.*
- *Explain POTENTIAL IMPACTS AND MITIGATIONS following each resource heading.*
- *Enter "NONE" If no impacts are identified or the resource is not present.*

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14. HUMAN HEALTH AND SAFETY:
Identify any health and safety risks posed by the project.

Issues and Concerns

- Asphalt production releases noxious fumes or toxins through its exhaust.
- Asphalt production is dangerous for the employees generating it.
- Increased heavy truck traffic will impact the safety of motorists.

- Drinking water quality will be impacted by the authorization of an asphalt plant, therefore impacting human health.

Current Conditions

The current human health and safety risks on the tract are the gravel mine and Highway 287. The gravel mine poses occupational hazards to the employees that operate it. Personal protective equipment, OSHA regulations and MSHA regulations all mitigate risks to employees of A.M. Welles and Riverside contracting. Highway 287 poses safety risks to motorists especially near the entrance and exit of the DSL pit. Large trucks entering and exiting the pit move at slower speeds than the normal traffic flow on Highway 287. Trucks entering signage is constructed on both the north and south sides of the DSL to caution motorists. Trucks would continue to enter and exit the pit under both alternatives being considered.

No Action Alternative:

Direct Impacts: Impacts to water quality are evaluated in section 5 of this document. As provided in that section, the impacts to water quality are unclear with respect to the no action alternative. Therefore, the DNRC is not able to determine impacts to human health related to water quality at the Alder site.

The no action alternative would place the asphalt plant near Alder, Montana. To operate an asphalt plant in Montana, a permit from the Montana DEQ's Air Quality Bureau is required. The Environmental Protection Agency (EPA) regulates exhaust emissions from mobile nonroad engines (asphalt plants). They work together with the manufacturers of asphalt plants to ensure they meet national standards. The Montana DEQ Air Quality Bureau ensures these limitations are met. According to the MT DEQ, Particulate Matter (PM), Nitric Oxides (NOx) and Carbon Monoxide (CO) are all emitted by asphalt plants. At certain concentrations, all these substances can be detrimental to human health, but the EPA and DEQ have developed standards and limitations to these emissions to protect the individuals working near the plant and the public. If an individual believes that a specific plant is exceeding the limitations set forth by the DEQ, they may contact the DEQ's Enforcement staff and report the issue. There are no impacts to human health and safety expected from the selection of the no action alternative related to asphalt plant emissions because the regulations set forth by the Montana DEQ and EPA would be followed.

As previously mentioned, within this document, the no action alternative would require 22,356 more vehicle miles travelled when compared to the action alternative. The additional heavy truck traffic miles would increase the potential of a vehicle-vehicle collision along the haul route. The impacts to human health and safety from the selection of the no action alternative related to traffic increases are expected to be minor.

Secondary Impacts: The selection of the no action alternative is not expected to have any secondary impacts on human health and safety.

Cumulative Impacts: The selection of the no action alternative would not be expected to have significant cumulative impacts to human health or safety. The project would occur during a time when air quality is mostly good, and seasonal traffic is lower than during the peak summer months. Cumulative impacts to human health and safety would be expected to be minor.

Duration: The duration of impacts from the selection of the no action alternative are expected to be short-term.

Action Alternative:

Direct Impacts: Impacts to water quality are evaluated in section 5 of this document. As provided in that section, no impacts to water quality are expected to occur from the selection of the action alternative. Therefore, no impacts to human health and safety are expected to occur as it relates to water quality.

The action alternative would place the asphalt plant in the DSL pit. To operate an asphalt plant in Montana, a permit from the Montana DEQ's Air Quality Bureau is required. The Environmental Protection Agency (EPA) regulates exhaust emissions from mobile nonroad engines (asphalt plants). They work together with the manufacturers of asphalt plants to ensure they meet national emissions standards. The Montana DEQ Air

Quality Bureau ensures these limitations are met. According to the Montana DEQ Particulate Matter (PM), Nitric Oxides (NOx) and Carbon Monoxide (CO) are all emitted by asphalt plants. At certain concentrations, all these substances can be detrimental to human health, but the EPA and DEQ have developed standards and limitations for these emissions to protect the individuals working near the plant and the public. If an individual believes that a specific plant is exceeding the limitations set forth by the DEQ, they may contact the DEQ's Enforcement staff and report the issue. There are no impacts to human health and safety expected from the selection of the action alternative related to asphalt plant emissions because of the regulations set forth by the DEQ and EPA.

As previously mentioned, within this document, the no action alternative would require 22,356 more vehicle miles travelled when compared to the action alternative. The decreased heavy truck traffic miles from the selection of the action alternative would decrease the potential of a vehicle collision along the haul route. The impacts to human health and safety from the selection of the action alternative related to traffic are expected to be minor, but less than those of the no action alternative.

Secondary Impacts: There are no secondary impacts expected to human health or safety from the selection of the action alternative.

Cumulative Impacts: The selection of the action alternative would not be expected to have significant cumulative impacts to human health or safety. The project would occur during a time when air quality is mostly good, and seasonal traffic is lower than during the peak summer months. Cumulative impacts to human health and safety would be expected to be minor.

Duration: The duration of impacts resulting from the selection of the action alternative would be short-term.

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15. INDUSTRIAL, COMMERCIAL AND AGRICULTURE ACTIVITIES AND PRODUCTION:
Identify how the project would add to or alter these activities.

Issues and Concerns

- The asphalt plant would be detrimental to the tourism and fly-fishing industries.
- The production of local asphalt helps the local economy and businesses by providing essential services at low costs.

Current Conditions

The Madison Valley is largely void of industrial or commercial activities comparative to larger cities in Montana. Ennis is the largest town center and contains small businesses and local services. The A.M. Welles gravel pit is one of the largest industrial/commercial activities in the area. Another commercial industry in the area is tourism. Many businesses in town rely upon tourism dollars that support small businesses such as restaurants, fly-fishing shops, and guides. Possibly the largest commercial activity in the valley is agriculture. Local farmers and ranchers produce crops and livestock.

No Action Alternative:

Direct Impacts: The no action alternative would place the asphalt plant at the Alder site. The production of asphalt is essential in repairing and maintaining the roads of Montana. Without the production of asphalt, the highways of Montana would degrade to a point that would negatively impact all industrial, commercial, and agricultural activity. The selection of the no action alternative would be expected to impact tourism in Virginia City and Nevada City. The selection of the no action alternative would introduce approximately 2,000 truck trips through these small tourism-driven town. This would be a considerable disturbance to individuals visiting these towns. These extra truck miles would not occur if the action alternative is selected. Overall, the completion of the road project is expected to have positive impacts upon all commercial industries including tourism, fly-fishing and agriculture. The selection of the no action alternative would not be expected to have any negative impacts on industrial, commercial, or agriculture activities and production.

Secondary Impacts: The selection of the no action alternative will not have any secondary impacts on industrial, commercial and agriculture activities.

Cumulative Impacts: Asphalt production around the State of Montana is essential to industrial, commercial, and agricultural activities. It allows for the transportation of goods and services and provides the ability for the workforce to travel to and from their jobs. It also provides the ability to transport tourists, guides, fly-fisherman and other recreationists around the valley. The additional cumulative impact of the selection of the no action alternative would be expected to be negligible, but positive in nature as it relates to industrial, commercial and agriculture activities.

Duration: The duration of impacts from the selection of the no action alternative are expected to be beneficial and exist beyond the completion of the project, otherwise long-term.

Action Alternative:

Direct Impacts: The action alternative would place the asphalt plant at the DSL site. The production of asphalt is essential in repairing and maintaining the roads of Montana. Without the production of asphalt, the highways of Montana would degrade to a point that would negatively impact all industrial, commercial, and agriculture activity. Therefore, the selection of the action alternative would be expected to have positive impacts upon all commercial industries including tourism, fly-fishing and agriculture. The selection of the action alternative would not be expected to have any negative impacts on tourism or fly-fishing. Tourists, in the area would be subjected to the same aesthetic impacts that locals would be.

Secondary Impacts: The selection of the action alternative is expected to have no secondary impacts to industrial, commercial, and agriculture activities in the area.

Cumulative Impacts: Asphalt production around the State of Montana is essential to industrial, commercial, and agricultural activities. It allows for the transportation of goods and services and provides the ability for the workforce to travel to and from their jobs. It also provides the ability to transport tourists, guides, fly-fisherman, and other recreationists around the valley. The additional cumulative impact of the selection of the action alternative would be expected to be negligible, but positive in nature as it relates to industrial, commercial and agriculture activities.

Duration: The duration of impacts from the selection of the no action alternative are expected to be beneficial and exist beyond the completion of the project, otherwise long-term.

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16. QUANTITY AND DISTRIBUTION OF EMPLOYMENT:
Estimate the number of jobs the project would create, move or eliminate. Identify cumulative effects to the employment market.

Current Conditions

Employment in the area consists mostly of farmers and ranchers, small businesses catering towards tourism, and fly-fishing shops and guides. A.M. Welles has been a local employer for generations.

***No Action Alternative*:**

Direct Impacts: The no action alternative would not be expected to have any direct impacts on the quantity and distribution of employment.

Secondary Impacts: The no action alternative would not be expected to have any secondary impacts on the quantity and distribution of employment.

Cumulative Impacts: The no action alternative would not be expected to change cumulative impacts relating to quantity and distribution of employment.

Duration: No impacts to quantity and distribution of employment were identified resulting from the selection of the action alternative. Therefore, the duration of impacts is not applicable.

Action Alternative:

Direct Impacts: The selection of the action alternative is expected to have no impact to the quantity and distribution of employment in the area.

Secondary Impacts: The selection of the action alternative is expected to have no secondary impacts to the quantity and distribution of employment in the area.

Cumulative Impacts: There are no cumulative impacts expected to quantity and distribution of employment from the selection of the action alternative.

Duration: No impacts were identified from the selection of the action alternative to quantity and distribution of employment; therefore, duration is not applicable.

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17. LOCAL AND STATE TAX BASE AND TAX REVENUES:
Estimate tax revenue the project would create or eliminate. Identify cumulative effects to taxes and revenue.

Current Conditions

Residents and businesses of Montana pay local, state, and federal taxes on income and property. Taxes support a wide variety of government services including the construction and maintenance of local roads.

No Action Alternative:

Direct Impacts: The no action alternative would place the asphalt in Alder, Montana. As previously mentioned in this analysis, the no action alternative would include a significantly greater amount of truck miles and diesel fuel comparative to the action alternative. The completion of the road job that necessitates the asphalt plant is contracted by the Montana Department of Transportation (MDT). MDT utilizes tax dollars to complete these infrastructure projects. The increases in trucking costs would either be absorbed by MDT or Riverside Contracting. The prior could result in an increase in the total tax base needed to complete road projects when compared to the action alternative. However, these increases are likely to be negligible on an individual tax basis.

Secondary Impacts: The selection of the no action is not expected to have any secondary impact on local and state tax base and revenue.

Cumulative Impacts: There is no change to cumulative impacts expected from the result of the no action alternative.

Duration: The duration of impacts from the selection of the no action alternative would be expected to be short term.

Action Alternative:

Direct Impacts: The selection of the action alternative would place the asphalt plant within the boundaries of the DSL pit. As previously mentioned in this analysis, the action alternative would require a significantly less amount of truck miles when compared to the no action alternative. The completion of the road job that necessitates the asphalt plant is contracted by the Montana Department of Transportation. MDT utilizes tax dollars to complete infrastructure projects. The savings in trucking costs would be realized by either the MDT or Riverside contracting. The prior could result in a decrease in the total tax base needed to complete road projects when compared to the no action alternative. However, these savings are likely to be negligible on an individual tax basis.

Secondary Impacts: The selection of the action alternative would have no secondary impacts to local and state tax bases.

Cumulative Impacts: There is no change to cumulative impacts expected to local and state tax bases from the selection of the action alternative.

Duration: Any impact to the local and state tax base is expected to be short-term.

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18. DEMAND FOR GOVERNMENT SERVICES:

Estimate increases in traffic and changes to traffic patterns. What changes would be needed to fire protection, police, schools, etc.? Identify cumulative effects of this and other projects on government services

Issues and Concerns

- The authorization of an asphalt plant would increase truck traffic in the area.

Current Conditions

US Highway 287 facilitates the entrance and exit to and from the DSL pit. US Highway 287 services many motorists especially in the summer months. MT Highway 287 is the route that connects Alder, Montana and Ennis, Montana. This portion of the highway is typically less busy than near the DSL pit.

Alternatives

No Action Alternative:

Direct Impacts: The no action alternative would place the asphalt plant near Alder, Montana. As previously discussed in this document, the no action alternative would include an additional 22,356 truck miles when compared to the action alternative. Overall, the impacts to traffic patterns would be minor from the selection of the no action alternative. Increases in traffic congestion and traffic related delays along US or MT Highway 287 may result from the selection of the no action alternative. There are no impacts to fire protection, police or schools expected, resulting from the selection of the no action alternative.

Secondary Impacts: The no action alternative would not be expected to have any secondary impacts to demands for government services.

Cumulative Impacts: The no action alternative is not expected to change cumulative impacts to demand for government services.

Duration: The duration of impacts resulting from the selection of the no action alternative will be short-term

Action Alternative:

Direct Impacts: As previously discussed in this document, the no action alternative would require 22,356 more truck miles than the action alternative. The action alternative would still be expected to have minor impacts on traffic patterns along US or MT Highway 287, but they would be lesser than those realized from the no action alternative.

Secondary Impacts: No secondary impacts are expected to government services from the selection of the action alternative.

Cumulative Impacts: There are no cumulative impacts expected to government services from the selection of the action alternative.

Duration: The duration of the impacts to government services are expected to be short-term.

19. LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS:

List State, County, City, USFS, BLM, Tribal, and other zoning or management plans, and identify how they would affect this project.

Issues and Concerns

- The Madison County Growth Policy should be taken into consideration.

Current Conditions

The tract is not zoned, and there is not a management plan for the tract. The Valley Garden Land and Cattle Ranch which neighbors the tract, is under a conservation lease. Conservation leases are not allowed on State of Montana Trust Lands other than in certain instances specifically stated in statute.

No Action Alternative:

Direct Impacts: The no action alternative would place the asphalt near Alder, Montana. The FTLD is unaware of any zoning or management plans at the Alder site.

Secondary Impacts: No secondary impacts to locally adopted environmental plans and goals would occur from the selection of the no action alternative.

Cumulative impacts: No changes to cumulative impacts are expected from the selection of the no action alternative.

Duration: No impacts were identified for the no action alternative, therefor duration is not applicable.

Action Alternative:

Direct Impacts: The project area is not zoned. The surrounding landowner, Valley Garden Land and Cattle has a conservation easement covering their property. State of Montana Trust Lands are not eligible for conservation easements, outside of instances specifically identified in statute. Trust Lands are also not subjected to county zoning or management plans. The selection of the action alternative is not expected to have any direct impacts upon the conservation easement on the adjacent lands.

Secondary Impacts: The selection of the action alternative is not expected to have any secondary impacts upon locally adopted environmental plans and goals.

Cumulative Impacts: No changes to cumulative impacts are expected to locally adopted environmental plans or goals from the selection of the action alternative.

Duration: No impacts were identified for the action alternative, therefor duration is not applicable.

20. ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES:

Identify any wilderness or recreational areas nearby or access routes through this tract. Determine the effects of the project on recreational potential within the tract. Identify cumulative effects to recreational and wilderness activities.

Issues and Concerns

- The introduction of an asphalt plant at the DSL site would impact recreational activities on Ennis Lake, the Madison River and the surrounding valley.
- The introduction of an asphalt would have impacts on quality of recreation in the Lee Metcalf Wilderness

Current Conditions

Neither the DSL site nor the Alder site provide access to wilderness areas. The tract upon which the DSL site is located is publicly accessible from Highway 287. This tract does not receive large amounts of recreational activity, likely due to the current operation of the DSL pit and the relative size of the tract. The DSL pit is located approximately 1.5 miles from the main channel of the Madison River and Ennis Lake. Both Ennis Lake and the Madison River receive considerable amounts of recreation in the spring and summer months.
The Alder site is not located on State of Montana School Trust Lands. Alder is directly adjacent to the Ruby River which also receives a large amount of recreation during the spring and summer months.

Alternatives

No Action Alternative:

Direct Impacts: If the no action alternative is selected, the asphalt plant will be placed near Alder, Montana. As mentioned in the current conditions of this section, Alder is adjacent to the Ruby River. The Ruby River attracts recreational activity mostly in the form of fishermen in the spring and summer months. During asphalt plant operations, recreationists near Alder, along the Ruby River, or other attractions may experience aesthetic impacts as described within section 11 of this document. Overall, the impacts of access to and quality of recreation are expected to be minor from the selection of the no action alternative. Some odor, audible and visual disturbances may be present during asphalt plant operation.

Secondary Impacts: There are no secondary impacts expected to access to and quality of recreational and wilderness activity from the selection of the no action alternative.

Cumulative Impacts: There are no changes to cumulative impacts of access to and quality of recreation and wilderness activity from the selection of the no action alternative.

Duration: The duration of impacts resulting from the selection of the no action alternative are expected to be short-term.

Action Alternative:

Direct Impacts: If the action alternative is selected, the asphalt plant will be placed within the boundaries of the DSL pit. As previously mentioned, this site is near the Madison River and Ennis Lake. Many people recreate on the Madison River and Ennis Lake particularly in spring and summer months. During asphalt plant operation, recreationists in the area may experience aesthetic impacts as described within section 11 of this document. Overall, the impacts of access to and quality of recreation are expected to be minor from the selection of the action alternative. Some odor, audible and visual disturbances may be present during asphalt plant operation.

Secondary Impacts: No secondary impacts to access to and quality of recreation are expected from the selection of the action alternative.

Cumulative Impacts: No additional cumulative impacts to access to and quality of recreation are expected from the selection of the action alternative.

Duration: Impacts, to access to and quality of recreational activities are expected to be short-term.

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21. DENSITY AND DISTRIBUTION OF POPULATION AND HOUSING:
Estimate population changes and additional housing the project would require. Identify cumulative effects to population and housing.

Issues and Concerns

- The introduction of an asphalt plant will impact the value of nearby property and homes.

Current Conditions

The closest towns to the action alternative site are Ennis and McAllister, the Troutdale subdivisions are also nearby. The closest town to the no action alternative site is Alder.

Alternatives

No Action Alternative:

Direct Impacts: The selection of the no action alternative is not expected to have any direct impacts on density and distribution of population and housing in the area.

Secondary Impacts: The selection of the no action alternative is not expected to have any secondary impacts on density and distribution of population and housing in the area.

Cumulative Impacts: There are no changes to cumulative impacts anticipated from the selection of the no action alternative.

Duration: No impacts were identified for the selection of the no action alternative; therefore, duration is not applicable.

Action Alternative:

Direct Impacts: The action alternative would not be expected to have any impact on density and distribution of population and housing in the area. The operation of an asphalt plant for the identified period would have no negative impact upon the value to adjacent homes or properties.

Secondary Impacts: The selection of the action alternative is not expected to have any secondary impacts to the density and distribution of population and housing.

Cumulative Impacts: There are no changes to cumulative impacts expected to the density and distribution of population and housing from the selection of the action alternative.

Duration: No impacts were identified for the selection of the action alternative; therefore, duration is not applicable.

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22. SOCIAL STRUCTURES AND MORES:
Identify potential disruption of native or traditional lifestyles or communities.

Current Conditions

The FTLD is unaware of any native or traditional communities in either the no action alternative area or the action alternative area.

Alternatives

No Action Alternative:

Direct Impacts: The no action alternative is not expected to have any direct impacts on social structures.

Secondary Impacts: The no action alternative is not expected to have any secondary impacts on social structures.

Cumulative Impacts: The no action alternative is not expected to change any cumulative impacts to social structures.

Duration: No impacts were identified for the selection of the no action alternative; therefore, duration is not applicable.

Action Alternative:

Direct Impacts: There are no direct impacts anticipated to social structures from the selection of the action alternative.

Secondary Impacts: The selection of the action alternative would have no secondary impacts to social structures.

Cumulative Impacts: There are no changes to cumulative impacts expected to social structures from the selection of the action alternative.

Duration: No impacts were identified for the selection of the action alternative; therefore, duration is not applicable.

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23. CULTURAL UNIQUENESS AND DIVERSITY:
How would the action affect any unique quality of the area?

Issues and Concerns

- The Madison Valley is scenic and beautiful, an asphalt plant does not belong in a place such as this.

Current Conditions

The no action alternative and the action alternative are both located in a rural portion of Southwestern Montana, where recreation and tourism are two of the main economic industries. These locations are like many of the valleys in western Montana, in that they are surrounded by mountains and have lakes, rivers, creeks and tributaries within them. The Madison Valley is not overly unique nor distinct from other valleys throughout the state.

No Action Alternative:

Direct Impacts: The selection of the no action alternative would not be expected to have any direct impacts on the cultural uniqueness and diversity of the area.

Secondary Impacts: The selection of the no action alternative would not be expected to have any secondary impacts on the cultural uniqueness and diversity of the area.

Cumulative Impacts: The selection of the no action alternative would not be expected to have any changes on cumulative impacts to cultural uniqueness and diversity.

Duration: No impacts were identified from the selection of the no action alternative. therefore, duration is not applicable.

Action Alternative:

Direct Impacts: The selection of the action alternative is expected to have no impacts to the cultural uniqueness and diversity of the project area.

Secondary Impacts: The selection of the action alternative is expected to have no secondary impacts to the cultural uniqueness and diversity of the project area.

Cumulative Impacts: There are no changes to cumulative impacts expected to cultural uniqueness from the selection of the action alternative.

Duration: No impacts were identified from the selection of the action alternative. Therefore, the duration of impacts is not applicable.

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24. OTHER APPROPRIATE SOCIAL AND ECONOMIC CIRCUMSTANCES:

Estimate the return to the trust. Include appropriate economic analysis. Identify potential future uses for the analysis area other than existing management. Identify cumulative economic and social effects likely to occur as a result of the proposed action.

Alternatives

No Action Alternative:

Direct Impacts: The selection of the no action alternative would deny A.M. Welles' request to operate an asphalt plant within the boundaries of the DSL pit. If this alternative is selected, it is anticipated that the asphalt plant will be located and operated near Alder, Montana. It is also anticipated that Riverside Contracting will utilize aggregate from the DSL pit for the no action alternative. The total amount of aggregate needed for the completion of the job is approximately 16,758 tons. Each cubic yard of material weighs approximately 1.5 tons. Therefore, it is estimated that the job will utilize 11,172 cubic yards. At the contracted rate of $1.50/yard, the common schools trust is expected to receive approximately $16,758 in gravel royalties from this project. As described previously in this document, the selection of the no action alternative would add a considerable amount of trucking miles and costs associated with those miles. This increased cost would not impact the expected return to the common schools trust but would rather be included in the total project cost which is funded through taxpayer dollars. The no action alternative would not have any impact on the ability to conduct future projects on the DSL tract.

Secondary Impacts: Gravel royalties, much like other mineral royalties on Trust Lands are non-distributable. This means that all royalty money generated from gravel is placed into an interest-bearing account for the appropriate Trust. The principal amount is never distributed, rather only the interest. This provides security and long-term financial support for the Trust. It is expected that revenue generated from the selection of the no action alternative, would benefit the common schools trust into perpetuity.

Cumulative Impacts: The generation of revenue from the selection of the no action alternative would be additive to the current balance of the permanent fund for the common schools trust. The additional principal amount would generate a larger interest amount to be allocated and distributed to the common schools trust.

Duration: The duration of impacts from the selection of the no action alternative is expected to be long-term as the royalties generated from the project will accumulate interest over time and continually benefit the common schools trust.

Action Alternative:

Direct Impacts: The selection of the action alternative would authorize A.M. Welles' request to operate an asphalt plant within the boundaries of the DSL pit. If this alternative is selected, it is anticipated that Riverside Contracting will utilize aggregate from the DSL pit. The total amount of aggregate needed for the completion of the job is approximately 16,758 tons. Each cubic yard of material weighs approximately 1.5 tons. Therefore, it is estimated that the job will utilize 11,172 cubic yards. At the contracted rate of $1.50/yard, the common schools trust is expected to receive approximately $16,758 in gravel royalties from this project. Additionally, an amendment to aggregate take and remove permit G-1273-94 would be made to gather a one-time rental payment of $4,000 for the temporary use of the asphalt plant within the proposed time frame. As described previously in this document, the selection of the action alternative would eliminate a considerable amount of trucking miles and costs associated with those miles when compared to the no action alternative. The savings in cost would not impact the expected return to the common schools trust but would rather be included in the total project cost which is funded through taxpayer dollars. The action alternative would not have any impact on the ability to conduct future projects on the DSL tract. It is anticipated that both the operation of the DSL pit, and the grazing lease will continue beyond the completion of the project.

Secondary Impacts: Gravel royalties, much like other mineral royalties on Trust Lands are non-distributable. This means that all royalty money generated from gravel is placed into an interest-bearing account for the appropriate Trust. The principal amount is never distributed, rather only the interest. This provides security and long-term financial support for the Trust. It is expected that revenue generated from the selection of the action alternative, would benefit the Common School Trust into perpetuity. Rental payments such as the one that would be gathered through the selection of the action alternative are distributable and would immediately impact the overall return to the trust.

Cumulative Impacts: The generation of revenue from the selection of the action alternative would be additive to the current balance of the permanent fund for the Common School Trust. The additional principal amount would generate a larger interest amount to be allocated and distributed to the Common Schools.

Duration: The duration of impacts from the selection of the no action alternative is expected to provide short-term benefits in the form of a rental payment and long-term benefits in the form of royalties generated from the project. These royalties are additive to the permanent fund which accumulates interest that is distributed to the trust beneficiaries.

EA Checklist Prepared By:	**Name:** Zack Winfield, PE **Title:** Petroleum Engineer	**Date:** 4/4/2024

V. FINDING

25. ALTERNATIVE SELECTED:

After thorough review of the DSL Pit Temporary Asphalt Plant Checklist Environmental Assessment (CEA), the project file, public scoping comment, public hearing testimony, and Montana statutes and rules, I have made the decision to select the Action Alternative. The action alternative allows for an asphalt plant to be used intermittently during the proposed time frame in the DSL Pit. The Asphalt plant will utilize gravel from the DSL Pit and asphalt will be applied on a nearby highway project. An authorization letter will be sent to the proponents and an amendment to Aggregate Take and Remove Permit G-1273-94 will be made to collect a $4,000 rental for the use of a temporary asphalt plant. The selection of this alternative is consistent with the Trust Lands mission and applicable laws. I also conclude that by choosing the action alternative, the future income generating capacity of the land will not be adversely impacted. The permittee is authorized to operate a temporary asphalt plant within the boundaries of opencut permit site #674 for the period of April 4, 2024, to June 8, 2024.

25. SIGNIFICANCE OF POTENTIAL IMPACTS

The project development team identified and addressed potential resource issues and concerns within the document. These were identified through internal and external scoping. Through the identification of mitigations and the utilization of requirements from the Montana DEQ and EPA, impacts to most resources are expected to be negligible, minor, or none. These resources will not be discussed in further detail, because they do not meet the threshold of significance.

The only resource in which moderate impacts are expected, is aesthetics. While the impacts to aesthetics area expected to be moderate, they are also expected to be short-term. Impacts would be greatest during operation of the plant, which would occur for approximately ten days. During operation, the asphalt plant would be expected to create moderate noise, visual and olfactory impacts to the surrounding environment.

These impacts would be expected to decrease as the distance from the DSL pit increases. Those impacts are expected to be intermittent, based upon use, and short-term. When comparing the two alternatives, the action alternative has fewer aesthetic impacts overall, due to the trucking miles saved by its selection. The aesthetic impacts created by the asphalt plant are expected to be very similar in both alternatives. The action alternative may have aesthetic impacts on more people than the no action alternative, simply due to the relative adjacent population at each of the sites.

Mitigations curated for the action alternative are below, they will be stipulated within the authorization letter:

- The asphalt plant must be regularly maintained and inspected to ensure it is not leaking fluids.
- If a spill of any hazardous liquid occurs, the permittee must report the incident in accordance with applicable MT DEQ and EPA laws.
- Any plans or regulations required by law regarding spill prevention and control, or water quality protection must be followed.
- Any fuel or other hazardous liquids must be stored in impermeable containers.
- All laws and permits related to the use and storage of water must be followed.
- The asphalt plant may operate during daylight hours only.

Given that the expected impacts of the selection of the action alternative are either short-term or minor, no significant impacts to the natural or human environment are expected to result from the selection of the action alternative. An Environmental Assessment is the appropriate level of analysis for this project.

27. NEED FOR FURTHER ENVIRONMENTAL ANALYSIS:

[ ]	EIS	[ ]	More Detailed EA	[x]	No Further Analysis

EA Checklist Approved By:	**Name: Trevor Taylor** **Title: MMB Chief**	
Signature:	Trevor Taylor	**Date:** 4/4/24

Appendix A
Ennis Asphalt Plant Public Comment (Microsoft forms)

Steve Adams
Correspondence: Microsoft Forms – February 27, 2024

I see no positive points regarding this asphalt plant….except for AM Wells making revenue. The air pollution component alone is reason enough to deny this permit. Folks living in Troutdale would suffer greatly as the prevailing winds are from the South. A North wind blows the stench an toxins into Ennis.
This permit should be denied.

Carol Adams
Correspondence: Microsoft Forms – February 27, 2024

I object to the expansion of gravel pit along the Madison River.

Allyson Adams
Correspondence: Microsoft Forms – February 27, 2024

I strongly oppose the proposed expansion of the gravel pit along the Madison River in Ennis, Montana. Thank you.

Bill and Liz Applegate
Correspondence: Microsoft Forms – February 10, 2024

We are concerned about the asphalt plant on highway 287 N in Ennis. We have driven through the dust storms caused by the height of the gravel piles. An asphalt plant would only make that area even more stinky, smelly, unsafe and ugly. No, no, no, please do not approve the "short term" asphalt plant. It would only be the beginning of an unending destruction of the beautiful valley.

Theresa Arnold
Correspondence: Microsoft Forms – February 24, 2024

I am against the proposal by AM Welles to locate an Asphalt Plant on state land in the ecologically sensitive area of the Madison River Valley between Ennis and McAlister. This plant will have negative impacts upon water quality, produce air pollutants, odor and noise in an area surrounded by important fish and wildlife habitat. Let's protect Montana's best natural resources; its land, forests, rivers, lakes and mountains, for our children's future.

Gene Bach
Correspondence: Microsoft Forms – February 23, 2024

I vote in favor of the asphalt plant. Maybe the close proximity of product will improve the efficiency of the valley's road maintenance.

Gary Baier
Correspondence: Microsoft Forms – March 1, 2024

I often visit this area and have family here. I do not want this plant approved because of certain **pollution** on the Madison River which is one the best Trout habitats in the country. The economy of this area is dependent on the visitors arriving to enjoy fishing, the wildlife and views. An asphalt plant is totally unacceptable!

George Baldwin
Correspondence: Microsoft Forms – March 1, 2024

Please do complete Environmental Impact before approving Asphalt operation. Site may be convenient but not the best due to proximity to river etc. FOLLOW THE RULES! I am against the AM Welles asphalt location without further information.

Keith Balfourd
Correspondence: Microsoft Forms – February 26, 2024

A gravel pit that is close to the river is one thing; an asphalt plant has a completely different environmental impact and threat, not to mention the smell. I'm 100% against this action.

Robert V (Buddie) Barnes Jr
Correspondence: Microsoft Forms – February 20, 2024

I would like to express my concerns about the possible operation of an asphalt plant in the Ennis, Montana area. This has all of the makings of a disastrous outcome for the wildlife in the Madison Valley Region. Asphalt plants are noisy, they have a very strong smell that will not only deter the wildlife but will be very offensive to everyone in the area. They have the potential of contaminating the ground in and around the plant along with the potential of runoff contaminating the Madison River and therefor risk of killing the fish population along with the waterfowl and wild game in the area.

Please do not allow this plant to operate anywhere near the town of Ennis, Montana or the Madison River because the threat to the River, Birds, Big Game and all wildlife is too great.

Julie Bartos
Correspondence: Microsoft Forms – February 20, 2024

I came here 30 years ago for h clan air, clean water, and he beauty of it all. This will rob us and all of the community within 50 miles. Who is prepared to accept numerous lawsuits over this? It will happen. I won't be one of them though the thought of moving at my age is likely to cause some lost sleep for myself and many others. Where do we go? Can you guys just relocate all of

the residents within 50 miles of the projected plant to save lives?? I am outraged that any entity would want to **pollute** our community. Disgusted!!!

Robert Bayley
Correspondence: Microsoft Forms – March 1, 2024
The proposed asphalt plant is in the wrong location. How will **toxic air pollutants** be controlled? The plant is only one mile from Ennis, a town of 1,000 folks, where my wife and I live. Asphalt plants require ample water for operation for dust suppression, cooling, mixing & cleaning. Where will the water come from? The waste water will require a retention pond. Should it leak- which is typical for most retention ponds- the waste water will flow downhill to the Madison River floodplain which would be a disaster for one of the most important and vulnerable rivers in Montana. **Relocate the plant to another state parcel**!

Janet Bean-Dochnahl
Correspondence: Microsoft Forms – March 1, 2024

Dear DNRC evaluators,
I am a 45 year resident of Ennis and retired environmental planner for the Forest Service. I understand the need for paving and highway work, especially in light of the greatly increased residential population and tourism in Ennis. And that asphalt can't realistically be hauled here from a different valley. I also understand the value of maintaining the high water quality in the Madison River. I hope the hyperbole around this proposal "on the banks of" the river and ruining air quality for the whole valley and as "seen for 17 miles on the river" doesn,t prevent you from looking at the effects closely and realistically. It appears to me that by controlling and monitoring any seepage of distillates into the soil and by maintaining the current east "wall" of the pit, the visibility and potential for seepage of contaminants into Moorse Creek can be limited. Please make all your intentions in this regard transparent to the public and communicate these often to the community. Thank you.
Janet Dochnahl

Stephanie Becker
Correspondence: Microsoft Forms – March 1, 2024

The State land between Ennis and McAllister in the Madison Valley if not appropriate for an extended asphalt plant pit for multiple reasons that have been mentioned by Montana citizens. This is ecologically sensitive ground close to the Madison River and the water quality, as identified by DEQ, could be negatively impacted by asphalt production and storage, not to mention a major problem of asphalt plant's consumption of water and production of air pollutants, odor, and noise. We're talking about a natural resource here with major fish and wildlife habitat. All of us treasure the purity and beauty of our Valley. We urge you to protect the irreplaceable viewshed and healthy environment of one of Montana's great river valleys; there won't be a second chance. We appreciate this legal process in which citizens can speak up for DNRC protection. P.S. Tourism will not be enhanced by an asphalt pit in this stunning location.

Warren Berg
Correspondence: Microsoft Forms – February 23, 2024

If an asphalt plant is built in the proposed location it could cause potential health effects for residents of the valley as well as potential fishery effects on the Madison river which already suffers from overcrowding and warm summer temperatures in the lower reaches. The current gravel pit at this proposed site already creates enormous dust clouds when it's windy which affects the Troutdale neighborhood to the north and contributes to the sedimentation of the south end of Ennis Lake.

Megan Bergman
Correspondence: Microsoft Forms – February 28, 2024

To the DNRC,

I am deeply concerned about the proposed Asphalt Plant at the DSL mine on HWY 287. This decision directly impacts the Madison River ecosystem, a vital natural resource for the greater Ennis community. As a concerned citizen living in McAllister, I urge the DNRC to consider the significant environmental and community-wide implications of this project.
The concerns raised by the Friends of the Madison Valley are valid and must be thoroughly addressed. The potential impact on water quality, air pollution, and noise disturbance cannot be ignored. Additionally, the visual impact on the surrounding landscape, including iconic landmarks such as the Madison River and Ennis Lake, raises serious questions about the suitability of this location for industrial activity.
Furthermore, the lack of transparency and information regarding the project is alarming. The public deserves access to a comprehensive Environmental Assessment before being asked to provide feedback. Questions regarding the operator, Riverside Contracting, Inc., their permits, and compliance history must be addressed to ensure accountability and responsible stewardship of state land.
Instead of prioritizing short-term financial gains, I implore the DNRC to explore alternative uses for this land that align with conservation and community interests. For example, establishing a State Park overlooking the Madison River Valley would not only preserve this precious ecosystem but also provide recreational opportunities for generations to come.
I urge the DNRC to reconsider its decision and prioritize the long-term well-being of the Madison Valley and its residents. Please take into account the overwhelming opposition to the Asphalt Plant and work towards a solution that benefits both the environment and the community.
Thank you for considering my comments.
Sincerely,
Megan Bergman

Kristen Beveridge
Correspondence: Microsoft Forms – February 24, 2024

I am NOT in support of this asphalt/gravel pit in Ennis. Thank you, Kristen Beveridge

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John J. and Leesa A. Bingham
Correspondence: Microsoft Forms – March 1, 2024

John J. and Leesa A. Bingham

March 1, 2024

Mr. Trevore Taylor
Montana Dept. of Natural Resources and Conservation
Minerals Management Bureau
1539 Eleventh Ave.
Helena, MT 59601
Via Email to TTaylor2@mt.gov

Re: Opposition to Proposed Asphalt and Concrete Plant near Our Residential Area

Dear Mr. Taylor:
My husband and I are retired long-term residents of McAllister, living year-round a few miles north of the proposed asphalt and concrete plant. Our water is provided by a groundwater well. When the quarry is operating, we can hear the rumbling of the plant and see the dust plume rolling above the plant towards and across our subdivision. We both have long term histories of allergies which are exacerbated by the dusts and other environmental allergens kicked up by the gravel pit. Without limiting conditions, the proposed permit substantially expands the gravel pit operations and, in addition, also allows the operation of an asphalt and concrete crushing plant with a 45-foot smokestack. There can be no dispute that such an expansion of operations will increase airborne particulates, odor, noise pollution, impair the scenic aesthetics of the Valley, and increase the risk of water pollution to the ground water, the Madison River, and Ennis Lake. We are concerned we will suffer further harm if the gravel pit is authorized to operate an asphalt and concrete plant with a concomitant increase in the damaging air pollution and odor of the asphalt and concrete plant.
We have read the opposition filed by Trout Unlimited and Channels Ranch, Ltd. And agree with their statements.

Respectfully submitted:
/s/ /s/
Leesa Bingham John J. Bingham Jr.
P.S. As a retired attorney, I am dumbfounded that no notice of the proposed expansion of the gravel pit was given to the residents along Highway 287, including Troutdale I and II and Rainbow Point Subdivisions. The DNRC needs to apologize to the community for this embarrassing omission.

Matthew Bishop
Correspondence: Microsoft Forms – February 29, 2024

I have concerns about the proposed asphalt plant on the Madison River. A plant in this location would be detrimental to the continued growth of tourism that is supporting the financial growth

of our valley.
Please reconsider allowing an asphault plant so close to the Madison River and Ennis Lake. It will have wide spread consequences for our community and the ecosystem that supports our economy.
Sincerey,
Matthew Bishop

Garrett Blackburn
Correspondence: Microsoft Forms – February 29, 2024

I have serious concerns over potentially high impact consequences of an asphalt plant in this specific location. Given that it is adjacent to the Madison River watershed it seems like it is in a location that could easily pollute the Madison River and Ennis lake causing serious problems for the fisheries and economy. I also feel that given the fact that we frequently experience strong winds in the Madison valley, the location north of Ennis would mean any oders would blow into Ennis on a north wind impacting quality of life and potentially property values. It seems that this location for an asphalt plant would create serious risk for the community and ecosystem that outweigh anything good that would come from it.

Drake Blair
Correspondence: Microsoft Forms – February 27, 2024

I am in favor of the Asphalt Plant.

Toni Bowen
Correspondence: Microsoft Forms – February 23, 2024

I am not in favor of expanding the size and/or use of the existing site, especially for the purpose of an asphalt plant. There are other locations in the county that would not be so visible or detrimental to the air, water, **soil**, and viewshed. Our valley is special and what we have is in a delicate balance between quality, history and progress.

Jecyn Bremer on behalf of Channels Ranch
Correspondence: Microsoft Forms – February 29, 2024

Dear Mr. Winfield:

This law firm represents the Channels Ranch, Inc., which owns property at 120 Ennis Lake Road, Ennis, Montana 59729 ("Channels Ranch"). Channels Ranch adamantly and unequivocally opposes AM Welles' proposal to locate and operate a temporary asphalt plant ("Asphalt Plant") within the permitted boundaries of the DSL Gravel Pit, Ennis, Madison County Montana. The DSL Gravel Pit is located on Montana State Trust Lands off US Highway 287, near the Madison River and Ennis Lake, more particularly described as the Southeast Quarter of Section 16 T5S R1W, Madison County, Montana ("Subject Property"). Following are issues and concerns in response to the Initial Scoping Letter provided by the Department of Natural Resources and Conservation ("DNRC") via email January 25, 2024 ("Scoping Letter").

As a preliminary matter, Channels Ranch, Inc. opposed the amendment to the Department of Environmental Quality ("DEQ") opencut mining permit OC# 674 ("Permit") and expansion of permit area, and the renewal and expansion of the DNRC gravel permit G-1273-94, for the AM Welles DSL Gravel Pit. Channels Ranch, among others, provided comments on and raised substantive issues regarding the renewal of the Permit and the expansion. The after-the-fact Environmental Assessment ("EA") prepared by DNRC was demonstrably inadequate. We understand the Permit and infirmities in process are currently the subject of litigation. With the outcome of litigation unknown, it is premature to be scoping, much less considering the approval of the Asphalt Plant at the DSL Gravel Pit.
These substantive comments identify issues, resources, and matters that should be examined further in an Environmental Assessment. The Environmental Assessment must take into consideration the impacts of authorizing the operation of the Asphalt Plant on human health and the environment as further explained below.

Inadequate Information on Asphalt Plant Operations

According to the Scoping Letter, AM Welles submitted a request to locate and operate the Asphalt Plant within the pit boundaries for the time period April 1, 2024 - June 8, 2024. However, the Asphalt Plant would be operated by Riverside Contracting, Inc., rather than AM Welles, and would service the needs of local paving projects in the area. No details were provided with respect the local paving projects that necessitate the Asphalt Plant at this location, nor the proximity to such paving projects, nor Riverside Contracting, which has a history of violations resulting in complaints, including complaints related to air quality and dust, violations of the Open Cut Mining Act, spills impacting soils, among others. The history of violations does not inspire confidence, and, with the issues raised, justify the need for alternatives locations for the Asphalt Plat, rather than this ecologically sensitive area. DNRC's environmental review must address the foregoing in order to demonstrate the need for the Asphalt Plant at this location – an environmentally sensitive, rural residential and agricultural area of Madison County, proximate to nearby residences, the Madison River and Moore Creek, among other resources.

The underlying Environmental Assessment prepared for the Permit renewal and expansion does not provide details regarding the Asphalt Plant, only that authorization must be obtained on a case-by-case basis. That underlying Environmental Assessment makes clear the impacts were not considered at that time, and assures that MEPA will be conducted by DNRC to evaluate the Asphalt Plant and its impacts. The Asphalt Plant Environmental Assessment must specify the equipment being used and the resulting particles, contaminants, chemicals, and fumes, with a thorough analysis of impacts to human health and the environment. For example, will the Asphalt Plant be producing Hot Mix Asphalt ("HMA")? If so, the Environmental Assessment must address the following and the resulting impacts.

continued...
The primary emission sources associated with HMA production are the dryers, hot bins, and mixers, which emit particulate matter (PM) and a variety of gaseous pollutants. Other emission sources found at HMA plants include storage silos, which temporarily hold the HMA; truck load-out operations, in which the HMA is loaded into trucks for hauling to the job site; liquid asphalt storage tanks; hot oil heaters, which are used to heat the asphalt storage tanks; and yard

emissions, which consist of fugitive emissions from the HMA in truck beds. Emissions also result from vehicular traffic on paved and unpaved roads, aggregate storage and handling operations, and vehicle exhaust.

Moreover, it is not clear when the Asphalt Plant will operate during the April 1 to June 8 time period, only that it is "expected to operate intermittently during this timeframe." Intermittent is not defined and neither the days of the week nor time period each day for operations has been provided. Will it operate 24 hours a day, seven days a week? DNRC's expectation of intermittency is insufficient to put the public on notice of the Asphalt Plant operations and corresponding impacts that may result. Absent days and hours of operation, it is impossible to adequately consider the impacts resulting from the Asphalt Plant.

A thorough and complete Environmental Assessment addressing the above details, the particular facts and circumstances of the area in which the Asphalt Plant is proposed, and taking a hard look at the impacts that will result from the Asphalt Plant must be provided before DNRC makes its decision on the Asphalt Plant. Furthermore, if any of the Asphalt Plant is to serve paving projects that utilize federal funds, this could result in a federal undertaking triggering review pursuant to Section 106 of the National Historic Preservation Act and the National Environmental Policy Act. This too must be addressed in the Environmental Assessment.

Only after the public has the Environmental Assessment addressing the above and issues noted below for the Asphalt Plant will they be afforded a meaningful opportunity to participate in the process and comment on the proposal, consistent with their constitutional rights. Upon publication of the Environmental Assessment, the public must be afforded a comment period sufficient to allow meaningful review and submission of comments.

Adverse Impacts from Asphalt Plant Operations
at the AM Welles DSL Gravel Pit

The Channels Ranch owns property to the east of the AM Welles Pit Expansion and is justifiably concerned about the significant adverse impacts the Asphalt Plant will have on this environmentally sensitive area of Madison County, including impacts to water quality and quantity, wildlife, traffic, air, noise and dust, economic impacts and loss of property values, quality of life, and the health and safety of those who live, work, and recreate in this area of Madison County. It is not only the immediate negative impacts that are of great concern, but also the cumulative and secondary impacts resulting from the Asphalt Plant operations considered together with ongoing gravel mining operations. DNRC's Environmental Assessment must address those cumulative impacts as well as the following.

Atmospheric emissions from an asphalt plant stack, as well as fugitive emissions from the source to ambient air are commonly known to contain a vast array of potentially hazardous chemicals. "Toxic air pollutants compounds emitted from asphalt plants include polycyclic aromatic compounds, volatile organic compounds, metals and hydrogen sulfide" among others. See Toxic Air Pollutants List included as Exhibit A and incorporated by reference. Those hazardous chemicals can result in the following, among other concerns.

Continued...
Extracts of certain Asphalts have been shown to cause cancer in animals.

Breathing Asphalt fumes can irritate the nose, throat and lungs causing coughing, wheezing and/or shortness of breath.

Exposure to Asphalt fumes can cause headache, dizziness, nausea and vomiting.

Chronic (long-term) health effects can occur at some time after exposure to asphalt and can last for months or years.

The Centers for Disease Control observed the following in its publication, Health Effects of Occupational Exposure to Asphalt:

Known carcinogens have been found in asphalt fumes generated at worksites. Observations of acute irritation in workers from airborne and dermal exposures to asphalt fumes and aerosols and the potential for chronic health effects, including cancer, warrant continued diligence in the control of exposures.

"…tiny particles in asphalt production plant emissions can cause lung damage, exacerbate breathing conditions and ultimately cause more severe problems"

According to the U.S. Occupational Safety & Health Administration (OSHA), over a half-million workers are exposed to fumes from asphalt. Health effects from exposure to asphalt fumes include headache, skin rash, sensitization, fatigue, reduced appetite, throat and eye irritation, cough and skin cancer. The agency goes on to state that exposure to asphalt fumes can cause serious injury and permanent damage and that workers that may be exposed to asphalt fumes need to be aware of the potential hazards.

See also Air Quality Impacts addressed below. Impacts of fugitive dust and hazardous chemicals will cover plants, trees, native rangeland, grazing pastures, and will infiltrate the unnamed tributary, Moore Creek, and the Madison River having detrimental effects. Sedimentation will increase. Pollutants and particulates will be emitted in unknow quantities. See Toxic Air Pollutants List attached as Exhibit A. Risk of fire and explosions are increased. Odors are known to be noxious and offensive, and noise will be disruptive to humans and wildlife.

Public Meeting Request

The AM Welles Asphalt Plant is clearly a matter of significant public interest. Thus, a public meeting is necessary so that nearby property owners and the public may participate and so that DNRC may be fully informed with respect to adverse impacts and concerns. That public meeting must be held after publication of the Environmental Assessment so that the public has sufficient information on the proposed Asphalt Plant on which to comment. As described above, the Scoping Notice contains inadequate information on the proposed Asphalt Plant and does not allow the public a meaningful opportunity to know and participate in this matter of significant

public interest.

Montana Environmental Policy Act
The Montana Environmental Policy Act ("MEPA") was enacted by the Legislature to give effect to its constitutional obligations under Article II, section 3 and Article IX of the Montana Constitution. Section 1 of Article IX charges that the "state and each person shall maintain and improve a clean and healthful environment in Montana for present and future generations." MEPA requires the adequate review of state actions to ensure "the public is informed of the anticipated impacts in Montana of potential state actions." Pursuant to state law, the Environmental Assessment is necessary to "inform the public and public officials of potential impacts resulting from decisions made by state agencies" and to ensure the following policy considerations are addressed.

Continued...
75-1-103. Policy. (1) The legislature, recognizing the profound impact of human activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances, recognizing the critical importance of restoring and maintaining environmental quality to the overall welfare and human development, and further recognizing that governmental regulation may unnecessarily restrict the use and enjoyment of private property, declares that it is the continuing policy of the state of Montana, in cooperation with the federal government, local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which humans and nature can coexist in productive harmony, to recognize the right to use and enjoy private property free of undue government regulation, and to fulfill the social, economic, and other requirements of present and future generations of Montanans.
(2) In order to carry out the policy set forth in parts 1 through 3, it is the continuing responsibility of the state of Montana to use all practicable means consistent with other essential considerations of state policy to improve and coordinate state plans, functions, programs, and resources so that the state may:
(a) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
(b) ensure for all Montanans safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
(c) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
(d) protect the right to use and enjoy private property free of undue government regulation;
(e) preserve important historic, cultural, and natural aspects of our unique heritage and maintain, wherever possible, an environment that supports diversity and variety of individual choice;
(f) achieve a balance between population and resource use that will permit high standards of living and a wide sharing of life's amenities; and
(g) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(3) The legislature recognizes that each person is entitled to a healthful environment, that each person is entitled to use and enjoy that person's private property free of undue government regulation, that each person has the right to pursue life's basic necessities, and that each person has a responsibility to contribute to the preservation and enhancement of the environment. The implementation of these rights requires the balancing of the competing interests associated with the rights by the legislature in order to protect the public health, safety, and welfare. (Emphasis added.)

The people of Madison County, ranchers, outdoor recreation professionals, fly-fishing guides, business owners, wildlife enthusiasts, recreationists, and the travelling public rely on environmental resources including Ennis Lake, the Madison River, streams, and other watercourses, wildlife, clean air, and clean water. DNRC must identify and address the significant environmental issues related to the operations of the Asphalt Plant at this location in order to fulfill its obligations under MEPA.

continued...
In preparing the Environmental Assessment, DNRC must "use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which humans and nature can coexist in productive harmony, to recognize the right to use and enjoy private property free of undue government regulation, and to fulfill the social, economic, and other requirements of present and future generations of Montanans."

DNRC must take also take a "hard look" at the environmental impacts of the Asphalt Plant. "Implicit in the requirement that an agency take a hard look at the environmental consequences of its actions is the obligation to make an adequate compilation of relevant information, to analyze it reasonably, and to consider all pertinent data." In undertaking its Environmental Assessment, DNRC must give meaningful consideration to the above-referenced policy considerations, and must balance the competing interests associated in order to protect the public health, safety, and welfare.

Wildlife Impacts

DNRC's Environmental Assessment for the DSL Gravel Pit renewal and expansion recognizes "The project area provides habitat for a variety of wildlife species."

DNRC's Environmental Assessment must analyze the impacts of the Asphalt Plant on the wildlife, fish, and bird populations it previously identified, including elk, white tail deer, moose, antelope, as well as on the Tundra Swans, Sandhill Cranes, and Hungarian Partridge, and other wildlife and fisheries not previously addressed that will be adversely impacted by noise, dust, and diminished water quality. A wildlife study must be undertaken, and impacts must be addressed in the Environmental Assessment.

The impacts to water quality must be addressed as related to the spring fed tributary of the Madison River, known to be a degraded watershed. Moore Creek operates as a remote site incubator managed by Montana Fish Wildlife and Parks for the rare Arctic Grayling, identified as

high risk in Montana, with declining population and range. The Asphalt will undoubtedly exacerbate the existing 303(d) listed conditions of the Moore Creek watershed that are undergoing extensive local, state, federal and private efforts to restore the watershed and wetland complexes, undermining these efforts.

Adding the Asphalt Plant to the already expanded AM Welles gravel mine is yet another example of the death by a thousand cuts impacts resulting from gravel pit operations over time.

Water Quantity and Quality Impacts

A.M Wells admits in its application that "asphalt is considered to have the potential to impact water quality." See Section D6(1) of the Application on file and of record with DNRC.

Impacts to groundwater and surface water must be thoroughly and adequately addressed. This includes information, in part, how much water is needed for the Asphalt Plant operations, where the water will come from, and demonstrating water rights have been obtained. The Environmental Assessment must include analysis of the amount of water that will be required by the totality of the DSL Gravel Pit operations including the Asphalt Plant, wash plant operations and pug mill operation, dust suppression, and irrigation of stockpiles, ensure sufficiency of water rights, and assess the cumulative impacts on water quality and water quantity. In addition, Channels Ranch, other neighboring property owners, and the public must have assurances that impacts to water rights, wells in the vicinity, the Madison River, Moose Creek (a jurisdictional waterway and tributary to Ennis Lake), the unnamed tributary, and other water bodies will be addressed and mitigated.

continued...
DNRC's Environmental Statement for the DSL Gravel Pit renewal and expansion states, "[s]ection 16 contains an ephemeral drainage that is a tributary of Moore Creek. Moore creek drains into Fletcher channel, which ultimately drains into Ennis Lake" and admits "[r]unoff from large rain events may collect and distribute particles from the pit area to the ephemeral drainage." The Environmental Assessment for the Asphalt Plant must address the impacts to water quality from the proposed Asphalt Plant on Moore Creek, which is within 1000 feet of the DSL Gravel Pit. The Environmental Assessment must also address discharges of stormwater runoff into Moore Creek, a 303(d) listed, water quality impaired stream. The cumulative impacts of the Asphalt Plant together with the impacts from the gravel pit must be taken into account in analyzing the impacts to water quality and water quantity.

DNRC's Environmental Assessment for the DSL Gravel Pit renewal and expansion admitted that the planned use of water from the onsite well will affect the abundance of ground water in the direct vicinity of the project area, but fails to address those effects in any way. That Environmental Assessment also states the "well being utilized by the proponent currently is an exempt well, meaning it is authorized for use up to 10-acre feet per year" and estimates "the well utilizes approximately 5.75 acre-ft per year." The Environmental Assessment for the Asphalt Plant must address effects to groundwater, nearby wells, and sufficiency of water relative to the exempt well and amount of water currently being utilized and additional water rights obtained as necessary. No Asphalt Plant can be approved unless and until sufficient water rights are

confirmed.

Air Quality Impacts, Dust, Noxious Odors

"Asphalt plants are sources of air pollution that may emit significant levels of both particulate matter and gaseous volatile organic compounds (VOCs). These pollutants are considered to be dangerous to human health." "The following are examples of seven pollutants typically found at various levels in emissions from asphalt plants – hydrogen sulfide, benzene, chromium, formaldehyde, polycyclic aromatic hydrocarbons (PAHS), cadmium and arsenic…:" Additional hazardous substances, asphalt plant pollutants and particulates are listed in Exhibit A. Correspondingly, impacts to air quality resulting from Asphalt Plant operations are of considerable concern, which the Environmental Assessment must take into consideration in addition to the following.

Air pollution concerns include the fine dusts carried by the wind and which result in breathing problems and respiratory impacts, including irritation of eyes, nose, throat, and respiratory tract. Those fine particulates can compound existing respiratory conditions including asthma and allergies. Crystalline silica found in asphalt and rocks, is of particular concern. "Inhalation of respirable crystalline silica can cause silicosis, a debilitating and potentially fatal lung disease. Silica exposure has also been associated with lung cancer, chronic obstructive pulmonary disease, renal disease, and other adverse health outcomes." See also, issues and health concerns raised above under the heading Adverse Impacts from Asphalt Plant Operations at the AM Welles DSL Gravel Pit.

continued...
Off-site dust emissions are rarely monitored. Dust and dust plumes will inevitably result from the Asphalt Plant, compounded by ongoing mine operations, heavy truck traffic, including crushing, screening, stacking, truck, and loader transport on and off site, removal of overburden, construction of berms, and wind blowing over gravel stockpiles. This will create additional impacts, beyond historic activity, which impacts must be addressed via separate MEPA analysis, which DNRC acknowledged in its previous Environmental Assessment for the DSL Gravel Pit renewal and expansion. Disturbance of previously undisturbed ground for the mining expansion coupled with the Asphalt Plant will generate increased amounts of airborne pollutants and fugitive dust particulates which must be properly analyzed, taking into consideration wind direction and wind speed, distance of travel, and corresponding impacts to humans, wildlife, and nearby water bodies. Impacts to air quality and resulting from fugitive dust migration must be thoroughly assessed and addressed in the Environmental Assessment along with the adverse impacts expected to result, in addition to risks to human health, birds, fisheries and wildlife.

In addition to health impacts from the above, toxic smells emitted from the Asphalt Plant will impact quality of life.

Fire Hazard Risks

With less than average precipitation this winter (2023-2024), the fire season ahead is an obvious

concern. The Asphalt Plant is a high fire hazard risk due to the highly toxic, combustible, and flammable chemicals used. Emergency incidents can result in explosions, asphalt fumes, fire, and toxic exposure, with long-term consequences, including, but not limited to toxic runoff, chemical spills, and other catastrophes that would be detrimental in this ecologically sensitive area. These risks must be assessed in the Environmental Assessment, including sufficiency of water to address fire, explosion, and other catastrophic events that may result from the Asphalt Plant.

Neighboring Residential Uses, Noise, Odors, and Visual Impacts

The Asphalt Plant is an inappropriate industrial use in this ecologically sensitive rural residential and agricultural area of the Madison Valley. It will adversely affect nearby properties and their occupants given the visual impacts, offensive odors, and constant noise.

The Environmental Assessment must evaluate impacts on scenic areas, in particular given the intrusive height of the Asphalt Plant. A viewshed analysis has been prepared which demonstrates significant and adverse visual impacts will result across a broad swath of the Madison Valley, including "Troutdale, McAllister, Town of Ennis, the Golf Course, the Madison River and it [sic] Channels, Ennis Lake, all the way up to the Lee Metcalf Wilderness from the Bear Trap to the Cedar Creek area – even the backside of Big Sky and Loan Mountain." In addition, "17 miles of the Madison River will visibly see and hear this Asphalt Plant." See the Viewshed Analysis attached as Exhibit B and incorporated by reference. The Environmental Assessment must specifically address the visibility of the Asphalt Plant from the Channels Ranch, other neighboring properties, and the locations identified above and in the Viewshed Analysis, and must take into consideration impacts to the scenic beauty and natural quality which support Madison County's outdoor recreation economy. In doing so, DNRC must "ensure for all Montanans … aesthetically and culturally pleasing surroundings" and "achieve a balance between population and resource use that will permit high standards of living and a wide sharing of life's amenities."

continued...
Evidence of a Montana Department of Environmental Quality air quality permit must be provided, which addresses particulate emissions from the Asphalt Plant at this location, taking into consideration compounding impacts, human health, and the environmentally sensitive area, water bodies, wildlife, and fisheries.

Asphalt plants generate persistent noise and toxic odors from chemical emissions, pollutants, and hazardous substances, creating a nuisance, and which may cause symptoms such as headaches, eye, nose, and throat irritation, and nausea, among other symptoms. In this case, the Asphalt Plant is near the heavily trafficked Highway 287 on the north side of the DSL Gravel Pit area. The Asphalt Plant, coupled with the mining operations, crusher, pug mill, screen, conveyor, and wash plant, will collectively have additional impacts beyond just mining extraction, adversely impacting neighboring residences and disrupting wildlife in the area. The area winds, which shift in direction, will carry dust, sound, and odors considerable distances, the impacts of which DNRC must assess and address in its Environmental Assessment.

No information is provided regarding the days of the week or hours of the day the Asphalt Plant will operate. This information must also be included, and the related impacts assessed in the Environmental Assessment.

Other Unmitigated Impacts

Highway 287 is heavily trafficked and commonly used by large semi-trucks and local residents. During the period of operations of the Asphalt Plant, April 1, 2024 - June 8, 2024, ever-increasing tourists and RVs will be using the Highway as well. The addition of an Asphalt Plant will undoubtedly compound heavy gravel truck traffic on Highway 287, damage the road, create additional fugitive dust, and increase accidents for residents, tourists, and the traveling public. A traffic study during the operations period, April 1, 2024 - June 8, 2024, must be undertaken as part of the Environmental Assessment to adequately address and mitigate these impacts.

The Madison Valley relies on tourism, recreation, and visitors to support the local economy. Many of those tourists and visitors travel scenic Highway 287 to reach Yellowstone Park among other destinations. Commercial guided outfitting on the Madison River is a significant driver of economic activity in the Valley. The Asphalt Plant near Highway 287 on the north side of the DSL Gravel Pit area and visible from Madison River per the Viewshed Study will mar the landscape in this area of the Valley. See Exhibit B.

Property values will be further adversely impacted due to the Asphalt Plant. Gravel pit operations and asphalt plants are considered adverse material facts with respect to real estate transactions and must be disclosed. The adverse impacts associated with the Asphalt Plant have the potential to be considered significant enough to derail the sale and purchase of nearby properties.

Clean and Healthful Environment; Open Cut Mining Act

The Channels Ranch, mindful of the ecological sensitivity, spectacular natural and scenic beauty, and bountiful wildlife and natural resources in this area of Madison County, as well as their right to a clean and healthful environment, as set forth in our Constitution's Declaration of Rights, intend to continue to express their opposition to the DSL Gravel Pit and AM Welles' proposal to locate and operate an Asphalt Plant. Article II, Section 3, states that "[a]ll persons are born free and have certain inalienable rights" and "they include the right to a clean and healthful environment . . ." and "possessing and protecting property…." In their opposition, it is the clean and healthful environment of Madison County and its property that Channels Ranch seeks to protect.

continued...
The Montana Constitution further provides that"[t]he state and each person shall maintain and improve a clean and healthful environment in Montana for present and future generations." The Legislature adopted the Opencut Mining Act "mindful of its constitutional obligations under Article II, section 3, and Article IX of the Montana constitution." And also to "provide adequate remedies for the protection of the environmental life support system from degradation and provide adequate remedies to prevent unreasonable depletion and degradation of natural resources."

The purpose of the Opencut Mining Act are, in part, as follows.

(a) to preserve natural resources;
(b) to aid in the protection of wildlife and aquatic resources;
(c) to safeguard and reclaim through effective means and methods all agricultural, recreational, home, and industrial sites subjected to or that may be affected by opencut operations;
(d) to protect and perpetuate the taxable value of property through reclamation;
(e) to protect scenic, scientific, historic, or other unique areas; and
(f) to promote the health, safety, and general welfare of the people of this state.

In preparing the Environmental Assessment, DNRC must adhere to the foregoing purposes.

Conclusion

"MEPA requires that an agency be informed when it balances preservation against utilization of our natural resources and trust lands." Ravalli County Fish & Game Ass'n v. Montana Dep't of State Lands, 273 Mont. 371, 384, 903 P.2d 1362, 1371, 1995 Mont. LEXIS 223, *20, 52 Mont. St. Rep. 996. DNRC "must take a hard look at the environmental impacts of a given project or proposal" and "implicit in the requirement that an agency take a hard look at the environmental consequences of its actions is the obligation to make an adequate compilation of relevant information, to analyze it reasonably, and to consider all pertinent data." Ravalli Cty. Fish & Game Ass'n, Inc., 273 Mont. at 381, 903 P.2d at 1369 (1995) (citing Sierra Club v. U. S. Army Corps of Engrs., 701 F.2d 1011, 1029 (2nd Cir. 1983)).

The Asphalt Plant at the A.M. Welles Pit will have environmental consequences and negative impacts on this environmentally sensitive area of the Madison Valley, Channels Ranch, other neighboring property owners, area residents, and the public. Substantial issues have been raised and significant information is lacking regarding the Asphalt Plant as explained herein. Moreover, substantial issues were raised regarding the A.M. Welles Pit Expansion and these remain to be addressed in the pending litigation. DNRC should not compound those impacts by approving the Asphalt Plant.

Channels Ranch respectfully requests that DNRC prepare an Environmental Assessment in accordance with state law and undertake a 'hard look' at the significant impacts to the nearby residents, the local community that relies on tourism, the Madison River, Moore Creek, and the unnamed tributary, fish, birds, and wildlife wildlife, land, air, and surface and groundwater. The Environmental Assessment must be based upon a compilation and analysis of all relevant data and scientific information, including all public comment submitted, and taking into consideration uncertain risk to ecological, recreational, and economic values, as well as human health and the environment and the specific issues raised herein. Hard copy of this submission, with exhibits, will follow by Fedex delivery.

Respectfully,
Gallik & Bremer, PC

Jecyn N. Bremer
for Channels Ranch

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D.N.R.C.

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VIA FEDERAL EXPRESS & DNRC PORTAL

February 29, 2024

Zach Winfield
Petroleum Engineer
Montana Department of Natural Resources and Conservation
Minerals Management Bureau
1539 Eleventh Avenue
Post Office Box 201601
Helena, MT 59601

RE: **Initial Scoping Letter – Public Comment Opposing the AM Welles DSL Gravel Pit Temporary Asphalt Plant – Montana State Trust Lands, Section 16, Township 5 S, Range 1 W, Madison County Montana**

Dear Mr. Winfield:

This law firm represents the Channels Ranch, Inc., which owns property at 120 Ennis Lake Road, Ennis, Montana 59729 ("Channels Ranch"). Channels Ranch adamantly and unequivocally opposes AM Welles' proposal to locate and operate a temporary asphalt plant ("Asphalt Plant") within the permitted boundaries of the DSL Gravel Pit, Ennis, Madison County Montana. The DSL Gravel Pit is located on Montana State Trust Lands off US Highway 287, near the Madison River and Ennis Lake, more particularly described as the Southeast Quarter of Section 16 T5S R1W, Madison County, Montana ("Subject Property"). Following are issues and concerns in response to the Initial Scoping Letter provided by the Department of Natural Resources and Conservation ("DNRC") via email January 25, 2024 ("Scoping Letter").

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These substantive comments[1] identify issues, resources, and matters that should be examined further in an Environmental Assessment. The Environmental Assessment must take into consideration the impacts of authorizing the operation of the Asphalt Plant on human health and the environment as further explained below.

Inadequate Information on Asphalt Plant Operations

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The underlying Environmental Assessment prepared for the Permit renewal and expansion does not provide details regarding the Asphalt Plant, only that authorization must be obtained on a case-by-case basis. That underlying Environmental Assessment makes clear the impacts were not considered at that time,[2] and assures that MEPA will be conducted by DNRC to evaluate the Asphalt Plant and its impacts.[3] The Asphalt Plant Environmental Assessment must specify the equipment being used and the resulting particles, contaminants, chemicals, and fumes, with a thorough analysis of impacts to human health and the environment. For example, will the Asphalt Plant be producing Hot Mix Asphalt ("HMA")? If so, the Environmental Assessment must address the following and the resulting impacts.

> The primary emission sources associated with HMA production are the dryers, hot bins, and mixers, which emit particulate matter (PM) and a variety of gaseous pollutants. Other emission sources found at HMA plants include storage silos, which temporarily hold the HMA; truck load-out operations, in which the HMA is loaded into trucks for hauling to the job site; liquid asphalt storage tanks; hot oil heaters, which are used to heat the asphalt storage tanks; and yard emissions, which consist of fugitive emissions from the HMA in truck beds. Emissions also result from vehicular

[1] "A substantive comment could be one that identifies an issue, alternative, or a resource that should be examined further." *See* January 25, 2024 Initial Proposal Scoping Notice AM Welles DSL Temporary Asphalt Plant.
[2] DNRC Environmental Assessment, OC# 674 (amendment), Asphalt Plant, Pages 380-381.
[3] DNRC Environmental Assessment, OC# 674 (amendment), Page 4.

traffic on paved and unpaved roads, aggregate storage and handling operations, and vehicle exhaust.[4]

Moreover, it is not clear when the Asphalt Plant will operate during the April 1 to June 8 time period, only that it is "expected to operate intermittently during this timeframe."[5] Intermittent is not defined and neither the days of the week nor time period each day for operations has been provided. Will it operate 24 hours a day, seven days a week? DNRC's expectation of intermittency is insufficient to put the public on notice of the Asphalt Plant operations and corresponding impacts that may result. Absent days and hours of operation, it is impossible to adequately consider the impacts resulting from the Asphalt Plant.

A thorough and complete Environmental Assessment addressing the above details, the particular facts and circumstances of the area in which the Asphalt Plant is proposed, and taking a hard look at the impacts that will result from the Asphalt Plant must be provided before DNRC makes its decision on the Asphalt Plant. Furthermore, if any of the Asphalt Plant is to serve paving projects that utilize federal funds, this could result in a federal undertaking triggering review pursuant to Section 106 of the National Historic Preservation Act and the National Environmental Policy Act. This too must be addressed in the Environmental Assessment.

Only after the public has the Environmental Assessment addressing the above and issues noted below for the Asphalt Plant will they be afforded a meaningful opportunity to participate in the process and comment on the proposal, consistent with their constitutional rights.[6] Upon publication of the Environmental Assessment, the public must be afforded a comment period sufficient to allow meaningful review and submission of comments.

Adverse Impacts from Asphalt Plant Operations at the AM Welles DSL Gravel Pit

The Channels Ranch owns property to the east of the AM Welles Pit Expansion and is justifiably concerned about the significant adverse impacts the Asphalt Plant will have on this environmentally sensitive area of Madison County, including impacts to water quality and quantity, wildlife, traffic, air, noise and dust, economic impacts and loss of property values, quality of life, and the health and safety of those who live, work, and recreate in this area of Madison County. It is not only the immediate negative impacts that are of great concern, but also the cumulative and secondary

[4] Hot Mix Asphalt Emission Assessment Report, page 1, chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www3.epa.gov/ttnchie1/ap42/ch11/related/ea-report.pdf (last accessed February 26, 2024).
[5] January 25, 2024 Initial Proposal Scoping Notice AM Welles DSL Temporary Asphalt Plant.
[6] Constitution of Montana, Article II, Declaration of Rights, Section 8. Right of participation. The public has the right to expect governmental agencies to afford such reasonable opportunity for citizen participation in the operation of the agencies prior to the final decision as may be provided by law; Constitution of Montana, Article II, Declaration of Rights, Section 9. Right to know. No person shall be deprived of the right to examine documents or to observe the deliberations of all public bodies or agencies of state government and its subdivisions, except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure.

impacts resulting from the Asphalt Plant operations considered together with ongoing gravel mining operations. DNRC's Environmental Assessment must address those cumulative impacts as well as the following.

Atmospheric emissions from an asphalt plant stack, as well as fugitive emissions from the source to ambient air are commonly known to contain a vast array of potentially hazardous chemicals. "Toxic air pollutants compounds emitted from asphalt plants include polycyclic aromatic compounds, volatile organic compounds, metals and hydrogen sulfide"[7] among others. *See* Toxic Air Pollutants List included as Exhibit A and incorporated by reference. Those hazardous chemicals can result in the following, among other concerns.

> Extracts of certain Asphalts have been shown to cause cancer in animals.
>
> Breathing Asphalt fumes can irritate the nose, throat and lungs causing coughing, wheezing and/or shortness of breath.
>
> Exposure to Asphalt fumes can cause headache, dizziness, nausea and vomiting.
>
> Chronic (long-term) health effects can occur at some time after exposure to asphalt and can last for months or years.[8]

The Centers for Disease Control observed the following in its publication, Health Effects of Occupational Exposure to Asphalt:

> Known carcinogens have been found in asphalt fumes generated at worksites. Observations of acute irritation in workers from airborne and dermal exposures to asphalt fumes and aerosols and the potential for chronic health effects, including cancer, warrant continued diligence in the control of exposures.[9]

"...tiny particles in asphalt production plant emissions can cause lung damage, exacerbate breathing conditions and ultimately cause more severe problems"[10]

> According to the U.S. Occupational Safety & Health Administration (OSHA), over a half-million workers are exposed to fumes from asphalt. Health effects from exposure to asphalt fumes include headache, skin rash, sensitization, fatigue, reduced appetite, throat and eye irritation, cough and skin cancer. The agency goes on to state that exposure to asphalt fumes can cause serious injury and permanent damage and that

[7] https://www.deq.nc.gov/about/divisions/air-quality/air-quality-permitting/asphalt-plants (last accessed February 28, 2024).
[8] https://www.nj.gov/health/eoh/rtkweb/documents/fs/0170.pdf (last accessed February 28, 2024).
[9] CDC Hazard Review, Health Effects of Occupational Exposure to Asphalt, page iiii, https://www.cdc.gov/niosh/docs/2001-110/pdfs/2001-110.pdf?id=10.26616/NIOSHPUB2001110 (last accessed February 26, 2024).
[10] https://www.nytimes.com/1998/04/26/nyregion/who-wants-to-live-near-an-asphalt-plant.html

workers that may be exposed to asphalt fumes need to be aware of the potential hazards.[11]

See also Air Quality Impacts addressed below. Impacts of fugitive dust and hazardous chemicals will cover plants, trees, native rangeland, grazing pastures, and will infiltrate the unnamed tributary, Moore Creek, and the Madison River having detrimental effects. Sedimentation will increase. Pollutants and particulates will be emitted in unknow quantities. *See* Toxic Air Pollutants List attached as Exhibit A. Risk of fire and explosions are increased. Odors are known to be noxious and offensive, and noise will be disruptive to humans and wildlife.

Public Meeting Request

The AM Welles Asphalt Plant is clearly a matter of significant public interest. Thus, a public meeting is necessary so that nearby property owners and the public may participate and so that DNRC may be fully informed with respect to adverse impacts and concerns. That public meeting must be held after publication of the Environmental Assessment so that the public has sufficient information on the proposed Asphalt Plant on which to comment. As described above, the Scoping Notice contains inadequate information on the proposed Asphalt Plant and does not allow the public a meaningful opportunity to know and participate in this matter of significant public interest.

Montana Environmental Policy Act

The Montana Environmental Policy Act ("MEPA") was enacted by the Legislature to give effect to its constitutional obligations under Article II, section 3[12] and Article IX[13] of the Montana Constitution.[14] Section 1 of Article IX charges that the "state and each person shall maintain and improve a clean and healthful environment in Montana for present and future generations."[15]

MEPA requires the adequate review of state actions to ensure "the public is informed of the anticipated impacts in Montana of potential state actions."[16] Pursuant to state law, the Environmental Assessment is necessary to "inform the public and public officials of potential impacts resulting from decisions made by state agencies"[17] and to ensure the following policy considerations are addressed.

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[11] https://www.emsl.com/News.aspx?newsid=2858 (last accessed February 26, 2024).
[12]Constitution of Montana, Article II, Declaration of Rights, Section 3. Inalienable rights. All persons are born free and have certain inalienable rights. They include the right to a clean and healthful environment and the rights of pursuing life's basic necessities, enjoying and defending their lives and liberties, acquiring, possessing and protecting property, and seeking their safety, health and happiness in all lawful ways. In enjoying these rights, all persons recognize corresponding responsibilities.
[13]Article IX. Environment and Natural Resources, Part IX, Sections 1 – 7.
[14]Mont. Code Ann. § 75-1-102(1).
[15] Article IX. Environment and Natural Resources, Part IX, Section 1.
[16] Mont. Code Ann. § 75-1-102(1)(b).
[17] Mont. Code Ann. § 75-1-102(3)(a).

75-1-103. Policy. (1) The legislature, recognizing the profound impact of human activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances, recognizing the critical importance of restoring and maintaining environmental quality to the overall welfare and human development, and further recognizing that governmental regulation may unnecessarily restrict the use and enjoyment of private property, declares that it is the continuing policy of the state of Montana, in cooperation with the federal government, local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which humans and nature can coexist in productive harmony, to recognize the right to use and enjoy private property free of undue government regulation, and to fulfill the social, economic, and other requirements of present and future generations of Montanans.

(2) In order to carry out the policy set forth in parts 1 through 3, it is the continuing responsibility of the state of Montana to use all practicable means consistent with other essential considerations of state policy to improve and coordinate state plans, functions, programs, and resources so that the state may:

(a) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(b) ensure for all Montanans safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

(c) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(d) protect the right to use and enjoy private property free of undue government regulation;

(e) preserve important historic, cultural, and natural aspects of our unique heritage and maintain, wherever possible, an environment that supports diversity and variety of individual choice;

(f) achieve a balance between population and resource use that will permit high standards of living and a wide sharing of life's amenities; and

(g) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(3) The legislature recognizes that each person is entitled to a healthful environment, that each person is entitled to use and enjoy that person's private property free of undue government regulation, that each person has the right to pursue life's basic necessities,

> and that each person has a responsibility to contribute to the preservation and enhancement of the environment. The implementation of these rights requires the balancing of the competing interests associated with the rights by the legislature in order to protect the public health, safety, and welfare.[18]

(Emphasis added.)

The people of Madison County, ranchers, outdoor recreation professionals, fly-fishing guides, business owners, wildlife enthusiasts, recreationists, and the travelling public rely on environmental resources including Ennis Lake, the Madison River, streams, and other watercourses, wildlife, clean air, and clean water. DNRC must identify and address the significant environmental issues related to the operations of the Asphalt Plant at this location in order to fulfill its obligations under MEPA.

In preparing the Environmental Assessment, DNRC must "use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which humans and nature can coexist in productive harmony, to recognize the right to use and enjoy private property free of undue government regulation, and to fulfill the social, economic, and other requirements of present and future generations of Montanans."[19]

DNRC must take also take a "hard look" at the environmental impacts of the Asphalt Plant.[20] "Implicit in the requirement that an agency take a hard look at the environmental consequences of its actions is the obligation to make an adequate compilation of relevant information, to analyze it reasonably, and to consider all pertinent data."[21] In undertaking its Environmental Assessment, DNRC must give meaningful consideration to the above-referenced policy considerations, and must balance the competing interests associated in order to protect the public health, safety, and welfare.

Wildlife Impacts

DNRC's Environmental Assessment for the DSL Gravel Pit renewal and expansion recognizes "The project area provides habitat for a variety of wildlife species."

DNRC's Environmental Assessment must analyze the impacts of the Asphalt Plant on the wildlife, fish, and bird populations it previously identified, including elk, white tail deer, moose, antelope, as well as on the Tundra Swans, Sandhill Cranes, and Hungarian Partridge, and other wildlife and fisheries not previously addressed that will be adversely impacted by noise, dust, and diminished water quality. A wildlife study must be undertaken, and impacts must be addressed in the Environmental Assessment.

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[18]Mont. Code Ann. § 75-1-103.
[19]Mont. Code Ann. § 75-1-103(1).
[20] *Clark Fork Coalition v. Mont. Dep't of Envtl. Quality*, 2008 MT 407, ¶ 47.
[21] *Ravalli Cty. Fish & Game Ass'n, Inc.*, 273 Mont. at 381, 903 P.2d at 1369 (1995) (citing *Sierra Club v. U. S. Army Corps of Engrs.*, 701 F.2d 1011, 1029 (2nd Cir. 1983)).

The impacts to water quality must be addressed as related to the spring fed tributary of the Madison River, known to be a degraded watershed. Moore Creek operates as a remote site incubator managed by Montana Fish Wildlife and Parks for the rare Arctic Grayling, identified as high risk in Montana, with declining population and range. The Asphalt will undoubtedly exacerbate the existing 303(d) listed conditions of the Moore Creek watershed that are undergoing extensive local, state, federal and private efforts to restore the watershed and wetland complexes, undermining these efforts.

Adding the Asphalt Plant to the already expanded AM Welles gravel mine is yet another example of the death by a thousand cuts impacts resulting from gravel pit operations over time.

Water Quantity and Quality Impacts

A.M Wells admits in its application that "asphalt is considered to have the potential to impact water quality." *See* Section D6(1) of the Application on file and of record with DNRC.

Impacts to groundwater and surface water must be thoroughly and adequately addressed. This includes information, in part, how much water is needed for the Asphalt Plant operations, where the water will come from, and demonstrating water rights have been obtained. The Environmental Assessment must include analysis of the amount of water that will be required by the totality of the DSL Gravel Pit operations including the Asphalt Plant, wash plant operations and pug mill operation, dust suppression, and irrigation of stockpiles, ensure sufficiency of water rights, and assess the cumulative impacts on water quality and water quantity. In addition, Channels Ranch, other neighboring property owners, and the public must have assurances that impacts to water rights, wells in the vicinity, the Madison River, Moose Creek (a jurisdictional waterway and tributary to Ennis Lake), the unnamed tributary, and other water bodies will be addressed and mitigated.

DNRC's Environmental Statement for the DSL Gravel Pit renewal and expansion states, "[s]ection 16 contains an ephemeral drainage that is a tributary of Moore Creek. Moore creek drains into Fletcher channel, which ultimately drains into Ennis Lake" and admits "[r]unoff from large rain events may collect and distribute particles from the pit area to the ephemeral drainage." The Environmental Assessment for the Asphalt Plant must address the impacts to water quality from the proposed Asphalt Plant on Moore Creek, which is within 1000 feet of the DSL Gravel Pit. The Environmental Assessment must also address discharges of stormwater runoff into Moore Creek, a 303(d) listed, water quality impaired stream. The cumulative impacts of the Asphalt Plant together with the impacts from the gravel pit must be taken into account in analyzing the impacts to water quality and water quantity.

DNRC's Environmental Assessment for the DSL Gravel Pit renewal and expansion admitted that the planned use of water from the onsite well will affect the abundance of ground water in the direct vicinity of the project area, but fails to address those effects in any way.[22] That Environmental Assessment also states the "well being utilized by the proponent currently is an exempt well,

[22] Environmental Assessment DSL Gravel Pit renewal and expansion, III. Impacts on the Physical Environment, 5. Water Quality, Quantity and Distribution.

meaning it is authorized for use up to 10-acre feet per year" and estimates "the well utilizes approximately 5.75 acre-ft per year."[23] The Environmental Assessment for the Asphalt Plant must address effects to groundwater, nearby wells, and sufficiency of water relative to the exempt well and amount of water currently being utilized and additional water rights obtained as necessary. No Asphalt Plant can be approved unless and until sufficient water rights are confirmed.

Air Quality Impacts, Dust, Noxious Odors

"Asphalt plants are sources of air pollution that may emit significant levels of both particulate matter and gaseous volatile organic compounds (VOCs). These pollutants are considered to be dangerous to human health."[24] "The following are examples of seven pollutants typically found at various levels in emissions from asphalt plants – hydrogen sulfide, benzene, chromium, formaldehyde, polycyclic aromatic hydrocarbons (PAHS), cadmium and arsenic…:"[25] Additional hazardous substances, asphalt plant pollutants and particulates are listed in Exhibit A. Correspondingly, impacts to air quality resulting from Asphalt Plant operations are of considerable concern, which the Environmental Assessment must take into consideration in addition to the following.

Air pollution concerns include the fine dusts carried by the wind and which result in breathing problems and respiratory impacts, including irritation of eyes, nose, throat, and respiratory tract. Those fine particulates can compound existing respiratory conditions including asthma and allergies. Crystalline silica found in asphalt and rocks, is of particular concern. "Inhalation of respirable crystalline silica can cause silicosis, a debilitating and potentially fatal lung disease. Silica exposure has also been associated with lung cancer, chronic obstructive pulmonary disease, renal disease, and other adverse health outcomes."[26] *See* also, issues and health concerns raised above under the heading Adverse Impacts from Asphalt Plant Operations at the AM Welles DSL Gravel Pit.

Off-site dust emissions are rarely monitored. Dust and dust plumes will inevitably result from the Asphalt Plant, compounded by ongoing mine operations, heavy truck traffic, including crushing, screening, stacking, truck, and loader transport on and off site, removal of overburden, construction of berms, and wind blowing over gravel stockpiles. This will create additional impacts, beyond historic activity, which impacts must be addressed via separate MEPA analysis, which DNRC acknowledged in its previous Environmental Assessment for the DSL Gravel Pit renewal and expansion. Disturbance of previously undisturbed ground for the mining expansion coupled with the Asphalt Plant will generate increased amounts of airborne pollutants and fugitive dust

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[23] Environmental Assessment DSL Gravel Pit renewal and expansion, III. Impacts on the Physical Environment, 12. Demands On Environmental Resources of Land, Water, Air or Energy, page 8.
[24] Fact Sheet: Information Regarding Asphalt Concrete Plants, number 5, November 1996, Ohio EPA, Division of Air Pollution Control Small Business Assistance Program."
[25] Id.
[26] Hammond, Duane R. et al., (2016), Respirable Crystalline Silica Exposures During Asphalt Pavement Milling at Eleven Highway Construction Sites, *National Library of Medicine, National Center for Biotechnology Information*, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4915055/ (last accessed February 28, 2024).

particulates which must be properly analyzed, taking into consideration wind direction and wind speed, distance of travel, and corresponding impacts to humans, wildlife, and nearby water bodies. Impacts to air quality and resulting from fugitive dust migration must be thoroughly assessed and addressed in the Environmental Assessment along with the adverse impacts expected to result, in addition to risks to human health, birds, fisheries and wildlife.

In addition to health impacts from the above, toxic smells emitted from the Asphalt Plant will impact quality of life.

Fire Hazard Risks

With less than average precipitation this winter (2023-2024), the fire season ahead is an obvious concern. The Asphalt Plant is a high fire hazard risk due to the highly toxic, combustible, and flammable chemicals used. Emergency incidents can result in explosions, asphalt fumes, fire, and toxic exposure, with long-term consequences, including, but not limited to toxic runoff, chemical spills, and other catastrophes that would be detrimental in this ecologically sensitive area. These risks must be assessed in the Environmental Assessment, including sufficiency of water to address fire, explosion, and other catastrophic events that may result from the Asphalt Plant.

Neighboring Residential Uses, Noise, Odors, and Visual Impacts

The Asphalt Plant is an inappropriate industrial use in this ecologically sensitive rural residential and agricultural area of the Madison Valley. It will adversely affect nearby properties and their occupants given the visual impacts, offensive odors, and constant noise.

The Environmental Assessment must evaluate impacts on scenic areas, in particular given the intrusive height of the Asphalt Plant. A viewshed analysis has been prepared which demonstrates significant and adverse visual impacts will result across a broad swath of the Madison Valley, including "Troutdale, McAllister, Town of Ennis, the Golf Course, the Madison River and it [sic] Channels, Ennis Lake, all the way up to the Lee Metcalf Wilderness from the Bear Trap to the Cedar Creek area – even the backside of Big Sky and Loan Mountain."[27] In addition, "17 miles of the Madison River will visibly see and hear this Asphalt Plant."[28] *See* the Viewshed Analysis attached as Exhibit B and incorporated by reference. The Environmental Assessment must specifically address the visibility of the Asphalt Plant from the Channels Ranch, other neighboring properties, and the locations identified above and in the Viewshed Analysis, and must take into consideration impacts to the scenic beauty and natural quality which support Madison County's outdoor recreation economy. In doing so, DNRC must "ensure for all Montanans … aesthetically and culturally pleasing surroundings" and "achieve a balance between population and resource use that will permit high standards of living and a wide sharing of life's amenities."[29]

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[27] https://protectthemadisonvalley.org/background (last accessed February 27, 2024).
[28] Id.
[29] Mont. Code Ann. § 75-1-103(2)(b), (f).

Evidence of a Montana Department of Environmental Quality air quality permit must be provided, which addresses particulate emissions from the Asphalt Plant at this location, taking into consideration compounding impacts, human health, and the environmentally sensitive area, water bodies, wildlife, and fisheries.

Asphalt plants generate persistent noise and toxic odors from chemical emissions, pollutants, and hazardous substances, creating a nuisance, and which may cause symptoms such as headaches, eye, nose, and throat irritation, and nausea, among other symptoms. In this case, the Asphalt Plant is near the heavily trafficked Highway 287 on the north side of the DSL Gravel Pit area. The Asphalt Plant, coupled with the mining operations, crusher, pug mill, screen, conveyor, and wash plant, will collectively have additional impacts beyond just mining extraction, adversely impacting neighboring residences and disrupting wildlife in the area. The area winds, which shift in direction, will carry dust, sound, and odors considerable distances, the impacts of which DNRC must assess and address in its Environmental Assessment.

No information is provided regarding the days of the week or hours of the day the Asphalt Plant will operate. This information must also be included, and the related impacts assessed in the Environmental Assessment.

Other Unmitigated Impacts

Highway 287 is heavily trafficked and commonly used by large semi-trucks and local residents. During the period of operations of the Asphalt Plant, April 1, 2024 - June 8, 2024, ever-increasing tourists and RVs will be using the Highway as well. The addition of an Asphalt Plant will undoubtedly compound heavy gravel truck traffic on Highway 287, damage the road, create additional fugitive dust, and increase accidents for residents, tourists, and the traveling public. A traffic study during the operations period, April 1, 2024 - June 8, 2024, must be undertaken as part of the Environmental Assessment to adequately address and mitigate these impacts.

The Madison Valley relies on tourism, recreation, and visitors to support the local economy. Many of those tourists and visitors travel scenic Highway 287 to reach Yellowstone Park among other destinations. Commercial guided outfitting on the Madison River is a significant driver of economic activity in the Valley.[30] The Asphalt Plant near Highway 287 on the north side of the DSL Gravel Pit area and visible from Madison River per the Viewshed Study will mar the landscape in this area of the Valley. *See* Exhibit B.

Property values will be further adversely impacted due to the Asphalt Plant. Gravel pit operations and asphalt plants are considered adverse material facts with respect to real estate transactions and must be disclosed. The adverse impacts associated with the Asphalt Plant have the potential to be considered significant enough to derail the sale and purchase of nearby properties.

Clean and Healthful Environment; Open Cut Mining Act

[30] https://fwp.mt.gov/binaries/content/assets/fwp/aboutfwp/councils--committees/madison-river-workgroup/4-28-2022/economic-implications-of-madison-river-commercial-limit-options-final-4-26-22.pdf (last accessed February 28, 2024).

The Channels Ranch, mindful of the ecological sensitivity, spectacular natural and scenic beauty, and bountiful wildlife and natural resources in this area of Madison County, as well as their right to a clean and healthful environment, as set forth in our Constitution's Declaration of Rights, intend to continue to express their opposition to the DSL Gravel Pit and AM Welles' proposal to locate and operate an Asphalt Plant. Article II, Section 3, states that "[a]ll persons are born free and have certain inalienable rights" and "they include the right to a clean and healthful environment . . ." and "possessing and protecting property...."[31] In their opposition, it is the clean and healthful environment of Madison County and its property that Channels Ranch seeks to protect.

