

AIR QUALITY PERMIT

Issued To: Wolf Mountain Coal, Inc.
1810 Coffeen Avenue, #215
Sheridan, WY 82801

Permit #3296-00
Application Complete: 12/19/03
Preliminary Determination Issued: 01/26/04
Department Decision Issued: 02/11/04
Permit Final: 02/27/04
AFS #777-3296

An air quality permit, with conditions, is hereby granted to Wolf Mountain Coal, Inc. (Wolf Mountain Coal), pursuant to Sections 75-2-204 and 211, Montana Code Annotated (MCA), as amended, and the Administrative Rules of Montana (ARM) 17.8.740, *et seq.*, as amended, for the following:

Section I: Permitted Facilities

A. Permitted Equipment

Wolf Mountain Coal operates a portable coal processing and load out facility. A complete list of the permitted equipment is contained in Section I.A of the permit analysis.

B. Plant Location

The Wolf Mountain Coal facility will initially locate in the NW ¼ of Section 18, Township 8 South, Range 40 East, in Big Horn County, Montana. Permit #3296-00 also applies while operating at any location in Montana, except within those areas having a Department of Environmental Quality (Department) approved permitting program, those areas considered tribal lands, or those areas in or within 10 kilometers (km) of certain particulate matter with an aerodynamic diameter of 10 microns or less (PM₁₀) nonattainment areas. An addendum to this air quality permit will be required if Wolf Mountain Coal intends to locate in or within 10 km of certain PM₁₀ nonattainment areas. *A Missoula County air quality permit will be required for locations within Missoula County, Montana.*

Section II: Conditions and Limitations

A. Emission Limitations

1. Wolf Mountain Coal shall not cause or authorize to be discharged into the atmosphere from any equipment, any visible emissions that exhibit an opacity of 20% or greater averaged over 6 consecutive minutes (ARM 17.8.304, ARM 17.8.752, 40 CFR 60, Subpart Y).
2. Wolf Mountain Coal shall use a combination of full and partial enclosures, minimize coal handling drop distances, and use water and/or chemical stabilization, as necessary, to maintain compliance with the opacity limitation in Section II.A.1 (ARM 17.8.752).
3. Wolf Mountain Coal shall not cause or authorize the use of any street, road, or parking lot without taking reasonable precautions to control emissions of airborne particulate matter (ARM 17.8.308 and ARM 17.8.752).
4. Wolf Mountain Coal shall treat all unpaved portions of the haul roads, access roads, parking lots, or the general plant area with water and/or chemical dust suppressant as necessary to maintain compliance with the reasonable precautions limitation in Section II.A.3 (ARM 17.8.752).

5. If the permitted equipment is used in conjunction with any other equipment owned or operated by Wolf Mountain Coal at the same site, production shall be limited to correspond with an emission level that does not exceed 250 tons during any rolling 12-month time period. Any calculations used to establish production levels shall be approved by the Department (ARM 17.8.749).
6. Total load out production shall be limited to 1,752,000 tons during any rolling 12-month time period (ARM 17.8.749 and ARM 17.8.1204).

B. Testing Requirements

1. Within 60 days after achieving maximum production, but no later than 180 days after initial start-up, an Environmental Protection Agency (EPA) Method 9 opacity test and/or other methods and procedures as specified in 40 CFR 60.254 must be performed on any Standards of Performance for New Stationary Sources (NSPS) affected screen and any other affected equipment to demonstrate compliance with the emission limitations contained in Section II.A.1 (ARM 17.8.340 and 40 CFR 60, Subpart Y).
2. All compliance source tests shall conform to the requirements of the Montana Source Test Protocol and Procedures Manual (ARM 17.8.106).
3. The Department may require testing (ARM 17.8.105).

C. Operational Reporting Requirements

1. If this portable coal processing facility is moved to another location, an Intent to Transfer Form must be sent to the Department. In addition, a Public Notice Form for Change of Location must be published in a newspaper of general circulation in the area to which the transfer is to be made, at least 15 days prior to the move. The Intent to Transfer Form and the proof of publication (affidavit) of the Public Notice Form for Change of Location must be submitted to the Department prior to the move. These forms are available from the Department (ARM 17.8.765).
2. Wolf Mountain Coal shall maintain on-site records showing daily hours of operation and daily production rates for the last 12 months. All records compiled in accordance with this permit shall be maintained by Wolf Mountain Coal as a permanent business record for at least 5 years following the date of the measurement, shall be available at the plant site for inspection by the Department, and shall be submitted to the Department upon request (ARM 17.8.749).
3. Wolf Mountain Coal shall supply the Department with annual production information for all emission points, as required by the Department in the annual emission inventory request. The request will include, but is not limited to, all sources of emissions identified in the most recent emission inventory report and sources identified in Section I.A of the permit analysis.