The Montana Constitution further provides that"[t]he state and each person shall maintain and improve a clean and healthful environment in Montana for present and future generations."[32] The Legislature adopted the Opencut Mining Act "mindful of its constitutional obligations under Article II, section 3, and Article IX of the Montana constitution."[33] And also to "provide adequate remedies for the protection of the environmental life support system from degradation and provide adequate remedies to prevent unreasonable depletion and degradation of natural resources."[34]

The purpose of the Opencut Mining Act are, in part, as follows.

(a) to preserve natural resources;
(b) to aid in the protection of wildlife and aquatic resources;
(c) to safeguard and reclaim through effective means and methods all agricultural, recreational, home, and industrial sites subjected to or that may be affected by opencut operations;
(d) to protect and perpetuate the taxable value of property through reclamation;
(e) to protect scenic, scientific, historic, or other unique areas; and
(f) to promote the health, safety, and general welfare of the people of this state.[35]

In preparing the Environmental Assessment, DNRC must adhere to the foregoing purposes.

Conclusion

"MEPA requires that an agency be informed when it balances preservation against utilization of our natural resources and trust lands." *Ravalli County Fish & Game Ass'n v. Montana Dep't of State Lands*, 273 Mont. 371, 384, 903 P.2d 1362, 1371, 1995 Mont. LEXIS 223, *20, 52 Mont. St. Rep. 996. DNRC "must take a hard look at the environmental impacts of a given project or proposal" and "implicit in the requirement that an agency take a hard look at the environmental consequences of its actions is the obligation to make an adequate compilation of relevant information, to analyze it reasonably, and to consider all pertinent data." *Ravalli Cty. Fish & Game Ass'n, Inc.*, 273 Mont. at 381, 903 P.2d at 1369 (1995) (citing *Sierra Club v. U. S. Army Corps of Engrs.*, 701 F.2d 1011, 1029 (2nd Cir. 1983)).

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[31] Montana Constitution, Art. II, Section 3.
[32] Montana Constitution, Art. IX, Section 1(1).
[33] Mont. Code Ann. § 82-4-402(1).
[34] Mont. Code Ann. § 82-4-402(1).
[35] Mont. Code Ann. § 82-4-402.

The Asphalt Plant at the A.M. Welles Pit will have environmental consequences and negative impacts on this environmentally sensitive area of the Madison Valley, Channels Ranch, other neighboring property owners, area residents, and the public. Substantial issues have been raised and significant information is lacking regarding the Asphalt Plant as explained herein. Moreover, substantial issues were raised regarding the A.M. Welles Pit Expansion and these remain to be addressed in the pending litigation. DNRC should not compound those impacts by approving the Asphalt Plant.

Channels Ranch respectfully requests that DNRC prepare an Environmental Assessment in accordance with state law and undertake a 'hard look' at the significant impacts to the nearby residents, the local community that relies on tourism, the Madison River, Moore Creek, and the unnamed tributary, fish, birds, and wildlife wildlife, land, air, and surface and groundwater. The Environmental Assessment must be based upon a compilation and analysis of all relevant data and scientific information, including all public comment submitted, and taking into consideration uncertain risk to ecological, recreational, and economic values, as well as human health and the environment and the specific issues raised herein.

RESPECTFULLY,
GALLIK & BREMER, P.C.

Jecyn N. Bremer
Attorney at Law

c: client
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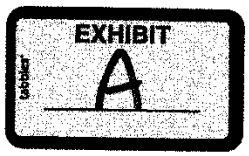
DNRC Director Amanda Kaster, Amanda.Kaster@mt.gov
DNRC Attorney, Emily Obermiller, cnd404@mt.gov
Madison County Commissioners, Madco@madisoncountymt.gov
Montana FWP, Jen Smitham, Region 3, Public Comment Coordinator, JSmitham@mt.gov

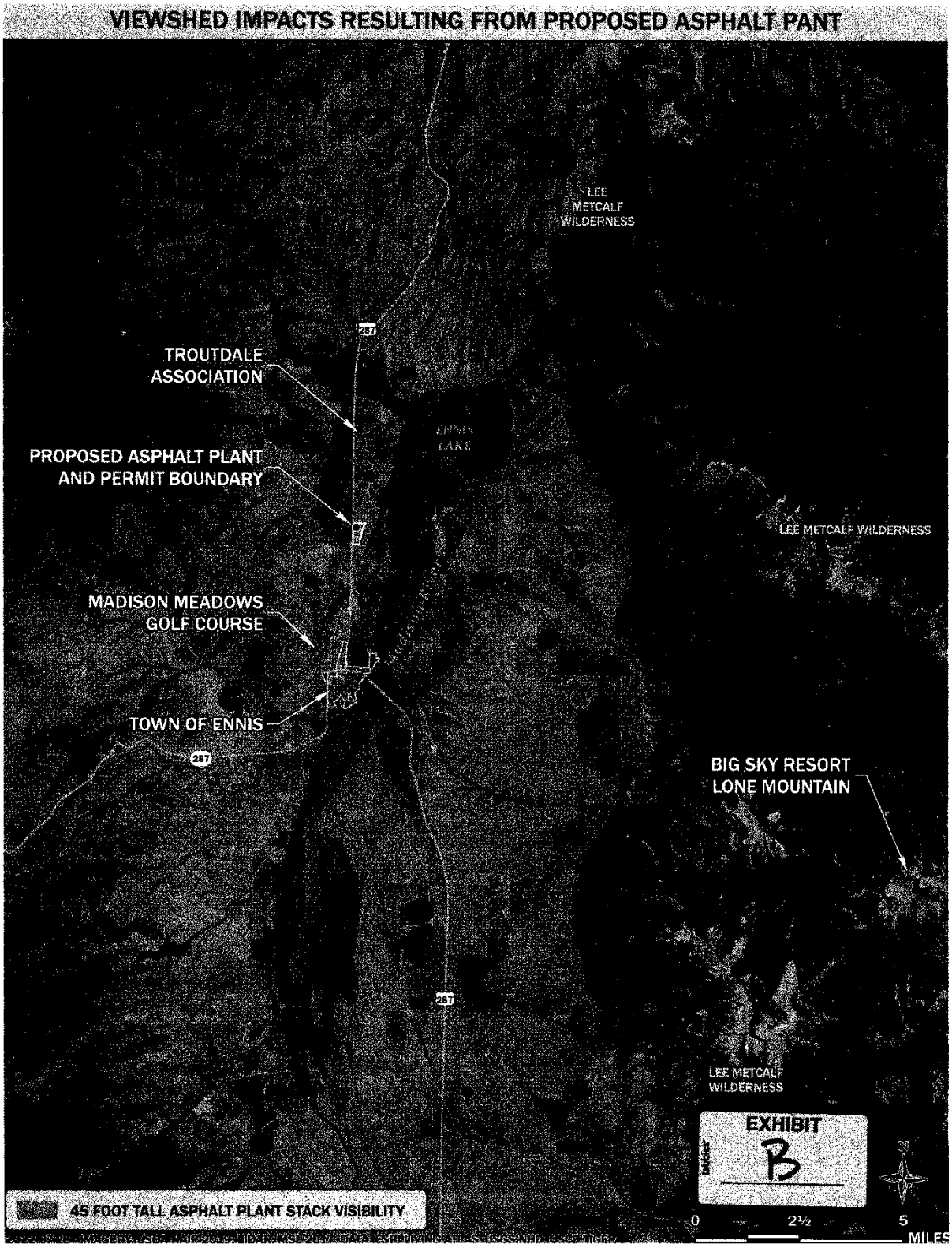
Toxic air pollutants (TAPs) emitted from asphalt plant[2]

Toxic Air Pollutant	Emitted from drum dryer and hot oil heater	Emitted from material handling and storage
Acetaldehyde	yes	no
Acrolein	yes	no
Formaldehyde	yes	yes
Phenol	no	yes
Styrene	no	yes
Trichlorofluoromethane (CFC 111)	no	yes
Methyl chloroform	yes	yes
Methyl ethyl ketone	yes	yes
Toluene	yes	yes
Xylene	yes	yes
Methylene chloride	no	yes
Soluble Chromate Compounds, as Chromium (VI)	yes	no
n-Hexane	yes	yes
Manganese & compounds	yes	no
Mercury	yes	no
Nickel & Compounds	yes	no
Carbon disulfide	no	yes
Tetrachlorodibenzo-p-dioxin, 2,3,7,8-	yes	no
Arsenic & Compounds	yes	no
Benzene	yes	yes
Benzo(a)pyrene	yes	yes
Hydrogen Sulfide	yes	yes
Beryllium	yes	no
Cadmium	yes	no
Hexachlorodibenzo-p-dioxin, 1,2,3,6,7,8	yes	no
Hydrogen Chloride (hydrochloric acid)	yes	no
Perchloroethylene (tetrachloroethylene)	no	yes
Trichloroethylene	no	yes

[2] *Memorandum, Procedures for Permitting and Estimating Emissions from Asphalt Plants, Laura S. Butler, (November 18, 1999)*

https://www.deq.nc.gov/about/divisions/air-quality/air-quality-permitting/asphalt-plants




VIEWSHED IMPACTS RESULTING FROM PROPOSED ASPHALT PANT
LEE METCALF WILDERNESS
TROUTDALE ASSOCIATION
PROPOSED ASPHALT PLANT AND PERMIT BOUNDARY
ENNIS LAKE
LEE METCALF WILDERNESS
MADISON MEADOWS GOLF COURSE
TOWN OF ENNIS
BIG SKY RESORT LONE MOUNTAIN
LEE METCALF WILDERNESS
EXHIBIT
B
45 FOOT TALL ASPHALT PLANT STACK VISIBILITY
0
2½
5
MILES

Bob Briggs
Correspondence: Microsoft Forms – February 9, 2024

I support this temporary asphalt plant needed for local projects and for about 2 months. Sure, asphalt plants aren't pretty. Neither are gravel pits. Neither are dusty roads or houses at times. This is an acceptable use of an existing site for the benefit of our communities.

Randy Brown
Correspondence: Microsoft Forms – February 19, 2024

I am opposed to this asphalt plant for obvious reasons:
Directly impacts Moore's Ck
Directly impacts Ennis Lake downstream
Negatively affects spring waterfowl nesting just down the hill from the proposed plant.
Was led to believe this plant was not on the table and now it is?
Can't think of a worse place for an asphalt plant.
Please reconsider plans for this environmentally dangerous project.

Scott Burford
Correspondence: Microsoft Forms – February 19, 2024

After first experiencing Bear Trap Canyon in 1985, the Lee Metcalf Wilderness conservation rules and regulations were taken quite seriously/literally by all in my rafting group. We packed out everything. That mindset has not changed through the years, which may explain why Bear Trap remains pristine. The possibility **of byproduct** from the proposed asphalt plant near Ennis Lake impacting Bear Trap downstream may be miniscule - just as our "packed-out" byproducts have been for years but the rules were never compromised. Please continue to be over-careful when allowing for any possible easing of rules/regulations for this proposed Asphalt operation.

Sharon Burnett
Correspondence: Microsoft Forms – February 27, 2024

I am opposed to a mining, crusher, and gravel pit operation with retention ponds in this location located off Hwy 287 between Ennis, McAlister and the Madison River located to the East, along with the Lee Metcalfe Wilderness Area not far away. These type of operations should be located in rural, non populated areas in Montana, not located in tourist areas and scenic highways.
Sharon Burnett, full time resident of Ennis, Montana. Dtd. 2/27/2024

Rosemary Burton
Correspondence: Microsoft Forms – February 25, 2024

I encourage you to deny the permit for the asphalt plant on state lands north of Ennis. I have great concerns about air and water pollutants. The site is surrounded by important fish in wildlife habitat. It would be sad for a short term asphalt plant to ruin, the beautiful, pristine habitat of the Madison valley .

Patrick Byorth – Trout Unlimited, Inc.
Correspondence: Microsoft Forms – March 2, 2024

Montana Department of Natural Resources and Conservation
Trust Lands Management
1539 Eleventh Ave.
Helena, MT 59601
ATTN: Zack Winfield

RE: A.M. Welles Asphalt Plant

March 1, 2024

Dear Mr. Winfield,

Trout Unlimited, Inc. writes to express our repeated, serious concerns over the Department's analysis of an asphalt plant associated with a gravel mining permit for A.M. Welles just north of Ennis, Montana. Trout Unlimited is dedicated to conservation of native and wild coldwater fishes, an organization comprised of over 400,000 members nationwide, with Montana grassroots organized into 13 chapters across Montana. The Madison-Gallatin Chapter represents over 900 members active in conservation of the Madison River and its tributaries.

In our initial comments to the Department's May 23, 2023 Environmental Assessment (EA) Trout Unlimited expressed its concerns that the Department's cavalier environmental review failed in its responsibilities to "look before you leap" as memorialized in the Montana Environmental Policy Act (MEPA). It appears that the Department continues to fast-track the asphalt project with little concern for public participation and MEPA. While the "scoping letter " dated January 25, 2024 sets a timeline for public comment ending March 2, 2024, the applicant proposes to mobilize the plant on April 1, 2024. It is clear that the Department does not intend to comply with MEPA in making its decision. A scoping letter does not stand in place of an EA, nor does the May 2023 EA suffice.

We previously expressed concerns that the project must protect nearby tributaries of and wetlands along the Madison River. The proposed asphalt plant will require the extensive use of heavy petroleum and diesel fuel, heightening **the risk of spills and contamination** to groundwater and nearby river channels. The May 2023 EA stated that the Department would analyze its potential impacts separately and "approve or deny on a case-by-case basis." The scoping letter states: "The Department will complete an environmental assessment evaluates (sic) impacts to the physical and human environment…" It is simply not feasible to conduct a thorough analysis when public scoping comments must be reviewed, an analysis conducted, and EA and decision notice posted for public comment in less than 29 days.

As before, Trout Unlimited is concerned that the Department's cavalier approach to analyzing effects of the asphalt plan reveals a disdain for the full spectrum of resources it is charged with managing in the public trust and for MEPA. The May 2023 EA promises that the asphalt plant will be thoroughly analyzed, as does the scoping letter, yet the foreshortened public comment

and environmental analysis and the proposed timeline do not inspire confidence in the Department's willingness to follow through. Until the Department completes a thorough review of the potential impacts of an asphalt plant, including potential impacts to air quality, **soils** and groundwater, the only rational decision is to choose the no action alternative and issue a denial letter.

Sincerely,

Patrick Byorth, Montana Water Director

Michael Cagle
Correspondence: Microsoft Forms – February 25, 2024

I own property outside Ennis, Montana and have been coming to this area every year since 1984. The Madison River is one of, if not the most important trout rivers in the United States and the State of Montana lives off tourism because of beautiful rivers like the Madison. People come to vacation here to get away from big city eyesores like automotive salvage yards, asphalt plants, etc. To risk losing this incredible resource for an asphalt plant is amazing. No one wants to vacation next to the sounds, smells, and sight (45' high smoke stack) of an asphalt plant. Also, the possibility that this facility could leach into the Madison River and your organization thinks nothing of the consequences is very troubling. What you're allowing will diminish the beauty of this valley and drive tourism away. Put a facility like this in a manufacturing or industrial area where it belongs.

Rod Campbell
Correspondence: Microsoft Forms – March 2, 2024

We all need good roads don't we! It will be much safer for the trucks to haul from Ennis, and not Belgrade. Yes, build the plant.

Gina Carolan
Correspondence: Microsoft Forms – February 24, 2024

As asphalt production and storage consumes water, produce air pollutants, odor, and noise, in a site surrounded by important fish and wildlife habitat, I am opposed to issuing a permit on state land between Ennis and McAlister.

Bill Carpenter
Correspondence: Microsoft Forms – February 21, 2024

I fully support AM Welles asphalt plant proposal. I see no health or safety reason - or any other reason, for that matter - to deny this. Thank you.

Sylvia Carpenter
Correspondence: Microsoft Forms – February 23, 2024

I do not see a problem with the asphalt plant plan for the Madison Valley. The developers want development. The realtors want to sell new homes. We have no "black or brown" neighborhood in which to place the plant. Everyone wants asphalt on the new driveway, and it's expensive to transport and environmentally costly as well.

But, I would ask that a full environmental study be done to determine what possible effect there might be on the Madison River which is downhill from the proposed plant. The Madison River is a big draw for all the players listed above. If it's cleanliness is destroyed, or even lessened, THAT will be a big issue for everyone.

Thank you. Sylvia Carpenter

Chris Casey
Correspondence: Microsoft Forms – February 1, 2024

Please record my No Action response to the recent AM Welles DSL gravel pit/Asphalt pit proposal.
Look, Zack, I don't like this lengthy reply but it seems your office isn't listening to us.
My wife and I lived down wind of this place in Troutdale 2 subdivision for the last 10 years. The pit expansion and asphalt plant is a terrible idea for the next door neighbors and people of McAllister. We are near, hear it, smell it because we are down wind. We suffer from constant poor air quality resulting from pit operations and dust in our homes from pit operations. We don't even know it's make up. Your department doesn't even monitor what this is nor measure ppm of dust particles from the huge dust storms that occur. I've thought some were wildfires. Monitoring of compliance for other things going there is suspect due to the known permit violations we became aware of during the last effort to expand.
The public hearing in Ennis was overwhelming against these proposals the pit operators keep making.
Because in the 40 years since the pit opened demographics have changed dramatically! Due to those changes and the cumulative effects of pit operations it's become unsafe and a nuisance. There are homes now and subdivisions with people living year round down wind of this open pit now. There are more people having to drive along with huge mine trucks. Don't you understand the health risks and air quality issues created by an open pit in this location now? There are no barriers. Their daily operations creating huge piles of dirt rising above ground level are subjected to steady southerly winds of 30-40 miles an hour. Have you personally seen these huge dust clouds created along Rt 287 we drive through? You'll smell it as it's drawn into your vehicle. That wind blows this dust from those exposed piles at my neighborhood, my home and property. It works it's way into our home, windows, garage and coats our vehicles and outside surfaces and snow in a fine dust we can see.
How can a department that's supposed to protect our health and air quality continuing to allow these proposals?
You told us the pit was going to be expanded by 8 acres, now it's 23? How did that happen? We said no to the asphalt plant, the dangerous chemicals used that will pollute State lands on and off site, noxious odors and additional heavy truck traffic on a recently repaired road near our entrance to Hwy 287.

This concern was shared during written and public testimony. Now here it is again. Why?
Does your Department even listen to citizens to advise the proponents against proposals that will go against public support & interests? Or just go through the motions only to approve whatever proposal from existing operations come in?
Do you understand the changes in adjacent land uses to the pit and where people now live? The heavy truck issues we deal with?
Please, select No Action to this proposal.
It's a bad idea for me and my family that live nearby, it's bad for our town, our air and the Madison river downhill from the pit. It's time to realize the need to phase out this pit. The owners have received significant benefit from our public resources from 40 years of operations. Times changed. Time to adapt. Phase out this pit, don't allow expansion and a new plant. Locate any new pits and asphalt operations on State lands away from where people live.
The additional speeding heavy truck traffic coming with this asphalt plant proposal will just kill more of our wildlife and pets while spewing rocks breaking our windshields constantly as we have to drive with increased mine truck traffic.
I worked my career leading teams conducting NEPA Environmental assessments and EIS with public involvement. I understand you have to process those requests. I also understand when a proposal is wrong and lacking justification after getting public comment and analysis against it. To continue to accept Am Welles DSL proposals here goes against clear and overwhelming opinion your

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Joanne Casey
Correspondence: Microsoft Forms – February 27, 2024

Thank you for the opportunity to comment and raise important issues regarding our health and safety in regards to proposed expansion and change of operations at the DSL open pit mine.
I want to go on record of being against this latest proposal to expand and add asphalt plant operations the DSL pit near my home. We are down wind from the pit.
I have respiratory issues. I currently have to endure noise, dust storms, increased air pollution and particulate from current pit operations during windstorms, and large dust clouds originating from the pit, during wildfire smoke and atmospheric condition's such as inversions. We have called to complain when the dust clouds impede driving on HWY 286 abd when they were so big and dark we thought it was a wildfire approaching our house. In addition we have to endure driving with added large truck traffic which is noisy, breaks our windshields, kills local wildlife and our pets on HWY 287.
I want you to determine the effects on our air quality. I want to know how current operations add particulate to the air I breath. The baseline. How much is it? I want to see measurements on current PPM of dust and other particulates and how the current operations meet current air quality standards. I then want to see the cumulative effects of additional fumes, particulate's from proposed operations including the proposed asphalt plant, pit expansion and any other alternatives to operations there. I want you to measure how much will be produced in addition to whats produced now and how the PPM and noxious fumes will be monitored and measured to assure they fall within EPA and MT state ir DNRC air quality guidelines and safe limits. I want you to address how these additional asphalt and dangerous petroleum fumes and dirt/dust particulate will be measured and monitored during the frequent windstorms that create large dust clouds here in Mcallister. They originate from the huge exposed dirt piles at the pit. I want to

know how air quality will be monitored and measured during inversions and during periods of wildfire smoke that already impede our air quality and my ability to have clean air to breathe. I want to know what controls will be put in place to shut down operations when air quality standards, driving is unsafe & create public nuisance.I want to know how and where citizens can easily file complaints when air quality and our quality of life are impaired by harmful, noxious odors and harmful increases in ppm of mine dust particles &dangerous operation of trucks.I want to know how many trucks per day and how many in total will impact HWY 287 from this proposal in addition to the current amount of trucks impacting our neighborhood and school buses. You may not be aware but this highway was just rebuilt at considerable expense, time and much inconvenience to valley residents and tourists during repaving. The wait times were deplorable and it disrupted our lives and ability to conduct our business.How will increased truck traffic hasten deterioration of this road?. I expect a thorough environmental analysis on the proposal, any alternatives and description of mitigation measures and how it will be done and who will do it. Who and how the inventory, monitoring and evaluation of the proposal will be done and what the efficacy of control and mitigation measures applied to pit operations will be. How will all of this meet EPA and Montana air quality standards?.
This us where I, my family and my neighbors live. We have our health, quality of life and the air we breath at stake which is already impaired by the open pit mining operations. Times have changed, conditions have changed since the first permitting of DSL to begin mine operations. This shouldn't even be happening near our neighborhood in this day and age. Show us how MT DNRC will protect us and our well being from open pit operations and asphalt plant or cement plant operations.

Joanne Casey

Andrea Chandler
Correspondence: Microsoft Forms – February 20, 2024

I am opposed to the asphalt plant north of Ennis. As the closest neighbor to the gravel pit, I do not want the noise, smell, and traffic increase that will come with the asphalt plant.

Levi Chandler
Correspondence: Microsoft Forms – February 20, 2024

As the closest neighbor to the gravel pit, I oppose the asphalt plant because of the increase of traffic, noise, and dust.

Kim Cheselka
Correspondence: Microsoft Forms – February 24, 2024

Horrible!!!!!!!!
Shooting yourself in the foot…
Why would anyone consent or think it's a good idea to put an asphalt plant in the Madison Valley near the environment of the Madison River? A sensitive river system that draws flyfishers ($) from all over the world?

Why would anyone consent to risking this amazing resource
Rethink

Alison Child
Correspondence: Microsoft Forms – February 25, 2024

The application to build an asphalt plant on the banks of the Madison River must be denied. The Madison River is a crown jewel of trout streams, attracting anglers and tourists from across the globe. This tourism supports the economy of the Madison Valley, including Ennis businesses and property values. To build a commercial facility on the banks of the river, with inevitable negative consequences due to runoff and other accidents, is simply unacceptable from a conservation and a business point of view. Such construction will inevitably kill fish, aquatic growth, insect growth, and threaten wildlife, all of which contribute to a healthy river. As such, allowing a permit for an asphalt plant on the banks of the Madison River would be unconscionable.

Robert Chircop
Correspondence: Microsoft Forms – February 28, 2024

Ennis, and the contiguous Madison River Valley south of Norris Hill, is an almost completely residential and cattle-ranching community. The State of Montana, and Madison County, have never had the need for a local asphalt plant to pave and maintain, roadways in the region as needed. The area's economy is fueled by fishing, hunting, and tourism,all of which would be irreparably damaged by creation and operation of a local asphalt plant, which insread should be placed in an already industrialized region, if indeed the need for additional asphalt production capacity is actually needed.

Don and Beverly Clark
Correspondence: Microsoft Forms – February 20, 2024

We understand that an environmental assessment has not been made so it is impossible to be specific in our opposition to the plant. Regardless the plant will create poorer air quality, create noise and has the potential to pollute the Madison River. Surely a more remote location can be found to locate this plant. The DNRC should conduct an environmental assessment and then have a public hearing before proceeding.

David Clark
Correspondence: Microsoft Forms – February 20, 2024

I am in favor of the asphalt plant. Our area is in need of improved infrastructure. A. M. Wells is compliant and no reason not to approve the permit

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Luke Clark
Correspondence: Microsoft Forms – February 27, 2024

I am in favor of the Asphalt Plant

Dulcie Clark
Correspondence: Microsoft Forms – February 27, 2024

I am in favor of the Asphalt Plant

Robert Clark
Correspondence: Microsoft Forms – March 1, 2024

I am strongly opposed to true gravel/asphalt mine. This mine is located along one of the most beautiful sections of the Madison River and, if allowed to expand and build an asphalt tower, will have a material impact on the natural beauty and natural resources unique to this area. The natural resources and beauty of this area along the Madison River are truly irreplaceable and should be protected at all costs. Any risk of negative environmental impact, great or small, is too much risk when considering the preciousness and majesty of this natural area.

Expansion of the gravel mine as proposed materially increases the threat to the water quality and wildlife in the area. Surely there are **alternative locations** for this gravel mining operation, or its expansion, that are not in such proximity, and thus non-threatening, to such precious natural areas as the channels section of the Madison River?

I urge the state agencies and governmental authorities to exercise extreme care over this permitting approval process and would recommend a denial of any expansion or renewal request.

Thank you for your time and consideration.

Catherine Clark
Correspondence: Microsoft Forms – March 2, 2024

I strongly say NO to the proposed Asphalt Plant.

Debbie Nealy Click
Correspondence: Microsoft Forms – February 26, 2024

I think an asphalt plant that close to town and subdivisions would not be enhancing to either.

Faith Conroy
Correspondence: Microsoft Forms – February 23, 2024

I oppose any and all plans to build an asphalt plant on the banks of the Madison River, no matter if it is to be temporary or permanent. The Madison River plays a critical role in the Madison Valley ecosystem, as well as the economy, especially for local tourism. Blowing debris from the gravel pit has already done severe damage to Ennis Lake and the surrounding area. Adding an asphalt plant is not only irresponsible in terms of the health of the Madison Valley ecosystem and

its wildlife, it also threatens the livelihoods of countless merchants and businesses that depend upon a healthy river ecosystem. Pollution from this plant is inevitable and must be taken seriously. It will harm the health of the river and thereby the health of the residents of the Madison Valley. Do not allow this plant to be built!!!!

Steve Cox
Correspondence: Microsoft Forms – February 28, 2024

I am apposed to the plant.

Faris Cox
Correspondence: Microsoft Forms – February 28, 2024

Not a Good Idea at All

Michael Crabtree
Correspondence: Microsoft Forms – February 28, 2024

As a landowner in McAllister Mt, i am writing to express my lack of support for the proposed asphalt plant and accompanying 45 foot chimney. The research that I've carried out indicates that this can be an environmental hazard. In addition, in an area that is known to attract people from out of state to spend money for tourism it will be an economic albatross. I can't imagine that people be attracted to the area on the Madison river to hunt or fish with the presence of an asphalt plant. It does not seem to be consistent with a county plan in terms of how it is that the economic infrastructure of the community is maintained and enhanced.

Karen Crowley
Correspondence: Microsoft Forms – February 26, 2024

I am voicing my concern over the proposed Asphalt Plant on State Land. The area has been immensely impacted by the development of the Skyview Subdivision in close proximity to the proposed location and directly impacts the past/current/future wildlife corridor for Elk/Pronghorn habitat/nurseries and migration patterns.

The Madison Valley is one of the last valleys in this area that is currently not under siege by the massive development as seen in the Gallatin Valley and the Big Sky area (Gallatin & Madison Counties). We are already experiencing water quality issues/flow by the demand in housing in both counties.

How will the current water table be able to replenish itself with another variant without contamination from the Asphalt Plant? How will this impact the trout/hatcheries in Ennis Lake and the Madison River and tributaries? How will the toxic smell be contained and mitigated? How will the small planes at the Ennis airport navigate the 45' smoke stack? How will the two lane highway carry the load of the constant flow of asphalt carriers on a daily basis? The road isn't safe with current traffic patterns without new truck traffic.

This is small community and this type of development is catastrophic to the entire infrastructure of our community. My home is less than 1.5 miles from the site location, which is currently in the view shed of the Asphalt Plant and could potentially impact the resale value of my home.

Please reconsider the implementation of the Asphalt Plant to a remote area in another location outside of the Madison Valley.

regards,

K. Crowley

Linda Crowley
Correspondence: Microsoft Forms – March 1, 2024

Deeply concerned & against the proposal of AM Wells to situate an asphalt plant on state land in the Madison River Valley. This is an ecologically sensitive area surrounded by wildlife & water ways. Asphalt plants consume water, produce & eliminate toxins creating air pollutants, odors & noise. **Toxification of water & air** pose health risks for humans, wildlife & the environment. The pit expansion would require a significant increase in use of local infrastructure resources. These resources are already challenged due to development soaring beyond the capabilities of current infrastructure.
Say No to this proposal.

Holly Croy
Correspondence: Microsoft Forms – February 9, 2024

Please allow asphalt plant to be used at DSL pit !

Edward Dale
Correspondence: Microsoft Forms – March 1, 2024

I'm opposed to the Asphalt mine in Madison valley. I've been fishing the Madison my whole life and a mine along the river would greatly deteriorate the peaceful beauty of the area. Please take my words with consideration on this decision

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Eveline Damiano
Correspondence: Microsoft Forms – February 25, 2024

Please do not allow an asphalt plant anywhere near the Madison River. This is state land and should NOT be available for a private company to pollute & destroy. Please reconsider a location that is appropriate for such a gross polluting industry

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Liz Davis
Correspondence: Microsoft Forms – February 27, 2024

An asphalt plant is far different than a gravel pit. I do not support adding an asphalt plant to this location.

Andrew Davis
Correspondence: Microsoft Forms – March 1, 2024

As a long time homeowner situated on the other side of the Madison Channels from the proposed Asphalt plant, I am baffled at the state's decision to consider an asphalt plant in an area which abuts some of the area's most important environmental and recreation resources. Significant environmental concerns aside, the economic future of this area is in recreation and tourism. It is hard to imagine why the state would want to blight this precious resource. There are no shortage of sites in the nearby area which lack proximity to recreational and scenic sites -- why consider this spot on the doorstep to the Channels and Lake Ennis? I strongly urge the state to consider turning this land **into a state park to** enhance rather than degrade the immediate surroundings. Sincerely, Andrew Davis (27 Ennis Lake Rd)

Jim Dawson
Correspondence: Microsoft Forms – February 23, 2024

I believe the proposed location for this plant should be moved to somewhere that would not impact either the Madison river, Ennis lake, or any critical watershed shed. Montana is a large state with many locations where a plant like this could be built with no impacts to critical waterways or other environmentally sensitive locations. Thank you.

William De Loache
Correspondence: Microsoft Forms – March 1, 2024

I travel to Montana regularly from Texas. In some ways it's like a second home. But I fear the Asphalt plant in Madison County adjacent to the Madison River, Lake Ennis and the surrounding areas will be forever damaged. No one plans on accidents, but we all know they happen on a regular basis. An accident at an asphalt plant at the proposed location will forever change the Madison river, Lake Ennis and the whole of the Madison river basin. Please do not permit the asphalt plant between Ennis and Macalister, Montana. Respectfully, requested.

Alex Deen
Correspondence: Microsoft Forms – February 21, 2024

I'm concerned about the negative impact of an asphalt plant near the town of Ennis
Please reconsider

Lindsay DeGroot
Correspondence: Microsoft Forms – February 22, 2024

To the DNRC,
I am deeply concerned about the proposed Asphalt Plant at the DSL mine on HWY 287. This decision directly impacts the Madison River ecosystem, a vital natural resource for the greater

Ennis community. As a concerned citizen and business owner in Ennis, I urge the DNRC to consider the significant environmental and community-wide implications of this project.
The concerns raised by the Friends of the Madison Valley are valid and must be thoroughly addressed. The potential impact on water quality, air pollution, and noise disturbance cannot be ignored. Additionally, the visual impact on the surrounding landscape, including iconic landmarks such as the Madison River and Ennis Lake, raises serious questions about the suitability of this location for industrial activity.
Furthermore, the lack of transparency and information regarding the project is alarming. The public deserves access to a comprehensive Environmental Assessment before being asked to provide feedback. Questions regarding the operator, Riverside Contracting, Inc., their permits, and compliance history must be addressed to ensure accountability and responsible stewardship of state land.
Instead of prioritizing short-term financial gains, I implore the DNRC to explore alternative uses for this land that align with conservation and community interests. Establishing a State Park overlooking the Madison River Valley would not only preserve this precious ecosystem but also provide recreational opportunities for generations to come.
I urge the DNRC to reconsider its decision and prioritize the long-term well-being of the Madison Valley and its residents. Please take into account the overwhelming opposition to the Asphalt Plant and work towards a solution that benefits both the environment and the community.
Thank you for considering my comments.
Sincerely,
Lindsay DeGroot

Martin DeGroot
Correspondence: Microsoft Forms – February 22, 2024

DNRC,
I am deeply concerned about the proposed Asphalt Plant at the DSL mine on HWY 287. This decision directly impacts the Madison River ecosystem, a vital natural resource for the greater Ennis community. As a concerned citizen and business owner in Ennis, I urge the DNRC to consider the significant environmental and community-wide implications of this project.
The concerns raised by the Friends of the Madison Valley are valid and must be thoroughly addressed. The potential impact on water quality, air pollution, and noise disturbance cannot be ignored. Additionally, the visual impact on the surrounding landscape, including iconic landmarks such as the Madison River and Ennis Lake, raises serious questions about the suitability of this location for industrial activity.
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Instead of prioritizing short-term financial gains, I implore the DNRC to explore alternative uses for this land that align with conservation and community interests. Establishing a State Park overlooking the Madison River Valley would not only preserve this precious ecosystem but also provide recreational opportunities for generations to come.

I urge the DNRC to reconsider its decision and prioritize the long-term well-being of the Madison Valley and its residents. Please take into account the overwhelming opposition to the Asphalt Plant and work towards a solution that benefits both the environment and the community.
Thank you for considering my comments.

Jacque Delkus
Correspondence: Microsoft Forms – February 25, 2024

We are very concerned about the proposed Asphalt Plant being approved and the negative environmental effects it will cause on the Madison River. The DNRC needs to complete thorough studies to evaluate the dangers of silica dust and other chemicals used in the asphalt industry. Countless medical journals have detailed the health concerns. How can we be assured the DNRC will enforce the provisions of this new permit including the Asphalt Plant? What will be the monitoring and enforcing policy? Is there a way for infractions to be reported? The citizens should get more information and details - very few facts are being shared with the public.

Also, we trusted that the DRNC and the State of Montana would go beyond due diligence to protect the citizens. You are gatekeepers to ensure our safety and quality of life is a maintained. Very disappointed they failed to do their job in that regard.

Kristian DeWolfe
Correspondence: Microsoft Forms – February 21, 2024

My name is Kristian DeWolfe and I am a fly fishing guide and resident in the Madison Valley. I am extremely concerned about the effects an asphalt plant would have on the Madison River, the surrounding ecosystem, and the community that is supported by it.
I attended the public hearing last winter where the primary concern was the expansion of the DSL Gravel pit. The pit was further developed, regardless of positive reassurance. Am Welles told the public not to worry about an asphalt plant.
If there was an asphalt plant built along the Madison River, it would have major effects on the species that inhabit the surrounding areas. Both aquatic and terrestrial organisms would be greatly impacted by the pollution and surrounding disturbance from the asphalt plant. Not to mention, the water quality would be substantially impacted by both point and non-point pollution.
However, if you are not an environmentalist, think about the impact it would have while you are floating the Madison with your family. Seventeen miles of the river would be affected by this plant which would make recreating this section of the river visually unpleasant. There would also be a large amount of noxious odors emitted from the plant which would make your family's Sunday float toxic.
The Madison River is a special place that brings lots of life and boosts the local economy throughout the Valley and an asphalt plant would diminish the quality of life for many organisms in and along the Madison.
Thanks for your consideration.

Joe Dilschneider
Correspondence: Microsoft Forms – February 20, 2024

As an Ennis business owner and 30-year Madison Valley resident, I am opposed to DNRC granting a permit for an asphalt plant on the Madison Valley State Land where the AM Wells DSL Pit is located. The air and water quality of this valley are its most important and vital resources. An asphalt plant has the potential to seriously impair both of these resources. Asphalt manufacturing at this location certainly has the potential to degrade the water quality of Ennis Lake and the Madison River and endanger these critical fisheries. That is an unacceptable risk to this incredible resource and our local economy that depends upon it. This is a terrible location for a project like this.
Both DNRC and AM Wells stated publicly last year during the gravel pit expansion comment period that there was no intention or application for an asphalt plant. Needless to say, seeing this application a few months later is very disingenuous and disappointing.
Thank you.

Rikki Dilschneider
Correspondence: Microsoft Forms – March 1, 2024

I am writing to express my concern about the proposed new asphalt plant. At the public meeting just over a year ago, The DNRC explicitly stated that no asphalt plant was coming to Ennis! I am very concerned about the potential environmental consequences this may have on the sensitive Madison River ecosystem. I strongly urge the Montana DNRC to reconsider the approval of the asphalt plant and I request a thorough and transparent environmental impact assessment.

Nancy DiMeola
Correspondence: Microsoft Forms – February 25, 2024

I feel that an asphalt batch plant would be detrimental to the environment.

Tom DiMeola
Correspondence: Microsoft Forms – February 24, 2024

The A.M. Welles gravel pit itself has always been a source of particulate pollution in windy conditions. Sometimes the dust cloud can be seen from miles around.
The addition of a batch plant is a complete travesty which will permanently harm one of the most beautiful and pristine valleys in Montana and is one of the worst ideas I've ever seen in my 49 years living in the Madison Valley.

John Dodson
Correspondence: Microsoft Forms – March 1, 2024

In today's over-the-top focus on environmental impact from industry on US waterways, it's unfathomable to believe this asphalt plant is going to commence operations on April 1, 2024. The potential for devastating aquatic pollution is probable and sound and air pollution/odors will

happen. I don't need to remind the MT Gov agencies approving this operation of the value of YOUR blue ribbon fishing river that is the Madison. But, I guess I do. As an owner of the Channel's Ranch and annual visitor to Ennis for 30 years, please do not allow this plant to exist/opearte in this location, or any location alongside the Madison River, now or in the future!

John Donlon
Correspondence: Microsoft Forms – February 26, 2024

Please don't allow anything that might harm this beautiful river going forward...its very important that we take care of it for our future generations

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Bryce Dorst
Correspondence: Microsoft Forms – February 29, 2024

There is zero value to the Town of Ennis to have this Asphalt plant. Only downsides. The creeks, the Madison River, ennis Lake, and rivers below. **If an accident occurs**. Vote NO!

Susie Downs
Correspondence: Microsoft Forms – February 27, 2024

I have many concerns regarding this plant, including:
~contamination of ground water, tributaries to the Madison and the Madison
~contamination of our air with harmful, black smelly smoke
~ability of Hwy 287 to handle the traffic of heavy trucks
~upsetting the migration patterns of wildlife, including birds
~extending deadlines of time and duration of the plant

Mitch Dubin
Correspondence: Microsoft Forms – February 24, 2024

BIG BIG mistake

William Dussell
Correspondence: Microsoft Forms – February 28, 2024

I'm not opposed to expansion of the gravel pit operation, but I am adamantly opposed to the proposed asphalt plant because it would be so close to the environmentally sensitive Madison River and its tributaries. The unmitigated scenic impairments would be bad enough.

Dana Edmondson
Correspondence: Microsoft Forms – February 21, 2024 and February 23, 2024

Comment 1
I am writing to OPPOSE the permitting for an Asphalt Plant as proposed on the Gravel Mine. As an owner of property in the area, I find this proposal is a hazard to fish, animals, and the

ecology of the area around Ennis. Asphalt Plants produce noxious odors, and air contaminants, require Air Quality Permits, are noisy, and are dangerous to human health. Asphalt plant particulates are cancer-producing hazards.
Thousands of residents, wildlife, and fish will be impacted. People and property in the State too. The Montana DNRC itself acknowledges publicly that Asphalt Plants are dangerous to human and animal health and "has the potential to impact water quality" - as stated by Montana's Department of Environmental Quality. The DNRC cannot ignore or dismiss the DEQ's findings. This proposal should not be approved as it would undoubtedly subject the Montana DNRC to litigation and unnecessary, avoidable expense. DNRC should protect the natural uses of the land for the benefit of the wildlife, animals, and people of Ennis. Not recklessly threaten our beloved Montana ecosystem and waste money on lawyers.
Thank you and respectfully,
Dana Edmondson

Comment 2
Protecting Madison River: Unveiling Concerns Against Proposed Asphalt Plant
The prospect of an asphalt plant looming over the Madison River in Montana has ignited a wave of opposition, and for good reason. While economic development is crucial, we must weigh the potential costs against the invaluable natural beauty and ecological balance of this cherished river.
Madison River stands as a testament to nature's grandeur, attracting outdoor enthusiasts, anglers, and tourists seeking solace in its pristine waters. The proposed asphalt plant, however, poses a threat to the very essence that makes this region so captivating. Concerns range from air pollution to potential water contamination, endangering both the environment and the livelihoods tied to the river.
Air quality is paramount, and the emissions from asphalt plants can introduce pollutants that compromise the clean, crisp air of the Madison River area. For a locale dependent on its natural allure, allowing such industrial activities risks tarnishing the experience for residents and visitors alike.
Beyond the air, the health of the Madison River's aquatic ecosystem is at stake. Runoff and discharge from asphalt production may introduce harmful substances into the river, jeopardizing the delicate balance that sustains a thriving community of fish and other aquatic life. The repercussions could echo through the entire ecosystem, impacting the livelihoods of those reliant on the river for various activities.
In our pursuit of progress, we must choose paths that safeguard the unique and fragile environments that define our landscapes. Let's unite against the construction of the asphalt plant on Madison River, preserving the integrity of this natural treasure for current and future generations.

Frazor Ty Edmondson
Correspondence: Microsoft Forms – February 20, 2024 and February 23, 2024, with mailed attachements

Comment 1
I am firmly and unequivocally opposed to an Asphalt Plant as is being contemplated on the Gravel Mine located off of Rt 287.

This is highly irresponsible and will undoubtedly subject the Montana DNRC to litigation and unnecessary, avoidable expense.
In addition, this proposal is a hazard to human beings, fish, animals, and the ecology of the area around Ennis. Asphalt Plants produce noxious odors, and air contaminants, require Air Quality Permits, are noisy, and are dangerous to human health. Asphalt plant particulates are cancer-producing hazards. Thousands of residents will be impacted. The Montana DNRC acknowledges publically that Asphalt Plants are dangerous to human and animal health and "has the potential to impact water quality" - as stated by Montana's Department of Environmental Quality. The DNRC can not ignore or dismiss the DEQ's findings.
17 miles of the Madison River will visibly see and hear this Asphalt Plant. The viewshed impact of this Asphalt Plant is significant - impacting Troutdale, McAllister, the Town of Ennis, the Golf Course, the Madison River, and Ennis Lake, all the way up to the Lee Metcalf Wilderness from the Bear Trap to the Cedar Creek area – even the backside of Big Sky and Loan Mountain. (see attached the Viewshed Analysis being submitted by hard copy in a separate mailing).
The public is being asked to comment by March 2, 2024, but all we know is that an Asphalt Plant is being proposed. The DNRC needs to complete a thorough draft Environmental Assessment outlining the impacts of this Asphalt Plant on the ecologically sensitive Madison River Ecosystem, to include a public health impact analysis. AFTER the draft Environmental Assessment and public health impact are complete, only then can the public comment.
This proposed Asphalt Plant is an irresponsible, undemocratic proposal. Litigation WILL ensue if it is allowed to proceed. DNRC is already familiar with the result of allowing such rushed decisions without proper environmental and health reviews: See, the litigation in Montana's 20th Judicial District Court for Lake County regarding Riverside Contracting's Opencut Mining Permit #3415 for the Marvin Rehbein asphalt plant and gravel pit near Arlee Montana.
Montana DNRC is not following its regulatory obligations to the citizens, residents, and general public in Montana. Nor has it considered the impact on the ecology according to statute, rule, and public hearing law. And it is a deep violation of the Montana DNRC's obligation to: "work[] to help ensure Montana's land and water resources provide benefits for present and future generations." This proposal does the opposite of the DNRC's mission statement.
Protect public health, public ecology, fish & game health. DO NOT PERMIT AN ASPHALT PLANT TO COMMENCE OPERATION, EVEN ON AN ALLEGED LIMITED BASIS.

Comment 2
Even ChatGPT knows the correct answer to the question.
Me: Can an asphalt plant on the Madison River in Montana harm the environment?
ChatGPT: Yes, an asphalt plant on the Madison River in Montana has the potential to harm the environment. Such facilities may release pollutants into the air and water, impacting local ecosystems and posing risks to human health. Environmental impact assessments are typically conducted to evaluate and mitigate these potential effects.
Try it yourself NRDC!
Comment 3
Preserving the Beauty of Madison River: Say No to the Asphalt Plant
The proposed construction of an asphalt plant on the Madison River in Montana raises concerns about the potential environmental impact on this pristine natural area. We must stand together to oppose this project, as it threatens the delicate balance of the ecosystem and the breathtaking beauty that defines Madison River.

The Madison River is not just a body of water; it's a vital habitat for diverse wildlife and a cherished recreational spot for locals and visitors alike. Introducing an asphalt plant to this region poses a significant risk to the water quality, air purity, and the overall health of the surrounding environment.

Asphalt plants are known to emit pollutants that can have detrimental effects on air quality. The Madison River's clean air and unspoiled surroundings contribute to the region's allure, drawing nature enthusiasts and outdoor adventurers. Allowing an asphalt plant to take root jeopardizes this pristine atmosphere, putting the health of both the environment and the people at risk.

Moreover, the potential impact on aquatic life in the Madison River cannot be overlooked. Discharging pollutants into the river can harm fish and other aquatic species, disrupting the delicate ecological balance that has thrived for generations. The consequences could be catastrophic, not only for the river's wildlife but also for the livelihoods of those who depend on the river for fishing and tourism.

We must prioritize sustainable development and safeguard the natural wonders that make Montana unique. Let's rally against the construction of the asphalt plant, ensuring that Madison River remains a symbol of environmental preservation rather than succumbing to the irreversible damage that industrialization could inflict upon it.

Mailed attachments

First attachment pages 35-50

Second attachment pages 51-

Frazor Ty Edmondson
Attorney-at-Law*
144 Ennis Lake Road
Ennis, MT 59729

February 20, 2024

The Montana Department of Natural Resources and Conservation (DNRC)
PO Box 606
Ennis, MT 59729

and

Montana FWP
Region 3 Headquarters
1400 South 19th
Bozeman, MT 59718

(1) **Re: Opposition** to Ennis DSL Asphalt Plant request by AM Welles to locate and operate an Asphalt Plant within the boundaries of their DSL Gravel Pit located on Montana State Trust Lands Section 16, Township 5S, Range 1W (the "Asphalt Plant").

(2) **Notice to Montana FWP:** Danger to Fish and Hatcheries on the Madison River near Ennis, Montana.

To Whom It May Concern:

As a member of the Ennis wildlife community, taxpayer, resident, and owner of 144 Ennis Lake Road, Ennis, MT 59729, **I am writing to confirm my opposition to the Asphalt Plant**. In sum, this proposal is bad for the ecology and wildlife in the Ennis area, the people of Ennis, and will undoubtedly subject the Montana DNRC to litigation and unnecessary, avoidable expense.

1. **This proposal is a hazard to fish, birds, animals, and the ecology of the area around Ennis**. Asphalt Plants produce noxious odors, and air contaminants, require Air Quality Permits, are noisy, and are dangerous to human, bird, and fish health. Asphalt plant particulates are cancer-producing hazards. Thousands of residents, wildlife and fish will be impacted. The Montana DNRC itself acknowledges publicly that Asphalt Plants are dangerous to human and animal health and "has the potential to impact water quality" due to runoff - as stated by Montana's Department of Environmental Quality. The DNRC cannot ignore or dismiss the DEQ's findings.

2. This proposal is a hazard to people, the natural landscape and property in the area. Even a quick Google search confirms that the US Center for Disease Control (CDD) has found that asphalt plants are the cause of **severe human and animal health problems** for those working there, grazing and swimming nearby, and those exposed to their effluence (air and water).

> "According to the CDC, asphalt fumes contain known carcinogens. Laboratory studies have shown that chemical extracts of asphalt fumes have cancer-causing and mutagenic properties. Research shows that exposure to asphalt and tar is associated with an increased risk of lung cancer. Other research has found evidence that occupational asphalt plant emissions exposures can cause lung cancer...

Google Search, February 20, 2024. The proposed Asphalt Plant will harm local property values, local wildlife, and the health of local residents.

> "Research conducted by the Blue Ridge Environmental Defense League has revealed that the creation of asphalt processing plants near residential places has decreased the value of real estate by around 50 percent. This is because there has been a nearly 20 percent average increase in the health issues like high blood pressure, sinus problems, shortness of breath and severe headaches." See attached.

3. This proposal will lead to severe impacts on the natural ecology of the Ennis area. 17 miles of the Madison River will visibly see and hear this Asphalt Plant. The viewshed impact of this Asphalt Plant is significant - impacting Troutdale, McAllister, the Town of Ennis, the Golf Course, the Madison River, and Ennis Lake, all the way up to the Lee Metcalf Wilderness from the Bear Trap to the Cedar Creek area – even the backside of Big Sky and Loan Mountain. (See attached Viewshed Analysis). Being so close to the Madison River, noxious runoff is likely and this would be devastating to the fish in the river and all birds and other animals that feed upon them or drink from the river.

4. This proposal could damage protected species and fish stocks on the Madison River. The Madison River's grayling population is endangered or threatened under the Endangered Species Act (ESA). The Madison River's whitefish population may also be in trouble. There is no record that the Montana Fish, Wildlife and Parks department has issued a recommendation on the safety of this Asphalt Plant proposal. Montana's Fish, Wildlife & Parks (FWP) has a statutory enforcement power and obligation to preserve, conserve and protect the natural populations of fish and game:

> **87-1-502. Qualifications, powers, and duties.**
>
> (2) They shall enforce the laws of this state and the rules of the department with reference to the protection, preservation, and propagation of game and fur-bearing animals, fish, and game birds....
>
> (4) They shall assist in the protection, conservation, and propagation of fish, game, fur-bearing animals, and game and nongame birds and assist in the planting, distributing, feeding, and care of fish, game, fur-bearing animals, and game and nongame birds. They shall, when ordered by the department, assist in the destruction of predatory animals, birds, and rodents. They shall perform all other duties prescribed by the department and make a monthly report to the department correctly informing the department of their activities on each day of the preceding month with regard to the enforcement of the fish and

> game laws, showing where their duties called them and what they did. The reports must contain any pertinent recommendations the wardens may see fit to make.

Montana Code Annotated 2023; TITLE 87. FISH AND WILDLIFE, Chapter 1, Part 5. The undersigned hereby demands that FWP investigate and act to protect the fish and animals associated with the Madison River in the Ennis area.

5. **This proposal is not administratively ripe for decision.** The public is being asked to comment by March 2, 2024, but all we know is that an Asphalt Plant is being proposed. The DNRC needs to complete a thorough draft Environmental Assessment outlining the impacts of this Asphalt Plant on the ecologically sensitive Madison River Ecosystem, to include a public health impact analysis. **Only AFTER the draft Environmental Assessment, FW&P analysis, and public health impact are complete**, can the public meaningfully comment in an informed manner.

6. **This proposal will lead to costly litigation, just like similar proposals elsewhere in the State.** This proposed Asphalt Plant is an irresponsible, undemocratic proposal. Litigation WILL ensue if it is allowed to proceed. DNRC is already familiar with the result of allowing such rushed decisions without proper environmental and health reviews: See, the litigation in Montana's 20th Judicial District Court for Lake County regarding Riverside Contracting's Opencut Mining Permit #3415 for the Marvin Rehbein asphalt plant and gravel pit near Arlee Montana. Use our resources to keep the State and its lands healthy; not on lawyers.

7. **Approving this Asphalt Plant would be a dereliction of duty.** Montana DNRC is not following its regulatory obligations to the citizens, residents, and general public in Montana. Montana DNRC must do a full analysis that considers the impact on the ecology according to statute, rule, and public hearing law. And it is a deep violation of the Montana DNRC's obligation to: "work[] to help ensure Montana's land and water resources provide benefits for present and future generations." This proposal does the opposite of the DNRC's mission statement.

Protect public health, public ecology, fish & game health. **DO NOT PERMIT AN ASPHALT PLANT TO COMMENCE OPERATION, EVEN ON AN ALLEGED "LIMITED BASIS."** What is it is improper to do is also improper to allow to commence.

This letter is in addition to the on-line comments in opposition filed by me this date on the NRDC website related to the Asphalt Plant.

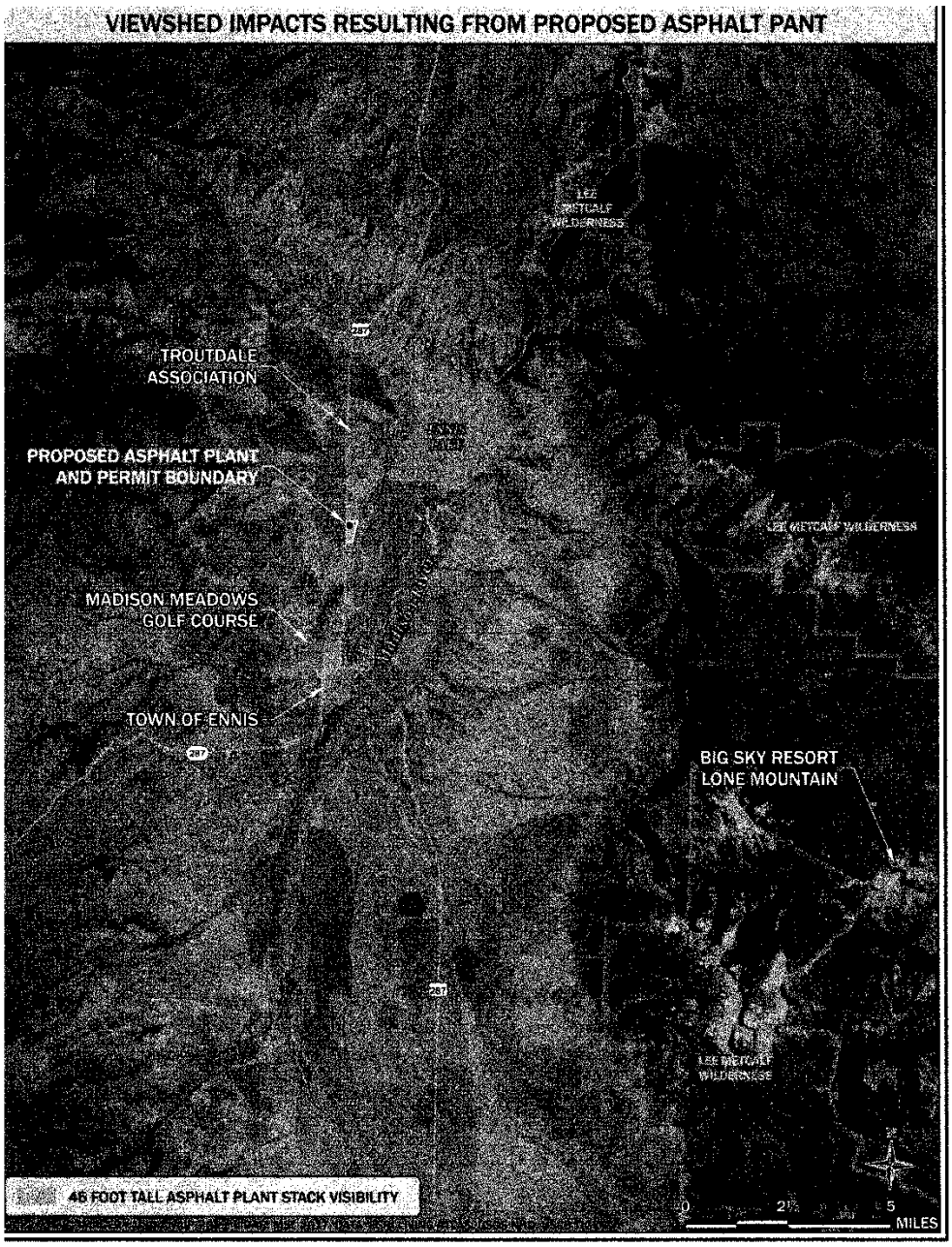
Sincerely yours,

Frazor Ty Edmondson
Attorney-at-Law (*Admitted in Texas and Massachusetts)
144 Ennis Lake Road
Ennis, MT 59729

Cc: **Montana DNRC**
Office of Administrative Hearings
1539 11th Avenue
PO Box 201601
Helena, MT 59620-1601

Attachments:

1. Viewshed Impacts from Proposed Asphalt Plant
2. Health Issues with an Asphalt Plant Nearby
3. Asphalt Plant Pollution
4. OSHA archive summary on Asphalt Fumes
5. New Jersey Dept of Health Hazardous Substance Fact Sheet – Asphalt
6. "Study Reveals Asphalt Plant Dangers" http://bmdl.org/press/2007/Young-MtQueenasphaltplant.htm


VIEWSHED IMPACTS RESULTING FROM PROPOSED ASPHALT PANT
LEE METCALF WILDERNESS
TROUTDALE ASSOCIATION
PROPOSED ASPHALT PLANT AND PERMIT BOUNDARY
MADISON MEADOWS GOLF COURSE
TOWN OF ENNIS
BIG SKY RESORT LONE MOUNTAIN
LEE METCALF WILDERNESS
45 FOOT TALL ASPHALT PLANT STACK VISIBILITY
0
2.5
5
MILES

Health Issues with an Asphalt Plant Nearby

Here are some short quotes and abstracts from articles referencing the health problems that occur with working, and/or living near an Asphalt Plant.

Asphalt and Diesel Exhaust Fumes

> " Over a half-million workers are exposed to fumes from asphalt, a petroleum product used extensively in road paving, roofing, siding, and concrete work. Health effects from exposure to asphalt fumes include headache, skin rash, sensitization, fatigue, reduced appetite, throat and eye irritation, cough, and skin cancer. "

Reference: Asphalt Fumes - United States Department of Labor, Occupational Safety and Health Administration

Reference: Hot Mix Asphalt Plants - Truck Loading and Unloading

> " The primary emission sources associated with Hot Mix Asphalt(HMA) production are the dryers, hot bins, and mixers, which emit particulate matter (PM) and a variety of gaseous pollutants. Other emission sources found at HMA plants include storage silos, which temporarily hold the HMA; truck load-out operations, in which the HMA is loaded into trucks for hauling to the job site; liquid asphalt storage tanks; hot oil heaters, which are used to heat the asphalt storage tanks; and yard emissions, which consist of fugitive emissions from the HMA in truck beds. Emissions also result from vehicular traffic on paved and unpaved roads, aggregate storage and handling operations, and vehicle exhaust. "

> " The PM emissions associated with HMA production include the criteria pollutants PM-10 (PM less than 10 micrometers in aerodynamic diameter) and PM-2.5, hazardous air pollutant (HAP) metals, and HAP organic compounds. The gaseous emissions associated with HMA production include the criteria pollutants sulfur dioxide (SO 2), nitrogen oxides (NO x), carbon monoxide (CO), and volatile organic compounds (VOC), as well as volatile HAP organic compounds. "

Reference: EPA - Hot Mix Asphalt Plant Emission Assessment

Summary of Research on Diesel and Asphalt Hazards

Toxic Smell

> "It smells."

"While a state study indicates the air quality in a neighborhood next to a controversial paving plant meets safety standards, neighbors say their problems with the plant are as much about quality of life as quality of air.

The odor of asphalt coming from the R.C. & Sons paving plant has been a prime complaint of several residents of the nearby Grandview neighborhood."

Bangor Daily News - It smells, but Maine Asphalt Plant meets standards

" Dr. Mitchell said that tiny particles in asphalt production plant emissions can cause lung damage, exacerbate breathing conditions and ultimately cause more severe problems. "

New York Times Article - Who Wants to Live Near an Asphalt Plant

Noise

Here are typical noise emissions from a Hot-Mix Asphalt Plant.

Noise Level	Distance from Center of Plant
85 dBA	50 feet (measured reference level)
78 dBA	100 feet
70 dBA	200 feet
63 dBA	400 feet
55 dBA	800 feet
46 dBA	1,600 feet
36 dBA	3,200 feet
24 dBA	6,400 feet

We do not know the assumptions that went into the measurements in this noise summary table.

Looking at the California study, we do not know the age or size/capacity of the plant(s) measured.

Remember that newer plants are quieter, and older plants make more noise.

Reference: Full Document - Caltrans - State of California

Overall Health Effects

" The complex chemical composition of asphalt makes it difficult to identify the specific component(s) responsible for adverse health effects observed in exposed workers. Known carcinogens have been found in asphalt fumes generated at worksites. Observations of acute irritation in workers from airborne and dermal exposures to asphalt fumes and aerosols and the potential for chronic health effects, including cancer, warrant continued diligence in the control of exposures. "

Reference: CDC - Hazard Review - Health Effects of Occupational Exposure to Asphalt

What the Federal Government Regulates on Asphalt Plants and Air Quality

What federal rules apply to asphalt plants?

- Asphalt plant emissions of particulate matter (PM2.5 and PM10, carbon monoxide, sulfur dioxide nitrogen dioxide, and lead must not exceed National Ambient Air Quality Standards (NAAQS) at the property boundary.
- Asphalt plants manufactured after June 11, 1973, are subject to 40 CFR 60 Subpart I-New Source Performance Standards for Hot Mix Asphalt Plants. NSPS, Subpart I limits only the emissions of particulate matter from material handling systems.
- On November 8, 2002 , USEPA removed Asphalt Hot Mix Production from the Source Category List for which development of National Emission Standards for Hazardous Air Pollutants Standar is required.

Reference: North Carolina Division of Air Quality - Air Toxics and Asphalt Plants

Web Sites With More Information

Here are addition web sites that have information on Asphalt Plants and health effects.

- Hot Mix Asphalt Plants - Stakeholders Opinions Report - US EPA
- Fact Sheet - Hot Mix Asphalt Plants - Oregon Department of Environmental Quality
- Preventing Pollution at Hot Mix Plants - A Guide to Environmental Compliance and Pollution Prevention for Asphalt Plants in Missouri - State of Missouri
- Asphalt Plant Pollution - Blue Ridge Environmental Report
- Road Paving Asphalt - State of New Hamushire - Fact Sheet
- Asphalt - Hazardous Fact Sheet - State of New Jersey
- North Carolina Division of Air Quality - Air Toxics and Asphalt Plants

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We are PARC - Protectors of the Ammonoosuc River Corridor in Lisbon, New Hampshire.

You can contact PARC at

PARC
P.O. Box 515
Sugar Hill, New Hampshire.
03586

Fiscal Agent: Peter Nightingale
Phone #: (603) 616-9292

ASPHALT PLANT POLLUTION

Asphalt plants mix gravel and sand with crude oil derivatives to make the asphalt used to pave roads, highways, and parking lots across the U.S. These plants release millions of pounds of chemicals to the air during production each year, including many cancer-causing toxic air pollutants such as arsenic, benzene, formaldehyde, and cadmium. Other toxic chemicals are released into the air as the asphalt is loaded into trucks and hauled from the plant site, including volatile organic compounds, polycyclic aromatic hydrocarbons (PAHs), and very fine condensed particulates.[EPA]

■ Asphalt Fumes are Known Toxins. The federal Environmental Protection Agency (EPA) states "Asphalt processing and asphalt roofing manufacturing facilities are major sources of hazardous air pollutants such as formaldehyde, hexane, phenol, polycyclic organic matter, and toluene. Exposure to these air toxics may cause cancer, central nervous system problems, liver damage, respiratory problems and skin irritation." [EPA]. According to one health agency, asphalt fumes contain substances known to cause cancer, can cause coughing, wheezing or shortness of breath, severe irritation of the skin, headaches, dizziness, and nausea. [NJDHSS] Animal studies show PAHs affect reproduction, cause birth defects and are harmful to the immune system. [NJDHSS] The US Department of Health and Human Services has determined that PAHs may be carcinogenic to humans. [DHHS]

■ Health Impacts & Loss of Property Value. The Blue Ridge Environmental Defense League (BREDL), a regional environmental organization, has done two studies on the adverse impacts on property values and health for residents living near asphalt plants. A property value study documented losses of up to 56% because of the presence of a nearby asphalt plant. In another study, nearly half of the residents reported negative impacts on their health from a new asphalt plant. The door-to-door health survey found 45% of residents living within a half mile of the plant reported a deterioration of their health, which began after the plant opened. The most frequent health problems cited were high blood pressure (18% of people surveyed), sinus problems (18%), headaches (14%), and shortness of breath (9%). [BREDL]

■ Flawed Tests Underestimate Health Risks. In addition to smokestack emissions, large amounts of harmful "fugitive emissions" are released as the asphalt is moved around in trucks and conveyor belts, and is stored in stockpiles. A small asphalt plant producing 100 thousand tons of asphalt a year may release up to 50 tons of toxic fugitive emissions into the air. [Dr. R. Nadkarni] Stagnant air and local weather patterns often increase the level of exposure to local communities. In fact, most asphalt plants are not even tested for toxic emissions. The amounts of these pollutants that are released from a facility are estimated by computers and mathematical formulas rather than by actual stack testing, estimates that experts agree do not accurately predict the amount of toxic fugitive emissions released and the risks they pose. According to Dr. Luanne Williams, a North Carolina state toxicologist, 40% of the toxins from asphalt plant smokestacks even meet air quality standards—and for the other 60% of these emissions, the state lacks sufficient data to determine safe levels.

BE SAFE: Take Precautionary Action to Protect Our Communities from Asphalt Plant Air Pollution

OSHA ARCHIVE

NOTICE: This is an OSHA Archive Document, and no longer represents OSHA Policy. It is presented here as historical content, for research and review purposes only.

Asphalt Fumes

Over a half-million workers are exposed to fumes from asphalt, a petroleum product used extensively in road paving, roofing, siding, and concrete work. When hot asphalt is applied in a molten state, it generates toxic fumes. Workers exposed to asphalt fumes are at risk of developing headaches, rashes, cough, and possibly cancer. There is no OSHA standard for asphalt fumes. OSHA is developing an action plan to reduce worker exposures to this hazard but is not initiating rulemaking at this time.

Hazard Description

NIOSH estimated that over 500,000 workers were potentially exposed to asphalt fumes (1). OSHA estimated in 1992 that over 300,000 construction workers were exposed primarily in road-paving and roofing operations (2). Exposures vary considerably between different types of asphalt work (i.e. roofing vs. paving) and the different worker jobs (i.e. kettle operator vs. paver operator.) More research needs to be performed to determine and control important factors which cause increased worker exposures (i.e. application temperatures, type of equipment used, environmental conditions, workplace practices, and asphalt constituents.)

The acute effects of exposure to asphalt fumes include headache, skin rash, fatigue, reduced appetite, throat and eye irritation, and cough. Asphalt paving workers, for example, have reported breathing problems, asthma, bronchitis, and skin irritation (6). A recent study has shown that some of these effects occur at exposures of 0.5 to 1.3 mg/m3 (3).

Human studies have reported lung, stomach, and skin cancers following chronic exposures to asphalt fumes. However, these studies have been inconclusive, and the possible chronic effects to workers following exposures to asphalt fumes are areas of continuing investigations. One recent summary analysis of the available human studies found a nearly twofold increase in risk of lung and stomach cancer among roofers. Increased risks were also noted for other asphalt workers for lung, stomach, and bladder cancer, and for leukemia (4).

Laboratory studies have shown chemical extracts of asphalt fumes to have cancer-causing and mutagenic properties. For example, painting of asphalt extracts on mouse skin produces tumors that increase with dose (7). Other laboratory studies show DNA changes in mouse lung and skin cells (8) and in human fetal cells exposed to asphalt fume extracts (9). Urinalysis of exposed workers shows mutations in laboratory tests (10).

Current Status

OSHA does not have a standard for asphalt fumes although it proposed a 5 mg/m3 permissible exposure limit (PEL) in 1992 (5). OSHA's quantitative risk assessment estimated a significant risk of lung cancer among exposed workers at levels as low as 0.2 mg/m3.

The American Conference of Governmental Industrial Hygienists (ACGIH) currently recommends a Threshold Limit Value (TLV) of 5 mg/m3 as an 8-hour time weighted average. In 1977, the National Institute for Occupational Safety and Health (NIOSH) recommended a 5 mg/m3 15 minute short-term exposure limit. NIOSH is developing a new Criteria Document for asphalt fumes and expects to make new recommendations for exposure limits within six months.

The International Agency for Research on Cancer (IARC) found:

- "There is sufficient evidence for the carcinogenicity of extracts of steam-refined bitumens, air-refined bitumens and pooled mixtures of steam- and air-refined bitumens in experimental animals."
- There is limited evidence for the carcinogenicity of undiluted steam-refined bitumens and for cracking-residue bitumens in experimental animals.
- There is inadequate evidence for the carcinogenicity of undiluted air-refined bitumens in experimental animals.
- There is inadequate evidence that bitumens alone are carcinogenic to humans."

Rationale

Asphalt fume exposure meets several of the criteria for designation as an OSHA priority. In particular, the known and potential health effects are serious and a large number of workers are potentially exposed, especially considering high industry turnover rates. although the human studies of workplace cancer have limitations, there is considerable experimental evidence of cancer risk. There is also evidence of acute health effects among workers exposed to asphalt fumes.

References

1. NIOSH; National Occupational Exposure Survey; 1981-1983.
2. Federal Register, vol. 57, no. 114, June 12, 1992. Air Contaminants; Proposed Rule. pp. 26001-26502.
3. Chase, R.M., Lee, G.M., Cole, D.C., and Heath, B. 1994. Toxic health effects including reversible macrothrombocytosis in workers exposed to asphalt fumes. Am. J. Indus. Med. 25:279-289.
4. Partanen, T. and Boffetta, P. 1994. Cancer risk in asphalt workers and roofers: review and meta-analysis of epidemiologic studies. Am. J. Indus. Med. 26:721-740.
5. Federal Register vol. 57, June 12, 1992. Air Contaminants; Proposed Rule. p. 26182-26190 deals specifically with asphalt fume.
6. Norseth T, Waage J, and Dale I. Acute Effects and Exposure to Organic Compounds in Road Maintenance Workers Exposed to Asphalt. Am J Ind Med; 1991; 20:737-44.
7. "Assessment of the Cocarcinogenic/Promoting Activity of Asphalt Fumes," U.S. Department of Health and Human Services, National Institute for Occupational Safety and Health; Contract 200-83-2612; December 1989.

New Jersey Department of Health and Senior Services

HAZARDOUS SUBSTANCE FACT SHEET

Common Name: **ASPHALT**

CAS Number: 8052-42-4
DOT Number: NA 1999 (Asphalt)
UN 1999 (Tars, Liquid)
DOT Hazard Class: 3 (Flammable)

RTK Substance number: 0170
Date: January 2001 Revision: April 2007

HAZARD SUMMARY

* **Asphalt** can affect you when breathed in.
* Extracts of certain *Asphalts* have been shown to cause cancer in animals.
* **Asphalt** *fumes* can irritate the eyes on contact.
* Breathing **Asphalt** *fumes* can irritate the nose, throat and lungs causing coughing, wheezing and/or shortness of breath.
* Contact can irritate and cause severe burns of the skin and may cause dermatitis and acne-like lesions.
* Exposure to **Asphalt** *fumes* can cause headache, dizziness, nausea and vomiting.
* Long-term contact can cause skin pigment change which is made worse by sunlight exposure.
* *Cutback* and *Rapid Curing* **Asphalt** are FLAMMABLE and FIRE HAZARDS.
* **Asphalt** is derived from *Petroleum*. **Asphalt** and *Coal Tar Pitch* are different. If you are actually working with *Coal Tar* chemicals, *CONSULT THE NEW JERSEY DEPARTMENT OF HEALTH AND SENIOR SERVICES HAZARDOUS SUBSTANCE FACT SHEETS ON COAL TAR PITCH AND COAL TARS.*
* *Asphalt, Oxidized* (CAS # 64762-93-4) is a carcinogen. *CONSULT THE NEW JERSEY DEPARTMENT OF HEALTH AND SENIOR SERVICES HAZARDOUS SUBSTANCE FACT SHEET ON ASPHALT, OXIDIZED.*

IDENTIFICATION

Asphalt is a blackish-brown solid, semi-solid or liquid, depending on the formulation or mixture of **Asphalt** used. **Asphalt** *fumes* are produced during the manufacture and heating of **Asphalt**, which is used for road building and roofing, and in rubber and adhesives.

REASON FOR CITATION

* **Asphalt** is on the Hazardous Substance List because it is cited by ACGIH, DOT, NIOSH, IARC and NFPA.
* Definitions are provided on page 5.

HOW TO DETERMINE IF YOU ARE BEING EXPOSED

The New Jersey Right to Know Act requires most employers to label chemicals in the workplace and requires public employers to provide their employees with information and training concerning chemical hazards and controls. The federal OSHA Hazard Communication Standard (29 CFR 1910.1200) requires private employers to provide similar training and information to their employees.

* Exposure to hazardous substances should be routinely evaluated. This may include collecting personal and area air samples. You can obtain copies of sampling results from your employer. You have a legal right to this information under the OSHA Access to Employee Exposure and Medical Records Standard (29 CFR 1910.1020).
* If you think you are experiencing any work-related health problems, see a doctor trained to recognize occupational diseases. Take this Fact Sheet with you.

WORKPLACE EXPOSURE LIMITS

NIOSH: The recommended airborne exposure limit is **5 mg/m^3**, which should not be exceeded during any 15-minute period.

ACGIH: The recommended airborne exposure limit is **0.5 mg/m^3** (for the *inhalable fraction* of the *Benzene*-soluble aerosol), averaged over an 8-hour workshift.

WAYS OF REDUCING EXPOSURE

* Where possible, enclose operations and use local exhaust ventilation at the site of chemical release. If local exhaust ventilation or enclosure is not used, respirators should be worn.
* Wear protective work clothing.
* Wash thoroughly immediately after exposure to **Asphalt** and at the end of the workshift.
* Post hazard and warning information in the work area. In addition, as part of an ongoing education and training effort, communicate all information on the health and safety hazards of **Asphalt** to potentially exposed workers.

This Fact Sheet is a summary source of information of all potential and most severe health hazards that may result from exposure. Duration of exposure, concentration of the substance and other factors will affect your susceptibility to any of the potential effects described below.

HEALTH HAZARD INFORMATION

Acute Health Effects

The following acute (short-term) health effects may occur immediately or shortly after exposure to **Asphalt**:

* **Asphalt** *fumes* can irritate the eyes on contact.
* Breathing **Asphalt** *fumes* can irritate the nose, throat and lungs causing coughing, wheezing and/or shortness of breath.
* Contact can irritate and cause severe burns of the skin and may cause dermatitis and acne-like lesions.
* Exposure to **Asphalt** *fumes* can cause headache, dizziness, nausea and vomiting.

Chronic Health Effects

The following chronic (long-term) health effects can occur at some time after exposure to **Asphalt** and can last for months or years:

Cancer Hazard

* While **Asphalt** has not been identified as a carcinogen, it should be HANDLED WITH CAUTION since extracts of certain **Asphalts** have been shown to cause cancer in animals.

Reproductive Hazard

* According to the information presently available to the New Jersey Department of Health and Senior Services, **Asphalt** has not been tested for its ability to affect reproduction.

Other Long-Term Effects

* Long-term contact can cause skin pigment change which is made worse by sunlight exposure.
* **Asphalt** *fumes* can irritate the lungs. Repeated exposure may cause bronchitis to develop with cough, phlegm, and/or shortness of breath.

MEDICAL

Medical Testing

Before beginning employment and at regular times after that, for those with frequent or potentially high exposures, the following are recommended:

* Lung function tests

Any evaluation should include a careful history of past and present symptoms with an exam. Medical tests that look for damage already done are not a substitute for controlling exposure.

Request copies of your medical testing. You have a legal right to this information under the OSHA Access to Employee Exposure and Medical Records Standard (29 CFR 1910.1020).

Mixed Exposures

* Because smoking can cause heart disease, as well as lung cancer, emphysema, and other respiratory problems, it may worsen respiratory conditions caused by chemical exposure. Even if you have smoked for a long time, stopping now will reduce your risk of developing health problems.

Conditions Made Worse By Exposure

* Exposure to sunlight may make skin effects of **Asphalt** worse.

WORKPLACE CONTROLS AND PRACTICES

Unless a less toxic chemical can be substituted for a hazardous substance, **ENGINEERING CONTROLS** are the most effective way of reducing exposure. The best protection is to enclose operations and/or provide local exhaust ventilation at the site of chemical release. Isolating operations can also reduce exposure. Using respirators or protective equipment is less effective than the controls mentioned above, but is sometimes necessary.

In evaluating the controls present in your workplace, consider: (1) how hazardous the substance is, (2) how much of the substance is released into the workplace and (3) whether harmful skin or eye contact could occur. Special controls should be in place for highly toxic chemicals or when significant skin, eye, or breathing exposures are possible.

In addition, the following controls are recommended:

* Where possible, automatically pump liquid **Asphalt** from drums or other storage containers to process containers.
* Before entering a confined space where **Asphalt** may be present, check to make sure that an explosive concentration does not exist.

Good **WORK PRACTICES** can help to reduce hazardous exposures. The following work practices are recommended:

* Workers whose clothing has been contaminated by **Asphalt** should change into clean clothing promptly.
* Contaminated work clothes should be laundered by individuals who have been informed of the hazards of exposure to **Asphalt**.
* Eye wash fountains should be provided in the immediate work area for emergency use.
* If there is the possibility of skin exposure, emergency shower facilities should be provided.
* On skin contact with **Asphalt**, immediately wash or shower to remove the chemical. At the end of the workshift, wash any areas of the body that may have contacted **Asphalt**, whether or not known skin contact has occurred.

* Do not eat, smoke, or drink where **Asphalt** is handled, processed, or stored, since the chemical can be swallowed. Wash hands carefully before eating, drinking, applying cosmetics, smoking, or using the toilet.

PERSONAL PROTECTIVE EQUIPMENT

WORKPLACE CONTROLS ARE BETTER THAN PERSONAL PROTECTIVE EQUIPMENT. However, for some jobs (such as outside work, confined space entry, jobs done only once in a while, or jobs done while workplace controls are being installed), personal protective equipment may be appropriate.

The OSHA Personal Protective Equipment Standard (29 CFR 1910.132) requires employers to determine the appropriate personal protective equipment for each hazard and to train employees on how and when to use protective equipment.

The following recommendations are only guidelines and may not apply to every situation.

Clothing

* Avoid skin contact with **Asphalt**. Wear protective gloves and clothing. Safety equipment suppliers/manufacturers can provide recommendations on the most protective glove/clothing material for your operation.
* All protective clothing (suits, gloves, footwear, headgear) should be clean, available each day, and put on before work.

Eye Protection

* Wear indirect-vent, impact and splash resistant goggles when working with liquids.
* Wear a face shield along with goggles when working with corrosive, highly irritating or toxic substances.
* Contact lenses should not be worn when working with this substance.

Respiratory Protection

IMPROPER USE OF RESPIRATORS IS DANGEROUS. Such equipment should only be used if the employer has a written program that takes into account workplace conditions, requirements for worker training, respirator fit testing, and medical exams, as described in the OSHA Respiratory Protection Standard (29 CFR 1910.134).

* Where the potential exists for exposure over **0.5** mg/m^3, use a NIOSH approved full facepiece respirator with an organic vapor cartridge and particulate prefilters. Increased protection is obtained from full facepiece powered-air purifying respirators.
* If while wearing a filter or cartridge respirator you can smell, taste, or otherwise detect **Asphalt**, or if while wearing particulate filters abnormal resistance to breathing is experienced, or eye irritation occurs while wearing a full facepiece respirator, leave the area immediately. Check to make sure the respirator-to-face seal is still good. If it is, replace the filter or cartridge. If the seal is no longer good, you may need a new respirator.
* Be sure to consider all potential exposures in your workplace. You may need a combination of filters, prefilters or cartridges to protect against different forms of a chemical (such as vapor and mist) or against a mixture of chemicals.
* Where the potential exists for exposure over **5** mg/m^3, use a NIOSH approved supplied-air respirator with a full facepiece operated in a pressure-demand or other positive-pressure mode. For increased protection use in combination with an auxiliary self-contained breathing apparatus operated in a pressure-demand or other positive-pressure mode.

HANDLING AND STORAGE

* Prior to working with **Asphalt** you should be trained on its proper handling and storage.
* **Asphalt**, when HEATED, can give off toxic *Hydrogen Sulfide gases*.
* **Asphalt** may ignite or explode when mixed with NAPHTHA, other VOLATILE SOLVENTS, and LIQUID OXYGEN.
* **Asphalt** is not compatible with OXIDIZING AGENTS (such as PERCHLORATES, PEROXIDES, PERMANGANATES, CHLORATES, NITRATES, CHLORINE, BROMINE and FLUORINE).
* Store in tightly closed containers in a cool, well-ventilated area.
* Sources of ignition, such as smoking and open flames, are prohibited where *Cutback* and *Rapid Curing* **Asphalt** are used, handled, or stored.
* Metal containers involving the transfer of *Cutback* and *Rapid Curing* **Asphalt** should be grounded and bonded.
* Use only non-sparking tools and equipment, especially when opening and closing containers of *Cutback* and *Rapid Curing* **Asphalt**.

QUESTIONS AND ANSWERS

Q: If I have acute health effects, will I later get chronic health effects?

A: Not always. Most chronic (long-term) effects result from repeated exposures to a chemical.

Q: Can I get long-term effects without ever having short-term effects?

A: Yes, because long-term effects can occur from repeated exposures to a chemical at levels not high enough to make you immediately sick.

Q: What are my chances of getting sick when I have been exposed to chemicals?

A: The likelihood of becoming sick from chemicals is increased as the amount of exposure increases. This is determined by the length of time and the amount of material to which someone is exposed.

Q: When are higher exposures more likely?
A: Conditions which increase risk of exposure include physical and mechanical processes (heating, pouring, spraying, spills and evaporation from large surface areas such as open containers), and "confined space" exposures (working inside vats, reactors, boilers, small rooms, etc.).

Q: Is the risk of getting sick higher for workers than for community residents?
A: Yes. Exposures in the community, except possibly in cases of fires or spills, are usually much lower than those found in the workplace. However, people in the community may be exposed to contaminated water as well as to chemicals in the air over long periods. This may be a problem for children or people who are already ill.

Q: Don't all chemicals cause cancer?
A: No. Most chemicals tested by scientists are not cancer-causing.

Q: Should I be concerned if a chemical causes cancer in animals?
A: Yes. Most scientists agree that a chemical that causes cancer in animals should be treated as a suspected human carcinogen unless proven otherwise.

Q: But don't they test animals using much higher levels of a chemical than people usually are exposed to?
A: Yes. That's so effects can be seen more clearly using fewer animals. But high doses alone don't cause cancer unless it's a cancer agent. In fact, a chemical that causes cancer in animals at high doses could cause cancer in humans exposed to low doses.

The following information is available from:

New Jersey Department of Health and Senior Services
Occupational Health Service
PO Box 360
Trenton, NJ 08625-0360
(609) 984-1863
(609) 984-7407 (fax)

Web address: http://www.state.nj.us/health/eoh/odisweb/

Industrial Hygiene Information
Industrial hygienists are available to answer your questions regarding the control of chemical exposures using exhaust ventilation, special work practices, good housekeeping, good hygiene practices, and personal protective equipment including respirators. In addition, they can help to interpret the results of industrial hygiene survey data.

Medical Evaluation
If you think you are becoming sick because of exposure to chemicals at your workplace, you may call personnel at the Department of Health and Senior Services, Occupational Health Service, who can help you find the information you need.

Public Presentations
Presentations and educational programs on occupational health or the Right to Know Act can be organized for labor unions, trade associations and other groups.

Right to Know Information Resources
The Right to Know Infoline (609) 984-2202 can answer questions about the identity and potential health effects of chemicals, list of educational materials in occupational health, references used to prepare the Fact Sheets, preparation of the Right to Know Survey, education and training programs, labeling requirements, and general information regarding the Right to Know Act. Violations of the law should be reported to (609) 984-2202.

>>>>>>>>>>>>>>>>>> EMERGENCY INFORMATION <<<<<<<<<<<<<<<<<

Common Name: **ASPHALT**
DOT Number: **NA 1999 (Asphalt)**
UN 1999 (Tars, Liquid)
DOT Hazard Class: **3 (Flammable)**
NAERG Code: **130**
CAS Number: **8052-42-4**

Hazard rating	NJDHSS	NFPA
FLAMMABILITY	-	1, 2 or 3
REACTIVITY	-	0
FLAMMABLE OR COMBUSTIBLE DEPENDING ON FORMULATION POISONOUS GASES ARE PRODUCED IN FIRE CONTAINERS MAY EXPLODE IN FIRE		

Hazard Rating Key: 0=minimal; 1=slight; 2=moderate; 3=serious; 4=severe

FIRE HAZARDS

* *Cutback* and *Rapid Curing* **Asphalt** are FLAMMABLE.
* *Typical* or *Medium* to *Slow Curing* **Asphalt** is COMBUSTIBLE.
* Use dry chemical, CO_2, water spray, or a foaming agent.
* Water may cause frothing so do not apply solid streams of water directly on **Asphalt**.
* POISONOUS GASES ARE PRODUCED IN FIRE including *Sulfer Oxides* and *Hydrogen Sulfide*.
* CONTAINERS MAY EXPLODE IN FIRE.
* Use water spray to keep fire-exposed containers cool.
* Vapors may travel to a source of ignition and flash back.
* Vapor is heavier than air and may travel a distance to cause a fire or explosion far from the source.
* If employees are expected to fight fires, they must be trained and equipped as stated in the OSHA Fire Brigades Standard (29 CFR 1910.156).

SPILLS AND EMERGENCIES

If **Asphalt** is spilled or leaked, take the following steps:

* Evacuate personnel and secure and control entrance to the area.
* Eliminate all ignition sources.
* Absorb liquids in vermiculite, dry sand, earth, or a similar material and deposit in sealed containers.
* Ventilate and wash area after clean-up is complete.
* Keep **Asphalt** out of a confined space, such as a sewer, because of the possibility of an explosion.
* It may be necessary to contain and dispose of **Asphalt** as a HAZARDOUS WASTE. Contact your state Department of Environmental Protection (DEP) or your regional office of the federal Environmental Protection Agency (EPA) for specific recommendations.
* If employees are required to clean-up spills, they must be properly trained and equipped. The OSHA Hazardous Waste Operations and Emergency Response Standard (29 CFR 1910.120) may apply.

FOR LARGE SPILLS AND FIRES immediately call your fire department. You can request emergency information from the following:

CHEMTREC: (800) 424-9300
NJDEP HOTLINE: 1-877-WARN-DEP

HANDLING AND STORAGE (See page 3)

FIRST AID

For POISON INFORMATION call 1-800-222-1222

Eye Contact
* Immediately flush with large amounts of water for at least 15 minutes, occasionally lifting upper and lower lids.

Skin Contact
* Quickly remove contaminated clothing. Immediately wash contaminated skin with large amounts of soap and water.

Breathing
* Remove the person from exposure.
* Begin rescue breathing (using universal precautions) if breathing has stopped and CPR if heart action has stopped.
* Transfer promptly to a medical facility.

PHYSICAL DATA

Flash Point:
Cutback Asphalt: less than 50°F (10°C)
Slow to *Rapid Curing Asphalt*: 80°F (27°C) to 225°F (107°C)
Typical Asphalt: greater than 400°F (204°C)
Water Solubility: Insoluble

OTHER COMMONLY USED NAMES

This Fact Sheet can also be used for:
Alphalt (Cutback) RTK # 3172
Chemical Name:
Asphalt
Other Names:
Road Tar; Mineral Pitch; Petroleum Pitch; Bitumen

Not intended to be copied and sold for commercial purposes.

NEW JERSEY DEPARTMENT OF HEALTH AND SENIOR SERVICES
Right to Know Program
PO Box 368, Trenton, NJ 08625-0368
(609) 984-2202

Study Reveals Dangers of Asphalt Plants

NEW STUDY REVEALS ASPHALT PLANT DANGERS
http://www.bredl.org/press/2007/Young-McQueenasphaltplant.htm

Today at a press conference in Spruce Pine, the Mitchell County Citizens for Clean Air and the Blue Ridge Environmental Defense League released an air pollution study of the proposed Young & McQueen asphalt plant which shows that air toxins would be deposited far from the plant site. The League's report shows dangerous levels offsite of formaldehyde, benzene and arsenic.

The study concludes that formaldehyde would exceed the state's health-based air pollution limit at 200 meters beyond the plant property line. Even worse, the study concludes that benzene would be deposited at dangerous levels 1.8 miles away and that arsenic would be deposited at dangerous levels 2.17 miles away.

Janet Marsh, the League's Executive Director, said, "The state has long maintained that their computer modeling is conservative and health protective, while we have long maintained what we now can demonstrate---that the state's approach cannot protect human health while ignoring huge amounts of asphalt plant pollution." The new study points out that the state permit fails to include the asphalt tank heater and a 10,000 gallon liquid asphalt storage tank. Marsh continued, "The state can't have it both ways: they can't claim that their hands are tied by these exemptions and that their permit means that area residents are safe from pollution."

Louis Zeller, who authored the report, used the US Environmental Protection Agency's worst-case computer model for air pollution from the proposed asphalt plant. This EPA model calculates ground-level air poisons as well as smokestack sources. Having accessed this worst-case model only two weeks ago, the League chose the Young & McQueen plant for its first study.

Dr. James Carroll, a local resident, said, "The Mitchell County Citizens for Clean Air was formed to protect our health, our homes and our community. We know that if this plant is built, it will create bad smells, increased dust and poisonous chemicals like formaldehyde and arsenic. We want our local officials to protect us from polluting industries like this asphalt plant by keeping them away from populated areas, and we want the state to protect us by denying this air pollution permit."

Sue Dayton, who coordinates the League's NC Health Communities Project, said, "We are particularly concerned about the emissions of arsenic, benzene and formaldehyde. Both arsenic and benzene are known to cause cancer, and, in addition to being a suspected human carcinogen, formaldehyde is an acute irritant, causing coughing, wheezing, nausea, headaches and asthma."

Both organizations recognize that the state's air pollution permit does not consider plant location. The Mitchell County Board of Commissioners has the power under state statute to adopt an asphalt plant moratorium and implement a protective polluting industries ordinance.