Production information shall be gathered on a calendar-year basis and submitted to the Department by the date required in the emission inventory request. Information shall be in units, as required by the Department. This information may be used for calculating operating fees, based on actual emissions from the facility, and/or to verify compliance with permit limitations (ARM 17.8.505).

4. Wolf Mountain Coal shall notify the Department of any construction or improvement project conducted, pursuant to ARM 17.8.745, that would include a change in control equipment, stack height, stack diameter, stack flow, stack gas temperature, source location, or fuel specifications, or would result in an increase in source capacity above its permitted operation or the addition of a new emission unit. The notice must be submitted to the Department, in writing, 10 days prior to start-up or use of the proposed de minimis change, or as soon as reasonably practicable in the event of an unanticipated circumstance causing the de minimis change, and must include the information requested in ARM 17.8.745(1)(d)(ARM 17.8.745).
5. Wolf Mountain Coal shall document, by month, the total load out production for the facility. By the 25th day of each month, Wolf Mountain Coal shall total the load out production during the previous 12 months to verify compliance with the limitation in Section II.A.6. A written report of the compliance verification shall be submitted along with the annual emission inventory (ARM 17.8.749).

D. Notification

Wolf Mountain Coal shall provide the Department with written notification of the following dates within the specified time periods (ARM 17.8.749 and 40 CFR 60, Subpart Y):

1. Commencement of construction of the project at the initial site within 30 days after commencement of construction; and
2. Actual start-up date of the project at the initial site within 15 days after the actual start-up.

Section III: General Conditions

- A. Inspection – Wolf Mountain Coal shall allow the Department’s representatives access to the source at all reasonable times for the purpose of making inspections or surveys, collecting samples, obtaining data, auditing any monitoring equipment (CEMS, CERMS) or observing any monitoring or testing, and otherwise conducting all necessary functions related to this permit.
- B. Waiver - The permit and all the terms, conditions, and matters stated herein shall be deemed accepted if Wolf Mountain Coal fails to appeal as indicated below.
- C. Compliance with Statutes and Regulations - Nothing in this permit shall be construed as relieving Wolf Mountain Coal of the responsibility for complying with any applicable federal or Montana statute, rule, or standard, except as specifically provided in ARM 17.8.740, *et seq.* (ARM 17.8.756).
- D. Enforcement - Violations of limitations, conditions, and requirements contained herein may constitute grounds for permit revocation, penalties, or other enforcement as specified in Section 75-2-401, *et seq.*, MCA.
- E. Appeals - Any person or persons jointly or severally adversely affected by the Department's decision may request, within 15 days after the Department renders its decision, upon affidavit setting forth the grounds therefore, a hearing before the Board of Environmental Review (Board). A hearing shall be held under the provisions of the

Montana Administrative Procedures Act. The filing of a request for a hearing postpones the effective date of the Department's decision until the conclusion of the hearing and issuance of a final decision by the Board. The Department's decision on the application is not final unless 15 days have elapsed and there is no request for a hearing under this section.

- F. Permit Inspection - As required by ARM 17.8.755, Inspection of Permit, a copy of the air quality permit shall be made available for inspection by Department personnel at the location of the permitted source.
- G. Construction Commencement - Construction must begin within 3 years of permit issuance and proceed with due diligence until the project is complete or the permit shall be revoked.
- H. Permit Fees - Pursuant to Section 75-2-220, MCA, as amended by the 1991 Legislature, failure to pay the annual operation fee by Wolf Mountain Coal may be grounds for revocation of this permit, as required by that section and rules adopted thereunder by the Board.
- I. The Department may modify the conditions of this permit based on local conditions of any future site. These factors may include, but are not limited to, local terrain, meteorological conditions, proximity to residences, etc.
- J. Wolf Mountain Coal shall comply with the conditions contained in this permit while operating at any location in Montana, except within those areas having a Department approved permitting program.

PERMIT ANALYSIS
Wolf Mountain Coal, Inc.
Permit Number 3296-00

I. Introduction/Process Description

A. Permitted Equipment

Wolf Mountain Coal, Inc. (Wolf Mountain Coal) owns and operates a portable coal processing facility consisting of a drive over truck dump and surge bin, a screening plant (two double deck screens with a maximum capacity of 300 tons per hour), four storage bins, three radial stackers, ground storage areas, and associated conveying and loading equipment. The proposed original location for the facility is the NW ¼ of Section 18, Township 8 South, Range 40 East, in Big Horn County, Montana. Permit #3296-00 will apply to the source while operating at any location in Montana, except within those areas having a Department of Environmental Quality (Department) approved permitting program, those areas considered tribal lands, or those areas in or within 10 kilometers (km) of certain particulate matter with an aerodynamic diameter of 10 microns or less (PM₁₀) nonattainment areas. An addendum to this air quality permit will be required if Wolf Mountain Coal intends to locate in or within 10 km of certain PM₁₀ nonattainment areas. *A Missoula County air quality permit will be required for locations within Missoula County, Montana.*

B. Process Description

Wolf Mountain Coal proposes to use this portable coal processing facility to produce 3 sized coal products (minus 2 inch, 1½, inch, and ¼ inch) for sale and distribution in over-the-road trucks to industrial, commercial, and residential consumers. The coal screening facility will be capable of separating the sized coal products at a maximum feed rate of 300 tons per hour. The medium sized product (stoker coal) will receive a coating of oil. After the screening and/or oiling processes, the coal will be transferred to either overhead truck load out bins or to ground storage stockpiles for distribution. At the initial location coal will be supplied from the adjacent Spring Creek Coal Mine. A complete description of the process is included in the application.