Return to Front-page

E-mail a comment for posting here...
Remember to include the title of the article for

Attachment 2

Frazor Ty Edmondson
Attorney-at-Law
144 Ennis Lake Road
Ennis, MT 59729

February 24, 2024

The Montana Department of Natural Resources and Conservation (DNRC)
PO Box 606
Ennis, MT 59729

and

Montana FWP
Region 3 Headquarters
1400 South 19th
Bozeman, MT 59718

(1) **Re: Opposition** to Ennis DSL Asphalt Plant request by AM Welles to locate and operate an Asphalt Plant within the boundaries of their DSL Gravel Pit located on Montana State Trust Lands Section 16, Township 5S, Range 1W (the "Asphalt Plant").

(2) **Notice to Montana FWP:** Danger to Fish and Hatcheries on the Madison River near Ennis, Montana.

To Whom It May Concern:

The potential harm to the environment and human health stemming from the proposal for an Asphalt Plant on the Madison are so obvious that ChatGPT agrees:

Me:

Can an asphalt plant on the Madison River in Montana harm the environment?

ChatGPT:

Yes, **an asphalt plant on the Madison River in Montana has the potential to harm the environment.** Such facilities may release pollutants into the air and water, impacting local ecosystems and posing risks to human health. **Environmental impact assessments are typically conducted to evaluate and mitigate these potential effects.**

(see attached, emphasis added).

First, large language model AI, like ChatGPT, represents the closest we have to a view on the world-wide standard for responses to any given situation. It is the sum of human, electronically published knowledge on a topic (including the electronic archives of many of the world's leading academic and scientific libraries). **Please don't ignore the sum total of available published human knowledge on this matter.**

Second. You try it! Yes, I urge you to try this experiment yourself. Ask the same or a related question to ChatGPT. You may get variations on the answer I got, but I can guarantee you won't get a response like: "Feel free to ignore the harmful potential impacts of an asphalt plant." Just isn't going to happen.

Third, the DNRC's role is to protect the environment and those things that live in it. It is not to make it marginally easier to pave Montana (which we have proved over the last three decades is pretty easy to do). I don't think anyone at DNRC went to school, chose a vocation, and has worked tirelessly for years as a professional in environmental conservation in order to just stand by and see incrementally more pavement swallow Montana while stacks belch ever more harmful particulate matter into the air.

Fourth, we all know the far better answer is to have a scenic lay-by, park, or wildlife habitat there. But, in the absence of that, at least don't make the current situation worse. **If nothing else, do the legally mandated, professionally responsible minimum; conduct an environmental assessment of this obvious threat to the environment, make it public, get real feedback from the residents of Montana, Ennis, and the Madison Valley**. Let an informed citizenry provide you, the experts, the feedback on community sentiment as our laws require.

And lastly, I will conclude by turning again to ChatGPT, to provide the common-sense point of view:

> **Me:**
>
> Should the Montana NDRC ignore environmentally dangerous conditions?
>
> **ChatGPT:**
>
> No. the Montana DNRC should not ignore environmentally dangerous conditions. It's crucial for environmental agencies to address and mitigate such conditions to protect ecosystems and public health. (See attached).

Sincerely,

Frazor Ty Edmondson
Attorney-at-Law (Admitted in Texas and Massachusetts)
144 Ennis Lake Road
Ennis, Montana 59729

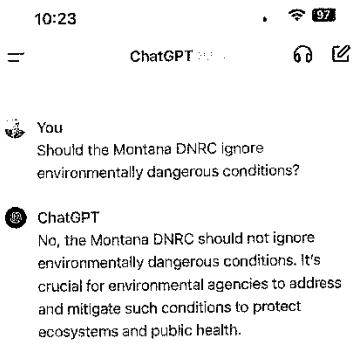
Cc: **Montana DNRC**
Office of Administrative Hearings
1539 11th Avenue
PO Box 201601
Helena, MT 59620-1601

Mayor Nici Haas
Ennis Town Hall
328 E Main Street
Ennis, MT 59729

Attachments:

1. ChatGPT, Feb 23, 2024
2. ChatGPT, Feb 24, 2024

Note: This letter is a supplement to the on-line comments in opposition filed by me on the DNRC website and my letter of February 20, 2024, related to the Asphalt Plant.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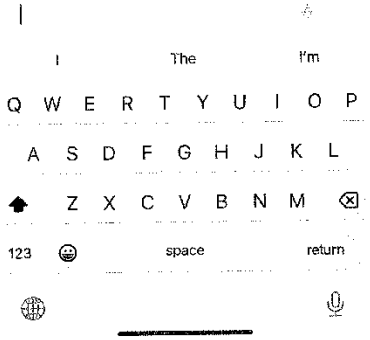
Should the Montana DNRC ignore environmentally dangerous conditions?
ChatGPT
No, the Montana DNRC should not ignore environmentally dangerous conditions. It's crucial for environmental agencies to address and mitigate such conditions to protect ecosystems and public health.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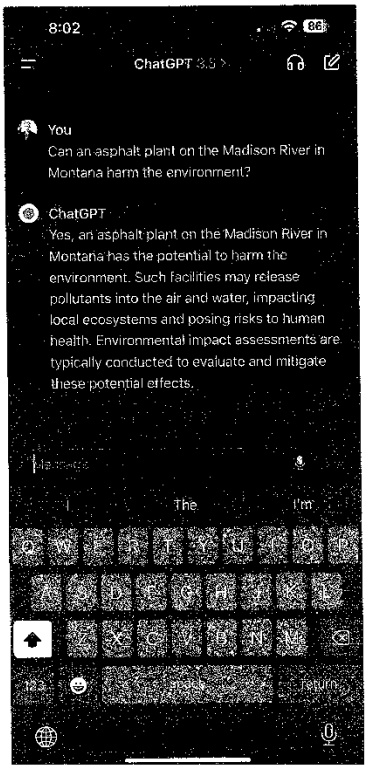
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ChatGPT 3.5
You
Can an asphalt plant on the Madison River in Montana harm the environment?
ChatGPT
Yes, an asphalt plant on the Madison River in Montana has the potential to harm the environment. Such facilities may release pollutants into the air and water, impacting local ecosystems and posing risks to human health. Environmental impact assessments are typically conducted to evaluate and mitigate these potential effects.

Sally Edmondson
Correspondence: Microsoft Forms – February 21, 2024

I am strongly opposed to the asphalt plant proposed here. The threat it poses to the natural ecosystem of our valley, the high potential risk it poses to the air quality in the region, and the very serious threat it poses to our existing local industry here. A high proportion of residents in the area here work in retail, food and accommodation, hunting and fishing, and other industries that depend on people wanting to come to this incredible Valley and who depend on the health of its natural ecosystem.
This proposed plant and its real -- or even perceived -- impact on the environment has real potential to dissuade people from returning to the Madison Valley and spending money here. This would have devastating implications for our local economy. While some proponents of this plan would argue that this plant would add to the local economy, in reality, it would really only change the dominant economic forces in our town by undermining our existing tourism industry. People who come to Madison Valley want to escape, to get in touch with nature, hunt, and fish. They will not want to do those things next to a black, polluting asphalt plant.
Returning tourists who love our valley and potential future ones choose the Madison Valley because of this area's natural beauty and its incredible ecosystem -- contaminating our valley with an asphalt plant would make visitors and residents wonder if they need to find a new place to love. I do not want to see that happen. I strongly oppose this plan.

Daniel Eiden
Correspondence: Microsoft Forms – February 26, 2024

To Whom It May Concern,
I am writing to express my strong opposition to the proposed construction of a new asphalt plant on state-owned public land in the Madison River Valley. I am deeply concerned about the potential environmental and economic impacts that such a development may have on the air and water quality, as well as its potential consequences for the Ennis Lake and lower Madison River fishery.
Air Quality Concerns:
The emissions from an asphalt plant can have detrimental effects on air quality. The release of **pollutants such as volatile organic compounds (VOCs)**, particulate matter, and potentially hazardous air pollutants poses a threat to the health of both residents and wildlife in the area. Given the pristine nature of the Madison River Valley, it is imperative to safeguard the air quality for the well-being of the community and the environment.
Water Quality Impairment:
The construction and operation of an asphalt plant have the potential to contaminate nearby water bodies, including the Madison River, with pollutants such as heavy metals, oils, and other harmful substances. This poses a significant threat to aquatic ecosystems, potentially impacting fish populations and jeopardizing the overall health of the water resources that the local community relies upon.
Impact on Ennis Lake and Lower Madison River Fishery:
The Madison River Valley is renowned for its exceptional fishing opportunities, and Ennis Lake is a crucial component of this ecosystem. The construction of an asphalt plant could disrupt the delicate balance of the aquatic environment, potentially leading to a decline in fish populations

and negatively impacting the recreational and economic value of the area.
Economic Considerations:
The proposed asphalt plant may have adverse economic consequences for the local community. A decline in water and air quality, coupled with potential harm to the fishery, could impact tourism, property values, and the overall economic vitality of the region.
Given these concerns, I strongly urge the Montana DNRC to reconsider the approval of the asphalt plant project in the Madison River Valley. I request a thorough and transparent environmental impact assessment, including a comprehensive analysis of potential risks and mitigation measures.
Furthermore, I encourage the Department to engage with the local community, environmental organizations, and relevant stakeholders to ensure that all perspectives are taken into account before making any decisions regarding this project.
Thank you for your attention to this matter, and I trust that the Montana DNRC will prioritize the protection of the Madison River Valley's environmental and economic well-being.
Sincerely,
Danny Eiden

Mike Elliott
Correspondence: Microsoft Forms – February 27, 2024

I really really don't think we should take any kind of chance at potentially ruining a multi million dollar fishery that keeps several towns alive. Even if it's a very small risk why would we take any chance.

Charles England
Correspondence: Microsoft Forms – February 27, 2024

The dust, smell and silt from this plant will cause harm to what is a peaceful community. It will greatly disturb outdoor recreational activities and the view of the valley which is what makes this area so special.

Mike Fallaw
Correspondence: Microsoft Forms – February 24, 2024

Please do not allow the view shed and environmental health of the one of a kind Madison Calley to be compromised by the towering asphalt plant

---

Anne Farley
Correspondence: Microsoft Forms – March 1, 2024

Please do not put an asphalt plant in Ennis. Last year the permit was for enlarged gravel area. And all summer dust blew across the road and up and down the valley. That was bad enough. Now an asphalt plant? No, No, No.. The gravel area already causes too much air pollution. We can't tolerate more junk in the air, on **the ground** and in the water.

Carmine & Jacqueline Fierro

Correspondence: Microsoft Forms – February 24, 2024

We say NO to Asphalt Plant on State Land !!
Impact on our water systems and air quality would be detrimental and unacceptable in our Madison Valley!

Kelly Finn
Correspondence: Microsoft Forms – February 28, 2024

I think ensuring that better protections be in place before approving this is essential. The Madison Valley relies on the preservation of the Madison River to maintain the lifestyle, recreation and businesses of the majority of our residents. I would like to hear more about how this is being mitigated. I also feel for the local residents that are living near the expansion - the noise, **pollution** and traffic are going to change the nature of living there.

Charles Friedman
Correspondence: Microsoft Forms – February 28, 2024

I oppose proposed development of a mine and/or asphalt plant on the Madison River north of Ennis or in any part of the Madison Valley.

Sharon Froboese
Correspondence: Microsoft Forms – March 1, 2024

I am strongly opposed to the proposed asphalt plant in the ecologically sensitive part of Madison County. This area is surrounded by important fish and wildlife habitat which would be negatively impacted by the noise, air pollutants and odors produced by such a plant. Additionally, asphalt production and storage has the real potential to impact water quality as identified in the DEG permit. I strongly recommend and no vote on the proposed Asphalt Plant between Ennis and McAllister.

Wayne Froboese
Correspondence: Microsoft Forms – March 1, 2024

I am strongly opposed to the proposed asphalt plant in the ecologically sensitive part of Madison County. This area is surrounded by important fish and wildlife habitat which would be negatively impacted by the noise, air pollutants and odors produced by such a plant. Additionally, asphalt production and storage has the real potential to impact water quality as identified in the DEG permit. I strongly recommend and no vote on the proposed Asphalt Plant between Ennis and McAllister.

Jim Garcia
Correspondence: Microsoft Forms – February 23, 2024 and February 26, 2024

Comment 1

We are opposed to this project due to its impact on the water and air quality. The creation of noxious odor over a very large area is not acceptable. The impact on the beautiful visual aspects of a large part of the Madison Valley would be totally negative. People residing in the area plus those traveling through would have to endure the exhaust and release from the fumes of the operation. We oppose this asphalt plant operation totally and without hesitation.

Comment 2
Please accept this correspondence as our request that the DNRC does NOT approve construction of an asphalt plant at the proposed location on state land between Ennis and McAllister.
Our reasons for opposition include the impact on water quality, the impact on air quality, the creation of unacceptable noxious smells, the negative impact
on our valley views for extensive distances and the negative impact on lifestyle plus property value in the Madison Valley.
Our opposition is without hesitation.

Thank you.

Steve Garrett
Correspondence: Microsoft Forms – March 2, 2024

Having an Asphalt plant that close to the Madison River is just plain wrong! Don't allow this to happen. Don't foul our air, view and river with this plant!

Janet Gates
Correspondence: Microsoft Forms – February 23, 2024

I am in favor! Then maybe Madison county will start paving all the crappy roads, starting with 2bumps!

Anthony Giannoni
Correspondence: Microsoft Forms – February 27, 2024

The proposed mine expansion will further degrade the Madison River watershed. I am adamantly opposed to this proposal.

Barbara Gillispie
Correspondence: Microsoft Forms – February 28, 2024

The community of McAllister, which consists of 350+ homes in Troutdale I & II, Rainbow Point, & Ennis Lake will be bearing the the worst of the noxious smells & hazardous emissions. We are located a couple of miles North of the proposed Asphalt Plant and our winds in the Madison Valley are out of the SOUTH almost ALL THE TIME. Our family moved to Montana 30+ years ago for several reasons. (1) Clean Air— that is going to now be air fouled with carcinogens and "burnt rubbery smells. (2) Clean Water— The Madison River is the economic lifeblood of this Valley. Why would you take a chance to harm this valuable resource??? How much money will A M Wells be paying the DNRC?? And is that amount of money enough to replace the economy

that is generated by the Madison River?? (3) The Views— now when we are walking our dog or sitting on our deck, we used to enjoy the site of Lone and Fan Mountains…now we are also going to be looking at a 45 foot smokestack belching out toxic, awful smelling smoke and dust that is going land right on top of our homes. NO AMOUNT of money can replace our CLEAN AIR, CLEAN WATER and WAY of LIFE. As a resident that lives in the path of whatever is going to be coming out of that Asphalt Plant, I urge the DNRC to not allow the approval of this Asphalt Plant in the Madison Valley. If this plant is approved… corporate profits of AM Wells will be the winner and residents of McAllister and the greater Madison Valley will be the losers.

Walter Goldstein
Correspondence: Microsoft Forms – February 23, 2024

While we all need asphalt plants for good, safe roads, this planned plant is located in a terrible spot in the Madison Valley. Its location will negatively impact water resources and the surrounding ecologically sensitive area and related wildlife and fish habitat. And the plant will also have a jarring negative impact on the valley's incredibly valuable view shed. This project should be denied.

Steve Gordon
Correspondence: Microsoft Forms – March 1, 2024

The concerns raised regarding the proposed asphalt plant and gravel mine operated by AM Welles in Ennis, Montana, under permit DNRC # G-1273-94, are substantial and multifaceted. It appears that there is an apprehension about AM Welles not complying with the existing legislative requirements and environmental regulations. The significance of the Madison River as a critical trout habitat amplifies the potential environmental impacts, particularly concerning water quality and the local ecosystem.
The storage capacity mentioned, 5,000 cubic yards (CY) of asphalt without an appropriate bond or permit, is a major point of contention. It raises questions about compliance with legal requirements designed to mitigate environmental and public risks. The operation's proximity to the Madison River, a sensitive ecosystem known for its biodiversity and as a popular recreational fishing destination, further complicates the development.
In addition to environmental implications, there are also concerns about the proposed plant's potential impacts on the local community. Issues such as water consumption, noise, odor, air pollutants, and overall disruption to community life and the natural surroundings have been brought up.
Examination of the planned facility must include a rigorous environmental impact analysis, including public comment periods as stipulated by the Montana Environmental Policy Act (MEPA). It demands that the cumulative effects, especially in terms of risks to the water quality and local wildlife, are thoroughly assessed and transparently communicated. This includes the conduct of required analyses and proper procedure for requesting public engagement and input on the project before any decisions are made and operations commence.
It is imperative that the responsible agencies take a holistic and cautious approach to ensure that adequate protective measures are in place to preserve the environmental integrity of the Madison River and its environs. This includes enforcing current permits, addressing any non-compliance issues, and ensuring any new projects like the asphalt plant have had sufficient environmental

assessment and public review to avoid possible detrimental effects on the river's delicate ecosystem and the local communities that depend on it.

Thomas Gresham
Correspondence: Microsoft Forms – March 2, 2024

Highly against the asphalt plant. Family has been traveling to Ennis for many years dating back to the 70's. Must protect the river and keep the surrounding area clean.

Richard Grey
Correspondence: Microsoft Forms – March 2, 2024

I am not a Montana resident, but my mother was born in Great Falls and I have been a regular visitor to the state for nearly 70 years. Currently I enjoy visiting Ennis (near the project site) and typically stay for several weeks.

We normally stay well within the view shed of the proposed project. The Madison Valley is beautiful, and somehow it seems very wrong to scar the landscape with an asphalt plant. It will surely be unsightly and out of place in that beautiful setting. Moreover, the plant will create obvious environmental risks -- how long will it be before an environmental incident affects the water of the Madison River and Ennis Lake. This would possibly spoil the ability of the public to use the river and lake for recreation, affecting many, many people. It is my understanding that the May 2023 Environmental Assessment of the project is deficient and that it is intended that the plant begin operations on April 1. I don't see how the public comment on the project can possibly be analyzed and addressed in the short period of time between now and April 1. I think the entire issue of environmental impact should be studied further and the plant operation postponed so that the environmental issues (which appear to be serious) carefully evaluated.

Thank you for your consideration.

Caroline Grey
Correspondence: Microsoft Forms – March 2, 2024

Dear Sir or Madam,

I was shocked to learn of the present plans to seemingly fast-track and green light a project which will be detrimental to Madison Valley, the Madison River, the men, women and children who fish there and cause further harm to the quality of Lake Ennis and it's habitat.

Your organization is charged by the public to manage their trust. Why are you turning your back on them: the residents of the Ennis area, visitors, wildlife and the trout? Who do you really care about? Obviously, not the people and places you're supposed to protect.

My beloved father fished in the Ennis area for 75 years; during my life time, my entire family has endeavored to respect the natural beauty Montana has in abundance. This should be your charge as well.

Why would you support a project, which will take away protections Montanans desperately need to protect and preserve a beautiful area from further development? Your lack of care in this matter is truly deafening.

Sincerely,
Caroline Farrar Grey

Kristen Griffin
Correspondence: Microsoft Forms – March 1, 2024

I am writing in protest of AM Welles' proposal to locate and operate an asphalt plant along the Madison River. I live on Ennis Lake and have grave concerns over the ecological impact on the Madison River due to the operation of an asphalt plant. Thank you.

Michael Grosser
Correspondence: Microsoft Forms – February 24, 2024

I am not in support of a gravel pit being built in Ennis or the tower proposed. It is not a wise decision for our environment or river.

Maria Guarnieri
Correspondence: Microsoft Forms – February 26, 2024

From Pintail Homeowner, I would like to voice my concern and absolute protest against the proposed Asphalt Plant in close proximity (within a mile) to our neighborhood. I am in complete protest over the public health concerns and environmental impact (air quality, aquifers health, Madison river health, animal health) this will have to our community as well as the real estate impact on the community.
Maria Guarnieri

Paul Gulbas
Correspondence: Microsoft Forms – February 20, 2024
I have been visiting Montana for 30 plus years and have enjoyed the pristine scenery and habitat.. It seems money and politics are having a detrimental effect on “The Last Best Place”. I hope common sense and reality can overcome this decision. Thanks

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Kurt Haggstrom
Correspondence: Microsoft Forms – February 27, 2024

Please do not allow this Asphalt plant in our beautiful valley. We need to protect our resources and this would not be of any benefit.

William Haman
Correspondence: Microsoft Forms – February 27, 2024

I am opposed to a mining, crusher, and gravel pit operation with retention ponds in this location located off Hwy 287 between Ennis, McAllister and the world famous Madison River located to the East, along with the ***Lee Metcalfe Wilderness*** Area not far away.
I am a fisherman who believes that any operations of this nature should not be located anywhere in Montana that puts our watersheds at risk of pollution and contamination. Not only will our fishing industry be negatively impacted, our recreational economy will feel the impacts of dust, noise, and highway congestion. Ennis has Ennis Lake where people come to use it for fishing, boating, and paddle boarding. Ennis has the most popular 9 hole golf course in SW Montana where locals and tourist's come from far and wide to play golf. Big game hunting is also a popular sport which will feel the negative impacts of this proposed operation on the wildlife in this area.
These type of operations should be located in rural, non populated areas in Montana, not located in tourist areas and scenic highway corridors.
I request that the DNRC reconsider their pursuit of this location for more suitable trust land that did not negatively impact Montana's valuable asset — SW Montana and the MADISON VALLEY.
William Haman, full time resident of Ennis, Montana. Dtd. 2/27/2024

Misty Hammerbacker
Correspondence: Microsoft Forms – February 22, 2024

An asphalt plant on the Madison River will potentially harm wildlife, the environment, and the human population in the immediate area as well as farther away. These facilities release **pollutants** into the air and water as well as the land. It will impact local ecosystems and poses health risks to humans as well as wildlife and the environment. Even though they may conduct environmental impact assessments, they don't always pay attention to the immediate or long term effects. I am against this proposal.

Helen Harris
Correspondence: Microsoft Forms – February 22, 2024

I am very concerned about the proposed AM Welles asphalt plant coming to the Madison River Valley. This would absolutely ruin our pristine valley, watershed, air quality and more. This is a project that needs to be stopped and re-routed to another location or axed completely. Myself and my neighbors have either lived here their entire lives or moved her specifically for the beauty of the earth.
I work with the Montana Fibershed which em**braces the soil-to-soil concept and educates residents of our state as to how they can be more conscious of our soil, water and how to give back to the earth, not scorch it with an asphalt plant.**
This is our state and we should have a voice.
Mine says no to this type of plant on state land. The impact is to great.
Helen Harris
Ennis, MT.

Hans Haumberger
Correspondence: Microsoft Forms – February 26, 2024

I say NO, there should NOT be an asphalt plant on Highway 287 just north of Ennis, Mt. Why would anyone think this is acceptable? I visit friends in the Troutdale area and travel through Ennis often, and enjoy the rural character of this part of Montana. What a pitiful thought to imagine an industrial site, complete with a 40 foot tall smokestack, despoiling the landscape from as far as even parts of the **beloved Lee Metcalf Wilderness!**

Anne Hedges, Montana Environmental Information Center
Correspondence: Microsoft Forms – March 1, 2024

Montana DNRC
Attn: Zack Winfield
1539 11th Ave
Helena, MT 59601
Submitted via DNRC's online portal which does not allow attachments

The Montana Environmental Information Center urges the Montana DNRC to provide the information the public needs to review and comment on the AM Welles DSL Temporary Asphalt Plant. Despite DNRC's statement that it values public comment, it appears that DNRC's commitment to its constitutional obligations to provide adequate notice and opportunity to comment is wafer thin. First, DNRC has refused to accept comments on the Monday following the Saturday deadline for comment as required by Montana law. Despite MEIC's request for confirmation, DNRC denied the request, contrary to law and its supposed statement that it is committed to public participation. These comments are truncated due to the lack to time provided by DNRC to provide more detailed comments.

Second, DNRC's portal does not allow attachments, meaning that comments must be sent days prior to the close of the comment period. That leaves less than 30 days for comment in a manner that includes additional documentation.

Third, DNRC has failed to provide any information regarding the proposed asphalt plant, its size, **emissions**, hours of operation, noise level, impacts to air, **land** water and public health. Its website does not contain the application or any information regarding the specifics of the project. In fact, DNRC's documents on this project appear to indicate that it will quickly approve the proposal and allow operations to commence prior to the public having access to the information it needs to thoroughly review and comment on the proposal.

While DNRC points to DEQ's environmental assessment for the project, it fails to identify that DEQ does not require an air pollution permit for the asphalt plant that is based on the unique circumstances of the location. The DEQ EA that is provided on DNRC's website is for the open cut permit, not the asphalt plant general permit. Instead of the more rigorous air pollution permit, this plant will receive what is known as a general air permit which does not require any site-specific analysis and opportunity for public comment. Instead, the public is required to rely on an applicant receiving a permit after it fills out a form based on rules that were drafted in 2019 that apply to a generic asphalt plant proposal. DEQ's guidance and documents governing that general air permit were written in 2019, years before this asphalt plant was proposed for this site.

In other words, without details of the project and a site-specific analysis of its impact on air quality, it is impossible for the public to meaningfully participate. Instead, it appears that DNRC and DEQ have once again conspired to point the finger at the other as the public is left wondering what a project's impact might be to them, their neighbors, their health, their environment, their property rights, and their livelihoods.

This is not only unacceptable, it is unconstitutional. Both of these agencies must have site-specific information that allows them to guarantee to those downwind of the project that their health, natural resources, property, and livelihoods will not be unacceptably harmed. There is currently no way for the public, including MEIC's members who live and recreate in the area, to know what the impacts of this proposal may be and to provide meaningful comment. Perhaps there are mitigation measures that should be required in which the asphalt plant must cease operations when air quality levels are impaired and harm public health. The process that DNRC is conducting, similar to the process that DEQ conducted, do not allow for such mitigation measures.

Recent years have seen fires impair Montana's air quality in May and June. Montana often receives particulate laden air from fires in other states and countries. The operation of this facility during those times could exacerbate public health impacts. It must be conside
DNRC did not indicate on this portal page that it only allows a limited character count so my previous comments were cut-off. I am including the final sections of my comments below. Continued...
In other words, without details of the project and a site-specific analysis of its impact on air quality, it is impossible for the public to meaningfully participate. Instead, it appears that DNRC and DEQ have once again conspired to point the finger at the other as the public is left wondering what a project's impact might be to them, their neighbors, their health, their environment, their property rights, and their livelihoods.

This is not only unacceptable, it is unconstitutional. Both of these agencies must have site-specific information that allows them to guarantee to those downwind of the project that their health, natural resources, property, and livelihoods will not be unacceptably harmed. There is currently no way for the public, including MEIC's members who live and recreate in the area, to know what the impacts of this proposal may be and to provide meaningful comment. Perhaps there are mitigation measures that should be required in which the asphalt plant must cease operations when air quality levels are impaired and harm public health. The process that DNRC is conducting, similar to the process that DEQ conducted, do not allow for such mitigation measures.

Recent years have seen fires impair Montana's air quality in May and June. Montana often receives particulate laden air from fires in other states and countries. The operation of this facility during those times could exacerbate public health impacts. It must be considered and mitigated prior to approving this asphalt plant. Yet, because of the backward way DNRC is conducting this permitting scheme for this open cut operation and related asphalt plant, the public is left without the information it needs to comment on the permit nor recommend mitigation measures.

While this is a scoping document, it appears to be the only opportunity to comment in writing on this proposed project on state school trust land. We urge you to deny this project, conduct a site-specific analysis of impacts – including air quality and health impacts – disclose those to the public and allow the public the opportunity to comment. Anything less runs afoul of Montanans' Constitutional rights to participate, to know, and to a clean and healthful environment.

Sincerely,
Anne Hedges
Montana Environmental Information Center

Kelly Herold
Correspondence: Microsoft Forms – February 27, 2024

I am strenuously opposed to the Asphalt Plant under consideration as described above. The number of reasons is too great to list, but I have been in the Madison Valley for over 45 years and am deeply distressed by the unfettered growth in the area destroying the past way of life for Ennis and McAllister.

Rex Hocking
Correspondence: Microsoft Forms – February 27, 2024

I am in favor of granting AM Welles a permit for setting up and running an Asphalt Plant at their pit north of Ennis. It will only be used for 2 months, intermittently. It make economic sense for the local area to have an asphalt source closer to job locations. Also reduces the hazards of trucking asphalt over long distances.

Chrispy Hoover
Correspondence: Microsoft Forms – March 1, 2024

My family and I wholeheartedly oppose this asphalt mine.

Kay House
Correspondence: Microsoft Forms – March 1, 2024

I am writing to express my deep concern about the proposed asphalt plant in close proximity to the Madison River. As a dedicated advocate for environmental conservation, I believe it is crucial to address the potential adverse effects that such a facility could have on the delicate ecosystem of the Madison River and its surrounding wildlife.

The Madison River is not only a cherished natural resource but also a vital habitat for various species of wildlife. The introduction of an asphalt plant raises significant apprehensions about the potential pollution of the river and its adverse impact on the flora and fauna in the area.

The production process of asphalt involves the release of **pollutants** such as particulate matter, volatile organic compounds (VOCs), and potentially **hazardous chemicals**. These emissions

have the potential to contaminate the air and water in the vicinity, posing a direct threat to the health and well-being of aquatic life and the broader ecosystem.

Moreover, the noise and increased human activity associated with the operation of an asphalt plant can disrupt the natural behaviors of wildlife in the area. Breeding, nesting, and feeding patterns could be severely affected, leading to a decline in the population of species that rely on the Madison River for their survival.

I urge you to consider the long-term consequences of establishing an asphalt plant in this ecologically sensitive location. It is crucial to prioritize sustainable development that minimizes environmental impact and preserves the integrity of the Madison River ecosystem.

I kindly request that a comprehensive environmental impact assessment be conducted before proceeding with the construction of the asphalt plant. This assessment should include an evaluation of air and water quality, potential impacts on wildlife habitats, and measures to mitigate any adverse effects.

Thank you for your attention to this matter. I believe that, by working together to find environmentally responsible solutions, we can safeguard the Madison River and its unique ecosystem for current and future generations.

Sincerely,
Kay House

Wesley House
Correspondence: Microsoft Forms – March 1, 2024

All,

I am writing to amplify the concerns already submitted regarding the proposed Asphalt Plant and Gravel Mine operated by AM Welles under Permit DNRC # G-1273-94. The proposed plant and mine raise critical issues that demand further scrutiny and satisfactory resolution before the project's authorization. I wish to reiterate and strengthen the argument against the proposed development based on several key concerns:

1. Flagrant Non-compliance History:
AM Welles has exhibited a pattern of disregarding the conditions of their existing Permit. This history of operational defiance poses serious questions about future compliance and environmental stewardship. Expanding permissions or commencing new operations under such a track record without stringent oversight and demonstrable correction of past behaviors is incongruous with responsible management of public resources and environmental protection mandates.

2. Unacceptable Risk to Water Quality:
The inherent risks associated with asphalt production are incommensurably magnified when situated on the ecologically sensitive banks of the Madison River—a keystone of the local

environment. The substantial storage of asphalt (5,000CY as per the DEQ Permit #674) without due bonding or adequate permitting exacerbates an already precarious situation. It is unacceptable to allow such a risk to water quality in a renowned trout habitat that is not only ecologically essential but also a cornerstone of local recreation and economy.

3. Environmental Assessment Deficiencies:
A new Environmental Assessment under the Montana Environmental Policy Act (MEPA) must be rigorously conducted to encompass the unique challenges posed by the proposed Asphalt Plant. This assessment must provide an honest and comprehensive evaluation of environmental impacts including but not limited to **the risk of spills**, **leaching pollutants**, air quality degradation, and the potential disruption to local wildlife and endangered species noted within the vicinity.

4. Inadequacies in the Public Comment Process:
The current endeavor by the DNRC appears to be a perfunctory gesture towards seeking public input rather than a genuine, informed engagement as mandated by MEPA. With operations slated to begin imminently after the close of the comment period, it is both impractical and illogical to expect a comprehensive public review and meaningful discourse on the potential impacts of this project. This expedited timetable undermines the public's trust and the principle of due process under MEPA's guidance.

5. Conflict with Conservation Values and Mission:
The DNRC, as an institution with conservation embedded in its very title, should prioritize protecting Montana's natural treasures over short-term economic gain. The proposed Asphalt Plant and Gravel Mine represent a clear and present threat not only to the immediate environment but to the heritage of the Madison River and surrounding communities. There lies an opportunity here for the DNRC to fulfill its mission by direct action to conserve this space for current and future generations.
I urge the DNRC to reconsider this project in light of these amplified concerns. The proposal, as it stands, should not move forward without substantial reassessment and an assurance of compliance with the highest environmental and operational standards—a standard AM Welles has yet to convincingly demonstrate.

Respectfully submitted,

Wesley House

Howard House
Correspondence: Microsoft Forms – March 2, 2024

Dear sirs:

I am writing to express my strong opposition to and deep concern about the proposed DSL asphalt plant in close proximity to the Madison River. As a property owner in the Valley and an avid outdoorsman, I am appalled that the DNRC is even considering allowing this. It is crucial that the state fully assess the potential adverse effects that such a facility could have on the

delicate ecosystem of the Madison River, its fishery and surrounding wildlife and the local economy.

The Madison River is not only a cherished natural resource for recreational activity, but also a vital habitat for various species of fish and wildlife. The installation of an asphalt plant raises serious concerns about the **potential pollution** of the river and its adverse impact on the flora and fauna in the area. Considering the fact that much of the local economy is driven by fly fishing, hiking, camping, hunting and general tourism, the potential negative financial impact to the Ennis community is significant to business owners, land owners and residents.

The production process of asphalt involves the **release of pollutants** such as particulate matter, volatile organic compounds and hazardous chemicals. These emissions have the potential to contaminate the air and water in the vicinity, posing a direct threat to the health and well-being of aquatic life and the broader ecosystem.

Moreover, the noise and associated with the operation of an asphalt plant can disrupt the natural behaviors of wildlife in the area. Breeding, nesting, and feeding patterns could be severely affected, leading to a decline in the population of species that rely on the Madison River for their survival.

As was the case in the 2023 permitting process for the expansion of the DSL mine, a comprehensive environmental impact assessment should be conducted before granting a permit allowing construction of the asphalt plant. This assessment should include an evaluation of air and water quality, potential impacts on wildlife habitats, and measures to mitigate any adverse effects. The visual effects should also be considered.

I should note that my, and many others', strong opposition to the 2023 mine expansion was largely due to the fact that an asphalt plant was included as part of the plan. During that comment period, the DNRC explicitly stated that no asphalt plant would be coming and, although the mine expansion was allowed, an asphalt plant was not included in the final permit. It is troubling that AM Welles is back with this proposal so soon and, even more troubling, that the DNRC is prepare to allow construction to commence on April 1. Furthermore, the public has been given limited information about the planned facility and how it will be operated and a very short period of time to comment.

The public should have a voice in this matter and an extended period should be allowed to learn more about what is planned. The DNRC needs to complete an environmental impact assessment and fully inform the public of its findings. A public hearing should be provided and the DNRC should consider the feedback from all concerned parties.

The DNRC's stated mission is to "ensure Montana's land and water resources provide benefits for present and future generations". Allowing the installation of an asphalt plant on the banks of the Madison River runs directly counter to that mission statement. It's time for the DNRC to do its job and represent its constituents.

Thank you for your consideration in this extremely important matter,

Bart Johnson
Correspondence: Microsoft Forms – March 1, 2024

To Whom It May Concern,

Concerning the proposed asphalt plant and gravel mine by AM Welles under Permit DNRC # G-1273-94, it is imperative that these pressing issues receive exhaustive examination and be resolved prior to the approval of the aforementioned project. In this communication, I aim to further emphasize and reinforce the substantial concerns voiced against the proposed endeavor:

Clear History of Non-compliance:
It is evident that AM Welles has consistently neglected to adhere to the mandatory provisions of their extant permit. This disregard for compliance casts significant doubt on the operator's commitment to uphold environmental standards and responsibly manage resources. Moving ahead with project expansion or initiation of new operations amidst such a history, lacking stringent regulatory control and corrective action, is in direct conflict with the principles of public resource management and environmental safeguarding obligations.

Severe Threat to Aquatic Integrity:
Given asphalt production's potential dangers, their amplification is considerable when juxtaposed with the delicate ecology of the Madison River. Storing a large amount of asphalt (5,000CY, as specified by DEQ Permit #674) without securing the necessary bond or permits only compounds the inherent risk. Subjecting the Madison River's iconic trout habitat, an ecological treasure and pillar of the regional recreation and economic landscape, to such threats is entirely indefensible.

Shortcomings in Environmental Review:
It is paramount that a renewed and thorough Environmental Assessment under the Montana Environmental Policy Act (MEPA) be undertaken. This evaluation should accurately reflect and assess the myriad environmental risks, such as spill incidents, potential contamination, detrimental atmospheric emissions, and adverse effects on local wildlife, including those species identified as imperiled.

Flaws in the Public Comment Framework:
It appears that the current process for soliciting public input adopted by the DNRC is superficial, rather than a genuine effort to gather and consider public opinion, as dictated by MEPA. With the project commencement proposed immediately following the public comment period, a truly comprehensive and consequential public discourse on the project implications is not feasible. This rushed process erodes public confidence and the integrity of the democratic protocol envisioned by MEPA.

Disregard for Conservationist Obligations:
The DNRC, with conservation at the core of its institutional ethos, should place the safeguarding of Montana's natural resources above the pursuit of fleeting economic developments. The

projected asphalt and gravel operation poses an unequivocal menace to the local environment and, by extension, the legacy of the Madison River watershed and its communities. It is an opportune moment for the DNRC to advocate for the conservation of these lands in trust for present and future generations.

I strongly encourage the DNRC to take these enlarged concerns into serious consideration. Without a comprehensive re-evaluation and confirmation that AM Welles can and will comply with the highest standards of environmental responsibility, this proposal should be halted.

Jim Johnson
Correspondence: Microsoft Forms – February 17, 2024

NO To the Asphalt Plant
Asphalt Plants are not environmentally friendly, smell and are noisy and certainly not appropriate in our own back yard. What does the Environmental Assessment Say?
How much money is the state making from this?
The significant negative impact to our community far outweighs any monetary value to the state and the Trust division on behalf of the schools.
Please stop destroying our land, particularly on the banks the Madison River and Ennis Lake!
STOP THE ASPHALT PLANT

Mike Jones
Correspondence: Microsoft Forms – February 28, 2024

I have lived in Ennis for 30 years and have no problem with this, the only problem I have is the new owners that bought the Valley Garden ranch have billions of dollars and think they can push their agenda on people that have lived here their whole life's . That gravel pit has provide jobs and gravel for homes and roads since in opened . The Perot family needs to go away and back to Texas

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Elizabeth Kennedy
Correspondence: Microsoft Forms – March 1, 2024

I strongly oppose the construction of an asphalt plant and gravel pit on the banks of the Madison River. Adding a plant there would have severe adverse effects on the river ecosystem, wildlife and the surrounding environment. It would have a significant impact on water and air pollution as well the noise and visual population along the river and extended communities. Furthermore it is ugly and it is not worth destroying our beautiful valley. It would truly deteriorate the quality of life in our valley. Elizabeth Kennedy

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John Kennedy
Correspondence: Microsoft Forms – February 26, 2024

I strongly appose an Asphalt Plant on the Hwy 287 as one arrives into Ennis. What a welcome to Ennis sign that would be! I do not know the hight of the proposed Plant, because that has not been disclosed in any information. I suspect it will be at least 60 feet tall. The obvious concerns

are the risk to water, air, noise, traffic and the visual of the plant on the main entrance into town. The proposed plant is just upstream from Lake Ennis, a wonderful resource to the locals and the State. How loud would the plant be? How large (big of an eyesore) would the plant be as one drives into Ennis? How many trucks would be using the Plant? What would the noise of the Plant? How much dust would the plant and trucks produce? None of these questions are addressed in the permit. I don't believe there is an asphalt plant on 191 heading up to Big Sky. That would be a too big of an eyesore for the wealthy tourists and owners.

Abigail King
Correspondence: Microsoft Forms – February 26, 2024

As a McAllister resident, I appreciate the opportunity to express my concern about the proposed Asphalt Plant at the DSL mine on HWY 287. This decision directly impacts the Madison River and its riparian area. The potential impact on water and air quality, and noise disturbance needs to be taken into account. We are already seeing a lot of dust coming from that area in our neighborhood. Please consider the significant environmental and community-wide implications of this project.

I understand the need for this type of plant, but this location should not be an option. The Madison River is too important for wildlife and this community, and the benefits of the plant do not outweigh the negative impacts to the river and the community. It would also be nice to see the Environmental Assessment for this project.

Steve Kirchhoff
Correspondence: Microsoft Forms – March 2, 2024

My wife and I are writing in opposition to the proposed asphalt plant because it imperils fish and wildlife habitat. Though people need and use asphalt everyday, we do not believe all locations for the production of asphalt are equal. Some lands are inherently more valuable and sensitive to human activities than others. This particular parcel of land has high resource value which in this case out-weighs the benefits that will result from the production of asphalt. Please deny this request and urge the applicants to **find a more suitable tract** for the purpose. Thank you very much for your attention to the public.

Sincerely,

Steve and Colette Kirchhoff

Lynn Kirtley
Correspondence: Microsoft Forms – March 2, 2024

This site is an important fish and wildlife habitat. An asphalt plant will impact water quality as identified in the DEQ permit. This is an ecologically sensitive area and asphalt production and storage should not be allowed. Thank you.

Tom Kuntz, on behalf of the PRHOA
Correspondence: Microsoft Forms – February 29, 2024

The following comments or questions are submitted on behalf of the Pintail Ridge Homeowner's Association (PRHOA). Individual homeowners may submit additional comments and concerns separately.

because the request lacks overall detail and specifics it is difficult to determine the size or potential physical impact of the proposed asphalt plant, there is a general concern about the impact of the plant on surrounding landscape and scenery.
will the asphalt plant operate only during daylight hours, like the gravel pit, or will it operate at night?
if the plant is going to operate at night what type and how much lighting will be used?
the State's Scoping Notice states the plant will be demobilized by 8 June 2024, will it be removed from the site by that date or left in place?
if the planned paving activity is not complete by 8 June, due to weather or other issues, will an updated request be required and filed?
has the State done an assessment of the potential environmental impac**ts of a petroleum or other chemical spill and what plans are in place in case of such a spill**?
has the State performed any required assessments of fumes or other emissions related to the plant?
has the State done any assessment of potential safety issues related to additional heavy truck traffic on Rt 287?
will truck traffic to and from the plant use RT 287 or will it use smaller side roads, for example Range View, Pintail Ridge or the Golf Course Road?
will the State perform addition inspections or oversight of the plant beyond what is currently done in the gravel pit?

Jeff Laszlo
Correspondence: Microsoft Forms – March 1, 2024

During the public comment period for the expansion of the pit, it was emphatically stated there would be no asphalt plant. This apparently was a fraudulent claim stated repeatedly in public forums to advocate for the pits approval and expansion.This plant will be too close to sensitive wetlands, bird and fish habitat.The available water from a recently permitted well is insufficient for the task. The EA did not investigate the impacts of an asphalt plant. The visual impact is known and will not be positive. What is the pressing need for a plant at all but specifically to begin operation in April without proper review. This plant and pit are too risky from the potential for environmental harm. DNRC and DEQ must weigh the benefits of projects against the undesired impacts. This case is a no brainer, the benefits are very low and the impacts very high. Finally reclamation of this site where there is little top soil is virtually impossible leading to water quality issues in adjacent riparian zones and weed infestations.

Joel Leadbetter
Correspondence: Microsoft Forms – February 28, 2024

As one who was born and raised on the Valley Garden Ranch, I firmly objected to the handling of the re-leasing, and the lease itself, of the existing gravel pit to AM Welles. Now the Madison Valley residents will have the onerous effect of living, breathing and enjoying (sarcasm) the proposed asphalt plant.

For historical perspective, my father Dan Leadbetter, and my grandfather before him Del Lichtenberg, had the grazing lease on this land...all 160 acres...since we bought the ranch in 1949. My assumption is that the predecessors in title also had this same lease with the State of Montana. Therefore, one could surmise that the State was leasing this land to the Valley Garden for 100 years or longer looking back from today's date. Clearly, the leased land was well managed and there was never any reason to rescind or modify the lease because of malfeasance. Then unilaterally, the State took 20 acres and leased it to AM Welles. We fought but to no avail. The DSL did an absolute "rinse and repeat" with the current owners of the Valley Garden, with exactly the same outcome as what happened to my family many years ago, except now the lease takes on a next level leap with the addition of the asphalt plant.

There is much to say about the visual impact, noise impact, air quality, affecting the Madison River watershed, etc., but I will leave that to others who live in the Madison and who are directly and negatively impacted by this DSL action.

This lease was granted under subterfuge when my family owned the Valley Garden and now it has happened again. My hope is that you will listen to public comment and make a decision which benefits all Montana citizens, not just AM Welles. After all these years, I am still trying to understand why AM Welles gets this preferential treatment, when dealing with the DSL, as other operators in the State have to jump through many hoops to carry on their businesses. Please explain in your public hearings.

There is too much to lose in this incredible valley if you allow the asphalt plant to be granted without the proper process. It is a shame that it has even been considered under these circumstances.

Thank you for giving my comments serious consideration.
Joel Leadbetter

Burleigh Leonard
Correspondence: Microsoft Forms – February 23, 2024

I oppose AM Welles proposal to locate an asphalt plant at the DSL Pit outside Ennis, MT. The location is an ecologically sensitive area close to the Madison River. The operation of an asphalt plant in that area could compromise water quality and air quality and would adversely affect the viewshed of the Madison Valley.
During consideration of AM Welles' earlier request to expand the DSL Pit, representations were made that there were no intentions to operate an asphalt plant at the DSL Pit. Now AM Welles wants to locate and operate an asphalt plant at the site, saying that it would be only for a limited period of time. Given this track record, I anticipate that AM Welles will seek permission in the future to either extend the period of operation or make such operation permanent. This shell

game should not be tolerated any longer, especially in light of the serious environmental consequences associated with asphalt production.

Larry Leonard
Correspondence: Mailed Letter – February 1, 2024

RECEIVED
FEB 05 2024
D.N.R.C.

February 1,2024

Attn: Zack Winfield
DRNC
1539 11th Ave.
Helena, MT 59601

Re: Asphalt Plant – Madison Valley

Dear Mr. Winfield:

I am writing you to voice my objections to the asphalt plant planned for the Madison Valley just north of Ennis off Hwy 287.

First, the current gravel mining operation is noisy, generates massive amounts of dust and the gravel trucks entering and exiting onto 287 are a hazard. Second, all of this will be amplified by the new asphalt plant. In addition, the manufacture of asphalt requires petroleum products that generate noxious odors.

During the summer I fish Ennis Lake. The grinding and clanking from the current mining operation is plainly obvious as well as the dust clouds wafting towards the lake. Add to this the smell of asphalt production and the result will be a further degradation of the environment that we cherish.

Please take these comments into consideration before you approve the asphalt plant.

Sincerely,

Larry Leonard

[redacted]

William (Bill) Lev
Correspondence: Microsoft Forms – March 1, 2024

As a Madison County resident, I am completely opposed to the construction and operation of an asphalt plant at the AM Wells DSL Pit on Hwy 287.

Josh Lockwood
Correspondence: Microsoft Forms – February 23, 2024

This is absolutely unacceptable. Proposed plant owners should 100% finance an environmental impact study, as well as purchase a reclamation bond to offset the future cleanup and remediation costs of this absolutely absurd and short sighted venture. This should not be on the residents of Madison County to pay the price for short term greed.

Mary Lubke
Correspondence: Microsoft Forms – March 1, 2024

The proposed plant is too close to the river, it will smell and pollute both the river and the air. It is an eyesore to a very beautiful place in the mountain valley. The tax payers do not want this in their valley!

Nani Luebke
Correspondence: Microsoft Forms – February 2, 2024

I am writing about the Public Notice that was recently published in the January 25th, 2024 edition of the Madisonian Newspaper, by your department.
I would like to express my concern about the Permit that A.M Welles is requesting for an Asphalt plant to be located within the DSL gravel pit located North of Ennis .
First, I would like to submit that A.M. Welles has not been a good neighbor to the valley. The expansion of the gravel pit was unfortunate as the mountains of gravel mined have exceeded in height above the berms that surround the pit. When the wind kicks up at 50mph, there is a Haboob (Dust/Sandstorm) in the north end of the valley, where visibility is near zero and the storm is over a mile wide. It covers the lake and everything in the north end. To my knowledge, A.M. Welles took no action to abate the dust, i.e. water down the gravel piles or any other effort to control the problem.
I, personally, have been caught in these storms twice and they are like a dense fog.
Second, the DNRC, rejected A.M Welles initial request for an asphalt plant when they wanted the expansion permit due to serious public rejection. The fact that the request is for a short term plant, April 1, 2024 to June 8, 2024 is ridiculous. Once in place, if they haven't filed an extension already, there will be no end to this eyesore, noise, dust and destruction in the valley, and permanent scar on the land.
Third: Your department makes no mention of any public hearings on this matter. The DNRC has a record of not enforcing end times on these projects. The noise of just the gravel pit mining can be heard across the entire end of the valley. Are you requiring any noise restrictions for this company?
There is a real need for at least two public hearings on these permit requests. The DNRC has offered a very narrow frame of time for public comment in compliance with the Montana Environmental Policy Act.
Sincerely,
Nani Luebke

Beth MacFawn
Correspondence: Microsoft Forms – March 1, 2024

Please Do Not approve this. The area is public land, and I do not approve of this use by an asphalt plant. This area is too sensitive, and the surrounding town, lake, and forests will be negatively impacted.
Thank you,
Beth MacFawn

Jess Maciaszek
Correspondence: Microsoft Forms – February 21, 2024

The madison river valley is special to more than those who visit it, more than those who work on the river, but not more than those who call it home. From wolves to moose to trout and birds. The madison valley is a safe haven, a place where one can see how our world was intended to be. It's an example of environmental stewardship and protection of what makes our great state great. Untouched wilderness. And though the valley is not completely untouched it does not need an asphalt plant placed upon the bank of its vena cava. Please don't allow one of the most beautiful and well know valleys in the lower 48 be plagued by man's creation and greed for wealth and infrastructure. Some things are meant to be, the way they are. Thanks for reading.

Barbara J Mample
Correspondence: Microsoft Forms – February 29, 2024

Per my research there are 12+/- such facilities already operating in SW MT from Billings to Butte and Helena..... aren't these enough? Ennis has been fortunate (and blessed) to be able to have survived economically on a somewhat sustainable way of living without any industrial contamination to the environment. I am OPPOSED to such a facility in Ennis. Thank you for reconsidering the proposed approval of a "hot mix" plant here.

Robert Mark
Correspondence: Microsoft Forms – February 26, 2024

I am greatly concerned about the asphalt plant and its potential impact on water quality. The potential impacts on the ecologically sensitive Madison River system are meaningful and need to be addressed. The current DNRC permit fails to address these concerns fully.

Tony Martino
Correspondence: Microsoft Forms – February 25, 2024

Tony Martino and Maria Guarnieri are reaching out to you today because we just learned of the proposal for an asphalt plant at DSL gravel pit is located 2.3 miles north of Ennis.
https://dnrc.mt.gov/TrustLand/subsurface-resources/AM-Welles-DSL-Pit
https://dnrc.mt.gov/TrustLand/subsurface-resources/Scoping-Letter-Asphalt-Plant-Ennis1.pdf

This plant will be roughly one mile from our home. We have several concerns regarding this proposal and ask for your help in protecting the environment, health and property values of our town. Even if this proposal is considered temporary, we are not comfortable with the long term effects to our community.

Environmental Impact on air and water quality
The most common fuels used in asphalt plants are natural gas, propane, and diesel.
Asphalt plants can produce emissions that are harmful to human health and the environment. The emissions can include volatile organic compounds, particulate matter, and carbon monoxide. These emissions can cause respiratory problems, headaches, and other health issues.
Asphalt is not toxic in soil as it is a stable material and does not break down easily. However, if asphalt is mixed with other contaminants such as heavy metals, it can pose a threat to the environment. Therefore, proper disposal of asphalt and monitoring of its use in construction is crucial.
https://plantdemand.com/asphalt/asphalt_plants/#:~:text=Asphalt%20plants%20can%20produce%20emissions,headaches%2C%20and%20other%20health%20issues.
Health issues
https://www.nj.gov/health/eoh/rtkweb/documents/fs/0170.pdf
https://montrosecounty.granicus.com/DocumentViewer.php?file=montrosecounty_0b15aa4ecb720a1e731482ea7920fdf3.pdf
Toxicity: Asphalt plants emit fumes that are known to contain toxins. Various government agencies, including the U.S. Environmental Protection Agency(EPA), has given statements about asphalt processing plants and other asphalt manufacturing facilities throwing out air pollutants like hexane, phenol, polycyclic organic matter, formaldehyde and toluene. The exposure to these dangerous toxics can cause various central nervous system problems as well as liver damage, respiratory problems, cancer and severe skin irritation.
Real Estate
Real Estate and Health Issues Research conducted by the Blue Ridge Environmental Defense League has revealed that the creation of asphalt processing plants near residential places has decreased the value of real estate by around 50 percent. This is because there has been a nearly 20 percent average increase in the health issues like high blood pressure, sinus problems, shortness of breath and severe headaches. The health issues surrounding asphalt plants have led to controversies, with different sides coming up with reasons for and against the production of asphalt plants in some areas.

Very concerned homeowners,
Maria & Tony

Craig Mathews
Correspondence: Microsoft Forms – February 25, 2024

Thank you in advance for considering my comments re the proposed asphalt plant off Highway 287 adjacent to the Madison River near Ennis, Montana.
I cannot understand why an EA for this as required by Montana law as not been done been completed even though the plant is scheduled to start up operation within a month.
The existing DNRC EA pg 4 section 5 says "the permittee has not requested the use of an asphalt plant so they'll not evaluate the impacts the plant may have on surface or ground water. If an asphalt plant is requested by the permittee a separate MEPA analysis will be constructed to evaluate the environmental impact". Given this statement in the DNRC's EA the public was informed the DNRC's EA does not consider the impact of an asphalt plant. However, the public notice on the pending asphalt operation the DNRC cites the previous EA, yet does not provide an

updated EA draft reflecting the impacts of said asphalt operation.
The operator of the plant historically has operated in violation of several provisions of the existing permit. With that, the DNRC prior to any further action must exercise its legal obligation to monitor and enforce any and all infractions of the existing permit, and should address those infractions and address their past lack of enforcement.
Within the DEQ #674 it states "asphalt is considered to have the potential to negatively impact water quality".
How does the DNRC plan to address those impacts with this plant adjacent to the Madison River?
What is the economic benefit to the local commentary and DNRC for the asphalt plant if permitted?
And, since asphalt plants produce air, water and noise pollution how will this impact the local communities of Ennis and McCallister?
The DNRC must address what the economic benefit(s) the proposed plant would be to the citizens of the Madison Valley and State of Montana, and if this plant is worth the potential negative impacts to water, air and a healthy environment and the prime economic driver, the Madison River provides the local communities and the State of Mt and its residents.

Linda Maydak
Correspondence: Microsoft Forms – February 28, 2024

We live close to Ennis which is close to the proposed asphalt plant. We are concerned about the air and water quality since Ennis lake is close to the site. The air quality since we are in a valley and a 45' stack will produce unhealthy air quality. This should be in a less populated area.

Jessie McCafferty
Correspondence: Microsoft Forms – February 26, 2024

The application to build an asphalt plant on the banks of the Madison River must be denied. The Madison River is a crown jewel of trout streams, attracting anglers and tourists from across the globe. This tourism supports the economy of the Madison Valley, including Ennis businesses and property values. To build a commercial facility on the banks of the river, with inevitable negative consequences due to runoff and other accidents, is simply unacceptable from a conservation and a business point of view. Such construction will inevitably kill fish, aquatic growth, insect growth, and threaten wildlife, all of which contribute to a healthy river. As such, allowing a permit for an asphalt plant on the banks of the Madison River would be unconscionable.

I grew up going to this river every summer. My fondest memories are learning to fish there with my father. He features this gorgeous place in his novels. Please afford these memories to be passed down to my daughter.

Thank you for your consideration.

John McCall
Correspondence: Microsoft Forms – February 27, 2024

Elizabeth and Carleton McCambridge
Correspondence: Microsoft Forms – February 27, 2024

We live in Troutdale 2 adjacent to Valley Garden Ranch and very close to the A.M.Welles gravel plant and the proposed mobile asphalt plant which we oppose.
In November, 2022, when we were opposing the expansion of the gravel pit, the question was raised by the Ranch Manager for Valley Garden Ranch, Levi Chandler, "They're talking about bringing in an asphalt plant." In response, Tim Hokanson, the owner of A.M. Welles said this isn't necessarily true. "There's not an asphalt plant in there now and there hasn't been for the last 10-15 years," said Hokanson. "The reason we left it in the permit was because if they're going to redo the road out here it's way more cost-effective for the state and taxpayer if they can get the stuff locally." [1] 287 was repaved last year without A.M.Welles' asphalt plant!
Jon Malovich, the former executive director for the Madison River Foundation said at the time, "Currently there's a bluff or a wall that's made of gravel and dirt that protects the overall view, but also protects the ability for runoff to go directly into the Madison and into the tributaries." Hokanson says any contamination would be extremely minimal in his opinion. [1] A. M. Welles has since removed that barrier.
To say the least, we are upset by the vague obfuscation by Tim Hokanson in relation to the asphalt plant and his disregard of polluting the Madison River. We don't trust him.
We are concerned that the DEQ will not monitor the emissions from the proposed asphalt plant. In fact, it's up to the public to "Call DEQ's Enforcement Staff at (406) 444-5328" (2) if we think A. M. Welles "isn't following the rules and emitting pollution over their limit." Really?? Will the DEQ monitor the emissions effectively and often? And report their findings to the public?
These are our major concerns about the proposed asphalt plant:
1. that it will end up being a permanent plant
2. a significant decrease in property values (especially if it becomes permanent)
3. the smell
4. the noise: emanating from the plant, loading the asphalt into trucks, the noise of the loaded trucks on the adjacent highway 287. Will there be time limits for operation?
5. the dust
6. the contamination of the irrigation ditches that run into the Madison River
7. the toxic emissions affecting health of local residents
8. hazards to local wildlife, antelope, deer, raptors, fox, prairie dogs, birds, flora, etc
9. effects of pollutants on the ranch grass and cattle
10. the effects on the tourism industry
11. the hazards to employees of the plant

[1] https://www.kbzk.com/news/local-news/residents-of-ennis-express-concern-over-gravel-pit-expansion
[2] https://deq.mt.gov/files/Land/OpenCut/Forms/2019-DEQAIRFAQ.pdf

It was stated in the Scoping Letter "DNRC seeks substantive comments to inform its analysis. A substantive comment could be one that identifies an issue, alternative, or a resource concern that should be contemplated as part of the analysis."
There is no better study than the one conducted by the CDC on the Health Effects of

Occupational Exposure to Asphalt. 2000 https://www.cdc.gov/niosh/docs/2001-110/pdfs/2001-110.pdf?id=10.26616/ NIOSHPUB2001110
"Road asphalt contains gravel and sand mixed with asphalt cement obtained from crude oil. Asphalt cement is a mixture of hydrocarbons including naphtha which contribute to the vaporization of organic compounds at operating temperatures of 300-350 degrees F. Condensation of particulates occurs at ambient temperatures of 70 degrees F. T
[Source: Agency for Toxic Substances and Disease Registry (ATSDR). 1995. Toxicological Profile
for polycyclic aromatic hydrocarbons (PAHs). Atlanta, GA: U.S. Department of Health and Human Services, Public Health Service] https://www.atsdr.cdc.gov/toxprofiles/ tp69.pdf
We will restate this most concerning research finding:
This last concluding statement is the one that bothers us the most. Not just the effect on humans but on cattle, wildlife and fish as well. This affects our quali

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Mark McClain
Correspondence: Microsoft Forms – March 2, 2024

By way of introduction my name is Mark McClain, I am a Professional Engineer (Civil/Environmental) with over 35 years of consulting/engineering experience on environmental projects in the western United States. I am a permanent resident of Ennis. I have worked predominantly for industry during this time. My intent in writing these comments is not to stop this project per se, but rather, to make sure that we as nearby residents know exactly what the project will entail, how long the project will last and precisely what measures are going to or have been taken to ensure protection of human health and the environment. With those goals in mind, I would greatly appreciate direct answers to the following questions. 1) If the asphalt plant is not to operate past the June 2024 date indicated, will it be dismantled after this date? If it will not be dismantled, why not? 2) Have air emissions been modeled using a dispersion model to show that emissions from the asphalt plant will not result in nearby residents (most notably Troutdale since it is downwind) be exposed to concentrations of pollutants that could adversely impact their health using State and/or Federal air quality standards. What, if any, air pollution controls will be in place on the asphalt plant during its operation? 3) Will the expanded site have a perimeter berm around the entire site to control **runoff of contaminants** and sediment and to lessen visual impacts of the operation from the surrounding public? If not, it is strongly recommended that this easily implemented and low-cost control structure be required and built by the owner/operator. Thanks for your consideration of these comments. Mark McClain, PE

Barbara McClure
Correspondence: Microsoft Forms – February 26, 2024

I urge that the application to build an asphalt plant on the Madison River be denied. The environmental impact on the river and wildlife would have devastating consequences, which in term will have a crippling effect on businesses in Ennis and the surrounding communities. In the state with many other locations that would not be nearly as affected, surely the plant can find a far more suitable property.

Jim McFall
Correspondence: Microsoft Forms – February 24, 2024

I am writing in support of the temporary asphalt plant located at the DSL gravel pit north of Ennis Montana. After reading the misleading notice in the Madisonian, I feel it is necessary to support this. Having this plant local will save a huge sum of money for the local projects it is intended for. Being a resident of Ennis for over 40 years, it is very frustrating that part time residents and people that have just moved here want all the amenities of nice paved roads, but do not want the "eyesore" of a asphalt plant that is temporary. Thank You

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Eliza McGee
Correspondence: Microsoft Forms – February 23, 2024

I am deeply disturbed by the potential asphalt plant that has been proposed directly next to the Madison river. I am an avid fly fisherman, and I adore the outdoors. The Madison Valley is my favorite place to observe and delight in God's creation - this beautiful Earth. I have twin 8 month old boys, and I look forward to sharing with them and teaching them how to be good stewards of our beautiful world. I am horrified by the thought of the damage an asphalt plant could cause to the wildlife, the water, and the surrounding air. This asphalt plant has the potential to destroy the natural ecosystem and disturb the magic of the Madison Valley. Do the right thing! Protect the future of the planet and let our children see the beauty of the Earth as she was designed to be!!!

Jim McGee
Correspondence: Microsoft Forms – March 1, 2024

While a 'tourist', I do make it a point to come to the greater Ennis - McAllister, Montana region a couple of times a year to enjoy the beautiful outdoors in general and, in particular, to enjoy the Madison River which is a National Treasure.

As such a treasure, locals and tourists alike should unite to protect the Madison so that it can be enjoyed for generations to come.

The current gravel mine throws off plenty of dust and noise and I can't imagine the potential impacts (known and unknown) of an asphalt plant in the same area. Some concerns that should be acknowledged and addressed in association with further development of the gravel mine and Asphalt Plant include, but are not limited to,:

1. Potential negative impact to water quality --
2. Potential negative impact to the air --
3. Potential visual pollution -- it will certainly be ugly
4. Who will own the plant? What is their track record of operating? Who are the stake holders (commercial and govenrmental) that will benefit from the asphalt plant?
5. What negative impact on tourism will continued operation of a gravel mine and addition of an asphalt plant have on the local tourism industry?

Given that the 12.5 million tourists came to Montana in 2022 and spent $5.8 billion in the state thereby supporting 43,900 jobs while paying $315 million in state and local taxes shouldn't we attempt to asses the potential negative impact of industrialization on the banks of the Madison

may have.

Thank you for your thoughtful consideration.

Jim

Jim McGee

Patrick K. McGee
Correspondence: Microsoft Forms – February 21, 2024

Department of Natural Resources and Conservation
Minerals Management Bureau
1539 11th Ave.
Helena, MT 59601
ATTN: Zack Winfield

RE: Proposed Asphalt Plant on
DSL Gravel Mine Operated by AM Welles Permit G-1273-94
HWY 287 between Ennis and McAllister, MT

Ladies and Gentlemen:

As requested, the following are substantive comments that must be addressed before the authorization of an asphalt plant under the AM Welles Permit DNRC # G-1273-94 ("Permit").

1. Ongoing Violation and Non-Compliance of the Permit: AM Welles as the operator, has historically operated and continues to operate in violation of many of the substantive provision of the existing Permit. Before any further actions are authorized by the DNRC, the DNRC must exercise its fiduciary and legal obligations to monitor and enforce the existing permit infractions.
• Excuses in the past for not enforcing the Permit include a lack of DNRC budget and personnel to conduct this enforcement.
• The DNRC should address its unwillingness to enforce the existing Permit.
• If the DNRC is unable to enforce the existing Permit (pre authorization of the Asphalt Plant operation), how can it assume the added burden of monitoring the Asphalt Plant in an ecologically sensitive area on the banks of the Madison River, its tributaries and associated ecosystem.
2. Section D of the DEQ Permit #674 highlights the many issues with an Asphalt Plant, specifically and among others:
• In the words of the DEQ Permit - "Asphalt is considered to have the potential to impact water quality"
Ø Please explain how the DNRC will address "the potential impacts to water quality" with an Asphalt Plant on the banks of the ecologically sensitive Madison River System.
• Given that several provisions of Section D of the DEQ Permit are incorrectly marked, how does the DNRC intend to address this information in its Asphalt Plant EA - specifically addressing the location of the Asphalt Plant in the appropriate drainage incorporating significant water features

(Madison River and Ennis Lake) downstream of the Asphalt Plant
3. The addition of the Asphalt Plant under the DNRC permit does not provide adequate assurance that the asphalt plant provisions of the DEQ Permit # 674 will be addressed or enforced. In addition, an Environmental Assessment under MEPA should be conducted, specifically addressing the addition of the Asphalt Plant and its waste and byproducts.
• How much Asphalt will be stored on the site in the DNRC permit? The DEQ permit indicates 5,000CY - an amount well in excess of a minimum without bond or permit.
Ø As legally required, has a bond been issued, and if so, please provide to the public and substantiate the value of the bond.
Ø As legally required, please provide the proper and enforceable permit for the plant.
Ø The public must also be informed and comfortable with the storing and disposal of the Asphalt. Please address this issue.
Ø The existing gravel mine has residual asphalt storage – why? How will this quantity be factored into the storage capacity and bond produced by the new Asphalt Plant?
• Asphalt Plants CONSUME water. What is the projected additional consumption of water to the facility? Please provide the public with the necessary water consumption analysis, water source and water permitting - factoring in drought year consequences.
UNFORTUNATELY THE WEB PORTAL CUTS THE COMMENTS OFF AT THIS POINT, SO I WILL SUBMIT SEVERAL FOLLOW UP EMAILS TO COMPLETE THE COMMENTS OF PATRICK K. MCGEE

COMMENT CONTINUATION EMAIL 2 of 4
PATRICK K. MCGEE
4. The Public Comment period for the proposed Asphalt Plant expires March 2,2024 and the proposed Asphalt Plant will commence operations April 1, 2024.
• Under MEPA, the public has a right to comment on the proposed Draft Environmental Assessment AFTER it is issued. Please explain why MEPA is being ignored.
• By this notice, the DNRC is falsely instructing the public that they must provide "substantive comments", but the public has no information to even make a comment, other than an Asphalt Plant is coming and makes reference to the existing DEQ and the DNRC Environmental Assessments, noting that both of these Environmental Assessments are incorrect and misleading to the public.
• Importantly, the existing DNRC Environmental Assessment Section 5 (page 4) states "the permittee has not requested the use of an asphalt plant at this juncture. Due to this fact, the EA will not evaluate the impacts that an asphalt plant may have on surface or ground water quality. If an asphalt plant is requested by the permittee, a separate MEPA analysis will be constructed to evaluate the environmental impacts"
Ø Given this statement in the DNRC EA, the public was informed that the DNRC EA does not consider the impacts of an Asphalt Plant. However, in the public notice surrounding the pending Asphalt Plant, the DNRC cites this previous EA, yet does not provide an updated draft EA reflecting the impacts of the Asphalt Plant. Nevertheless, the DNRC seeks substantive public comments on an Asphalt Plant within 30 days of the Asphalt Plant commencing operations.
• Please explain the legal and practical rationale of this point #4. What Montana State law allows for this.
5. Please explain the economic benefit to the DNRC for permitting the Asphalt Plant.
• Is this a market rate?

6. Please explain why the AM Welles gravel mine is the desired location for an Asphalt Plant?
• Where will the asphalt be consumed and why are other more desirable Asphalt Plant locations not being used?
7. Please inform the public about the Asphalt Plant
• How many tons of Asphalt will be produced and at what price?
• Where will the Asphalt be consumed?
• How much water will be consumed?
• Asphalt Plants consume water, produce air pollutants, odor and noise, all of which impact the communities of Ennis and McAllister as well as the sensitive ecosystem (including endangered and sensitive species) in and around the Madison River, its Tributaries and Ennis Lake.
Ø Please inform the public how the DNRC, on behalf of the citizens of Montana, will mitigate any community and environmental impacts of this Asphalt Plant and how it intends to enforce its permit with AM Welles and Riverside Contracting, Inc.
Ø What standards should be enforced given the proximity to the Madison River, its tributaries, Ennis Lake and the Madison River Ecosystem as well as the communities of McAllister and Ennis Montana.
8. Please provide background on the proposed Asphalt Plant operator, Riverside Contracting, Inc. (Riverside)
• They have never been permitted on this site – why now?
• Please provide a list of all permit infractions by Riverside with the DEQ, DNRC and other state and local agencies over the past 10 years.
• Please provide all permits required for Riverside to operate an Asphalt Plant on State Land.
• Has Riverside ever operated on State or DNRC land before and if so, provide the circumstances, economic relationship, note if they have successfully remediated the plant site after completion and specifically highlight any historical infractions or issues complying with DNRC permits.
• What is the economic arrangement between Riverside, the State of Montana (DNRC) as land owner and AM Welles as existing permittee for the DNRC Permit.
• What bond has been posted and explain the rationale behind the bond. Was this bond amount reviewed by an unaffiliated 3rd party – if not, why not?
EMAIL CUTOFF - COMMENT TO CONTINUE IN EMAL 3

COMMENT CONTINUATION EMAIL 3 of 4
PATRICK K. MCGEE

9. Has the DNRC conducted a viewshed analysis showing the impact on the Viewshed on the Madison River Valley? This analysis should be part of any Environmental Assessment and shared with the public for comment. Please see the attached viewshed analysis – over 17 miles of the Madison River, Ennis Lake, McAllister and Ennis will see, hear and smell this Plant.

10. A significant number of fish, birdlife and wildlife inhabit and nest in the areas around the proposed Asphalt Plant and its drainage. Please address how the DNRC will prohibit damage to these species and their habitat. Sensitive species and endangered species will be impacted, including, but not limited to grayling, multiple species of trout, eagles (bald and golden), trumpeter and tundra swans, curlew, waterfowl, pronghorn antelope and elk among others. The spring creek drainage within 1,000 feet of the Asphalt Plant serves as nesting grounds for curlew,

multiple species of waterfowl and young Trumpeter and Tundra Swans. Please provide the assessment of Montana FWP on the species and ecosystem affected by this Asphalt Plant and remediation plans should an accident occur on this site.

11. For future permit violations, who should be contacted at the DNRC for enforcement?

12. When considering these and other comments from the public, who within the DNRC has the knowledge and expertise to incorporate the many facets of this decision – weighing the impacts of the previously discussed comments to authorize the Asphalt Plant. Is it one person, a committee of two or does it incorporate a team of experts truly qualified to incorporate all of these factors for the benefit of ALL the citizens of Montana.

The DNRC should ask itself – what is the economic benefit of this Asphalt Plant to the citizens of Montana and justify this benefit over the impacts of this plant on the ecosystem of the precious Madison River, its tributaries, Ennis Lake as well as the members of the communities of Ennis, McAllister and Southwest Montana.

The highest and best use of this land is turning it into a roadside state park overlooking the spectacular Madison Valley for all to enjoy versus an Asphalt Plant and Gravel Mine.

Before issuing a final permit, everyone at the DNRC must visit this parcel themselves to determine if a roadside state park, with a spectacular view of the Madison River and the Madison Range, is a better alternative for state land than an Asphalt Plant and Gravel Mine. We all know the answer.

Please embrace the "Conservation" aspect of your mission and title at the Department of Natural Resources and CONSERVATION!

Respectfully submitted,

Patrick K. McGee
Valley Garden Ranch

COMMENT CONTINUATION EMAIL 4 of 4
PATRICK K. MCGEE
A viewshed analysis referenced in Section 9 of the comments is part of the record, but unfortunately the email portal will not allow this to be submitted.

Suzanne McGee
Correspondence: Microsoft Forms – March 1, 2024

I know you have received many letters detailing all the reasons why this asphalt plant on the pristine banks of the Madison River Valley should not be built. Please please please consider these letters and choose to do the right and good thing for the long term health and wellness of the valley and all the people who live and visit this magical place.

Please also imagine what could be a WORSE " Welcome to Ennis" then heading South on 287 as you have just come down the Norris Hill, past McAllister and the lovely community of Troutdale ….the Valley and all it grandeur is stretched below you…pelicans, swans and all of the other bird life are flying lazy circles in the sky …and then…what in the world ….. AN ASPHALT PLANT? Really…come on … as the agency entrusted to protect the valley …please just do better. Just BE better. There are lots of higher and better uses for this land as so many others I am sure have articulated.

The DNRC must enforce its current permit with AM Wells…it's the law. If the DNRC is struggling to enforce its current permit…how in the world will you enforce a more complex operation like an asphalt plant.

The environmental assessment must address the impact of the asphalt plant on the sensitive Madison River ecosystem.

Make the right decision for the people and resources of Montana.

Colin McKearnan
Correspondence: Microsoft Forms – February 25, 2024

I oppose development of the proposed AM Welles asphalt plant south of Ennis Lake and west of the Madison River. This is an ecologically sensitive tract of public land and I am concerned about the impact of the plant on public water systems and quality.

Kelly McLoughlin
Correspondence: Microsoft Forms – February 23, 2024

Without the ability to review a Draft Environmental Assessment it is difficult for the residents of the Madison Valley to comment on the proposed asphalt plant at the AM Welles DSL Pit. Before any permit is issued I urge the DNRC to conduct a thorough environmental review and consider the following concerning an asphalt plant:

— Impact on air and water quality for livestock, wildlife, and residents
— Noise pollution and unsightly plant construction
— Volume of asphalt to be produced and stored
— Proposed reclamation of the sight
— Quantity of water to be used, drainage of the water, and permitting of proposed water use
— Requiring, monitoring, and enforcing permits and restrictions
— Benefit to the State of Montana vs detriment to our environment

Thank you, Kelly McLoughlin

Peter McLoughlin
Correspondence: Microsoft Forms – February 23, 2024

My concern about the asphalt plant is the potential environmental impacts. I have not seen any analysis of how the plant may affect the Madison River, the fish population, the flora and fauna in the valley, air quality etc. I feel that the public should be made aware of the environmental impact before the plant begins operation.

Hayes McManemin
Correspondence: Microsoft Forms – March 1, 2024

The DNRC needs to complete a thorough draft Environmental Assessment outlining the impacts of this Asphalt Plant on the ecologically sensitive Madison River Ecosystem.

William McManemin
Correspondence: Microsoft Forms – March 2, 2024

Montana Department of Natural Resources and Conservation
Minerals Management Bureau
1539 11th Ave.
Helena, MT 59601

RE: Public Comment Opposing the A.M. Gravel Pit and Temporary Asphalt Plant

My name is William Casey McManemin. I have been a Registered Professional Petroleum Engineer in Texas since 1988. I have been a founder, President, CEO, and Executive Board Chair of private and public companies. I have invested in land, water, and minerals for more that 35 years, owned properties in 28 states, and have built and lead private and public entities that have generated more than two billion dollars of cash and stocks. I have been a member of the Channels Ranch since 2002.

As I explained more than a year ago, businesses that require heavy equipment experience significant risk, danger, and unfortunately, damage of land, air, water, animals - and humans. When I read the MontanaRightNow.com on October 27, 2022, the idea that a representative of a mining company has "...done everything within the law" and that "There will be no changes to the process or material of the pit and it won't impact anyone around them any differently than has for the past 35 years" was absurd

It's been disgusting every day since then - and now even worse because of a new asphalt plant.

Apparently, A.M. Welles does not plan to pursue the newest and most safe, efficient, environmentally processes or materials. Consequently, I am no longer confident the many individuals, families, farmers, ranchers, neighbors, guides, anglers, schools, churches, businesses, mining equipment manufacturers, investors, environment non-profits with rich experience in the valley, and local, county, state and federal agencies will be happy to participate in a comprehensive public review of the impact and benefit of a reactivated gravel pit, expanding gravel pit,.....and now a new asphalt plant.

The DNRC must respond to the damages of the A.M. Welles activities and its permits.

Otherwise, the we will all be disgusting for a long time.

Respectfully,
Casey McManemin

Texas State Board of Registration for Professional Engineers
Serial Number 64931 - September 14, 1988

Paul McMullin
Correspondence: Microsoft Forms – February 28, 2024

We are looking to do some paving this summer and welcome a plant in the DSL pit in order to get ashalt at a fair price and good quality, otherwise we would have to have it hauled all the way from Bozeman.

Kami Mennicken
Correspondence: Microsoft Forms – February 27, 2024

I vote no to have this plant added to the area. It is just gonna cause more dirt and dust and everything else in the air.

Ryan Miller
Correspondence: Microsoft Forms – March 1, 2024

Asphalt mine? Don't destroy my way of life. I have been living off the land for three decades and my life would be over. I'm a Montana native and this is heartbreaking. Don't ruin our state.

Joseph Misero
Correspondence: Microsoft Forms – March 2, 2024

"Asphalt has the potential to impact water quality" - As stated by the Montana Department of Environmental Quality
Asphalt Plants produce noxious odors, air contaminants, require Air Quality Permits, they are noisy. Traffic is bad enough on 287.
The viewshed impact of this Asphalt Plant is significant - impacting Troutdale, McAllister, Town of Ennis, the Golf Course, the Madison River and it Channels, Ennis Lake, all the way up to the Lee Metcalf Wilderness from the Bear Trap to the Cedar Creek area – even the backside of Big Sky and Loan Mountain.
The smell, if you never were near a plant is something that you would NOT like your children to breath into their lungs. I came from Delaware where they slipped in a plant about 6 miles from us and many times the odor was putrid. I don't want to smell that again, I do not wish to see what this will do to our children, the older population in the surrounding area around the plant, and by the way, the population in Ennis, ect. is heavy with ELDERLY with breathing and Heart problems. If you want ti thin out the population, then continue with your project. It all comes down to MONEY.. STOP THE PROJECT.... This is not progress. You said that this will never happen..... LIARS!!!!

George Monson
Correspondence: Microsoft Forms – February 28, 2024

I have no problem with the asphalt plant at the DSL Pit. A M Welles has done a good job in the past and I am confident there will be no problems in the future. I have not witnessed environmental damage there in the past. We must improve our roads to accommodate all of the non-residents that are flooding into what used to be a nice peaceful valley. Paved roads are part of the picture now,plus they are necessary to lower dust pollution from the increased traffic we have in our valley now.

William Montalvo
Correspondence: Microsoft Forms – February 23, 2024

I am absolutely against building an asphalt mine in this valley so close to Ennis and its beautiful surrounding area. This community survives because of the visitors that love coming here for not just the fishing but for the scenery. What a way to destroy Ennis by turning this place into an industrial complex. I've lived in an area colocated with an asphalt mine, it was terrible. Destroyed the area with filth and commercial traffic.

Gloria Montgomery
Correspondence: Microsoft Forms – February 27, 2024

I am opposed to the approval of the Madison River Asphalt Plant near Ennis, MT. It will cause air, noise , visual and water pollution.

Anne Morgan
Correspondence: Microsoft Forms – March 2, 2024

The asphalt plant is a potential risk to the health of the Madison River. The region is dependent on that river for its lifeline. I protest the construction of the asphalt plant.

Hayden Morgan
Correspondence: Microsoft Forms – February 27, 2024

Not in favor due to environmental impacts

Mary Morgan
Correspondence: Microsoft Forms – February 27, 2024

I am opposed to this expansion due to the resulting environmental impacts.

Will Morgan
Correspondence: Microsoft Forms – February 27, 2024

I am opposed to this expansion due to the potential environmental impacts.

William Neill
Correspondence: Microsoft Forms – March 1, 2024

I am appalled to learn that the Montan DNRC has permitted a proposed Asphalt Plant at the DSL mine on U.S. Hwy 287 just north of the town of Ennis, MT. This decision directly and very negatively impacts the Madison Valley and River ecosystems, vital natural resources for the greater Ennis community as well as the residents of the greater Ennis area. As a concerned resident of Ennis, and avid fly fisherman and outdoor enthusiast, I urge the DNRC to reconsider the permit for the Asphalt Plant at the DSL mine site.

There appears to have been no consideration in the permitting process of the air pollution and noxious smells an Asphalt Plant would generate. Not only will these affect people, but wildlife as well. The Madison Valley and the Madison River watershed are rich ecosystems that will be negatively affected by the permitted Plant. I understand the permit will allow removal of the natural bench east of U.S. Hwy 287 which currently obscures the DSL mine operations from view and hearing both from the highway side and the valley/river side. With removal of the bench, not only will the current DSL gravel mine be exposed visually and auditorily, any other operations including the permitted Asphalt Plant will be exposed to view and hearing from all directions. So in addition to environmental pollution of an Asphalt Plant, there will be both noise and visual pollution, marring the beauty of the natural landscape and waterways in the area, and replacing natural sounds with industrial noise. Removal of the bench also will allow direct passage of bitumen used in the asphalt into the sensitive ecosystems of the Madison Valley and Madison River watershed. Bitumen is derived from petroleum which has known polluting effects on land and water ecosystems. There does not appear to be any plan to adequately protect the adjacent ecosystems from damage by the bitumen if there is an accident at the site. Similarly there doesn't appear to be any fund being provided and earmarked for cleanup and restoration in the event the materials of the Asphalt Plant are released into the nearby land and water ecosystems.

I would like to remind Montana DNRC that the land on which the DSL mine and permitted Asphalt Plant are located is State land leased at no cost to the mine owner/operator. State land belongs to the citizens of Montana, and to lease it at no cost to a small group of people to operate mines, asphalt plants, etc. for profit while ignoring the impact of these operations on the local communities and the State's citizens is not acceptable. In this case, the impact will be harmful and destructive to ecosystems that are of tremendous value as amenities and sources of revenue from fishing and hunting for the overall Ennis and Madison Valley communities, not to mention the attraction the Madison Valley and Madison River watershed have for not only local citizens but people nationally and internationally.

I have serious concerns about the suitability of this location for industrial activity. Instead of prioritizing short-term financial gains, I implore the DNRC to explore alternative uses for this land that align with conservation and community interests. Establishing a State Park overlooking the Madison River Valley would not only preserve this precious ecosystem but also provide recreational opportunities for generations to come, and would align the use with the principle of

land valuation that the most value is from using the land for its highest and best use. The proposed expansion of the DSL site and addition of an Asphalt Plant and other potentially harmful operations is not the highest and best use of this land.

Wayne Nielsen
Correspondence: Microsoft Forms – February 10, 2024

Will air, water, sound and traffic baselines be established prior to the permit being issued ? Will turn lanes in both directions be a requirement on the state highway for the permit ? Emergency spill response plan will be required and be on site during the life of the permit? Local emergency response teams will be equipped for trained, and approved by and monitored by state environmental protection officials during the life of the permit ? Will the area be posted with "hazardous material" signs and emergency phone numbers to contact in the cast of a release ?

William Offuttt
Correspondence: Microsoft Forms – February 20, 2024

I oppose the construction of a temporary or permanent asphalt plant in the Madison River watershed.

Nicholas Opinsky
Correspondence: Microsoft Forms – February 22, 2024

As a resident of Ennis and the Madison County I am against the Asphalt Plant. It could cause dramatic changes to it surrounding which includes, Ennis Lake and the Lower Madison. Which as I recall the Madison River and Ennis Lake is the most important resource our valley has to offer. If they gets damaged we all will suffer from the asphalt plant. Also, I think a lot of people would agree a black cloud of smoke floating around the valley would be damaging towards the air quality and ugly sight to see everyday.

Ellen Ornitz
Correspondence: Microsoft Forms – February 26, 2024

I strongly oppose the building of the Madison River Asphalt Plant on state land due to environmental and human welfare concerns. In this time of climate change we can ill afford additional uses of water and contamination of air, **ground** and water. Residents of this area chose live here to enjoy the wildlife, peace and quiet. Noise and air pollution is not what they signed up for! This area also thrives on tourism and an asphalt plant would detrimentally effect visitation and its economic impact on the community.

Cindy Owings
Correspondence: Microsoft Forms – February 27, 2024

I am a longtime resident of the Madison River Valley, specifically living in Troutdale & McAllister. I have HUGE concern for the impact in our immediate surroundings, air quality, & fresh water by the proposed Madison River Asphalt Plant.

We live in & care for a very ecologically sensitive area with the waters of the Madison River & Meadow Lake close by. Over 100 families breathe the air upwind just north of the proposed asphalt plant not to mention the wildlife that frequent our area. What toxins will we be breathing? Asphalt plants notoriously spew toxins. We know this for a fact!
I am writing as a concerned citizen. Please consider not allowing the asphalt plant project to be approved & implemented. It is inappropriate in this ecologically sensitive area.
Thank you for your consideration.
Sincerely,
Cindy Owings

Georgeannne Paris
Correspondence: Microsoft Forms – March 2, 2024

My vote is no.
My concern is the impact this will have on Ennis lake. We are a community that relies on the Madison River. Anything that will impact the hunting and fishing, that includes the stink and increased truck traffic, will be a detriment to our valley and property values.

Nash Parker
Correspondence: Microsoft Forms – February 20, 2024

The building of an assault plant in the lower portion of the Upper Madison river could have a drastic impact on the water quality of the Madison Valley. Not to mention the noise pollution that all asphalt plants inherently project, the visual blight of an asphalt plant on the majestic valley would be a disappointment to say the least. Ennis is a town that thrives on the visiting anglers who come to fish the beautiful Madison River. If the river becomes polluted, many people may lose their livelihood if their business depends on the health of the river. No asphalt plant needs to be built in the Madison Valley.

Marshall Payne
Correspondence: Microsoft Forms – March 2, 2024

My name is Marshall Payne and I am a member of Channels Ranch south of Ennis Montana. I have been a member since 1986 and have enjoyed the beautiful Madison Valley countless times over the past 38 years fishing, floating and kayaking in the Madison River and in Ennis Lake as well as hiking and horseback riding in the Valley.

I am in possession of a letter from Gallick and Bremer representing the Channels Ranch dated February 29, 2024 which offers multiple reasons why a permit should not be issued for an asphalt plant. I wholeheartedly support the concerns expressed in the letter and demand that a permit not be issued at this time.

Without rehashing the entirety of the letter, one salient feature of this unfortunate permitting process stands out as being particularly egregious, and that is that an Environmental Impact Assessment ("EIA") has not been conducted for this permit as required by MEPA. It is repugnant and probably illegal that the citizens and users of the Madison Valley are being asked to

comment on this permit without having the benefit of a properly scoped and completed EIA.

What is even more ironic is that the DNRC EIA issued last summer for the permit to expand the gravel pit mining specifically ignored the possible impacts of an asphalt plant as stated on page 380 BECAUSE the operators told the public that they were NOT going to conduct asphalt operations. One must conclude that this was the plan all along to avoid an EIA on asphalt operations: first to lie about its intentions when the gravel permit EIA was commissioned and then second to ramrod the asphalt plant forward without the EIA now that the asphalt is allegedly needed for summer roadwork without time to complete a proper EIA.

In summary, DNRC is obligated by MEPA to obtain an EIA for this asphalt permit as stated on page 380 "on a case by case basis" BEFORE it solicits public comment and BEFORE a permit is issued. Without the requiring the EIA, one can only assume that each and every member of DNRC, from its staff up to and including its senior management is a willing participant in this illegal and fraudulent scheme to enable this potentially harmful plant to move forward without proper assessment of its impact on our beautiful and unique Madison River Valley.

Shame on all of you!

Stacey Pederson
Correspondence: Microsoft Forms – February 27, 2024

I am in favor to the Asphalt Plant!

Nicholas Peterson
Correspondence: Microsoft Forms – February 27, 2024

My name is Nicholas Peterson and I am writing to you today as a concerned citizen, a lifelong resident of McAllister, a 4th generation Montanan, and a fishing guide. I live within a few miles of the proposed asphalt plant on Ennis Lake. The way this entire process has gone goes against Montana Values. Montanans value our natural resources and environment. Montanans value a transparent honest process. It goes against the DNRC's mission of "The Montana Department of Natural Resources and Conservation's mission is to help ensure that Montana's land and water resources provide benefits for present and future generations." The state of Montana DNRC has FAILED its residents and future generations.

First, the notice about this permit does not even contain all the information needed to give a full comment. I cannot make a complete comment when the state has not even completed an environmental assessment that includes the asphalt plant. The existing DNRC Environmental Assessment Section 5 on page 4 says, "the permittee has not requested the use of an asphalt plant at this juncture. Due to this fact, the EA will not evaluate the impacts that an asphalt plant may have on surface or groundwater quality. If an asphalt plant is requested by the permittee, a separate MEPA analysis will be constructed to evaluate the environmental impacts". Why and how has the state not provided an updated environmental assessment? The public has the right to an accurate environmental assessment before this permit is issued. It does not seem the state intends to do so considering this permit has a start date of April. Please explain why the state

does not have to provide this information.

Second, without an updated environmental assessment, please explain the impacts to the animal species in this area including endangered species. On a daily basis, we see dozens of species of animals that will be impacted. The public deserves to know how our wildlife will be impacted, protected, and monitored. None of your documents provide information on this process.

Third, without an updated environmental assessment, please explain how we are supposed to comment on the impact to our water resources? This proposed site is on the banks of the world-famous blue ribbon fishery that is responsible for the majority of incomes of the people that live in this valley, including mine. Your materials do not share if an additional water use or well permit will be issued. It is well known that asphalt plants use substantial amounts of water.

Fourth, I have lived my entire life in Montana and would like to live the rest of my life here. With the state's decision-making in recent years, it has become more and more difficult for Montanans to be able to afford to live here. My career is dependent on the health of the Madison River fishery. My property taxes nearly doubled. Research shows property values decline when they are near asphalt plants because of health, noise, and environmental impacts. How is an asphalt plant the best use of Montana state-owned land when it could detrimentally affect the property of others? What is the economic impact to the community from this asphalt plant and how does it benefit our community?

Finally, this valley and its residents have shown dedication to conservation and preservation of our world famous valley through conservation efforts and conservation easements. Why would you put this upon us?

This asphalt plant does the opposite of your mission "to help ensure that Montana's land and water resources provide benefits for present and future generations". Do not permit this asphalt plant or any other asphalt plant in the Madison Valley that can endanger our community especially when residents don't even have an environmental assessment to see what those impacts could be.

Sincerely,

Nicholas Peterson

Wayne Phillips
Correspondence: Microsoft Forms – February 26, 2024

TO WHOM IT MAY CONCERN

Having developed a love of fly fishing, my wife and I first visited Montana in 1981. The fabled trout rivers of South West Montana kept bringing us back. In 1988 we bought a home in Ennis, allowing us to spend more time each year in the Madison valley. Even imagining the proposed development is frightening. From its headwaters in Yellowstone National Park to Three Forks where it is joined by the Gallatin and Jefferson Rivers, the Madison is a world class river. Trout

anglers come from all over the world to fish this remarkable stream. Consult any serious fly fisher and they will talk of the Madison's mystical waters. In recent years, it has faced some difficult challenges- everything from Whirling Disease to dangerous invasive species to overcrowding. Despite all, the Madison remains not only a Montana treasure, but a true worldwide treasure that deserves our respect and protection. The last thing the Madison Valley needs is air and water pollution from an asphalt batch plant.

It is our sincere hope that you ***locate the asphalt batch plant somewhere else*** and keep the Madison Valley pristine.

Wayne & Janelle Phillips
Ennis, Montana

Borden Porter
Correspondence: Microsoft Forms – February 20, 2024

As a resident of the Madison Valley whose livelihood depends on our fish and wildlife resources, I am opposed to DNRC granting a permit for an asphalt plant at this location in the Madison Valley since it will impair air quality and endanger the Ennis Lake and Lower Madison River water quality and fishery. This is an unacceptable risk.

Please deny the permit and find an alternative location.

Margie Reck
Correspondence: Microsoft Forms – March 1, 2024

I have owned and operated a ranch in the Madison Valley for 48 years. I am very much against the proposed asphalt plant north of Ennis.

The environmental impacts to air, water, and wildlife would be great not to mention ruining the view of our beautiful valley. For this to be on Montana State Land is an additional slap in the face! I expect DNRC and DEQ to deny the proposal.

Thank you

Margie Reck
Red Mountain Ranch
Cameron, MT

Susan Reese
Correspondence: Microsoft Forms – February 23, 2024

Please deny the application to build an asphalt plant on the banks of the Madison River. The Madison River is the best of the best of trout streams, providing an idyllic place for anglers and other tourists to enjoy on of the most beautiful places on earth. This tourism supports the economy of the Madison Valley, including Ennis businesses and property values. The possible

threats to the water, the wildlife and to the economy of the area make allowing this permit an irreversible, tragic decision. Please deny this permit.

Suzanna Ricker
Correspondence: Microsoft Forms – February 29, 2024

I do not want to smell an asphalt plant at my homes, one in Troutdale, and one in Ennis…. I am also concerned about the new truck traffic that will come to 287. Please consider how something "temporary" can become permanent. I vote NO to AM Welles proposal. Suzanna Ricker

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Jeremy Rider
Correspondence: Microsoft Forms – February 29, 2024

It's evident that the DNRC and DEQ do not have the residents and protected wildlife in this valley's best interests. This will no doubt impact the Madison River, Ennis Lake, and its tributaries and subject them to **silica, waste, oil, gasoline, and additional toxic waste** in the watershed and that is not acceptable. I urge you to take appropriate action, do right by this community, and halt the Asphalt Plant expansion to ensure the Madison Valley is not stripped of its peaceful beauty and permanently damaged. Thank you for your time and attention to this matter. Jeremy Rider

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Nonie Rider
Correspondence: Microsoft Forms – March 1, 2024

Madison County's growth policy goals are in place to protect its watershed, wildlife habitat, and private property rights. It's evident that adding an Asphalt plant to a pit that already causes noise and traffic pollution is a bad idea and NOT in this valley's best interests. I strongly urge you to do right by this community and do not approve this Asphalt plant. This is clearly about cheap, local Asphalt plain and simple. This is an unwise decision!

RG
Correspondence: Microsoft Forms – February 23, 2024

Please stop this asphalt plant. It will expose the Valley to runoff **pollution** entirely contradictory to Montana's constitution of protecting the environment. Please put an end to the overdevelopment and degradation of our river basins. Protect the very water that we all rely on, for life.

Barbara Roger
Correspondence: Microsoft Forms – March 1, 2024

I object to the proposed asphalt plant on the AM Welles site between Ennis and McAllister. The **pollutants** emitted from asphalt production would be harmful to humans, animals and the environment.

This plant would affect the health and quality of life for residents of Ennis and McAllister and

negatively affect property values. This area draws many visitors who come to recreate. They would also be affected. Tourism dollars could be lost, negatively impacted the local economy.

Please do not allow an asphalt plant that would benefit a few, but cause harm to many.

Brian Rogers
Correspondence: Microsoft Forms – February 23, 2024

I own and operate a cattle ranch immediately southwest of Townsend, MT. The ranch's western border is the Missouri River.
I am opposed to this proposed asphalt plant at the existing DSL Gravel Pit near Ennis MT for two reasons.
1) The data on file with the MT DNRC is insufficient to judge the environmental impacts from this asphalt plant. This project cries out for a complete EIS.
2) Trout fishing in SW MT provides a substantial amount of revenue to our state. The trout in SW MT streams are already in decline, likely because of environmental factors.
Approval of this asphalt plant is to play Russian Roulette with a natural resource which provides great economic and recreational value to the residents on Montana. Some would argue this proposed asphalt plant in the Madison River Valley threatens MT state residents' constitutional rights, i.e., '....the right to a clean and healthful environment....' as enshrined in the Montana State consititution.
Thanks for considering my views when evaluating this proposal.

John Rogers
Correspondence: Microsoft Forms – February 24, 2024

I am opposed to the proposed asphalt plant on Highway 287 between Ennis and McAllister.
The Montana Department of Environmental Quality has stated there is a potential impact to water quality. This plant will negatively impact one of the most pristine parts of Montana and forever change the landscape.
The State should turn its land into a State Park overlooking the Madison River Valley for all to enjoy versus an Asphalt Plant that generates little or no value to the State, but severely impacts wildlife and our quality of life.

Deedie Rose
Correspondence: Microsoft Forms – March 1, 2024

To Whom It May Concern:
As a member of the Ennis wildlife community, taxpayer, resident, and owner of 14 Ennis Lake Road, Ennis, MT 59729, I am writing to confirm and emphasize my opposition to the Asphalt Plant. This proposal is bad for the ecology of the Ennis area, the wildlife in the Ennis area, and the people of Ennis, and will undoubtedly subject the Montana DNRC to litigation and unnecessary, avoidable expense.

Please oppose this Asphalt Plant.
Deedie Potter Rose

Bill Sachs
Correspondence: Microsoft Forms – February 29, 2024

I am writing to convey my opposition to the proposed construction of a new asphalt plant on state owned land in the Madison River Valley. I am worried of the deleterious impact the project will have on the water qua;ity and wildlife habitat of the Madison River,. Furthermore, I am concerned about the harmful impact to the air quality. these potential harms will likely negatively impact the economy of Ennis and the surrounding area. I urge the DNRC to not move forward with this project for the well being of the environmental habitat, citizens, and visitors to our pristine setting in the state.

Philip Saccoccia Jr
Correspondence: Microsoft Forms – February 25, 2024

As a long time frequent user of the Madison River in this area, I strongly oppose granting a permit to locate and and operate an asphalt plant within the boundaries of the permit area. This is not at all an appropriate location for an asphalt plant with respect to all the direct and potential impacts on the local and downstream environment. Please attend to all the economic impacts of degrading the enviornment in this area. The pristine enviornment is the economic engine for this entire valley.

Cole Sampson
Correspondence: Microsoft Forms – February 20, 2024

No asphalt plant!

John Sampson
Correspondence: Microsoft Forms – March 2, 2024

I’m concerned about the potential negative environmental impacts from a asphalt plant

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Joseph Scaling
Correspondence: Microsoft Forms – March 1, 2024

We are opposed the the asphalt mine. It will destroy the natural environment.

Karen Schilf
Correspondence: Microsoft Forms – February 20, 2024

Has there been and was there a required study for the need of this expansion and what it does to the water and ground and air pollution? Also, if this is harder on our roads, was there a permit required to properly do this expansion?

Charles Scott
Correspondence: Microsoft Forms – March 1, 2024

An asphalt plant in the middle of an agricultural/suburban area is a disruption of life. Instead of views of lakes and mountains, property owners will see an industrial complex. Residents will experience additional noise, dust, and **pollution**. Surely there are alternative locations for this project. Furthermore, the addition of industrial activity will most certainly have a negative impact on home and property values in the Madison Valley. There is an argumant to be made that should such industrial activity be approved and home/land values decline, the state will have conducted a "taking" of property and could be liable to make home and/or landowners whole for their losses.
This project is ill fitted for this community and could open the door for more industrial activity. As such, it should be resoundingly rejectd.

Parker Scott
Correspondence: Microsoft Forms – March 2, 2024

Please do not bring that to Madison Valley.

Kim Scurry
Correspondence: Microsoft Forms – February 29, 2024

I'd like to register my deep concern for the proposed asphalt plant between Ennis and McAllister. This area is environmentally sensitive and valuable and the plant will potentially affect long term water and air quality. Please deny the request and leave the area as pristine as it can be.

Mary Sedwick
Correspondence: Microsoft Forms – March 2, 2024

My husband, John Sedwick, and I are OPPOSED to the permitting of an asphalt plant so near to the Madison River ecosystem, which is, among other attributes, has long been designated as Important Birding Area (IBA). For thousands of years millions of birds migrate through here. They stop to feed and rest both Spring and Fall. Trumpter Swans, once almost extinct, are being reintroduced here. Many different species of birds and animals reside here. Fishing is a huge tourist attraction here. This plant is extremely detrimental to them.
An asphalt spews noxious, poisonous pollutants. These impact the health of children and adults of those residents who live near and in Ennis and McAllister, as well as the flora and fauna.
We have no facts as to how much water will be used, nor how ground pollutants will be contained, and why the plant is needed here in rural Madison County. There are no industry or major building projects or road construction occurring here.
We cannot imagine that DNR is making enough money from the company to warrant using the people's public land to allow this polluting, environmentally unsafe, and locally unpopular plant.

The gravel pit expansion was bad enough, with its blowing dust and noise.
We OPPOSE THE building and permitting of the asphalt plant.

Willaim Sheehan
Correspondence: Microsoft Forms – February 29, 2024

Although this part of the Madison valley is sparsely populated, it is enormously popular with Montana fishers and hunters. We will remeber your decision when election day comes around.

Keith Shein
Correspondence: Microsoft Forms – February 23, 2024

The application to build an asphalt plant on the banks of the Madison River must be denied. The Madison River is a crown jewel of trout streams, attracting anglers and tourists from across the globe. This tourism supports the economy of the Madison Valley, including Ennis businesses and property values. To build a commercial facility on the banks of the river, with inevitable negative consequences due to runoff and other accidents, is simply unacceptable from a conservation and a business point of view. Such construction will inevitably kill fish, aquatic growth, insect growth, and threaten wildlife, all of which contribute to a healthy river. As such, allowing a permit for an asphalt plant on the banks of the Madison River would be unconscionable.

Douglas Simcox
Correspondence: Microsoft Forms – March 2, 2024

I do not want this plant in the valley close to Madison River

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Debbie Simpler
Correspondence: Microsoft Forms – February 26, 2024

Please do what you can to STOP THE ASPHALT PLANT. Hwy 287 has enough problem. The Madison River and ground water needs to be preserved. The wildlife need protecting. The air we breathe needs to be clean. The noise pollution needs to be kept to a minimum. We depend upon your agency to help us, the ordinary citizens of Montana with no political pull or great wealth, by doing the right thing to protect us. STOP THE PLANT!!!

Steven Simpler
Correspondence: Microsoft Forms – February 26, 2024

I ask that the proposal for an asphalt plant be denied. I live within a mile of this site and the clean air we breathe would be seriously compromised. The Madison River channels section runs less than a mile from the site and potential contamination is a very real possibility. The traffic flow on 287 is bad enough right now and a plant would make it worse. This kind of industry does not belong in the Madison Valley. No, No, No!!!!

Jim Singer
Correspondence: Microsoft Forms – March 1, 2024

Let's be realistic we need the service locally …..AM Wells does a good job. If we stop this it will only increase the distance for these things to be delivered here from farther away. Causing more pollution. Stop the protest. Jim

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James Curtis Smith
Correspondence: Microsoft Forms – March 1, 2024

I urge you to be smarter than this and do not grant approval for an Asphalt Plant. This makes no sense. We've already seen the impacts of the expansion so now you want to make those worse? We live in a very fragile ecosystem and adding this to the problem just isn't wise to save a few bucks and continue lining the pockets AM Wells. I'm sure this is a done deal, as we were told 6 months ago this wouldn't happen but if it is done how about restricting the noise to only during the daytime hours and max that at a couple of hours a day. The noise and added truck volume are already an issue and now you want to add this garbage to our small, quiet community. Shameful the way this is getting done and the track record of this expansion and now the Asphalt Plant, which we were told wouldn't happen is being shoved through.

Melissa D Smith
Correspondence: Microsoft Forms – March 2, 2024

We are greatly concerned over the environmental impact this asphalt plant will have on our pristine community. We own a home and live in McAllister and feel future expansion of this plant will adversely impact the air quality and overall ecosystem of our neighborhood.

Janean Stecker
Correspondence: Microsoft Forms – March 2, 2024

Re: DSL mine on HWY 287 between Ennis and McAllister on the banks of the Madison River and its

An Asphalt Plant is being permitted to commence operations on April 1, 2024, however the DNRC is conducting "scoping" to determine the extent of the review through the Montana Environmental Policy Act (MEPA).

This land is owned by the State of Montana for the benefits of all its citizens, and therefore should incorporate all of our views when the DNRC considers an Asphalt Plant on this land.

The issues with an Asphalt Plant on the banks of the ecologically sensitive Madison River ecosystem are many, including:
1) "Asphalt has the potential to impact water quality" - As stated by the Montana Department of Environmental Quality
2) Asphalt Plants produce noxious odors, air contaminants, require Air Quality Permits, they are noisy and they are UGLY

3) The impact of this Asphalt Plant is significant - impacting Troutdale, McAllister, Town of Ennis, the Golf Course, the Madison River and it Channels, Ennis Lake, all the way up to the Lee Metcalf Wilderness from the Bear Trap to the Cedar Creek area – even the backside of Big Sky and Loan Mountain.
4) 17 miles of the Madison River will visibly see and hear this Asphalt Plant.

The DNRC needs to complete a thorough draft Environmental Assessment outlining the impacts of this Asphalt Plant on the ecologically sensitive Madison River Ecosystem and these facts need to be shared with our community.

The DNRC needs to provide the following information:

a) How much asphalt will be produced, stored on site and reclaimed.
b)How much water will be required (if the current permits allow for this) and the associated impacts on hydrology and drainage to the Madison.
c) The impacts on Air Quality and noxious odors
d) Why the Asphalt Plant is needed, and if a better, more remote site closer to the road construction is available.
e) How much money the DNRC is making and is this worth destroying our Valley on the banks of the Madison River

AM Welles has historically been the operator of the gravel mine on this State Land parcel, yet the operator of the Asphalt Plant is Riverside Contracting, Inc.

What does the public know about Riverside Contracting.
Have they been permitted by DEQ and DNRC to operate this Asphalt Plant
Do they have proper permits (air, water, hydrology and other)
Do they have the required bond to operate.
Are they a "good operator" or "bad operator" and what is their history with permit infractions?

The DNRC does not currently enforce the provision of its existing permit with the gravel mine operator, AM Welles – why not?

How can we be assured the DNRC will enforce the provisions of this new permit including the Asphalt Plant?

Who can the public contact at the DEQ and the DNRC when the community notices any permit infractions?

Again, how much money is the State going to make from this Asphalt Plant and is this worth destroying my neighborhood and ecosystem in my back yard.

The benefits of stopping this Asphalt Plant far outweigh the money (if any) the state will make by disregarding its environmental impacts on state land in my back yard.

The better alternative - the State should turn its land into a State Park overlooking the Madison River Valley for all to enjoy versus an Asphalt Plant that generates little or no value to the State,

but severely impacts quality of my, and my neighbors lives!

This Asphalt Plant is not in my and Montana's best interest and should not be approved for operation.

Janean Stecker

Grace Sullivan
Correspondence: Microsoft Forms – February 25, 2024

I am writing to voice my strong dissent to the proposed asphalt plant near Ennis, MT. As someone with several family members living in Montana, I have serious concerns that the air and water pollution will have devastating affects on residents' health and quality of life. It would be shameful for this project to move forward.

Timothy Sullivan
Correspondence: Microsoft Forms – February 25, 2024

The proposed asphalt plant is located in an area that is extremely environmentally sensitive. ANY potential mishap could spoil the Madison River for years. Our family has four members who are in the outdoor/fishing industry, and rely on the Madison for our livelihood. I urge the DNRC to reject the application; certainly a location that does not threaten this important watershed can be found.

John Summerhill
Correspondence: Microsoft Forms – February 1, 2024

As a resident of Troutdale ii, I a very much opposed to this plant. Given our prevailing winds, the smell of asphalt from this plant will no doubt have an adverse effect on our air quality and could even have an adverse effect on our property values. I don't want to see our clean air get turned into a Houston, Texas.

Mary Summerhill
Correspondence: Microsoft Forms – March 2, 2024

Those of us who live in Troutdale are very concerned about the adverse effects this plant will have on our air quality, our water quality, etc. we urge you to deny this application

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Ryan Suplee
Correspondence: Microsoft Forms – February 21, 2024

As a resident of the Madison Valley whose livelihood depends on our fish and wildlife resources, I am opposed to DNRC granting a permit for an asphalt plant at this location in the Madison Valley since it will impair air quality and endanger the Ennis Lake and Lower Madison River

water quality and fishery. This is an unacceptable risk.
Please deny the permit and find an alternative location.

Katherine Sutter
Correspondence: Microsoft Forms – February 23, 2024

This eyesore and potential environmental threat is too close to town and the river / lake. Find a new location, it is not wanted here. Sound and smell travels so this will affect homes, quality of life, the economy and tourism. Ennis thrives on tourism and this will have a very negative impact on the air quality and overall appeal of the town. There are also already high cancer rates in the Ennis, so any mass production or careless industry is going to perpetuate the problem.

Kevin Suzuki
Correspondence: Microsoft Forms – February 28, 2024

I have read over the documents for the proposed temporary asphalt plant and see no issue with granting the permit. The operator has had asphalt plants at the site numerous times over the 40 odd years I have lived here and there has been no problems. I have enjoyed traveling over the roads that were maintained with this asphalt. As long as they continue to operate the pit and asphalt plant as they have in the past there will be no negative environmental affects to the area.

Michael Terry
Correspondence: Microsoft Forms – February 27, 2024

Dear DNRC,

I'm reaching out to share my concerns regarding the proposal for the Asphalt Plant to be on the Gravel Mine that overlooks the Channels. I believe this location should be removed for consideration in the proposal, even for the supposed "temporary" time frame noted from April 1 – mid-June 2024.

I own a home on 25 acres at 56 Cottonwood Lane close to Jeffers, across from the Madison River from the Mine. I am also a longtime member of The Channels Ranch, 120 Ennis Lake Road and have been coming to Ennis with my family for over 35 years, enjoying the Madison River from town to and including Ennis Lake. I urge you to read my concerns below and take to heart the negative impacts that will happen if this location is selected as a site for the Asphalt Plant.

- Odors the Asphalt Plant will emit are noxious and will produce contaminants in addition to being noisy.
- The location of the Asphalt Plant will be an ugly eye sore and visible by a massive area as shown in a viewshed impact analysis diagram that I have reviewed. The Plant will detract from the beauty from all surrounding areas.
- 17 miles of the Madison River will potentially be affected by the Asphalt Plant, negatively impacting our most precious resource.
- There are better alternatives for use of this land that would align with the beauty of the area and

have a positive impact on quality of life for all who live and call the Madison River Valley home.

Please take into consideration my oppositions to this Asphalt Plant.

Thank you,
Mike Terry

Travis Terry
Correspondence: Microsoft Forms – March 1, 2024

Subject: Opposition to Ennis DSL Asphalt Plant Proposal

I am an avid user of the Ennis wildlife community, and shareholder of The Channels Ranch located at 120 Ennis Lake Road, Ennis, MT 59729, as well as own 25Ac on Jack Creek. I am writing to express my strong opposition to the proposed Ennis DSL Asphalt Plant. This proposal poses a significant threat to the ecology and wildlife in the Ennis area, as well as to the residents of Ennis whom we have diligently worked to protect. Furthermore, it exposes the Montana DNRC to potential litigation and unnecessary expenses that could have been avoided.

I am troubled by the fact that a comment deadline of March 2, 2024, has been established, which leaves insufficient time for the DNRC to conduct a thorough analysis of the environmental impact. This raises concerns about a possible violation of the Montana DNRC's duty to ensure that the state's land and water resources benefit both current and future generations. I urge the Montana DNRC to promptly provide an explanation to all residents regarding the measures being taken to address the following concerns and prevent them from materializing:

1) The proposal poses a significant threat to the fish, birds, animals, and overall ecology of the Ennis area.
2) The proposal jeopardizes the safety of residents, the natural landscape, and property in the vicinity.
3) The proposal is likely to have severe adverse effects on the natural ecology of the Ennis area.
4) The proposal could result in harm to protected species and fish populations in the Madison River.

I sincerely appreciate your careful consideration of the points raised above.

Thank you for your attention to this matter.

Travis Terry

Ennis Wildlife Community Member

Tony Tezak
Correspondence: Microsoft Forms – March 2, 2024

The DSL Pit and its operations are a vital resource to our area. Having lived in Ennis for over 30 years and having been in direct involvement via contracting or utilization of the products produced, I have never seen anything even remotely close occur that this so called group of "Protect The Madison Valley" would claim or have you believe. It is complete absurdity and use of scare tactics to advance their agenda. The Hokanson family takes every available effort to see that their operations are safe and environmentally friendly. They are great stewards of the land and have done more to protect and care for the land more than any of these so called Madison Valley advocates. I ask that you continue to allow them to serve our communities and make Madison Valley a better place to live.

Anne Thompson
Correspondence: Microsoft Forms – February 3, 2024

As a longtime resident/homeowner of Montana, I strongly OPPOSE any future mining in Madison or Gallatin Counties. These areas are vital watersheds to local, state, federal and international populations. We must preserve the health of our land and water for our future. Thank you

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Anthony Treglia
Correspondence: Microsoft Forms – February 3, 2024

I wanted to send a note of support for AM Wells to build their asphalt plant. As a local business owner and home owner, I believe having this local ability is imperative in keeping costs down for the local residents for these type of services! Without this option, we would need to pay extra fees for the delivery and installation! Plus, there is demand locally!

Jeffrey Turner
Correspondence: Microsoft Forms – March 1, 2024

I write with grave concern and to reinforce the thorough objections presented concerning the proposed development of an asphalt plant at the DSL Gravel Mine managed by AM Welles, under the aegis of Permit DNRC # G-1273-94.

Persistent Infringement on Permit Terms:
The track record of AM Welles illustrates continuous defiance of the permit terms, pointing to deeper issues of operational integrity and environmental duty. It is pivotal that DNRC fulfill its oversight role to enforce extant permit conditions vehemently before considering approval of any additional operation.

Threat to Ecosystems:
The DEQ Permit #674 identifies asphalt as a substantive threat to water quality. The proposed proximity of the plant to the ecologically delicate Madison River raises magnified concerns. A detailed plan must be devised and communicated to mitigate risks to this critical aquatic system.

Inadequate Environmental Oversight:

It is imperative that a fresh Environmental Assessment be undertaken in accordance with the Montana Environmental Policy Act, focusing specifically on the proposed addition of the asphalt plant, to account comprehensively for the environmental ramifications, including waste management and byproducts.

Deficient Public Engagement:
The short interval between the end of the public comment period and the commencement of the plant's operations impedes meaningful public engagement and discourse, flouting the stipulations of MEPA for informed public participation.

Economic Justifications and Transparency:
Clarifications are sought regarding the financial rationale for situating the asphalt plant at the AM Welles gravel mine location. A detailed exposition of the marketplace considerations, consumption targets, and the economic accord between the related parties is warranted.

Operational Scrutiny of Riverside Contracting, Inc.:
Comprehensive information must be made available, including past permit infractions and an elucidation of the operational history of Riverside Contracting, Inc., within state-regulated environments, alongside a thorough viewshed analysis to evaluate aesthetic impacts on the Madison River Valley.

Conservation versus Commercial Interests:
Finally, the DNRC is invited to reconsider the intended use of this land, weighing the preservation of Montana's natural splendor and the potential for public enjoyment against industrial expansion. A call for each stakeholder to personally assess the site underscores the necessity of deliberate consideration between conservation and commercial exploitation.

As a steward of Montana's natural endowments, it behooves the DNRC to honor its titular commitment to conservation and assess this project with the utmost diligence, ensuring that any development operates harmoniously within the environmental, social, and economic fabric of the region.
I look forward to your response and the engagement of a fuller dialogue surrounding these critical issues.
Warm regards,

Jeffrey Turner

Barbara Van Erp
Correspondence: Microsoft Forms – February 27, 2024 and March 2, 2024

Comment1
The smell alone, from asphalt should be a reason to cancel this whole project. Our town is part of Yellowstone National Park and its guests travel to the park. The Madison river is iconic and the plants would be a horrible idea. Wrong place.

Comment 2

As a person entering retirement and making my final home in Ennis, MT I do not want to live with the smell that an asphalt plant will bring. This is a pristine river near Yellowstone National park and even though we aren't in the park we are part of the Yellowstone Wilderness as a gateway town. It's why we picked to live here. An asphalt plant will make us like a smelly sewer of a city. The devastation from the mining is the least of the issue and that's a HUGE issue. I don't care how pretty you try and sell this idea it's ugly and smelly and does not belong near a town.

Kathleen VanBergen
Correspondence: Microsoft Forms – February 27, 2024

As homeowners in Ennis, MT we are very concerned about the impact to the Madison River and it's wildlife with the operation of an asphalt plant on state land as has been requested. We have no facts regarding environmental impacts at this time since the survey and review will not be done until after this public comment period. This seems out of order. The public needs to have access to the environmental review report and a comment period following that.

Dustin Wagner
Correspondence: Microsoft Forms – March 1, 2024

Am wells has operated a responsible gravel pit on the property for over 50yrs with no evidence of a negative impact. This proposal is a positive use of the property and the full time residents it will serve. Please allow this proposal to be completed without delay. These services are heavily relied upon for our communities.
Thank you for your consideration.

Roy Washburn
Correspondence: Microsoft Forms – February 24, 2024

I am a board member of the Madison River Foundation as well as having a home in Ennis for over 50 years. I am adamantly opposed to the placement of an asphalt plant on the outskirts of Ennis. The Mt. DNRC is by law required to do an Environmental Assessment,(MEPA) produce a draft, and then have public comment. You are asking for comment now(scoping process) before we see any environmental study, knowing that without that study we can only assume that the byproducts of that asphalt plant will find its way into the Madison River via the watersheds in the 17 miles of the river the plant will affect. I think that is a very worthy assumption. I am told by some of the legal community you are opening yourselves to possible lawsuits having not followed proper procedures.

At best you should postpone this April 1 start date for the plant to allow for all I have discussed above. Other Board members of the Madison River Foundation feel as I do, but as an organization we feel compelled not to make a public statement before we see the science behind it, i.e. an environmental study. Thank you

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Laura Watson
Correspondence: Microsoft Forms – February 27, 2024

I oppose the Asphalt Plant on State Land between Ennis and McAlister.

Bruce & Marie West
Correspondence: Microsoft Forms – February 27, 2024

Opposed. Unclear why this facility needs to be located directly off 287 and near lake and river. A more remote/ less visible property would be more suitable.

Dorothy Marie West
Correspondence: Microsoft Forms – February 27, 2024

How can anyone, anywhere imagine this project going forward!!?!!?? It would be a permanent scar to the beauty and pristine environment of the Ennis area. The project would increasingly & negatively impact Ennis Lake and the Madison River, as well as the "big sky" view from Ennis to McAllister and beyond. It would be unconsciously impactful environmentally. Say NO to this irresponsible, reprehensible asphalt project!

Eileen White
Correspondence: Microsoft Forms – March 2, 2024

I would like to offer support of the asphalt plant being located and operating from the AM Welles gravel pit between Ennis and McAllister. The time frame being requested is short, and applicable to local paving projects. I believe the close proximity of the proposed asphalt plane would be safer and have less overall environmental impact than hauling in great amounts of asphalt in big trucks, congesting that two lane highway, and adding undue traffic. As far as from what reaches the asphalt plant is visible, so are the lights of Ennis visible from all those reaches. What, we should stop growth in our small rural towns because there would be more light pollution? That is not reasonable. Again, the term of the requested asphalt plant is short and defined. I encourage it be permitted.

Chad Wilkinson
Correspondence: Microsoft Forms – March 1, 2024

I have yet to see a public cost benefit analysis outlining everything the asphalt plant will bring to the Madison valley. The most voiced and smallest potential impact in my opinion is the visual appeal. The two most notable environmental/health concern points for me would be the impact to the water resources and impact on the air quality. The proposed location is in a 100-year flood plain in the middle of a windy valley on state land presenting a number of potential risks. Economically, this has no benefit to county residents as its state land paid for by state trust dollars and allowing a company to increase recourse use at what tax benefit to the county. A clear benefit proposal could be made public outlining the number of jobs and taxes and any other benefits that it will generate for the county, town and surrounding area. There are other options like hot in place recycling machines that present less costs to the people and environment. I am

opposed to allowing AM-Wells to build a "Temporary" asphalt plant at the potential risk presented to the surrounding area and its residents.

Molly Wilkinson
Correspondence: Microsoft Forms – March 1, 2024

To Whom It May Concern, as a full time resident of Madison Valley, I do NOT want an asphalt plant directly off the highway in our tiny valley. The construction traffic that AM Welles Gravel Pit causes is already a hassle on our two lane highway. The proposed site is within hundreds of feet of our precious Madison River and Ennis Lake, there is certain to be pollution of these waters. Not to mention the amount of water needed to operate the plant is more than our valley can sustain. I do not want the air pollutants in the valley, so close to where at risk individuals live. Please do not approve of this plant.

Jim Wilson
Correspondence: Microsoft Forms – February 23, 2024

If you know anything about Asphalt Plants, then you CERTAINLY WOULD NOT PUT ONE JUST FEET FROM THE MADISON RIVER!!! What are you thinking? The gravel pit alone has done untold damage to the watershed nearby including the Madison River, Ennis Lake and water use downriver.
Please do not allow another atrocity in our beloved valley. Just say no!!!

Kim Wilson
Morrison Sherwood Wilson & Deola, PLLP
On behalf of Valley Garden Land and Cattle, LLC with attachments
Correspondence: Hand delivered and Microsoft forms – March 1, 2024

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March 1, 2024

Montana DNRC
Attn: Zack Winfield
1539 11th Ave.
Helena, MT 59601
zackary.winfield@mt.gov
HAND DELIVERED AND SENT VIA USPS OVERNIGHT

Re: Scoping, Ennis DSL Temporary Asphalt Plant

Greetings:

I am writing on behalf of Valley Garden Land and Cattle LLC. Please consider this letter Valley Garden's comments on the "Initial Proposal Scoping Notice, AM Welles Temporary Asphalt Plant" as set forth in Mr. Winfield's January 25, 2024, letter to the public. I incorporate by reference the comments we submitted to DNRC on the environmental review for the February 2022 Permit, on November 23, 2023, and

1. Approval of a temporary asphalt plant would be premature.

The underlying DNRC Permit for this mine, recently renewed without any public input or involvement, is currently being challenged in *Valley Garden v. DNRC,* Montana Fifth Judicial District Cause No. DV-29-2023-37. That suit challenges the legality of the Permit, as well as the constitutionality of DNRC's process in approving the permit before conducting review under the Montana Environmental Policy Act (MEPA). A hearing on the constitutionality of the specific provision of MEPA at issue is scheduled for April 1, 2024 – the same day that DNRC projects that its approval will be completed and AM Welles will commence use of the asphalt plant. If DNRC approves the asphalt plant request, Valley Garden will have little choice but to immediately seek an injunction in the existing lawsuit to prevent the operation of the asphalt plant pursuant to the unlawfully issued permit. However, it would be preferable and prudent for DNRC to simply postpone consideration of the asphalt plant request until and unless the underlying permit is upheld.

2. The public has insufficient information to comment on.

As DNRC has currently set forth its plan, it will take public comment from February 1 through March 2, 2024[1]. The information upon which DNRC is taking public comment is limited, and consists of the following statements, from the January 25th letter:

> The request by A.M. Welles Inc. is to mobilize the plant to the site on April 1, 2024, and demobilize the plant by June 8, 2024. The plant is expected to operate intermittently during this timeframe and would service local road projects.

And from and the DNRC website:

> Per provision 35, stipulation i. of the Montana DNRC aggregate take and remove permit, AM Welles must request authorization to locate and operate an asphalt plant within the pit boundaries, on a written case-by-case basis that will either be authorized or denied by the Department. The Department has received such a request from AM Welles for the time period April 1, 2024 - June 8, 2024. The asphalt plant would be expected to operate intermittently during this time to service the needs of local paving projects in the area. The plant would be operated by Riverside Contracting, Inc.

Based on this non-specific information, the public is expected to provide "substantive comments to inform its decision." Following receipt of the public comment,

[1] March 2nd is a Saturday. A public comment period should not end on a weekend. DNRC needs to clarify if it will take public comment through the next workday, Monday March 4th.

"the Department expects to publish the review in March 2024", with Welles intending to commence operations April 1, 2024. This scoping notice is, on its face, inadequate.

To summarize, DNRC is soliciting public comment on a proposed project when there are no details of the project available to the public; DNRC will then do a pro forma MEPA document to be released "in March"; the public may or may not have an opportunity to comment on a draft of the MEPA document; and within a month of receipt of public comment, the asphalt plant will be operating.

This scheme utterly fails to comply with the constitutional rights to know and participate. It is precisely the type of action that the Supreme Court found unconstitutional in the case of *Bryan v. Yellowstone County Elementary Sch. Dist. No. 2*, 2002 MT 264. There, the Court linked these two constitutional rights by ruling that the "reasonable opportunity" to participate standard set forth in Article II, Section 8, "demands compliance with the right to know contained in Article II, Section 9. *Id.*, ¶ 44. In that case's context, it required that the public have access to the documents being considered by a board at a hearing, before the hearing, to avoid the public having an "uniformed opportunity to speak." *Id.* Likewise, here, DNRC is soliciting an "uninformed opportunity to speak" by not providing the public with any details of the proposal. Given the hundreds of comments received from the public on the underlying permit, this process clearly violates DNRC's public participation requirements as set forth in the MEPA regulations at A.R.M. 36.2.526.

This backwards approach to public participation and MEPA is of course the reason that DNRC is in the existing lawsuit in the first place.

Given the constitutional right to know and participation requirements, and the requirements of MEPA and DNRC's MEPA rules, DNRC must not approve the request until a draft of the EA has been released to the public, sufficiently prior to the hearing to allow the public to meaningfully comment and participate prior to DNRC's final decision.

3. Ensure that the Proposed Action is in the Best Interest of the Trust

In the exercise of its constitutional, fiduciary, and regulatory duty, the State must receive fair market value for the proposed action and in an amount sufficient to remediate any environmental harm in this ecologically significant area. When private industry benefits at the expense of the trust beneficiaries, the fiduciary duty is not met. There is no indication in what little information is available that the State will receive any benefit from this operation on State Trust lands.

4. Failure to uphold the terms of the existing grazing lease

Valley Garden holds an active grazing lease on 140.2 acres of which 43.2 acres is included in the recently approved expanded mine site. DNRC's authorization of mining activities and now the added proposal to locate on asphalt plant on the property, is yet

another instance of its ongoing failure to administer its own fiduciary, contractual, and regulatory obligations. Valley Garden's lease has been in place for decades and was most recently renewed in 2022. In fact, the acreage amount attributed to the mine site on the face of the lease has not been updated since 1997, when the DNRC expanded the mine site to 19.8 acres.

To the extent that the proposed asphalt plant is located on the 43.2 acres leased by Valley Garden, the authorization of the mine and continued associated activities constitutes a breach of Valley Garden's contract with the State of Montana and implied warranty of good faith and fair dealing. DNRC has consistently failed to provide notice of the proposed modification of the grazing lease and has consistently failed to amend the agreement while charging Valley Garden for decades without the ability for Valley Garden to use the leased area.

5. Privity of Contract

The proposed action appears to be for a third-party operator, Riverside Contracting, Inc., to locate and operate the proposed asphalt plant. On behalf of the trust beneficiaries, the state must establish a contractual relationship and ensure that it has direct enforcement rights and duties.

6. Noise

In addition to the excessive noise from increased truck traffic, backup beeping, idling, increased crushing and milling activities, asphalt plants can produce excessive noise from the burner assembly, the exhaust fan assembly, air compressors, blowers, vibrator, shaker screens, generator and the drive systems. The potential for noise impacts on the neighbors must be analyzed in the environmental review process.

7. Air Quality

The proposed plant has the potential to negatively impact air quality. Emissions from asphalt plants can be categorized into pre-production "fugitive dust" emissions, production-related fugitive emissions, and ducted production emissions. Attached as Exhibit A is a report prepared for Valley Garden on potential air quality impacts from Shane Bofto, Senior Chemical/Environmental Engineer, HydroSolutions.

In summary, activities that generate fugitive dust include vehicle traffic, aggregate handling, and production-related emissions related to the processing, storage, and loadout of aggregates as part of the manufacture of hot mix asphalt. Other sources of air quality impacts related to the asphalt plant would include stationary reciprocating internal combustion engines typically fueled by gasoline, diesel, or natural gas, used to drive generators for plant operation when electrical power is unavailable at the site. The potential air quality impacts from this operation must be thoroughly reviewed in the EA.

8. **Water Quality**

The DEQ permit A.W. Welles has been granted explicitly states on its face **"ASPHALT IS CONSIDERED TO HAVE THE POTENTIAL TO IMPACT WATER QUALITY"**. The proposed activity can pose potential water quality impacts if not managed properly. Attached as Exhibit B is a report prepared for Valley Garden on the potential water quality impacts from this project by David Donohue, Senior Hydrologist, HydroSolutions.

In summary, potential contaminants that can end up in groundwater and surface water, or transported by surface runoff onto soils, can include semi-volatile organic compounds (SVOCs), volatile organic compounds (VOCs), polycyclic aromatic hydrocarbons (PAHs) and metals. The close proximity of the gravel pit and asphalt plant to the unnamed spring creek, wetlands, and the Madison River must be analyzed in the impacts assessments and mitigations identified to prevent primary, secondary, and cumulative impacts to the waters.

9. **Water Quantity**

The current exempt groundwater certificate identifies a maximum flow rate of 20 gallons per minute not to exceed 5.75 acre-feet per year during the proscribed May 1st through October 31 timeframe. This existing exempt groundwater certificate was issued for the gravel operation and presumably utilizes the entire claimed flow rate and volume. As you are aware, exempt water rights can be appropriated for a maximum of 35 gallons per minute or 10 acre-feet per year. However, if appropriation utilizes a flow or volume below that threshold, the appropriator is only entitled to that flowrate and volume perfected.

Given that no additional water right claim has been applied for in conjunction with the asphalt plant operation, and given that additional water is forecast to be necessary to the operation, it is unclear whether additional water right claims will be filed; whether the DNRC will allow modification of the existing exempt certificate to include the new asphalt plant use; and whether that additional use will expand the currently identified exempt claim via an additional 15 gallons per minute or volume of 4.25 acre-feet per year. It is also notable that while the current exempt groundwater certificate has a seasonal limitation commencing May 1st, the asphalt plant is projected to begin operation April 1.

Currently no information has been submitted regarding the consumptive or non-consumptive water requirements for the new asphalt facility at the existing gravel operation nor has information regarding additional water requirements for the proposed asphalt facility been identified.

Additionally, the existing exempt groundwater certificate does not identify any impoundments associated with the water right; yet, it is recognized that two impoundments exist on the gravel operation. Whether the proposed asphalt operation intend to utilize these existing impoundments or discharge water to alternate locations is also not identified or understood. This additional utilization may expand the existing impoundments or introduce water quality degradations to those impoundments due to the nature of contact water consistent with the asphalt operation. Finally, impoundments not for stock purpose may require a permit pursuant to ¶ 85-2-306(6), MCA, regardless of the size of the water right claim. This has not been acknowledged by the certificate holder; not addressed in any application documents; and may be beyond the contours of the exempt groundwater certificate currently in hand and possibly modified by the new asphalt operation.

Importantly, does the DNRC have the ability to modify this exempt groundwater certificate to enlarge any of the elements while retaining the existing priority date of November 28, 2022; or does a new appropriation have to be applied for and scrutinized given the existing groundwater certificate was claimed only for that water necessary for the gravel operation.? Enlarging any of the elements of the water right claim impacts both senior and junior water users and is likely beyond the scope of the exempt claim grant. These matters must be clarified and evaluated in the EA.

10. Visual Impacts

The open-cut mine is located on a prominent terrace that defines the western edge of the Madison River valley floor. Under existing conditions, the mine is visible from all cardinal directions and from populated areas north and east of Ennis.

As shown in Exhibit C, prepared for Valley Garden by John Muhlfeld, Senior Hydrologist, of the River Design Group, the open-cut mine is visible from 7.3 miles of the Madison River, a valued recreational and economic resource to the town of Ennis. As shown on Exhibit C, at 45 feet, the plant will be visible throughout the Madison Valley from the bench to the valley floor to the surrounding foothills.

In order to meet its duties, the state should conduct a visual impact analysis of the asphalt plant on the surrounding landscape as recommended by the Madison County Growth Policy as part of its environmental review of this project.

11. Impacts to Fish and Wildlife

The Madison River Basin which is directly adjacent to the site is a valued and expansive recreational, conservation, wildlife, and cultural resource for which this mining, asphalt production and asphalt/concrete recycling operation is an inconsistent use that possesses a significant threat of impact. The area surrounding the subject mine parcel has been deemed of such value as to warrant protection under a conservation easement to, in part, protect the watershed of the Madison River and its extensive stream and wetland habitat immediately adjacent to the subject mining site.

It is important to note that private and state and federal agencies including Montana Fish, Wildlife & Parks, Madison Conservation District, NorthWestern Energy, Inc., private landowners, and Montana Department of Environmental Quality, are in the planning stages for a large-scale stream and wetland restoration project on Moore Creek and the unnamed spring creek tributary to Ennis Lake, both directly east of this project. The project will span over five miles of creek and include the restoration of critical habitats for fish and wildlife species multiple fish and wildlife species that frequent wetland areas immediately adjacent to the project area, including raptors, neotropical songbirds, Tundra Swans, Sandhill Cranes, and Hungarian Partridge. Related (restoration) actions described above will restore critical habitats for these species that utilize the greater Madison River valley for overwintering, breeding, and migration.

This asphalt plant has the potential to undermine the extensive and long-term restoration work that has been underway for years and will continue for years. The impacts to the fisheries and other impacts to wildlife must be fully evaluated in the EA, and Montana Fish, Wildlife & Parks must be consulted before DNRC approves this project.

Please incorporate these comments into your environmental review process. Thank you.

Sincerely,

David K. W. Wilson, Jr.

Cc: Valley Garden
Diane Conradi
Mark Baker
Rick Tappan
Montana Department of Fish, Wildlife, and Parks JSmitham@mt.gov
Mr. Mark Phares mphares@mt.gov
Emily Obermiller cnd404@mt.gov

Enclosures:
Exhibit A—Air Quality Impacts Report prepared by S. Bofto, Hydrosolutions
Exhibit B—Water Quality Impacts Report prepared by D. Donohue, Hydrosolutions
Exhibit C—Visual Impact Model prepared by J. Muhlfeld, River Design Group

HydroSolutions est. 1999

MEMORANDUM

Date: February 29, 2024

To: David Kim Wilson, Attorney, Morrison Sherwood Wilson & Deola
Diane Conradi, Attorney, Conradi Law Office

From: Shane A. Bofto, MBA, Senior Chemical/Environmental Engineer, HydroSolutions Inc

Subject: **Comments on Air Quality Impacts from the Proposed Asphalt Plant Operation, A.M. Welles DSL Pit Expansion, Madison County, Montana**

As you requested, on behalf of Valley Garden Land and Cattle LLC, I completed a review and evaluation of the air quality resource information regarding the addition of an asphalt plant as part of the A.M. Welles DSL Pit Expansion in Madison County. The proposed addition of the asphalt plant was referenced in the initial DNRC Checklist Environmental Assessment (EA), A.M. Welles Pit Expansion in 2022.

I incorporate by reference my comments submitted on behalf of Valley Garden for the MEPA review of the underlying permit in 2023. (May 31, 2022)

Minimal information has been provided by DNRC about the proposed asphalt plant other than how long it is projected to operate. This review focused on potential air quality impacts from the asphalt plant operation. An EA focused on the asphalt plant is being prepared.

The documents reviewed included the following:

- DNRC Checklist Environmental Assessment, A.M. Welles Pit Expansion, Summer 2022
- MDEQ Environmental Assessment on an Application for an Opencut Mining Standard Permit, A.M. Welles, Inc., Opencut Number 674, May 2022

Scoping comments identifying potential impacts which need to be evaluated in the EA for the asphalt plant are provided below:

Comments Regarding the Proposed Asphalt Plant

1. Ennis Lake is located on the Madison River approximately 1 mile north of the proposed action. Vast wetlands are present south and upstream from the lake to less than 500-feet from the proposed site. Additional tributaries of the Madison River are located between 1,000 to 7,100 feet east of the proposed opencut mine. Moore Creek, located

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approximately 1,700 feet from the proposed action, is where the FWP releases Arctic Grayling, a sensitive species. A residence is located approximately 1 mile north.

2. In general, there was no information provided as to location, type, size, operation, fuel type, related equipment, mitigation, or other controls addressing air quality resources of the proposed asphalt plant.
3. The 2022 DNRC EA indicates the impacts to air quality from a proposed asphalt plant, onsite storage of up to 5,000 cubic yards of asphalt material, and additional storage of asphalt awaiting recycling (as noted on page 18) would be evaluated under a separate MEPA analysis (as noted on page 3).
4. Asphalt plants manufacture hot mix asphalt (HMA) paving material consisting of liquid asphalt cement and a mixture of aggregate, and in some cases reclaimed asphalt pavement. The 2022 DNRC EA (page 18) noted there will be onsite storage of asphalt awaiting recycling. The asphalt cement is heated and mixed with the aggregate and/or reclaimed asphalt to produce the paving material.

   Sources of emissions are dependent upon the type of plant. A batch plant blends the asphalt cement and aggregate material in discrete batches while a drum plant blends the material in a continuous process. Emissions can be categorized into pre-production fugitive dust emissions, production related fugitive emissions, and ducted production emission.

   Pre-production and production related emissions include fugitive dust consisting of primarily particulate matter (PM) and particulate matter less than 10 microns (PM_{10}). Activities that generate fugitive dust include vehicle traffic, aggregate handling, and production related emissions related to the processing, storage, and loadout of aggregates as part of the manufacture of HMA. The 2022 EA (page 18) noted asphalt storage of up to 5,000 cubic yards of material may occur. Typical emission controls include material stabilization, securing loads, dust suppression with water or other dust suppressants, and high-wind contingency plans. These practices have shown reduction in emissions by 80 to 90%.

   The most significant ducted emission from the batch vessel or drums is the dryer and can include water as steam, PM, combustion products such as carbon dioxide (CO_2), nitrogen oxides (NO_x), sulfur oxides (SO_x), carbon monoxide (CO), and small amounts of volatile organic compounds (VOCs), methane (CH_4), and hazardous air pollutants (HAPs). Actual emissions are based on dryer fuel type which is typically natural gas or various grades of fuel oil, and plant operation and controls. The emission controls for PM from the process include mechanical collectors, scrubbers, or fabric filters (EPA, 2024). Combustion products include greenhouse gases (GHGs) such as CO_2 and CH_4 (EPA, 2024).
5. Other sources of air quality impacts related to the asphalt plant would include stationary reciprocating internal combustion engines typically fueled by gasoline, diesel, or natural gas, used to drive generators for plant operation when electrical power is unavailable at the site. Emissions primarily consist of nitrogen oxides (NO_x), organic compounds,

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carbon monoxide (CO), and particulates (PM). Sulfur compounds in the form of sulfur dioxide (SO_2) can also be emitted and are dependent upon the sulfur content of the fuel. Controls include exhaust catalysts and filters, chemical additives such as diesel exhaust fluids, or operational limits (EPA, 2024). Combustion products include GHGs such as CO_2 and CH_4 (EPA, 2024).

6. Stormwater eroded materials from disturbed and unstabilized areas, which can be finer in texture and dust prone, can be transported from the site and deposited in areas where the material can be an additional source of PM. This material can affect local and regional air quality and remain in the air or be deposited on land surface.
7. The above referenced emissions can discharge pollutants that affect local and regional air quality and impact drainages, surface water, vegetation, wildlife, and human health.
8. Emissions of GHGs and other pollutants from the proposed asphalt plant can be estimated by using U.S. Environmental Protection Agency (EPA) procedures available in EPA document AP-42: Compilation of Air Emissions Factors or other available EPA methods.
9. The Montana Department of Environmental Quality (DEQ) offers a registration process for an air quality permit, contingent upon the facility meeting specific thresholds and adhering to applicable federal standards, limits and requirements outlined in 40 CFR Part 60, Subpart I – Standards of Performance for Hot Mix Asphalt Plants and applicable New Source Performance Standards (NSPS). These thresholds and operational limits pertain to plant type and capacity, engine/generator use, dust control, and opacity and require performance tests and recordkeeping as documentation. They are in place to mitigate impacts local and regional air quality, human health, and the environment. Registration may allow the plant to be temporarily located on site and can be moved if needed (Montana Department of Environmental Quality, 2019). DNRC needs to clarify whether A.M. Welles, and/or the proposed operator, Riverside, is registered and if so for what limits.
10. With the existence of readily available emission estimation procedures, such as those outlined in EPA's AP-42, the EA for the proposed asphalt plant must quantify emissions of GHGs and other pollutants and provide proposed mitigation measures to minimize the impact of pollutants and opacity and its impact on the viewshed. The absence of this crucial information would make it impossible to thoroughly assess the direct, indirect, and cumulative impacts to local and regional air quality, climate, drainages, surface water, vegetation, wildlife, human health, and other sensitive receptors identified in the 2022 EA.

References

EPA. (2024, January 12). *AP-42: Compilation of Air Emissions Factors from Stationary Sources, Chapter 11 - Mineral Production Industry*. Retrieved from Air Emissions Factors and Quantification: https://www.epa.gov/air-emissions-factors-and-quantification/ap-42-compilation-air-emissions-factors-stationary-sources

EXHIBIT A

EPA. (2024, January 12). *AP-42: Compilation of Air Emissions Factors from Stationary Sources, Chapter 3 - Stationary Internal Combustion Sources.* Retrieved from Air Emissions Factors and Quantification: https://www.epa.gov/air-emissions-factors-and-quantification/ap-42-compilation-air-emissions-factors-stationary-sources

EPA. (2024, February 16). *Overview of Greenhouse Gas Emissions.* Retrieved from Greenhouse Gas Emissions: https://www.epa.gov/ghgemissions/overview-greenhouse-gases

Montana Department of Environmental Quality. (2019, April 5). *Air Quality Registration Guidance - Asphalt Plants Revised 5/1/2019.* Retrieved from https://deq.mt.gov/files/Air/AirQuality/Documents/Registration/FormsAndGuidance/6AQ_Guidance_AsphaltPlants_05-02-19.pdf

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MEMORANDUM

Date: February 28, 2024

To: David Kim Wilson, Attorney, Morrison Sherwood Wilson & Deola
Diane Conradi, Attorney, Conradi Law Office

From: David A. Donohue, M.S., P.G., Senior Hydrogeologist, HydroSolutions Inc

Subject: **Scoping Comments on Water Quality Issues related to Permitting an Asphalt Plant at A.M. Welles Pit Expansion, Madison County, Montana**

On behalf of Valley Garden Land and Cattle LLC, I completed a review of potential water quality issues associated with permitting an asphalt plant, as requested by A.M. Welles, at the DSL Pit, a few miles north of Ennis, Madison County, Montana. The purpose of these scoping comments is to identify water quality and environmental issues associated with the operation of an asphalt plant at the site.

I incorporate by reference my comments submitted on behalf of Valley Garden for the MEPA review of the underlying permit in 2022 (May 31, 2022).

Minimal information regarding the asphalt plant were identified in the original checklist environmental assessment (EA) prepared by Montana Department of Natural Resources and Conservation (DNRC) for the A.M. Welles Pit Expansion and the EA prepared by the Montana Department of Environmental Quality (DEQ) for the opencut permit in 2023. An EA focused on the asphalt plant is apparently being prepared following the scoping period.

The documents reviewed included the following:

- DNRC Checklist Environmental Assessment, A.M. Welles Pit Expansion, Summer 2022
- MDEQ Environmental Assessment on an Application for an Opencut Mining Standard Permit, A.M. Welles, Inc., Opencut Number 674, May 2022

Scoping comments identifying potential impacts which need to be evaluated in the EA for the asphalt plant are provided below:

1. As noted in the DNRC Checklist EA, A.M. Welles, Page 18, "The proposed actions that may result in negative impact to fisheries resources in the project area include the following: utilization of on-site wash plants to process gravel following excavation, and storage of asphalt awaiting recycling. Asphalt storage may occur as a part of the proposed Action Alternative, with up to 5,000 cubic yards of material stored on-site. As stated in Permit #674, all asphalt must not

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be buried or disposed of on-site, and during the reclamation process must be removed from the site and disposed of in a lawful manner."

Based on the history of the lack of oversight and management of the mine operation by DNRC, the location of an asphalt plant presents a concern to the public. For example, DNRC allowed A.M. Welles to use an unpermitted well on the site for over 20 years before it was identified by the adjacent landowner that it did not have a DNRC water right. The well was then quickly permitted as an exempt well in 2022 without verified documentation of the volume or flow rate. The lack of oversite of this operation is demonstrated by the neglect of DNRC field inspections throughout the years of operation. The DNRC must agree to yearly inspections of the operation, installation of a meter to monitor and report groundwater use, and verification that the asphalt plant operation is compliant with all state regulations.

2. As noted in the 2022 DEQ Final EA, Page 4, "Water would continue to be used onsite for dust control, pug milling, asphalt production, and wash plant operations. Wash plant water is stored in a lined pond. As mentioned above, well water has been used from the DNRC-owned onsite well for over 20 years without a water right permit and without any volume or flow measurements. In addition, completion records for the well have not been submitted to DNRC Water Rights Bureau for public review. DNRC opencut should be required to evaluate well construction with a downhole video camera, complete a short-term pumping test, and provide this documentation for review. Without this information, DNRC is unable to carry out its duties in protecting the waters of the State.

3. The certificate of water right 41F 30159183 for the onsite well has a priority date of November 28, 2022, and was permitted after DNRC opencut was informed that there was no water right associated with this well. The water right is permitted for commercial use, and more specifically for gravel washing. Well water is not permitted for any other use, such as dust mitigation, asphalt plant operations, truck washing to remove asphalt debris, or other uses associated with gravel mining operations.

4. The notice of completion of groundwater development is not consistent and incorrectly presented. Item 3, the diversion used to obtain the groundwater is listed as a well. (No well log or well driller is listed). While item 6, the purpose and period of use is listed as other, and includes the following information:

a. Purpose of use: Water is used to wash gravel in an existing gravel pit operation.
b. Amount of water used: 37,500 gallons per day (from pit)
c. Number of days used: 50 days.
d. Period of Use: May 1 to October 31.

The following issues are noted:

- The water right is applied to the point of diversion, not the storage pit. It is likely that more water is pumped from the well than is permitted to accommodate evaporation from

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the pit, filling and refilling the pit, and uncontrolled or undetected leakage from the pit. It appears that more than 37,500 gallons per day is pumped from the well and not included in the water right permit.

- The permit identifies the purpose of use as gravel washing. It does not permit other purposes for the pumped groundwater. Therefore, A.M. Welles is not permitted to use water from the well for any other purpose except gravel washing.

5. Temporary asphalt plants, like any construction activity, can pose potential water quality issues if not managed properly. Potential contaminants that can end up in groundwater and surface water, or transported by surface runoff onto soils, can include semi-volatile organic compounds (SVOCs), volatile organic compounds (VOCs), polycyclic aromatic hydrocarbons (PAHs) and metals (CHEJ 2019). The close proximity of the gravel pit and asphalt plant to the unnamed spring creek, wetlands, and the Madison River must be analyzed in the impacts assessments and mitigations identified to prevent primary, secondary, and cumulative impacts to the waters.

6. Asphalt plants typically generate stormwater runoff during rainfall or snowmelt events (CHELJ 2019). This runoff can carry pollutants such as oil, grease, heavy metals, and suspended solids from the plant site into nearby water bodies if proper stormwater management measures are not in place. Stormwater management is critical to preventing such runoff and must be included as part of the EA and permit conditions.

7. There is always a risk of spills or leaks of asphalt, oil, fuel, or other chemicals used in the production process. These substances can contaminate nearby soil and water sources if not promptly cleaned up. Mitigation plans to address potential spills and leaks must be included in the EA.

8. Asphalt production can create dust and particulate matter emissions, which can settle on nearby surfaces and be washed into water bodies by rain. This can lead to sedimentation and turbidity in the adjacent unnamed spring creek and wetlands, and impact aquatic habitats and water quality.

9. Chemicals used in asphalt production, such as asphalt cement, may be discharged into water bodies through direct runoff or improper disposal practices, leading to water pollution.

10. Construction activities associated with setting up and operating a temporary asphalt plant will disturb onsite soil and sediment, potentially causing erosion and sedimentation in nearby water bodies.

11. Asphalt production involves heating materials to hot temperatures, which could lead to thermal pollution if the heated water used in cooling processes is discharged back into water bodies without adequate cooling. If heated water is generated, impacts associated with discharge of heated waters and discharge location must be evaluated in the EA.

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12. The EA must provide mitigation alternatives to address these potential water quality issues, such as requiring A.M. Welles to implement best management practices (BMPs) and erosion control measures while operating the asphalt plant and the opencut pit. Mitigation practices to evaluate in the EA include sediment and erosion control barriers, stormwater detention ponds, spill containment systems, proper handling and storage of chemicals, and regular maintenance to prevent leaks and spills.

13. Conditions of the permit must require monitoring of water quality both upstream and downstream of the plant site as well as installation of groundwater monitoring wells. Monitoring will help identify any impacts and allow for corrective actions to be taken early to address the release.

14. Facilities storing a cumulative volume exceeding 1,350 gallons of oil and petroleum products in containers of 55 gallons or larger are required to develop a Spill Prevention, Control, and Countermeasure Plan (SPCC) in accordance with 40 CFR Part 112. This plan is designed to prevent spills from reaching navigable waters by implementing preventative measures, preparing for potential spills, and ensuring efficient responses to such incidents (EPA, 2024).

Specifically in the context of asphalt operations, stored oil and petroleum products exceeding the 1,350-gallon storage threshold, including diesel fuel or gasoline for stationary engines or other onsite equipment, as well as asphalt cement in its raw liquid state utilized in the production of asphalt paving material (APM), may fall under the purview of the SPCC plan.

References

Center for Health, Environment & Justice (CHEJ). 2019. Asphalt Plants; Publication 131. August

EPA. (2024, January 24). *SPCC Guidance for Regional Inspectors*. Retrieved from Oil Spill Prevention and Preparedness Regulations: https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations/spcc-guidance-regional-inspectors

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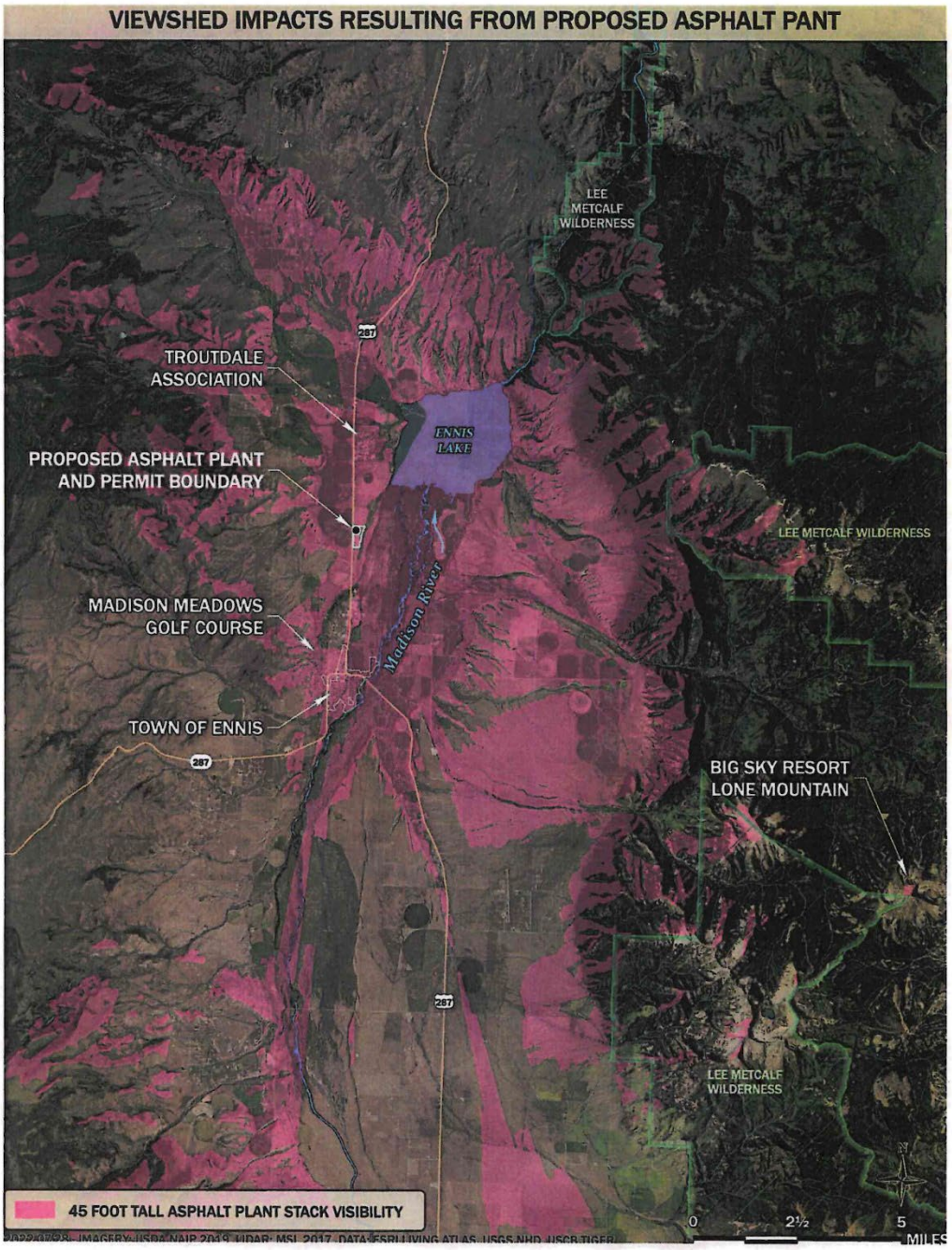
VIEWSHED IMPACTS RESULTING FROM PROPOSED ASPHALT PANT
LEE METCALF WILDERNESS
TROUTDALE ASSOCIATION
ENNIS LAKE
PROPOSED ASPHALT PLANT AND PERMIT BOUNDARY
LEE METCALF WILDERNESS
MADISON MEADOWS GOLF COURSE
Madison River
TOWN OF ENNIS
BIG SKY RESORT LONE MOUNTAIN
LEE METCALF WILDERNESS
45 FOOT TALL ASPHALT PLANT STACK VISIBILITY
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MILES

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Aaron Wittorp
Correspondence: Microsoft Forms – February 23, 2024

My name is Aaron Wittorp and I have been visiting the Madison Valley for over 20 years. I visit the Madison Valley to fly-fish, boat, hike, and enjoy the outdoors. I am fully against an asphalt plant being built near the Madison River. I spend countless hours walking from the Valley Garden fishing access to Ennis Lake, it is my favorite place to fish in the world. I enjoy the wildlife, the fishing, and the serenity– an asphalt plant would ruin that. I cannot imagine smelling an asphalt plant. Looking at an asphalt plant. There are so many species of birds in this area that could be jeopardized. But most of all, when we are already experiencing the impacts of climate change on the Madison, the low snow year is bound to cause even more problems in the short term, why would the state of Montana risk harming a fishery that is already stressed?

This is all on land OWNED by the state. Why wouldn't you make this land something that all can enjoy? Why is the state not considering the importance of the economic value of tourism to the Madison Valley? This asphalt plant cannot even compare to the amount of money tourism brings. I know for certain, no one is going to spend thousands of dollars to come fish the Madison if the fishery is damaged or if they have to smell an asphalt plant. We will go elsewhere and that thought is incredibly saddening to me. There is no place in the world like the Madison Valley, why ruin its' beauty with an asphalt plant? Why ruin the air quality? Why risk the health of people and animals?

In the words of the DEQ Permit - "Asphalt is considered to have the potential to impact water quality". Can the state, which is required to protect the environment, please let us know how the state is going to address the potential impacts to the water quality? How much money is the state making from this and is it worth it at the cost of everything else and invaluable resources? Why doesn't want Montanans and visitors to the area to enjoy this land?

Please, think about the future of the Madison River, the Madison Valley, and the health of the people and wildlife and permanently DENY this asphalt plant and any asphalt plant anywhere near the Madison River.
Thank you,
Aaron Wittorp

Conni Wittorp
Correspondence: Microsoft Forms – February 24, 2024

My name is Conni Wittorp and I am writing you today to ask you to not approve an asphalt plant to be built on the banks of the Madison River now, or ever. I am confused why I even need to contact a department that is supposed to benefit conservation about protecting the environment. I would have hoped your mission prevent something like this from making it this far, how is an asphalt plant part of conservation efforts for the state of Montana?

I travel frequently to McAllister and Ennis as a tourist and truly cannot comprehend that the state of Montana, whose economy depends on tourism, would even be considering to allow an asphalt plant to be built on the banks of a blue ribbon fishery in a valley that has shown how deeply it

cares about conservation by having the majority of the land in conservation easements.

The most alarming thing I have found, the existing DNRC Environmental Assessment Section 5 page 4 states “the permittee has not requested the use of an asphalt plant at this juncture. Due to this fact, the EA will not evaluate the impacts that an asphalt plant may have on surface or ground water quality. If an asphalt plant is requested by the permittee, a separate MEPA analysis will be constructed to evaluate the environmental impacts". I am not a legal expert, but it appears that state law requires this to be done. Will this be done before the permit is issued? How are we supposed to make informed comments if you do not provide citizens with the information?

Our daughter who resides just miles from the proposed facility, had to jump through years of hoops in order to drill a well. A quick google search told me that substantial amounts of water are used for asphalt plants, more so than a single family residence. Will they be required to get a permit for this well or water use? Has this already been issued because it states this operation will begin in April, how are they able to get a well or water use permit so quickly when it takes residents years? I could not find the water use/ well permit any where in your materials.

Using OnX maps, I can see that the areas I enjoy kayaking and paddleboarding are within a half mile of the proposed site. Can you share how you will protect these waters and wildlife that are so close? How will you protect the health of those recreating from the impacts of the smells and noises? How will you protect the property values of those impact by an unsightly building with noise, air, and health impacts? Can you share the research you did on this?

When I look at a map of Montana, there are many areas where there is no incredible rivers, water sources, or human populations, why is this site appropriate for an asphalt plant? Why isn’t an area with less water, wildlife, and humans being considered?

Can you explain, because I do not see anywhere in the materials, how will any impacts to humans or the environment be handled? How are these reported? Is there a budget for such things and is this a wise use of taxpayer dollars?

When I contacted the DNRC, they confirmed that the permit holder AM Welles has many violations and continues to operate with violations. Why is this allowed? Will the state of Montana require these violations to be fixed before they allow this facility to be built? How will the public know if this new facility is harming individuals or the environment?

Please DO NOT approve this asphalt plant. Please reconsider what uses you are allowing on STATE owned land. I look forward to reading the responses from the state addressing the concerns of all that submit public comments. Pllease address why the state is not following Montana law and has not provided an environmental assessment for this asphalt plant. My comments could not be fully complete because I could not comment on the environmental assessment, as it does not exist.

Lauren Wittorp
Correspondence: Microsoft Forms – March 1, 2024
Submitting my letter online since I was informed by the department that emails would not be accepted. It seems the state has tried to keep this public comment period quiet and difficult for the public from the start. The only email notification about the project came before public comment could even be submitted. It seems the state does not care about making the process accessible to Montanans or to follow MEPA.

I am writing to express my deep concerns regarding the proposed Asphalt Plant in the Madison Valley, MT. There are several critical issues that must be addressed before any further actions are authorized by the DNRC.

I reside not far from the proposed asphalt plant on Ennis Lake which will be at great risk if the permit is granted. Impacts that state has not even disclosed to the public. The Environmental Assessments listed on the notice do not cover the asphalt plant. Section 5 states "the permittee has not requested the use of an asphalt plant at this juncture. Due to this fact, the EA will not evaluate the impacts that an asphalt plant may have on surface or ground water quality. If an asphalt plant is requested by the permittee, a separate MEPA analysis will be constructed to evaluate the environmental impacts". MEPA requires that the public be able to comment on the assessment. Is the DNRC doing an EA? Please provide the public with the EA and allow for public comment before issuing the permit, which it doesn't seem the state intends to do considering the permitee intends to begin on April 1, 2024 and public comment is taking place until March 2, 2024.

Despite historical infractions, the DNRC has failed to adequately enforce the existing permit, citing budget and personnel constraints. How can the DNRC assure the public that it will monitor and enforce the operation of the Asphalt Plant, especially in an ecologically sensitive area like the banks of the Madison River?

The DEQ Permit #674 highlights numerous concerns regarding the potential impact of an Asphalt Plant on water quality. Given the incorrect marking of several provisions in the permit, it is imperative that the DNRC addresses these issues in its Environmental Assessment (EA), particularly focusing on the location of the plant near significant water features like the Madison River and Ennis Lake.

I have great concerns over the impact of the level of water usage an asphalt plant will require. I do not see anywhere a permit for a well or water usage. Please provide the public with information about the water usage, wells, and impact of this water use.

Furthermore, the addition of the Asphalt Plant under the DNRC permit lacks assurance that DEQ permit provisions will be adequately addressed or enforced. An Environmental Assessment under MEPA should be conducted to evaluate the plant's waste and byproducts. Transparency is crucial in this process, including providing information on asphalt storage, water consumption analysis, and proper permitting.

Additionally, the economic benefit to the DNRC for permitting the Asphalt Plant must be

clarified, along with the rationale for selecting the AM Welles gravel mine as the plant's location. Questions regarding Riverside Contracting, Inc., the proposed operator, including permit infractions and economic arrangements, need to be addressed. Please share all permit enforcement and mitigation plans.

The impact of the Asphalt Plant on the surrounding ecosystem, including endangered and sensitive species, cannot be ignored. Mitigation measures must be outlined, and the DNRC must enforce stringent standards to protect the Madison River ecosystem and nearby communities.

In conclusion, I urge the DNRC to deny approval of the proposed Asphalt Plant until these concerns are adequately addressed. The preservation of the Madison Valley's environment and communities should be the utmost priority.

Sincerely,

Lauren Wittorp

Terry Wittorp
Correspondence: Microsoft Forms – February 28, 2024

To whom it may concern at DNRC and the State of Montana,

I am Terry Wittorp, conservationist, fly-fisherman, and tourist of the Madison Valley for over 40 years. I have spent countless hours working on conservation projects on the Madison River to ensure it can survive for future generations. The risk of damage from an asphalt plant is too great, that is just common sense. Just last year the AM Welles owners said they no intentions of ever having an asphalt plant and now, just like that, without review and without an environmental assesment are going to build and operate an asphalt plant within an area that can damage the Madison River and the air of the Madison Valley. All on Montana State Lands. I cannot believe this is even being considered. I have an idea, why doesn't the state make the state land available to Montanans to use and at the same time protect the Madison River and the Madison Valley.

Looking at the DNRC notice, it states that the operation would begin on April 1, 2024. Public comment is due by March 2, 2024. The link to the environmental assessment does NOT include an assessment for the asphalt plant. If there is less than 30 days between the end of the comment period and the start of this operation, when will thep public have access to an environmental assessment of the ashpalt plant? Will it even be done? The department responsible for the conservation of natural resources should deny this permit and conduct an environmental assessment as required by law, share this with the public, and allow public comment after the public has adequate time to review the environmental assessment.

Without an environmental assessment, and since I am not an expert in the field, I have done some research on the impacts of asphalt plants on the environment and public health. Simple research proves there are significant reasons and significant risks to not allow an asphalt plant to ever operate anywhere near the Madison River. Alternative idea, build the asphalt plant away

from vital water sources and away from communities and people. This is state owned land and it should not be used to cause damage to the state's natural resources or the people that live nearby. Please explain why MEPA isn't being followed and why the public won't have an opportunity to comment on the environmental assessment before a known high-risk operation can proceed.

Asphalt plants require significant water usage. Will the permitee be required to get a permit for a new well or water usage? I do not see in the documents a current permit for the asphalt plant. Please provide the facts and analysis of the water use and impacts.

Recently, just a couple hours from Ennis, there was an asphalt spill into the Yellowstone River that caused significant damage to the river. I do not see anything in the documents about how this will be prevented at this site or by trucks transporting the asphalt. Any direction a truck would go, would go near the Madison River and with the significant number of accidents of large trucks on these highways, the risk seems to high. If there is environmental damage, I do not see anywhere in the documents how it will be reported or how it will be dealt with. Please provide this plan.

Tourism will be greatly hurt by allowing an asphalt plant in the Madison Valley now or ever. Tourism is the number one economic driver in the Madison Valley. I did not see in the documents on the notice the economic impact of this asphalt plant, but I am positive it cannot come close to that of tourism. This brings me back to, make this state owned land accessible to the public to continue the economic impact tourism has!

I cannot believe the state department tasked with protecting our natural resources would even consider this, especially without proper assessments. Please DENY this permit and protect Montana's natural resources.

Sincerely,
Terry Wittorp

Teresa Woods
Correspondence: Microsoft Forms – March 2, 2024

My concern is primarily for the health of the Madison Valley in and around Ennis. While the area is growing, care should be paramount for the air and water quality in the immediate vicinity. The Madison River is known worldwide for its "Blue Ribbon" trout waters. There are many people in the immediate vicinity of Ennis that have underlying health issues such as asthma and cardiac issues that do NOT need to be subjected to additional particulates in the area. The increase in particulate matter will become an even greater season during fire season. A supporting study that would aid decision-making does not exist or has been greatly skewed toward the proposed asphalt plant. The proposed area presents an immediate concern to Ennis Lake and the "fingers" region of the Madison River. The "fingers" region is a wetlands area and a prime location for migrating fowl. Contamination of the air and water would be inevitable if the proposed plant is built. Additionally, US287 will be unable to handle normal traffic, vacation travel, and traffic coming from the plant as currently configured.

Hugh Zackheim
Correspondence: Microsoft Forms – February 26, 2024

I oppose the request made by AM Welles to locate and operate an Asphalt Plant within the boundaries of their DSL Gravel Pit located on Montana State Trust Lands Section 16, Township 5S, Range 1W. My opposition to this permit relates to the potential adverse impacts on water quality, fisheries, wildlife habitat and the nearby community; the inadequacy of the information provided to the public to evaluate the proposal and its environmental impacts; the lack of substantive information about the prospect of water pollution due to catastrophic flooding/snowmelt events; the failure to acknowledge that the permit could be extended well beyond the initial several month authorization; the absurdly short time frame that the public was provided to comment on the asphalt plant proposal; DNRC's lack of effective mitigating measures when faced with a wave of substantive concerns about gravel mining in this project area over the past years; and the agency's posture of essentially deciding that the project will go forward, even before considering public input.

Virtual Public Hearing – Temporary Asphalt Plant Request, DSL Pit
March 18, 2024

00:04:28 **Zack Winfield**: Hey, everybody, we're going to give a couple more minutes for people to jump on. But we're going to get started shortly after 6.

00:06:26 **Zack Winfield**: Alright. Welcome everyone. Thanks for joining us. My name is Zack Winfield. I am a Petroleum Engineer in the Minerals Management Bureau of the Montana DNRC. And to my right is Trevor Taylor. He's our Minerals Management Bureau Chief. To my left I have Nicole Price and Shauna Simpson. They work in our Forestry and Trust Lands Administrative Office, and they're just here to make sure that everything goes smoothly according to plan. We're here tonight to hear public testimony related to the adequacy of the draft environmental assessment that was published on March 7, 2024, for a temporary asphalt plan proposal. We will inform each of you when you have been unmuted and are allowed to offer testimony, testimony will be limited to 3 minutes per person. If you have additional testimony that you are not able to offer verbally in the allotted time, please submit it to my email by tomorrow, March 19, before 5 PM. Written testimony will be given the same consideration as verbal testimony. Neither Trevor, Nicole, nor Shauna will respond to any testimony given tonight. Neither will I. Departmental response will be offered in the final Ea. We did make a slight change to the amount of time you are allotted to speak. We didn't know how many people would register for this. Originally, we had it at 2 minutes, but we are bumping that up to 3 to give you guys a little bit extra time, seeing that there's not as many people that registered as we thought there might be. So, just a bit of a disclaimer here. This meeting is being recorded, and if you do offer testimony tonight, it will be entered into the record. We will go in order of the registry of the registrations received. So, Rebecca, please unmute Elizabeth and Carlton, McCambridge. And if you don't want to make a comment, and we do call on you, just go ahead and say no comment, and we'll move on to the next person. So, with that, Elizabeth and Carlton McCambridge, Rebecca. Go ahead Elizabeth and Carlton and unmute yourself and offer some testimony.

00:09:04 **Elizabeth and Carleton McCambridge**: All right, thank you. This is Liz and Carlton McCambridge, residents of Troutdale. The environmental assessment draft reminds us that the asphalt plant on the DSL Site is expected to have no impact on most all the issues of concern listed, and a few concerns are totally dismissed. Yet it is those unexpected impacts that are worrisome, chemical, and biological disasters are never expected. If an individual believes that a specific plant is exceeding the limitations sent forth by the DEQ, they may contact the DEQ's Enforcement staff and report the issue. Really, why is it the citizen's responsibility to contact the DEQ's Enforcement staff? If a spill of any hazardous liquids occurs, the permit must report the incident in accordance with the applicable Montana DEQ and EPA Laws. Why should we trust the permeates to report a spill. You wouldn't put a fox in charge of the chicken coop in November 2022, when KBZK asked the owner of A. M. Wells about a future asphalt plant. He said any contamination would be extremely minimal. In his opinion. In his opinion we have to trust the permeates to report

something as significant as a spill of hazardous fluids. The DEQ and EPA must be involved in monitoring the air emissions and possible leaks of this asphalt plant if it goes through. Thank you.

00:10:50 **Zack Winfield**: Thanks, Liz. Does Carlton want to offer any comment? We'll give him the same 3 minutes. If you could bring them back in, Rebecca, in case Carlton wants to make a comment. Liz, you can unmute yourself again. Okay.

00:11:12 **Elizabeth and Carleton McCambridge**: Thank you. The resources of that valley are precious and will outlive us unless something happens. I understand that there's a desire to have business on that highway in that valley, but the disastrous loss to that river and that beautiful lake and that mountain region would be something that you would regret, and we would all regret. Please think this through and thank you so much.

00:11:48 **Zack Winfield**: Thanks for the comment. Rebecca let's go ahead and move them back over and bring in Caroline Gray.

00:12:08 **Rebecca Monroe**: I don't see that she is on the call Zack.

00:12:12 **Zack Winfield**: Okay. Well, I'll make a mark and come back to her. Barbara Gillispie. Go ahead and unmute yourself when you're ready.

00:12:41 **Barbara Gillispie**: Hello! Yes, my name is. Can you hear me? My name is Barbara Gillispie. I live in Troutdale, 2 just a mere 2 miles to the north of the proposed asphalt plant. And because we have so many people here, we're a multi-generational community. There are young children walking to the school bus. There are those of us who aren't so young, who walk the neighborhood. It's a very walkable neighborhood, and we breathe the air and are able to view the mountains and enjoy this area. My particular problem is who monitors the fine particulates. There are days when the wind here, which is 90% out of the south, will blow the furniture right off of your deck. And so, it's a persistent wind, and mostly from the south, and whatever is coming, going to be coming out of the asphalt plant, we are going to be breathing here in in Troutdale one, and two there's also quite a bit of housing around the north side of the Lake Rainbow Point. There's a new development around the East Side. On the West Side of the lake, I'm not sure the name of it, but there are a lot of us who live here who are within just a 2-mile, 3-mile distance from where this is going to happen. The other problem, of course, is the traffic coming and going. It's a busy highway, and to have even more trucks coming and going on highway 287 is a major concern. There was mentioned a site that might be used in Alder. I would say that the sites, if you're looking at a site in Alder, the amount of traffic on State Highway 287 is significantly lower than the traffic on US Highways 287 and what it. Whatever happens at that asphalt plant, we're going to be breathing it. And of course, the treasure. The Madison River is a treasure, and so many people's

livelihood depends on that. And we just hope you take all of this into consideration, because the 350 homes that are just within a few miles of this plant operation, we're the ones that are going to suffer the consequences in the dust and the smoke and the smells, and I thank you very much for your time, and listening to us.

00:15:54 **Zack Winfield**: Thanks, Barbara. Alright. So, let's move Barbara back over. Mitch Dubin, or D U B I N is the last name Rebecca.

00:16:15 **Rebecca Monroe**: Okay. I do not see him on here.

00:16:24 **Zack Winfield**: Okay. We can come back to Mitch.

00:16:26 **Rebecca Monroe**: Oh, here he is, just a second. I'm promoting him to panelist. Mitch go ahead and unmute yourself.

00:16:47 **Zack Winfield**: And offer your comment, please.

00:16:52 **Mitch Dubin**: No, I just want to attend and listen.

00:17:24 **Zack Winfield**: Alright, Charles Friedman. I don't see Charles on here, Rebecca, do you?

00:17:28 **Rebecca Monroe**: No, I don't.

00:17:31 **Zack Winfield**: Okay. We'll come back. Karen Chang.

00:17:40 **Rebecca Monroe**: Okay. They are promoted to a panelist.

00:17:49 **Zack Winfield**: Alright Karen, go ahead.

00:17:52 **Karen Chang**: Asphalt plants generate toxic emissions that can have a substantial impact on the health of human animals in the surrounding areas. There are residential communities in close proximity and ranching operations immediately adjacent to the proposed location of the asphalt plant. Madison Valley is an incredibly windy area, with prevailing winds from the South and the emissions from this plant will travel great distances across the community of McAllister and beyond. Your environmental assessment does not address the required setbacks from residences, livestock, or waterways. Please add the requirements to your report and note whether the asphalt plant installation will be in compliance. Thank you.

00:18:34 **Zack Winfield**: Thanks, Karen. All right, Barbara Pepper is next.

00:18:52 **Rebecca Monroe**: I don't see her on the call.

00:18:56 **Zack Winfield**: Okay. We'll try coming back to her as well. David Wilson, Kim Wilson.

00:19:14 **Rebecca Monroe**: He's been added.

00:19:16 **Zack Winfield**: Perfect. Can you hear me?

00:19:23 **David Wilson**: I can. Thanks, Kim Wilson, representing Valley Garden Land and Cattle. We will be filing extensive comments tomorrow, highlighting the many infirmities under MEPA and DNRC's evaluation of environmental impacts of the mine, including failure to properly evaluate alternatives. Tonight, other Council for Valley Garden will be addressing DNRC's violation of its trust responsibilities here, and its failure to adequately evaluate water quantity issues. But I first want to address the public process that DNRC is using here in almost 40 years of practicing law, including litigating many public participation cases. I have never seen a more legally flawed public participation process as background, Montana's have a constitutional right to participate. It is implemented by statute and case law. Here the following actions of DNRC violated these important fundamental rights. DNRC requested public quote scoping comments on the proposed asphalt plan for a period of 30 days, but without providing the public any meaningful information on the asphalt plant request before soliciting those comments. DNRC then issued its draft, a mere 5 days following the close of the scoping comment period. DNRC is only giving the public 11 days to review this technical document before tonight's hearing. And then DNRC is limiting the time for some middle of written comments to a laughable 23-hour period, starting 12 minutes ago and going till 5 o'clock tomorrow. And if DNRC then approves the permit and finalizes the Ea. prior to April 1st, as Wells has requested, it is obvious that it will not have had time to consider or incorporate public comment into its decision, making process as is required by law, both under your MEPA rules and the decision of the Montana Supreme Court and North 93 neighbors versus Flathead County. If DNRC, nonetheless, approves this request, based on this process, and does so in that time frame, by April 1st, Valley Garden will likely seek injunctive relief to prevent the operation of the plant pending compliance with the law. Thank you.

00:21:41 **Zack Winfield**: Thanks, Kim. Alright, next is Patrick McGee.

00:21:55 **Rebecca Monroe**: I have Mr. McGee on here in 3 different formats, so I'm going to go ahead and try the first one.

00:22:00 **Zack Winfield**: Okay.

00:22:06 **Rebecca Monroe**: Are you there, Patrick?

00:22:11 **Zack Winfield**: I don't see that anybody's been added to the room, Rebecca. Patrick, are you there? Can you hear us?

00:22:43 **Patrick McGee**: Hello. Sorry about that. I'm Patrick McGee on the Valley Garden Ranch, which wholly surrounds the mine. First of all, a tremendous note of gratitude to our community for voicing your opinion on the proposed asphalt plant. This asphalt plan is on State Land, on the banks of the Madison River ecosystem, and in our own backyard. The process by which the public has been informed and allowed

to make a comment is likely a violation of the law. Given a citizen's right to a clean and helpful environment and a reasonable opportunity for citizen participation under the Montana Constitution. Additionally, the DNRC has been made aware of the historic and continued violations under the existing gravel mine permit, yet continues to ignore these violations at the expense of the citizens of the State and our local communities. The DNRC and its sister agency, the DEQ, are currently defendants under 3 separate legal actions regarding this mine. Before permitting the asphalt plant, the DNRC must answer this question. Will the DNRC continue to ignore the existing permit violations? If the DNRC refuses to enforce its existing permit, what assurance does the community have that the DNRC will enforce the new plant permit for this asphalt plant? Additionally, the DNRC should encourage the use of an alternate high and dry location, not impacting the sensitive Madison River ecosystem. It should consider State land in section 16s. This land is high and dry, and removed from the Madison River, and is located next to the paving project of further note. The citizens of the State are alarmed by the fact that the State is not compensated by the asphalt plant operator for use of State Trust Land. These views will have significant, short, and long term, human health, and environmental impacts. Yet the asphalt plant operator is permitted to use this state use this State land for free. The DNRC must justify this lack of consideration. The time is now the DNRC must embrace its fiduciary duties of care to the citizens of Montana, do what is right for the State of Montana, and not what is right for the asphalt plant operator. Thank you.

00:25:32 **Zack Winfield**: Thank you for your comment. Alright, the next one is Jecyn Bremer. Go ahead and unmute yourself when you are ready.

00:26:45 **Jecyn Bremer**: Attorney for Channels Ranch. Due to the short time limit. I'll briefly address inadequacies in the draft DA related to water quality, wildlife, and view shed impacts, and we'll submit additional written comments regarding other inadequacies. Of the environmental assessment via email in terms of water quality A and Wells admits in its application. But the asphalt is considered to have the potential to impact water quality and the Ea. recognizes the location of surface waters proximate to the asphalt plant location, including the main channel of the Madison River and Ennis Lake, at approximately 1.5 miles and more creek and impaired stream and tributary of the Madison, that drains into Ennis Lake within 1,000 feet of the DSL Gravel Pit. Among other surface waters, and despite these acknowledgments, the direct impacts to these surface waters were not thoroughly and adequately assessed by the EQ. As for wildlife, the Ea. recognizes the project area, provides habitat for a variety of wildlife species, and acknowledges those types of wildlife. Migratory bird, and aquatic species, however, impacts are generalized, is minor with no specifics and no data provided as to the direct impacts in the Ea. DNRC states it is not regulatory and does not have the ability to shut down an asphalt plant, and while that may be true, DNRC does have an obligation to

comply with MEPA and assess impacts of the asphalt plant on Trust Lands it manages, and it can deny the asphalt plant as recognized in the alternatives considered section of the Ea. The Ea. dismisses the area of the DSL Gravel Pit is not overly unique nor distinct from other valleys throughout the State Channels Ranch emphatically disagrees with this. If you said analysis submitted in response to the scoping notice demonstrate significant adverse visual impacts that will result across a broad swath of the Madison Valley, including Troutdale, McAllister, Ennis, the Madison River, Ennis Lake, all the way up to the Lee Metcalf Wilderness from the Bear Trap to the Cedar Creek area as well as the back side of Big Skyline Mountain, and it's 17 miles of the Madison River will visibly see and hear the asphalt plant. In addition to these concerns, Channels Ranch shares the same concerns raised by the attorney for Valley Garden and the Ori be raised by other attorneys for Valley Garden Ranch. Regarding Nebo, compliance, public participation, trust, obligations, and water quantity. Thank you.

00:29:36 **Zack Winfield**: Thanks, Jecyn. Frazor, Frazor Edmondson is next.

00:29:49 **Rebecca Monroe**: Yes, he has been promoted to panelist.

00:29:53 **Zack Winfield**: Alright Frazor, go ahead and unmute yourself when you're ready.

00:29:59 **Frazor Edmondson**: Thank you very much. My name is Frazor Edmondson, 144 Ennis Lake Road in Ennis. I wanted to first of all thank the community for speaking out on this matter. Secondly, I would like to join in the comments and observations by the attorneys for Valley Garden Patrick McGee and the attorneys for the Channel Ranch. I think all they've made excellent points, and I certainly hope that DNRC listens to those, particularly the comments regarding the insufficiency of the environment of the assessment being subject to litigation. Because there are a host of problems, you've heard some of those about water quality, you've heard all of the people talking tonight voice concern and express concern about particulate matter. You have heard people talking about the lack of view shed analysis, the lack of concern for wildlife. And you have heard people express concern about the impact of the all of those things on the potential for people who both live and work in and around the asphalt plant. I will just say that if this decision proceeds, I would be happy to join in any litigation to stop what is just a very flawed process that you're running, and I would also make the comment that is additional to everyone else's that I don't understand how in the world you are holding to account, even if you decide to proceed, jhow in the world are you holding the operator to this temporary? A window that your assessment seems to rely so heavily upon all of the analysis. That I've been able to read in the very short amount of time that you have made this information available to us, despite knowing for an extended period of time that this was in the cards. We could have been reading this over the Christmas holidays if you guys had timely published it, but you didn't. So how are you going to hold the operator? If you allow this to go forward? How are you going to hold the operator to

account it enclosing it like it says that they will in your report in June. Your entire analysis is where you say that things are low, cause or low probability are likely not to cause an impact are wholly dependent upon this like limited time window thing. Okay, fine. Thank you very much. I appreciate your time, and listening to this, I do wish to make the point yet again, though, that this notice that you (exceeded time limit)

00:33:19 **Zack Winfield**: Onto the next, Levi Chandler.