II. Applicable Rules and Regulations

The following are partial explanations of some applicable rules and regulations that apply to the facility. The complete rules are stated in the Administrative Rules of Montana (ARM) and are available, upon request, from the Department. Upon request, the Department will provide references for locations of complete copies of all applicable rules and regulations or copies where appropriate.

A. ARM 17.8, Subchapter 1 - General Provisions, including, but not limited to:

1. ARM 17.8.101 Definitions. This rule is a list of applicable definitions used in this chapter, unless indicated otherwise in a specific subchapter.
2. ARM 17.8.105 Testing Requirements. Any person or persons responsible for the emission of any air contaminant into the outdoor atmosphere shall, upon written request of the Department, provide the facilities and necessary equipment (including instruments and sensing devices) and shall conduct tests, emission or ambient, for such periods of time as may be necessary, using methods approved by the Department.

3. ARM 17.8.106 Source Testing Protocol. The requirements of this rule apply to any emission source testing conducted by the Department, any source, or other entity as required by any rule in this chapter, or any permit or order issued pursuant to this chapter, or the provisions of the Clean Air Act of Montana, 75-2-101, *et seq.*, Montana Code Annotated (MCA).

Wolf Mountain Coal shall comply with all requirements contained in the Montana Source Test Protocol and Procedures Manual, including, but not limited to, using the proper test methods and supplying the required reports. A copy of the Montana Source Test Protocol and Procedures Manual is available from the Department upon request.

4. ARM 17.8.110 Malfunctions. (2) The Department must be notified promptly by telephone whenever a malfunction occurs that can be expected to create emissions in excess of any applicable emission limitation or to continue for a period greater than 4 hours.
5. ARM 17.8.111 Circumvention. (1) No person shall cause or permit the installation or use of any device or any means which, without resulting in reduction in the total amount of air contaminant emitted, conceals or dilutes an emission of air contaminant that would otherwise violate an air pollution control regulation. (2) No equipment that may produce emissions shall be operated or maintained in such a manner that a public nuisance is created.

B. ARM 17.8, Subchapter 2 - Ambient Air Quality, including, but not limited to:

1. ARM 17.8.210 Ambient Air Quality Standards for Sulfur Dioxide
2. ARM 17.8.211 Ambient Air Quality Standards for Nitrogen Dioxide
3. ARM 17.8.212 Ambient Air Quality Standards for Carbon Monoxide
4. ARM 17.8.220 Ambient Air Quality Standard for Settled Particulate Matter
5. ARM 17.8.223 Ambient Air Quality Standard for PM₁₀

Wolf Mountain Coal must comply with the applicable ambient air quality standards.

C. ARM 17.8, Subchapter 3 - Emission Standards, including, but not limited to:

1. ARM 17.8.304 Visible Air Contaminants. This rule requires that no person may cause or authorize emissions to be discharged into the outdoor atmosphere from any source installed after November 23, 1968, that exhibit an opacity of 20% or greater averaged over 6 consecutive minutes.
2. ARM 17.8.308 Particulate Matter, Airborne. (1) This rule requires an opacity limitation of less than 20% for all fugitive emission sources and that reasonable precautions be taken to control emissions of airborne particulate matter. (2) Under this rule, Wolf Mountain Coal shall not cause or authorize the use of any street, road, or parking lot without taking reasonable precautions to control emissions of airborne particulate matter.
3. ARM 17.8.309 Particulate Matter, Fuel Burning Equipment. This rule requires that no person shall cause or authorize to be discharged into the atmosphere particulate matter caused by the combustion of fuel in excess of the amount determined by this rule.

4. ARM 17.8.310 Particulate Matter, Industrial Processes. This rule requires that no person shall cause or allow to be discharged into the atmosphere particulate matter in excess of the amount set forth in this rule.
5. ARM 17.8.322 Sulfur Oxide Emissions--Sulfur in Fuel. This rule requires that no person shall burn liquid, solid, or gaseous fuel in excess of the amount set forth in this rule.
6. ARM 17.8.324 Hydrocarbon Emissions--Petroleum Products. (3) No person shall load or permit the loading of gasoline into any stationary tank with a capacity of 250 gallons or more from any tank truck or trailer, except through a permanent submerged fill pipe, unless such tank truck or trailer is equipped with a vapor loss control device as described in (1) of this rule.
7. ARM 17.8.340 Standards of Performance for New Stationary Sources. This rule incorporates, by reference, 40 CFR 60, Standards of Performance for New Stationary Sources (NSPS). Wolf Mountain Coal is an NSPS affected facility under 40 CFR 60 of Subpart Y because the date of manufacture or modification of specific equipment is after October 24, 1974 (40 CFR Part 60, Subpart Y – Standards of Performance for Coal Preparation Plants).