00:33:29 **Rebecca Monroe**: He has been promoted to a panelist.

00:34:21 **Levi Chandler**: Thank you for your help. I'm not a very techy guy. But I do appreciate you giving us the opportunity to talk and that to let you know our concerns. So, I do live here on the Valley Garden. I have the wonderful opportunity of taking care of it and managing it like Patrick McGee said, we own all sides of the around the mine. Last year, as we were able to have the community meeting, it was brought up that there would not be an asphalt plant in this mine. So I was under the understanding that that was out of the cards everything dropped, and like you've been told, you know what we just need help understanding and knowing what's going to be taken care of, and how it's going to proceed forward. So, thank you for your time.

00:35:27 **Zack Winfield**: Thanks, Levi. The next one is Joe Dilschneider.

00:36:03 **Joe Dilschneider**: Alright, I'm in, I think. Thank you all for the opportunity this evening. First of all, I'm a business owner and a 30-year resident of the Madison Valley. This place is incredibly important to me, and I just want to go on record that I am opposed to the permitting of an asphalt plant on the State Land there off of highway 287. I believe that the air and water quality of this valley are its 2 most important resources and that asphalt plants, from the research I've done, I'm not a scientist, but from the research I've done, are great environmental risks that come with these things both to the soil, groundwater, and the air it is located right above Moors Creek, on very rocky, porous soil, which is a tributary of Venice Lake, in the Madison River, which also received a wetlands conservation award, after some restoration was done down there, this plant would be located right above that, so, any potential connect contamination to the ground soil or groundwater jeopardizes the quality of Moore's Creek, and therefore Ennis Lake, and therefore the lower Madison River. I believe those are the most important resources we have here, and I do not see, personally, the benefit to taking such a great risk. I would like to say thank you to the previous commenters, the Council for the Valley Garden Landing Kettle Company, who made some great points in regards specifically to your environmental assessment. Not giving us enough time to really review that, and additionally, not really taking into account some of the setbacks and some of the air quality risks that might be posed by such a such an operation. I realize that the proposal is to have staff asphalt plan in place for only a couple of months, but I will

say that, based on the public meetings that took place last year regarding the expansion and repermitting of the gravel mine on the same location, I am extremely distrustful of this whole process. I heard, a couple of different times during that process from agencies as well as the permit that an asphalt plant was not in the offing, and, as Levi mentioned, was not on the table. And now it is so it makes me extremely distrustful of the whole process, and whether or not you all DNRC and the other agencies involved are really following through with your legal requirements and your processes and your due diligence, to make sure that these projects are fully vetted, and the environmental assessments are sound (exceeded time limit).

00:39:16 **Zack Winfield**: Alright, we are on to Nani Luebke.

00:39:54 **Nani Luebke**: Yeah. I was on the wrong screen. Good evening, Zack. I have read the entire document that you sent me, the checklist environmental assessment, and everyone's listing a lot of the individual issues. What issue I would like to say. That seems a little murky is item number 5, the water quality, quantity, and distribution. And it says that one of the wells has a static water level of 41 feet below ground surface. And then in a different spot it says that the DSL pipe floor is 20 feet lower than the surface level. So, does that make the water level only 20 feet below the pit surface? That's not much of a barrier from the leaks or any issues that come from the asphalt plant. That's one big problem right there. That's not the 41 feet that this report gives and the other thing I'd like to focus on is it becomes evidently clearer when reading through this document that alternate sites have not, especially Alder, have not been thoroughly vetted, if you will. And by your own admission, in this document, you're not sure where it would really even be located over there. And so, what? There aren't any details about that Alder Pitt and or the older site for the asphalt plant, and it seems to me that you could do quite a bit more research and investigation of maybe a more suitable site for that asphalt plant. Either on this side of the valley or the Alder sight. But to just allow wells to have it right there to save some trucking time, is not a very smart move. And oh, by the way, what about over the Norris Hill, over by Mister Well's ranch over there. There's an awful lot of space over there where there could be a potential asphalt plant put up where it would not be on a main waterway river. Thank you for your time. And reading this document has been a real education.

00:43:19 **Zack Winfield**: Thanks, Nani. We are on to Hillary Sinclair.

00:44:02 **Hillary Sinclair**: Hi there! Thank you so much. I am a resident and property owner in Ennis for over 49 years and while we do want good and working roads, there are several issues with the proposed asphalt plant that I'd like to bring up or amplify. So, as has been discussed repeatedly, there's a flawed and legal process happening which is very disturbing. Secondly, the question about holding the plant owner to account, monitoring, and confirming about pollutants and adverse impact. How is it being measured? How is it being publicized and remedied, and making sure that

that is transparent. And then there's also the water consumption issue. Apparently, there's a right to use water. We already have hoot owl issues with warm water, and when the water level goes down that will increase due to, of course, a lower water level and fishing is such a big part of our community. Fourthly, there are significant compounds, volatile organic compounds, polycyclic hydrocarbons, bitumen fumes particulate matter, sulfur dioxide, hydrogen, sulfide, nitrous oxides, carbon monoxide. The list goes on and on and on about all these toxic formaldehydes, etc. Chemicals that cause cancer. Hurt the central nervous system, cause liver damage, respiratory problems, skin irritation, and so on, and so on. Coughing, breathing, cancer, and so on. Also, animal studies affect their reproduction, cause birth defects, and are harmful to their immune systems. So, what is happening with the asphalt plant to make sure that that is safeguarded considering there's no compensation? What planet do people get to run businesses on government land that harm people and animals with no compensation to the state, to our healthcare, to our hospital systems, to our animals, and more. And how is this temporary defined, and who will cut it off just like the original, permit taxes or baggage fees. There is no temporary when easy money is at stake, and that is very much a concern, so this seems to only benefit the wells, plant owners, and only harms the community, its residents, and its wildlife. Thank you.

00:46:36 **Zack Winfield**: Thanks, Hillary. Next, we have Roy Washburn.

00:47:18 **Roy Washburn**: Okay, thank you guys for enduring all this. My family has had a home in Ennis on the river for 53 years, so you know, I've got a vested interest in what's happening in that area. The DNRC has known about this application for an asphalt plant since November 1st. This whole process has been fast tracked. The Ea. was nothing more than a desktop assessment from old data as it was made public only 5 days after the close of the scoping period. As you well know, this alone opens you to litigation. 17 miles of the Madison River and the lake will be affected. An asphalt plant only 964 feet from a tributary to these waters is laughably counter intuitive. 964 feet. A geological bench will be removed that exposes the entire lake to the mine and plant. In addition, the runoff areas are of a clay soil that doesn't provide a barrier for the runoff contaminants. There will be detrimental effects on the bird habitat area, home to tundra and trumpeter swans. Ducks, geese, as well as moose and other mammals. The EPA states that asphalt processing is a major source of hazardous air pollutants, such as formaldehyde, hexane, phenol toluene, arsenic benzene, and other toxic chemicals are released into the air as the asphalt is loaded into the trucks. The air currents can easily carry these to substantial residential communities only a mile or 2 away. Exposure to these toxins has been shown to cause cancer, central nervous system problems, liver damage, and a multitude of respiratory issues. There are 3 legal challenges on the permit. Our hearing is set for April 1st. The DNRC must resolve these legal issues with the existing permit before the new asphalt permit is issued. There are

better locations for this plant in high, dry areas where there are none of the issues we are talking about here. We all should be stewards of our lands. Placing an asphalt plant 964 feet from a tributary to a Blue Ribbon River is not ripe. A more widespread third-party environmental assessment should be done. Thank you for your time.

00:50:09 **Zack Winfield**: Thanks, Roy. All right, Suzanne McGee's next.

00:50:32 **Suzanne McGee**: Hello! This is Suzanne McGee. I am the owner and current steward of the Valley Garden Ranch. I feel that it is my duty and obligation to preserve this valley and its beauty for future generations. I really want to echo the comments of everyone who's spoken before me, and I don't want to be redundant, but I am really moved by everything that I've heard here tonight, and I'm so glad that the people of this community are standing up and taking notice. I just want to say, nothing says welcome to Ennis like an asphalt plant, especially starting April 1, when visitors are starting to return, when the tourists are coming back, and you know the prime time of that season for the city of Venice, and that in the valley. You know, I just wonder why you're priming an asphalt plant on the banks of the sensitive Madison River ecosystem and exposing our people, wildlife, aquatic life, and bird life. To these negative impacts of this plant, you know, besides the birds that Roy mentioned before me, ducks, curlew, sand, hill cranes, pronghorn antelope to name a few, all nest and raise their young in the area right around this and an asphalt plant, you know the drainage from this gravel pit and asphalt plant flow right into the tributaries of the Madison River, and it's like, as mentioned before by others, 17 miles of the Madison River. It's channels and tributaries will be impacted by the asphalt plant. You must consider the impact of the asphalt plant on this precious, precious ecosystem. As you know, your job as stewards for all citizens, the DNRC must take care, particularly when the State is not being compensated for the short- and long-term impacts of this plant. And also, I just I don't think enough people are talking about the impact of the noise on the valley. Thank you for your time. Thank you, Trevor, and Zack for really taking our comments to heart. You know, imagine if you lived in this valley, how you would feel. And I just really appreciate you all really listening to what we have to say here tonight. Thank you very much.

00:52:59 **Zack Winfield**: Thanks, Suzanne. Next, we have Anne Morgan.

00:53:29 **Anne Morgan**: I am the president of the Madison River Foundation, and I represent a community of several people who live in the Madison Valley. The first thing I have to say is that I'm impressed with how challenging you have made it for people to express their views on this plant. I personally am opposed to the plant. You need to understand that there is an entire community whose financial welfare is dependent upon the health of the Madison River. The air quality and the water quality is profoundly at risk with this plant; the flawed legal process jeopardizes the entire operation. I reiterate all of Roy Washburn's comments and Suzanne McGee's

comments about the chemical effects and the damage that could be sustained through this process, and I wish to express my protest against the plan. I thank you for your time and your willingness to listen to these points of view.

00:54:48 **Zack Winfield**: Thanks, Anne. Next, we have Rick Tappan.

00:55:29 **Rick Tappan**: Thank you. This is Rick Tappan representing Valley Garden Land and Cattle LLC. I'm going to limit my comments to water quantity impacts. Until November 2022 Trust Lands maintained an unfiled upon well for use with the gravel washing operation. In late 2022 an exempt water rights certificate was filed by Trust Lands for 20 Gpm. Not to exceed 5.7 5-acre feet during the period of use of May 1, through October 31, specifically 37,500 gallons per day for 50 days per year, that is, 26 gallons per minute, if run 24 hours a day. Exempt claims are limited to the amount claimed for the beneficial use identified. This draft Ea. has not identified the water use for the asphalt plant operation, and how that will increase the claimed 20 or 26 Gpm. In fact, the Ea. States DNRC Trust Lands has no authority over the amount of water utilized from the ground water well, only that it is not anticipated that it will have significant impacts upon water quality, quantity, or distribution in the project area. This Ea. has demonstrated a lack of diligence and not quantifying the asphalt plant specific water requirements and presumes. There will be no impact, however, given. The current operation claims 20 or 26 Gpm, and that will use will be concurrent with the asphalt operation during the period of use. It is doubtful the asphalt operation will not exceed the exempt status of the well. If the flow does exceed 35 jet gallons per minute, permitting, consistent with 852311 is necessary to bring the water use into compliance. Further, there are 2 impoundments associated with the exempt well that require permits pursuant to 852306 subsection 6. These existing impoundments have not been permitted as required, and also may be impacted by the asphalt operation. Finally, to the extent the asphalt operation seeks to operate outside the existing May 1 through October 31 period of use that requires proper change authority not currently approved. Quite simply, this draft, Ea. assumes the water consumption will be minimal, but does not investigate the actual water demands, or whether that complies with the existing exempt right only identified for gravel washing. This Ea. is woefully inadequate, and must comply with Montana Law. Thank you.

00:58:10 **Zack Winfield**: Thanks, Rick. The next one is Diane Conradi.

00:58:53 **Diane Conradi**: For the record, my name is Diane Conradi, and I represent Valley Garden Land and Cattle with my co-counsels Kim Wilson and Rick Tappin. In addition to the issues that were raised by my colleagues, I'm going to focus my comments on the fiduciary duty that the State of Montana and the Board of Land Commissioners, and the Land Board has to the State Trust Beneficiaries which are Montana's schools and universities. This proposal fails to allow the Land Board to meet those duties back in 1889, when Montana was admitted as a State. The

Federal Government offered its lands to the State of Montana with 2 general conditions, one they would be held and managed for the benefit of schools and, two, there would be no giveaways of lands or interest in lands that is not something for nothing under the Enabling Act, which is that Federal Act that brought Montana into the United States Montana's Constitution. Article 10, section 11, as well as a variety of statutes and rules, and many rulings by Montana's highest court. One thing is, is very clear, the State of Montana and the Land Board do not have the authority to allow free use of State Trust Lands in the leading case in this area, Montana Trust versus the State of Montana. The issue in that case had to do with, among other things, the issuance of firewood permits which the State did not charge for. Because they were just allowing folks to go in and cut firewood, the Supreme Court found that that use was unlawful, and that statute was unlawful because it didn't differentiate between valuable timber and non-commercially valuable timber. But what's that's that Freebie Giveaway is precisely what's happening in this action alternative under the current permit, which, as has been mentioned by several of my colleagues, is under challenge at court in the court right now. A. M. Wells only has a permit for gravel mining period. The compensation for that permit is based on royalties for gravel mining. Only any supplemental use beside sand and gravel mining is considered separately, and, aside from the gravel, permit, the royalty payments do not compensate the State for any additional use throughout. The State is not proposing to charge the operator for the use, so by accepting no additional revenue for the land for the use of the land (exceeded time limit).

01:02:08 **Zack Winfield**: Alright. John Kennedy is next.

01:02:25 **John Kennedy**: Thank you. I'm not going to add on to all of the environmental concerns that have been raised on air and water quality, nor can I comment on the legal implications and charges; they all sound as a non-legal observer serious and alarming. Frankly so, I hope there's another side to those stories. What I wanted to suggest is, you know, there's other things from a quality of the valley standpoint then, simply, and it's not simple, but air and water. I think Suzanne mentioned it. Suzanne McGee mentioned earlier about the welcome to innocent being an asphalt plant. I would first ask the question, which wasn't addressed in the draft, how high is the asphalt plant going to be? I've looked, you know on Google searches for Amazon asphalt plants around the country, and specifically, and the great State of Montana and I saw the Ergon plant in Butte and it's in high school, and it has high columns and everything else, and, so close your eyes so you don't have to be distracted by the beauty of that conference room you're in, but imagine yourself coming up over the pass and you know, on 287 Ennis Lake is on your left. You'd see the beautiful grass fields of the valley and an asphalt plant. That is a quality destruction as much as the air and the water as far as I'm concerned. And that's I been coming, and first went down 287, I don't even know 20, over 25 years ago, so than doing it every year, every day, every, you know, during the fishing season at

least, and I can't imagine having this look at an asphalt plant and I think that that eyesore will destroy the beauty of Madison Valley, so I'll leave it at that. I concur with all the other comments, and wish you all well, thank you.

00:01:05 **Zack Winfield**: Thanks, John. Howard House is next.

01:06:05 **Howard House**: Hello, my name's Howard House, and I've been a property owner in the valley since the 1990's. Our property is directly across the river from the location of the proposed plant, which I strongly oppose. Last year I wrote and spoke in opposition of the planned expansive A.M. Wells gravel pit. One of the primary issues I had with a permit allowing the mine expansion was the allowance for an asphalt plant. We were assured at that time, and after the approval was granted that no asphalt plant was part of the permit would be. It's very disappointing, if not alarming, that less than a year later a new permit, specifically allowing the installation plan has been filed. What is equally alarming is that the DNRC's process seems to have been designed to discourage participation. There was very little time between public notice and the written input for scoping and only 10 days provide comments on the 30-page environmental assessment on the environmental assessment front. It seems to be a hastily constructed desktop assessment that, in my opinion, inadequately addresses the environmental impact on fish, wildlife, water quality, air quality, noise impacts, and visual impacts. Furthermore, the Ea. references an alternate location for the plant outside of Oliver, because very little details. Beyond that, I'm a businessman, I'm pro-business. I recognize there are a number of components to the innate economy. However, fly fishing, hunting, tourism, guiding in general represent a significant component of that economy. To even consider installation of an asphalt plant in such close proximity to the Madison River from which the community derives so much of its livelihood is beyond comprehension in my part, reckless on the part of the DNRC. If you go to the DNRC's website, it opens with its mission statement, which reads through diverse we're willing through reverse programs and dedicated staff, the Montana DNRC works to ensure Montana's Land and Water Resources provide benefits for the future and future generations. The installation of an asphalt plant stands in direct contrast to that mission. It is time for the DNRC to do its job, deny the permit, and work to pursue other options. Thank you for the opportunity to comment.

01:08:36 **Zack Winfield**: Thanks, Howard. William McManemin.

01:08:56 **William McManemin**: I'm William Casey McManemin. I'm going to register professional engineer in Texas since 1988. I want to be very direct on issues about safety because everybody else has been talking about the everything else here. You may remember about a year and a half ago, where there was a statement that there's a representative of the mining company that quote, there will be no changes to the process of material of the pit, and it won't impact anyone around them any differently than it has for the past 35 years. And what now, gentlemen? That makes

me very, very worried about what's going on. If they're not going to put any effort about what they've been doing for the last 35 years, they want to keep going for the next 50 years, and they can do the same thing honestly. All they really need to do is change that name you could just make us say, don't worry, honey. Just. I'll give you a check every Friday, and you go to the Country Club because they'll have no way to figure out what's going to go on here. The discussions from some of the other people have been talking about how poor the monitoring is with third party review of that is essential. I would think it would actually be legal to do so, because so far, I haven't seen anybody on the other side of this to do anything better. I did earlier in a letter I sent to everybody about a year ago that I would really like to see a group of met money, equipment, manufacturers and investors and things like that to see what the best way to do this is. I'm not talking about where it is, but how you do it, and what do you use to do it? So far, I haven't seen anything, and I have to tell you for me, when I first thought about that year and a half ago, I thought it was disgusting now to be discussing for all of us. If we don't get this right. Thank you.

01:11:31 **Zack Winfield**: Alright. Tanya and Bill Sullivan.

01:11:49 **Tanya and Bill Sullivan**: Good afternoon. Can you hear us? Excellent! Thank you. We're Tanya and Bill Sullivan. We live in Troutdale, too, just a few miles north of the project, and we share the concerns that have been raised by previous speakers about the project, and especially the process. In addition, we'd like to raise a very specific concern. Last summer it was either the University of Montana, Montana State, Montana Tech, or a combination of the 3, plus a few other Montana agencies did a very well attended presentation in Ennis on the topic of pfas. That's p, as in Paul, f as in Frank, a as in Apple, s as in Sam. This is a group of chemicals that are also known as forever chemicals, and if you're not familiar with them, I urge you to read up on them. My understanding is that they are used in the asphalt production process, and we should be very concerned about how those risks are monitored and mitigated. As this project goes forward, I did a, as I mentioned, a quick search and found that they have been used in asphalt production in the past. They're extremely difficult to mitigate, and if they do contaminate the air, water, or soil, they'll be there forever. They're not the kind of chemicals that you can go scrape a few inches of soil off and clean up. They don't break down and one of their superpowers is that they were just invented to make surfaces very, very slippery. So, it seems like escaping mitigations is something that they're very good at. And considering the dust, the wind, the runoff into the Madison River, the potential for that as well as into the lake. It seems like these chemicals weren't the most stringent mitigation and monitoring measures possible. Not an extremely abbreviated review, and process that has been described by some previous presenters, we'd like to know what these specific mitigations are, what they're proposed to be. And what baseline testing will be required in the Troutdale and other neighboring communities. If the project moves forward, we share the concern that a more appropriate and less impactful site have

apparently not been considered, and we believe they should be, so thank you for your time and the opportunity to comment.

01:15:06 **Zack Winfield**: Thanks. Let's run back through people who we had to skip over the first time. Charles Friedman.

01:15:37 **Charles Friedman**: I just support the, I'm a tourist person who owns property and the valley, and coming there for 50 years, and from just a simplistic point of view, not legalistic, it's clear that it would hurt the town of Venice commerce and hurt the river. Thank you for allowing me to speak.

01:15:58 **Zack Winfield**: Thanks, Charles. Barbara Pepper.

01:16:24 **Barbara Pepper**: Yes, thank you. Thank you for allowing me to speak. Had a few technical issues, but I'd like to just reiterate that all the comments tonight have really been very thoughtful and spot on from the legal to the environmental. What I'd like to add maybe, is something that hasn't been spoken to and narrow my comments to that. As some of the speakers have said, environmental forecasting environmental impacts is hard. I mean, even though the study appears to be on paper have been done. Whether it was done just on off of the existing data or perfect was done, which doesn't sound like the time was there for to be exhausted for sure, even maybe even done for this event. But what really concerns me is like the pfas chemicals up worked in the petroleum and chemical monitoring EPA industry before as a supplier. And I've been on petroleum plants, I've been around petroleum plants, I've been around environmental protection or EPA testing sites. And I'm telling you, spill will be expensive. And if there's some issues right now with meeting the legal and financial obligations of cleanup or proper preparation, or proper drainage, and drain water treatments for any possible spill. Because, as this heavy petrol comes in, we're talking about this stuff. Okay? If it gets built, it's going into the water. Through that, as mentioned, the gravel port is very porous. It's going into the lake. It's going to make it to the lake. It's going to make it to the wells, and it's going to be a sheen on the lake at the beach. If you want to see a rainbow sheen on a slate, then it will happen. If there's a spill it might just take 6 months, maybe. but the pfas chemicals will be harder to detect, and that's what I want to speak to, because those can be detected in parts per 1 million, but also parts per 1 billion by mass spec. and those need to be monitored, as was mentioned earlier by third party laboratory. And they need to be monitored consistently. And what I would propose is that there is a bond put up by Mr. Wells, either a financial bond or maybe his Ranch. If that's not possible then if there is an environmental spill that will make it good to pay the State back for the destruction of the State property. And that's just that's my comment. I'm sorry. So, in passion it's just with everything I've heard. I just don't see that there's proper care being taken for all the things that might happen that could destroy this beautiful valley, and we thank the McGee for even allowing us to even live in this valley with them. And we certainly want to take care of it.

01:19:18 **Zack Winfield**: Alright, thanks Barbara. Okay. So, we went through the whole list. Make sure that everybody that didn't. Yeah. So, if you want the chance to speak and didn't get the chance to speak, go ahead and raise your hand now. There should be an option on the bottom of your screen to raise your hand. Looks like we've got one hand trying to hit the folks that haven't spoken yet, if any of those exist. Patrick, you already spoke. We can come back. James McGee. All right.

01:20:17 **James McGee**: First and foremost? Thank you for taking time to run this process. As stated, my name is Jim McGee, and in the interest of transparency, which I think is hugely important, I am a seasonal resident, not a full-time resident. Live in Texas the rest of the year. I'll talk about that more in a second. I'd like to encourage everybody who has spoken tonight to vote. Please note their unanimous opposition one person who has supported this to this process with their letter tomorrow, or immediately after this call to Zack. zackary.winfield@mt.gov. Please note you have less than 22 hours to do this. Importantly, I'd like to state the obvious. There have been 24 people who have taken the time out of their busy schedules to click on a zoom, fumble around, for their mute button and voice their opposition. 24 there have been 0 that have supported this. You know, as I mentioned, I don't live in the valley, I'm a seasonal resident. And so, for lack of a better term, I'm a tourist. Tourism is vitally important to your State. Your website says that you serve generations of Montanans by helping manage land and raw water resources. Please keep it in mind. In 2022 alone, over 12 million tourists came to Montana and spent 5.8 billion dollars in the State, thereby supporting 43,900 jobs while paying 315, 315 million dollars in state and local taxes. Trust me, these tourists, of which I am one, are not coming to see, smell, and hear an asphalt plant on the banks of one of the nation's treasures, the Madison River. Thank you again for allowing me to comment.

01:22:45 **Zack Winfield**: Thanks, James. Patrick. I'll unmute you here if it's somebody other than Patrick McGee. Patrick, if it's you, you've already spoken. So go ahead and unmute yourself.

01:23:02 **Patrick McGee**: Yeah, this is Bill Sachs.

01:23:26 **Bill Sachs**: Okay, so I don't have much that I can add to what's already been said, but I am opposition number 25 today. And you know, one of the things that has concerned me is the hurried nature in which this whole process has occurred, and it just makes me concerned, and a bit and a bit distrustful. I'm appalled that we're considering an asphalt plant. You know, on the banks of the sensitive Madison River ecosystem. And there's really nothing, no study that can assure me that there will not be a disastrous impact to the to the river, that that the soil, the ecosystem the local economy and of all the important things have been said tonight by you know Patrick McGee, Suzanne McGee, Roy Washburn, Joe Dilschneider, the and recently, Barbara Peppers. Her comments are terrifying. So that's all I have to say. I'm just opposition number 25, and I don't know who I need to write to tomorrow. If you all

could provide that information or tell me where to find it. Again, I would like you to do so. Thank you.

01:25:17 **Zack Winfield**: Yeah. Mr. Sachs, thanks for your comment. My email address is Zackary.winfield@mt.gov. All of the information, including scoping notices, legal notices, and hearing notices are all online and include that information as well. You can visit our website at dnrc.mt.gov, we are under the subsurface resources tab in the Minerals Management Bureau. So, with that, anybody one final check for hands, anybody else want to comment? All right. Thanks for coming. Oh, yeah, we've got one. Okay.

01:26:23: **Andrew Chang**: A resident of McAllister on Ennis Lake. I guess. Here we are, a year plus later again. Similar to others, completely opposed this project and potential approval. I think you know, for those that are running this, the DNRC has been brought up, but I don't know. I don't need to be a lawyer. I don't need to be a scientist. I don't need to be an environmentalist. None of this makes sense, period. I think others have been a little bit more polite. But first and foremost, I think this process is just I I've never been associated with anything that's been so backwards ever in my life, and I've dealt with a lot of process. The other point here is just communication. I think it was noted over a year ago. Some other residents felt the same way, which is DNRC just needs to do a better job. This is not only is it not right, but also just how it's being done. So, for those on the on the objections. So, I'm number 26, appreciate everyone's time. Appreciate the opportunity to object. And again, on no, on no plane does this make any sense whatsoever. Thanks for your time.

01:28:05 **Zack Winfield**: Alright, thanks, Andrew. Kay House.

01:28:18 **Wesley House**: Hello, everyone. This is a Wesley House speaking and I've been fishing in the Madison Valley for the past quarter century. Really, this whole process has been somewhat dumbfounding to me and to, you know, everybody else that's called in I think you know, having 26 people and countless others writing in in opposition to this really tells the story. You know, apart from all the environmental, you know, processing and whatnot that's gone on in the past, you know, couple of years of this process, there's really no reason. No, you know, rational reason to, you know, compromise one of the most beautiful fisheries, valleys, and just parts of the earth with something so minute as a you know, gravel pit and asphalt might hurt asphalt plan really just want to express my distaste for this process, and everybody that's been involved with it. Really hope that you know the people in charge of preserving this great state do their job and do the right thing. Thank you.

01:30:07 **Zack Winfield**: Alright. With that we are done here. We appreciate you coming, and we'll have a final document for you sometime in the future. Thanks.

01:30:19 End of Public Hearing.

From: Goettle, Regan M - Mcallister, MT
To: Winfield, Zack
Subject: [EXTERNAL] (asphalt) OPPOSED!!!
Date: Tuesday, March 19, 2024 2:38:11 PM

I am absolutely opposed to the implementation of an Asphalt plant in or near Ennis!
Our wonderful town has become less and less wonderful with the passing of each year as it grows like a mini-Bozeman.
We don't need it to look like a big town too, by the eye sore that this would introduce as you enter our town.
Of course, health is a concern as well.
There has just got to be a more suitable place for this devastation to take place. That would cause potentially less impact on the lives of some many. All forms of habitat to be taken into consideration, (especially mine, as a community member)
I mean come on, a little common sense could be used instead of dollars and cents! It's always about the almighty buck! Sure, it may be the most convenient for the company, but what about the people that live here!!

Regan Goettle

From: Kay House
To: Winfield, Zack
Subject: [EXTERNAL] Anti Asphalt
Date: Tuesday, March 19, 2024 2:29:25 PM

Dear Zackary,

Thank you for giving me this opportunity to write in strong opposition to the proposed asphalt plant.

I listened to the Zoom call last night (my husband and son both spoke) and beyond the obvious unlawful procedures the state of Montana is allowing, the devastation and ruin of one of the most beautiful valleys in the country is what is at stake. Temporary asphalt plant equals permanent damage to the Madison River and its environs. Water quality, wildlife, air, etc. will absolutely be affected long term, no matter the temporary nature of this plant. It is dumbfounding to think that utilizing the banks of the Madison River is a good idea for this asphalt plant. Why here? Please take the time and appropriate steps to find a more suitable place to do this.

According to Wikipedia, "the Madison River is a fly fishing mecca for serious anglers. It is classified as a blue ribbon fishery in Montana and is one of the most productive streams in Montana for brown trout, rainbow trout and mountain whitefish". As we all know, people come from all over the world to fish in this glorious valley. They don't want to be welcomed by an asphalt plant. The trickle down from this economically will be enormous in the town of Ennis. Loss of tourism means loss of jobs.

Please stop the momentum for this plant, listen to all of the voices against it - which were all 27 people last night, not one in support. I truly appreciate you taking the time to read this and for saving the Madison River Valley.

Best regards,
Kay House

From: Shirley Mathews
To: Winfield, Zack
Subject: [EXTERNAL] Ash fault plant
Date: Tuesday, March 19, 2024 2:07:35 PM

No I vote against it

From: Shirley Mathews
To: Winfield, Zack
Subject: [EXTERNAL] Ashfalt plant
Date: Tuesday, March 19, 2024 2:05:08 PM

No I disagree

From: barbara gillispie
To: Winfield, Zack
Subject: [EXTERNAL] Asphalt Plant Concerns
Date: Tuesday, March 19, 2024 3:55:34 PM

I live 1.8 miles to the North of the Asphalt plant that is proposed at the DSL Pit. Many of my neighbors are even closer. Since our winds are out predominantly from the South, the residents of McAllister—Troutdale I & II, Rainbow Point subdivision, the new Lakeside subdivision and all those on the North and Northeast side of Ennis Lake are going to get the worst of what the Asphalt Plant has to offer….the toxic air particles, the smell of burning rubber and increasing traffic. There are about 325 households that are going to bear the brunt of the Asphalt Plant. There are youngsters in our neighborhood that walk to the School bus, people of all ages out for a walk with their pets. The benefit to the DNRC is only about $16,000. None of that is worth the health and wellness of the residents of McAllister.

The other huge concern is the possible damage to a world class resource— the Madison River. It is the economic engine that brings people from great distances to the prime fisheries in the Madison Valley. My level of concern is even higher after listening to the testimony during the Zoom Meeting last night. I learned a lot and would like to request a transcript of the testimony. Please place this Asphalt Plant in an area that will not damage the place we call home— The Madison Valley! Barbara Gillispie

Sent from my iPad

From: dodie arterburn
To: Winfield, Zack
Subject: [EXTERNAL] Asphalt Plant Permit
Date: Tuesday, March 19, 2024 2:49:37 PM

Dear Sirs:
I have been aware of this Application for a while, but thought it was not submitted properly and by a company who has prior application faults in it's history so thought it would be rejected by DNRC but apparently that is not the case. This application needs to be rejected for a number of reasons already voiced by many residents of Ennis and Friends of the Madison River and Lake Ennis. This would severely alter the current atmosphere of a fishing town and the small Clean environment of it's residents and the Madison Valley. Please reject this proposal and adhere to the Montana State Constitution.
Doris Y. Arterburn

From: Abigail King
To: Winfield, Zack
Subject: [EXTERNAL] Asphalt Plant Permit
Date: Tuesday, March 19, 2024 4:57:10 PM

I am a resident of Troutdale 1 in McAllister, a few miles north of the gravel pit. Please do not approve the asphalt plant permit proposed along Highway 287 and consider a different location. The potential environmental, wildlife, and human health impacts should be enough reason to not allow the asphalt plant to occur at the proposed location. The Madison River and surrounding area is too important to risk. Thank you for your consideration, Abigail King

From: Lawrence B. Dale
To: Winfield, Zack
Subject: [EXTERNAL] Asphalt Plant Proposal
Date: Tuesday, March 19, 2024 4:10:02 PM

Dear Mr. Winfield,

Please accept this email in opposition to the proposed asphalt plant in the Madison Valley just west of the Madison River.

I'm certain there are commercial pressures at work here, but I can't imagine that there is not a better place to process asphalt than near the banks of Madison River.

Thank you for the job you do.

Sincerely,

Larry Dale
Owner of a house in the Jack Creek Subdivision outside of Jefferson

Sent from my iPhone

From: Mary Morgan
To: Winfield, Zack
Cc: Will Morgan
Subject: [EXTERNAL] Asphalt Plant in Madison County
Date: Tuesday, March 19, 2024 11:14:12 AM

Hi Zackary,
My husband and I are Madison County residents, we are opposed to the asphalt plant being considered in Madison County.
Please let us know if you have any questions.
Thank you,

Mary & Will Morgan
[redacted]

From: james hageman
To: Winfield, Zack
Subject: [EXTERNAL] Asphalt Plant
Date: Tuesday, March 19, 2024 2:34:50 PM

As a resident of Madison County, leaving just outside Ennis, I strongly oppose building an asphalt plant near the Madison River.eminder
Jim Hageman

From: Roy Washburn
To: Winfield, Zack
Subject: [EXTERNAL] Asphalt Plant
Date: Tuesday, March 19, 2024 12:06:46 PM

Dear Sir, My family has had a home in Ennis,Mt. for over 50 years. I am adamantly against this permit for the following reasons:

There are 3 legal challenges on the permit. The DNRC must resolve these legal issues with the existing permit before the new asphalt plant permit is issued.

There are better locations for this plant in high dry areas where runoff issues are not at play.

The DNRC has known about this application for an asphalt plant since Nov. 1 and has only brought this to the attention of the public in the last 45 days. This whole process has been fast tracked. The EA was nothing more than a “desktop” assessment as it was made public only 5 days after the close of the scoping period.

17 miles of the Madison River and Lake will be affected. An asphalt plant only 964 ft. from Moores Creek and other drainage channels is counterintuitive.

The EPA states that asphalt processing is a major source of hazardous air pollutants such as formaldehyde, hexane, phenol, toluene, arsenic, & benzene. Other toxic chemicals are released into the air as the asphalt is loaded into trucks. The air currents are predominantly out of the south so said contaminants would blow directly into the residential communities less than 2 miles away.

Roy Washburn
Sent from my iPad

From: John Dodson
To: Mark Forrer; Winfield, Zack
Subject: [EXTERNAL] Asphalt Plant, Madison River
Date: Monday, March 18, 2024 6:06:26 PM

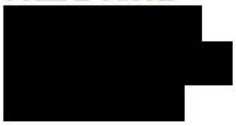
Dear Mr. Winfield,

Thank you for fielding this letter. I have written a few and hope this adds to impact a change in policy.

I happen to be an owner of Channels Ranch in Ennis, MT, located on the banks of the Madison. The proposed asphalt plant does not make any sense when considering the environmental impact and negative impact on the economy.

My family has been enjoying the fruits of the river and the town of Ennis for over 30 years. The fishing and beautiful environment are what have drawn us there. Many, many others around the world are in the same situation, substantially adding to the economy of the town of Ennis and surrounding counties. It is incomprehensible to understand why the state is allowing this plant to reside there with possible air and water pollutants when they have another location away from such resources!

Please refrain from allowing this asphalt plant to operate from this location.

Respectfully yours,
John Dodson


From: Sander
To: Winfield, Zack
Subject: [EXTERNAL] Asphalt Plant
Date: Tuesday, March 19, 2024 1:51:18 PM

Hey Zack! It's been awhile since we met but you might remember my name. We have a home in Jeffers and I've lived and worked in Ennis throughout the last 29 years! omg, that is a long time.

I will get right to the point. There is NO advantage for the environment and it's residents to have this permit approved. THERE CAN ONLY BE HARM. And that will begin day one. Actually, it already has.

From Prairie dogs to Eagles to Trout, all will be adversely affected. There is no way that they won't be affected.

Not to mention that the contractor is a criminal.

Hope to see you this summer. Please please please deny this permit!

--

Sander Coovert

[redacted]

From: Katie Sutter
To: Winfield, Zack
Subject: [EXTERNAL] Asphalt plant Ennis
Date: Monday, March 18, 2024 7:30:20 PM

Hello,

I am a Madison county resident and I am in strong opposition to the Wells asphalt plant off hwy 287 by Ennis Lake.

I agree with all comments presented this evening during the public comment meeting, seeing as how they are all opposed to this development. Cancer concerns, noise and environmental pollution, water use, negative economic impact for the community of Ennis, lack of transparency and trustworthiness, legal use, and the list went on and on. As a government agency it is your responsibility to listen to, protect, and serve the citizens of this area, not a company looking to profit off of land use in a capacity that was first stated would never happen.

I'd like to specifically reiterate that the plant should go on the Wells ranch if it's of no consequence to the surrounding area. Clearly he doesn't want to live by it either. He'd like to screw our town and reap the benefits safely on the other side of the hill.

Please consider the unanimous opposition to this asphalt development. Please also give the appropriate amount of time for proper analysis and public input.

Thank you,
Katie Sutter

From: boo kennedy
To: Winfield, Zack
Subject: [EXTERNAL] Asphalt plant
Date: Tuesday, March 19, 2024 3:50:15 PM

Zackary,

My name is Boo Kennedy and I am a resident at the Channels Ranch at 120 Ennis Lake Road in Ennis, Montana. I am writing in strong opposition of building the proposed asphalt plant on the bank of the Madison River.

There are many reasons the plant should not be built. The addition of a plant on the Madison River not only poses great danger to the eco system, fish population and wild life but to the community as a whole. The noise and pollution alone should be considered, detrimental to the wildlife and the community. The visual of an industrial plant should be considered as well. To cross the pass from Norris arriving into Ennis, the site of a plant in the middle of our beautiful valley is devastating to think of. The environmental and economical impact of this plant could be devastating to our community and beyond. Perhaps a different location can be proposed? We hope to work with you to propose a different location or option in order to save our beautiful valley.

Thank you for your consideration.

Best,
Boo Kennedy

From: Wagley, Jay @ Dallas
To: Winfield, Zack
Subject: [EXTERNAL] Asphalt plant
Date: Tuesday, March 19, 2024 4:49:14 PM

I am opposed to the building of the asphalt plant. There are too many risks to the environment. Ennis is a spectacular town. I do not think and asphalt plant should be close to the river and the town.

Thank you for your consideration.

JW

Jay Wagley
[redacted]

From: Rikki Dilschneider
To: Winfield, Zack
Subject: [EXTERNAL] Asphalt plant
Date: Tuesday, March 19, 2024 1:15:54 PM

Dear Zackary.

I am very concerned about the potential negative environmental impact an asphalt plant could have on the Madison River ecosystem due to the proposed location being so close to Ennis Lake, the Madison River and its tributaries. Please consider another location for this asphalt plant that does not jeopardize our most valuable resource, The Madison River and its ecosystem.

I was present at a public meeting last year where I heard that the permit for the gravel pit WOULD NOT include an asphalt plant. Why now is an asphalt plant even being considered?

Please consider the long term effects and the possible risks that this asphalt plant could have considering the proximity to the river and its delicate ecosystem. I know this is a resource we all hope that our kids and our kids' kids will have the opportunity to enjoy one day.

Thank you.
Rikki Dilschneider

From: Lawrence Montgomery
To: Winfield, Zack
Subject: [EXTERNAL] Asphalt plant
Date: Tuesday, March 19, 2024 2:35:42 PM

As a property owner in Madison County, I opposed to the asphalt plant which contaminate our fresh air, the smell of wildlife and the clear blue skies
Sent from my iPhone

From: Jeff Laszlo
To: Winfield, Zack
Subject: [EXTERNAL] Comments
Date: Monday, March 18, 2024 9:10:44 PM
Attachments: DNRC Letter re Asphalt.docx

Please see the attached comments.

Jeff

From: CJ Gaub
To: [redacted]
Subject: [EXTERNAL] Correspondence - Ennis DSL Temporary Asphalt Plant EA
Date: Tuesday, March 19, 2024 11:45:23 AM
Attachments: Comments to DNRC 3-19-24.pdf
PastedGraphic-1.tiff

Good day, see enclosed a pdf copy of a letter and exhibits in regards to the Ennis DSL Temporary Asphalt Plant. Please let me know if you have any issues viewing these files. Thank you.

CJ Gaub
[redacted]

This e-mail message is PRIVILEGED AND CONFIDENTIAL communication and is transmitted for the sole and exclusive use of the named addressee(s). This communication may not be copied or disseminated except as directed by the named addressee(s). If you receive this communication and you are not a named addressee, please notify us immediately. In such an event, you may not retain a copy of this communication, or any part thereof, and may not retain, preserve, divulge or use in any way whatsoever any of the information contained or transmitted herein.

From: Travis Terry
To: Winfield, Zack
Subject: [EXTERNAL] DSL Asphalt Plant Proposal
Date: Tuesday, March 19, 2024 4:49:30 PM

Dear Zackary,

I've been coming to ennis and surrounding areas for my entire life. I'm am 40 years old. So since the 80's. Me and my family of 4 strongly oppose the plant. I can't imagine the sound, the smell, the view, and the potential affects it can have on the Madison valley as a whole. From my house, will be watching the sunset with the asphalt plant as my back drop.

Please please do not allow this to continue any further.

Travis Terry
Construction Manager

From: LOUISE GRESHAM
To: Winfield, Zack
Subject: [EXTERNAL] DSL Asphalt Plant
Date: Tuesday, March 19, 2024 4:48:55 PM

Dear Zackary,

I am strongly opposed to the asphalt plant. I have been enjoying the Madison River for 30 years and am extremely concerned how this will affect the water and the fish in the river. Do NOT allow this to happen!

Sincerely,

Louise Gresham

Sent from my iPhone

From: Bill Sachs
To: Winfield, Zack
Subject: [EXTERNAL] DSL Asphalt Plant
Date: Tuesday, March 19, 2024 4:49:24 PM

Dear Zachary,
I want to re emphasize my opposition to the establishment of an asphalt plant on the Madison River Valley in Ennis.
I spoke during the hearing last night.
Thank you,
Bill Sachs

From: Brad Comer
To: Winfield, Zack
Subject: [EXTERNAL] DSL Asphalt Plant
Date: Monday, March 18, 2024 7:37:20 PM

Hi,

100% support the asphalt plant.

AM Welles has been very good for the Madison Valley, they are stewards for the valley.

Thanks!
Brad Comer

From: Pete Dale
To: Winfield, Zack
Subject: [EXTERNAL] DSL Asphalt Plant
Date: Tuesday, March 19, 2024 4:46:08 PM

Zack,

I want to express my strong opposition to the asphalt plant.

Thank you.

Sent from my iPhone

From: Krista Hunsucker
To: Winfield, Zack
Subject: [EXTERNAL] DSL asphalt plant Ennis
Date: Monday, March 18, 2024 10:04:29 PM

Hello,
I am a resident of Ennis and I strongly oppose the asphalt plant that is being considered in our town. The health of our community and our fragile ecosystem is at stake. I agree with most people on the statement of placing the asphalt plant on the wells ranch and let them deal with the fall out. Please take everyone's comments and concerns into consideration as our government agency.

Kind Thanks,
Krista Hunsucker

Sent from my iPhone

From: Bryan King
To: Winfield, Zack
Subject: [EXTERNAL] DSL asphalt plant
Date: Tuesday, March 19, 2024 4:58:08 PM

Zachary,
Thank you for your service to the state of Montana.
My name is Bryan King and I have been an active member of the Ennis and Madison River community since 1983 as I try to spend up to several months a year on our properties there.
Our family was a founding member of Channels Ranch on the banks of the Madison and Lake Ennis, and we supported financially our friend, Lee Poole, whose family I met in the 1980's in Ennis during the 2008-2010 bankruptcy of Moonlight Basin and ended up through that support buying his Riverwood Ranch on the Madison River adjacent to Channels Ranch.
I was saddened to hear that the state and DNRC have supported putting an asphalt plant along the banks of the river. I have hunted and fished for over three decades along that stretch of the river that will be most impacted by the plant - alongside of countless other outdoorsmen - both locals and visitors to Madison County. In an effort to protect the precious natural environment and wildlife that most feed the local economy, I am adamantly opposed to this plant.
Thank you for your consideration of my opposition.
J. Bryan King
Sent from my iPhone
Instant messages and email sent to or from this contact will be recorded by the Luther King Capital Management Compliance system and are subject to archival, monitoring, and/or disclosure to someone other than the recipient. This message and any attached documents contain information which may be confidential. These materials are solely for the use of the intended recipient. If you are not the intended recipient of this transmission, you are hereby notified that any distribution, disclosure, printing, copying, storage, modification or the taking of any action in reliance upon this transmission is strictly prohibited. Delivery of this message to any person other than the intended recipient shall not compromise or waive such confidentiality. If you have received this communication in error, please notify the sender immediately and delete this message from your system.

From:	em
To:	Winfield, Zack
Subject:	[EXTERNAL] E MacKnight Response to Proposed Asphalt Plant - Attached and Below
Date:	Tuesday, March 19, 2024 3:38:34 PM
Attachments:	20240319 Letter from E MacKnight DNRC Response.pdf

Dear Mr. Winfield,

I was registered for last night's video hearing to receive public comments related to the asphalt plant proposed to be operational near my home on Ennis Lake. Due to last minute family obligations, I was unable to attend the Zoom. Please accept the letter as my response to the proposed plant.

I oppose any proposal to put an operational asphalt plant anywhere on Hwy 287 between Ennis and McAllister for the following reasons:

I. ENVIRONMENTAL THREATS

1. The surrounding air quality will be threatened. There are approximately 350 homes in the area around the site, as well as wildlife and birds, who will be breathing the fumes, drinking and recreating in the water, and hearing the noise.
2. What mitigation processes would be required if ecosystem damage occurs? Is it fixable?
3. What happens if there's an accidental spill? There is no guarantee it won't happen.
4. There are no studies that show asphalt plants do not have a negative impact on the environment. There are many that do.

II. THREATS TO THE LOCAL AND STATEWIDE ECONOMY

5. People's livelihoods will be threatened if the ecosystem is compromised. Fishing, hunting, local businesses, lodging, etc. would all be affected.
6. Smoke, smog, dust, and foul smells will deter visitors from the area, who may not want to return.
7. Tourists come here to see natural beauty, not eyesores like asphalt plants which can be seen for miles around. Tourism is vitally important to our local economy.

III. THREATS TO HUMAN HEALTH

8. There is well-documented evidence from multiple sources that report cancer causing agents are found in and around asphalt plants. They can cause skin and breathing problems, as well as reproductive and immune system issues.

IV. LACK OF DUE PROCESS

9. The permitting process requires 30 days for public comment, but it wasn't followed. The DNRC knew about the asphalt plant proposal in November but didn't make it public until just recently.
10. A third party is needed to conduct a baseline survey, and to monitor fumes, toxic chemicals, water consumption, etc. There is currently no one doing this.
11. Fundamental rights of Montanans have been violated because they were only given 11 days to prepare for the hearing, and only offered a period of 23 hours to respond by email.

V. LACK OF CONFIDENCE IN OPERATOR AS GOOD STEWARD TO THE ENVIRONMENT AND THE CONCERNS OF THE COMMUNITY

12. Operator claims a negative impact is “unlikely”. Of course they do! There is inherent conflict of interest in their assessment of risk.
13. Last year, following public outcry in response to the expansion permit, the operator stated they weren’t considering an asphalt plant at that location. How can we trust any statement of the operator or that they will self-report when they clearly misrepresented themselves to the community and in a public hearing.
14. The operator has historically taken more water than they’ve been allotted. Can they be trusted to work within the confines of the law with dangerous and toxic chemicals and emissions?
15. The operator is currently the defendant in 2 legal cases regarding permits. They have violated Montana law by not following the state constitution. Why are permit violations being ignored and not enforced?
16. The permitting process requires 30 days for public comment, but it wasn’t followed. The DNRC knew about the asphalt plant proposal in November but didn’t make it public until just recently.
17. The draft assessment states “If a spill of any hazardous liquid occurs, the permittee must report the incident in accordance with applicable MT DEQ and EPA laws.” How can we be assured that the operator will self-report especially when there have been reported instances of their lack of compliance with how they run the gravel pit? Who will hold the operator responsible for damage to the environment?

VI. PERSONAL CIRCUMSTANCES

18. As a person with asthma, I experienced asthma attacks as a child breathing the polluted air generated by an asphalt plant that was temporarily operational on my way to elementary school. When this plant ceased operation, those attacks went away. Our home is downwind from the site and my family’s health will be directly affected.

VII. COMMUNITY DISAPPROVAL

19. Nearby residents fear short- and long-term effects to their health, as well as the air, water, land, wildlife, etc. The overwhelming majority of the surrounding community have voiced this in yesterday’s hearing and the 2022 hearing for expansion of the gravel pit.
20. 100% of the comments voiced by 27 people were opposed to permits for the asphalt plant at yesterday’s hearing.

VIII. THERE ARE ALTERNATIVES

21. An alternate high and dry site could be used for the asphalt plant without incurring the risks of a location next to the Madison River. There are multiple gravel pits in Madison County and surrounding counties where the asphalt plant could be located.

IX. THE ENVIRONMENTAL RISKS ARE REAL AND THE OUTCOME IS UNCERTAIN

22. The facts are incontrovertible that there will be affects to the surroundings:
    - Small particles will be carried by wind and weather to residents, visitors, businesses, the Madison River, its tributaries, and Ennis Lake.
    - Chemicals can travel by air and stay on the surface of rivers and lakes,

sometimes seen as rainbow sheen, threatening fish, birds, wildlife, etc. They can also seep into the ground with no known remedy.
- The location of the plant is less than 1,000 feet from Ennis Lake and tributaries of the Madison River (Moore Creek).

23. Some effects on the environment won't be seen for months after the initial impact of the plant. Who will bear the burden to remedy this? There could be damage to sub-surface resources, which is in the DNRC's purview.
24. What mitigation processes would be required if ecosystem damage occurs? Is it fixable?
25. What happens if there's an accidental spill? There is no guarantee it won't happen.

X. THE ECONOMIC RISKS ARE REAL AND THE OUTCOME IS CERTAIN

26. Based on all of the above--the known environmental and health risks, the negative effects to business, the lack of trustworthiness of the operator, the lack of due process by the State of Montana and the public outcry of local citizens, all well-documented--the risk of lawsuits is real should any of our worst fears happen. Lawsuits will devastate the lives of our community, waste taxpayer money and provide negative press for our slice of paradise and the great State of Montana. Hindsight is the wisest teacher and we would look back and say, didn't we all see this coming?

For all the above, please deny the request for the active asphalt plant under current consideration.

Respectfully yours,

Elisabeth MacKnight

Elisabeth MacKnight
[redacted]

From: Philip H. Chadwell
To: Winfield, Zack
Subject: [EXTERNAL] Ennis Asphalt Plant
Date: Tuesday, March 19, 2024 8:44:37 AM

Hi Zack-

Can you please send me the link for yesterdays virtual meeting?

Thank you,

Philip Chadwell

From: David Cope
To: Winfield, Zack
Subject: [EXTERNAL] Ennis Asphalt Plant
Date: Tuesday, March 19, 2024 2:14:28 PM

I am a full time resident of Montana, living south of town along the Madison River. I was present during the previous town meeting regarding the expansion of the AM Wells gravel mine. There is no doubt that during that hearing, 980%+ were opposed to the expansion of the pit. Run-off into tributaries, dust pollution and more. Also, but I am not sure if discussed much, is that the dominant source of income for the Madison Valley comes from tourism. HW 287 during the summer is loaded with RV's and because HW 191 is closed to hazmat trucking due to its 21 miles through Yellowstone, all the hazmat truck traffic and othe North/South long haul trucking uses the 90 to 287/84 to 87 to 20 to 'cut miles. This leaves this stretch with some of the highest accident rates in Montana with many involving trucks. This is of particular concer considering 1) the intersection of 287 in Ennis is a T-intersection and only one of only two in the state. This is very hazardous due to the school beingf located at the intersection and there have been accidents with trucks running into the school property.

Back on the Asphalt matter. During the discussion regarding the AM Wells pit expansion, there was a great deal of confusion about an asphalt plant due to its inclusion in the permit request coupled with additional regulatory requirements and associated concerns about the use and release of polycyclic aromatic hydrocarbons (I am a chemist/biochemist) and the truck traffic hazard i noted above. Although the community majority was against the pit expansion, the **DNRC discounted EVERY concern the community had including a statement by the DNRC that AM Well had no plans for an Asphalt plant.**

Now.... if the DNRC is choosing to negate this inconsistency by saying now that they meant a permanent plant v.s. a temporary plant, I think that argument would be an attempt to 'trick' the community into nuances since **Asphalt plants typically only operate during temperate periods on the year anyway** and the safety of permanent plants is actually great than temporary plants. In essence, the DNRC was less than honest in its assessment, public communications and continues to be so. This will be worthy of a further statutory investigation.

Perhaps the sadest thing for me is that, I had hoped that the DNRC was in place to protect Montana and its comunity and resources. In this issue I can tell you it is unanimous in the Madison Vaelley that the DNRC is against Montana. Being someone that serves on a state board at the direct pleasure of Governor Gianforte, I can tell you that this is truly disappointing and worthy of examination.

So, speaking for myself, my family and the community of Madison Valley, I ask 1) the DNRC respect its charter to protect Montana natural resources, 2) explain the DNRC reversal from assuring the community of no asphalt plant to now proposing one and 3) reject this current application for AM Wells to install a temporary asphalt plant.

Below are other important factoids regarding this matter that I support.

Thank you

David Cope
[redacted]

- The surrounding air quality will be threatened. There are approximately 350 homes in the area around the site, as well as wildlife and birds, who will be

breathing the fumes, drinking and recreating in the water, and hearing the noise.

- Small particles will be carried by wind and weather to residents, visitors, businesses, the Madison River, its tributaries, and Ennis Lake.
- People's livelihoods will be threatened if the ecosystem is compromised. Fishing, hunting, local businesses, lodging, etc. will all be affected.
- Smoke, smog, dust, and foul smells will deter visitors from the area, who may not want to return.
- The operator has taken more water than they've been allotted. Can they be trusted to work within the confines of the law with dangerous and toxic chemicals and emissions?
- The operator is currently the defendant in 2 legal cases regarding permits. They have violated Montana law by not following the state constitution. Why are permit violations being ignored and not enforced? Why are they allowed to use state land without cost?
- The permitting process requires 30 days for public comment, but it wasn't followed. The DNRC knew about the asphalt plant proposal in November but didn't make it public until just recently.
- An alternate high and dry site could be used for the asphalt plant. Why not put it there instead?
- Fundamental rights of Montanans have been violated because they were only given 11 days to prepare for the hearing, and only offered a period of 23 hours to respond by email.
- Chemicals can travel by air and stay on the surface of rivers and lakes, sometimes seen as rainbow sheen, threatening fish, birds, wildlife, etc. They can also seep into the ground with no known remedy.
- The location of the plant is less than 1,000' from Ennis Lake and tributaries of the Madison River (Moore Creek).
- Who will hold the operator responsible for damage to the environment?
- Operator claims a negative impact is "unlikely". What happens if there's an accidental spill? There's no guarantee it won't happen.
- Last year, following public outcry in response to the expansion permit, the operator stated they weren't considering an asphalt plant at that location. Now this.
- A third party is needed to conduct a baseline survey, and to monitor fumes, toxic chemicals, water consumption, etc. There is currently no one doing this.
- Cancer causing agents are found in and around asphalt plants. They can cause skin and breathing problems, as well as reproductive and immune system issues.
- Runoff from the plant may contain contaminants, a threat to wildlife habitat.
- The site currently only has permitting for gravel mining and the asphalt plant requires a separate permit. Please deny this permit and seek other options.
- Some words and phrases from testimonies were: alarming, discouraging, mind-boggling, worrisome, untrustworthy, concerning, detrimental, fast-tracked, terrifying, doesn't make sense, backwards process, dumb-founding, no rational reason to compromise, etc.
- Tourists come here to see natural beauty, not eyesores like asphalt plants which can be seen for miles around. 12 million tourists came to Montana in

2022, supported ~44,000 jobs, spent $5.8 billion, which resulted in $315 million in tax revenue. Tourism is vitally important to our local economy.

- There are no studies that show asphalt plants don't have a negative impact on the environment.
- "Forever chemicals" won't go away after the proposed time period for mixing asphalt is over. They linger in the environment forever, thus the name. They don't break down.
- Some effects on the environment won't be seen for months after the initial impact of the plant. Who will bear the burden to remedy this? There could be damage to sub-surface resources, which is in the DNRC's purview.
- What mitigation processes would be required if ecosystem damage occurs? Is it fixable?
- Nearby residents fear short- and long-term effects to their health, as well as the air, water, land, wildlife, etc.
- All testimonies heard were unanimously against the proposed asphalt plant.

From: Robert Litkovitz
To: Winfield, Zack
Subject: [EXTERNAL] Ennis asphalt plant.
Date: Tuesday, March 19, 2024 3:38:45 PM

To whom it may concern,

As residents of the Madison Valley my brother and I are concerned with the lack of process, and potential environmental and economic impact of the planned asphalt plant near Ennis. The valley is a historic migration route for pronghorn and elk. The river and surrounding land is a huge draw for outdoor enthusiasts. Many valley residents are economically tied to these visitors. An asphalt plant would negatively impact these natural assets the animals and residents depend on.

This project appears to have minimal consideration of the local environment and it's residents. Allowing a plant of this sort on the world famous Madison River in Trout Town USA is a slap in the face to the residents of this area. I can't imagine the zoning commission that would allow this placement.

We are obviously opposed to going forward with this project. There are so many reasons that this is a bad idea for the area. Obviously no one wants an asphalt plant in their backyard, but it could be built somewhere that does not potentially affect the health of the river, the valley, and the residents. We implore you to better consider the negative impacts of this plant and to Deny the permit for the project.

Thank you for your time and consideration,

Dr. Robert Litkovitz and James Litkovitz

[redacted]

From: Robert Celecia
To: Winfield, Zack
Subject: [EXTERNAL] Ennis asphalt plant
Date: Tuesday, March 19, 2024 2:12:26 PM

I always thought it was the responsibility of the DNR C, to protect the watershed in the state of Montana wherever possible. It is clear that an asphalt plant in the Ennis area so close to the Madison River. It's a tributaries and eventually the lake near Ennis would be a catastrophic mistake. Aside from the fallout from airborne toxins that would blow to the south and cover residential areas with asphyxiating smoke. On a continuing basis, it would create, a natural resources disaster in years to come. If Montana is to preserve it very precious aqua resources it's very clear that this asphalt plant should not go forward, amazed and surprised that the DRC is even entertaining the concept of approval for this plant shame on those who are not fighting against it .

From: F. Ty Edmondson
To: Winfield, Zack
Subject: [EXTERNAL] Further Opposition Comment to Asphalt Plant near Ennis, MT
Date: Tuesday, March 19, 2024 1:34:07 AM
Attachments: Asphalt 4 final.pdf

Dear Zackary: please include this additional comment in the public record for the next scheduled hearing.

--
Frazor Ty Edmondson
[redacted]

From: Justin Edge
To: Winfield, Zack
Subject: [EXTERNAL] Fwd: DSL Pit Comment
Date: Tuesday, March 19, 2024 5:45:28 PM

Looks like I originally misspelled your name in the email address...

---------- Forwarded message ---------
[redacted]
Date: Tue, Mar 19, 2024 at 2:34 PM
Subject: DSL Pit Comment
To: <Zachary.winfield@mt.gov>

Hi Zach

I wanted to submit a quick comment on the proposed DSL pit in McAllister.

There's currently a significant restoration project planned and in motion (lead by Madison County Conservation District) for a section of lower Moore Creek upstream of the pit site. It will begin this October. Moore Creek is currently listed as one of the most impaired streams in the Madison Valley, and restoration of the lower reach could have significant positive impacts to fisheries, stream side ecological function, and macroinvertebrate assemblages. I wonder if the EA has taken this into consideration? It seems contradictory to have simultaneously occurring projects, one which aims to improve Moore Creek functionality and one which can't conceivably add to that improvement. So, it would seem prudent to have safeguards in place to ensure that the improvements that are sought on Moore Creek from restoration efforts are not immediately thwarted downstream from any negative impacts associated with runoff from expansion of the pit.

Thank you
Justin Edge
Ennis

From: F. Ty Edmondson
To: [redacted]
Subject: [EXTERNAL] Fwd: Hearing on Asphalt Plant - written submission
Date: Monday, March 18, 2024 10:13:28 PM
Attachments: Asphalt 3 final.pdf
Asphalt 4 final.pdf

Dear Mr. Winfield and the Montana Department of Natural Resources and Conservation (DNRC):

Further to the public meeting held on March 18, 2024, on the draft DNRC Environmental Assessment of an asphalt plant near Ennis (the "EA"), it is of significant note that 100% of the attending public protested the deficient and inadequate EA. To reiterate: **ONE HUNDRED PERCENT (100%) OPPOSED THE DRAFT REPORT AND THE POTENTIAL PERMITTING OF AN ASPHALT PLANT ON THE BANKS OF THE MADISON RIVER.**

In addition, your department was consistently called out by attendees for running what residents appear to feel is:

- a sham process of notification to the public of relevant information and allowing insufficient time for public review and comment,
- shoddy "desktop" work on the EA that ignores or underestimates multiple threats to the natural and human resources of Montana (to include, *inter alia*, its people, animals, water, air, fish, birds, and natural beauty),
- failing to access the impact of PFAS chemicals on Lake Ennis and the surrounding region,
- failing to evaluate alternative sites for the asphalt plant, especially other locations that are not adjacent to pristine rivers of the State,
- ignoring regulatory requirements regarding limits on the amount of water the operator can withdraw from the groundwater and Madison watershed,
- giving away Montana's natural resources to private actors without compensation to the State,
- failing to ensure that any plant permit will be temporary,
- failing to require performance bonds by the operator,
- failing to have an enforceable plan to monitor the operation (if permitted),
- ignoring past permit violations and/or the litigation regarding those violations,
- **violating Montana law and its Consitution** in multiple ways, including the process deficiencies related to informing the public and soliciting its reaction and input,
- and more...

The evidence of the foregoing is in the recording of the meeting made by your department. Given the serious nature of the allegations raised by the community about the conduct of the NDRC to date, it was deeply surprising that no one from DNRC at any time commented that the department was committed to following Montana law in this matter. In the face of multiple citizens indicating to the department that it appears to be violating multiple Montana laws, there was no specific (or even generic) commitment by the DNRC to follow such laws. It was also very disappointing not to have any member of the DNRC legal staff at the meeting (or at least none were identified as such). Viewing the recording of the public meeting should be mandatory for every member of the DNRC receiving this email directly (or by forwarding), including, particularly, NDRC's Legal Department.

The lack of any sense of responsibility or accountability to the law expressed by the DNRC to date or any involvement of the DNRC Legal team instructs me that, with great reluctance, this matter needs the involvement and oversight of the Montana Department of Justice (DOJ). This email will serve as notice of this matter to the DOJ and serve as a request for a formal investigation and review of the NDRC actions in this matter. Additionally, given the notice you received multiple times tonight that civil litigation is highly likely if the EA is not withdrawn and the permit denied, I further demand that you (i) **retain all records, writings, notes, recordings, and correspondence** related to the subject permit for an asphalt plant near Ennis, Montana (whether within or beyond the scope of Montana's public record retention laws), (ii) that the DOJ ensures your department complies with this retention requirement, and (iii) that the DOJ confirms it has done so by return email to me.

Please see my attached written objections filed with your offices during the absurdly short "public comment period"

allowed by your department consisting of a window of only 23 hours to send in emails, which you enforced against both me and other members of the public during the past several days. (See text of DNRC notice, below, with emphasis added). Please also consider this email as an additional written comment in opposition to the sufficiency of the draft EA.

Lastly, it is clearly the opinion of the participating community, as expressed in the meeting on March 18th, that this is a badly flawed and improper process DNRC is running. It begs the question: "Why?" and needs independent oversight from outside your agency.

Kind regards,

Frazor Ty Edmondson
[redacted]

---------- Forwarded message ---------
[redacted]
Date: Mon, Mar 18, 2024 at 8:01 PM
Subject: Hearing on Asphalt Plant - written submission
To: <Zackary.winfield@mt.gov>

see attached

[redacted]

From: "Montana Department of Natural Resources & Conservation" <MTDNRC@announcements.mt.gov>
Subject: Draft Assessment Posted, Public Hearing Scheduled - Ennis DSL gravel pit - Temporary Asphalt Plant
Date: March 7, 2024 at 5:15:41 PM GMT
[redacted]
Reply-To: MTDNRC@announcements.mt.gov

Notice of Public Hearing

The Montana Department of Natural Resources and Conservation will host a public hearing on the proposed operation of a temporary asphalt plant within the boundaries of the DSL Gravel Pit – Township 5S Range 1W section 16, SE4. The hearing will be held via Zoom at 6 p.m. on March 18, 2024. You must preregister if you wish to offer verbal testimony. The Department will post a draft environmental assessment on their website prior to noon on March 7, 2024. The link to the draft environmental assessment can be found at the following URL: https://dnrc.mt.gov/TrustLand/subsurface-resources/AM-Welles-DSL-Pit

The purpose of this public hearing is to gather testimony related to the adequacy of the draft environmental assessment. If you wish to offer testimony, please read the draft environmental assessment in full prior to offering your testimony. Verbal testimony will be strictly limited to two minutes per person. Written testimony is given the same consideration as verbal testimony and can be emailed directly to Zackary.winfield@mt.gov. **Written testimony will only be accepted from 6 p.m.**

March 18th, 2024, until 5 p.m. March 19th, 2024. In the subject line of your email, please use the following: Written Testimony, DSL Asphalt Plant Proposal.

To preregister for the public hearing via zoom please utilize the following link: https://mt-gov.zoom.us/webinar/register/WN_acJQLWB8Q-625IiD9U_jNQ#/registration [mt-gov.zoom.us]

The virtual meeting will be recorded and made part of the official record. The recording will be available for public review upon request.

Have a great day!

Zack Winfield

From: Jim McGee
To: Winfield, Zack
Subject: [EXTERNAL] Fwd: Written Testimony, DSL Asphalt Plant Proposal
Date: Monday, March 18, 2024 6:08:22 PM
Attachments: Written Testimony^J DSL Asphalt Plant Proposal.pdf

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Jim McGee
[redacted]

Begin forwarded message:

[redacted]
Date: March 16, 2024 at 10:02:28 AM CDT
To: Zackary.winfield@mt.gov
Subject: Written Testimony, DSL Asphalt Plant Proposal

Zackary — Below and attached please find my Written Testimony AGAINST the DSL Asphalt Plant Proposal. Please feel free to contact me any time with questions or comments. Thank you for your thoughtful consideration. —Jim

March 16, 2024

RE: Written Testimony, DSL Asphalt Plant Proposal

Dear Ladies & Gentlemen of the Montana Department of Natural Resources & Conservation:

I am writing to express my strong opposition to the proposed Asphalt Plant Operations on the Banks of the Madison River between McAllister and Ennis and the rushed and thoughtless process by which it is being contemplated.

Specifically, I am concerned about the following:

DNRC PROCESS IS DESIGNED TO DISCOURAGE MEANINGFUL PUBLIC PARTICIPATION

- Fast Track - The DNRC has known of this application since November 1, 2023, yet failed to notify the public until January 25, 2024 (sitting on the application for 3 months). Given the commencement date of April 1, 2024, the DNRC has prepared a hurried "desktop" EA and is now only giving the public 10 days to review and comment on a 30-page assessment – providing only 2

minutes at a hearing to voice concerns and/or an extremely limited 23-hour window to submit written comments. This process is inadequate and against the law under the Montana Environmental Protection Act (MEPA) – which assures its citizens the inalienable right to a "clean and healthful environment" and a "reasonable opportunity for citizen participation" and a right to participate - Article II, Sections 3 and 8.

• Years of Concern - Since 2022, the public (both local and national) has expressed its concerns about this asphalt plant. Now that the DNRC has alerted the public to the asphalt plant, its process for public notification and review has been inadequate, confusing and unnecessarily fast-tracked.

• Highly Technical - The EA is highly technical and the public should have the right to engage 3rd party experts to provide thoughtful expert commentary. Unfortunately in this case, there is an impractical window for a comprehensive review. Since the EA was released 5 days after the close of the scoping period, it is presumed that the DNRC prepared the EA in advance based on technical input from the applicant.

LOCATE THE ASPHALT PLANT AT AN ALTERNATE LOCATION NOT ON THE BANKS OF THE MADISON.

• The EA identifies, but does not evaluate, an alternate location for the Asphalt Plant outside of Alder, MT. A site in Alder may be more private, remote, rural land, away from residential communities and importantly is not on the banks of a "blue-ribbon" river or its associated ecosystems.

• By locating the plant in a "high and dry" area – the risk of any environmental impact to the wildlife, birdlife, aquatic life and human wellbeing is negligible.

THE STATE IS NOT BEING COMPENSATED FOR THE USE OF ITS LAND

• The State of Montana and its trust beneficiaries are NOT receiving any compensation for the use of its land for the asphalt plant. It appears that the State is allowing a third party to use state land without collecting additional revenue which is not permitted under state law and deprives Montana's schools and universities of much needed revenue. This is simply not appropriate. The significant impacts and potential long-term environmental harm to the State Land on the Banks of the Madison River Ecosystem certainly merit appropriate and market consideration to reflect these impacts and long-term environmental harm.

THE EA INADEQUATELY ADDRESSES ENVIRONMENTAL IMPACTS

• Fish and Wildlife: The EA fails to appropriately analyze the impacts of the asphalt plant emissions, waste, water quality, noise and dust on fish (grayling, brown and rainbow trout) and wildlife populations such as neotropical songbirds, Tundra Swans, Trumpeter Swans, Sandhill Cranes, Curlew, Ducks, Waterfowl, Golden and Bald Eagles that frequent, roost and nest in the wetland areas immediately adjacent to the asphalt plant. This area is home to whitetail deer, elk and pronghorn antelope (with antelope birthing in the area). Further, the fisheries analysis understates the impacts to water quality by characterizing the waterway within 1,000 feet of the mine and asphalt plant as an "unnamed irrigation ditch" instead of a "jurisdictional" spring-fed tributary of Ennis Lake and minimizes the cumulative effects on the already degraded watershed. Finally, the activities proposed in the EA will exacerbate the existing 303(d) listed conditions of the adjacent Moore Creek watershed that are undergoing extensive local, state, federal and private efforts to restore the watershed and wetland complexes.
• Water Quality: The Montana Department of Environmental Quality (DEQ), in its permit to AM Welles specifically states that "Asphalt is considered to have the potential to impact water quality". Asphalt plants can pose potential water quality issues if not managed properly. These contaminants include semi-volatile organic compounds (SVOCs), volatile organic compounds (VOCs) polycyclic aromatic hydrocarbons (PAHs) and metals (CHEJ 2019). Chemicals and heated thermal water may accidentally be discharged into the surrounding watershed. The location of the asphalt plant on the DSL site poses an unacceptable risk in an area that is already an impaired water body and is home to sensitive species. Clay soils referenced in the EA do not provide an adequate barrier for runoff and dispersion of contaminants.
• Water Quantity (unpermitted, unknown usage): Asphalt plants consume water. There is a right to use water ONLY beginning May 1 and ONLY for sand and gravel washing. What is the projected annual water consumption of the asphalt plant? Will the flow and volume of the water be measured, noting that for decades the gravel mine operator has historically consumed water without a permit? • Air Quality: Asphalt plants produce toxic air pollutants including polycyclic aromatic compounds, volatile organic compounds, metal and hydrogen sulfide. Extracts of certain asphalts have been shown to cause cancer in wildlife and animals. In addition, asphalt fumes can irritate the nose, throat and lungs, cause headaches, dizziness, nausea and vomiting. Longer term effects can occur for some time after exposure and can last for

months or years.

• Noise and Visual Impacts: The asphalt plant poses unacceptable impacts to the Madison River Valley. The EA fails to properly evaluate visibility of the asphalt plant and mining operation from the communities of Ennis and McAllister. The asphalt plant will be visible and impact over 17 miles of the Madison River, its tributaries and Ennis Lake, as well as the Madison Meadows Golf Course area, Troutdale and the Lee Metcalf wilderness. When the eastern bench headwall of the mine is removed, the mine expansion will significantly increase its viewshed impact, permanently scarring the scenic and natural beauty which anchors the area's significant outdoor recreation economy. See the attached Viewshed Analysis.

THE ASPHALT PLANT ON THE DSL SITE SHOULD BE DENIED AS THE UNDERLYING DEQ AND DNRC PERMITS ARE UNDER THREE SEPARATE LEGAL CHALLENGES

• Three Challenges - The mining permit where this asphalt plant is to be located is the subject of three separate legal challenges: the DEQ permit is under challenge at the Board of Environmental Review and Madison County District Court; the legality of the existing DNRC permit is under challenge; as well as the constitutionality of the DNRC process. A hearing on the constitutional challenge is scheduled for April 1, 2024 - the same day the proposed Asphalt Plant will be issued a permit and commence operation.

• Longstanding Violations— The DNRC has elected not to enforce many of the provisions of the existing permit with the gravel mine operator – why not? Given its lack of desire to enforce its permits, how can the public be assured that the DNRC will enforce the significant Federal and State requirements in the asphalt permit? The DNRC must resolve the legal issues with the existing permit before the new asphalt permit is issued.

I know, I know – as indicated by the address above, I am a seasonal resident (a.k.a. 'tourist'), so, why should you take my concerns to heart? If your mission is indeed, **"Serving Generations of Montanans: Helping manage land and water resources"**, as prominently displayed on your website, pleaseconsider the positive impacts of tourism on Montanans: In 2022 alone over 12 million tourists came to Montana and spent $5.8 billion in the state thereby supporting 43,900 jobs while paying $315 million in state and local taxes. Trust me – these 'tourists' are not coming to see, smell and hear an asphalt plant on banksof one of the nation's treasures: The Madison River.

Respectfully submitted,

Jim

Jim McGee
Jim McGee
[redacted]

From: George Baldwin
To: Winfield, Zack
Subject: [EXTERNAL] GSL ASPHALT PLANT
Date: Tuesday, March 19, 2024 4:49:23 PM

I am a member of The Channels ranch, across the river from the proposed asphalt plant, and have supported Madison Valley for over 30 years and am against the Asphalt plant at the proposed location!

George Baldwin
[redacted]

From: Barbara Van Erp
To: Winfield, Zack
Subject: [EXTERNAL] Gravel pit in Ennis
Date: Tuesday, March 19, 2024 3:15:07 PM

Thank you for having the hearing and giving us a chance to voice our opinions. Because we are a tourist town and this is the way almost every business makes a living from tourist dollars I'd like to have it done at another plant. The same owner (if I understand it correctly) has a plant near Norris. Hopefully not too close anyway. What are the possibilities of changing locations. I realize it has to happen somewhere.

Thank you for your time.

Barb
Mountain to Meadow (HC Services, LLC)
Barbara Van Erp
Stacy Schroeder NSPF Pool Spa Operator
[redacted]

From: F. Ty Edmondson
To: Winfield, Zack
Subject: [EXTERNAL] Hearing on Asphalt Plant - written submission
Date: Monday, March 18, 2024 8:20:46 PM
Attachments: Asphalt 3 final.pdf

See attached

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F. Ty Edmondson
[redacted]

From: F. Ty Edmondson
To: Winfield, Zack
Subject: [EXTERNAL] Hearing on Asphalt Plant - written submission
Date: Monday, March 18, 2024 6:05:21 PM
Attachments: Asphalt 3 final.pdf

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see attached

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F. Ty Edmondson
[redacted]

From: F. Ty Edmondson
To: Winfield, Zack
Subject: [EXTERNAL] Hearing on Asphalt Plant - written submission
Date: Tuesday, March 19, 2024 8:03:33 AM
Attachments: Asphalt 3 final.pdf

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[redacted]

From: weglickid@aol.com
To: Winfield, Zack
Subject: [EXTERNAL] I am OPPOSED to the Plant being constructed. I own a house on the Madison River in Cameron.
Date: Tuesday, March 19, 2024 11:55:04 AM

Will endeavor to raise money to hire legal counsel to STOP your plans.

Denise Weglicki

From: [redacted]
To: Winfield, Zack
Subject: [EXTERNAL] I am STRONGLY AGAINST the proposed Asphalt Plant in Madison Valley
Date: Tuesday, March 19, 2024 10:17:25 AM
Attachments: image001.png
Importance: High

Mr. Winfield –

I would like to register my strong objection to the proposed Asphalt Plant in our pristine Madison Valley for the following reasons:

- The surrounding air quality will be threatened. There are approximately 350 homes in the area around the site, as well as wildlife and birds, who will be breathing the fumes, drinking and recreating in the water, and hearing the noise.
- Small particles will be carried by wind and weather to residents, visitors, businesses, the Madison River, its tributaries, and Ennis Lake.
- People's livelihoods will be threatened if the ecosystem is compromised. Fishing, hunting, local businesses, lodging, etc. will all be affected.
- Smoke, smog, dust, and foul smells will deter visitors from the area, who may not want to return.
- The operator has taken more water than they've been allotted. Can they be trusted to work within the confines of the law with dangerous and toxic chemicals and emissions?
- The operator is currently the defendant in 2 legal cases regarding permits. They have violated Montana law by not following the state constitution. Why are permit violations being ignored and not enforced? Why are they allowed to use state land without cost?
- The permitting process requires 30 days for public comment, but it wasn't followed. The DNRC knew about the asphalt plant proposal in November but didn't make it public until just recently.
- An alternate high and dry site could be used for the asphalt plant. Why not put it there instead?
- Fundamental rights of Montanans have been violated because they were only given 11 days to prepare for the hearing, and only offered a period of 23 hours to respond by email.
- Chemicals can travel by air and stay on the surface of rivers and lakes, sometimes seen as rainbow sheen, threatening fish, birds, wildlife, etc. They can also seep into the ground with no known remedy.
- The location of the plant is less than 1,000' from Ennis Lake and tributaries of the Madison River (Moore Creek).
- Who will hold the operator responsible for damage to the environment?

- Operator claims a negative impact is “unlikely”. What happens if there’s an accidental spill? There’s no guarantee it won’t happen.
- Last year, following public outcry in response to the expansion permit, the operator stated they weren’t considering an asphalt plant at that location. Now this.
- A third party is needed to conduct a baseline survey, and to monitor fumes, toxic chemicals, water consumption, etc. There is currently no one doing this.
- Cancer causing agents are found in and around asphalt plants. They can cause skin and breathing problems, as well as reproductive and immune system issues.
- Runoff from the plant may contain contaminants, a threat to wildlife habitat.
- The site currently only has permitting for gravel mining and the asphalt plant requires a separate permit. Please deny this permit and seek other options.
- Some words and phrases from testimonies were: alarming, discouraging, mind-boggling, worrisome, untrustworthy, concerning, detrimental, fast-tracked, terrifying, doesn’t make sense, backwards process, dumb-founding, no rational reason to compromise, etc.
- Tourists come here to see natural beauty, not eyesores like asphalt plants which can be seen for miles around. 12 million tourists came to Montana in 2022, supported ~44,000 jobs, spent $5.8 billion, which resulted in $315 million in tax revenue. Tourism is vitally important to our local economy.
- There are no studies that show asphalt plants don’t have a negative impact on the environment.
- “Forever chemicals” won’t go away after the proposed time period for mixing asphalt is over. They linger in the environment forever, thus the name. They don’t break down.
- Some effects on the environment won’t be seen for months after the initial impact of the plant. Who will bear the burden to remedy this? There could be damage to sub-surface resources, which is in the DNRC’s purview.
- What mitigation processes would be required if ecosystem damage occurs? Is it fixable?
- Nearby residents fear short- and long-term effects to their health, as well as the air, water, land, wildlife, etc.
- All testimonies heard were unanimously against the proposed asphalt plant.

Respectfully,

Wayne Froboese
[redacted]

[redacted]

From: wsf2nd@gmail.com
To: Winfield, Zack
Subject: [EXTERNAL] I am STRONGLY AGAINST the proposed Asphalt Plant in Madison Valley
Date: Tuesday, March 19, 2024 10:17:20 AM

Mr. Winfield –

I would like to register my strong objection to the proposed Asphalt Plant in our pristine Madison Valley for the following reasons:

- The surrounding air quality will be threatened. There are approximately 350 homes in the area around the site, as well as wildlife and birds, who will be breathing the fumes, drinking and recreating in the water, and hearing the noise.
- Small particles will be carried by wind and weather to residents, visitors, businesses, the Madison River, its tributaries, and Ennis Lake.
- People's livelihoods will be threatened if the ecosystem is compromised. Fishing, hunting, local businesses, lodging, etc. will all be affected.
- Smoke, smog, dust, and foul smells will deter visitors from the area, who may not want to return.
- The operator has taken more water than they've been allotted. Can they be trusted to work within the confines of the law with dangerous and toxic chemicals and emissions?
- The operator is currently the defendant in 2 legal cases regarding permits. They have violated Montana law by not following the state constitution. Why are permit violations being ignored and not enforced? Why are they allowed to use state land without cost?
- The permitting process requires 30 days for public comment, but it wasn't followed. The DNRC knew about the asphalt plant proposal in November but didn't make it public until just recently.
- An alternate high and dry site could be used for the asphalt plant. Why not put it there instead?
- Fundamental rights of Montanans have been violated because they were only given 11 days to prepare for the hearing, and only offered a period of 23 hours to respond by email.
- Chemicals can travel by air and stay on the surface of rivers and lakes, sometimes seen as rainbow sheen, threatening fish, birds, wildlife, etc. They can also seep into the ground with no known remedy.
- The location of the plant is less than 1,000' from Ennis Lake and tributaries of the Madison River (Moore Creek).
- Who will hold the operator responsible for damage to the environment?
- Operator claims a negative impact is "unlikely". What happens if there's an accidental

spill? There's no guarantee it won't happen.

- Last year, following public outcry in response to the expansion permit, the operator stated they weren't considering an asphalt plant at that location. Now this.
- A third party is needed to conduct a baseline survey, and to monitor fumes, toxic chemicals, water consumption, etc. There is currently no one doing this.
- Cancer causing agents are found in and around asphalt plants. They can cause skin and breathing problems, as well as reproductive and immune system issues.
- Runoff from the plant may contain contaminants, a threat to wildlife habitat.
- The site currently only has permitting for gravel mining and the asphalt plant requires a separate permit. Please deny this permit and seek other options.
- Some words and phrases from testimonies were: alarming, discouraging, mind-boggling, worrisome, untrustworthy, concerning, detrimental, fast-tracked, terrifying, doesn't make sense, backwards process, dumb-founding, no rational reason to compromise, etc.
- Tourists come here to see natural beauty, not eyesores like asphalt plants which can be seen for miles around. 12 million tourists came to Montana in 2022, supported ~44,000 jobs, spent $5.8 billion, which resulted in $315 million in tax revenue. Tourism is vitally important to our local economy.
- There are no studies that show asphalt plants <u>don't</u> have a negative impact on the environment.
- "Forever chemicals" won't go away after the proposed time period for mixing asphalt is over. They linger in the environment forever, thus the name. They don't break down.
- Some effects on the environment won't be seen for months after the initial impact of the plant. Who will bear the burden to remedy this? There could be damage to sub-surface resources, which is in the DNRC's purview.
- What mitigation processes would be required if ecosystem damage occurs? Is it fixable?
- Nearby residents fear short- and long-term effects to their health, as well as the air, water, land, wildlife, etc.
- All testimonies heard were <u>unanimously</u> against the proposed asphalt plant.

Respectfully,

[redacted]

[redacted]

From: Melinda Merrill
To: Winfield, Zack
Subject: [EXTERNAL] I support AM Wells and the asphalt plant.
Date: Tuesday, March 19, 2024 11:51:02 AM

The inconvenience (noise and smell) for a few is far outweighed by the positive outcome (repaired roads, jobs, savings of tax dollars, no additional truck traffic) of the many. Please allow!!

Melinda L. Merrill

Melinda L. Merrill
[redacted]

"Life isn't about waiting for the storm to pass....it's about learning to dance in the rain!"

From: Howard W. House
To: Winfield, Zack
Cc: [redacted]
Subject: [EXTERNAL] Letter in Opposition to AM Welles" Proposed Asphalt Plant
Date: Tuesday, March 19, 2024 3:38:51 PM

Dear Mr. Winfield:

I have been a property owner in the Valley since the 1990s. Our property is directly across the river from the location of the proposed asphalt plant, which I strongly oppose.

Last year, I wrote and spoke in opposition to the planned expansion of the AM Welles gravel pit. One of the primary issues I had with the permit allowing the mine expansion was the allowance for an asphalt plant. We were assured at that time that no asphalt plant would be included in the permit. It is very disappointing, if not alarming that, less than a year later, a new permit specifically allowing the installation of an asphalt plant has been filed.

What is equally alarming is that the DNRC's process seems to have been designed to discourage participation. There was very little time between public notice and the written input and only 10 days to provide comments on a 30-page Environmental Assessment.

As regards the EA, it seems to be a hastily constructed, desk-top assessment that inadequately addresses the environmental impact on fish, wildlife, water quality, air quality and noise/visual impacts. Furthermore, the EA references an alternate location for the plant outside of Alder but leaves it at that.

I am a conservative business man and pro-business. I recognize that there are a number of components to the Ennis economy. However, fly-fishing, hunting and tourism, in general, represents a significant component of that economy. To even consider installing an asphalt plant in such close proximity to the Madison River, fully knowing the potential environmental and economic risks to this community, is beyond comprehension and, in my opinion, reckless on the part of the DNRC.

The DNRC's website opens with its mission statement, which reads,

"Through diverse programs and dedicated staff, the Montana DNRC works to ensure Montana's land and water resources provide benefits for present and future generations".

The installation of an asphalt plant on the banks of one of the most pristine, blue river trout streams in North America stands in stark contrast to this mission. It is time for the DNRC to do its job, deny the permit and work to pursue other options.

Thank you,

Howard W. House

DISCLAIMER
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by the intended recipient and others authorized to receive it. If you are not the intended recipient you are hereby notified that any disclosure,
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If you have received this communication in error, please notify us immediately by replying to this message and deleting it from your computer.
Link to Privacy Policy [greenhill.com]
Greenhill & Co., LLC

From: Jan Janura
To: Winfield, Zack
Cc: Greg Gianforte
Subject: [EXTERNAL] MADISON RIVER
Date: Tuesday, March 19, 2024 1:33:35 PM

Putting that plant located close to the Madison River, one of the gems of our beautiful state…with the complex and sensitive eco system that supports the bug life with supports the fish life…..an introduction that could upset this sensitive and complex relationship, would be disastrous and would certainly produce massive litigation by the 180,000 annual fly fishers.

I suggest that you choose another less sensitive ecological setting for your facility.

With my sincere best wishes,

Jan Janura

From:	willie blazer
To:	Winfield, Zack
Cc:	Katie Sutter
Subject:	[EXTERNAL] Madison County Asphalt Plant - No Go
Date:	Tuesday, March 19, 2024 3:49:53 PM

Hi Sir-

I'd like to express my deep concern for an asphalt plant located on MT State Land (AM Wells Mine) in our beautiful Madison Valley. As a resident of Madison County for 18 years, I am opposed to the Asphalt Plant at it's current proposed location. We all live here for the beauty, wildlife habitat, remoteness and what that provides. There are better places than right next to our fragile Madison River ecosystem.

Thanks,

Willie Blazer

From: Bill Lenehan
To: Winfield, Zack
Subject: [EXTERNAL] Madison Valley Asphalt Plant
Date: Tuesday, March 19, 2024 10:37:21 AM

Mr. Winfield,

My family lives a short distance from the proposed asphalt plant, we are near Clute's Landing on Ennis Lake.

The proposed location seems pretty ill advised. Why would you put an asphalt plant next to the Madison river and at the entrance to a town whose economy is based on tourism?

It is also troubling how silly the arguments for the location are. Most of the arguments either rest on a logical fallacy or are political:

- By logical fallacy, I mean that they seem to imply that the choice of where asphalt can be produced is either solely at the A.M. Welles site or not at all. Or that rejecting the A.M. Welles site is synonymous with rejecting all new asphalt plants in Montana forever. I don't think anyone is really saying that, just don't put it so close to the Madison River and at the entrance to Ennis.
- By political, I simply mean that if we weren't so divided politically as a nation it seems unlikely that there would be division on this issue (who really wants asphalt plants at the entrance of town, even if you don't care about the environment?). Yet in today's day and age everyone feels the need to fight against every issue their political foe supports. So if the left leaning liberals from California's Patagonia oppose it, we must support it! Trust me, you aren't really sticking it to the "libtards" by putting an asphalt plant at the entrance to the town, you are cutting off your nose to spite your face.

In this sort of argument typically there is a serious economic trade-off whereby opposition will eliminate meaningful jobs, a boost to the economy, etc. There doesn't seem to be a serious economic argument here to refute. Maximum environmental and eye sore downside vs. virtually no economic upside.

Sometime the best way to figure out a difficult problem is to completely change the approach. May I propose the following: when you retire, say 30 years from now, do you think it is likely that you will look back and say "I am so damn proud I supported that asphalt plant!" or do you think it is more likely you will say "I am so damn proud I found a better place for an asphalt plant, in a place that wasn't environmentally sensitive and wasn't an eyesore" or, lastly, that you will say "Dammit, it turns out those environmental wackos were right, putting an asphalt plant next to a world class trout fishing river did more harm than good to the people who rely on outdoor recreation for their livelihood…"

By the way, all of the above presumes A.M. Welles is a fine steward of the land. That the state closely monitors for any environmental damage. That nothing goes wrong. Etc. You don't even

need to make “what if” arguments, the idea of an asphalt operation is ill advised on the obvious merits.

Regards,

Bill Lenehan

From: Richard Grey
To: Winfield, Zack
Subject: [EXTERNAL] New asphalt plant
Date: Tuesday, March 19, 2024 4:51:01 PM

Dear Mr. Winfield, I'm a frequent visitor to the Madison Valley. I don't understand why an asphalt plant might be approved alongside the Madison River. I understand the asphalt plant would not be paying for the use of state land. Moreover, as I understand it, there is an alternative location with much-reduced environmental effects. Please do not approve this plant— the Madison Valley definitely does not need it or want it.

Thank you for your consideration.

Best regards,

Richard Grey
Sent from my iPhone

From: F. Ty Edmondson
To: Winfield, Zack
Subject: [EXTERNAL] Objection to Environmental Assessment of Proposed Asphalt Plant
Date: Tuesday, March 19, 2024 5:06:25 AM

Dear Zack Winfield,

I am writing to express my strong opposition to the proposed construction of an asphalt plant along the banks of the Madison River in Ennis, Montana and the woefully inadequate draft Environmental Assessment produced by DNRC. As a devoted fisherman who has been enjoying the beauty and serenity of the Madison River for over 35 years, I am deeply concerned about the potential environmental impact that such a project could have on this cherished natural resource.

The draft EA is sloppy, inconsistent with Montana law, and does not address the visual pollution and impact of the site.

The Madison River is not just a recreational area; it is a vital ecosystem that supports a diverse range of wildlife and contributes to the overall health of the region. The construction and operation of an asphalt plant in such close proximity to the river would undoubtedly pose a significant threat to the delicate balance of this ecosystem. The discharge of pollutants and runoff from the plant could contaminate the river, endangering the fish populations and disrupting the entire aquatic habitat.

Furthermore, the noise, traffic, and emissions associated with the operation of an asphalt plant would severely detract from the tranquility and beauty that draw so many fishermen, outdoor enthusiasts, and tourists to the Madison River each year. This could have devastating consequences not only for the local economy, which relies heavily on tourism and recreational activities, but also for the well-being and quality of life of the residents who call this area home.

I urge you to carefully consider the long-term consequences of this proposal and to prioritize the preservation and protection of the Madison River and its surrounding environment. There are undoubtedly alternative locations for an asphalt plant that would not pose such a significant risk to a cherished natural resource.
Priority must be given to the long-term health of Montana's natural resources. Asphalt can be made so many other places. How many Madison Rivers are there?

In conclusion, I strongly oppose the construction of an asphalt plant along the banks of the Madison River and urge you to reject this proposal. The future of this pristine river and the countless individuals who rely on it for recreation and sustenance are depending on your wise and thoughtful decision-making.

See more at: https://protectthemadisonvalley.org/ [protectthemadisonvalley.org]

Thank you for considering my concerns.

Sincerely,

--
Frazor Ty Edmondson
Channels Ranch Member
[redacted]

From: William McGee
To: Winfield, Zack
Subject: [EXTERNAL] Opposition to Asphalt Plant in Madison Valley
Date: Monday, March 18, 2024 7:44:44 PM

Zackary and team -

Really appreciate the opportunity to comment here. I wanted to voice my extreme opposition to the asphalt plant being placed at the AM Wells pit on 287 between Ennis and McCallister. Needless to say, there are dozens of more suitable locations with much fewer environmental consequences - I would invite the State and AM Wells to consider those before placing it in such a fragile spot.

The noise, dust, runoff, and visual scar will be horribly impactful to one of God's greatest creations - the Madison Valley.

It's abhorrent to know that this is even considered given that the State of Montana, the Schools and its citizens / many visitors are much worse off for letting this Asphalt Plant get developed at this precious site. Why?? Makes no sense!

Please let me know of any questions - the citizens have spoken and are extremely against this proposed plant.

Thank you,

William McGee
[redacted]

From: House, Wesley
To: Winfield, Zack
Subject: [EXTERNAL] Opposition to Asphalt Plant
Date: Tuesday, March 19, 2024 3:21:49 PM

Dear Zackary,

I am writing concerning the proposed asphalt plant under AM Welles Permit DNRC # G-1273-94, slated for construction on the banks of the Madison River near Ennis, Montana. After careful consideration of the environmental implications and the current standing of compliance with existing permit provisions, I must voice my strong opposition to the location of this facility.

There are several ongoing concerns regarding AM Welles' compliance with their current permit's substantive provisions, indicating a problematic history of operations. Given the ecological sensitivity of the Madison River and its surroundings, adding the burden of an asphalt plant could pose further environmental risk that the DNRC should be cautious of undertaking without thorough and guaranteed oversight. The DEQ Permit #674 underlines the potential of asphalt production to impact water quality detrimentally, a concern especially relevant given the proximity of the river. The potential for contaminants to enter the river ecosystem cannot be underestimated, nor can the importance of maintaining water quality in an area that hosts such biodiversity and serves as a community cornerstone.

Another significant point of concern is the storage of asphalt on site; the DEQ permit indicates an amount of 5,000 cubic yards—well beyond a minimal volume without the assurance of a bond or proper permit. There is an imperative for this to be publicly addressed, ensuring transparency and legal compliance. Furthermore, the increased water consumption this plant would necessitate has not been reconciled with potential drought conditions that our region faces. The pressing deadline for public comment and the prompt schedule for plant operations contrast with MEPA's intended process for public engagement and review of environmental assessments. This timing does not support informed public commentary, nor does it seem to align with legal expectations.

Given these unresolved issues and the risks they entail, I propose that alternative locations for this asphalt plant be investigated. The current site, with its proximity to a vital and fragile river system, wildlife habitat, and the communities of Ennis and McAllister, is not suitable for a project of this nature. The environmental costs, potential impact on the local economy, tourism, and community well-being should steer decision-making towards finding a site that aligns better with industrial needs without compromising ecological and social values.

As the DNRC weighs the economic benefits against the potential consequences to the ecosystem and communities, I recommend a detailed re-evaluation of this project. The priority should be placed on the highest and best use of this land, leaning towards stewardship and preservation for current and future generations. I urge the DNRC to embrace the 'Conservation' element of its mission and fully assess the long-term impacts before proceeding with the proposed asphalt plant at this location.

And finally, the call last night told the story. Not one caller was advocating FOR the proposed asphalt

plant. If the DNRC wanted to preserve Montana's most sacred resource, its beauty, approving an asphalt plant on the bank of the Madison would be incredibly hypocritical.

Sincerely,

Wesley House

From: Martha House
To: Winfield, Zack
Subject: [EXTERNAL] Opposition to Asphalt Plant
Date: Tuesday, March 19, 2024 4:00:41 PM

Zackary,

My name is Martha House and I have been coming up to Madison Valley for the past 26 years with my father, whose property is located directly across the river from the proposed asphalt plant. There are several reasons I strongly oppose the approval of AM Welles Permit DNRC # G-1273-94, which I have outlined below.

Before I address the serious environmental concerns, it is important to note that every aspect of this process has not only been extremely disappointing but also quite alarming. Less than a year after you all assured the public that the gravel pit would not lend itself to an asphalt plant, which was a substantial concern that you all were quick to dismiss, here we are. Furthermore, the DNRC's entire process seems to discourage public participation through minimal public notices and aggressively tight timelines for public commentary.

Regarding the proposed asphalt plant, the detrimental environmental impacts this plant would have on the precious ecosystem of the Madison River and surrounding areas should be reason enough to seriously consider a relocation of the asphalt plant. As mentioned last night, the plant would be located on loose rock that serves tributaries of the river, which is just a short distance away. Accordingly, the harm to the river that this plant would bring is inevitable and severe. Why jeopardize the water quality and wildlife habitat when there are other viable locations, a few of which were noted last night? While this may be a temporary permit, the effects of the hazardous pollutants emitted from the plant would be long-lasting.

The social and economic implications of this plant must be taken into account. I worry about both the noise as well as the visual atrocity that is an asphalt plant. Everything echoes in the Valley and a gravel plant surely isn't quiet; An asphalt plant on the side of the Madison River is an eyesore. As Suzanne McGee mentioned last night, nothing says "Welcome to Ennis" like an asphalt plant. While those in favor (whoever they may be) may argue that the plant would have some sort of economic benefit, they are forgetting about a key driver of the Valley's economic success: the tourism that comes from fly-fishing. The small towns throughout the Valley depend on the tourists that flock to the area for some of the best fly-fishing in the nation. We have seen first-hand the serious consequences that a year of low tourist activity can bring.

If the DNRC approves the construction of this asphalt plant on the banks of one of Montana's greatest treasures, it may be time to re-evaluate the DNRC's purpose and update your mission statement accordingly. After all, how can you all claim to "work to help ensure Montana's land and water resources provide benefits for present and future generations" if you approve such a project?

Last night you heard the 27 verbal testimonies regarding the plant, all of which

passionately opposed the project for several distinct and equally important reasons. I implore all of you at the DNRC to take these concerns seriously, deny the permit and explore alternative, less harmful options.

Thank you,
Martha House

From: F. Ty Edmondson
To: Winfield, Zack
Subject: [EXTERNAL] Opposition to EA on Asphalt Plant
Date: Monday, March 18, 2024 6:02:37 PM

Dear Zack,

I am writing to express my strong opposition to the proposed construction of an asphalt plant along the banks of the Madison River in Ennis, Montana and the woefully inadequate draft Environmental Assessment produced by DNRC. As a devoted fisherman who has been enjoying the beauty and serenity of the Madison River for over 35 years, I am deeply concerned about the potential environmental impact that such a project could have on this cherished natural resource.

The draft EA is sloppy, inconsistent with Montana law, and does not address the visual pollution and impact of the site. Zack, this isn't just another petroleum drilling site. This is important.

The Madison River is not just a recreational area; it is a vital ecosystem that supports a diverse range of wildlife and contributes to the overall health of the region. The construction and operation of an asphalt plant in such close proximity to the river would undoubtedly pose a significant threat to the delicate balance of this ecosystem. The discharge of pollutants and runoff from the plant could contaminate the river, endangering the fish populations and disrupting the entire aquatic habitat.

Furthermore, the noise, traffic, and emissions associated with the operation of an asphalt plant would severely detract from the tranquility and beauty that draw so many fishermen, outdoor enthusiasts, and tourists to the Madison River each year. This could have devastating consequences not only for the local economy, which relies heavily on tourism and recreational activities, but also for the well-being and quality of life of the residents who call this area home.

I urge you to carefully consider the long-term consequences of this proposal and to prioritize the preservation and protection of the Madison River and its surrounding environment. There are undoubtedly alternative locations for an asphalt plant that would not pose such a significant risk to a cherished natural resource.

Priority must be given to the long-term health of Montana's natural resources. Asphalt can be made so many other places. How many Madison Rivers are there?

In conclusion, I strongly oppose the construction of an asphalt plant along the banks of the Madison River and urge you to reject this proposal. The future of this pristine river and the countless individuals who rely on it for recreation and sustenance are depending on your wise and thoughtful decision-making.

See more at: https://protectthemadisonvalley.org/ [protectthemadisonvalley.org]

Thank you for considering my concerns.

Sincerely,

--
Frazor Ty Edmondson
Channels Ranch Member
[redacted]

From: F. Ty Edmondson
To: Winfield, Zack
Subject: [EXTERNAL] Opposition to Sloppy and Illegal EA on Asphalt Plant
Date: Tuesday, March 19, 2024 3:11:32 AM
Attachments: image.png

To DNRC Montana

Dear Zack Winfield:

I am writing to express my deep concerns regarding the **clearly deficient draft environmental assessment r**egarding the proposed construction of an asphalt plant along the banks of the Madison River in Ennis, Montana. As a member of the community and someone who understands the vital role the Madison River plays in supporting local economies, I believe it is crucial to oppose this project to protect the livelihoods of those who rely on the river for their economic well-being.

The Madison River is not only a treasured natural resource for recreational activities like fishing, but it also serves as an economic lifeline for many individuals and businesses in our community. **Fishing guides, equipment sellers, such as Shedhorn Sports, as well as those involved in tourism, motel operations, grocery stores, gas stations, and restaurants, all depend on the steady flow of visitors drawn to the Madison River's pristine waters**.

The construction and operation of an asphalt plant near the river would undoubtedly have devastating consequences for these businesses and individuals. The potential pollution and environmental impact caused by the plant could lead to a decline in fish populations, harming the fishing industry and jeopardizing the livelihoods of fishing guides and equipment sellers. Moreover, the noise, traffic, and emissions generated by the plant would deter tourists from visiting the area, impacting motel owners, restaurants, and other businesses that rely on tourism revenue.

It is imperative that we prioritize the long-term economic sustainability of our community by safeguarding the health and integrity of the Madison River. Instead of risking irreparable harm to our local economy, we should explore alternative solutions that promote sustainable development and protect the interests of all stakeholders.

In conclusion, I urge you to consider the profound economic impact of the proposed asphalt plant and to reject this proposal. Our community's future prosperity depends on preserving the natural beauty and economic vitality of the Madison River for generations to come.

Thank you for your attention to this matter.

Sincerely,

--

From: Bonnie Richardson
To: Winfield, Zack
Subject: [EXTERNAL] PLEASE DENY ASPHALT PLANT PERMIT
Date: Tuesday, March 19, 2024 2:10:37 PM

Dear Zack,

Please deny the permit request to build an asphalt plant near Ennis.

Surely there's a better place besides right next to the Madison River.

Please don't let this happen.

Sincerely,
Bonnie Richardson

From:	Nancy @ Beartooth
To:	Winfield, Zack
Subject:	[EXTERNAL] Please Protect the Madison Valley & the Madison River
Date:	Tuesday, March 19, 2024 1:42:52 PM
Importance:	High

Dear Mr. Windfield,

We have been in this valley with a reputable business for 34 years. We continue to be approached and informed by several concerned customers and friends regarding the Gravel Mine and Asphalt Pit proposed expansion.

We ask that you reconsider the impacts before moving forward with this project. Please protect the Madison River and the Madison River Valley. Please conduct a more thorough analysis of the environmental impacts short and long term before proposing to continue with this and other projects. Also, please include research on the impacts to the ground water and the ground water table. Please follow the Madison County Growth Policy goals to protect the watershed, wildlife habitat, and private property rights. Please reconsider the proposed elimination of Geological Significant Terraces, the impacts of Dust, Noise, and Viewshed as well as Sludge Runoff and Water Usage. Please continue to maintain and preserve historic native American lands.

We appreciate your time and consideration and remain hopeful that more thorough impact analysis can be performed and shared with the public before considering moving further with this project.

Sincerely,

Nancy and Dan Delekta
Beartooth Flyfishing™
Delektable Flies™
[redacted]

From: Suzanne McGee
To: Winfield, Zack
Subject: [EXTERNAL] Proposed Asphalt Plant in the Madison Valley
Date: Tuesday, March 19, 2024 1:12:31 PM

Dear Zack,

Thank you for taking the time to read this plea to reconsider allowing AM Welles to install a temporary asphalt plant at the DSL pit site on Highway 287 in Ennis, Montana. As I am sure you are aware, I am the owner of the Valley Garden Ranch and the steward of a section of the Madison River Valley which is on our land from Lake Ennis to the city of Ennis. As mentioned yesterday, on the Zoom call...I do feel it is my duty and obligation to care for and protect this Valley for future generations to enjoy. As so many have mentioned...I am concerned about the potential harm to the people living and recreating in the area, the potential harm to the waterways and fisheries, and the potential impact on the bird and animal life. Not to mention visual, air, and noise pollution.

Zack....have you ever been to Ennis? If you have not ...I invite you to come for a visit. If you are coming from the North you will come off the Norris hill and down into the Valley. As you travel south on Hwy 287 the beautiful Madison Valley will spread out before you. As you pass the town of McAllister and the thriving community of Troutdale you will see mountains and ranch land on the west side of the highway .... on the East side of the highway, you will see Lake Ennis, the Madison River and its Valley, more ranch land, pronghorn, elk, black angus cattle and all of God's glory spread out before you. (All of our land is under conservation easement for the pure reason of protecting this view shed for the rest of time.)

(But wait.....what is that.....a gravel mine(?) ...is that...AN ASPHALT PLANT.....destroying the view and potentially destroying the valley and wildlife?)

Zack...continue to imagine with me that you are visiting Ennis for the first time but approaching Ennis from the South. As you approach the charming town of Ennis you will see a wonderful handpainted sign sign on the East side of the Highway....it Reads:

Welcome
to
ENNIS
POP. 840 People
11,000,000 TROUT

Soon this sign will read:

Welcome
to
ENNIS
POP. 840 People
11,000,000 TROUT
40-100 TONS OF ASPHALT PER HOUR

Thanks for reading Zack...and please let me know if you would like to come for a visit. We would love to host you and show you Ennis.

Best,

Suzanne McGee

From: Kramer Family
To: Winfield, Zack
Subject: [EXTERNAL] Proposed Asphalt Plant on Hwy 287
Date: Tuesday, March 19, 2024 3:40:02 PM

To Whom It May Concern,

I strongly oppose the asphalt plant that is proposed to be operational adjacent to the estuaries of the Madison River off of Hwy 287 just north of Ennis, MT. This is due to environmental concerns and health concerns for my family and those of my neighbors who will live within in breathing space of the noxious fumes of the plant.

Kevin Kramer

[redacted]

[redacted]

[redacted]

From:	Pat Todd
To:	Winfield, Zack
Cc:	Betsy Buffington
Subject:	[EXTERNAL] RE: DSL Temporary Asphalt Plant Request G-1273-94
Date:	Tuesday, March 19, 2024 4:17:32 PM
Attachments:	image001.png NPCA Comment AM Welles Pit 3.19.24.pdf

---

Dear Mr. Winfield,

On behalf of the National Parks Conservation Association (NPCA), I appreciate the opportunity to submit comments specific to the DSL Temporary Asphalt Plant Request near Ennis, MT. Please find the comments attached to this email.

Best
Pat Todd

Pat Todd (she/her)
Volgenau Greater Yellowstone Ecosystem Fellow
National Parks Conservation Association
P: 406-780-1115 | ptodd@npca.org | **npca.org [npca.org]**
Preserving Our Past. Protecting Our Future.

From: Marshall Payne
To: Winfield, Zack
Subject: [EXTERNAL] Tar Baby
Date: Tuesday, March 19, 2024 3:21:00 PM

Dear Zachary

As you can well imagine, as a Channels Ranch member for 40 years, I apologize for missing my opportunity to speak last night when my time came as I was somehow incapable of turning off the mute selection.

In any event, as one of the few Founding Members of Channels ranch almost 40 years ago, I have enjoyed the Madison River Valley longer than many of its residents and perhaps even you, have been alive. I am obviously opposed to the asphalt plant, and will let our attorney's letter suffice to provide all of the detailed reasons why the plant permitting process has become corrupt, illegal and contrary to the interests of the residents of the Valley and its flora and fauna.

What I cannot understand is why the DNRC has persisted in backing this unhealthy project at this location in such an unprofessional manner while there is the Alder land available right under your nose, even described as "high and dry" in your own EA. I know tar is needed to fix roads in the area, but why face this opposition and these environmental risks with an alternative and viable site readily available. It just makes no sense and it makes one wonder what is really going on behind the scenes that you and your team have unwittingly become parties to that may someday come to light and jeopardize your reputations and jobs. I just don't get it…

Best

Marshall Payne
[redacted]

From: Anne Morgan
To: Winfield, Zack
Cc: James F Kelley
Subject: [EXTERNAL] The Asphalt Plant
Date: Monday, March 18, 2024 8:00:11 PM

As the President of the Madison River Foundation, I expressed my views protesting the asphalt plant proposed for Ennis Montana.

With this email, I express to you in writing my opposition to the construction of the plant.

If the river dies, the community dies. There are too many people - individuals, small businesses owners, outfitters, ranchers, farmers, and an enormous tourist population - who depend on the Madison River for their livelihood and recreation.

Your plans are short-sighted, lacking in accurate science and short-circuited in the legal process.

Your website states that you are committed to "helping protect, utilize and understand Montana's water resources."

The asphalt plant is contradictory of your mission.

Sincerely,

Anne Morgan

From: Patrick K. McGee
To: Winfield, Zack
Cc: Patrick K. McGee
Subject: [EXTERNAL] Valley Garden Land & Cattle Written Testimony - DSL Asphalt Plant
Date: Tuesday, March 19, 2024 3:52:52 PM
Attachments: VGL&C Written Testimony - DSL Asphalt Plant.pdf

Zack –

Attached please find the Valley Garden Land & Cattle LLC response to the Draft EA regarding the proposed Asphalt Plant on the DSL Pit.

Please do not hesitate to reach out with any questions.

At your earliest convenience, please confirm receipt of this email.

We appreciate your attention to this matter.

Sincerely,

Patrick K. McGee
Valley Garden Ranch

From:	Corrie Larson
To:	Winfield, Zack
Cc:	Freeman, Michael; Kaster, Amanda; Obermiller, Emily; madco@madisoncountymt.gov; Smitham, Jen; jbremer
Subject:	[EXTERNAL] Written Testimony - DSL Asphalt Plant Proposal
Date:	Tuesday, March 19, 2024 12:25:19 PM
Attachments:	2024_0318_Channels Ranch EA Comments.pdf

Mr. Winfield –

Please find attached written comment, on behalf of Channels Ranch, opposing the AM Welles DSL Gravel Pit Temporary Asphalt Plant proposed near Ennis.

Corrie Larson
Administrative Assistant
Gallik & Bremer, P.C.
[redacted]

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From: F. Ty Edmondson
To: Winfield, Zack
Subject: [EXTERNAL] Written Testimony - Further Opposition Comment on Asphalt Plant
Date: Monday, March 18, 2024 6:34:55 PM
Attachments: Asphalt 4 final.pdf

Please include in public comments in opposition (attached)

--
Frazor ty Edmondson
[redacted]

From: Matt Dodson
To: Winfield, Zack
Subject: [EXTERNAL] Written Testimony DSL Asphalt Plant
Date: Tuesday, March 19, 2024 4:51:13 PM

Dear Zackary- As a resident of Ennis, MT with two small children who are looking forward to growing up in a river valley free of asphalt plants and industrial development. I support my family as a full time fishing outfitter. I depend on the river and am counting on other Montanans to help me protect it. We are 100% opposed to this project which will forever affect one of the last beautiful places in the state.

Thank you,

Matt Dodson
Montana Outfitter #29557
Sent from my iPhone

From:	F. Ty Edmondson
To:	Winfield, Zack
Subject:	[EXTERNAL] Written Testimony on Asphalt Plant Proposal - Hearing on Asphalt Plant - written submission attached
Date:	Tuesday, March 19, 2024 1:33:40 AM
Attachments:	Asphalt 3 final.pdf

See attached

--

F. Ty Edmondson
[redacted]

From: Philip H. Chadwell
To: Winfield, Zack
Subject: [EXTERNAL] Written Testimony, DSL Asphalt Plant Proposal
Date: Tuesday, March 19, 2024 9:40:25 AM

Hi Zackary-

As an avid fly fisherman and resident of Madison County I find the proposal of constructing an asphalt plant outside of Ennis, Montana very disturbing. The pride and joy of our state is its natural beauty. A significant source of our state's revenue is tourism. Constructing an asphalt plant for all to see as they drive into Ennis from Bozeman is so shortsighted even if it is only slated as a temporary site. Nationally and globally, the Madison River valley is considered a blue ribbon fly fishing destination. Are we so naive to think people seeing an asphalt plant arriving in Ennis won't have any negative publicity nationally or globally. Surely there has to be an alternative location outside of the Madison Valley?

Additionally, Building an asphalt plant in Ennis, Montana, would likely have several environmental impacts, including:

1. Air Pollution: Asphalt plants emit various pollutants, including volatile organic compounds (VOCs), particulate matter (PM), and hazardous air pollutants (HAPs) such as benzene, formaldehyde, and polycyclic aromatic hydrocarbons (PAHs). These pollutants can contribute to poor air quality and have adverse health effects on nearby residents, including respiratory problems and increased risk of cancer.

2. Noise Pollution: Asphalt plants can generate significant noise pollution from the operation of machinery, trucks transporting materials, and other activities associated with plant operations. This can disrupt the peace and quiet of the surrounding area, affecting both wildlife and residents.

3. Water Pollution: Runoff from asphalt plants can contain pollutants such as oils, heavy metals, and suspended solids, which can contaminate nearby surface water bodies and groundwater. This pollution can harm aquatic ecosystems and affect water quality for drinking, recreation, and wildlife habitats.

4. Land Use and Habitat Loss: Building an asphalt plant requires clearing land for construction and operations, which can lead to habitat loss and fragmentation. This can disrupt local ecosystems, including wildlife habitats and plant communities.

5. Traffic Congestion and Safety Concerns: Increased truck traffic associated with transporting raw materials to and finished products from the asphalt plant can lead to traffic congestion, road wear, and safety concerns for residents and other road users.

6. Visual Impact: Asphalt plants often have large industrial structures, equipment, and storage facilities that can alter the visual landscape of the surrounding area, potentially detracting from the scenic beauty and character of beautiful Ennis Montana.

7. Community Health Concerns: The presence of an asphalt plant may cause concern among residents about potential health risks, odors, and decreased property values, leading to social and psychological impacts on the community.

I suspect the inside politics involved with this permit request were substantial. Regardless, I request the DNRC find resolve and reconsider the negative impacts this asphalt plant will have. Madison Valley has continued to grow without the construction of an asphalt plant so surely the scope of the requested work can be sourced from an alternative location.

Sincerely,

Philip H. Chadwell
Big Sky, Montana

From: Burleigh Leonard
To: Winfield, Zack
Subject: [EXTERNAL] Written Testimony, DSL Asphalt Plant Proposal
Date: Monday, March 18, 2024 8:23:36 PM

Dear sir:

The draft Environmental Assessment for the DSL Asphalt Plant Proposal indicates that there is an alternative location for the plant in Alder, MT. Given the environmental sensitivity associated with the DSL pit location, it seems sensible to pursue the Alder location, especially if it avoids the potential adverse effects on the Madison River and the Madison Valley. While there may be increased truck traffic on roads between the gravel pit and the Alder location, it is a price I as one who would be directly affected by the increased traffic volumes would be willing to pay in order to preserve the water quality, air quality, wildlife and aesthetics of the Madison Valley which is a truly unique environment which should be preserved for posterity.

Thank you for this opportunity to express my views.

Burleigh Leonard

From: Margot McGee
To: Winfield, Zack
Subject: [EXTERNAL] Written Testimony, DSL Asphalt Plant Proposal
Date: Monday, March 18, 2024 7:48:02 PM

Hi All,

It has come to my attention that the DNRC is trying to implement an asphalt plant next to Highway 287 between McAllister and Ennis, Montana in the DSL Gravel Pit – Township 5S Range 1W section 16, SE4. DNRC failed to disclose the proper information of said asphalt plant when notifying public of the gravel pit expansion as a draft agreement vs a formalized notice. They also failed to the disclosure of Gravel Mine expansion as the public was not notified of expansion with the proper number of days for opposition. AM Welles is trying time and time again to undermine the citizens of Montana to benefit their pockets vs preserving the land surrounding the mine/asphalt plant. The asphalt plant will cause pollutants that could runoff into the Madison River Valley below greatly hurting the environment that surrounds the plant.

I have been traveling to the Madison River Valley since I was five years old fly fishing every summer.

I have loved the Madison River Valley for the pristine nature/wildlife that surrounds the river such as Bald Eagles, Pronghorn Antelope, Deer, Elk, and Moose. The tributaries that feed into the river are home to spawning Rainbow and Brown Trout along with Sandhill Cranes and other birds native to the area. Any potential runoff from the plant will wipe out the population of the animals that call the portion of the Madison River to Ennis Lake home. In order to protect the community's love for fishing the Madison River and the animals inhabiting it, we must stop the asphalt plant.

The goal of protecting our planet, especially the valley, is to allow our children, grandchildren, great grandchildren the opportunity to visit and explore the places we love. We cannot share the special place of the Madison River Valley and the joy of fly fishing in the area if it is destroyed by the plant. As this generation, it is our duty and right to stop the plant and protect this land in order to foster the conservation of the native animals of the land.

I oppose the Asphalt plant in order to preserve the beautiful Madison River Valley.

Best,
Margot Renehan

From: Laura Holtz
To: Winfield, Zack
Subject: [EXTERNAL] Written Testimony, DSL Asphalt Plant Proposal
Date: Tuesday, March 19, 2024 8:59:17 AM

Mr. Winfield,

I am joining my neighbors in adamant opposition to the proposed asphalt plant near McAllister and Ennis lake. As a resident of McAllister, my family and I will be directly impacted by the addition of said plant.

I could get into a lengthy discourse on all the things I have read about the shortfalls in the DNRC's process, or I could riff on the inadequacy of the environmental studies. I could echo the sentiments of my fellow Madison Valley residents regarding the visual impact and the noise pollution this plant will certainly create - but you are well aware of these arguments.

My position is this: the addition of the asphalt plant will turn our valley into an armpit. We will become the ugly stepsister to Big Sky and Bozeman, a place, devoid of character, where all the yucky industrial business of rock smashing happens. If the asphalt plant is green-lighted, what's next? What other public nuisances are we inviting once we permit an asphalt plant to move in?

Ennis and McAllister deserve better. Find someplace else to put the plant - a location that won't impact our property, our population, and the pristine Madison Valley.

Thank you for your consideration,

Laura Holtz
[redacted]

From:	F. Ty Edmondson
To:	Winfield, Zack
Cc:	Kaster, Amanda; FWP General; Smitham, Jen; Balukas, Martin; Dorrington, Christopher; Harbage, Rebecca; mayor@ennismontana.org; Conner, JJ; Morgan, Jonathan; Bramblett, Brian; Henry, Emilie; Lewis, Casey; Weiner, Jay; Fehr, James; Hunn, Laura; Bausch, Whitney; info@resorttax.org; madco@madisoncountymt.gov
Subject:	[EXTERNAL] Written Testimony, DSL Asphalt Plant Proposal - Insufficency of Department time to comment
Date:	Tuesday, March 19, 2024 9:08:00 AM

Dear Mr. Zack Winfield and the DNRC:

I am again writing to express my concern regarding the insufficiency of the draft environmental assessment for the proposed asphalt plant near Ennis, Montana. In addition to the shoddy "desktop" only work performed by DNRC in this matter, I am also disappointed by the insufficient time provided for the public to review and analyze the draft environmental assessment. It is crucial for residents and stakeholders to have adequate time to thoroughly understand the findings of the assessment, identify potential concerns, and provide meaningful feedback. The short timeframe allocated for review limits the ability of community members to engage in meaningful dialogue and provide comprehensive input on a project that could have significant environmental and social implications for our region. You heard this from 100% of the attending community yesterday in the public comment meeting. Yet you and the DNRC are doing nothing to rectify this egregious situation.

Considering the complexity of the issues involved, the fact that the Department has abdicated its duty to conduct a careful review, and therefore the need for citizens to conduct research on their own, a more extensive review period is essential to ensure transparency, inclusivity, and robust public participation in the decision-making process. Again, you heard this from multiple members of the community last evening. Therefore, I respectfully request an extension of the comment period for the draft environmental assessment to allow for a more thorough review by the community. I also request a completely new EA be conducted that is more than just a "desktop exercise." Providing additional time and a realistic draft EA will enable residents, local organizations, and other stakeholders to actively participate in the review process and contribute valuable insights and perspectives. I urge the Montana DNRC to prioritize transparency and public engagement by extending the comment period for the draft environmental assessment. By doing so, you will demonstrate a commitment to fostering an open and inclusive decision-making process that considers the concerns and interests of all stakeholders. By not doing so, you will express contempt for the citizens of Montana, their views, and the state's laws.

I look forward to your prompt response and action on this matter as this violation of the Montana rules on soliciting public feedback causing real, actual harm in our State. There

are rules for a reason. Please follow them.

Sincerely,

--
Frazor Ty Edmondson
[redacted]

From: Steve Becker
To: Winfield, Zack
Subject: [EXTERNAL] Written Testimony, DSL Asphalt Plant Proposal
Date: Tuesday, March 19, 2024 9:20:43 AM

As a landowner in Ennis with property on the Madison I am deeply concerned about the asphalt plant proposal. This certainly sounds like an inside job. Why would the state allow a plant on a precious natural resource which employs half the town of Ennis through tourism. This is absurd! Move the plant to another location of which there are plenty! Is the state being compensated for the use of the land? Does not look like it. Have all of the environmental impacts been reviewed? This seems like terrible judgement that will hurt the river and the town that depends upon it. Shame on the State of Montana for allowing this to happen without a more thoughtful plan. It is time to halt this process and evaluate the alternatives rather than jam a terrible plan past the citizens.

Steven Becker
[redacted]

From: Robert Mark
To: Winfield, Zack
Subject: [EXTERNAL] Written Testimony, DSL Asphalt Plant Proposal
Date: Monday, March 18, 2024 6:15:07 PM

Good evening, Mr. Winfield.

I firmly believe in personal property rights, but I write you to express my strong opposition to the proposed Asphalt Plant Operations on the banks of the Madison River between McAllister and Ennis and the rushed and thoughtless process by which it is being contemplated. Specifically, I am concerned that the DNRC has known of this application since November 1, 2023, yet failed to notify the public until January 25, 2024. Since 2022, the public (both local and national) has expressed its concerns about this asphalt plant. Now that the DNRC has alerted the public to the asphalt plant, its public notification and review process has been confusing and rushed. The environmental assessment is highly technical and was released only five days after the close of the scoping period.

The assessment identifies an alternate location for the asphalt plant outside Alder. Alder is potentially a more remote and private location, removed from residential communities and, notably, not on the banks of a world-class fishing river or its associated ecosystems. Additionally, I understand that the State of Montana is not receiving any compensation for using its land for the asphalt plant. The state apparently allows a third party to use state land without collecting additional revenue, which is prohibited under state law. This deprives Montana's schools and universities of much-needed revenue.

I would also note that the fisheries analysis understates the impacts on water quality by characterizing the waterway within one thousand feet of the mine and asphalt plant as an "unnamed irrigation ditch" instead of a "jurisdictional" spring-fed tributary of Ennis Lake and minimizes the cumulative effects on the already degraded watershed. The Montana Department of Environmental Quality, in its permit to AM Welles, states explicitly that "Asphalt is considered to have the potential to impact water quality." Asphalt plants can pose potential water quality issues if not appropriately managed. I believe that the location of the asphalt plant on the DSL site poses a material risk to a water body home to many sensitive wildlife species. It is known that asphalt plants produce toxic air pollutants. Asphalt fumes can irritate the nose, throat, and lungs, cause headaches, dizziness, nausea, and

vomiting… Never mind the impact on the nearby wildlife.

Lastly, the assessment fails to properly evaluate the visibility of the asphalt plant and mining operation from the communities of Ennis and McAllister. The plant will be visible from over seventeen miles of the Madison River, its tributaries, and Ennis Lake. When the eastern bench headwall of the mine is removed, the mine expansion will significantly impact the scenic and natural beauty that anchors the area's significant outdoor recreation economy.

Thank you for your consideration.

Sincerely,

Robert Mark
[redacted]
[redacted]

From: Ryan Montgomery
To: Winfield, Zack
Subject: [EXTERNAL] Written Testimony, DSL Asphalt Plant Proposal.
Date: Tuesday, March 19, 2024 9:44:21 AM
Attachments: F0A6568F554C4438BC57F9CCA3B8EB14.png

Mr. Winfield,

This letter is in regards to the DSL Asphalt Plant Proposal on the banks of the Madison.

As a member of the Channels Ranch near Ennis and frequent visitor of Montana this is of great concern. The Madison River Valley is a very special place for my family and so many others. We can only attempt to protect it for the next generation and so on. I believe that should be your duty as well correct?

Other than benefiting the Asphalt Plants business I can think of no benefits to the state or its local and visiting residents. There are extreme negative impacts that you seem to be allowing to progress forward.

- This will be visible throughout the Madison Valley
- Mine will be 964' from the banks of a Madison River Tributary
- Increased sedimentation on Ennis Lake which will have negative effects on the lakes balance

In addition to the obvious impact to the environment an Asphalt Plant on the banks of the Madison will have, the draft EA indicates that:

3. The State is **not getting paid** for the asphalt operator to use state land to produce the Asphalt! Yup, the citizens, wildlife and ecosystem take all the environmental impact and risks while the guy operating the Asphalt Plant just makes money and doesn't have to pay a dime to use State land on the banks of the Madison!
4. The DNRC has identified an Alternate Location for the Asphalt Plant in a "high and dry" location in a very rural area far from any "blue stream fishery" around Alder – why don't they locate the Plant there!
5. The existing gravel mine operator continues to operate the mine in violation of the DNRC permit (and the DNRC turns a blind eye). When the DNRC allows an Asphalt Plant on the banks of the Madison will the DNRC also ignore enforcing any Federal and State regulations?

6. The list goes on!

Lets please work together on this and put in an alternate location!

Sincerely,

RYAN MONTGOMERY

[redacted]

From: Mike Terry
To: Winfield, Zack
Cc: Mike Terry
Subject: [EXTERNAL] Written Testimony, DSL Asphalt Plant Proposal
Date: Tuesday, March 19, 2024 9:56:55 AM

Dear Mr. Winfield / DNRC,

Thanks for reading and reviewing my comments below.

Following the results of the environmental assessment that was completed, I'm reaching out once again to express my deep concerns for the Asphalt Plant to be on located at the Gravel Mine that overlooks the Channels. I believe this location should be removed for consideration in the proposal, even for the supposed "temporary" time frame noted from April 1 – mid-June 2024. The environmental assessment appears to be rushed, which gives concern that it is not thorough. In addition the short timelines for the public to review and comment give the impression that our voices are not truly being taken into consideration for this very important decision. The plant may only be in place for 3 months, however, the impact to the community will take years to correct.

As a homeowner with 25 acres at 56 Cottonwood Lane close to Jeffers, across from the Madison River from the Mine and a longtime member of The Channels Ranch, 120 Ennis Lake Road, I urge you to read my concerns below and take to heart the negative impacts that will happen if this location is selected as a site for the Asphalt Plant.

- Why did the DNRC not act with urgency when the application for the Asphalt Plant became known in November 2023 and only recently provided a "rushed" 30-page environmental assessment (EA) to review prior to the public hearing. At the hearing, individuals are only allowed 2 minutes to express their concerns and only a 23-hour window to submit written comments. This does not provide adequate and reasonable opportunity for the public to be heard and doesn't meet the laws set forth with the Montana Environmental Protection Act (MEPA) which assures its citizens the inalienable right to a "clean and healthful environment" and a "reasonable opportunity for citizen participation" and a right to participate - Article II, Sections 3 and 8.

- Since 2022, the public (both local and national) has expressed its concerns about this asphalt plant. Now that the DNRC has alerted the public to the asphalt plant, its process for public notification and review has been inadequate, confusing and unnecessarily fast-tracked.

- Why were 3rd party experts who could provide a comprehensive review not involved? This would have been possible if the EA had been released quickly and not waited until 5 days after the close of the scoping period, which gives the impression the DNRC prepared the EA in advance based on technical input from the applicant.

- With the EA identifying an alternate location for the Asphalt Plant outside of Alder, MT, why

did they not provide an evaluation for that location? With Alder being more remote and rural and not on the banks for the river and associated ecosystems, it would look to be an ideal location. Setting up the Asphalt Plant there, would address the extreme concern and risk of the environmental impact to the birds, aquatic life, wildlife and the wellbeing of the human population for the current proposed location.

- Why is the State of Montana and its trust beneficiaries **NOT** receiving any compensation for the use of its land for the asphalt plant? Why would the State allow this third party to use state land without collecting additional revenue which is not permitted under state law. This is revenue that could be used towards Montana's schools and universities. Should they be allowed to impact State land on the banks for the Madison River and the ecosystem with total disregard on how expensive it will be to correct the long-term environmental harm? This is simply not appropriate.

- The EA fails to appropriately analyze the impacts of the asphalt plant emissions, waste, water quality, noise and dust on fish and a multitude of other wildlife populations that frequent, roost and nest in the wetland areas immediately adjacent to the asphalt plant. This area is home to whitetail deer, elk and pronghorn antelope (with antelope birthing in the area). Further, the fisheries analysis understates the impacts to water quality by characterizing the waterway within 1,000 feet of the mine and asphalt plant as an "unnamed irrigation ditch" instead of a "jurisdictional" spring-fed tributary of Ennis Lake and minimizes the cumulative effects on the already degraded watershed. Finally, the activities proposed in the EA will exacerbate the existing 303(d) listed conditions of the adjacent Moore Creek watershed that are undergoing extensive local, state, federal and private efforts to restore the watershed and wetland complexes.

- 17 miles of the Madison River will potentially be affected by the Asphalt Plant, negatively impacting our most precious resource. The MT DEQ has specifically stated that "Asphalt is considered to have the potential to impact water quality" with contaminants and also the risk for the chemicals and heated thermal water to be discharged into the surrounding watershed. It is known that Asphalt Plants can pose water quality issues if not managed properly. With the location proposed on the DSL site there is an unacceptable risk in an area that is already impaired and home to sensitive species. The EA even references that clay soils do not provide an adequate barrier for runoff and dispersion of contaminants.

- Odors the Asphalt Plant will emit are noxious and will produce contaminants in addition to being noisy. It is also known that extracts of certain asphalts have been shown to cause cancer in wildlife and animals. In addition, asphalt fumes can cause a myriad of side effects in humans including affecting the lungs, cause headaches, dizziness, nausea and vomiting. Longer term effects can occur for some time after exposure and can last for months or years.

- The EA fails to properly evaluate visibility of the asphalt plant and mining operation from the communities of Ennis and McAllister. It will be visible over 17 miles of the Madison River,

tributaries, Ennis Lake as well as several other key well known sites which is shown in the viewshed impact analysis diagram that was created showing the massive area impacted. The Plant will permanently scar the scenic and natural beauty of the area's significant outdoor recreation economy.

- The legal challenges should not be ignored: the DEQ Permit is being challenged at the Board of Environmental Review and Madison County District Court; the legality of the existing DNRC permit is under challenge; as well as the constitutionality of the DNRC process. How can a hearing on the constitutional challenge be scheduled for April 1, 2024, the same date that the proposed Asphalt Plant will be issued a permit and commence operation?

- Why did the DNRC elect to not enforce all of the provisions in the existing permit with the gravel mine operator? How does that provide any confidence to the public that the DNRC will actually enforce the most significant Federal and State requirements in the asphalt permit? It is important for the DNRC to resolve the legal issues with the existing permit prior to a new permit being issued for the new Asphalt Plant.

Please take into consideration my oppositions to this Asphalt Plant as a landowner and concerned citizen, please deny the permit for the Asphalt Plant.

Thank you for the opportunity to be heard,
Mike Terry

Mike Terry
President

[redacted]

From: Heidi Gildred
To: Winfield, Zack
Subject: [EXTERNAL] Written Testimony, DSL Asphalt Plant Proposal
Date: Tuesday, March 19, 2024 3:49:55 PM
Attachments: image.png
image.png

Zackery,

As a resident of the Madison Valley, I am deeply concerned about the proposed "temporary" DSL Asphalt Plant

The Environmental Assessment clearly states that the site was not inspected by an Opencut scientist. How can a proper assessment be done without touching foot on the ground? I mention this only because of the lack of investigation in granting an extension to A.M. Welles, how can we know that a thorough investigation has been done when considering an asphalt plant that carries far greater environmental and health risks than a gravel pit?

I have taken quotes from a document (see below) directly related to consideration of an asphalt plant 3 miles north of Ennis and within near proximity to Moore creek and the Madison River. These are NOT my words. After reading the Checklist of Environmental Assessment, I am shocked that this plant is still being considered!
The surrounding air quality will be threatened. The hundreds of homes near the site as well as wildlife and birds will be breathing fumes, drinking the water will be impacted, not to mention the increased noise and toxic fumes coming from an asphalt operation.

It is well known that Asphalt plants emit fumes that are known to contain toxins.
Various government agencies, including the U.S. Environmental Protection Agency (EPA), has given statements about asphalt processing plants and other asphalt manufacturing facilities throwing out air pollutants like hexane, phenol, polycyclic organic matter, formaldehyde and toluene. The exposure to these dangerous toxins can cause various central nervous system problems as well as liver damage, respiratory problems, cancer and severe skin irritation.

The trucks that carry the asphalts to and from the asphalt plants are exposed to chemicals like polycyclic aromatic hydrocarbons as well as other very fine condensed particles known to be carcinogens. Tests conducted by the New Jersey Department o f Health and Senior Services have shown that the polycyclic hydrocarbons can be carcinogenic to humans. These trucks seem to be a source of the problem. They throw out large amounts of emissions that have been considered to be harmful to human health. Another study carried out by the New Jersey agency says that the fumes coming out of an asphalt plant "may cause wheezing, coughing, headaches, nausea and, in some cases, severe irritation of the skin."

There are also real estate and health issues to be considered. Research conducted by the Blue Ridge Environmental Defense League hasrevealed that the creation of asphalt processing plants near residential places has decreased the value of real estate by around 50 percent. This is because there has been a nearly 20 percent average increase in health issues like high blood pressure, sinus problems, shortness of breath and severe headaches.

Known carcinogens have been found in asphalt fumes generated at work sites. Observations of acute irritation in workers from airborne and dermal exposures to asphalt fumes and

aerosols and the potential from chronic health effects, including cancer, warrant , I believe, continued diligence in the control of exposures.

According to the United States Department of Labor, exposure to fumes from asphalt plants can result in a number of health issues including headache, fatigue and skin cancer.

It's one thing to occasionally encounter an asphalt truck when driving through a road construction zone. It's quite another to be exposed to these fumes and toxic chemicals on a daily basis.

I live south of Ennis and don't live in the immediate area of the proposed asphalt plant, but I will be driving by it on a regular basis as I commute to Bozeman. The only protection I can think of for me personally will be to push the recirculation button in my car as I drive from Ennis to over the Norris hill. That said, I am seriously concerned for those residents both in Ennis and McAllister. I'm also deeply worried about the fumes from an asphalt plant and their impact on the irrigation ditches, creeks and the Madison River, and the subsequent impact of wildlife and fish in the area, not to mention the cattle and farmlands.

I strongly urge the disapproval of the asphalt plant in the Ennis and Madison Valley area. Please, put a plant such as this in a remote area away from populated areas. There are plenty of these throughout southwestern Montana.

Sincerely,

Heidi Gildred

The following is taken directly from the following document:

CHECKLIST ENVIRONMENTAL ASSESSMENT

Project Name:	A.M. Welles Pit Expansion
Proposed Implementation Date:	Summer 2023
Proponent:	AM Welles PO Box 2808 Norris, MT 59745
Location:	Southeast Quarter of Section 16 T5S R1W
County:	Madison County

Page 7

During the daylighting process, aesthetics east of the pit would be affected. It is likely that mining equipment and trucks will be seen and heard during berm deconstruction by recreationists of the Madison River east of the pit wall. After the deconstruction of the pit's berm is completed, reclamation will begin. Upon reclamation, the site will be blended with the natural topography in the area and reseeded with native grasses. The impacts to visual aesthetics will be minor and long-term.

Existing Conditions

Page 16: Fisheries populations present in the assessment area include native and non-native species in Moore Creek between the confluence with Fletcher Channel and the headwaters of Moore Creek on the east side of the Tobacco Root Mountains (Table F2). Arctic grayling (*Thymallus arcticus*) restoration efforts have been undertaken in Moore

Creek, during which remote site incubators were utilized to incubate fertilized eggs in-stream (MFWP 2017). Based on the current fisheries assemblage in the assessment area, there is an existing moderate impact on native fish populations due to competition with and predation by non-native species (Kaya 1992, Klemetsen et al. 2003, McCullough 2017, MFWP 2020).

Page 17

Table F2 – Fisheries Populations Present in the Project Area.

		Moore Creek	
	Species	Present	Estimated River Miles Occupied
Native	Arctic grayling	X	8.3
	Longnose dace	X	8.3
	Mottled sculpin	X	11.3
Non-Native	Rainbow trout	X	17.0
	Brown trout	X	17.0

Alterations to water quality that may impact native fish populations include alterations to the riparian community or flow regime that may result in increased solar radiation resulting in changes to the thermal regime which may negatively impact the distribution, abundance and structure of fisheries assemblages in the project area. Additional influence of water chemistry on native fish populations may include increased sediment loading which may negatively influence spawning and rearing habitat through increases in fine sediment loading.....

Considering the existing water quality conditions in Moore Creek, there is an existing high impact to water quality and subsequently high indirect impact on native fish populations in the assessment area.

Instream habitat for native species may also be affected by alterations to the natural flow regime.

While water rights may impact the existing flow regime in Moore Creek and impacts the volume of water in the irrigation ditch within 1,000 feet of the proposed gravel pit expansion, the impact of these flow alterations is largely unknown with respect to native fish populations in the Moore Creek watershed downstream from the project area.

Based on the current condition, there is an existing moderate impact to native fish populations due to permitted surface water utilization in the Moore Creek watershed.

Environmental Effects

Page 18:

The proposed activities that may affect fisheries resources in the assessment area include: the expansion of an existing 40-acre gravel pit by an additional 23.2 acres, to a depth of 20 feet below the existing gravel pit elevation, resulting in a total gravel pit acreage of 63.2

acres. The fisheries resource variables potentially affected by the proposed actions are populations, water quality, sediment, flow regime, and cumulative effects.

Consequently, foreseeable cumulative impacts to fisheries resources are expected to be similar to those described in Existing Conditions.

Many comments are made about how great a steward of the land A.M. Welles is. I cannot speak to that. However, it's not A.M. Welles that's going to be operating the asphalt plant to my knowledge. It's Riverside Contracting who had a "serious" violation in 2020 by OSHA. Specifically **Inspection: 1479007.015 - Riverside Contracting, Inc.** Is this a company that we want running an operation in the Madison Valley?

From: KELLY MCLOUGHLIN
To: Winfield, Zack
Subject: [EXTERNAL] Written Testimony, DSL Asphalt Plant Proposal
Date: Tuesday, March 19, 2024 4:20:37 PM

Dear Mr. Winfield,

As a resident of the Madison Valley I am writing to express my concern over the potential impact of an asphalt plant on the banks of the Madison River. Not only will it create noise, air, and soil pollution that will harm our residents, wildlife, and livestock, it will be an eyesore for the entire valley.

Another concern is that though the proposed asphalt production plant permit is temporary, to meet the needs of a road project, what guarantee is there that the plant will be dismantled, removed, and that the sight will be inspected and reclaimed once the project is complete? Or will the equipment remain in place until another project is proposed?

Lastly, I question the transparency of the financial arrangements of the asphalt contract. If the State of Montana is receiving no funds in exchange for allowing the plant to operate on state owned land, is the current tenant receiving any financial consideration for the use of its leased property? If so, what is the amount of those funds? How will that arrangement be disclosed to the public?

Kelly McLoughlin

From: Will Griffiths
To: Winfield, Zack
Subject: [EXTERNAL] Written Testimony, DSL Asphalt Plant Proposal
Date: Tuesday, March 19, 2024 4:52:45 PM

Hello,

My name is Will Griffiths and I am the fishing manager at the Madison Double R, a fishing lodge located just upstream of Varney Bridge. I am speaking on my own behalf and on the behalf of my coworkers and guide team.

I am strongly opposed to an asphalt plant. This plant will ruin the experience for clients floating from the town of ennis to ennis lake, one of my favorite stretches of water. The pollution risk and diminishment of the aesthetic beauty of the value is unacceptable. Why not have this plant placed somewhere where it won't have a negative impact on the main industry of this entire community? I call on the DNRC to revoke this permit and to no longer promote or allow any further expansion of this project.

Thank you,
Will Griffiths

From: Jim Johnson
To: Winfield, Zack
Subject: [EXTERNAL] Written Testimony, DSL Asphalt Plant Proposal
Date: Tuesday, March 19, 2024 7:04:01 AM

Dear Sir:

I am writing in opposition to the proposed asphalt plant to be located on the banks of the Madison River near Ennis, MT to be operated by Riverside Contracting. First, I have to question the logic of constructing a plant of this kind nearby one of your state's natural treasures. As a frequent visitor to the area, I can't imagine the rationale for its construction. I also understand an alternative site has been identified in a 'high and dry location' in a very rural area away from a fishery as critical as the Madison River. It has come to our attention that the current gravel mine operator is operating in violation of their existing permit – would a new asphalt plant have the same such freedoms to ignore the law and regulations? I have been told the state is not even being compensated for the use of its land. It seems obvious that the new facility will impact water quality in the area as well. To say nothing of its impact on air quality and noise pollution. Who is benefitting from this operation? I urge you to re-consider this proposed location and protect this beautiful and important piece of the environment. Thank you.

Jim Johnson
[redacted]

From: Darlene Mainwaring
To: Winfield, Zack
Subject: [EXTERNAL] Written Testimony, DSL Asphalt Plant Proposal
Date: Tuesday, March 19, 2024 5:06:10 AM

Mr. Winfield,

I am in support of the DSL Asphalt Plant. I am a resident & property owner in Madison County, Montana.

Sincerely,

Darlene Mainwaring
[redacted]

From: DANA EDMONDSON
To: Winfield, Zack
Cc: mayor@ennismontana.org
Subject: [EXTERNAL] Written Testimony, DSL Asphalt Plant Proposal
Date: Tuesday, March 19, 2024 12:45:39 AM

Dana Edmondson
[redacted]

Mr. Winfield,
Montana DNRC
1539 Eleventh Avenue
Helena, MT 59601

Dear Mr. Winfield and all whom it may concern,

As a tax paying resident and fifth generation Montanan, I am writing to express my vehement opposition to the proposed construction of an asphalt plant on the terrain around the banks of the Madison River. I strongly believe that this project poses a grave threat to the delicate natural ecosystem of the Madison River area. This rare and unparalleled natural environment helps drive the local economy in Ennis and the surrounding areas by attracting respectful tourism.

The Madison River area is a cherished natural resource that supports diverse wildlife and sustains a thriving population of trout and other fish species. The proposed asphalt plant would introduce significant environmental hazards that could irreversibly harm this delicate ecosystem and jeopardize the future of the aquatic life that depends on it.

Already, the population of trout and other fish in the Madison River has been struggling due to various environmental challenges, including pollution, habitat degradation, and climate change. Introducing an asphalt plant into this already stressed environment would only compound these issues and further endanger the survival of these iconic species.

Asphalt plants are notorious for emitting pollutants such as particulate matter, volatile organic compounds, and hazardous air pollutants, all of which can have devastating effects on aquatic ecosystems. The discharge of pollutants into the river would contaminate the water, disrupt the food chain, and compromise the health of fish populations, leading to declines in numbers and genetic diversity.

Furthermore, the construction and operation of the asphalt plant would undoubtedly disturb the natural landscape, disrupt wildlife habitats, and compromise the scenic beauty of the Madison River corridor. This would not only degrade the recreational value of the river for anglers, hikers, and nature enthusiasts but also harm the local economy, which relies heavily on tourism and outdoor recreation.

Instead of subjecting the Madison River to further environmental degradation, I urge you to prioritize the conservation and protection of this invaluable natural resource. We must invest in initiatives that promote the health and resilience of the river ecosystem, such as habitat restoration, pollution control measures, and sustainable land management practices.

I implore you to reconsider the proposal to build an asphalt plant on the banks of the Madison River and to explore alternative locations that are not environmentally sensitive. The future of the Madison River and its inhabitants depends on our collective commitment to responsible stewardship and conservation.

Thank you for your consideration. I trust that you will make the right decision for the sake of the Madison River and future generations.

Respectfully,
Dana Edmondson

From: Pastorius, Mark
To: Winfield, Zack
Subject: [EXTERNAL] Written Testimony, DSL Asphalt Plant Proposal
Date: Monday, March 18, 2024 7:01:41 PM

I do not believe permitting an asphalt plant, regardless of whether it is temporary or permanent within the boundaries of the DSL Gravel Pit (Township 5S Range 1W section 16, SE4) is a good idea. The Madison River needs to be protected, particularly after the dam malfunction just a few years ago.

Mark Pastorius
Member – Madison River Foundation

Notice of Public Hearing

The Montana Department of Natural Resources and Conservation w
operation of a temporary asphalt plant within the boundaries of the
16, SE4. The hearing will be held via Zoom at 6 p.m. on March 18, 2(
verbal testimony. The Department will post a draft environmental a
March 7, 2024. The link to the draft environmental assessment can
https://dnrc.mt.gov/TrustLand/subsurface-resources/AM-Welles-D
The purpose of this public hearing is to gather testimony related to
assessment. If you wish to offer testimony, please read the draft en
your testimony. Verbal testimony will be strictly limited to two minu
same consideration as verbal testimony and can be emailed directly
will only be accepted from 6 p.m. March 18th, 2024, until 5 p.m. Ma
please use the following: Written Testimony, DSL Asphalt Plant Prop
To preregister for the public hearing via zoom please utilize the follc
gov.zoom.us/webinar/register/WN_acJQLWB8Q-625IiD9U_jNQ#/re
The virtual meeting will be recorded and made part of the official re
review upon request.

From: Lindsay Leadbetter
To: Winfield, Zack
Subject: [EXTERNAL] Written Testimony, DSL asphalt plant proposal
Date: Tuesday, March 19, 2024 10:51:19 AM

Dear Mr. Winfield and the DNRC,

As a business owner in Ennis, whose livelihood depends heavily on tourism, I am deeply troubled by the flawed process surrounding the proposed Asphalt Plant at the DSL mine on HWY 287, near the Madison River. The scenic beauty and visual appeal of the river valley are essential components of our local tourism industry, attracting visitors from near and far. However, the installation of an asphalt plant in this pristine environment poses a significant threat to our community's economic well-being.

The DNRC's decision to delay public notification of the application for three months, followed by the rushed release of a 30-page Environmental Assessment (EA) with only a 10-day comment period, is unacceptable. This approach deprives citizens of their right to meaningful participation in the decision-making process, as guaranteed by the Montana Environmental Protection Act (MEPA). Furthermore, the limited time allocated for comments and the brevity of the public hearing do not allow for adequate review and discussion of the highly technical EA.

Tourism in Ennis thrives on the natural beauty of the Madison River Valley. The breathtaking landscapes, clean air, and natural surroundings are what draw visitors to our town. However, the construction and operation of an asphalt plant will undoubtedly detract from the charm and allure of our area, driving away tourists and jeopardizing the success of local businesses like mine.

The rushed and inadequate review process conducted by the DNRC further exacerbates the situation. The limited time allotted for public comments and the lack of transparency undermine our ability to voice concerns and advocate for the preservation of our community's economic backbone. As a business owner, I rely on the scenic beauty of the Madison River Valley to attract customers and support my livelihood. The installation of an asphalt plant threatens to undermine years of hard work and investment in our local economy.

Furthermore, the potential environmental impacts of the asphalt plant, including air and water pollution, noise disturbances, and visual blight, will further deter tourists from visiting our area. The long-term consequences of compromising the natural beauty of the Madison River Valley far outweigh any short-term economic gains associated with the asphalt plant.

The DNRC's failure to adequately address the environmental impacts of the proposed asphalt plant is deeply concerning. The EA's inadequate analysis of environmental impacts, particularly on fish and wildlife populations, water quality, air quality, and visual aesthetics, underscores the need for a comprehensive review process.

I urge the DNRC to reconsider its decision and prioritize the preservation of our community's economic vitality and natural resources. The Madison River Valley is not just a scenic backdrop; it is the lifeblood of our local economy. We cannot afford to sacrifice it for the sake of industrial development.

Thank you for considering my comments.

Sincerely,
Lindsay Leadbetter DeGroot

Sent from my iPhone

From: F. Ty Edmondson
To: Winfield, Zack
Subject: [EXTERNAL] Written Testimony- Objection to EA on Asphalt Plant Proposal
Date: Monday, March 18, 2024 5:36:42 PM

To: Montana DNRC

Dear Zack Winfield:

I am writing to express my strong opposition to the proposed construction of an asphalt plant along the banks of the Madison River in Ennis, Montana, particularly concerning its potential impact on the nearby community of Ennis Lake. As a resident of this area, I am deeply concerned about the environmental consequences that such a project could have on our beloved lake and the surrounding ecosystem.

Ennis Lake is not only a scenic attraction but also a vital resource for both the local community and the wildlife that inhabit its waters. The construction and operation of an asphalt plant nearby could result in the discharge of large amounts of dirt and particulate matter into the air, which could subsequently settle on the surface of the lake, leading to contamination and degradation of water quality. This poses a significant threat to the aquatic life and ecosystems that rely on the lake for survival.

Furthermore, I am deeply disappointed by the quality of the draft environmental assessment report produced by the Department of Natural Resources and Conservation (DNRC) of Montana. The report fails to adequately address the potential impacts of the proposed asphalt plant on Ennis Lake and the surrounding area, and it lacks comprehensive analysis and mitigation measures for the environmental concerns raised by concerned citizens like myself.

THIS COULD KILL ENNIS LAKE. PHYSICALLY, ECONOMICALLY, AND FOR RECREATION.

It is crucial that any development projects in our community undergo thorough and rigorous environmental assessments to ensure the protection of our natural resources and the well-being of our residents. The draft environmental assessment report falls short of meeting these standards and fails to provide the necessary assurance that the proposed asphalt plant will not harm the ecological integrity of Ennis Lake and its surrounding environment.

I urge you to reconsider the proposal to construct an asphalt plant along the banks of the Madison River and to prioritize the preservation and protection of Ennis Lake and the surrounding ecosystem. It is essential that any decision regarding this matter is made with the utmost care and consideration for the long-term health and sustainability of our community.

Thank you for taking the time to consider my concerns.

Sincerely,

Frazor Ty Edmondson

[redacted]

[redacted]

From: Michael Terry
To: Winfield, Zack
Subject: [EXTERNAL] Written Testonomy, DSL Asphalt Plant Proposal
Date: Tuesday, March 19, 2024 4:49:00 PM

Dear Zachary,
I'm greatly opposed to this plant. I've been in the valley since 1982. I reviewed the site once again last week in person. Please don't allow this to move forward.
Regards,
MT

Michael Terry
[redacted]

From: Ronald Schott
To: Winfield, Zack
Subject: [EXTERNAL] Written testimony DSL asphalt plant Madison Valley
Date: Monday, March 18, 2024 9:56:25 PM

Having read and studied the environmental analysis there is sufficient analysis to approve the asphalt plant. AM Wells have been an excellent stewart of resources at this gravel pit and others they are involved with. Thank you for the opportunity to comment.

Ronald G Schott
Madison Valley Resident for 42 years

From: Tracy Chadwell
To: Winfield, Zack
Subject: [EXTERNAL] Written testimony, DSL Asphalt Plant Proposal
Date: Tuesday, March 19, 2024 8:51:28 AM

Dear Zackary,

As a resident and taxpayer of Madison County, I am writing to express my strong opposition to the proposed asphalt plant on the banks of the Madison River in Ennis, Montana. As a concerned resident of this beautiful community, I am deeply troubled by the potential environmental and social consequences this project could have on Ennis and the surrounding area. I am asking you to consider an alternate location that will not have such dramatic effects on our greatest asset.

The Madison River is not just a scenic backdrop; it is the lifeblood of our community. It sustains our local wildlife, is a primary driver of tax revenue and support of local business, and provides a source of inspiration for residents and visitors. It is one of Montana's greatest treasures. Placing an asphalt plant in such close proximity to this cherished natural resource is not only reckless but also disrespectful to the ecological integrity of the area.

One of my concerns is the potential for pollution and contamination of the Madison River and its surrounding ecosystem. Despite this being a temporary permit, asphalt plants are known to emit hazardous pollutants such as particulate matter, volatile organic compounds, and various toxins that can pose serious risks to human health and the environment. Additionally, the production process itself generates significant amounts of noise and dust, further disrupting the tranquility of our community and potentially harming local wildlife.

Furthermore, the proposed location of the asphalt plant raises serious questions about its compatibility with the surrounding land use and zoning regulations. Constructing such an industrial facility on the banks of a river, where it could potentially disrupt sensitive habitats and compromise water quality, seems fundamentally at odds with the principles of responsible land stewardship and sustainable development.

In addition to the environmental concerns, there are also valid social and economic considerations that must be taken into account. The presence of an asphalt plant could deter tourists and outdoor enthusiasts from visiting our area, thereby undermining the local tourism industry upon which many businesses and livelihoods depend. Moreover, the negative impacts on property values and quality of life for nearby residents cannot be overlooked or dismissed.

In light of these concerns, I urge you to reconsider the proposed location of the asphalt plant and explore alternative sites that are more suitable and environmentally responsible. Our community deserves better than to have its natural treasures compromised for the sake of industrial development. Let us work together to preserve the beauty and vitality of the Madison River for generations to come.

I greatly appreciate you taking the time to read this letter and hear my concerns.

Warmest regards,

Tracy Chadwell

[redacted]

[redacted]

From: [redacted]
To: Winfield, Zack
Subject: [EXTERNAL] Written testimony, Dsl asphalt plant proposal
Date: Tuesday, March 19, 2024 9:31:39 AM

To whom it may concern,

I am opposed and do not want the asphalt plant on the banks of the Madison River ecosystem.

Sincerely,
Levi Chandler
Valley Garden Ranch

Sent from my Verizon, Samsung Galaxy smartphone

From: Earl Mainwaring
To: Winfield, Zack
Subject: [EXTERNAL] "Written Testimony, DSL Asphalt Plant Proposal"
Date: Tuesday, March 19, 2024 5:30:58 AM

I am voicing My Support for the DSL Asphalt Plant Proposal!.

This is a temporary Asphalt Plant (less than 80 days in operation) to maintain and repair a well-traveled Montana State Highway through the Madison Valley.
Without the Asphalt Plant located in Madison Valley there will be additional commercial vehicles on MT 287 which is already teaming with more traffic than it can barely handle now. The cost of this project will be additionally higher, higher cost to MT state taxpayers. Potential for additional traffic accidents.
The lease agreement and state policy with AM Wells and the State of Montana covers this proposed operation without the need of public comment.

Thank you for your time.

Earl Mainwaring
Pony, MT

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March 19, 2024

Montana DNRC
Attn: Zack Winfield
1539 11th Ave.
Helena, MT 59601
zackary.winfield@mt.gov

Re: Ennis DSL Temporary Asphalt Plant EA

Greetings:

I am writing on behalf of Valley Garden Land and Cattle LLC. Please consider this letter Valley Garden's comments on the undated draft EA for the DSL site temporary asphalt plant which was first made available to the public on March 7, 2024.

1. Approval of a temporary asphalt plant would be premature.

The underlying DNRC Permit for this mine, recently renewed without any public input or involvement, is currently being challenged in *Valley Garden v. DNRC,* Montana Fifth Judicial District Cause No. DV-29-2023-37. That suit challenges the legality of the Permit, as well as the constitutionality of DNRC's process in approving the permit before conducting review under the Montana Environmental Policy Act (MEPA). A hearing on the constitutionality of the specific provision of MEPA at issue is scheduled for April 1, 2024 – the same day that DNRC projects that its approval will be completed and A.M. Welles will commence use of the asphalt plant. **If DNRC approves the asphalt plant request in that time frame, Valley Garden will have little choice but to immediately seek an injunction in the existing lawsuit to prevent the operation of the asphalt plant pursuant to the unlawfully issued permit.** However, it would be preferable and prudent for DNRC to simply postpone consideration of the asphalt plant request until and unless the underlying permit is upheld.

2. Public Participation

A.M. Welles requested permission to use an asphalt plant on November 1, 2023. It wasn't until almost three months later that DNRC issued a scoping notice, the end of January 2024, requesting public comment on the proposed asphalt plant operation. While the notice contained very little information on the proposal, DNRC took public comment over a thirty-day period. Ironically, the scoping notice required that scoping comments be "substantive", even while DNRC failed to provide the public with any substantive information on the proposal. In any event, Valley Garden submitted comments. That comment period closed on Saturday, March 2nd.

Five days later, DNRC released a draft EA. DNRC is apparently expecting the public to review this document in the next ten days – twenty days less than it provided for the public to provide general scoping comments. To add to DNRC's frustration and hindrance of the public process here, DNRC's notice informs the public that rather than submit comments at any time prior to the hearing, it will **only** accept written comments from 6pm on March 18th to 5 pm on March 19th—a period of 23-hours, in contrast with the 30-day scoping period. And, confusingly, it is only accepting public written comment to Zack Winfield's email – the very email that DNRC told members of the public to **not** send their public scoping comments to. As a final roadblock to a meaningful public process, the DNRC site for the application, https://dnrc.mt.gov/TrustLand/subsurface-resources/AM-Welles-DSL-Pit, contains a link for "Asphalt Plant Public Comment", but when one clicks on that link, it says "This form is currently not accepting responses" – as of 7:30 am on March 19, 2024, the middle of the so-called public comment period. The text on the website does not inform people that they can comment in writing through March 19th. No doubt, if DNRC had properly and logically shared information about how to comment, there would have been much more public participation, given the high level of public scrutiny that the 2023 EA received.

Notably, DNRC is forcing the public to go through this very abbreviated public review and hearing process in a matter of days before the operator seeks to begin the project even though DNRC has had the application from Welles in front of it for over four months.

It is hard to envision a public process more poorly designed to allow meaningful public participation as this one.

Article II, Section 8 of the Montana Constitution requires that governmental agencies "afford such reasonable opportunity for citizen participation in the operation of the agencies prior to the final decision s may be provided by law." The Public Participation Act, which implements the constitutional provision, in turn, requires the following:

> **2-3-111. Opportunity to submit views -- public hearings.** (1) Procedures for assisting public participation must include a method of affording interested persons reasonable opportunity to submit data, views, or arguments, orally or in written form, prior to making a final decision that is of significant interest to the public.

(2) When a state agency other than the board of regents proposes to take an action that directly impacts a specific community or area and a public hearing is held, the hearing must be held in an accessible facility in the impacted community or area or in the nearest community or area with an accessible facility.

The DNRC MEPA rules, in turn, similarly require meaningful participation in public review of EAs.

36.2.526 PUBLIC REVIEW OF ENVIRONMENTAL ASSESSMENTS

(1) The level of analysis in an EA will vary with the **complexity and seriousness of environmental issues associated with a proposed action. The level of public interest will also vary. The agency is responsible for adjusting public review to match these factors.**

(2) An EA is a public document and may be inspected upon request. Any person may obtain a copy of an EA by making a request to the agency. If the document is out-of-print, a copying charge may be levied.

(3) The agency is responsible for providing **additional opportunities for public review consistent with the seriousness and complexity of the environmental issues associated with a proposed action and the level of public interest.** Methods of accomplishing public review include publishing a news release or legal notice to announce the availability of an EA, summarizing its content and soliciting public comment; holding public meetings or hearings; maintaining mailing lists of persons interested in a particular action or type of action and notifying them of the availability of EAs on such actions; and distributing copies of EAs for review and comment.

(4) For an action with limited environmental impact **and little public interest,** no further public review may be warranted. However, where an action is one that normally requires an EIS, but effects that otherwise might be deemed significant are mitigated in the project proposal or by controls imposed by the agency, public involvement must include the opportunity for public comment, a public meeting or hearing, and adequate notice. The agency is responsible for determining appropriate methods to ensure adequate public review on a case by case basis.

. . . .

(6) The agency **shall consider the substantive comments** received in response to an EA and proceed in accordance with one of the following steps, as appropriate:

(a) determine that an EIS is necessary;

(b) determine that the EA did not adequately reflect the issues raised by the proposed action **and issue a revised document**; or

(c) determine that an EIS is not necessary and make a final decision on the proposed action, with appropriate modification resulting from the analysis in the EA and analysis of public comment.

(Emphasis added)

Here, DNRC's actions in reviewing the asphalt plant's operation violate these constitutional, statutory and regulatory provisions.

First, under Article II, Section 8, it was patently unreasonable for DNRC to perform this very truncated and abbreviated public review process on a matter of significant public interest. In *Bryan v. Yellowstone County Elem. Sch. Dist. No. 2,* 2002 MT 264, 312 Mont. 257, 60 P.3d 381, the Court fleshed out what a reasonable opportunity to participate constituted. In *Bryan,* the school district failed to provide a parent, at her request, a copy of a document that the board used in making a decision about school closure. The Court's discussion of this fundamental right is worth reviewing in detail in the context of what has happened here.

> **[*P43]** Black's Law Dictionary defines "reasonable" as "1. Fair, proper, or moderate under the circumstances . . . ." Black's Law Dictionary 1272 (7th ed. 1999). Within the context of Rule 12(c), M.R. Civ. P., this Court has stated that a party has a "reasonable opportunity" to act if he or she is "fairly apprised." *See Rafanelli v. Dale*, 1998 MT 331, P22, 292 Mont. 277, P22, 971 P.2d 371, P22. Other jurisdictions have expanded upon these equitable notions to include a "meaningful" component to the "reasonable" standard. *See Schwartz v. Town Plan & Zoning Commission* (Conn. 1975), 168 Conn. 20, 357 A.2d 495, 497 (conducting a just public hearing means that the public is given the opportunity to participate "**at a meaningful time and in a meaningful manner . . . .**"); *Florida Power & Light Co. v. United States* (D.C. Cir. 1988), 269 U.S. App. D.C. 377, 846 F.2d 765, 771 ("The APA requires the Commission to provide notice of its proposed rulemaking adequate to afford 'interested parties a reasonable opportunity to participate in the rulemaking process.'; Such notice must not **only give adequate time for comments,** but also must provide sufficient **factual detail and rationale** for the rule to permit interested parties to comment meaningfully.")

(Emphasis added)

Here, Valley Garden, and the public, have not been given the opportunity to comment "at a meaningful time and in a meaningful manner", and have not been given "adequate time for public comments." The public has been given a mere eleven days to *review* a highly technical scientific assessment; and then are only given a mere 23 hours to *comment* on the EA in writing. That is a flagrant violation of the standards outlined in *Bryan.*

Second, the Public Participation Act, which implements the constitutional right to participate, requires a "reasonable opportunity" to comment and participate in a decision that is of significant interest to the public. As noted above, there can be no argument now that matters related to the DSL Pit are matters of significant interest to the public, given the

public turn out for the underlying EA's comment period and hearing. Further, the Zoom hearing violates the provision of § 2-3-111 (2), MCA, requirement that a hearing be held in the affected community.

Third, because of that significant public interest, MEPA requires the agency to "consider substantive comments" and to accordingly make any adjustments in the final EA. A.R.M. 36.2.526 (6). As a practical matter, what that means here is that it would be impossible for the agency to meaningfully respond to substantial public comment – over twenty five people testified against the asphalt plant at the hearing -- in the eleven days between the close of public comment and A.M. Welles' targeted starting date. The principle that agencies must consider and respond to public comments is a general principle of agency decision making. *See also North 93 Neighbors v. Flathead County,* 2006 MT 132, 332 Mont. 327, 137 P.3d 557 ("The Board has an obligation to consider the public comments and incorporate those comments into its decision-making process.")

This backwards approach to public participation and MEPA is of course the reason that DNRC is in the existing lawsuit in the first place.

Given the constitutional right to know and participation requirements, and the requirements of MEPA and DNRC's MEPA rules, DNRC must not approve the request until there is enough time allow the public to meaningfully comment and participate prior to DNRC's final decision, and for DNRC to incorporate public input into its decision.

3. Violation of MEPA's Alternatives Requirements

The EA for the Asphalt Plant contains a "no action" alternative that does not meet DNRC's regulatory MEPA requirements.

In the EA, DNRC notes that if the agency chooses not to approve the permit, Riverside Contracting will "utilize an alternate location for the asphalt plant near Alder, Montana, which is approximately 26 miles from the DSL pit." EA, p. 2. It is clear from that statement, and from other references to the Alder site, that the only information DNRC has about that site came second hand from Riverside. DNRC acknowledges this lack of firsthand information: "Without knowing the nature of the site at Alder, it is difficult for the DNRC to determine whether impacts may or may not occur at this site." EA, p. 7. Elsewhere, it states that DNRC "is unaware of the nature of the groundwater near the Alder Site", and "overall, without knowing the specific information regarding water at the Alder site, the DNRC is not able to make an accurate assessment of the impacts to water at the site." *Id.* And finally, on p. 16, the EA makes the following statement: "The alternative site is near Alder Montana, approximately 23 miles to the East of Ennis. The exact location of the site in Alder is unknown as well as its proximity to residences." Notably, and highlighting the sloppiness of DNRC's work on this document, 23 miles to the *east* of Ennis is the middle of the Spanish Peaks Wilderness, not Alder.

Yet, despite that professed ignorance of any specifics about the Alder site (23 or 26-miles away?), DNRC still made projections related to impacts from the use of the Alder site if "no action" were chosen. For instance, at p. 8, DNRC projects the greenhouse gases (GHG) emitted if the Alder site were chosen, noting elsewhere that "22,356 more vehicle miles" (EA, pp. 15, 20 and 24) would be traveled if the no action alternative were chosen and if Riverside instead chose the Alder site. If DNRC knows nothing about the Alder site, and if the Alder site it not formally under any regulatory consideration, how can DNRC make that or any other projection?

DNRC's MEPA rules control the evaluation of alternatives.

> **36.2.522** DEFINITIONS
>
> (1) 'Action' means a project, program or activity directly undertaken by the agency; a project or activity supported through a contract, grant, subsidy, loan or other form of funding assistance from the agency, either singly or in combination with one or more other state agencies; or a project or **activity involving the issuance of a lease, permit, license, certificate, or other entitlement for use** or permission to act by the agency, either singly or in combination with other state agencies.
>
> (2) (a) 'Alternative' means:
>
> (i) an alternate approach or course of action that would appreciably accomplish the same objectives or results as the proposed action;
>
> (ii) design parameters, mitigation, or controls other than those incorporated into a proposed action by an applicant or by an agency prior to preparation of an EA or draft EIS;
>
> (iii) **no action or denial**; and
>
> (iv) for agency-initiated actions, a different program or series of activities that would accomplish other objectives or a different use of RESOURCES than the proposed program or series of activities.
>
> (b) The agency is required to consider only alternatives that are realistic, technologically available, and that represent a course of action that bears a logical relationship to the proposal being evaluated.

(Emphasis added, capitalization in original.**)**

A.R.M. 36.2.525 (3)(f), in turn requires that an EA must include "**a description and analysis of reasonable alternatives** to a proposed action whenever alternatives are reasonably available and prudent to consider and a discussion of how the alternative would be implemented." (Emphasis added)

The legal infirmity with DNRC's approach here is that it is using the "no action" to partially and incompletely describe another alternative that it has been told about by the company but which DNRC has not itself reviewed. And because DNRC admittedly did not review it, the EA does not contain a detailed "description and analysis" of this "alternative". No action means just that – no action. DNRC was correct at p. 2 in the EA in

acknowledging generally that "if the no action alternative is selected, impacts to the environment at the DSL site as it relates to the asphalt plant are expected to be negligible or none." Any projections of impacts arising from *another* choice made by the company is pure speculation since DNRC has not described or analyzed that site, nor is it subject to DNRC permitting in any event since it is not located on state lands.

4. Ensure that the Proposed Action is in the Best Interest of the Trust

In the exercise of its constitutional, fiduciary, and regulatory duties, the State must receive fair market value for the proposed action and in an amount sufficient to remediate any environmental harm in this ecologically significant area. By authorizing a third party to conduct commercially valuable activities on public trust lands, without receiving compensation, the state is failing to meet its fiduciary duty to the trust beneficiaries. Simply put, the state is prohibited from giving "something-for-nothing" to private industry at the expense of the trust beneficiaries.

Article X, Section 11 of the Montana Constitution prohibits the state from disposing of any estate or interest in interest in public trust lands of the "until the full market value of the estate or interest disposed of... has been paid or safely secured to the state." An interest in public trust lands disposed of for a period of time constitutes a property interest. *Rider v. Cooney*, 94 Mont. 295 (1933). The right to use state trust land for the installation of an asphalt plant constitutes a property interest for which full market value should be received.

In *Montrust v. State of Montana,* 1999 MT 263, 989 P.2d 800, the Montana Supreme Court discussed at length the state's obligations in managing the lands turned over to its care when Montana came into the United States in 1889. It explained that in addition to its duties under the Enabling Act, the Montana Constitution, and duties imposed by the state legislature, the State has an obligation as a trustee to act in the best interest of the trust beneficiaries:

> In *Wild West Motors, Inc. v. Lingle* (1986), 224 Mont. 76, 728 P.2d 412, this Court considered a trustee's duty of undivided loyalty and concluded:
>
> When a party undertakes the obligation of a trustee to receive money or property for transfer to another, he takes with it the duty of undivided loyalty to the beneficiary of the trust. The undivided loyalty of a trustee is jealously insisted on by the courts which require a standard with a "punctilio of an honor the most sensitive." A trustee must act with the utmost good faith towards the beneficiary, and may not act in his own interest, or in the interest of a third person. *Wild West Motors,* 224 Mont. at 82, 728 P.2d at 415-16 (citations omitted).

Montrust, ¶ 41.

As trustee, the State has discretion as a trustee to manage to trust assets, but it explicitly lacks the discretion to give away trust assets at the expense of the beneficiary.

> We have previously concluded that the Board and the Department have discretion in administering the trust; however, their discretion is not unbounded. In *State v. Babcock* (1966), 147 Mont. 46, 409 P.2d 808, we concluded that
>
> There is no doubt that the State Board of Land Commissioners has considerable discretionary power when dealing with the disposition of an interest in land they hold in trust for the people of this state. . . .
>
> . . . .
>
> The discretionary power of the Board is, however, limited. . . . Article XVII, § 1 [now Article X, Section 11] of the Montana Constitution provides [one limitation].

Montrust, ¶ 32, citing *State v. Babcock,* 147 Mont. 46, 51-52, 409 P.2d 808 (1966)

At issue in *Montrust* was the state's "something-for-nothing" trust management decisions which failed to secure the "largest measure of legitimate advantage" to the beneficiaries. *Montrust,* ¶ 14. The Court found that legislative and internal procedures which, for example, allowed the public to collect firewood for no charge, or that allowed the legislature to establish fixed lease values, violated both the trustee's duty and Montana Constitution which require the receive "full market value" for interests in state trust land.

In other words, the court's decision was clear--the state cannot give away valuable rights to a party without receiving fair market value.

Yet this is precisely what the state is doing here. The state is proposing to allow a third party to conduct commercial activities above, beyond, and of an entirely different nature from the use authorized in the underlying sand and gravel mining permit. DNRC has characterized Riverside as a "proponent" (EA, p. 1) yet Riverside is neither an applicant nor a permittee that we know of. Riverside has indicated that the location of its asphalt plant on the land is commercially beneficial (i.e. profitable), yet it poses a risk of environmental harm. The state is allowing this commercially beneficial activity which poses risks of environmental harm to occur on its land with no additional compensation for the use the third party is proposing. The gravel permittee, A.M. Welles, is not operating the asphalt plant and has no control over the potential risk to the environment from pollutants.

Under the very terms of the permit, which was granted to AM Welles, and for which compensation is being received, it calls out an asphalt plant as a separate and explicitly *unauthorized* use. In fact, the permit is only granted "for the purpose of prospecting and exploring for, and of mining and extracting SAND AND GRAVEL located in or under the lands." DNRC Permit G-1273-94. Throughout the permit, the language is clear that additional uses are discretionary and subject to approval by the agency. For example, Paragraph 2 explicitly characterizes the installation an asphalt plant as an "indirectly related activity", (i.e. not authorized by the permit); Paragraph 3 specifically sets royalty revenue to

mined materials only i.e. onsite sand and gravel; and Paragraph 35 (i) specifically limits the installation of asphalt plant as a "special condition". Yet, when approached for a commercial asphalt plant operated by a third party, the State fails to require compensation over and above the royalty rate to install the plant. What private landowner would allow a paving company to location an asphalt plant on its property FOR FREE? Allowing Riverside and AM Welles to benefit financially without any additional compensation for Montana's schools and universities is an unequivocal breach of the state's fiduciary duty.

Even though the state reserves discretion in its permit to allow additional uses, as stated clearly in *Montrust,* it does not have the discretion to give away trust assets—like the free use of state land and water to conduct the asphalt plant as proposed.

This blatant disregard by DNRC of the Land Board's high-level legal obligations under the Enabling Act and Constitution, the state's duties as a trustee, as well as DNRC's duty to comply with the very contract terms it has negotiated with the pit operator and grazing lessee together constitute a breach of "undivided loyalty" to the beneficiaries.

When the state tries to give away trust assets as they are here, and is challenged, the State loses. The DNRC's lackadaisical and selective rule-following behavior of the sort it is engaging in with this proposal was strongly criticized in a recent case from Broadwater County District Court. *Upper Missouri Waterkeeper et al. v. Broadwater County and DNRC,* Order in Cause No. BDV-2022-38, where the Court said, "It seems DNRC's appetite to abrogate the Water Use Act is limitless." So too, here, DNRC's ignorance of, or refusal to follow, its own rules is appalling.

5. **Failure to uphold the terms of the existing grazing lease.**

Valley Garden holds an active grazing lease on 140.2 acres of which 43.2 acres is included in the recently approved expanded mine site. DNRC's authorization of mining activities and now the added proposal to locate an asphalt plant on the property, is yet another instance of its ongoing failure to administer its own fiduciary, contractual, and regulatory obligations. Valley Garden's lease has been in place for decades and was most recently renewed in 2022. In fact, the acreage amount attributed to the mine site on the face of the lease has not been updated since 1997, when the DNRC expanded the mine site to 19.8 acres.

To the extent that the proposed asphalt plant is located on the 43.2 acres leased by Valley Garden, the authorization of the mine and continued associated activities constitutes a breach of Valley Garden's contract with the State of Montana and implied warranty of good faith and fair dealing.

DNRC has consistently failed to provide notice of the proposed modification of the grazing lease and has consistently failed to amend the agreement while charging Valley Garden *for decades* without the ability for Valley Garden to use the leased area in violation of the terms of the grazing lease, its duties to Valley Garden under § 77-1-204, MCA to abide

by the terms if its lease, its duties under state contract law §28-2-1602, MCA all while increasing the risk of expensive litigation and loss of revenue to the detriment of trust beneficiaries.

6. Air Quality

Attached hereto as Exhibit A is a review of the EA from Valley Garden's air quality expert Shane Bofto concerning shortcomings in DNRC's air quality analysis in the EA. As Mr. Bofto noted, "the air quality resource assessment lacks information regarding specific air quality impacts and proposed mitigation that are typically part of EAs." Notably, for Valley Garden, which is the closest neighbor to the plant, there is no quantification of the generation of dust – other than the unquantified statement that "dust generated from loading, hauling and dumping of aggregate would be expected to be greater in the no action alternative when compared to the action alternative." EA, p. 10. This statement is yet another example of the lack of accuracy and clarity in the EA. Presumably, dust generation be greater in "action", not the "no-action" alternative, since the later is supposed to mean what it says – no action. Furthermore, as already noted, though DNRC knows nothing about the Alder site so how can it make this comparison? What data was used to quantify this statement and "expectation"?

MEPA requires, among other things that DNRC perform the following analysis:

> The agency shall consider the following criteria in determining the significance of each impact on the quality of the human environment:
> (a) the **severity, duration, geographic extent, and frequency** of occurrence of the impact;
> (b) the probability that the impact will occur if the proposed action occurs; or conversely, **reasonable assurance in keeping with the potential severity of an impact that the impact will not occur;**

A.R.M. 36.2.524, emphasis added.

Here, DNRC's statements about air quality impact do not constitute the required analysis analysis; rather, like much of the EA, they are outcome-driven generalities that do not meet the rigorous analytical requirements of MEPA.

7. Geology and Soil

Attached hereto as Exhibit B is a review of the EA from Valley Garden's hydrologic expert David Donohue concerning shortcomings in DNRC's geology and soil analysis in the EA. In it, Mr. Donohue concludes that "the potential exists for hydrocarbon contamination to directly impact remaining permeable soils and gravels. . . It is clear that impacts can be identified, and the duration of these impacts must be assessed in the EA."

8. Water Quality

Mr. Donohue's review, Exhibit B, also highlights numerous shortcomings in DNRC's water quality analysis. Notable is DNRC's reliance on the Montana Bureau of Mines and Geology wells adjacent to the site that do not accurately represent depth to shallow groundwater. At the same time, DNRC failed to evaluate any data from the well *on site* that until recently was unlawfully operated for decades. "DNRC should not be permitting this site for an opencut operation nor an asphalt plant without a scientific and defensible understanding of seasonal and yearly groundwater trends. Associated impacts from the proximity of the asphalt plant to shallow groundwater, and the removal of the overlying topsoil and gravel material, have not been evaluated." Mr. Donohue concludes "overall, impacts on water quality and quantity have been poorly addressed."

9. Water Quantity

The current exempt groundwater certificate for the DSL Pit site identifies a maximum flow rate of 20 gallons per minute not to exceed 5.75 acre-feet per year during the proscribed May 1st through October 31 timeframe. This existing exempt groundwater certificate was issued to the Land Board/DNRC Trust Land Management for "gravel washing." Presumably, the gravel operation utilizes the entire claimed flow rate and volume. As DNRC is aware, exempt water rights can be appropriated for a maximum of 35 gallons per minute or 10 acre-feet per year. However, if the appropriation utilizes a flow or volume below that threshold, the appropriator is only entitled to that flowrate and volume perfected.

Currently no information has been submitted regarding the consumptive or non-consumptive water requirements for the new asphalt facility at the existing gravel operation nor has information regarding additional water requirements for the proposed asphalt facility been identified.

Additionally, the existing exempt groundwater certificate does not identify any impoundments associated with the water right; yet it is recognized that two impoundments exist on the gravel operation. Whether the proposed asphalt operation intends to utilize these existing impoundments or discharge water to alternate locations is also not identified or understood. This additional utilization may expand the existing impoundments or introduce water quality degradations to those impoundments due to the nature of contact water consistent with the asphalt operation. Finally, impoundments not for stock purpose may require a permit pursuant to ¶ 85-2-306(6), MCA, regardless of the size of the water right claim. This has not been acknowledged by the certificate holder; not addressed in any application documents; and may be beyond the contours of the exempt groundwater certificate currently in hand and possibly modified by the new asphalt operation.

DNRC asserts that the asphalt plant will use the current water right held by the adjacent gravel pit (EA, p. 7), however, that exempt right as claimed, is only for 20 GPM which is likely the amount necessary to solely operate the gravel pit. No showing has been made that the asphalt plant's new appropriation of water: (1) is within the current exempt water right's usage; or (2) does not exceed an exempt's water right's limit of 35 GPM.

DNRC feigns ignorance as to the "water rights or usage at the Alder site" even though it is the department that monitors those exact details and appropriations. Moreover, the EA makes the bizarre statement that "DNRC Trust Lands has no authority over the amount of water utilized from the ground water well." But, obviously, DNRC as the permitting agency, does. Recently, DNRC found out that it cannot plead ignorance *as to its own processes* and the multi-faceted processes of other departments and entities when it is performing its statutory duties. *See Upper Missouri Water Keepers, et al v. Broadwater County, et al*, Cause No. BDV-2022-38, Final Order, at 55–58 (Feb. 14, 2024).