D. ARM 17.8, Subchapter 5 - Air Quality Permit Application, Operation, and Open Burning Fees, including, but not limited to:

1. ARM 17.8.504 Air Quality Permit Application Fees. This rule requires that Wolf Mountain Coal submit an air quality permit application fee concurrent with the submittal of an air quality permit application. A permit application is incomplete until the proper application fee is paid to the Department. Wolf Mountain Coal submitted the appropriate permit application fee as required for the current permit action.
2. ARM 17.8.505 Air Quality Operation Fees. An annual air quality operation fee must, as a condition of continued operation, be submitted to the Department by each source of air contaminants holding an air quality permit, excluding an open burning permit, issued by the Department. This operation fee is based on the actual or estimated actual amount of air pollutants emitted during the previous calendar year.

An air quality operation fee is separate and distinct from an air quality permit application fee. The annual assessment and collection of the air quality operation fee, described above, shall take place on a calendar-year basis. The Department may insert into any final permit issued after the effective date of these rules, such conditions as may be necessary to require the payment of an air quality operation fee on a calendar-year basis, including provisions that pro-rate the required fee amount.

E. ARM 17.8, Subchapter 7 - Permit, Construction and Operation of Air Contaminant Sources, including, but not limited to:

1. ARM 17.8.740 Definitions. This rule is a list of applicable definitions used in this chapter, unless indicated otherwise in a specific subchapter.

2. ARM 17.8.743 Montana Air Quality Permits--When Required. This rule requires a person to obtain an air quality permit or permit alteration to construct, alter or use any air contaminant sources that have the Potential to Emit (PTE) greater than 25 tons per year of any pollutant. Wolf Mountain Coal has the PTE greater than 25 tons per year of particulate matter (PM) and PM₁₀; therefore, an air quality permit is required.
3. ARM 17.8.744 Montana Air Quality Permits--General Exclusions. This rule identifies the activities that are not subject to the Montana Air Quality Permit Program.
4. ARM 17.8.745 Montana Air Quality Permits—Exclusion for De Minimis Changes. This rule identifies the de minimis changes at permitted facilities that do not require a permit under the Montana Air Quality Permit Program.
5. ARM 17.8.748 New or Modified Emitting Units--Permit Application Requirements. (1) This rule requires that a permit application be submitted prior to installation, modification, or use of a source. Wolf Mountain Coal submitted the required permit application for the current permit action. (7) This rule requires that the applicant notify the public by means of legal publication in a newspaper of general circulation in the area affected by the application for a permit. Wolf Mountain Coal submitted an affidavit of publication of public notice for the December 17, 2003, issue of the *Sheridan Press*, a newspaper of general circulation in the Town of Sheridan, Wyoming and Big Horn County, Montana, as proof of compliance with the public notice requirements.
6. ARM 17.8.749 Conditions for Issuance or Denial of Permit. This rule requires that the permits issued by the Department must authorize the construction and operation of the facility or emitting unit subject to the conditions in the permit and the requirements of this subchapter. This rule also requires that the permit must contain any conditions necessary to assure compliance with the Federal Clean Air Act (FCAA), the Clean Air Act of Montana, and rules adopted under those acts.
7. ARM 17.8.752 Emission Control Requirements. This rule requires a source to install the maximum air pollution control capability that is technically practicable and economically feasible, except that Best Available Control Technology (BACT) shall be utilized. The required BACT analysis is included in Section IV of this permit analysis.
8. ARM 17.8.755 Inspection of Permit. This rule requires that air quality permits shall be made available for inspection by the Department at the location of the source.
9. ARM 17.8.756 Compliance with Other Requirements. This rule states that nothing in the permit shall be construed as relieving Wolf Mountain Coal of the responsibility for complying with any applicable federal or Montana statute, rule, or standard, except as specifically provided in ARM 17.8.740, *et seq.*
10. ARM 17.8.759 Review of Permit Applications. This rule describes the Department's responsibilities for processing permit applications and making permit decisions on those permit applications that do not require the preparation of an environmental impact statement.