Lastly, DNRC ignores that the asphalt plant wants to start operations in April even though the pre-existing exempt right for the gravel pit has a period of use from May to October. DNRC's ignorance as to the asphalt plant's stretching of the restrictions of its water right is intolerable. If DNRC fails to follow its own processes and enforce the bounds of the asphalt plant's water right, Valley Garden Ranch may be forced to seek an injunction against the asphalt plant under § 85-2-114(9), MCA. As a prior appropriator, Valley Garden Ranch is well within its rights to seek alternative protection at the district court if DNRC cannot, or will not, properly enforce its own policies and do so expeditiously. *See Faust v. Utility Solutions, LLC,* 2007 MT 326, 340 Mont. 183, 173 P.3d 1183 (where the Montana Supreme Court recognized a prior appropriator's ability to bring his own private action to protect his water right and enjoin an appropriator's use of water that violates the Montana Water Use Act).

10. Visual and Noise Impacts

The open-cut mine is located on a prominent terrace that defines the western edge of the Madison River valley floor. Under existing conditions, the mine is visible from all cardinal directions and from populated areas north and east of Ennis.

As shown in Exhibit C, prepared for Valley Garden by John Muhlfeld, Senior Hydrologist, of the River Design Group, the open-cut mine is visible from 7.3 miles of the Madison River, a valued recreational and economic resource to the town of Ennis. As shown on Exhibit C, at 45 feet, the plant will be visible throughout the Madison Valley from the bench to the valley floor to the surrounding foothills.

In order to meet its duties, the state should conduct a visual impact analysis of the asphalt plant on the surrounding landscape as recommended by the Madison County Growth Policy as part of its environmental review of this project.

In order to minimize noise impacts about which many neighboring residents remarked during the March 18, 2024, public hearing, the DNRC should conduct require a noise study as DNRC's Trevor Taylor has previously suggested in an email to counsel.

11. Impacts to Fish and Wildlife and Habitats.

The Madison River Basin which is directly adjacent to the site is a valued and expansive recreational, conservation, wildlife, and cultural resource for which this mining, asphalt production and asphalt/concrete recycling operation is an inconsistent use that possesses a significant threat of impact. The area surrounding the subject mine parcel has been deemed of such value as to warrant protection under a conservation easement to, in part, protect the watershed of the Madison River and its extensive stream and wetland habitat immediately adjacent to the subject mining site.

Interestingly, DNRC claims that "species at the Alder site would be expected to be similar to those" described in the EA – notwithstanding the fact that DNRC has professed it knows nothing of that site, including whether it is adjacent to wetlands or other water sources.

It is important to note that private and state and federal agencies including Montana Fish, Wildlife & Parks, Madison Conservation District, Northwestern Energy, Inc., private landowners, and Montana Department of Environmental Quality, are in the planning stages for a large-scale stream and wetland restoration project on Moore Creek and the unnamed spring creek tributary to Ennis Lake, both directly east of this project. The project will span over five miles of creek and include the restoration of critical habitats for fish and wildlife species multiple fish and wildlife species that frequent wetland areas immediately adjacent to the project area, including raptors, neotropical songbirds, Tundra Swans, Sandhill Cranes, and Hungarian Partridge. Related (restoration) actions described above will restore critical habitats for these species that utilize the greater Madison River valley for overwintering, breeding, and migration.

This asphalt plant has the potential to undermine the extensive and long-term restoration work that has been underway for years and will continue for years. The impacts to the fisheries and other impacts to wildlife must be fully evaluated in the EA, and Montana Fish, Wildlife & Parks must be consulted before DNRC approves this project.

In summary, and considering the above, we request that DNRC deny the asphalt plant application. Alternatively, and at a minimum, DNRC needs to postpone a final decision on this application until the litigation concerning the underlying permit is resolved.

Finally, the notice letter states: "The virtual meeting will be recorded and made part of the official record. The recording will be available for public review upon request." Please provide us with a copy of the Zoom, or a link to it, as soon as it is available.

Sincerely,

David K. W. Wilson, Jr.

Cc: Valley Garden
Diane Conradi

Mark Baker
Rick Tappan
Mr. Mark Phares mphares@mt.gov
Emily Obermiller cnd404@mt.gov

Enclosures

HydroSolutions est. 1999

MEMORANDUM

Date: March 14, 2024

To: David Kim Wilson, Attorney, Morrison Sherwood Wilson & Deola
Diane Conradi, Attorney, Conradi Law Office

From: Shane A. Bofto, MBA, Senior Chemical/Environmental Engineer, HydroSolutions Inc

Subject: **Comments on Air Quality Impacts from the DSL Temporary Asphalt Plant Request, A.M. Welles DSL Pit, Madison County, Montana**

As you requested, on behalf of Valley Garden Land and Cattle LLC, I completed a review of the air quality resource information presented in the draft checklist environmental assessment (EA) prepared by Montana Department of Natural Resources and Conservation (DNRC) for the DSL Temporary Asphalt Plant, as well as several other sources of information. This review focused on the thoroughness of the air quality resource assessment presented in the EA. The documents reviewed included the following:

- DNRC Draft Checklist Environmental Assessment, DSL Temporary Asphalt Plant Request, Spring 2024
- Aggregate and Rock Mining Permit G-1273-94, Asphalt Hotplant Request, Letter to TLMD Minerals Management Bureau, November 1, 2023

The purpose of the review is to provide comments on the DNRC Draft EA.

In general, the air quality resource assessment lacks information regarding specific air quality impacts and proposed mitigations that are typically part of EAs. Specifically, the EA lacks site and air quality resource information regarding the No Action Alternative by using the Alder site for comparison to the Action Alternative. DNRC did not provide specific location or resource information for the Alder site. This information is essential in the complete impact analysis especially in areas of sensitive receptors as identified in the EAs.

Comments Regarding the Proposed Temporary Asphalt Plant

Air Quality

No Action Alternative

1. Page 8, Direct Impacts: A No Action alternative is critical to establishing a baseline against which the proposed Action Alternative can be compared to leaving the situation

EXHIBIT A

unchanged. How does using the alternative Alder site as the No Action Alternative provide decision makers and the public with this comparison?

2. Pg 8, Direct Impacts: There is a general lack of site or air quality resource information for the Alder site to complete an adequate impact analysis of this alternative in comparison to the Action Alternative.
3. Pg 8, Direct Impacts: The EA references emissions of other GHG's such as methane, nitrous oxide, and fluorinated compounds. Where are the data used in the analysis and what are their impacts?
4. Pg 8, Direct Impacts: Would alternative sources of electrical supply such as NorthWestern Energy be a suitable alternative to replace the diesel-powered generator? Would it reduce environmental impacts?
5. Pg 9, Direct Impacts: The amount of fuel used for trucking was referenced as 28,895 gallons of diesel. What are the transported materials, total miles traveled, destination, and proposed route(s) for the trucking.

Action Alternative

6. Pg 9, Direct Impacts: The EA references emissions of other GHG's such as methane, nitrous oxide, and fluorinated compounds. Where are the data used in the analysis and what are their impacts?
7. Pg 9, Direct Impacts: Would alternative sources of electrical supply such as NorthWestern Energy be a suitable alternative to replace the diesel-powered generator? Would it reduce environmental impacts?
8. Pg 10, Direct Impacts: The amount of fuel used for trucking was referenced as 12,614 gallons of diesel. What are the transported materials, total miles traveled, destination, and proposed route(s) for the trucking.
9. Pg 10, Direct Impacts: The air quality registration limits production for Batch or Drum Mix plants. What type of plant will be in operation, Batch or Drum?
10. Pg 10, Direct Impacts: The air quality registration for asphalt plants limits opacity to 20% averaged over 6 consecutive minutes. What impact does this have on the view shed?
11. Pg 10, Direct Impacts: For the air quality registration requirements, registration eligible engines must not exceed 3,500,000 horsepower-hours annually at any location. What is horsepower and anticipated annual hours of operation for the generator's diesel engine?
12. Pg 10, Cumulative Impacts: For the Action alternative, the EA states "Cumulative impacts from the selection of the no action alternative are expected to be minor". What are the expected cumulative impacts from the action alternative?

Human Health and Safety

No Action Alternative and Action Alternative

13. Pg 20, Direct Impacts: The EA states that "The Montana DEQ Air Quality Bureau ensures these limitations are met. According to the MT DEQ, Particulate Matter (PM), Nitric Oxides (NOx) and Carbon Monoxide (CO) are all emitted by asphalt plants..." Nitric Oxides are NO. NOx is known as nitrogen oxides and is limited by DEQ.

EXHIBIT A

HydroSolutions est. 1999

MEMORANDUM

Date: March 14, 2024

To: David Kim Wilson, Attorney, Morrison Sherwood Wilson & Deola
Diane Conradi, Attorney, Conradi Law Office

From: David A. Donohue, M.S., P.G., Senior Hydrogeologist, HydroSolutions Inc

Subject: **Comments on DNRC Draft - Checklist Environmental Assessment for the DSL Temporary Asphalt Plant Request, Opencut #674, Madison County, Montana**

On behalf of Valley Garden Land and Cattle LLC, I completed a review of environmental resource issues identified in the Department of Natural Resources and Conservation (DNRC) Draft Checklist Environmental Assessment (EA) for the DSL Temporary Asphalt Plant Request, Madison County, Montana. The purpose of this review was to identify geology, water quality, and water quantity issues regarding direct, secondary, and cumulative impacts identified in the EA and associated with the operation of an asphalt plant at the site.

General Comments

This EA does not meet the requirements set forth in the Montana Environmental Policy Act (MEPA) in regard to describing alternatives. I have co-authored numerous EAs and environmental impact statements (EISs) for state of Montana hard rock mining, coal bureau, and opencut projects, as well as federal National Environmental Policy Act (NEPA) projects. It is clear that the no action alternative is incorrectly evaluated in this EA.

No action is an alternative in an EIS or EA that represents the action that would be applied if the proposed project or action were not undertaken. No action represents the scenario where no changes or developments occur, and things remain as they are without the proposed project or action taking place. Essentially, the no action alternative serves as a baseline against which the potential environmental impacts caused by the proposed action are compared.

According to the Montana guide to MEPA, MEPA and the MEPA Model Rules "require an analysis of the no action alternative for all environmental reviews that include an alternatives analysis. The no action alternative provides a comparison of environmental conditions without the proposal and establishes a baseline for evaluating the proposed action and the other alternatives." (MEPA 2021).

However, this EA included actions associated with a site near Alder, Montana in the no action alternative. The no action alternative must focus on the DSL site alone and not address

potential actions associated with, at this point, a suppositional site with no specific location or site-specific resources provided in this checklist EA. Based on MEPA guidelines, this EA clearly misrepresents the no action, and the action alternative included in this no action analysis, at the DSL site.

Specific Comments

Section 4. Geology and Soil Quality, Stability and Moisture

Page3; Current conditions; Geology: The text states that the asphalt plant will be located on compacted gravel. The gravel floor is not machine-compacted and is still a transmissive surface.

The text states that the pit floor contains multiple layers of clay, sand, and silt. It is not clear how DNRC can state this without direct observation of the pit floor surface and subsurface. Additionally, if these layers are present, they do not necessarily represent impermeable layers.

As noted above, DNRC incorrectly evaluates an action (at the Alder site) as part of a no action alternative. All reference to the Alder site should be removed from the no action alternative at the DSL site. Please note that no action MEPA definition, means no action. The Alder site is not applicable to this EA, especially since no resources for the Alder site are provided.

Page 4; Action Alternative: Direct impacts: The text incorrectly states that there are no impacts to geology and soil. Irrevocable impacts to alluvial sediments have occurred with the removal of topsoil and gravels. The potential exists for hydrocarbon contamination to directly impact remaining permeable soils and gravels. The additional compaction of soils on pit floor will result in reduction of moisture – holding capacity of soils. It is clear that impacts can be identified, and the duration of these impacts must be assessed in this EA.

Section 5. Water Quality, Quantity and Distribution

Page 4; Current conditions: The EA neglected to consider impacts to the unnamed spring creek immediately adjacent to and on the east side of the opencut pit.

Groundwater: The two MBMG wells do not represent shallow groundwater conditions at the site. This EA should evaluate the DNRC well located onsite since it is the closest groundwater water well within the opencut pit and used by AM Welles. As we know, until recently, DNRC neglected to permit this well that was illegally used by AM Welles for many years. DNRC has also neglected to investigate well depth, well construction, static water levels, and seasonal water level fluctuations for this well. DNRC should contract with a well pumping contractor to examine the well and complete a downhole video survey of this well.

A well that is representative of depth to shallow groundwater is the Valley Garden Land and Cattle Company monitoring well drilled in 2023. At the time the well was installed, shallow groundwater was approximately 41 feet below ground surface. Given that the proposed mining

EXHIBIT B

depth is 20 feet, the bottom of the pit where the asphalt plant will operate will be approximately 21 feet above shallow water table. However, this water level does not represent seasonal or yearly groundwater level fluctuations. DNRC should not be permitting this site for an opencut operation nor an asphalt plant without a scientific and defensible understanding of seasonal and yearly groundwater trends. Associated impacts from the proximity of the asphalt plant to shallow groundwater, and the removal of overlying topsoil and gravel material, have not been evaluated. The presence of thin sand and clay layers does not indicate impermeable conditions.

DNRC continues to present two MBMG wells to support depths to shallow groundwater. If that remains the case, DNRC cannot ignore the fact that seasonal and yearly fluctuations occur. DNRC has included data to support such fluctuations on page 5 for GWIC Well 256859 and GWIC Well 256859. Over 8 feet of groundwater level fluctuation is reported in the graphs since monitoring began approximately 24 years ago. By presenting this data in the EA, DNRC acknowledges that groundwater levels vary seasonally and yearly in these wells and could likely vary as much in the Valley Garden well. Therefore, DNRC, as well as DEQ, should be required to reevaluate depth to seasonal high groundwater at the DSL site while considering the data found in the Valley Garden well and more accurately assess the potential for the opencut and asphalt plant operations to impact shallow groundwater.

The EA also neglects to evaluate impacts from chemicals used by AM Welles to produce asphalt. The potential impacts from thermal pollution are neglected. DNRC should request DEQ to require surface water and groundwater monitoring as a condition of the permit.

No Action Alternative; Page 7. DNRC states that "without knowing the nature of the site at Alder, it is difficult for DNRC to determine whether impacts may or may not occur at this site." This statement demonstrates DNRC's lack of understanding to prepare a defensible and accurate EA for this action.

Direct impacts; Page 7. DNRC neglected to consider that fines can be carried by wind and deposited in nearby stream channels, directly impacting water resources.

According to the DNRC water right records, the DNRC well located onsite is not permitted for asphalt plant or dust control use, but only for commercial and gravel washing. The volume of proposed water use has not been provided or evaluated by DNRC. Such information is necessary for the EA to evaluate potential impacts to water resources at the DSL site.

Clay layers beneath the pit have not been drilled and evaluated for transmissive properties; thus, the sediments may not be adequate to prevent vertical migration of contaminants. Typically, sand, silt, and clay layers in alluvial environments are thin and not spatially continuous, allowing for ease of vertical movement of contaminants.

The direct impact identifies that offsite migration of contamination will "settle in the lowland bench area immediately east of the pit boundaries; it would not be expected to reach the irrigation ditch." However, the potential to directly impact the unnamed spring creek has not

EXHIBIT B

been evaluated in the EA. Overall, impacts on water quality and quantity have been poorly addressed.

Secondary impacts; Page 8: Potential depletion of groundwater resources from the additional use of water for asphalt production has not been evaluated. DNRC should know that the volume of water planned for asphalt production is not legally permitted.

Cumulative impacts; Page 8. According to the DNRC water right for DNRCs onsite well, AM Welles does not have legal access to well water for use in any of the asphalt operations requiring water. It is also incorrect for DNRC to state in the EA that "the usage of the water in the plant is not expected to appreciably change the cumulative impacts to water in the area" without providing water use information and assessing the use this groundwater source.

Mitigations:
Action alternative mitigations; Page 8:

- Based on the mitigations in the EA, the agency personnel responsible for plant inspection must be identified.
- Specific information to independently evaluate the SPCC and stormwater runoff plans must be provided.
- The amount of petroleum to be stored on site must be submitted to the agencies and available for public review.

References

MEPA 2021. A Guide to the Montana Environmental Policy Act. Revised by Hope Stockwell; Legislative Environmental Policy Office, Environmental Quality Council; Helena, Montana.

EPA. (2024, January 24). *SPCC Guidance for Regional Inspectors.* Retrieved from Oil Spill Prevention and Preparedness Regulations: https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations/spcc-guidance-regional-inspectors

EXHIBIT B

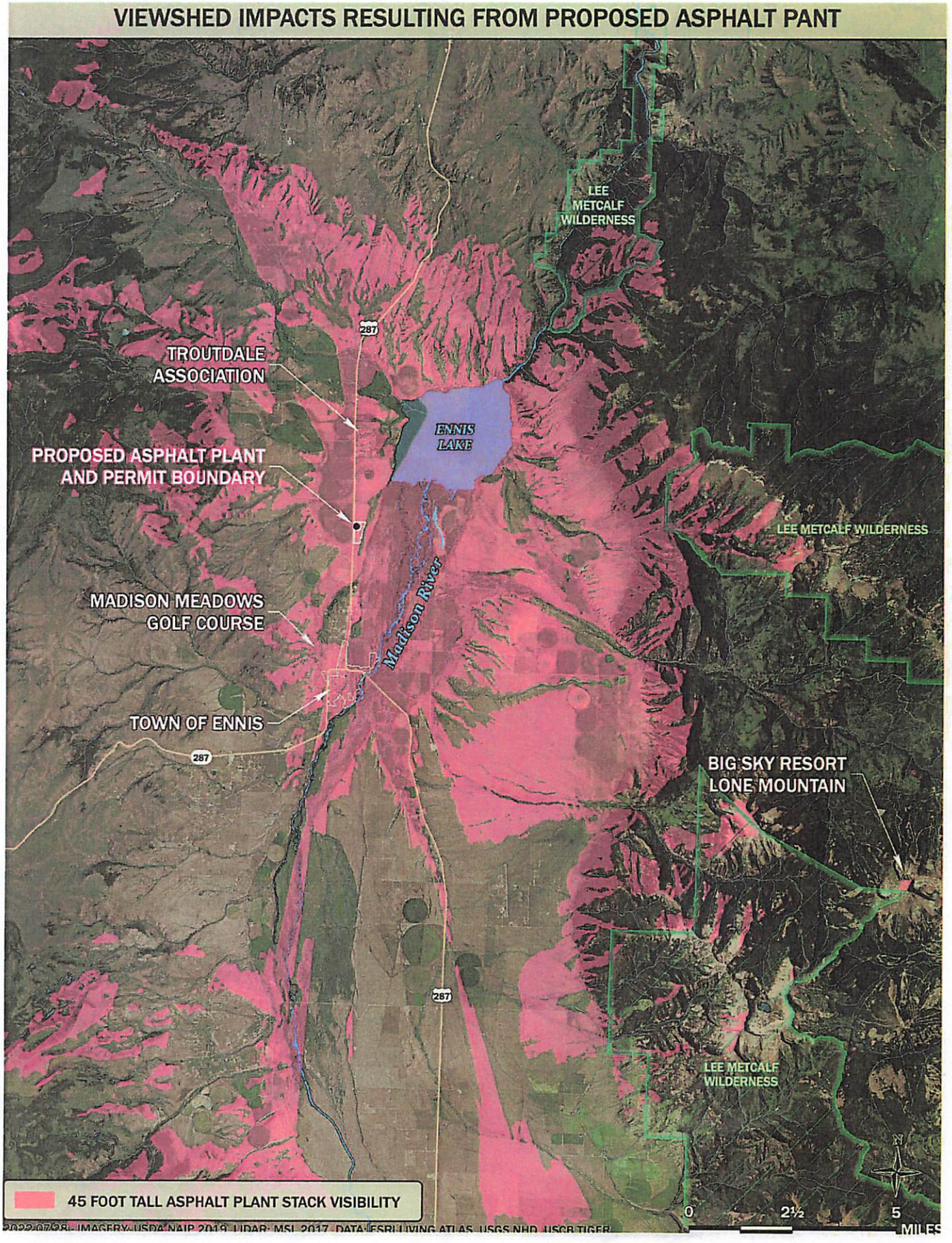
VIEWSHED IMPACTS RESULTING FROM PROPOSED ASPHALT PANT
LEE METCALF WILDERNESS
287
TROUTDALE ASSOCIATION
ENNIS LAKE
PROPOSED ASPHALT PLANT AND PERMIT BOUNDARY
LEE METCALF WILDERNESS
Madison River
MADISON MEADOWS GOLF COURSE
TOWN OF ENNIS
287
BIG SKY RESORT LONE MOUNTAIN
287
LEE METCALF WILDERNESS
45 FOOT TALL ASPHALT PLANT STACK VISIBILITY
0
2½
5
MILES

EXHIBIT C

Frazor Ty Edmondson
Attorney-at-Law*
144 Ennis Lake Road
Ennis, MT 59279

March 13, 2024

The Montana Department of Natural Resources and Conservation (DNRC)
PO Box 606
Ennis, MT 59729 and via:
Zackary.winfield@mt.gov

and

Montana FWP
Region 3 Headquarters
1400 South 19th
Bozeman, MT 59718
fwpgen@mt.gov

Elaboration on Opposition dated March 12, 2024 to the Ennis DSL Asphalt Plant request by AM Welles to locate and operate an Asphalt Plant within the boundaries of their DSL Gravel Pit located on Montana State Trust Lands Section 16, Township 5S, Range 1W (the "Asphalt Plant" and/or "Proposal") and **Notice of Legal Insufficiency of Environmental Review**.

Dear Zack Winfield:

Further to your email of March 7, 2024, and my earlier letter dated March 12, 2024, as a member of the Ennis wildlife community, taxpayer, resident, and owner of 144 Ennis Lake Road, Ennis, MT 59729, **I am writing to further confirm my opposition to the Asphalt Plant based on a fatally flawed and inadequate draft environmental assessment that does not comply with the provisions and minimum requirements of Montana law ("2024 DNRC Draft EA")**.

Background

The State of Montana owns a ¼ section of land on HWY 287 between Ennis and McAllister, MT. This land is of significant importance, not only given its proximity to the neighborhoods of Ennis and McAllister, but because it is adjacent to and overlooks the critically important Madison River Ecosystem, including its multiple tributaries, Ennis Lake and wetland habitats created by the annual gorge.

This sensitive ecosystem is critical to:

*Admitted in Texas and Massachusetts

- Countless species of wildlife, bird life and aquatic life, that live, nest and breed in the ecosystem; and
- The health and well-being of the many residents of the Madison River Valley who share this ecosystem with thousands of annual visitors.

This thriving ecosystem is now threatened. The State of Montana, through its state agency, the Department of Natural Resource and Conservation (DNRC), manages its land on the banks of the Madison River Ecosystem.

Extension of Prior Remarks and Opposition

As stated in my March 12, 2024 letter, I opposed the construction of an Asphalt Plant. I also reserved the right to extend my remarks given the incredibly short period for public comment in this matter. I hereby do so, as follows:

1. **The DNRC has and continues to violate the Montana Constitution, by its actions here <u>both</u> in (a) ignoring the obligation to conduct a scientifically sound environmental review (see March 12, 2024 letter), but also in (b) failing to give REAL procedural opportunity for citizens to be heard on this issue.** The Montana Constitution through the Montana Environmental Policy Act (MEPA) assures its citizens the right to proper notice and a proper discussion of acts that are potentially harmful to the environment. The DNRC has known that Riverside intends to place an asphalt plant on this state land since November 1, 2023, but elected to not publish a draft EA until March 7, 2024 (128 days later). Once published, the public has 11 calendar (7 business) days to respond with comment. Additionally, the public is only allowed to respond during a 23-hour period. Following this, the proposed Asphalt plant will commence operation on April 1, 2024 - only 8 business days after public comment, during which period the DNRC is required by law to address each comment of the public. This hurried and abbreviated public notice and "desktop" environmental review is clearly in violation of MEPA and the Constitution of the State of Montana.

2. **The chosen site is Inappropriate for any industrial process like an Asphalt Plant.**

   This is not a "high and dry" mine and asphalt plant located in a remote and rural area of Montana. This Asphalt Plant is on the banks of one of the most precious ecosystems in the State, and will impact countless species of wildlife, bird life and aquatic life. During the Spring of each year, Trumper and Tundra Swans, Curlew, Ducks, Sand Hill Cranes and Pronghorn Antelope all mate and nest in and around the spring creeks and Madison River tributaries next to the Asphalt. This Asphalt Plant is in extremely close proximity to a world class fishery inhabited by the endangered grayling, as well as rainbow and brown trout. Golden Eagles, Bald Eagles, the American Pelican, Elk and Whitetailed Deer all travel through the area of the Asphalt Plant. Not to mention the human presence of the residences of McAllister and Ennis, some within 2,500 feet of the Asphalt Plant. In addition, thousands of tourists from around the world visit this

area on vacation and/or on their way to Yellowstone National Park along HWY 287 just 100 feet from the proposed Asphalt Plant.

Consequently, the DNRC must be extremely diligent in its review and potential adoption of the draft Environmental Assessment – this cannot be a "desk top exercise". It must involve proper experts who have specific knowledge of the potential impacts of an Asphalt Plant on this sensitive ecosystem.

3. **The State of Montana, as owner of the land, is NOT receiving any compensation for providing its land to the Asphalt Operator, but citizens of Montana will receive all of the downside from the environmental impacts**. This constitutes a private taking by the Owner and Operator without compensation to the State.

4. **Even the DNRC acknowledges significant issues with an Asphalt Plant yet chooses to ignore these issues with a view towards allowing an Asphalt Plant on its land impacting the sensitive Madison River Ecosystem – again without compensation**. The State should impose the costs of compliance with its laws on the Owner and Operator of the site. Hire inspectors to watch their operations and charge the Owner and Operator for those costs. **The DNRC does not enforce its historical and current permit with the existing operator of the gravel mine, AM Welles, under DNRC gravel permit G-1273-94, despite being aware of the violations. It must do so here.**

5. **Given DNRC's historical practice not to enforce the provisions of its permits, what assurance does the public have that the new Asphalt Plant operator (Riverside) will comply with all federal and state laws and be held accountable for its actions under the associated permits**. I believe that the Operator, Riverside ("Riverside" or "Operator"), has a history of permit violations. This must not be allowed to continue and such an Operator must be closely monitored. I have proposed that the Operator and Owner each be required to post bonds to do this work properly. **I also demand that the State list all violations incurred by Riverside in the last 10 years as part of the public information provided in advance of the Hearing on March 19th.**

6. **Riverside has an alternate location for the Asphalt Plant located toward Alder, MT.** This is a "high and dry" location away from the banks of the Madison River Ecosystem and likely just as far from the paving project requiring the asphalt. This location is likely more rural, affecting fewer citizens. Why does Riverside not pursue this "high and dry" option? In addition, the State of Montana owns a section of land that the paving project likely transects, which is also "high and dry" off the banks of the Madison River Ecosystem. Again, why does Riverside not pursue this option?

7. **The scale of an Asphalt Plant is huge**. See next two diagrams. The stacks could be 45-50 feet in the air causing significant visual pollution. The noise, dust, smoke and effluence will be considerable and is acknowledged by DNRC as an environmental concern. (See next pages for images of such mobile asphalt plants and processes)

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There are four types of asphalt batching plants with capacities ranging from 40t/h to 320t/h, including LB series stationary asphalt plant, LBD series continuous asphalt plant, LBQY series mobile asphalt plant, and simple asphalt mixing plant.

Capacity
40-320т/ч

Mixing Capacity
750-5000 kg/batch

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Depending on the type of machine, LUTON offers:

- Stationary Asphalt Plant
- Mobile Asphalt Plant
- Continuous Asphalt Plant
- Simple Asphalt Plant

Depending on the scope of the project, recommended models are:

- LB1500 series for municipal construction projects
- LBQY-120 series for multiple construction projects
- LBD-100 series for large construction projects
- LYJ-40 series for small construction projects

Source: https://lutongroups.com/luton-asphalt-plant-for-sale/

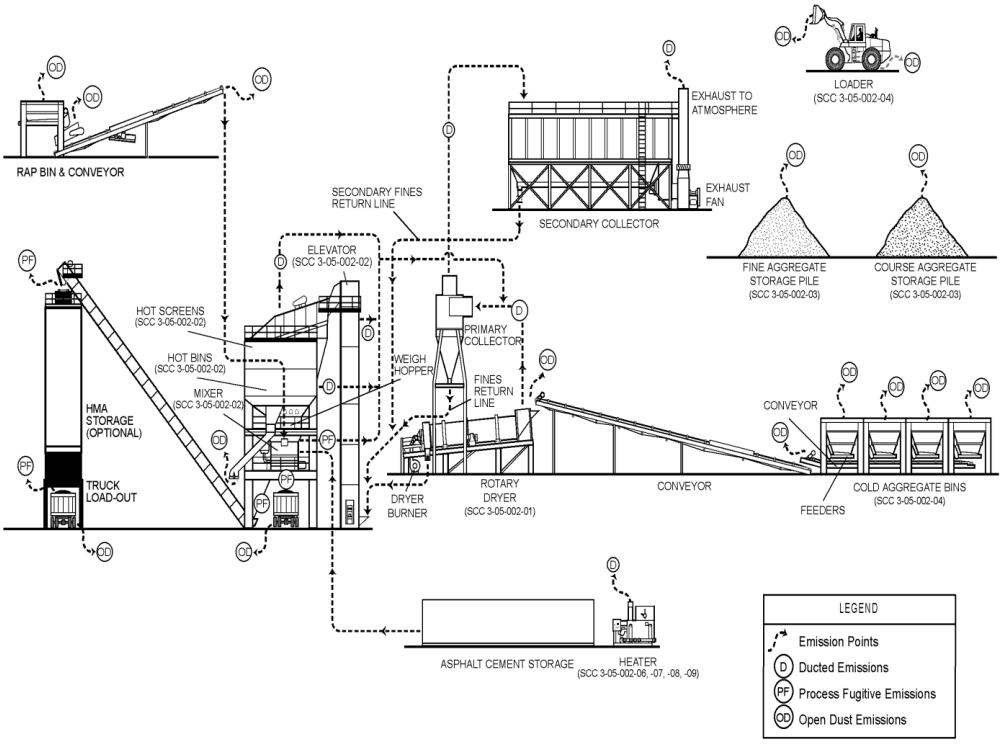


Figure 11.1-1. General process flow diagram for batch mix asphalt plants.[43] (Source Classification Codes in parentheses.)

Other points of Objection to the 2024 DNRC draft EA:

1. **The DNRC Acknowledges Significant Issues with the Asphalt Plant in its Own Draft EA**. Even the DNRC acknowledges, through its draft EA, the significant issues with an Asphalt Plant. This DNRC draft EA notes the following:

    - An Asphalt Plant **WILL** introduce an odor that will be noticed by residents, recreationists and wildlife.
    - An Asphalt Plant **WILL** introduce additional noise.
    - An Asphalt Plant **WILL** produce a visual disturbance either in the form of exhaust emitted from the plant or the plant will be visible itself.

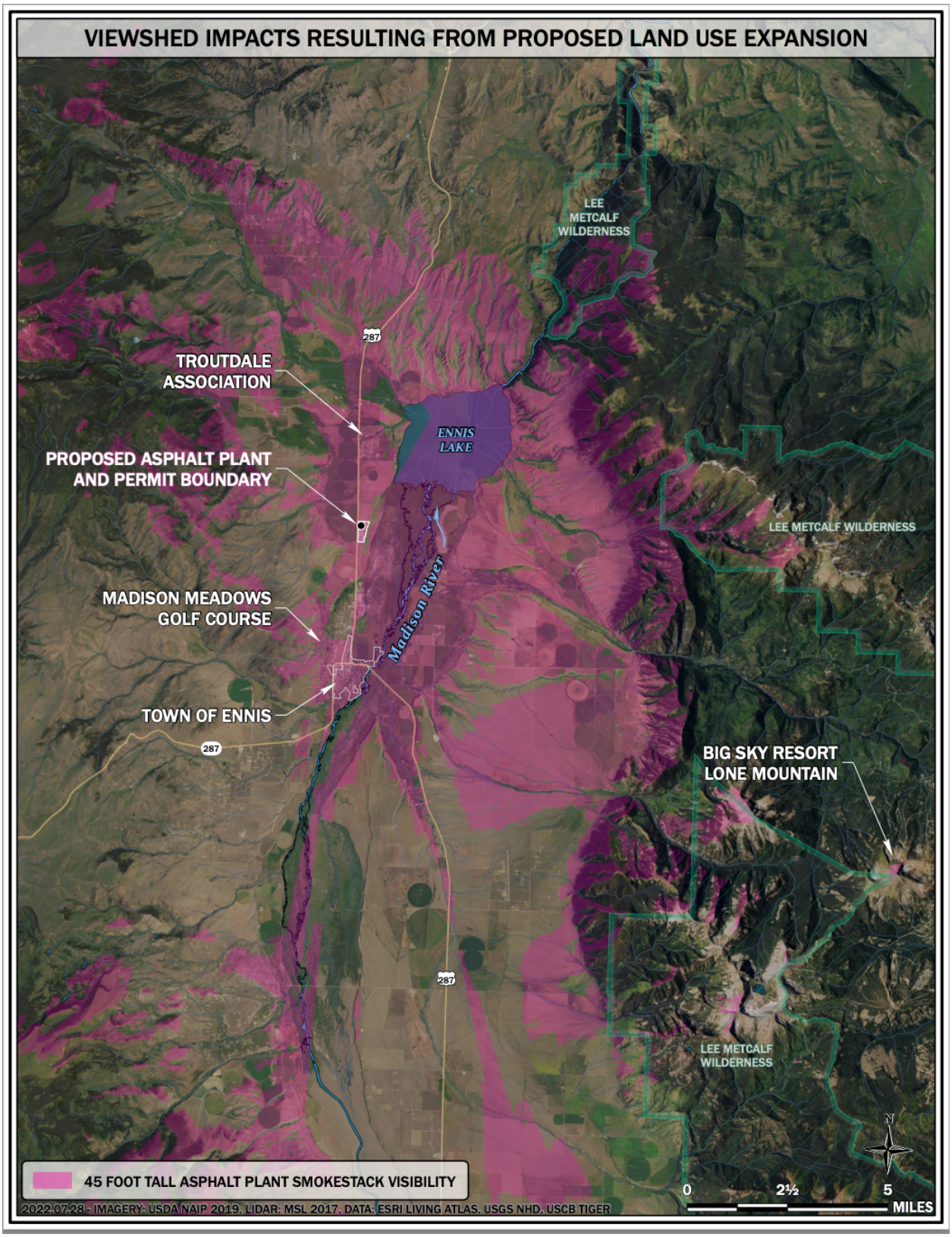
    Yet despite acknowledging these significant environmental and health issues, why does the DNRC permit this Asphalt Plant on State land on the banks of the ecologically sensitive Madison River Ecosystem and in the backyard of the citizens of Ennis and McAllister – again, without compensation!

2. **Impact on Air** - Asphalt plants produce toxic air pollutants including polycyclic aromatic compounds, volatile organic compounds, metal and hydrogen sulfide. Extracts of certain asphalts have been shown to cause cancer in wildlife and animals. In addition, asphalt fumes can irritate the nose, throat and lungs, cause headaches, dizziness, nausea and vomiting. Longer term effects can occur for some time after exposure and can last for months or years. The DNRC must hire a third-party expert to examine the operation and confirm that adequate protection exists to preclude the impact of these emissions on the human and wildlife inhabitants of the immediate surroundings. As currently articulated, the DNRC is relying on its own "desk top knowledge" and the self-regulation of Riverside to address these issues. An independent 3rd party expert should opine on the positions taken in the draft EA as well as be engaged to monitor compliance of Riverside on State Land. The DNRC must provide the public with a contact the public can interface with to enforce this compliance.

3. **Impact on Water** - The Montana Department of Environmental Quality (DEQ), in its permit to AM Welles specifically states that "**Asphalt is considered to have the potential to impact water quality"**. Asphalt plants can pose potential water quality issues if not managed properly. These contaminants include semi-volatile organic compounds (SVOCs), volatile organic compounds (VOCs) polycyclic aromatic hydrocarbons (PAHs) and metals (CHEJ 2019). Chemicals and heated thermal water may accidentally be discharged into the surrounding watershed. Given the proximity of the Asphalt Plant to the environmentally sensitive Madison River watershed, it is imperative that the DNRC provide further analysis including a licensed third-party water quality expert to opine on the potential impact of the Asphalt Plant on the environment and develop a mitigation plan should an accident occur. This third-party expert should also be engaged to regularly inspect the Asphalt Plant, ensuring compliance with the proper procedures and all third party regulations. The DNRC must provide the public with a contact the public can interface with to enforce this compliance.

4. **Viewshed Impacts** - See the attached viewshed analysis. Areas represented in the pink shaded areas will see and be impacted by the Asphalt Plant. All told, over 17 miles of the Madison River, its channels, tributaries, and Ennis Lake will be impacted. In addition, the Madison Meadows Golf Course area, Troutdale and many other communities will be impacted, as well as much of the Lee Metcalf wilderness and the residents and tourist travelling on HWY 287 between Ennis and McAllister.

(see next page)



Source: https://protectthemadisonvalley.org/

5. **DNRC does not enforce its existing permit with the Gravel Pit Operator, AM Welles.** To my best knowledge, the existing operator of the DSL gravel mine, AM Welles has historically and continues to violate the existing permit to mine sand and gravel only under Permit # G-1273-94. The DNRC, on behalf of the citizens of the State of Montana, continues to ignore these violations, refusing to enforce the terms of the existing permit.

6. **If the DNRC refuses to enforce its existing permit with AM Welles, how can the public be assured that the DNRC will properly oversee and enforce all permits associated with a new Asphalt Plant?** A new company, Riverside Contracting, will now be permitted to operate the Asphalt Plant on the DSL site (the "Asphalt Operator"). The operation of any asphalt plant requires strict compliance with local, state and federal regulations, including, but not limited to: (i) compliance with all the provisions of the Montana DEQ Open Mining Permit #674, (ii) all water rights in accordance with its own agency (DNRC), noting that Asphalt Plants consume significant amounts of water, and for almost 40 years AM Welles has operated its mining operation on this State Land **without** any water right, in violation of the law; (iii) appropriate federal and state regulations for air and water quality as mandated by the EPA and DEQ; and (iv) the DEQ Air Quality Bureau permit. The public must be provided copies of these permits and the DNRC must provide the name of the individual responsible for compliance with all of these regulations, keeping in mind that historically the DNRC elects not to enforce provisions of its underlying permits and the Asphalt Operator has a history of permit infractioins.

   The DNRC must provide the public the other facts required to be addressed in the DEQ Permit #674 (DEQ Permit) before Asphalt Production may be commenced, including, but not limited to:

   - The quantity of Asphalt to be stored on site.
   - Provide the bond that is required to be issued, given the amount of asphalt to be stored on site is in excess of 5,000 CY.
   - Provide the proper and enforceable permit for the Asphalt Plant.
   - The public must be informed and comfortable with the storage and proper disposal of the asphalt.
   - The current site has residual asphalt stored on site (in violation of the existing permit), how will this material be factored into the bond amount and properly disposed of.
   - Asphalt plants consume water. Please provide the public with the necessary water consumption analysis, water source and water permitting – factoring in drought year consequences.

7. **Again, impose inspectors on this site to ensure compliance from the Owner/Operator and charge those costs to the Owner/Operator**. This is a routine measure implemented by states and localities around the nation. It should be a minimum condition imposed here if this Asphalt Plant application is allowed.

8. **Riverside has an alternate location for the Asphalt Plant located toward Alder, MT.** This is a "high and dry" location away from the banks of the Madison River Ecosystem and likely just as far from the paving project requiring the asphalt. This location is likely more rural and affecting fewer citizens. Why does Riverside not pursue this option? In addition, the State of Montana owns a section of land (S16 T6S R2W) that the paving project likely transects, which is also "high and dry" and off the banks of the Madison River Ecosystem. Again, why does Riverside not pursue this option?

9. **What guarantee is there that the request for a "Temporary" permit through June __, 2024, won't be extended**? There is already a pattern of the Owner and Operator hiding their real intentions from the public (no mention of an Asphalt Plant in the 2022 or 2032 Environmental Assessments because Owner and Operator did not raise it with the State at that time) and/or an appearance of possible collusion between the State and the Owner/Operator. What is to prevent another "request" coming in with little to no notice to the public? I've already given you the answer: **a performance bond of multiple millions of dollars to guarantee this temporary nature of this permission is, indeed, temporary and confined to the dates in question**. Where is the protection needed for the State and its citizents?

DON'T PUT A POLLUTING ASPHALT PLANT ON THE MADISON RIVER! Limit the current gravel pit to its historical uses or purchase the land and dedicate it to a scenic overview. And require the operator to get the asphalt it needs from another brownfield source away from any river. They shouldn't be holding a gun to the heads of the Madison and Alder sites and citizens. There are other sources of asphalt in Montana that aren't on the banks of iconic American riparian waterways.

BUT IF YOU DO ALLOW THIS ILLEGAL ASPHALT PLANT SCHEME, DON'T LET MONTANA TAXPAYERS GET STUCK HOLDING THE BAG IF (WHEN) IT GOES WRONG!

Sincerely,

Frazor Ty Edmondson
144 Ennis Lake Road
Ennis, Montana 59729

Cc:

Montana DNRC
Office of Administrative Hearings
1539 11th Avenue
PO Box 201601
Helena, MT 59620-1601

Mayor Nici Haas
Ennis Town Hall
328 E Main Street
Ennis, MT 59729
mayor@ennismontana.org
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Montana DNRC – Trust Lands Management Division (MMB)
Western Montana Conservation Commission
Casey Lewis, Executive Director Casey.lewis@mt.gov
Emilie Henry, Program Coordinator Emilie.henry@mt.gov

Montana DEQ Opencut Section
Section Supervisor Whitney Bausch
Unit Coordinator J.J. Conner
Bond Questions/Program Support Specialist Laura Hunn

DEQ Air Quality Bureau
DEQ Headquarters
1520 E 6th Avenue l Helena, MT 59601
And by email to:
cdorrington2@mt.gov
james.fehr@mt.gov
rharbage@mt.gov
jmorgan3@mt.gov

DEQ Air Quality Bureau
Board of Environmental Review
P.O. Box 200901
Helena, MT 59620-0901

The Montana Department of Natural Resources and Conservation (DNRC) via:

- amanda.kaster@mt.gov
- bbramblett@mt.gov
- mbalukas@mt.gov

- jay.weiner@mt.gov

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March 12, 2024

The Montana Department of Natural Resources and Conservation (DNRC)
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Ennis, MT 59729 and via:

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and

Montana FWP
Region 3 Headquarters
1400 South 19th
Bozeman, MT 59718
fwpgen@mt.gov

(1) **Opposition to Ennis DSL Asphalt Plant** request by AM Welles to locate and operate an Asphalt Plant within the boundaries of their DSL Gravel Pit located on Montana State Trust Lands Section 16, Township 5S, Range 1W (the "Asphalt Plant" and/or "Proposal") and **Notice of Legal Insufficiency of Environmental Review**.

(2) **If No Action is selected – Operator and Owner should post bonds for any work on the Asphalt Plant that is allowed by DNRC.**

(2) **Notice to Montana FWP**: Danger to Fish and Hatcheries on the Madison River near Ennis, Montana.

(3) **Notice to Montana DEQ** of air pollution danger near Ennis, MT due to proposed Asphalt Plant.

Dear Zack Winfield:

Further to your email of March 7, 2024, as a member of the Ennis wildlife community, taxpayer, resident, and owner of 144 Ennis Lake Road, Ennis, MT 59729, **I am writing to confirm my opposition to the Asphalt Plant based on a fatally flawed and inadequate draft**

*Admitted in Texas and Massachusetts

environmental assessment that does not comply with the provisions and minimum requirements of Montana law ("2024 DNRC Draft EA"). In sum, this proposal is inadequate due to its poor design and execution and ignores the legitimate and overwhelming community concern about the significant negative impacts from the Proposal on the ecology, people, and wildlife in the Ennis area. The citizens of Ennis will undoubtedly subject the Montana DNRC to litigation and unnecessary, avoidable expense as a result of this inadequate "study" and its progeny, as well as the flawed process NDRC has gone through in reviewing this Proposal.

Part 1 – Opposition to Flawed Environmental Assessments

The DNRC has now published, belatedly, the work performed by it and the DEQ over the past years on the Applicant's Gravel Pit. To wit, the documents made available to the public are:

A. The Montana Department of Environmental Quality (DEQ) environmental assessment dated May 2022. <u>This DEQ EA does not address at all the issue of the now proposed Asphalt Plant</u>. This EA was done prior to the current request to locate an Asphalt Plant at the proposed site on the Madison River. So this document shows definitively that DEQ has NOT done an environmental assessment of the Asphalt Plant proposal, in violation of the DEQ's responsibility to protect the natural resources of the citizens of Montana.

B. The 2023 DNRC Checklist Environmental Assessment report which like the 2023 DEQ EA, <u>does not address at all the issue of the now proposed Asphalt Plant</u>. This EA was also done prior to the current request to locate an Asphalt Plant at the proposed site on the Madison River. So it does not qualify either as an environmental assessment for the purposes of this Proposal.

C. Now, the NDRC releases a draft EA that is fundamentally flawed. It simply compares the impacts on the Ennis site to the impacts of the proposed alternative site suggested by the operator in Alder, MT. This is not how an environmental assessment is conducted. **Science and Montana law demand looking at the damage that will be done to the Ennis site on the Madison River.** This is not some game of "which location is it OK to despoil."

D. In fact, there are also entire sections of the draft EA wherein the NDRC just "guesses" at what impacts may be in Alder, MT – or admits that it has no information about Alder or Ennis. Guessing, speculation, supposition, guess-timation, rushing through an analysis without obtaining data…these are not terms connected with scientific inquiry or environmental assessments in the ordinary course of reckoning. Neither is "cutting and pasting" your wildlife and fisheries assessment / impact portion of your report. Guys, this is really bad work.

Individually, and collectively, all of these reports are flawed with respect to the Proposal at hand to build an Asphalt Plant on the banks of the Madison River near Ennis. This application should be denied. NRDC should be ashamed it has even come this far in such a flawed and amateurish process. And, as NRDC's own feedback from the public shows: **this Proposal is**

deeply unpopular with the citizens of Montana. The DNRC draft environmental assessment is deeply flawed. And the NRDC should listen to its Montana citizenry.

1. The 2022 DEQ EA is defective on multiple levels.

1A. **The DEQ EA conducted in May 2020 did not consider the Asphalt Plant and, therefore, for the purposes of this current Proposal, is irrelevant.**

Quoting from the 2022 DEQ EA (p.2):

> "The applicant proposes to amend an existing permit into a Standard, long-term opencut operation to continue to mine, screen, crush, wash, stockpile, and transport 300,000 cubic yards of sand and gravel from a 63.2-acre site located 3 miles north of Ennis, MT.
>
> The site has been a long-standing permitted gravel source.
>
> The site was not inspected by an Opencut scientist, but aerial data gathered by DNRC using an Unmanned Aircraft System (UAS) was provided. Therefore, all information included in the EA is derived from the permit application, analysis of aerial photography, topographic maps, and other research tools."

Therefore, by its own terms, the 2022 DEQ EA is inapplicable and insufficient to serve as an environmental assessment for the Ennis DSL Asphalt Plant request by AM Welles to locate and operate an *Asphalt Plant* within the boundaries of their DSL Gravel Pit located on Montana State Trust Lands Section 16, Township 5S, Range 1W (the "Asphalt Plant" and/or "Proposal"). The 2022 DEQ EA only considered the impact of taking a small, long-run gravel pit and extending its use *as a gravel pit*. No relevant information to the ASPHALT PLANT proposal was investigated and the personnel used to perform the 2022 DEQ EA were not qualified in any respect to make any determinations relative to the Asphalt Plant, even if that had been within their remit. Which it was not.

1B. **The 2022 DEQ EA, which did not even consider the issue of an Asphalt Plant, also specifically took all of the information in the applicant's application, as true.**

That isn't a scientific inquiry. That's what's called a literature review. Science involves an analysis of independent, non-biased facts. Not "taking as true" anything an economically self-motivated actor has to say. For example, if you ask Pirates if they are murderers, thieves, or good people, they tend to say "good people, just slightly misunderstood." But you shouldn't take that as a fact. There is often information to the contrary if you care to look for it. But that is not what DEQ did in their 2022 EA.

1C. **Conclusion as to the 2022 DEQ EA.**

- The 2022 DEQ EA was not designed to, and did not, conduct an environmental review or analysis of the current Asphalt Plant Proposal and is therefore not proof that an adequate environmental assessment has been conducted of the Asphalt Plant Proposal.

2. **In the Summer of 2023, NRDC conducted a Checklist Environmental Assessment ("2023 NRDC CEA") with the same flaws as the 2022 DEQ EA, it did not consider the impact of an Asphalt Plant on the proposed site**.

2A. The 2023 NRCD CEA did not study the Proposed Asphalt Plant

Quoting from the 2023 NRDC CEA (pp 7-8):

> '11. AESTHETICS: Determine if the project is located on a prominent topographic feature, or may be visible from populated or scenic areas. What level of noise, light or visual change would be produced? Identify cumulative effects to aesthetics.
>
> **The pit is currently mostly blocked from view from adjacent lands by utilizing berms and existing topography along the edges of the pit, which also help with noise mitigation. This has been effective in reducing the impacts to aesthetics. The pit is only visible from highway 287 at the entrance and from the Madison valley on the east side of the Madison River. Berms along the north, south and east boundaries also help to shield the pit.** No action alternative: Aesthetics would remain relatively unchanged. Action alternative: **The expanded pit area would be shielded from noise and visual impacts to the surrounding areas using the same methodology currently utilized by the existing pit.** As a final step in the mining plan, the operator would eliminate the eastern berm of the pit. This is a common mining and reclamation practice known as daylighting. During the daylighting process, aesthetics east of the pit would be affected. It is likely that mining equipment and trucks will be seen and heard during berm deconstruction by recreationists of the Madison River east of the pit wall. After the deconstruction of the pit's berm is completed, reclamation will begin. Upon reclamation, the site will be blended with the 7 natural topography in the area and reseeded with native grasses. **The impacts to visual aesthetics will be minor and long-term. The impacts to noise aesthetics will be minor and short-term**.'

(emphasis added).

It is blatantly obvious that the impacts of an Asphalt Plant, example of which is below, is not included in the AESTHETICS component of the 2023 NRDC CEA nor in any other part of its analysis.

[The rest of this page is intentionally left blank to accommodate illustration on next page]

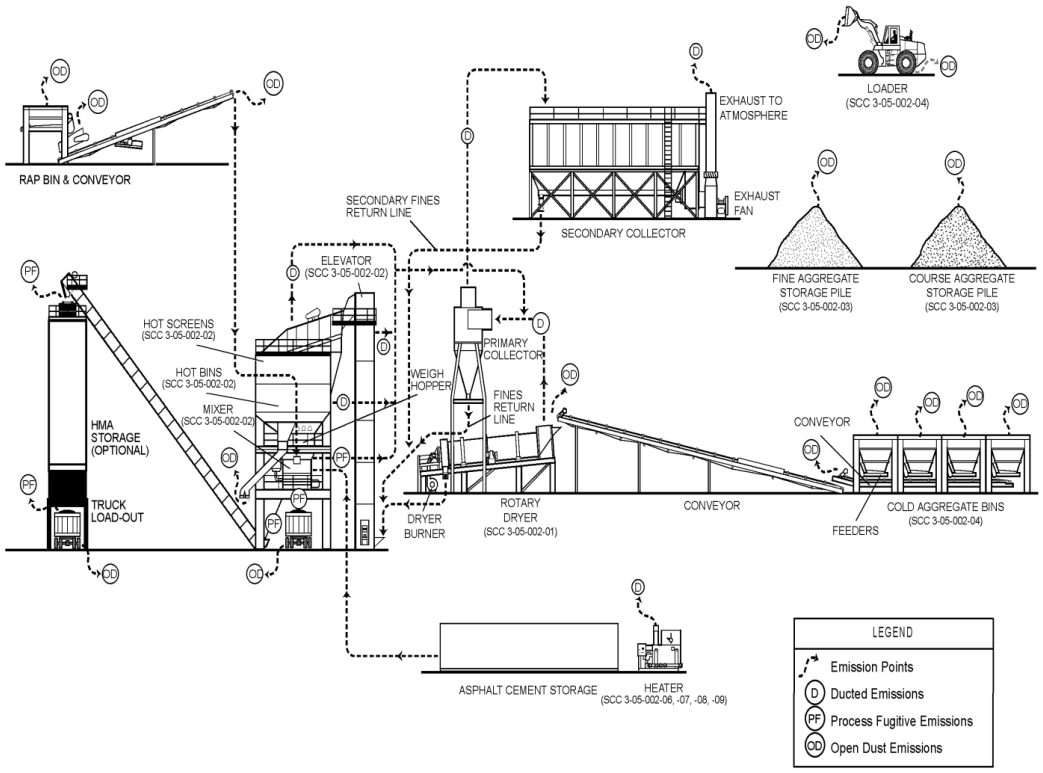
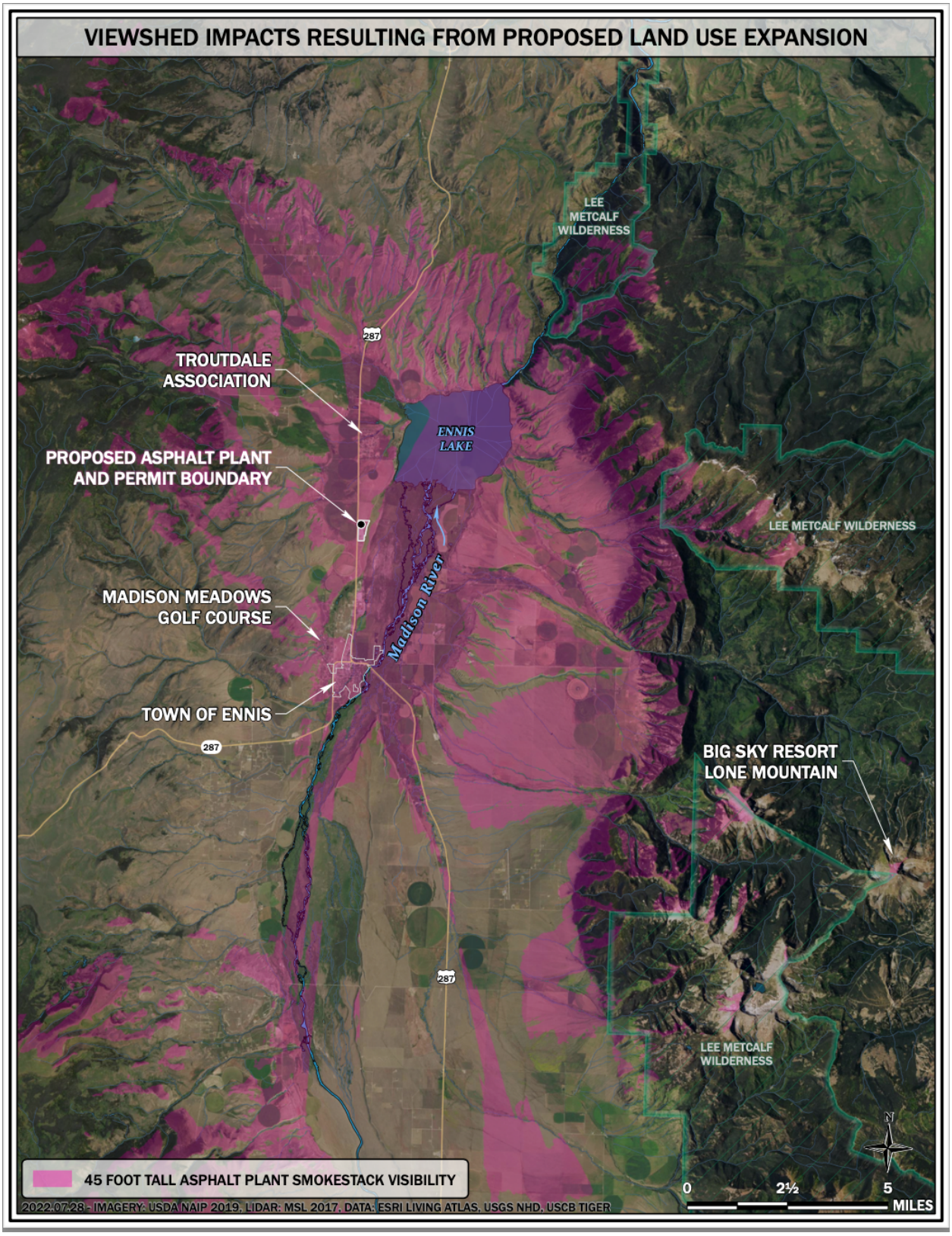


Figure 11.1-1. General process flow diagram for batch mix asphalt plants.[43] (Source Classification Codes in parentheses.)

Source of Figure 11.1-1 https://www.mdeq.ms.gov/wp-content/uploads/2017/06/asphalt_AP42_emission_factors.pdf

The 2023 NRDC CEA did not review the impact of any Asphalt Plant because the Applicant did not submit that possibility at the time the initial gravel pit extension permit was sought. Therefore, the possibility of evaluating the Asphalt Plant now at issue was simply excluded by NRDC from the report parameters. And, therefore, **the entire 2023 NRDC CEA is inapplicable to and inadequate as an environmental assessment of the Proposal which, not to get too much into science here, NOW CONTAINS A REQUEST TO OPERATE AN ASPHALT PLANT!**

It is obvious that the visual impact of an asphalt plant with massive 45-50 foot high smelters will be significant. It is established science that particulate matter is unhealthy for humans. The fact that both of these are ignored by the 2022 and 2023 assessments is obvious. So is the pattern engaged in by the Owner and Operator of "just approve this piece now…never mind our ultimate goal of polluting the entire Madison Valley and River." The fact that this specific matter and overall goal is again dismissed in the 2024 assessment is near criminal in its dereliction of duty.



Source: https://protectthemadisonvalley.org/

2B. **The 2023 NRDC CEA is deficient on its face**.

Therefore, by its own terms, **the 2023 DNRC CEA is inapplicable and insufficient to serve as an environmental assessment for the Ennis DSL Asphalt Plant request by AM Welles to locate and operate an *Asphalt Plant*** within the boundaries of their DSL Gravel Pit located on Montana State Trust Lands Section 16, Township 5S, Range 1W (the "Asphalt Plant" and/or "Proposal"). The 2023 NRDC CEA, like the 2022 DEQ EA before it, only considered the impact of taking a small, long-run gravel pit and extending its use *as a gravel pit*. No relevant information to the ASPHALT PLANT proposal was investigated and the personnel used to perform the 2022 DEQ EA were not qualified in any respect to make any determinations relative to the Asphalt Plant, even if that had been within their remit. Which it was not.

2C. **Conclusion as to the 2023 DNRC CEA** (alone and in combination with the 2022 DEQ EA).

- The 2023 DNRC CEA was not designed to, and did not, conduct an environmental review or analysis of the current Asphalt Plant Proposal and is therefore not proof that an adequate environmental assessment has been conducted of the Asphalt Plant Proposal.

- **None of the work done by the DEQ in 2022 nor the DNRC in 2023 establishes that an environmental assessment has been performed ON THE CURRENT PROPOSAL FOR AN ASPHALT PLANT.**

3. **The 2024 DNRC Spring 2024 Draft Environmental Assessment**.

Now, in the Spring of 2024, the DNRC submits, finally, a draft Environmental Assessment that includes the possibility of an Asphalt Plant (2024 Draft DNRC EA).

Quoting from the 2024 Draft DNRC EA:

> "The request is to mobilize the asphalt plant to the site on or after April 1, 2024 and demobilize the plant on or before June 8, 2024." (page 1)

> "The request to operate a temporary asphalt plant within the boundaries of the DSL pit would be denied via a denial letter. If this alternative is selected, Riverside Contracting has communicated to the Department that they would utilize an alternate location for the asphalt plant near Alder, Montana which is approximately 26 miles from the DSL pit. The Alder site is not owned by State of Montana Trust Lands." (page 2)

3A. **The 2024 Draft DNRC EA is flawed because it exclusively weighs the Proposal against the alternative Alder site.**

The issue in an environmental assessment is NOT which site is better. The analysis is: will the Proposal damage the natural resources of Montana. But the 2024 Draft DNRC EA ignores this statutory duty to examine damage to be done by the Proposal. Rather, it focuses on the relative damage to be done by the primary site (Ennis) versus the operator's proposed alternative site, Alder.

Thus the 2024 Draft DNRC EA completely ignores the danger of the Proposal to Fish, Wildlife and Human Health. This is a violation of Montana law and the Charter of the DNRC and should concern each and every agency with jurisdiction over this matter.[1] The 2024 DNRC Draft EA acknowledges harm to Montana public resources will be done by this Proposal, but it hides under a fig leaf of "but it will also hurt Alder if the Asphalt Plant is located there." Well duh. But that is not the question. The question is "is putting an Asphalt Plant on the Madison River banks near Ennis the right thing to do for the natural resources and people of Montana?"

Montana law doesn't ask DNRC to evaluate which of the operator's proposed sites are the best sites. It requires DNRC to protect Montana, it's people and our resources. The 2024 DNRC Draft EA is, in my opinion, a failure and a fraud of an environmental assessment. And it should be an embarrassment to its authors.

3B. **You don't need to be a bureaucrat or scientist to know the answer to the question.**

Just ask Montanans. The people of Ennis have spoken loud an clear on this point. For all of the reasons cited by the overwhelming public opposition to the Proposal as reflected in the DNRC Environmental Assessment materials published on the DNRC website at this link, including specifically the comments compiled as Appendix B to those materials (commencing on page 22), **the vast majority of the community of Ennis (who mention the new inclusion of an Asphalt Plant in the Proposal) clearly feels the Asphalt Plant represents a danger to the citizens and wildlife around Ennis**.[2] The sources of those very real dangers are many, including:

a. Increased truck traffic on the roads around Ennis
b. Particulate matter and dust plombs in the air
c. Dangers associated with overuse of public water from the Madison River.
d. Dangers of pollution to the Madison River.
e. Dangers to the fish populations of the Madison River
f. Dangers to the wildlife from pollution and increased road traffic around Ennis.
g. Etc., as the record reflects.

---

[1] To locate and operate an asphalt plant within this specific site, the proponent must obtain and maintain the following:

• Authorization letter for temporary asphalt plant – Montana DNRC – **Trust Lands Management Division (MMB)** • Any water used in the process must have a permitted water right from the DNRC WRD
• Opencut Mining Permit 674 – **Montana DEQ Opencut Section**
• With respect to air and water quality the proponent must comply with all federal regulations set forth by the **Environmental Protection Agency (EPA)** and state regulations set forth by the **Montana Department of Environmental Quality (DEQ)**.
• An asphalt plant requires a **DEQ Air Quality Bureau** permit.

2024 DNRC Draft EA (page 2)(emphasis added).

[2] It is also true that the NDRC process of excluding the Asphalt Plant from the 2022 and 2023 EAs has led to many people not being aware of the new 2023/4 inclusion of an Asphalt Plant in this Proposal. It has been heard to be said by some that they believe the DNRC and Owner/Operator colluded over time to hide this information from the public. This is NOT good for the DNRC's reputation.

The potential harm to the environment and human health stemming from the proposal for an Asphalt Plant on the Madison are so obvious that ChatGPT agrees:

> **Me:**
> Can an asphalt plant on the Madison River in Montana harm the environment?
>
> **ChatGPT:**
> Yes, an asphalt plant on the Madison River in Montana has the potential to harm the environment. Such facilities may release pollutants into the air and water, impacting local ecosystems and posing risks to human health. Environmental impact assessments are typically conducted to evaluate and mitigate these potential effects.

Note how ChatGPT isn't trading off environmental harm in Ennis versus that in Alder. You may ask: why is that? The answer is: Because it's smarter than the DNRC.

In fact, the idiocy of this 2024 draft EA is shown in that the DNRC didn't even consider the visual impact of the 45-50 foot smelter stacks in their opinion. Included with this letter is a visualization of the pollution caused by these stacks. Added to this visualization must be the billowing clouds of polluting particulate matter in various shades of white, grey and black "smoke." Noxious fumes, toxic particles, and economically impactful negative visualizations. Just what the fly-fishing guides on the Madison asked for (note: SARCASM).

Thus the 2024 Draft DNRC EA is deficient on many fronts. I've only focused on a couple here but am sure others will point out further details and I will be happy to join them in any full listing of all of the draft report's failures. But really, failing to account for the stacks, air pollution and economic impact to the Madison River is really amateur hour, misses the problems obvious to all the majority of the informed citizens of Ennis, and leads to belief among some that DNRC is in collusion with the Owner and Operator (see footnote 2).

Part 2 – Minimum Environmental Safeguards if Action is Permitted (Allowed) and potential for settlement of ensuing, inevitable litigation.

If the DNRC Clown Show allows this Proposal for an Asphalt Plant on the banks of the Madison, litigation will ensue diverting resources away from protecting the resources and people of Montana. Allowing this deplorable situation to occur will have been the sole fault and responsibility of the DNRC.

Yet, in case DNRC is reckless enough to allow this to occur, and in the wake of the litigation that would ensue, here is a minimum suggestion for how to proceed with a settlement to the litigation and/or to permit the Proposal.

1. The Owner and Operator both need to post a bond to support their promises and to finance the potential environmental harm this Proposal could create. The owner and proposed operator of the Asphalt Plant have represented to DNRC that the use of the site for an Asphalt Plant will be safe and temporary. If, in spite of the clear opposition to this Proposal by the community of Ennis and if DNRC violates its duties under Montana law by allowing this Proposal to proceed, then, **at a minimum, DNRC, FWP and DEQ should each require the Owner and Operator to post a separate $1million bond in favor of each Agency and the town of Ennis to secure their multiple promises to the state and citizens of Ennis**. Having

bonds posted to secure their behavior will give an incentive for the Proposal to end on time, not to seek an extension of time for the Asphalt Plant to operate (which would, itself, vitiate the entire draft environmental assessment which keeps repeating the short time-frame for the intended asphalt plant use),[3] force attention to the management of the site so as not to have a spill or other accident, and provide resources that the State can access in case there is a violation of any sort by the Owner and/or Operator.

It just makes sense. If this Proposed Asphalt Plant is so important, make sure that the State doesn't end up holding an environmental bag of woe at the end of this. Make the Owner and Operator put their money where their mouths are and post bonds that can only be released upon satisfactory completion, on time, safely, of the proposed activity. And if they don't operate as they promise, make them incur a significant economic penalty.

Specifically, if the operator asks for an extension of time for the Proposal beyond the June 8, 2024, time being sought, all of the bonds should immediately be called. This would help guard against "gaming" the system by making a temporary request up front and then returning, deliberately and stealthily later, for an "extension" so as to make it permanent. And, frankly, any honest and forthright operator or owner should be fine with this extra safety feature put in for the good of the Montana public and environment.

The Owner and Operator want to use public land, water, and air resources in this project. They want to endanger Montana wildlife. If – against the better judgement of the people of Ennis - you allow that, at least get a guarantee that the project will be done responsibly, at a minimum.

2. Require ongoing inspections of the site, weekly, by your offices paid for by the Operator. Include cost of traffic safety patrols by public officers.

The 2024 DNRC draft EA states that mitigation of risks from the Proposed Asphalt Plant are required by law:

Water Quality Issues and Concerns (Mitigations):

> "The potential selection of the action alternative would include the following stipulations in the authorization letter.
>
> - The asphalt plant must be regularly maintained and inspected to ensure it is not leaking fluids.
> - If a spill of any hazardous liquid occurs, the permittee must report the incident in accordance with applicable MT DEQ and EPA laws.
> - Any plans or regulations required by law regarding spill prevention and control, or water quality protection must be followed."

Air Quality Issues and Concerns

- Emissions from the asphalt will pollute the air with greenhouse gasses.
- Emissions from the trucking will pollute the air with greenhouse gasses.

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[3] **"**However, these emissions are not expected to significantly impact any species of concern or their habitats in the area **due to the short-term nature of the project**." 2024 Draft DRNC DA, page 14 (emphasis added).

- Emissions from the asphalt plant contain carcinogenic toxins that impact human health and wildlife health.
- Dust would be created from asphalt plant operations.

NDRC, the DEQ, and Montana FWP should have inspectors on site each day of the proposed Asphalt Plant project and charge the time and full costs associated with those inspectors back to the Owner and Operator of the site. This would reduce the likelihood of "shortcuts" or other illegal activity occurring on the site, and thereby safeguard Montana's environmental resources. They would also be able to study, in detail and in an actual work setting, the impacts of an Asphalt Plant sited next to a precious, economically important resource like the Madison River. This would mitigate the chances for and accident or an unobserved leakage or the like. It would also improve NDRC and DEQ's knowledge about **HOW STUPID IT IS TO ALLOW A GRAVEL PIT OPERATOR TO BUILD AN ASPHALT PLANT WITH 45-50+ FOOT SMELTERS NEXT TO A NATURAL WONDER LIKE THE MADISON RIVER**. At least this way, armed with the knowledge of all the damage this Asphalt Plant will do, to the environment, people, and ecology of the Madison River, the NDRC and DEQ can make a better decision next time.

So, to sum up:

1. The 2024 DNRC Draft Environmental Survey is, in my opinion, an intellectual and scientific fraud and I oppose it.

2. The citizens of Ennis, MT who know about this proposed Asphalt Plant overwhelmingly oppose it – as shown in the testimony gathered this year by the NDRC.

3. If the DNRC does decide to violate its duty to the people and laws of Montana and allow this Proposal to proceed, it will be sued. And this will divert significant resources from preserving the environment. And the operator won't get this done on the timelines they are talking about anyway.

----- BUT ------

4. If the DNRC decides to allow this Proposal to proceed (even though illegal), it should **AT A MINIMIMUM** require the Owner and Operator to post $1 million performance and mitigation bonds each to every impacted State agency to make sure the project is not extended (since the draft environmental report is premised on this limited time use) and that, if there is a problem on the site with environmental consequence, there are funds available to the State to address the remediation.

5. And, the State should have the Owner and Operator pay for ongoing, every-day inspections of the site if it is permitted to operate at the expense of the Owner and Operator. Each agency should be able to nominate its employees or contractors to do such oversight, again at Owner and Operators' expense.

DON'T PUT A POLLUTING ASPHALT PLANT ON THE MADISON RIVER! Limit the current gravel pit to its historical uses or purchase the land and dedicate it to a scenic overview. And require the operator to get the asphalt it needs from another brownfield source away from any river. They shouldn't be holding a gun to the heads of the Madison and Alder sites and citizens. There are other sources of asphalt in Montana that aren't on the banks of iconic American riparian waterways.

BUT IF YOU DO ALLOW THIS ILLEGAL ASPHALT PLANT SCHEME,[4] DON'T LET MONTANA TAXPAYERS GET STUCK HOLDING THE BAG IF (WHEN) IT GOES WRONG!

Sincerely,

Frazor Ty Edmondson
144 Ennis Lake Road
Ennis, Montana 59729

[4] And after the litigation is concluded – sometime in the 2030s.

Cc:

Montana DNRC
Office of Administrative Hearings
1539 11th Avenue
PO Box 201601
Helena, MT 59620-1601

Mayor Nici Haas
Ennis Town Hall
328 E Main Street
Ennis, MT 59729

Montana DNRC – Trust Lands Management Division (MMB)
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DEQ Air Quality Bureau
Board of Environmental Review
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Elisabeth MacKnight
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McAllister MT 59740

March 19, 2024

Zachary Winfield

VIA Email Zackary.winfield@mt.gov

Re: Proposed Asphalt Plant East of Hwy 287 1 mile south of Jordan Lane

Dear Mr. Winfield,

I was registered for last night's video hearing to receive public comments related to the asphalt plant proposed to be operational near my home on Ennis Lake. Due to last minute family obligations, I was unable to attend the Zoom. Please accept the letter as my response to the proposed plant.

I oppose any proposal to put an operational asphalt plant anywhere on Hwy 287 between Ennis and McAllister for the following reasons:

I. ENVIRONMENTAL THREATS

1. The surrounding air quality will be threatened. There are approximately 350 homes in the area around the site, as well as wildlife and birds, who will be breathing the fumes, drinking and recreating in the water, and hearing the noise.
2. What mitigation processes would be required if ecosystem damage occurs? Is it fixable?
3. What happens if there's an accidental spill? There is no guarantee it won't happen.
4. There are no studies that show asphalt plants do not have a negative impact on the environment. There are many that do.

II. THREATS TO THE LOCAL AND STATEWIDE ECONOMY

5. People's livelihoods will be threatened if the ecosystem is compromised. Fishing, hunting, local businesses, lodging, etc. would all be affected.
6. Smoke, smog, dust, and foul smells will deter visitors from the area, who may not want to return.
7. Tourists come here to see natural beauty, not eyesores like asphalt plants which can be seen for miles around. Tourism is vitally important to our local economy.

III. THREATS TO HUMAN HEALTH

8. There is well-documented evidence from multiple sources that report cancer causing agents are found in and around asphalt plants. They can cause skin and breathing problems, as well as reproductive and immune system issues.

IV. LACK OF DUE PROCESS

9. The permitting process requires 30 days for public comment, but it wasn't followed. The DNRC knew about the asphalt plant proposal in November but didn't make it public until just recently.

10. A third party is needed to conduct a baseline survey, and to monitor fumes, toxic chemicals, water consumption, etc. There is currently no one doing this.
11. Fundamental rights of Montanans have been violated because they were only given 11 days to prepare for the hearing, and only offered a period of 23 hours to respond by email.

V. LACK OF CONFIDENCE IN OPERATOR AS GOOD STEWARD TO THE ENVIRONMENT AND THE CONCERNS OF THE COMMUNITY

12. Operator claims a negative impact is "unlikely". Of course they do! There is inherent conflict of interest in their assessment of risk.
13. Last year, following public outcry in response to the expansion permit, the operator stated they weren't considering an asphalt plant at that location. How can we trust any statement of the operator or that they will self-report when they clearly misrepresented themselves to the community and in a public hearing.
14. The operator has historically taken more water than they've been allotted. Can they be trusted to work within the confines of the law with dangerous and toxic chemicals and emissions?
15. The operator is currently the defendant in 2 legal cases regarding permits. They have violated Montana law by not following the state constitution. Why are permit violations being ignored and not enforced?
16. The permitting process requires 30 days for public comment, but it wasn't followed. The DNRC knew about the asphalt plant proposal in November but didn't make it public until just recently.
17. The draft assessment states "If a spill of any hazardous liquid occurs, the permittee must report the incident in accordance with applicable MT DEQ and EPA laws." How can we be assured that the operator will self-report especially when there have been reported instances of their lack of compliance with how they run the gravel pit? Who will hold the operator responsible for damage to the environment?

VI. PERSONAL CIRCUMSTANCES

18. As a person with asthma, I experienced asthma attacks as a child breathing the polluted air generated by an asphalt plant that was temporarily operational on my way to elementary school. When this plant ceased operation, those attacks went away. Our home is downwind from the site and my family's health will be directly affected.

VII. COMMUNITY DISAPPROVAL

19. Nearby residents fear short- and long-term effects to their health, as well as the air, water, land, wildlife, etc. The overwhelming majority of the surrounding community have voiced this in yesterday's hearing and the 2022 hearing for expansion of the gravel pit.
20. 100% of the comments voiced by 27 people were opposed to permits for the asphalt plant at yesterday's hearing.

VIII. THERE ARE ALTERNATIVES

21. An alternate high and dry site could be used for the asphalt plant without incurring the risks of a location next to the Madison River. There are multiple gravel pits in Madison County and surrounding counties where the asphalt plant could be located.

IX. THE ENVIRONMENTAL RISKS ARE REAL AND THE OUTCOME IS UNCERTAIN

22. The facts are incontrovertible that there will be affects to the surroundings:
    - Small particles will be carried by wind and weather to residents, visitors, businesses, the Madison River, its tributaries, and Ennis Lake.
    - Chemicals can travel by air and stay on the surface of rivers and lakes, sometimes seen as rainbow sheen, threatening fish, birds, wildlife, etc. They can also seep into the ground with no known remedy.
    - The location of the plant is less than 1,000 feet from Ennis Lake and tributaries of the Madison River (Moore Creek).
23. Some effects on the environment won't be seen for months after the initial impact of the plant. Who will bear the burden to remedy this? There could be damage to sub-surface resources, which is in the DNRC's purview.
24. What mitigation processes would be required if ecosystem damage occurs? Is it fixable?
25. What happens if there's an accidental spill? There is no guarantee it won't happen.

X. THE ECONOMIC RISKS ARE REAL AND THE OUTCOME IS CERTAIN

26. Based on all of the above--the known environmental and health risks, the negative effects to business, the lack of trustworthiness of the operator, the lack of due process by the State of Montana and the public outcry of local citizens, all well-documented--the risk of lawsuits is real should any of our worst fears happen. Lawsuits will devastate the lives of our community, waste taxpayer money and provide negative press for our slice of paradise and the great State of Montana. Hindsight is the wisest teacher and we would look back and say, didn't we all see this coming?

For all the above, please deny the request for the active asphalt plant under current consideration.

Respectfully yours,

Elisabeth MacKnight

GALLIK & BREMER, P.C.

Attorneys at Law
777 East Main Street, Suite 203
Post Office Box 70
Bozeman, Montana 59771-0070

VIA EMAIL

March 19, 2024

Zach Winfield
Petroleum Engineer
Montana Department of Natural Resources and Conservation
Minerals Management Bureau
1539 Eleventh Avenue
Post Office Box 201601
Helena, MT 59601
Zackary.winfield@mt.gov

RE: **Written Testimony, DSL Asphalt Plant Proposal: Public Comment Opposing the AM Welles DSL Gravel Pit Temporary Asphalt Plant – Montana State Trust Lands, Section 16, Township 5 S, Range 1 W, Madison County Montana**

Dear Mr. Winfield:

This law firm represents the Channels Ranch, Inc., which owns property at 120 Ennis Lake Road, Ennis, Montana 59729 ("Channels Ranch"). As explained in our comments on the scoping notice, Channels Ranch adamantly and unequivocally opposes AM Welles' proposal to locate and operate a temporary asphalt plant ("Asphalt Plant") within the permitted boundaries of the DSL Gravel Pit, located on Montana State Trust Lands off US Highway 287, near the Madison River and Ennis Lake ("Subject Property").[1] The impacts from the Asphalt Plant – an industrial use – in this ecologically sensitive rural residential and agricultural area of the Madison Valley have not been adequately considered, and the draft Asphalt Plant Environmental Assessment prepared by the Department of Natural Resources and Conservation ("DNRC") and published with the March 7, 2023 Notice of Public Hearing ("Asphalt Plant EA" or "Environmental Assessment") is deficient. The inadequacies of the Asphalt Plant EA and flawed public participation failed to allow the public and affected property owners a meaningful opportunity to participate. Issues and concerns in response to the process and the Environmental Assessment are further addressed as follows.

Consideration of the Asphalt Plant is Premature – *Valley Garden v. DNRC*

As we have previously advised, Channels Ranch, Inc. opposed the amendment to the Department of Environmental Quality ("DEQ") opencut mining permit OC# 674 ("Permit") and expansion of permit

[1]The Subject Property is more particularly described as the Southeast Quarter of Section 16 T5S R1W, Madison County, Montana.

area, and the renewal and expansion of the DNRC gravel permit G-1273-94, for the AM Welles DSL Gravel Pit. Channels Ranch, among others, provided comments on and raised substantive issues regarding the renewal of the Permit and the expansion. The after-the-fact Environmental Assessment prepared by DNRC for the renewal and expansion was demonstrably inadequate. The Permit and infirmities in process are currently the subject of litigation in *Valley Garden v. DNRC*, Montana Fifth Judicial District Cause No. DV-29-2023-37 and a hearing is scheduled for April 1, 2024. With the outcome of that hearing and litigation unknown, and the validity of the underlying Permit in question, it is premature for DNRC to be considering an Asphalt Plant at the DSL Gravel Pit. DNRC's decision on the Asphalt Plant must be postponed until after the April 1, 2014 hearing and decision on the underlying Permit.

Montana Environmental Policy Act

Montana Environmental Policy Act ("MEPA") was enacted by the Legislature to give effect to its constitutional obligations under Article II, section 3[2] and Article IX[3] of the Montana Constitution.[4] Section 1 of Article IX charges that the "state and each person shall maintain and improve a clean and healthful environment in Montana for present and future generations."[5]

MEPA requires the adequate review of state actions to ensure "the public is informed of the anticipated impacts in Montana of potential state actions."[6] Based on the cursory information provided in the Asphalt Plant EA and its deficiencies, addressed herein and in other public comments, the public has not been informed of the anticipated impacts of DNRC's approval of the requested Asphalt Plant at the DSL Gravel Pit.

Pursuant to state law, the Environmental Assessment should be sufficient to "inform the public and public officials of potential impacts resulting from decisions made by state agencies"[7] and to ensure the following policy considerations are addressed.

> 75-1-103. Policy. (1) The legislature, recognizing the profound impact of human activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances, recognizing the critical importance of restoring and maintaining environmental quality to the overall welfare and human development, and further recognizing that

[2]Constitution of Montana, Article II, Declaration of Rights, Section 3. Inalienable rights. All persons are born free and have certain inalienable rights. They include the right to a clean and healthful environment and the rights of pursuing life's basic necessities, enjoying and defending their lives and liberties, acquiring, possessing and protecting property, and seeking their safety, health and happiness in all lawful ways. In enjoying these rights, all persons recognize corresponding responsibilities.
[3]Article IX. Environment and Natural Resources, Part IX, Sections 1 – 7.
[4]Mont. Code Ann. § 75-1-102(1).
[5] Article IX. Environment and Natural Resources, Part IX, Section 1.
[6] Mont. Code Ann. § 75-1-102(1)(b).
[7] Mont. Code Ann. § 75-1-102(3)(a).

governmental regulation may unnecessarily restrict the use and enjoyment of private property, declares that it is the continuing policy of the state of Montana, in cooperation with the federal government, local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which humans and nature can coexist in productive harmony, to recognize the right to use and enjoy private property free of undue government regulation, and to fulfill the social, economic, and other requirements of present and future generations of Montanans.

(2) In order to carry out the policy set forth in parts 1 through 3, it is the continuing responsibility of the state of Montana to use all practicable means consistent with other essential considerations of state policy to improve and coordinate state plans, functions, programs, and resources so that the state may:

(a) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(b) ensure for all Montanans safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

(c) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(d) protect the right to use and enjoy private property free of undue government regulation;

(e) preserve important historic, cultural, and natural aspects of our unique heritage and maintain, wherever possible, an environment that supports diversity and variety of individual choice;

(f) achieve a balance between population and resource use that will permit high standards of living and a wide sharing of life's amenities; and

(g) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(3) The legislature recognizes that each person is entitled to a healthful environment, that each person is entitled to use and enjoy that person's private property free of undue government regulation, that each person has the right to pursue life's basic necessities, and that each person has a responsibility to contribute to the preservation and enhancement of the environment. The implementation of these rights requires the

> balancing of the competing interests associated with the rights by the legislature in order to protect the public health, safety, and welfare.[8]

The cursory Environmental Assessment provided for the Asphalt Plant was not sufficient and does not demonstrate DNRC meaningfully addressed these policy considerations.

In preparing the Asphalt Plant EA, DNRC falls short as it failed to "use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which humans and nature can coexist in productive harmony, to recognize the right to use and enjoy private property free of undue government regulation, and to fulfill the social, economic, and other requirements of present and future generations of Montanans."[9] DNRC failed to take a "hard look" at the environmental impacts of the Asphalt Plant.[10] And the Asphalt Plant EA does not contain relevant information, much less adequate relevant information, nor was all pertinent data considered.[11] DNRC has not balanced competing interests associated in order to protect the public health, safety, and welfare, justified the Action Alternative using the inadequately defined No Action Alternative, and did not meaningfully address the significant environmental issues related to operations of an Asphalt Plant at the DSL Gravel Pit, thus DNRC has not fulfilled its obligations under MEPA.

Procedural Issues

"One of the central premises of MEPA is informed decisionmaking. Without public participation, a truly informed decision is unobtainable."[12]

The AM Welles Asphalt Plant is clearly a matter of significant public interest, demonstrated by the numerous substantive comments submitted by nearby property owners, residents, and the public with respect to the Permit renewal, the DSL Gravel Pit expansion, and the proposed Asphalt Plant. However, despite having received the Asphalt Plant application November 1, 2023, DNRC waited until January 25, 2024 to provide public notice and the one-page Initial Scoping Letter, which had offered scant information on the proposed Asphalt Plant operations. Then, based upon little to no substantive information, DNRC solicited "substantive comments" to be submitted within the 30-day scoping period, which concluded on March 2, 2024. Days later, on March 7, 2024, DNRC published the draft Asphalt Plant EA and provided less than two weeks for review of what should be a substantive, data driven, technical analysis. Moreover, the Asphalt Plant EA failed to meaningfully address many of the substantive issues raised by the comments Channels Ranch submitted in response to the Scoping Notice.

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[8]Mont. Code Ann. § 75-1-103.
[9]Mont. Code Ann. § 75-1-103(1).
[10] *Clark Fork Coalition v. Mont. Dep't of Envtl. Quality*, 2008 MT 407, ¶ 47.
[11] "Implicit in the requirement that an agency take a hard look at the environmental consequences of its actions is the obligation to make an adequate compilation of relevant information, to analyze it reasonably, and to consider all pertinent data." *Ravalli Cty. Fish & Game Ass'n, Inc.,* 273 Mont. at 381, 903 P.2d at 1369 (1995) (citing *Sierra Club v. U. S. Army Corps of Engrs.*, 701 F.2d 1011, 1029 (2nd Cir. 1983)).
[12] Stockwell, Hope, *A Guide to the Montana Environmental Policy Act*, 2021, Page 44.

While DNRC is providing a public meeting, two minutes to provide oral testimony does not provide nearby property owners, residents, and the public a meaningful nor effective opportunity to participate on those substantive issues. "The philosophical underpinnings of public participation lie in the notion that government derives its power and legitimacy from the consent of the governed. Public involvement is not a separate component of the MEPA process. Rather, public involvement is integral to each step of environmental review."[13] Absent the meaningful opportunity to participate and comment, DNRC cannot be fully informed with respect to adverse impacts and concerns.

While DNRC has discretion regarding its environmental review, given demonstrated levels of public interest in the DSL Gravel Pit and the significant concerns raised, it undermines the process by limiting comments to 2-minutes during the public meeting and only accepting written comments in a narrow 23-hour period and only if submitted via email to DNRC Engineer Zack Winfield. DNRC's flawed participation process, coupled with the inadequacies of the Asphalt Plant EA itself, as described herein, do not allow the public a meaningful opportunity to know and participate in this matter of significant public interest, and are contrary to its obligations under Opencut Mining Act MEPA, and the Montana Constitution.

Affected Environment and Environmental Impacts; Lack of Detailed Analysis

The Asphalt Plant EA lacks the depth and detail of analysis to adequately evaluate the Action and No Action Alternatives as required by MEPA.

> The level and depth of analysis and the appropriate detail required to adequately evaluate the proposed action are determined from an assessment of the complexity of the proposed action, the environmental sensitivity of the area, the degree of uncertainty that the proposed action will have a significant impact, and the need for and complexity of mitigation required to avoid the presence of significant impacts (MEPA Model Rule V(2)).[14]

Based on the inadequacies of the Environmental Assessment summarized above and further explained below, the Environmental Assessment is deficient under MEPA, and the public has not been afforded a meaningful opportunity to participate in the process and comment on the proposal, consistent with their constitutional rights.[15] Moreover, many statements in the Asphalt Plant EA are cut and paste, cursory or conclusory at best, further undermining the sufficiency of the Environmental Assessment.

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[13] Stockwell, Hope, *A Guide to the Montana Environmental Policy Act*, 2021, Page 44.

[14] Id. at Page 42.

[15] Constitution of Montana, Article II, Declaration of Rights, Section 8. Right of participation. The public has the right to expect governmental agencies to afford such reasonable opportunity for citizen participation in the operation of the agencies prior to the final decision as may be provided by law; Constitution of Montana, Article II, Declaration of Rights, Section 9. Right to know. No person shall be deprived of the right to examine documents or to observe the deliberations of all public bodies or agencies of state government and its subdivisions, except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure.

The Asphalt Plant EA does not describe the "affected environment" as required under MEPA and its Model Rules for the Action Alternative nor the so called No Action Alternative.

> The "affected environment" describes those aspects of the existing environment that are relevant to the identified issues. The description of the affected environment should be concise but thorough. The description should emphasize those aspects of the human environment that are relevant to each identified issue. The description of the affected environment serves three purposes: (1) it provides a baseline from which to analyze and compare alternatives and their impacts; (2) it ensures that the agency has a clear understanding of the human environment that would be impacted by the proposed action; and (3) it provides the public with a frame of reference in which to evaluate the agency's alternatives, including the proposed action.[16]

In most cases the Environmental Assessment consideration of impacts is limited only to the DSL Gravel Pit. The DSL Gravel Pit site is located in a rural residential and agricultural area of the Madison Valley, proximate to the Valley Garden Land and Cattle Company, a longstanding and ongoing agricultural operation, the neighboring Channels Ranch, and other nearby rural residential housing between Ennis and McAllister, including the Troutdale residential subdivisions. This is an ecologically sensitive area with numerous water bodies, as recognized by the DSL Gravel Pit EA, including the Madison River, Moose Creek, Ennis Lake, and related wetlands. DNRC has previously acknowledged the abundance of wildlife, including elk, white tail deer, moose, and antelope, fish, including the rare Arctic Grayling, and area bird populations including Tundra Swans, Sandhill Cranes, and Hungarian Partridge. Wildlife concerns were identified in our comments on the Scoping Notice, and the entire affected environment is the baseline from which impacts should have been assessed in the Asphalt Plant EA.

> An environmental impact is any change from the present condition of any resource or issue that may result as a consequence of an agency's decision to implement a proposed action or an alternative to the proposed action.
>
> The MEPA Model Rules require an analysis of the environmental effects in terms of the direct, secondary, and cumulative impacts on the physical and human environment. This analysis should be completed for all resources that are raised and identified as relevant issues in the initial scoping process.[17]

The Asphalt Plant, coupled with the expanded mine area and mining operations, crusher, pug mill, screen, conveyor, and wash plant, will collectively have environmental impacts beyond just mining extraction or the Asphalt Plant operations considered individually. The Environmental Assessment did not address many of the direct environmental impacts to the affected environment, much less cumulative and secondary impacts. Moreover, no rationale was offered for the cursory level of analysis provided, which was particularly egregious given the public comment on the Scoping Notice and the previous comments on the underlying DSL Gravel Pit Permit renewal and expansion.

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[16] Stockwell, Hope, *A Guide to the Montana Environmental Policy Act*, 2021, Pages 38-39.
[17] Id. at Page 39.

Impacts are anticipated to be significant as DRNC should be aware given the scope of public comment, yet it omitted detailed analysis and offered no mitigation. DNRC simply cannot make a well-informed decision based on the Asphalt Plant EA, and any decision relied on would be legally indefensible.