11. ARM 17.8.762 Duration of Permit. An air quality permit shall be valid until revoked or modified, as provided in this subchapter, except that a permit issued prior to construction of a new or altered source may contain a condition providing that the permit will expire unless construction is commenced within the time specified in the permit, which in no event may be less than 1 year after the permit is issued.
12. ARM 17.8.763 Revocation of Permit. An air quality permit may be revoked upon written request of the permittee, or for violations of any requirement of the Clean Air Act of Montana, rules adopted under the Clean Air Act of Montana, the FCAA, rules adopted under the FCAA, or any applicable requirement contained in the Montana State Implementation Plan (SIP).
13. ARM 17.8.764 Administrative Amendment to Permit. An air quality permit may be amended for changes in any applicable rules and standards adopted by the Board of Environmental Review (Board) or changed conditions of operation at a source or stack that do not result in an increase of emissions as a result of those changed conditions. The owner or operator of a facility may not increase the facility's emissions beyond those found in its permit, unless the increase meets the criteria in ARM 17.8.745 for a de minimis change not requiring a permit, or unless the owner or operator applies for and receives another permit in accordance with ARM 17.8.748, ARM 17.8.749, ARM 17.8.752, ARM 17.8.755, and ARM 17.8.756, and with all applicable requirements in ARM Title 17, Chapter 8, Subchapters 8, 9, and 10.
14. ARM 17.8.765 Transfer of Permit. (1) This rule states that an air quality permit may be transferred from one location to another if the Department receives a complete notice of Intent to Transfer location, the facility will operate in the new location for less than 1 year, the facility will comply with the FCAA and the Clean Air Act of Montana, and the facility complies with other applicable rules. (2) This rule states that an air quality permit may be transferred from one person to another if written notice of Intent to Transfer, including the names of the transferor and the transferee, is sent to the Department.

F. ARM 17.8, Subchapter 8 - Prevention of Significant Deterioration of Air Quality, including, but not limited to:

1. ARM 17.8.801 Definitions. This rule is a list of applicable definitions used in this subchapter.
2. ARM 17.8.818 Review of Major Stationary Sources and Major Modifications-- Source Applicability and Exemptions. The requirements contained in ARM 17.8.819 through ARM 17.8.827 shall apply to any major stationary source and any major modification with respect to each pollutant subject to regulation under the FCAA that it would emit, except as this subchapter would otherwise allow.

This facility is not a major stationary source since it is not a listed source and the facility's PTE is less than 250 tons per year (excluding fugitive emissions) of any air pollutant.

G. ARM 17.8, Subchapter 12 - Operating Permit Program Applicability, including, but not limited to:

1. ARM 17.8.1201 Definitions. (23) Major Source under Section 7412 of the FCAA is defined as any stationary source having:
 - a. PTE > 100 tons/year of any pollutant;
 - b. PTE > 10 tons/year of any one Hazardous Air Pollutant (HAP), PTE > 25 tons/year of a combination of all HAPs, or a lesser quantity as the Department may establish by rule; or
 - c. PTE > 70 tons/year of PM₁₀ in a serious PM₁₀ nonattainment area.

2. ARM 17.8.1204 Air Quality Operating Permit Program Applicability. (1) Title V of the FCAA Amendments of 1990 requires that all sources, as defined in ARM 17.8.1204(1), obtain a Title V Operating Permit. In reviewing and issuing Air Quality Permit #3296-00 for the Wolf Mountain Coal facility, the following conclusions were made:
 - a. The facility's permitted PTE is less than 100 tons/year for any pollutant.
 - b. The facility's PTE is less than 10 tons/year of any one HAP and less than 25 tons/year of all HAPs.
 - c. This source is not located in a serious PM₁₀ nonattainment area.
 - d. This facility is not subject to any current NESHAP standards.
 - e. This facility is subject to current NSPS (40 CFR Part 60, Subpart Y – Standards of Performance for Coal Preparation Plants).
 - f. This source is not a Title IV affected source nor a solid waste combustion unit.
 - g. This source is not an EPA designated Title V source.

Based on these facts, the Department determined that Wolf Mountain Coal will be a minor source of emissions as defined under Title V.

III. Emission Inventory

Source	Tons/Year					
	PM	PM ₁₀	NO _x	VOC	CO	SO _x
Screens	49.06	36.79				
Material Transfer	10.95	8.32				
Bulk Loading	2.19	1.66				
Haul Roads	2.74	1.23				
Total	64.93	48.01	0.00	0.00	0.00	0.00

- A complete emission inventory for Permit #3296-00 is on file with the Department.

IV. BACT Determination

A BACT determination is required for any new or modified source. Wolf Mountain Coal shall install on the new or modified source the maximum air pollution control capability that is technically practicable and economically feasible, except that BACT shall be used.

Wolf Mountain Coal shall not cause to be discharged into the atmosphere from any NSPS and non-NSPS affected equipment any visible emissions that exhibit an opacity of 20% or greater averaged over 6 consecutive minutes. Wolf Mountain Coal must also take reasonable precautions to limit the fugitive emissions of airborne particulate matter from haul roads, access roads, parking areas, and the general area of operation. Emission control requirements include enclosure of the screening operation within a building, partial enclosure of the loading and discharge sections of conveyors, hood covers over the length of the conveyors, application of oil to the stoker coal product, and minimizing drop distances at coal handling points. Additional emission control is achieved due to the inherent water content of the coal being processed and residual dust surfactant applied at the mine. The Department determined that using these emission control techniques to maintain compliance with the opacity requirements and reasonable precaution limitations constitutes BACT for the emission sources at this facility.