Inadequate Information on Asphalt Plant Operations Including Necessary Permits

The Asphalt Plant EA does not include information regarding the time of operations, during the period between April 1, 2024 - June 8, 2024, nor what machinery and equipment will be used by the Asphalt Plant during that time. The Scoping Notice indicated the Asphalt Plant will operate from April 1 to June 8 and is "expected to operate intermittently during this timeframe."[18] What is "intermittently"? Will it operate 24 hours a day? Will it operate seven (7) days a week, stopping for an hour or two from time to time to satisfy the vague description? The so called "intermittent" and temporary nature of the Asphalt Plant operations cannot be used to justify the lack of information and analysis in the Environmental Assessment. Nor does temporary and intermittent mitigate impacts.

In our comments on the Scoping Notice we requested additional information on the days of the week and times during each day that operations are expected to occur. This information was not provided. Absent this, DNRC had insufficient information to evaluate the impacts resulting from the Asphalt Plant operations. The Asphalt Plant EA failed to provide adequate notice and information to the public regarding the scope of operations and corresponding impacts that may result.

Neither the Asphalt Plant EA nor the Environmental Assessment prepared for the DSL Gravel Pit Permit renewal and expansion provide details regarding the Asphalt Plant, only that authorization must be obtained on a case-by-case basis. The underlying DSL Gravel Pit renewal and expansion Environmental Assessment makes clear the Asphalt Plant impacts were not considered at that time,[19] and assures that MEPA will be conducted by DNRC to evaluate the Asphalt Plant and its impacts.[20] However, the Asphalt Plant EA is lacking in basic information, data, and technical analysis.

The Asphalt Plant EA failed to specify the equipment being used and failed to provide the DEQ permit or registration information for the Asphalt Plant. It merely lists additional permits and approvals needed to locate and operate the Asphalt Plant, without producing them or confirming they have been obtained. Does the Asphalt Plant at the DSL Gravel Pit have the authorization letter from Montana DNRC? Does it have a DEQ Air Quality Bureau permit? Is the Asphalt Plant registered with DEQ? Has DEQ been notified of the proposed location of the Asphalt Plant? The Asphalt Plant EA relies on references to a list of necessary permits needed, yet does not affirm those have been obtained – further rendering the Asphalt Plant EA lacking.

Questions in our comments on the Scoping Notice were not addressed by the Asphalt Plant EA, including the following. Will the Asphalt Plant be producing Hot Mix Asphalt ("HMA")? If so, the Environmental Assessment must address equipment and operations related to the following.

[18] January 25, 2024 Initial Proposal Scoping Notice AM Welles DSL Temporary Asphalt Plant.
[19] DNRC Environmental Assessment, OC# 674 (amendment), Asphalt Plant, Pages 380-381.
[20] DNRC Environmental Assessment, OC# 674 (amendment), Page 4.

> The primary emission sources associated with HMA production are the dryers, hot bins, and mixers, which emit particulate matter (PM) and a variety of gaseous pollutants. Other emission sources found at HMA plants include storage silos, which temporarily hold the HMA; truck load-out operations, in which the HMA is loaded into trucks for hauling to the job site; liquid asphalt storage tanks; hot oil heaters, which are used to heat the asphalt storage tanks; and yard emissions, which consist of fugitive emissions from the HMA in truck beds. Emissions also result from vehicular traffic on paved and unpaved roads, aggregate storage and handling operations, and vehicle exhaust.[21]

The Environmental Assessment makes much of emissions from additional trucking miles, and fuels used by the Asphalt Plant, notes a closed loop system, but does not describe that system nor Asphalt Plant machinery nor operations in any meaningful way.

If the MT HWY 287 project between Ennis and Virginia is utilizing federal funds, this would result in a federal undertaking triggering cultural resource review pursuant to Section 106 of the National Historic Preservation Act and the National Environmental Policy Act. This too was raised in our scoping comments and was not addressed in the Asphalt Plant EA, which dismissed impacts to cultural resources relying on the current conditions of the DSL Gravel Pit.

History of Complaints – Riverside Contracting

The Asphalt Plant, if approved, will be operated by Riverside Contracting, Inc. ("Riverside"), which has a history of complaints on file with DEQ – yet another issue raised in our comments to the Scoping Notice that was not addressed. Those complaints range from air quality and dust, to violations of the Open Cut Mining Act, spills impacting soils, among others. *See* Complaint Spreadsheet attached as Exhibit A and incorporated by reference. We have submitted a request for information to DEQ regarding more recent complaints and claims of violations by Riverside in its operation of asphalt plants, but to date no information has been forthcoming. *See* March 12, 2023 Request for Information and DEQ Public Records Request: R003991-031224 attached as Exhibit B and incorporated by reference. The history of complaints of violations by the operator should have been considered and addressed by the Asphalt Plant EA, in particular given the rural residential, agricultural, and ecologically sensitive area in which the Asphalt Plant is proposed.

No Action Alternative

DNRC must "complete a meaningful no-action alternative analysis" as required by MEPA and the MEPA Model Rules for all environmental reviews that include an alternatives analysis.[22] "The no

[21] Hot Mix Asphalt Emission Assessment Report, page 1, chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www3.epa.gov/ttnchie1/ap42/ch11/related/ea-report.pdf (last accessed February 26, 2024).
[22] Section 75-1-201(1)(b)(iv)(C)(III), MCA; Stockwell, Hope, *A Guide to the Montana Environmental Policy Act*, 2021, Page 38.

action alternative provides a comparison of environmental conditions without the proposal and establishes a baseline for evaluating the proposed action and the other alternatives."[23]

No action means the proposed action does not take place, not that the action takes place at an alternative location. The No Action Alternative offered by the Environmental Assessment is an undisclosed location Riverside Contracting would utilize for the Asphalt Plant in Alder, Montana if the request to locate the Asphalt Plant at the DSL Gravel Pit was denied. Rather than No Action, this is an Alternative location for the Asphalt Plant, which DNRC uses to justify the Asphalt Plant at the DSL Gravel Pit, rather than provide a meaningful no-action alternative analysis.

The only information about the so called No Action Alternative is a general location in Alder, Montana approximately 26 miles from the DSL Gravel Pit. The population of this former mining community was 86 as of the 2020 Census, compared with a population of 116 as of 2000.[24] And Alder is located 9 miles north of the Ruby Reservoir, not proximate to sensitive waterbodies like the Action Alternative. As recognized by the Environmental Assessment, the DSL Gravel Pit is 1.5 miles from the main channel of the Madison River and Ennis Lake.

Direct impacts to human health and safety related to traffic on Highway 287 in Alder were described by the Environmental Assessment as minor, as compared to moderate impacts to human health and safety related to the DSL Gravel Pit location. And, despite acknowledging increased direct impacts to human health and safety from Asphalt Plant at the DSL Gravel Pit Site, cumulative impacts were dismissed as minor. The Environmental Assessment acknowledges Alder experiences less traffic at slower speeds, yet there was no meaningful consideration of this nor data provided related to comparative recreational and tourist travel and impacts to human health and safety, as further addressed below. Despite the foregoing weighing in favor of the Alder location, the Asphalt Plant EA attempts to justify the DSL Gravel Pit location based on mileage considerations.

Even without the exact location of the Asphalt Plant in Alder, it is clear that the relative impacts at that location would be less detrimental to human health and the environment. Regardless of the benefits of less mileage weighed heavily by the Asphalt Plant EA, the Alder location is unlikely to have the rural residential, environmental, and sensitive ecological impacts associated with the Action Alternative location for the Asphalt Plant, described herein, in the expert reports, and other public comments. This must be assessed and considered in a final Environmental Assessment.

The Asphalt Plant EA failed to provide a meaningful No Action Alternative, failed to provide sufficient details and analysis regarding the only alternative action offered, failed to provide data driven consideration of traffic and corresponding public health and safety impacts, and failed to address and analyze the comparative impacts given the very different locations addressed by the Environmental Assessment, in particular related to the rural residential and sensitive ecological area of the Action Alternative, taking into consideration the water quality and quantity, air quality, impacts on wildlife, avian and aquatic species, and the local recreational economy.

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[23] Stockwell, Hope, *A Guide to the Montana Environmental Policy Act*, 2021, Page 38.
[24] https://en.wikipedia.org/wiki/Alder,_Montana (accessed March 13, 2024).

Adverse Impacts from Asphalt Plant Operations
at the AM Welles DSL Gravel Pit

"Hot mix asphalt plants should not be built within residential areas and around water resources."[25]

The Channels Ranch owns property to the east of the AM Welles Pit Expansion, near the Madison River, and is justifiably concerned about the significant adverse impacts the Asphalt Plant will have on this environmentally sensitive area of Madison County, including impacts to water quality and quantity, wildlife, traffic, air, noise and dust, economic impacts and loss of property values, quality of life, and the health and safety of those who live, work, and recreate in this area of Madison County. This was clearly expressed in our comments on the Scoping Notice and in prior comments on the DSL Gravel pit Permit renewal and expansion. It is not only the immediate negative impacts that are of great concern, but also the secondary and cumulative impacts resulting from the Asphalt Plant operations considered together with ongoing gravel mining operations. DNRC's Environmental Assessment defines direct, secondary impacts, and cumulative impacts but fails to meaningfully address those environmental impacts relative to the affected environment. The Asphalt Plant EA states that its "review will not contemplate the impacts of other mining activities outside of the operation of the asphalt plant."[26] Yet those mining activities together with the Asphalt Plant operations will result in direct, secondary, and cumulative impacts on Channels Ranch, the Valley Garden Land Cattle Company, nearby Troutdale communities, other residents of and visitors to the Madison Valley.

Soil Quality, Water Quantity and Quality Impacts

> Aggregates used for asphalt production have varying concentrations of heavy metals. Some of these metals may escape from the aggregates and bitumen during asphalt production into the surrounding soil and water sources.[27]

The Environment Assessment is contradictory, claiming the affected environment does not include unique and unusual geologic features, while simultaneously acknowledging the DSL Gravel Pit is situated within a large bench west of and overlooking the Madison River. Then the Asphalt Plant EA fails to address environmental impacts to the Madison River and sensitive surrounds. We also incorporate by reference the inaccuracies related to the geology and soils analysis identified by the HydroSolutions' March 14, 2024 *Comments on DNRC Draft - Checklist Environmental Assessment for the DSL Temporary Asphalt Plant Request, Opencut #674, Madison County, Montana*, prepared

[25] *Road surface asphalt can pollute soils: we checked the health risk in a Nigerian city*, August 9, 2021, The Conversation, https://theconversation.com/road-surface-asphalt-can-pollute-soils-we-checked-the-health-risk-in-a-nigerian-city-165265 (accessed March 12, 2024).
[26] Draft – Checklist Environmental Assessment, DSL Temporary Asphalt Plant Request, I. Type and Purpose of Action, page 1
[27] See fn. 25.

by David A. Donohue, M.S., P.G., Senior Hydrogeologist, HydroSolutions Inc. ("HydroSolutions Comments – Donohue").[28]

A.M Wells admits in its application that "asphalt is considered to have the potential to impact water quality." (Emphasis added.) *See* Section D6(1) of the Application on file and of record with DNRC. DNRC's Environmental Statement for the DSL Gravel Pit renewal and expansion states, "[s]ection 16 contains an ephemeral drainage that is a tributary of Moore Creek, an already degraded waterway. Moore Creek drains into Fletcher channel, which ultimately drains into Ennis Lake*"* and admits "[r]unoff from large rain events may collect and distribute particles from the pit area to the ephemeral drainage." And the Asphalt Plant EA recognizes the location of surface waters proximate to the DSL Gravel Pit, including the main channel of the Madison River and Ennis Lake, Moore Creek (a jurisdictional waterway, 303(d) listed, water quality impaired stream and tributary of the Madison River that drains into Ennis Lake within 1000 of the DSL Gravel Pit), Fletcher Chanel, an unnamed tributary, and other water bodies. However, despite these acknowledgments, the Environmental Assessment concludes there will be no direct impacts to the foregoing surface waters relying on a so called "closed loop system." No information on the claimed closed loop system, nor actual Asphalt Plant mechanics nor equipment is provided. Potential for fuel leaks and spills are dismissed with cursory reliance on other agencies and no meaningful consideration. See also comments and issues raised in the HydroSolutions Comments – Donohue. Direct impacts to water quality were not thoroughly and adequately addressed by the Environmental Assessment, much less the secondary and cumulative impacts of the Asphalt Plant on water quality together with the impacts from the Gravel Pit operations. The health of these water bodies were likewise not considered.

In terms of groundwater, DNRC claims "no authority over the amount of water utilized from the groundwater well" and the Environmental Assessment relies on AM Welles exempt well permit and the operator to comply with the constraints of that water right.[29] Yet it must ensure the Asphalt Plant is appropriately permitted – it is the agency in charge of water rights and permitting. Reliance on the operator is not reasonable given the history of complaints addressed in our comments on the Scoping Notice and above.

DEQ's Operating and Emission Control Requirements for Asphalt Plants, state that "all unpaved portions of haul roads, access roads, parking lots, and general plant areas must be treated with water or chemical dust suppressant, as necessary, to minimize dust emissions" among other requirements.[30] The Environmental Assessment did not include analysis of the amount of water that will be used for the foregoing, nor that would be required by the totality of the DSL Gravel Pit operations, including the wash plant operations and pug mill operation, Gravel Pit dust suppression, and irrigation of stockpiles, thus does not ensure sufficiency of water rights. Furthermore, it failed to address water sufficient to address fire, explosion, and other catastrophic events that may result from the increased

[28] Channels Ranch is aligned with the Valley Garden Land and Cattle Company in opposing the DSL Gravel Pit and Asphalt plant in order to protect this ecologically sensitive, rural residential and agricultural area of the Madison Valley.
[29] See Environmental Assessment at page 7.
[30] Air Quality Registration Guidance Asphalt Plants https://deq.mt.gov/files/Air/AirQuality/Documents/Registration/FormsAndGuidance/6AQ_Guidance_AsphaltPlants_05-02-19.pdf (accessed March 15, 2024).

risks associated with the Asphalt Plant, despite concern raised in our comments on the Scoping Notice.

DNRC's Environmental Assessment for the DSL Gravel Pit renewal and expansion admitted that the planned use of water from the onsite well will affect the abundance of ground water in the direct vicinity of the project area, but failed to address those effects in any way.[31] The Asphalt Plant EA compounds this failure given the additional water demands of the Asphalt Plant per DEQ's requirements. That previous Environmental Assessment also states the "well being utilized by the proponent currently is an exempt well, meaning it is authorized for use up to 10-acre feet per year" and estimates "the well utilizes approximately 5.75 acre-ft per year."[32] "According to the DNRC water right records, the DNRC well located onsite is not permitted for asphalt plant or dust control use, but only for commercial and gravel washing."[33] Thus, that cannot be relied upon by the Asphalt Plant EA further rendering it inadequate. The Environmental Assessment failed to effectively and meaningfully address effects to groundwater, nearby wells, and sufficiency of water relative to the exempt well and amount of water currently being utilized and additional water rights obtained as necessary. The secondary and cumulative impacts on water quality and water quantity were also not adequately assessed. The Asphalt Plant cannot be approved unless and until sufficient water rights are confirmed and water quality is protected.

Air Quality Impacts, Dust, Noxious Odors

The Asphalt Plant EA failed to address the issues raised in our comments to the Scoping Notice and was deficient in addressing air quality impacts, fugitive dust, and noxious odors. Related, we incorporate by reference the inaccuracies and insufficiencies identified by HydroSolutions' March 14, 20204 *Comments on Air Quality Impacts from the DSL Temporary Asphalt Plant Request, A.M. Welles DSL Pit, Madison County, Montana*, prepared by Shane A. Bofto, MBA, Senior Chemical/Environmental Engineer, HydroSolutions Inc.[34]

"Asphalt plants are sources of air pollution that may emit significant levels of both particulate matter and gaseous volatile organic compounds (VOCs). These pollutants are considered to be dangerous to human health."[35] Moreover, atmospheric emissions from an asphalt plant stack, as well as fugitive emissions from the source to ambient air are commonly known to contain a vast array of potentially hazardous chemicals. "Toxic air pollutants compounds emitted from asphalt plants include polycyclic aromatic compounds, volatile organic compounds, metals and hydrogen sulfide"[36] among others. *See* Toxic Air Pollutants List included as Exhibit C and incorporated by reference. Those hazardous chemicals can result in the following, among other concerns.

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[31] Environmental Assessment DSL Gravel Pit renewal and expansion, III. Impacts on the Physical Environment, 5. Water Quality, Quantity and Distribution.
[32] Environmental Assessment DSL Gravel Pit renewal and expansion, III. Impacts on the Physical Environment, 12. Demands On Environmental Resources of Land, Water, Air or Energy, page 8.
[33]HydroSolutions Comments – Donohue, page 3.
[34] See fn 28.
[35] Fact Sheet: Information Regarding Asphalt Concrete Plants, number 5, November 1996, Ohio EPA, Division of Air Pollution Control Small Business Assistance Program."
[36] https://www.deq.nc.gov/about/divisions/air-quality/air-quality-permitting/asphalt-plants (last accessed February 28, 2024).

> Extracts of certain Asphalts have been shown to cause cancer in animals.
>
> Breathing Asphalt fumes can irritate the nose, throat and lungs causing coughing, wheezing and/or shortness of breath.
>
> Exposure to Asphalt fumes can cause headache, dizziness, nausea and vomiting.
>
> Chronic (long-term) health effects can occur at some time after exposure to asphalt and can last for months or years.[37]

Other pollutants typically found at various levels in emissions from asphalt plants include hydrogen sulfide, benzene, chromium, formaldehyde, polycyclic aromatic hydrocarbons (PAHS), cadmium and arsenic…:"[38] Additional hazardous substances, asphalt plant pollutants and particulates are listed in Exhibit C.

Impacts to air quality resulting from Asphalt Plant operations are of considerable concern, which was identified in our comments on the Scoping Notice. Despite that, the Environmental Assessment did not meaningfully address air pollution, hazardous substances, nor atmospheric and fugitive emissions that will result from the asphalt plant, much less did it take into consideration wind direction and wind speed, distance of travel, and corresponding impacts to humans, wildlife, and nearby water bodies, as raised in our comments to the Scoping Notice. DNRC relies on DEQ and EPA as the regulatory agencies, acknowledges an Air Quality Permit is needed, but fails to provide confirmation that the Asphalt Plant has the necessary permit. Evidence of a Montana Department of Environmental Quality air quality permit was requested in the comments to the Scoping Notice, yet was not provided.

Fine dust and dust plumes carried by the wind, as well as sedimentation, will result from the Asphalt Plan at the DSL Gravel Pit, compounded by ongoing mine operations, heavy truck traffic, including crushing, screening, stacking, truck, and loader transport on and off site, removal of overburden, construction of berms, and wind blowing over gravel stockpiles. Prevailing and often strong winds in Madison Valley in the area of the Asphalt Plant will exacerbate the impacts of fugitive dust, air pollution, and dispersion hazardous chemicals, which can result in breathing problems and respiratory impacts, including irritation of eyes, nose, throat, and respiratory tract, and which can compound existing respiratory conditions including asthma and allergies. Off-site dust emissions are rarely monitored, and Riverside Contracting has a history of air quality complaints. *See* Exhibit C. The Asphalt Plant EA failed to meaningfully address concerns nor provide data related to the foregoing, rather, it attempts to justify the Action Alternative based on comparative emissions and dust generation from the No Action Alternative.

The Environmental Assessment did not assess the environmental impacts of fugitive dust, dust plumes, sedimentation, and related hazardous chemicals on plants, trees, native rangeland, grazing pastures, and other vegetative cover. *See* Toxic Air Pollutants List attached as Exhibit C. The

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[37] https://www.nj.gov/health/eoh/rtkweb/documents/fs/0170.pdf (last accessed February 28, 2024).
[38] Id.

Asphalt Plant merely limits its consideration to the Gravel Pit itself, rather than considering the "affected environment" and those aspects of the existing environment that are relevant to these identified issues. The secondary and cumulative impacts of the disturbance of previously undisturbed ground for the mining expansion coupled with the Asphalt Plant will generate increased amounts of airborne pollutants and fugitive dust particulates, which was not considered by the Asphalt Plant EA. DNRC acknowledged in its previous Environmental Assessment for the DSL Gravel Pit renewal and expansion that air quality impacts must be addressed via separate MEPA analysis, then failed to do so in any meaningful or substantive way.

Wildlife Impacts – Terrestrial, Avian, and Aquatic Life and Habitat,

DNRC's Environmental Assessment for the DSL Gravel Pit renewal and expansion recognizes "The project area provides habitat for a variety of wildlife species" and should have considered substantial habitat values and use of the area by wildlife, birds or fish, and identified cumulative impacts to fish and wildlife. However, DNRC's Asphalt Plant EA did not analyze risks and environmental impacts of the Asphalt Plant on the wildlife, fish, and bird populations it previously identified – including elk, white tail deer, moose, antelope, Tundra Swans, Sandhill Cranes, and Hungarian Partridge in any specific or meaningful way, and no data was provided.

The Environmental Assessment generalizes that "Terrestrial, avian and aquatic life and habitats near the DSL pit may be impacted" and "Overall, the direct impacts of the action alternative to terrestrial, avian and aquatic life would be expected to be minor" and dismisses impacts as short-term, with no specifics as to what those minor impacts may be, no time frame, and no supporting data. It then conflictingly finds that "No impacts to fish or aquatic species are expected" Will they, or will they not? Will they be minor? Will they be short term? On what basis are these conclusions founded? To the contrary, the DSL Gravel Pit and the Asphalt Plant will likely have grave impacts on nearby Moore Creek, which operates as a remote site incubator managed by Montana Fish Wildlife and Parks for the rare Arctic Grayling, identified as high risk in Montana with declining population and range. As addressed above, impacts to water quality were not addressed as related to this spring fed tributary of the Madison River, known to be a degraded watershed, and the Asphalt Plant operations will undoubtedly exacerbate the existing 303(d) listed conditions of the Moore Creek watershed, impacting fisheries and undermining efforts to restore that watershed and related wetland complexes being undertaken at the local, state, federal level and through private efforts.

The Environmental Assessment further generalizes that "The selection of the action alternative would be expected to have lesser impacts on terrestrial, avian and aquatic life than the no action alternative" with no data or information in support, and no meaningful consideration of the vastly different locations in the vicinity of the DSL Gravel Pit as compared with Alder. No assessment of impacts from fugitive dust, chemical plumes, noise, odors, and diminished water quality on wildlife, birds and fisheries as related to either of the alternatives was provided. Moreover, the Environmental Assessment attempts to justify the Asphalt Plant at the DSL Gravel Pit as compared to the Alder location in terms of vehicular-wildlife collisions, with no supporting information.

As to direct impacts, DNRC states it is not regulatory and does not have the ability to shut down an asphalt plant. While that may be true, DNRC does have an obligation to comply with MEPA and

assess impacts of the Asphalt Plant on the trust lands it manages, and it can deny the asphalt plant as recognized in the Alternatives Considered section of the EA.

Fire Hazard Risks

With less than average precipitation this winter (2023-2024), the fire season ahead is an obvious concern. The Asphalt Plant has a high fire hazard risk due to the highly toxic, combustible, and flammable chemicals used. Emergency incidents can result in explosions, asphalt fumes, fire, and toxic exposure, with long-term consequences, including, but not limited to toxic runoff, chemical spills, and other catastrophes that would be detrimental in this ecologically sensitive area. These risks were raised in our comments on the Scoping Notice. The Demand for Government Services section of the Environmental Assessment includes fire protection, and despite risk to public health and safety and expressed concerns, this was not assessed in the Environmental Assessment.

The Asphalt Plant EA also failed to consider the Madison County Wildfire Protection Plan as related to Locally Adopted Environmental Plans and Goals section of the Asphalt Plant EA.

Neighboring Residential Uses, Noise, Odors, and Visual Impacts;
Economic Circumstances;
Access To and Quality of Recreational and Wilderness Activities

The Asphalt Plant is an inappropriate industrial use in this ecologically sensitive rural residential and agricultural area of the Madison Valley. Asphalt plants generate persistent noise and toxic odors from chemical emissions, pollutants, and hazardous substances, described above, creating a nuisance, and which may cause symptoms such as headaches, eye, nose, and throat irritation, and nausea, among other symptoms. Concerns regarding the significant adverse impacts to nearby properties and their occupants, including visual impacts, offensive odors, and elevated noise were not adequately assessed by the Environmental Assessment.

Environmental noise is associated with annoyance, stress, sleep disturbance, and impaired cognitive performance. Epidemiological studies have found that environmental noise is associated with an increased incidence of arterial hypertension, myocardial infarction, heart failure, and stroke. Both observational and experimental studies indicate that in particular night-time noise can cause disruptions of sleep structure, vegetative arousals (e.g. increases of blood pressure and heart rate) and increases in stress hormone levels and oxidative stress, which in turn may result in endothelial dysfunction and arterial hypertension.[39] With these impacts to human health in mind, the lack of information on the time and days of operation for the Asphalt Plant is a further omission that renders the Asphalt Plant EA flawed.

The Environmental Assessment did not meaningfully evaluate aesthetic impacts to the affected environment in the vicinity of the DSL Gravel Pit – a rural and scenic area – in particular given the intrusive height of the Asphalt Plant stack and exhaust plumes expected to result. A viewshed analysis and related concerns were submitted with the comments on the Scoping Notice, which demonstrates significant and adverse visual impacts will result across a broad swath of the Madison

[39] Munzel, Thomas, et al., *Cardiovascular effects of environmental noise exposure*, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3971384/ (last accessed March 15, 2024).

Valley, including "Troutdale, McAllister, Town of Ennis, the Golf Course, the Madison River and it [sic] Channels, Ennis Lake, all the way up to the Lee Metcalf Wilderness from the Bear Trap to the Cedar Creek area – even the backside of Big Sky and Lone Mountain."[40] In addition, "17 miles of the Madison River will visibly see and hear this Asphalt Plant."[41] *See* the Viewshed Analysis attached as Exhibit D and incorporated by reference. The Asphalt Plant EA did not address the Viewshed Analysis nor aesthetic impacts to the foregoing areas, yet concedes aesthetic and visual impacts. The EA acknowledges the Asphalt Plant and its exhaust and blowing dust would be visible. It then attempts to justify these impacts by comparing the mileage of the No Action Alternative – which is irrelevant. DNRC also uses the intermittent operations as justification for impacts when it fails to provide any information on the timing of the Asphalt Plant operations.

The Environmental Assessment dismisses the area in the vicinity of the DSL Gravel Pit as "not overly unique nor distinct from other valleys throughout the state" despite recognizing the proximate location – 1.5 miles from Ennis Lake and the main channel of the Madison River. Channels Ranch emphatically disagrees with the characterization. Additionally, the Asphalt Plant EA offers only blanket statements of no impacts and no changes to the unique quality of the area, rather than specifically addressing the visibility of the Asphalt Plant from the Channels Ranch, other neighboring properties, and the locations identified above and in the Viewshed Analysis. It also failed to take into consideration impacts to the scenic beauty and natural quality which support Madison County's outdoor recreation economy. In doing so, DNRC has not "ensure[d] for all Montanans … aesthetically and culturally pleasing surroundings" and "achieve[d] a balance between population and resource use that will permit high standards of living and a wide sharing of life's amenities."[42]

The Environmental Assessment claims that Alder is along the Ruby River, but provides no mileage. No location was identified for the Alder No Action Alternative, nor were specifics or data whether it has some unique quality, nor recreation or tourism, so the generalized direct, secondary, and cumulative impact statements are unfounded in terms of comparative Aesthetic and Quality of Recreational and Wilderness Activities considerations.

Channels Ranch owners prize the recreational and wilderness activities in this area of the Madison Valley, fly fishing among them. The Madison Valley relies on tourism, recreation, and visitors to support the local economy. Many of those tourists and visitors travel scenic Highway 287 to reach Yellowstone Park among other destinations. Recreation also includes hiking in the nearby mountains, and Ennis Lake activities. Commercial guided outfitting on the Madison River is a significant driver of economic activity in the Valley.[43] The Environmental Assessment acknowledges the foregoing, but does not meaningfully consider impacts – which will be significant with the Asphalt Plant visible for ~17 miles. See Viewshed Study at Exhibit D. Rather, it dismisses these direct impacts as minor, and concludes there will be no secondary and cumulative effects to recreational and with no

[40] https://protectthemadisonvalley.org/background (last accessed February 27, 2024).
[41] Id.
[42] Mont. Code Ann. § 75-1-103(2)(b), (f).
[43] https://fwp.mt.gov/binaries/content/assets/fwp/aboutfwp/councils--committees/madison-river-workgroup/4-28-2022/economic-implications-of-madison-river-commercial-limit-options-final-4-26-22.pdf (last accessed February 28, 2024).

supporting information. Further troubling is the lack of compensation being paid for the Asphalt Plant's use of the State Trust lands, which violates DRNC's Trust obligations.

Locally Adopted Environmental Plans and Goals – Not Considered

The Madison County Growth Policy ("Growth Policy") and its goals related to land use decisions in the Madison Valley were not considered in the Environmental Assessment. The Growth Policy goal 'to support a mix of activities (agriculture, residential, commercial, industrial, public facilities, and recreation) in ways that accommodate growth, minimize conflict among adjacent land uses, promote efficient use of land, protect public health and safety, and reflect the five Guiding Principles" is particularly relevant and was not considered.[44] The Asphalt Plant is not a land use consistent with this goal. It has created rather than minimized conflict among adjacent land uses, and property owners, and will not promote efficient use of land, nor protect public health and safety. The Asphalt Plant EA also failed to address the following Guiding Principles, among other Growth Policy considerations.

3.2.1 Guiding Principle #1. Locate new development close to existing services and communities

Requires attention to both locational considerations and service system capabilities.

3.2.2 Guiding Principle #2. Protect our river corridors

Requires attention to environmental, public health and safety, recreation, and aesthetic concerns.

3.2.3 Guiding Principle #3. Preserve our most productive agricultural lands

Requires attention to economic, environmental, and cultural issues.

3.2.4 Guiding Principle #4. New development should pay its own way

Requires attention to fiscal and equity issues of concern to many Counties taxpayers and officials.

3.2.5 Guiding Principle #5. Respect private property rights

A reminder that Madison County officials will be cognizant of, and abide by, state And federal constitutional law as it pertains to private property rights. Consideration of this principle, however, will be balanced by consideration of the public interest, generally defined as the public health, safety, and welfare.[45]

The Growth Policy is a locally adopted plan and tool for providing more effective guidance on land use decisions and should have been identified and considered in the Asphalt Plant EA under the Locally Adopted Environmental Plans and Goals section as related to the proposed Asphalt Plant.

The Madison County Wildfire Protection Plan ("Wildfire Protection Plan") is another locally adopted plan the Asphalt Plant EA failed to consider. Fire mitigation and management strategies are included

[44] Madison County Growth Policy 2012, Adopted March 2013, Page 3-2.
[45] Madison County Growth Policy 2012, Adopted March 2013, Page 3-1-3-2.

in the Wildfire Protection Plan, among others. As noted above, neither fire protection nor fire suppression were addressed by the Asphalt Plant EA, despite the high risk of fire and explosion associated with Asphalt Plant operations and corresponding risks to human health and the environment. This is yet another deficiency of the Environmental Assessment.

Traffic Impacts

Highway 287 in the vicinity of the DSL Gravel Pit is heavily trafficked and commonly used by large semi-trucks, local residents, tourists and the traveling public. During the Asphalt Plant period of operations, April 1, 2024 - June 8, 2024, ever-increasing tourists and RVs will be visiting the Madison Valley using Highway 287 as well. The addition of an Asphalt Plant will undoubtedly compound heavy gravel truck traffic, damage the road, and increase risk of accidents for residents, tourists, and the traveling public. In terms of Human Health and Safety, the Asphalt Plant EA recognizes that "Highway 287 poses safety risks to motorists especially near the entrance and exit of the DSL Gravel Pit" and "Large trucks entering and exiting the pit move at much slower speeds than the normal traffic flow on Highway 287." It also acknowledges that Alder experiences less traffic at slower velocities than the DSL site. Despite this, the Asphalt Plant EA attempts to justify the DSL Gravel Pit location with no meaningful justification.

Highway 287 through the Madison Valley in the area of the DSL Gravel Pit is a route commonly taken by travelers, both tourists and Montana residents to get to Ennis Lake, the Madison River, Yellowstone National Park, West Yellowstone, Hyalite Reservoir, Raynolds Pass, and recreational lakes in Idaho, among other locations. While some may travel to Alder, Montana using the Virgina City to Alder route, the numbers are expected to be significantly less than those travelling through this Madison Valley Highway 287 route. It seems common sense that the additional heavy truck traffic generated by the Asphalt Plant at the DSL Gravel Pit location will have public health and safety risks greater than that of the Alder site, despite the generalized conclusions of the Environmental Assessment.

Conclusion

The Asphalt Plant will have significant consequences and negative impacts on this environmentally sensitive area of the Madison Valley, Channels Ranch, other neighboring property owners, area residents, and the public which were not considered in the Environmental Assessment. As noted in our comments to the Scoping Notice, "MEPA requires that an agency be informed when it balances preservation against utilization of our natural resources and trust lands." *Ravalli County Fish & Game Ass'n v. Montana Dep't of State Lands*, 273 Mont. 371, 384, 903 P.2d 1362, 1371, 1995 Mont. LEXIS 223, *20, 52 Mont. St. Rep. 996. DNRC cannot make an informed decision given the deficiencies identified.

DNRC "must take a hard look at the environmental impacts of a given project or proposal" and "implicit in the requirement that an agency take a hard look at the environmental consequences of its actions is the obligation to make an adequate compilation of relevant information, to analyze it reasonably, and to consider all pertinent data." *Ravalli Cty. Fish & Game Ass'n, Inc.,* 273 Mont. at 381, 903 P.2d at 1369 (1995) (citing *Sierra Club v. U. S. Army Corps of Engrs.*, 701 F.2d 1011, 1029 (2nd Cir. 1983)). The Asphalt Plant EA does not contain an adequate compilation of relevant

information nor all pertinent data, nor is the limited information reasonably analyzed. Absent this, DNRC could not undertake a reasonable analysis, nor a hard look at the environmental impacts of the Asphalt Plant at the DSL Gravel Pit on affected area.

The people of Madison County, ranchers, property owners, outdoor recreation professionals, fly-fishing guides, business owners, wildlife enthusiasts, recreationists, and the travelling public rely on environmental resources including Ennis Lake, the Madison River, streams, and other watercourses, wildlife, clean air, and sufficient and clean water. DNRC must take the substantive comments above and those made during the March 18, 2024 meeting into consideration prior to making a final decision on the Asphalt Plant, chose an alternative location, or at a minimum address the foregoing issues and the information lacking in the draft Environmental Assessment.

Moreover, substantial issues were raised regarding the A.M. Welles Pit Permit renewal and expansion and these remain to be addressed in the pending litigation, *Valley Garden v. DNRC*, Montana Fifth Judicial District Cause No. DV-29-2023-37. DNRC should not compound those impacts by approving the Asphalt Plant.

Channels Ranch respectfully requests that DNRC address the deficiencies in the draft Asphalt Plant EA described herein or, better yet, deny the request to operate the Asphalt Plant at the DSL Gravel Pit in this rural residential, agricultural, and ecologically sensitive area of the Madison Valley and elect to use the No Action – Alder, Montana alternative.

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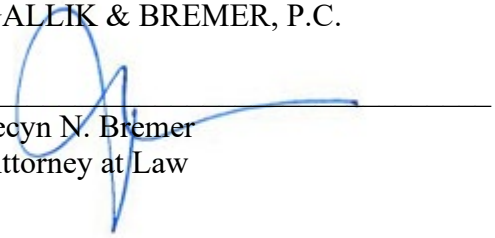
RESPECTFULLY,
GALLIK & BREMER, P.C.



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CVID	RP NAME	Complaint Location	Complaint Type	Complaint Status	Received Date	Closed Date	File Location
19153	RIVERSIDE CONTRACTING INC	I-90 Superior	Air Quality Dust	Closed	16-May-16	16-Jun-16	CLOSED COUNTY
17280	RIVERSIDE CONTRACTING INC	Lee Farmer site, Highway 2, Havre, MT	Open Cut Mining	Closed	28-Jan-14	24-Jun-14	CLOSED COUNTY
17041	RIVERSIDE CONTRACTING INC	Pass Creek Road, Big Horn County	Spills Impacting Soils Only	Closed	30-Sep-13	10-Oct-13	CLOSED COUNTY
15728	RIVERSIDE CONTRACTING INC	North of Crackerville Rd, 1 mile west of I-90 frontage Rd. site is located approximately 0.25 north of Clackerville Rd, ~1 mile west of I-90 Frontage Rd.	Open Cut Mining	Closed By Program	22-Jun-12	22-Jun-12	CLOSED COUNTY
15458	RIVERSIDE CONTRACTING INC	Sorenson Pit, Rosebud Co Sorenson Site, Rosebud Co	Air Quality Dust	Closed	26-Mar-12	08-Jun-12	CLOSED COUNTY
14340	RIVERSIDE CONTRACTING INC	Liahona Ln, Kalispell, Flathead Co.	Air Quality Dust	Closed By Program	22-Oct-10	09-Nov-10	ARCHIVED METCALF
13508	RIVERSIDE CONTRACTING INC	Lake Blain Road, Kalispell, MT	Open Cut Mining	Closed	14-Sep-09	29-Sep-09	ARCHIVED METCALF
13255	RIVERSIDE CONTRACTING INC	Interstate 90, MM 517, Big Horn Co. 3 miles south of Garryowen, MT on Interstate 90	Spills Impacting Soils Only	Closed	18-Jun-09	19-Oct-09	ARCHIVED METCALF
12732	RIVERSIDE CONTRACTING INC	Airport Rd, Billings 3.4 miles of state urban Route 1014 from the Airport entrance east to US 87 Main Street	MPDES Permit	Closed By Program	07-Nov-08	13-Jan-09	ARCHIVED METCALF
10635	RIVERSIDE CONTRACTING INC	Bill Nolen Pit, Sanders County Driving directions: Go northwest 2.8 miles from Trout Creek, turn south towards campground, go 0.4 miles south and turn northwest on old Highway 200. The pit entrance is 750 feet northwest along the old highway on the lef	Open Cut Mining	Enforcement Request	21-Sep-06	04-Oct-06	ENF CASE FID 1312
9603	RIVERSIDE CONTRACTING INC	Intersection of County Rd 419 and County Rd 420, Stillwater Co.	Air Quality Dust	Closed By Program	08-Aug-05	17-Oct-05	ARCHIVED RIM
9351	RIVERSIDE CONTRACTING INC	2 miles east of HWY 83 and HWY 200 jct near Clearwater Junction, MT	Air Quality Dust	Closed Referred	13-Jul-05	14-Jul-05	A

9333	RIVERSIDE CONTRACTING INC	Hwy 200, MiM 33, Greenough 2 miles east of the junction of Hwy 83 and Hwy 200	Air Quality Dust	Closed Referred	08-Jul-05	14-Jul-05	ARCHIVED RIM
8383	RIVERSIDE CONTRACTING INC	MDT Jordan East Project	MPDES Permit	Closed By Program	02-Aug-04	23-Jun-05	ARCHIVED RIM
7473	RIVERSIDE CONTRACTING INC	Outside of Volborg Station 35 + 45	Water Quality	Closed Referred	16-Jun-03	16-Jun-03	ARCHIVED RIM
7414	RIVERSIDE CONTRACTING INC	Beaver Creek Rd (south of Havre)	Air Quality Dust	Closed By Program	23-Jul-03	03-Sep-03	ARCHIVED RIM
6505	RIVERSIDE CONTRACTING INC	Off Nye Road, Absarokee, MT	Air Quality Emissions	Closed By Program	13-Aug-02	08-Jan-03	ARCHIVED RIM
6270	RIVERSIDE CONTRACTING INC	GRAVEL PIT IN VICINITY OF FOUR CORNERS [MIGR04-29-05 BOZEMAN MT 59715]	Air Quality Dust	Closed	03-Jun-02	13-Jun-02	ARCHIVED RIM
4408	RIVERSIDE CONTRACTING INC		Other	Closed No Violation	28-Jun-00	28-Jun-00	ARCHIVED RIM
4237	RIVERSIDE CONTRACTING INC	LAKE LANE ROAD	Air Quality Emissions	Closed No Violation	28-Apr-00	03-May-00	ARCHIVED RIM
4197	RIVERSIDE CONTRACTING INC	LAKE BLAINE ROAD	Air Quality Emissions	Closed No Violation	19-Apr-00	19-Apr-00	ARCHIVED RIM
4182	RIVERSIDE CONTRACTING INC	OFF OF LAKE BLAINE ROAD	Air Quality Emissions	Closed By Program	12-Apr-00	19-Apr-00	ARCHIVED RIM
3790	RIVERSIDE CONTRACTING INC	8 MILES EAST OF KALISPELL	Air Quality Emissions	Closed No Violation	19-Oct-99	27-Oct-99	ARCHIVED RIM
3165	RIVERSIDE CONTRACTING INC	HIGHWAY 200, MILE MARKERS 57 TO 59 ON NORTH SIDE, NEAR THOMPSON FALLS	Air Quality Emissions	Closed	05-Apr-99	23-Apr-99	ARCHIVED RIM
2531	RIVERSIDE CONTRACTING INC	GRAVEL PIT ON FRONTAGE ROAD JUST EAST OF BELGRADE.	Air Quality Dust	Closed By Program	17-Aug-98	18-Aug-98	ARCHIVED RIM
2430	RIVERSIDE CONTRACTING INC	1/2 MILE NORTHWEST OF COMPLAINANT'S RESIDENCE NEAR CONRAD	Air Quality Dust	Closed By Program	23-Jul-98	30-Jul-98	ARCHIVED RIM
2347	RIVERSIDE CONTRACTING INC		Other	Closed	01-Jul-98	07-Jul-98	ARCHIVED RIM
194	RIVERSIDE CONTRACTING INC		Water Quality	Closed	30-Jun-94	30-Jun-94	NO FILE CREATED

From: Montana DEQ Public Records Exchange System
To: jbremer
Subject: Public Records Request :: R003997-031224
Date: Tuesday, March 12, 2024 1:46:12 PM

Dear Jecyn Bremer:

Thank you for contacting DEQ for public information. DEQ has received your request for the following records:

"All complaints received by MDEQ regarding asphalt plants operated by Riverside Contracting, Inc. from January 1, 2017 to the date of fulfillment of this records request. All MDEQ correspondence to Riverside Contracting, Inc. and complainant regarding such complaints, including, but not limited to notice of violations and resolution of the same. As Asphalt Plants are mobile, we cannot provide the locations. DEQ registers asphalt plants so will have record of Riverside Contracting asphalt plants and locations of operation during the requested time period."

DEQ is presently evaluating your request in order to provide a cost estimation, if requested, or to fulfill the request.

You are welcome to check the status of your request at any time with your username and password through the public portal by clicking here. PLEASE NOTE: If at any time you deem the records no longer needed, please notify us immediately to ensure work on the request is halted. Requesters are responsible for any charges incurred if the request is not cancelled in a timely manner.

Kind regards,
MT Department of Environmental Quality

To monitor the progress or update this request please log into the Montana DEQ Public Records Center

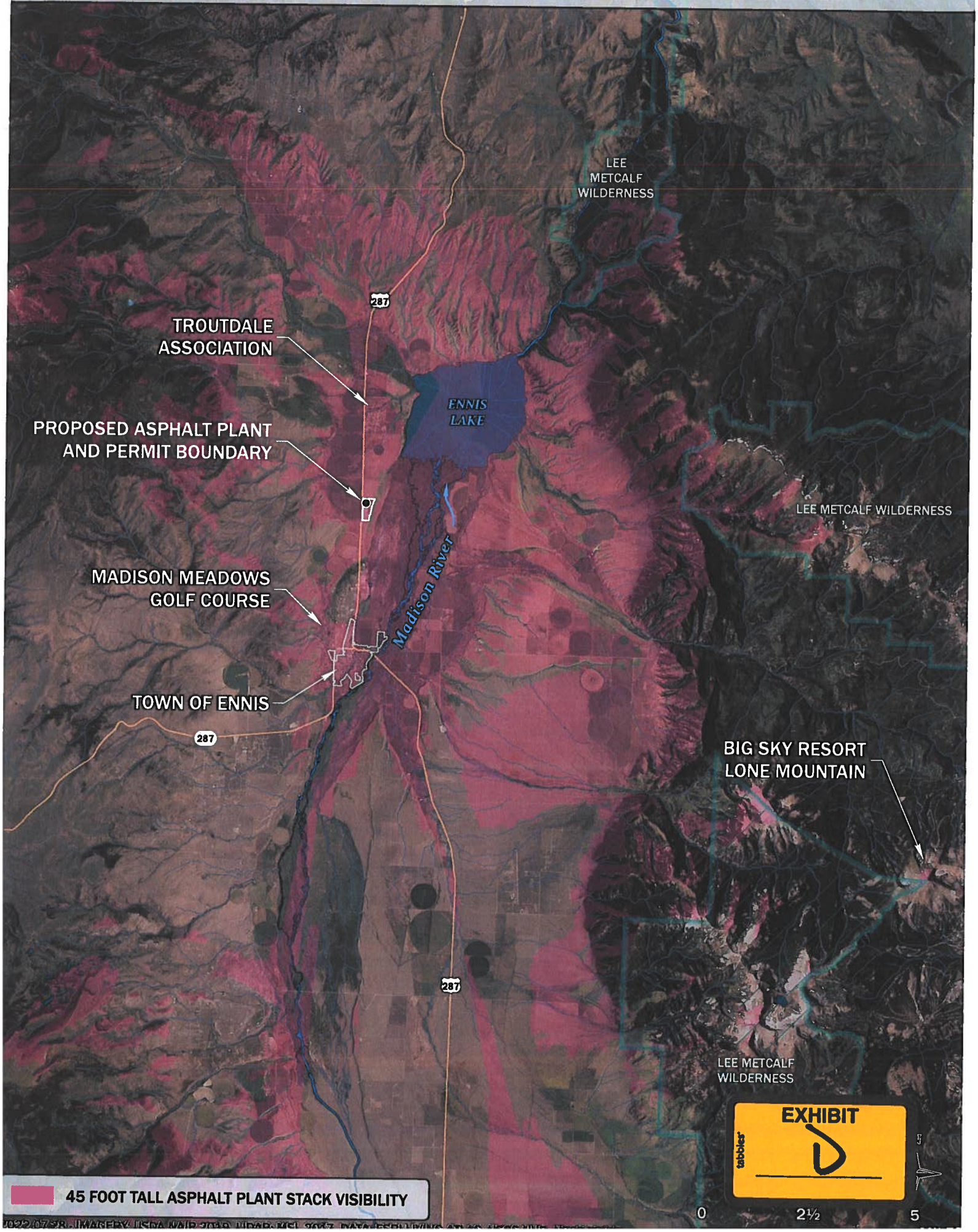
Toxic air pollutants (TAPs) emitted from asphalt plant[2]

Toxic Air Pollutant	Emitted from drum dryer and hot oil heater	Emitted from material handling and storage
Acetaldehyde	yes	no
Acrolein	yes	no
Formaldehyde	yes	yes
Phenol	no	yes
Styrene	no	yes
Trichlorofluoromethane (CFC 111)	no	yes
Methyl chloroform	yes	yes
Methyl ethyl ketone	yes	yes
Toluene	yes	yes
Xylene	yes	yes
Methylene chloride	no	yes
Soluble Chromate Compounds, as Chromium (VI)	yes	no
n-Hexane	yes	yes
Manganese & compounds	yes	no
Mercury	yes	no
Nickel & Compounds	yes	no
Carbon disulfide	no	yes
Tetrachlorodibenzo-p-dioxin, 2,3,7,8-	yes	no
Arsenic & Compounds	yes	no
Benzene	yes	yes
Benzo(a)pyrene	yes	yes
Hydrogen Sulfide	yes	yes
Beryllium	yes	no
Cadmium	yes	no
Hexachlorodibenzo-p-dioxin, 1,2,3,6,7,8	yes	no
Hydrogen Chloride (hydrochloric acid)	yes	no
Perchloroethylene (tetrachloroethylene)	no	yes
Trichloroethylene	no	yes

[2] *Memorandum, Procedures for Permitting and Estimating Emissions from Asphalt Plants, Laura S. Butler, (November 18, 1999)*

https://www.deq.nc.gov/about/divisions/air-quality/air-quality-permitting/asphalt-plants

VIEWSHED IMPACTS RESULTING FROM PROPOSED ASPHALT PANT



National Parks Conservation Association
Yellowstone Field Office
Bozeman, Montana

March 19, 2024

Montana Department of Natural Resources and Conservation
Trust Lands Management
1539 Eleventh Ave.
Helena, MT 59601

Summitted electronically to: zackary.winfield@mt.gov

RE: DSL Temporary Asphalt Plant Request G-1273-94

Dear Mr. Winfield:

The National Parks Conservation Association (NPCA) submits these comments specific to the Temporary Asphalt Plant Request near Alder, Montana. On behalf of our over 1.7 million members and supporters, including nearly 9,000 members and supporters in Montana, NPCA is dedicated to supporting seasonal movement of Yellowstone National Park wildlife as they travel outside of park boundaries and encounter barriers to habitat access. Since 2010, NPCA has worked to remove or modify fences to restore antelope pathways north and west of Yellowstone National Park and we are particularly concerned about the impact the proposed Asphalt Plant may have on pronghorn antelope.

We ask that the Department of Natural Resource Conservation (DNRC) deny the request to locate and operate a temporary asphalt plant within the boundaries of the DSL gravel pit. The Department and Trust Lands Division has the responsibility to steward the corpus of the trust – the land, water, and wildlife associated with state lands of Montana. The proposed action will clearly have significant impacts on the land, water, and wildlife under your stewardship.

The Madison Valley is a study area for the Montana Pronghorn Movement and Population Ecology Project completed by Fish, Wildlife & Parks, and University of Montana. Data from this five-year study (2019-2023) indicate both residential and migratory pronghorn antelope populations are present in the area from Ennis to Alder, MT. In addition, the area surrounding the DSL PIT has been identified as a spring calving ground. Given that antelope are known to avoid areas of high disturbance, NPCA believes the impacts on wildlife would neither be minor, nor short-term.

The request is to mobilize the asphalt plant to the site on or after April 1, 2024, and demobilize the plant on or before June 8, 2024. Pronghorn calve in the spring, typically from mid to late May. Thus, this mobilization may disrupt a preferred calving site, near high-quality forage and a good source of water.

NPCA believes the Department's EA does not adequately respond to concerns that an asphalt plant will disturb wildlife. We encourage the DNRC to further consider the many impacts the proposed asphalt plant will have on local wildlife populations.

We appreciate the opportunity to provide input during this phase of the analysis.

Best Regards,

Pat Todd

Pat Todd
Greater Yellowstone Ecosystem Fellow

Yellowstone Field Office

321 East Main Street, Suite 424 | Bozeman, Montana **| cell** 406.780.1115 **| email** ptodd@npca.org

Via Email to: zackary.winfield@mt.gov

March 19, 2024

Governor Greg Gianforte
DNRC Director Amanda Kaster
Zackary Winfield
Department of Natural Resources and Conservation
Trust Land Management Division
1539 Eleventh Avenue
Helena, Montana 59620

RE: AM Welles DSL Gravel Pit Proposed Asphalt Plant
DNRC Draft Environmental Assessment Comments

Ladies and Gentlemen:

Valley Garden Land and Cattle, LLC, (Valley Garden Ranch) fully surrounds the DSL Pit along HWY 287 between Ennis and McAllister, Montana on the banks of the Madison River Ecosystem, and therefore will be the entity most affected by the proposed Asphalt Plant by AM Welles and Riverside Contracting. Accordingly, Valley Garden Ranch requests that the DNRC specifically address each topic outlined in this letter below, as required my MEPA and DNRC's MEPA regulations:

Topics and issues that the DNRC must specifically address regarding the Draft Environmental Assessment for the pending Asphalt Plant on the DSL Site (EA) are:

1. The AM Welles Permit G-1273-94 (the "Permit") is currently being challenged in District Court. DNRC should not allow any additional action related to that permit before the legality of the underlying permit is determined. In these lawsuits Valley Garden Ranch asserts, among other issues, that the DNRC is not enforcing its Permit and consequently AM Welles is in violation of the Permit.
2. Now that an Asphalt Plant will be located on the same State Land as the Permit, what assurances will the public have that all permits, processes and procedures for the Asphalt Plant will be enforced and in accordance with all state and federal laws, given the non-compliance referred in point (1) above. Please note that the EA stipulates on multiple occasions that environmental impacts and the impact on human health will be negligible because of the provisions of state and federal permits. Consequently, if these permits are not enforced, how can the impact be "negligible" . *"There are no impacts to human and safety expected from the selection of the action alternative, related to asphalt plant emission because of the regulation set forth by the DEQ and EPA"* YET – the DNRC elects not to enforce these very permits?!
    - Prior to commencement of Asphalt Plant operation on State Land – the DNRC should provide all required permits to the public and confirm that Riverside Contracting (Asphalt Plant Operator) and AM Welles (as the operator of the

underlying gravel mine Permit G-1274-94) have complied with ALL provision of the requisite permits. DNRC should also provide the public with assurance that the DNRC will proactively monitor Asphalt Plant and Gravel Mine operations to ensure all future activities comply with requisite permits .

3. Under MEPA please justify the timing and process associated with the public participation and notice of the asphalt plant. Noting that the DNRC was notified of the proposed Asphalt Plant on November 1, 2023, over 120 days ago. The DNRC then elected to inform the public of the asphalt plant approximately 90 days after it was initially informed. At which time the DNRC sought public input on "an Asphalt Plant on the DSL Site" with no other guidance or input. The community responded over a 30-day period. Then on March 7th the DNRC posted a "desktop" draft EA and gave the public only 7 business days to review and comment. Note, that many members of the public who participated in the initial scoping period of this process are confused and informed me that they were of the assumption they have already addressed the new requirement for the public to respond after the Draft EA was published. Public comment was encouraged via two forums: a Zoom hearing where comments were limited to 2 mins; or an email to Zackary Winfield for a 23 hour period from 6:00 pm on Marh 18th to 5:00 on March 19, 2024 (Email Comment Period) HOWEVER: when the public accesses the DNRC website https://dnrc.mt.gov/TrustLand/subsurface-resources/AM-Welles-DSL-Pit, no mention of an email opportunity to comment exists! Further – when the public clicks the Link "Asphalt Plant Public Comment Link" during the Email Comment Period, the public was informed "this form is not accepting responses" (Please see Exhibit A herewith). How is the public to comment via email if the information around an email comment is NOT on the DNRC website? This shortfall will significantly impact the ability for the public to comment. In addition, the DNRC now has a short window of only 8 business days to review the public comments to the draft EA and issue a final EA. This is simply not enough time for the DNRC to review and incorporate the significant and important public comment (including the comments of this letter) into the final EA.
4. Among others, the Draft EA references the following state documents (signed under the consequences of perjury) as a basis for its authority to grant the approval for the Asphalt Plant. Yet, the DNRC has been put on notice that the information in these documents is incorrect and consequently misleading to the public – the DEQ Permit #674 and its associated Environment assessment; and the DNRC Permit G-1274-94 and its associated Environmental Assessment. As noted above, the legality of those permits, and A.M. Welles' compliance with them, is under judicial review and review by the Board of Environmental Review. Therefore, issuance of any permit here is premature.

Below are Valley Garden's comments on specific sections of the EA.

Section I – Type and Purpose of Action

The asphalt will be used for a repaving job on HWY 287 between Ennis and Virginia City. Why is an asphalt plant site not sourced closer to the actual repaving work. Transportation cost will be significantly less AND more importantly, the Asphalt Plant will NOT be located on the banks of the ecologically sensitive Madison River ecosystem and between Ennis and McAllister, MT. The asphalt plant location identified outside of Alder could be pursued as this is on private (not state land) and may be in a "high and dry" area away from the watershed and ecosystem of one of

Montana's blue ribbon fisheries as well as away from the backyards of the thriving communities of Ennis and McAllister, MT. Other locations closer to the paving job exist and also need to be considered in this analysis, including, but not limited to: (1) the existing gravel mine on the section of HWY 287, owned by Ennis Moores Creek LLC located just west of Ennis; or (2) the section of land owned by the State of Montana (S16 T6S R2W) which HWY 287 bisects halfway between Virginia City and Ennis and through which the paving job will occur.

Sections II - IV

1. **Section 1 – Public Involvement and MEPA.** If the initial request to operate an Asphalt Plant was received on November 1, 2023, why did the DNRC elect to withhold this request from the public for roughly 90 days? By withholding this information for 90 days, the public has not been granted adequate time to review and comment on a Draft EA as not only required by MEPA, but promised by the DNRC in its 2023 scoping period where it informed the public "not to comment on an Asphalt Plant" in the EA that was published May 22, 2023. Further, the public was informed at the time that they would have an **adequate** period to comment in the future, should an Asphalt Plant be added to the permit. Yet on March 7th 2024, the Draft EA was posted, and now the public has been given only 11 calendar days (7 business days) to complete a thorough review of the Draft EA. The public can only comment in the following fashion: (a) a two minute window on a Zoom Call they must pre-register for; or (b) via email to Zack Winfield during a 23 hour period beginning on March 18th and, as noted, with respect to the comments via email the DNRC website does not provide the email address to Zackary.winfield@mt.gov!

2. **Section 3 – Alternatives Considered** - The DNRC must provide more specificity including a map with respect to the location of the paving project, as this location may in fact be closer to the Alder Site. The DNRC's statement in this Section 3 is extremely misleading to the public, as the Alder Site seems to be closer to the paving site than represented. Additionally, the State of Montana owns a section of land, likely right in the middle of the paving project. The State of Montana should locate this Asphalt Plant on this State land to address the "increased transportation" costs. The DNRC must provide a reason why it is unwilling to permit an Asphalt Plant on this "high and dry" land away from the Madison River Ecosystem. In addition to this State land, Riverside should consider sourcing aggregate and locating an Asphalt Plant on a gravel pit located next to the road paving job owned by Ennis Moores Creek LLC, just west of Ennis on HWY 287. The DNRC should provide evidence that these sites (again closer to the paving project and all "high and dry") were considered and provide reasons why the Asphalt Plant will not be located there.

3. **Section 4 – Geology and Soil Quality.** The answer provided by the DNRC is again extremely misleading. As indicated in the draft EA, the Asphalt Plant will be located on the large bench West of the Madison River. The EA represents that this is not a unique or unusual geologic feature, when in fact it is! In the EAs own words, the DNRC is locating the Asphalt Plant on the geologic bench West of the Madison River. This location will severely impact the viewshed of the Madison River Valley – over 17 miles of the Madison River and its tributaries will be impacted by this Asphalt Plant, its sight, sounds and air pollutants. In addition to the communities of Ennis and McAllister, MT as well as the significant residential and tourist traffic commuting this corridor to Yellowstone National Park and up and down the Madison River Valley will be severely impacted. See the attached viewshed analysis.

4. **Section 5 –Water Quality, Quantity and Distribution - THIS ASPHALT PLANT IS LOCATED ON THE BANKS OF THE PRECIOUS MADISON RIVER, ITS TRIBUTARIES AND ECOSYSTEM.** The DNRC must explain, in greater detail, how it is comfortable that the proposed operator will "self-regulate" and report any accidents, much less mitigate them. Further, the DNRC on state land on the BANKS OF THE MADISON RIVER should proactively require a spill prevention, control and countermeasure plan. What is this plan – please provide this plan to the public, given the sensitive ecosystem in which this plant is proposed to operate. Further note, that the DEQ in its Opencut Mining Permit #674 Section D6 1 states **"Asphalt is considered to have the potential to impact water quality"**, given this statement from the DEQ, how will the DNRC address this issue?

5. **Section 6 – Air Quality –** This Asphalt Plant will be located between the residential communities of Ennis and McAllister, MT with the closest residence just over 2,000 feet away. The DNRC must put these citizens at ease that the Air Quality will not be impacted. The summary "off the shelf" points in the EA are insufficient. We are talking about human health here and to simply state that the "cumulative impacts of the asphalt plant are expended to be minor" without significant discussion and review and approval is implicitly against the law as every citizen of the State of MT is entitled to a clean and healthy environment.

6. **Section 8 Wildlife Habitat** – In case the DNRC has missed it, the Asphalt Plant will be located on the banks of the Madison River, its tributaries, Ennis Lake and the entire Madison River ecosystem! This locations is NOT to be treated lightly. As indicated, NUMEROUS avian, terrestrial and aquatic species live in the area, and, again as referenced will be impacted by the Asphalt Plant. Further, the commencement of the Asphalt Plant in April will coincide with the extremely sensitive birthing season of many of the species inhabiting and nesting in the area of the Asphalt Plant including the "ditch / spring creek" within the permit area – tundra and trumpeter swans, multiple species of ducks, sandhill cranes, curlew, pronghorn antelope all nest in and around the site. Of course, the runoff from the site flows directly into the Madison River System impacting the quality of the sensitive Madison River fishery. Please provide a proper analysis of the impact to this sensitive ecosystem, incorporating the impacts identified in the EA... "exhaust and odor would be emitted from the plant" the EA goes on to conclude that this Asphalt Plant would not permanently impact these species in the long run. How could this be, we are talking about a permanent nesting site for multiple species. The DNRC must provide a more comprehensive analysis of the impacts of the Asphalt Plant on this sensitive area. This analysis should be done in coordination with Montana FWP. In addition, this analysis should include the impacts of the reproductive success of animals as again, the Asphalt Plant will commence operations during the sensitive breeding and nesting season. Finaly, to imply that the impact to the wildlife, aquatic life and birdlife will be the same at the Alder Site is not only misleading to the public, but factually incorrect.

7. **Section 9 – Endangered Species.** Same comment as the previous point. Further noting that the area is in fact inhabited (including nesting grounds) by: Golden and Bald Eagles, Curlew, Pelicans, Trumpeter and Tundra Swans, Sandhill Cranes, the sensitive Grayling (not to mention the sensitive rainbow and brown trout), pronghorn antelope nesting grounds and the list goes on. All of these species will be impacted, many of which are endangered, fragile or limited. The DNRC must show the public evidence that it has coordinated with the Montana FWP, and the federal government on the impact of the Asphalt Plant on these sensitive species.

8. **Section 10 – Historical and Archaeological Sites.** As previously noted, the DSL site and associated Asphalt Plant are located in the middle of the historically significant Bozeman Trail and the activities of these operations are in the process of destroying over 40 Carins. In a DNRC internal memo dated July 24,1996, these Archaeologic aspects were identified, yet now they are ignored? Why? Further noting that the DNRC is placing the responsibility to stop work and notify the DNRC if the operator identifies anything of significance – really? The DNRC must provide the public with the real facts here and incorporate its finding from 1996 on this archaeologically sensitive site.

9. **Section 11 – Aesthetics.** The Draft EA fails to properly address the significant impact on the viewshed in and around the asphalt plant on the banks of the Madison River ecosystem. See the attached viewshed analysis. The pink shaded areas will see and be impacted by the Asphalt Plant. All told, over 17 miles of the Madison River, its channels, tributaries, and Ennis Lake will be impacted. In addition, the Madison Meadows Golf Course area, Troutdale and many other communities will be impacted, as well as much of the Lee Metcalf wilderness and the residents and tourist travelling on HWY 287 between Ennis and McAllister.
Further – the Draft EA states that "the pit is largely shielded by the berms form the Madison River, Ennis Lake and Highway 287". This is **categorically false** and misleading to the public for the following reasons: (1) the DNRC has elected to **not** enforce Section 35 (a) of its existing Opencut Mining Permit #674 which requires "a 10 -to 12-foot-high berm of topsoil" protecting the view from HWY 287 and the view from Ennis and Ennis Lake; and (2) the bench headwall protecting the view from to the East and the Madison River is in fact going to be removed as encouraged and approved by the very individuals at the DNRC that have authored and approved this Draft EA. The DNRC should correct these errors and then properly consider this Aesthetics section of the Draft EA.

10. **Section 11 – Demands on Environmental Resources.** This statement that "other sources of commercial gravel are scarce in the area" is again, simply not true. In fact a "High and Dry" gravel pit is located closer to the paving project just West of Ennis on HWY 287 (between Ennis and Virgina City). This gravel pit is located on land owned by Ennis Moores Creek LLC. In addition, the State of Montana owns a section of land (S16 T6S R2W) that the paving project likely transects, which may also be high and dry" and off the banks of the Madison, which may serve as an alternative source of gravel.

11. **Section 13 -Other Environmental Documents.** The reference to the completed DNRC and DEQ Environmental Assessment and the DEQ Permit 674 is misleading to the public as all of these permits and associated environmental assessments contain sections that are factually incorrect and are currently under legal challenge. Additionally, the DNRC is in violation of its existing grazing lease with Valley Garden Land & Cattle, LLC.

12. **Section 14 – Human Health and Safety.** Yet again, the representations in this section are **categorically false**, incorrect and misleading. The DNRC's statement in this draft EA that "Trucks Entering signage is constructed on both the north and south sides of the DSL to caution motorists" is not true. Despite the requirement in Section 35 (d) of its existing Opencut Mining Permit #674, the DNRC has elected for almost 40 years NOT to enforce this provision of its permit with AM Welles. Again, misleading and false.

The EA's desktop review with respect to the impact on water quality needs to be further analyzed and reviewed particularly in light of the "desktop" review provided in the EA. Further note, that the DEQ in its Opencut Mining Permit #674 Section D6 1 states **"Asphalt is considered to have the potential to impact water quality"**, given this statement from the DEQ, how will the DNRC address this issue?
Finally and perhaps most importantly, the DNRC falsely provides the public with comfort that no Issues to Health, Human and Safety shall occur with the following statement "There are no impacts to human and safety expected from the selection of the action alternative, related to asphalt plant emission **because of the regulation set forth by the DEQ and EPA**" To be clear, you are saying regulations in place by the DNRC and DEQ negate any human impact! Is this scientifically proven? Further, how can a regulation by the DNRC and DEQ negate human impact when the DNRC and the DEQ continue to ignore meaningful violations and inaccuracies of the existing DNRC Opencut Mining Permit #674 and the DEQ Permit 674 and associated environmental assessments?

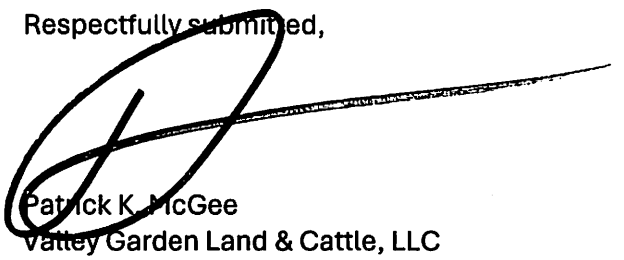
13. **Section 15 – Industrial, Commercial and Agriculture.** This section does not consider the visual, noise and air pollution impacts to the critically important Madison River Ecosystem. If the Madison River and it ecosystem did not exist then no one would occupy the Valley. Tourist do not visit the Valley and residents don't live here to see an Asphalt Plant! This section of the Draft EA is misleading and should incorporate the attached viewshed analysis highlighting the negative effects of the Asphalt Plant.

14. **Section 19 – Locally Adopted Environmental Plans and Goals.** The Action Alternative of this section FAILS to address the fundamental tenets of the Madison County Growth Policy adopted by the Madison County Board of Commissioners. Specifically, this policy addresses the need to "Protect Our River Corridors – requiring attention to environmental, public health and safety, recreation and aesthetic concerns". This policy goes on to address the need to "protect the quality of our air, groundwater, surface waters, soils, vegetation, fish and wildlife habitats, scenic views, cultural and historic resources". The DNRC's placement of an asphalt plant on State Land on the banks of the Madison River Ecosystem is in direct contradiction with Madison County's policies to protect the land in its community. At a minimum, the DNRC must incorporate Madison County's Growth Policy (and other County Requirements) in its draft EA. The current representations in this section of the EA are incorrect and misleading.

15. **Section 24 – Other Appropriate Social and Economic Circumstances.** Yet again, the characterization of the draft EA with respect to this point is **significantly misleading and is likely a violation of law.** The citizens of Montana and the local community have voiced significant concern on multiple occasions about the placement of an asphalt plant on state land and its consequential impact to the health, wildlife, birdlife, aquatic, visual, water, air, and noise on the Madison River Ecosystem and the communities of Ennis and McAllister. In addition, the DNRC has expended significant resources, both human and monetary, to process and permit this Asphalt Plant; and it will have to spend significant human and monetary resources to enforce every provision of this Asphalt permit and the underlying Gravel permit G-1273-94 (unless, of course, it chooses not to enforce these permits) going forward. The draft EA **must proactively make the public aware that the citizens and trust beneficiaries of the State are NOT being compensated for activities and consequential damage of this asphalt plant.**

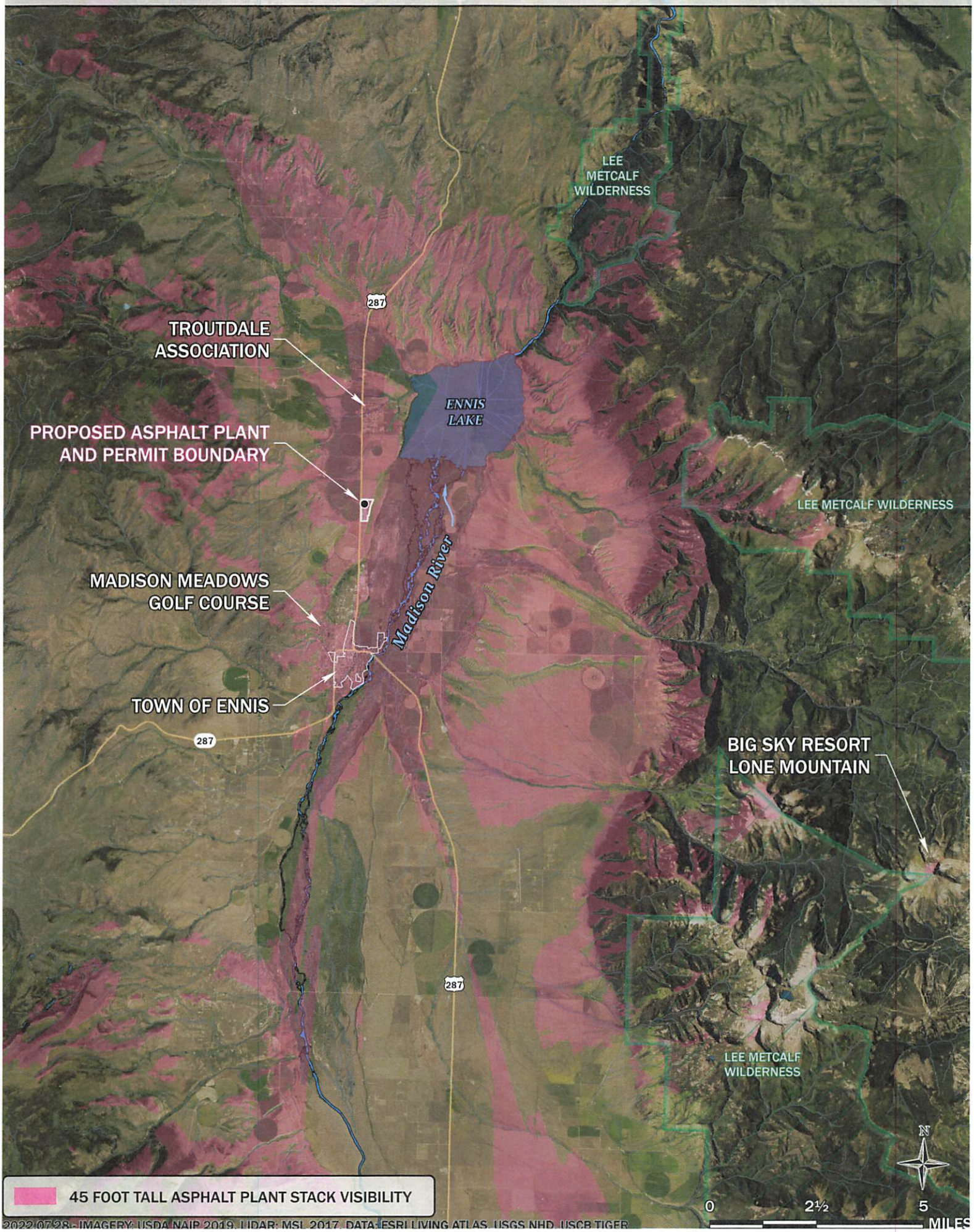
The time is now. The DNRC must embrace it fiduciary duties and represent **EVERY** citizen of the State of Montana and its trust beneficiaries and not just the desires of AM Welles and Riverside Contracting under the proposed new Asphalt Plant permit, without compensation, on this precious State Land.

Respectfully submitted,



Patrick K. McGee
Valley Garden Land & Cattle, LLC

VIEWSHED IMPACTS RESULTING FROM PROPOSED ASPHALT PANT



A.M. Welles DSL Pit

es, Inc. has applied for, and successfully obtained an amendment to DEQ opencut mining permit OC# 674. A.M. Welles also applied for an enewal of Montana DNRC gravel permit G-1273-94. In both the DEQ opencut amendment, and the renewed DNRC permit, approximately 2 d to the previously permitted area.

sturbing the project area, MEPA was conducted in accordance with Montana State law.

ravel pit is located 2.3 miles north of Ennis and has been permitted with DNRC, previously the Department of State Lands for over 40 yea ently received authorization from the Montana DNRC and DEQ to expand the permitted area. Below, are links to the DNRC environmental onmental assessment, DNRC aggregate take and remove permit, and DEQ opencut permit related to the expansion.

vironmental Assessment | DEQ Permit 674 | DNRC Environmental Assessment | DNRC Permit G-12

alt Plant Request

ion 35, stipulation i. of the Montana DNRC aggregate take and remove permit, AM Welles must request authorization to locate and operat in the pit boundaries, on a written case-by-case basis that will either be authorized or denied by the Department. The Department has rece om AM Welles for the time period April 1, 2024 - June 8, 2024. The asphalt plant would be expected to operate intermittently during this ti e needs of local paving projects in the area. The plant would be operated by Riverside Contracting, Inc.

ance with Montana law and the Montana Environmental Policy Act, the Department will be conducting an environmental review of the pro v will analyze the impacts to the physical and human environment of two alternatives. The action alternative would authorize the request n asphalt plant within the boundaries of the permit area for the requested time period. The no-action alternative would deny the request to n asphalt plant within the boundaries of the permit area for the requested time period. Authorization or denial will be in the form of a writt tment to AM Welles.

conducted a scoping comment period that opened on February 1, 2024 and closed on March 2, 2024. The DNRC will hold a virtual public unity to provide testimony on the adequacy of the draft environmental assessment (posted below), on March 18th, 2024. A party or indivi in providing testimony must pre-register for the virtual hearing. Instructions are included in the link to the Legal Notice - Virtual Public He

lant Scoping Letter | Asphalt Plant Public Comment Link | Draft Environmental Assessment - DSL Temporary Asphalt Plant | Legal Notice - Virtual Pu

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James W. McGee

307 N. Highland Ave., 760

Marfa, TX 79843

jameswmcgee@yahoo.com

March 16, 2024

RE: Written Testimony, DSL Asphalt Plant Proposal

Dear Ladies & Gentlemen of the Montana Department of Natural Resources & Conservation:

I am writing to express my strong opposition to the proposed Asphalt Plant Operations on the Banks of the Madison River between McAllister and Ennis and the rushed and thoughtless process by which it is being contemplated. Specifically, I am concerned about the following:

DNRC PROCESS IS DESIGNED TO DISCOURAGE MEANINGFUL PUBLIC PARTICIPATION

- Fast Track - The DNRC has known of this application since November 1, 2023, yet failed to notify the public until January 25, 2024 (sitting on the application for 3 months). Given the commencement date of April 1, 2024, the DNRC has prepared a hurried "desktop" EA and is now only giving the public 10 days to review and comment on a 30-page assessment – providing only 2 minutes at a hearing to voice concerns and/or an extremely limited 23-hour window to submit written comments. This process is inadequate and against the law under the Montana Environmental Protection Act (MEPA) – which assures its citizens the inalienable right to a "clean and healthful environment" and a "reasonable opportunity for citizen participation" and a right to participate - Article II, Sections 3 and 8.

- Years of Concern - Since 2022, the public (both local and national) has expressed its concerns about this asphalt plant. Now that the DNRC has alerted the public to the asphalt plant, its process for public notification and review has been inadequate, confusing and unnecessarily fast-tracked.

- Highly Technical - The EA is highly technical and the public should have the right to engage 3rd party experts to provide thoughtful expert commentary. Unfortunately in this case, there is an impractical window for a comprehensive review. Since the EA was released 5 days after the close of the scoping period, it is presumed that the DNRC prepared the EA in advance based on technical input from the applicant.

LOCATE THE ASPHALT PLANT AT AN ALTERNATE LOCATION NOT ON THE BANKS OF THE MADISON.

- The EA identifies, but does not evaluate, an alternate location for the Asphalt Plant outside of Alder, MT. A site in Alder may be more private, remote, rural land, away from residential communities and importantly is not on the banks of a "blue-ribbon" river or its associated ecosystems.

• By locating the plant in a "high and dry" area – the risk of any environmental impact to the wildlife, birdlife, aquatic life and human wellbeing is negligible.

THE STATE IS NOT BEING COMPENSATED FOR THE USE OF ITS LAND

• The State of Montana and its trust beneficiaries are NOT receiving any compensation for the use of its land for the asphalt plant. It appears that the State is allowing a third party to use state land without collecting additional revenue which is not permitted under state law and deprives Montana's schools and universities of much needed revenue. This is simply not appropriate. The significant impacts and potential long-term environmental harm to the State Land on the Banks of the Madison River Ecosystem certainly merit appropriate and market consideration to reflect these impacts and long-term environmental harm.

THE EA INADEQUATELY ADDRESSES ENVIRONMENTAL IMPACTS

• Fish and Wildlife: The EA fails to appropriately analyze the impacts of the asphalt plant emissions, waste, water quality, noise and dust on fish (grayling, brown and rainbow trout) and wildlife populations such as neotropical songbirds, Tundra Swans, Trumpeter Swans, Sandhill Cranes, Curlew, Ducks, Waterfowl, Golden and Bald Eagles that frequent, roost and nest in the wetland areas immediately adjacent to the asphalt plant. This area is home to whitetail deer, elk and pronghorn antelope (with antelope birthing in the area). Further, the fisheries analysis understates the impacts to water quality by characterizing the waterway within 1,000 feet of the mine and asphalt plant as an "unnamed irrigation ditch" instead of a "jurisdictional" spring-fed tributary of Ennis Lake and minimizes the cumulative effects on the already degraded watershed. Finally, the activities proposed in the EA will exacerbate the existing 303(d) listed conditions of the adjacent Moore Creek watershed that are undergoing extensive local, state, federal and private efforts to restore the watershed and wetland complexes.

• Water Quality: The Montana Department of Environmental Quality (DEQ), in its permit to AM Welles specifically states that "Asphalt is considered to have the potential to impact water quality". Asphalt plants can pose potential water quality issues if not managed properly. These contaminants include semi-volatile organic compounds (SVOCs), volatile organic compounds (VOCs) polycyclic aromatic hydrocarbons (PAHs) and metals (CHEJ 2019). Chemicals and heated thermal water may accidentally be discharged into the surrounding watershed. The location of the asphalt plant on the DSL site poses an unacceptable risk in an area that is already an impaired water body and is home to sensitive species. Clay soils referenced in the EA do not provide an adequate barrier for runoff and dispersion of contaminants.

• Water Quantity (unpermitted, unknown usage): Asphalt plants consume water. There is a right to use water ONLY beginning May 1 and ONLY for sand and gravel washing. What is the projected annual water consumption of the asphalt plant? Will the flow and volume of the water be measured, noting that for decades the gravel mine operator has historically consumed water without a permit? • Air Quality: Asphalt plants produce toxic air pollutants including polycyclic aromatic compounds, volatile organic compounds, metal and hydrogen sulfide. Extracts of certain asphalts have been shown to cause cancer in wildlife and animals. In addition, asphalt fumes can irritate the nose, throat and lungs, cause headaches, dizziness, nausea and vomiting. Longer term effects can occur for some time after exposure and can last for months or years.

• Noise and Visual Impacts: The asphalt plant poses unacceptable impacts to the Madison River Valley. The EA fails to properly evaluate visibility of the asphalt plant and mining operation from the communities of Ennis and McAllister. The asphalt plant will be visible and impact over 17 miles of the Madison River, its tributaries and Ennis Lake, as well as the Madison Meadows Golf Course area, Troutdale and the Lee Metcalf wilderness. When the eastern bench headwall of the mine is removed, the mine expansion will significantly increase its viewshed impact, permanently scarring the scenic and natural beauty which anchors the area's significant outdoor recreation economy. See the attached Viewshed Analysis.

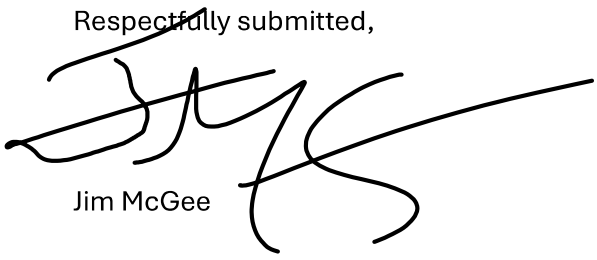
THE ASPHALT PLANT ON THE DSL SITE SHOULD BE DENIED AS THE UNDERLYING DEQ AND DNRC PERMITS ARE UNDER THREE SEPARATE LEGAL CHALLENGES

• Three Challenges - The mining permit where this asphalt plant is to be located is the subject of three separate legal challenges: the DEQ permit is under challenge at the Board of Environmental Review and Madison County District Court; the legality of the existing DNRC permit is under challenge; as well as the constitutionality of the DNRC process. A hearing on the constitutional challenge is scheduled for April 1, 2024 - the same day the proposed Asphalt Plant will be issued a permit and commence operation.

• Longstanding Violations— The DNRC has elected not to enforce many of the provisions of the existing permit with the gravel mine operator – why not? Given its lack of desire to enforce its permits, how can the public be assured that the DNRC will enforce the significant Federal and State requirements in the asphalt permit? The DNRC must resolve the legal issues with the existing permit before the new asphalt permit is issued.

I know, I know – as indicated by the address above, I am a seasonal resident (a.k.a. 'tourist'), so, why should you take my concerns to heart? If your mission is indeed, **"Serving Generations of Montanans: Helping manage land and water resources"**, as prominently displayed on your website, please consider the positive impacts of tourism on Montanans: In 2022 alone over 12 million tourists came to Montana and spent $5.8 billion in the state thereby supporting 43,900 jobs while paying $315 million in state and local taxes. Trust me – these 'tourists' are not coming to see, smell and hear an asphalt plant on banks of one of the nation's treasures: The Madison River.

Respectfully submitted,



Jim McGee

To Whom It May Concern

Please accept the following as comment regarding the proposed asphalt plant and mine expansion.

The opinions expressed below are intentionally limited to avoid restating facts and positions well documented by the previous statements of knowledgeable professionals including hydrologists, archeologists, fishery authorities, health experts, lawyers, or those of interested citizens.

It occurs to me it is important to identify issues previously raised which are not relevant to the essence of this discussion.

<u>Irrelevant issues include but are not limited to.</u>

- Who is a full-time area resident and who is not.
- Who was born in the Madison Valley and who was not.
- Whether AM Welles has been a good steward and community member.
- Jobs associated with the current gravel operation and how many jobs may be added by its expansion and or the addition of operations such as an asphalt plant.
- Whether “outsiders” are trying to “tell people what they can and cannot do”.
- Whether gravel and asphalt are necessary commodities for future growth and local needs
- Whether an asphalt plant has ever previously operated at this location

In my opinion, the central relevant part of this discussion is whether or not DNRC is doing its job and following its own policies by conducting proper EAs, following MEPA requirements, the Montana Constitution and Madison County Growth Plans. It appears not. Absent the above, the legitimate questions and concerns of local citizenry remain unanswered if not ignored. Valid questions regarding legal water availability, pollution, ecosystem impacts to wildlife, fisheries, plant communities, and water quality have been glossed over. The effect on the economy has not been fully considered. Property right issues associated with this proposal are distinct from those that might apply to privately owned land. Madison County restricts residential construction in subdivisions from building within 500 feet of perennial water ways. This restriction is intended to protect important resources. How is this scenario different?

The primary issues associated with this proposal are economic and ecosystem health. Are the risks justified by the temporary benefits? It goes without saying that justifying present action based on how things may have been done in the past, ignores changes in circumstances and the importance of improved practices based on research, learning and a better understanding of impacts to our well-being. In my opinion, the proposed operations at this site, adjacent to wetlands and springs which are hydrologically connected to groundwater and the Madison Riparian corridor, are risky and inappropriate.

Despite the fact that an asphalt plant was identified in plans provided to the public at the forum held after the gravel mine's expansion had been approved, assurances were made by the permittee that an asphalt plant was not a consideration or part of their future operational plan. This apparently was inaccurate and could be easily construed as an obfuscation or deceit. Now that an asphalt plant is shortly to be moved onsite, it appears concerned citizens had been misinformed.

Will asphalt produced at this location be stockpiled for future use or is there an immediate project identified that asphalt will be produced for? In the latter's case, have options been studied that may or may not be more efficient based on distance and hauling costs?

I remain unconvinced that the proposal to produce asphalt, once enacted will represent the de minimis effects that your previous reports claim. What mitigation strategy will be employed if operations produce unexpected impacts? I feel it is worth noting that reclamation requirements that are to take effect when the gravel pit lease ends are a form of imaginative thinking. If disturbed, this hillside will remain a blight. Reseeding alluvium will be pointless especially if our climate becomes drier and warmer. Noxious weeds and Cheatgrass will move in as the mining operation moves out. Costly annual management of invasives may require a decade or more to address. Who will bear these potential expenses?

Sincerely,

Jeffrey A. Laszlo

3/18/24

Appendix C - Proponent Response to Public Hearing Comment

From: Cale Fisher
To: Winfield, Zack
Subject: [EXTERNAL] DSL Comments
Date: Thursday, March 21, 2024 2:11:21 PM

Zack-

After listening to the comments made at the public meeting held on Monday, March 18 regarding the proposed hot plant to be located at the DSL site I have the following comments and clarifications.

Riverside would be operating a hot plant at the site for approximately 10 days to construct the Virginia City-West project for the Montana Department of Transportation.

The plant itself does not manufacture asphalt cement or emulsion, it is not a refinery as indicated by several of the comments. The hot plant heats and mixes material to produce plant mix pavement for the roadway surface.

Riverside maintains a Spill Prevention, Control and Countermeasure Plan (SPCC). As you may be aware the asphalt cement used in our process is low viscosity and needs to be heated to flow. Any material that may potentially contact the ground will solidify and not penetrate the surface or impact ground water.

Emissions from the hot plant are allowable and regulated by Montana DEQ. All of our portable facilities comply with what is required by the State for emission controls.

This site has historically been used as a gravel source and for hot plant operations. Riverside has records of using this site with a hot plant dating back to the 1990's. We are not aware of any changes to local zoning or state regulations the would prohibit the usage of the hot plant at this location.

Cale Fisher
Riverside Contracting, Inc.

Sent from my iPad

Appendix D – Response to Public Comment

Methodology

The project development team received many comments which have been included in the prior appendices of this document. Many of the comments had similar issues and concerns. The Forestry and Trust Lands Division read these comments and has included categorical response to most prevalent substantive issues below. If you have questions on a resource concern that is not addressed below, you may email Zackary.Winfield@mt.gov

Opposition or Support of the project

The Montana Environmental Policy Act (MEPA) is designed to help state agencies make balanced decisions and be accountable to the public. Public participation in MEPA is designed to help inform the agency of resource issues and concerns that are important to them. This provides for a better and more well-rounded analysis. Public participation in MEPA is not designed to be a vote. The number of individuals that are in opposition or support of a project provides no bearing in the decision of the agency. Therefore, comments that simply state whether an individual is for or against a project are considered non-substantive and do not contribute to the analysis in a meaningful way.

Air Quality

Impacts to air quality are evaluated in section 6 of this document. The Montana Department of Environmental Quality and the Environmental Protection Agency regulate the allowable emissions from an asphalt plant. If an individual believes that the asphalt plant is exceeding the allowable emissions, they are encouraged to call the DEQ enforcement bureau.

Water Quality

Impacts to water quality are evaluated in section 5 of this document. No impacts to water quality are expected from the selection of the action alternative. Several mitigations were implemented in the authorization letter to further protect water quality. As stated within the authorization letter, the proponent must comply with all applicable state and federal regulations related to water quality.

Water Quantity

The impacts to water quantity are also evaluated in section 5 of this document. AM Welles has an exempt water right for an on-site well at the pit. The Montana DNRC's Water Rights Division regulates and permits water rights and usage throughout the State. AM Welles shall abide by all laws and permits related to the use and storage of water. This was included as a stipulation within the authorization letter.

Noise

Noise impacts are evaluated within the aesthetics section of this document which is section 11.

Sight

Visual impacts are evaluated within the aesthetics section of this document which is section 11.

Tourism

Impacts to tourism are evaluated within section 15 of this document.

Human Health

Impacts to human health are evaluated within section 14 of this document.

Wildlife

Impacts to wildlife are evaluated within sections 8 and 9 of this document.

Lee Metcalf Wilderness

Impacts to access and quality of recreation are evaluated in section 20 of this document.

Soil and Geology

Impacts to soil and geology are evaluated in section 4 of this document.

Spills

The impacts of potential spills and the mitigations associated with them are included in section 5 of this document. Furthermore, in the response offered by Riverside Contracting, the company has a spill prevention, control and countermeasure (SPCC) plan for the plant.

Traffic

Traffic related impacts are evaluated throughout the document but are directly considered in section 18.

Climate Change/GHG

Greenhouse gas emissions are evaluated within section 6 of this document.

Economics

There are no impacts to the economics of tourism anticipated from the selection of the action alternative. Economic impacts to Trust Lands are evaluated in section 24 of this document.

Adjacent Property Values

The impacts to adjacent property values are evaluated in section 21 of this document.

Public Land

Several commentors were confused as to why the State of Montana would consider a project such as this on public land. There is a distinct difference between public lands held by other agencies and Montana State Trust Lands. This project is proposed on Montana State Trust Lands which were given to the state of Montana by the federal government through the enabling act of 1889. These lands are for the specific purpose of generating revenue for the support of public schools and institutions in Montana. One applicable law for the management of State Trust Lands is MCA 77-1-601.

Free Use

Several commentors raised concerns about the proponent not being charged a rental fee for the usage of the asphalt plant. The Forestry and Trust Lands Division heard this concern and decided to implement a one-time rental fee of $4000 for the temporary use of the site. This amount was determined by previous agreements similar to the proposal on other tracts of state trust land throughout the State. Furthermore, the Trust will receive royalties for any gravel used in the creation of asphalt.

Illegal Public Process

The public involvement for this project is explained in section 1 of this document. The public involvement for the project followed all applicable MEPA laws and rules. The Department provided the public with multiple opportunities to provide comment and inform the document over a six-and-a-half-week period.