V. Existing Air Quality

Permit #3296-00 is issued for the operation of a portable coal processing and load out facility to be initially located in the NW ¼ of Section 18, Township 8 South, Range 40 East, in Big Horn County, Montana. This proposed site is designated as an attainment/unclassified area for the National Ambient Air Quality Standards (NAAQS). Ambient air monitoring has been done at the adjacent Spring Creek Coal Mine and the nearby Decker Coal Mine and the data is on file with the Department.

VI. Ambient Air Quality Impact Analysis

Permit #3296-00 will cover the operation while operating at any location within Montana, excluding those counties that have a Department approved permitting program, those areas considered tribal lands, or those areas in or within 10 km of certain PM₁₀ nonattainment areas. Based on the amount of controlled emissions generated by this facility, the facility is capable of complying with ambient standards. In addition, this source is portable and any air quality impacts will be minor and short-lived.

VII. Taking or Damaging Implication Analysis

As required by 2-10-101 through 105, MCA, the Department conducted a private property taking and damaging assessment and determined there are no taking or damaging implications.

VIII. Environmental Assessment

An environmental assessment, required by the Montana Environmental Policy Act, was completed for this project. A copy is attached.

DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air Resources Management Bureau
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P.O. Box 200901
Helena, Montana 59620-0901
(406) 444-3490

FINAL ENVIRONMENTAL ASSESSMENT (EA)

Issued For:

Wolf Mountain Coal, Inc.

1810 Coffeen Avenue, #215
Sheridan, WY 82801

Permit Number: #3296-00

Preliminary Determination Issued: 01/26/04

Department Decision Issued: 02/11/04

Permit Final: 02/27/04

1. *Legal Description of Site:* Wolf Mountain Coal submitted an application to operate a portable coal screening facility originally locating in the NW ¼ of Section 18, Township 8 South, Range 40 East, in Big Horn County, Montana. Permit #3296-00 would apply while operating at any location in Montana, except within those areas having a Department approved permitting program, tribal lands, or those areas in or within 10 km of certain PM₁₀ nonattainment areas. An addendum to this air quality permit would be required for locations in or within 10 km of certain PM₁₀ nonattainment areas. *A Missoula County air quality permit would be required for locations within Missoula County, Montana.*
2. *Description of Project:* The permit application proposes the construction and operation of a portable coal screening facility consisting of a drive over truck dump and surge bin, a screening plant (two double deck screens with a maximum capacity of 300 tons per hour), four storage bins, three radial stackers, ground storage, and associated conveying and loading equipment. The initial site is adjacent to the Spring Creek Coal Mine which is a large surface coal mine and would be the source of coal for the project.
3. *Objectives of Project:* The object of the project would be to produce business and revenue for the company through the sale of coal. The issuance of Permit #3296-00 would allow Wolf Mountain Coal to operate the permitted equipment at various locations throughout Montana, including the proposed initial site location.
4. *Additional Project Site Information:* This screening operation may move to a general site location or open cut pit, which has been previously permitted through the Industrial and Energy Minerals Bureau (IEMB). If this were the case, additional information for the site would be found in the Mined Land Reclamation Permit for that specific site. At the initial site, the adjacent Spring Creek Coal Mine is permitted by IEMB and the general area has had significant environmental analysis.
5. *Alternatives Considered:* In addition to the proposed action, the Department considered the "no-action" alternative. The "no-action" alternative would deny issuance of the air quality preconstruction permit to the proposed facility. However, the Department does not consider the "no-action" alternative to be appropriate because Wolf Mountain Coal demonstrated compliance with all applicable rules and regulations as required for permit issuance. Therefore, the "no-action" alternative was eliminated from further consideration.

6. *A Listing of Mitigation, Stipulations, and Other Controls:* A listing of the enforceable permit conditions and a permit analysis, including a BACT analysis, would be contained in Permit #3296-00.
7. *Regulatory Effects on Private Property Rights:* The Department considered alternatives to the conditions imposed in this permit as part of the permit development. The Department determined the permit conditions would be reasonably necessary to ensure compliance with applicable requirements and to demonstrate compliance with those requirements and would not unduly restrict private property rights.
8. *The following table summarizes the potential physical and biological effects of the proposed project on the human environment. The “no action alternative” was discussed previously.*

		Major	Moderate	Minor	None	Unknown	Comments Included
A.	Terrestrial and Aquatic Life and Habitats			X			yes
B.	Water Quality, Quantity, and Distribution			X			yes
C.	Geology and Soil Quality, Stability, and Moisture			X			yes
D.	Vegetation Cover, Quantity, and Quality			X			yes
E.	Aesthetics			X			yes
F.	Air Quality			X			yes
G.	Unique Endangered, Fragile, or Limited Environmental Resource			X			yes
H.	Demands on Environmental Resource of Water, Air, and Energy			X			Yes
I.	Historical and Archaeological Sites			X			Yes
J.	Cumulative and Secondary Impacts			X			Yes

SUMMARY OF COMMENTS ON POTENTIAL PHYSICAL AND BIOLOGICAL EFFECTS: The following comments have been prepared by the Department.

A. Terrestrial and Aquatic Life and Habitats

Terrestrials and aquatic life would use the areas where the screening plant would operate. While deposition of particles would occur, as explained in Section 8.F of this EA, due to the relatively small size and temporary nature of the operation, dispersion of the pollutants, and conditions placed in Permit #3296-00, any impacts would be minor. Therefore, the screening plant operation would present only minor impacts to the terrestrial life and aquatic life in any given area of operation.

B. Water Quality, Quantity, and Distribution

Although there would be an increase in air emissions in the area where the screening plant would operate, there would be little, if any, impacts on water quality, quantity, and distribution because of the relatively small size and temporary nature of the operation. While deposition from air emissions would occur, the Department determined that any impacts from deposition would be minor. As described in Section 8.F of this EA, due to the small amount of emissions, dispersion of the pollutants, and conditions placed in Permit #3296-00, the impacts on water quality from the air emissions from the screening plant would be minor. Very little water would be required to be used as part of the operation. Any accidental spills or leaks from equipment would be required to be handled according to the appropriate environmental regulations. Overall, the screening plant operations would result in only minor impacts to water quality, quantity, and distribution.

C. Geology and Soil Quality, Stability, and Moisture

There would be minor impacts to the geology and soil quality, stability, and moisture near the plant's operational area due to facility construction, increased vehicle traffic, a minimal use of water to control dust, and deposition of pollutants from screening operations. Due to the relatively small size and temporary nature of the operation, dispersion of the pollutants, and conditions placed in Permit #3296-00, any impacts would be minor.

D. Vegetation Cover, Quantity, and Quality

There would be minor impacts on the vegetative cover, quantity, and quality because small amounts of vegetation would likely be disturbed by the screening operation. In addition, pollutant deposition would occur on the surrounding vegetation. However, as explained in Section 8.F of this EA, the Department determined that, due to the relatively small size and temporary nature of the operation, dispersion of pollutants, and conditions placed in Permit #3296-00, any impacts from deposition would be minor. Also, because the water usage would be minimal and any soil disturbance would be minor (as described in Section 8.C of this EA) corresponding vegetative impacts would also be minor.

E. Aesthetics

The screening operations would be visible and would create additional noise in the area of operation. Permit #3296-00 would include conditions to control emissions, including visible emissions, from the screening plant. Pollution control techniques would be used to control particulate emissions from the plant. Since the screening plant operations are relatively small and temporary, any aesthetic impact to a given area would be minor.

F. Air Quality

Air quality impacts from the screening plant operations would be minor because the operation would be relatively small. Deposition of particles would occur as a result of operating the screening plant; however, the Department determined that any air quality impacts from the deposition of particles would be minor due to the relatively minor amount of pollutants emitted, the dispersion characteristics of the atmosphere (wind speed, wind direction, etc.), and conditions placed in Permit #3296-00. Permit #3296-00 would include conditions limiting the opacity from plant operations. In addition, Permit #3296-00 would include conditions requiring reasonable precautions be taken to control emissions from haul roads, access roads, parking lots, and the general work area. Further, Permit #3296-00 would also limit total emissions from the screening plant and any additional Wolf Mountain Coal equipment operated at the same site to 250 tons per year or less. Also, the Department determined that the screening plant would be a minor source of emissions as defined under the Title V Operating Permit Program because the facility's potential emissions would be below 100 tons/year for any regulated pollutant generated.

G. Unique Endangered, Fragile, or Limited Environmental Resources

The Department contacted the Montana Natural Heritage Program, National Resource Information System (NRIS), in an effort to identify any species of special concern associated with the proposed initial location. NRIS identified one plant species of special concern in the general area of the proposed initial site. It is *Astragalus barrii* (Barr's Milkvetch). It was identified about one half mile west of the proposed initial site. Based on the relatively small size and temporary nature of the screening plant, and the fact that the proposed initial site is adjacent to a large coal mine the Department determined that any potential impacts to this species, or other unique endangered, fragile, or limited environmental resources would be minor.

H. Demands on Environmental Resource of Water, Air, and Energy

The screening plant operations would require only small quantities of water, air, and energy for proper operation due to the relatively small size of the facility. The power to the screening plant would come from a 34kV power line. In addition, as described in Section 8.F. of this EA, air emissions generated from the facility would have minor impacts on air quality in the immediate and surrounding area. A relatively small amount of energy would be required to operate the facility. Due to the small size and temporary operation of the screening plant, the demand on energy to operate the facility would be minor. Overall, the demands on the environmental resources of water, air, and energy would be minor.

I. Historical and Archaeological Sites

In an effort to identify any historical and archaeological sites that may be present in the area proposed for the initial screening plant operation, the Department contacted the Montana Historical Society, State Historic Preservation Office (SHPO). SHPO indicated that there had been a few previously recorded sites within the general area, and because of limited research of the area, recommended that a cultural resource inventory be conducted prior to construction activities. Overall, the Department determined that the chance of the project impacting any historical or archaeological sites in the area would be minimal given the small size of the project and that fact that at least a portion of the proposed site may have been previously disturbed by construction activities for the Spring Creek Coal Mine.

If portable operations move to new locations, they typically move to a previously disturbed industrial location such as an open cut pit. SHPO has indicated in the past that there is low likelihood of disturbance to any known archaeological or historic sites given previous industrial disturbance in those areas. Therefore, it is unlikely that the screening operation would have an effect on any known historic or archaeological site at any future location.

J. Cumulative and Secondary Impacts

The screening plant would cause minor effects to the physical and biological aspects of the human environment because the facility would generate relatively small amounts of particulate matter and PM₁₀. Noise impacts would be minor due to the relatively small size of the operation. Impacts from noise would be seasonal, and because the screening plant is permitted as a portable source, would have the potential to move to other locations. Limitations established in Permit #3296-00 would minimize air pollution.

In addition, there is potential for other operations to locate at the same sites. However, any operations would have to apply for and receive the appropriate permits from the Department prior to operation. These permits would address the environmental impacts associated with the operations at the proposed site. Wolf Mountain Coal would be limited by Permit #3296-00 to total emissions of 250 tons per year or less from non-fugitive emissions sources at any given site.

9. The following table summarizes the potential economic and social effects of the proposed project on the human environment. The “no action alternative” was discussed previously.

		Major	Moderate	Minor	None	Unknown	Comments Included
A.	Social Structures and Mores				X		yes
B.	Cultural Uniqueness and Diversity				X		yes
C.	Local and State Tax Base and Tax Revenue			X			yes
D.	Agricultural or Industrial Production			X			yes
E.	Human Health			X			yes
F.	Access to and Quality of Recreational and Wilderness Activities			X			yes
G.	Quantity and Distribution of Employment			X			yes
H.	Distribution of Population				X		yes
I.	Demands for Government Services			X			yes
J.	Industrial and Commercial Activity			X			yes
K.	Locally Adopted Environmental Plans and Goals			X			yes
L.	Cumulative and Secondary Impacts			X			yes

SUMMARY OF COMMENTS ON POTENTIAL ECONOMIC AND SOCIAL EFFECTS: The following comments have been prepared by the Department.

A. Social Structures and Mores

The screening plant would cause no disruption to the social structures and mores in the area because the source would be a minor source of emissions, would be consistent with the on-going mining activity in the area, and would only have temporary and intermittent operations. The facility would be required to operate according to the conditions that would be placed in Permit #3296-00, which would limit the effects to the social structure and mores, regardless of location.

B. Cultural Uniqueness and Diversity

The cultural uniqueness and diversity of the area would not be impacted by the screening plant operations because the site has been previously used for industrial purposes, is adjacent to a large coal mine, and is separated from the general population. Also, the predominant use of the surrounding area would not change as a result of the proposed operations.

C. Local and State Tax Base and Tax Revenue

The screening plant operations would have little, if any, impact on the local and state tax base and tax revenue because the facility would be a relatively small industrial source and would operate seasonally and intermittently. The facility would require only a few employees. Therefore, only minor impacts to the local and state tax base and revenue could be expected from the employees and facility production. Furthermore, the impact to local tax base and revenue is expected to be minor because the source would also be portable and the money generated for taxes would be widespread.

D. Agricultural or Industrial Production

The screening plant operations would have only a minor impact on local industrial production since the facility would have a limited production. There would be minor effects on agricultural land because the facility would be operating in an area that has surrounding land that is used for agricultural production and animal grazing. The site has previously been used for industrial activity and is adjacent to a large surface coal mine. Also, the facility operations would be small and temporary in nature and would be permitted with operational conditions and limitations that would minimize impacts upon surrounding vegetation, as described in Section 8.D of this EA. Additionally, air quality impacts from operating this equipment would only be minor, as described in Section 8.F of this EA. Further, air pollution controls would be utilized on equipment operations and production limits would be established to protect the surrounding environment.

E. Human Health

Permit #3296-00 would incorporate conditions to ensure that the screening plant would be operated in compliance with all applicable air quality rules and standards. These rules and standards are designed to be protective of human health. As described in Section 8.F. of this EA, the air emissions from this facility would be minimized by the use of emissions control requirements that would be established in Permit #3296-00. Also, the facility would be operating on a temporary and intermittent basis. Therefore, only minor impacts would be expected upon human health from the screening plant.

F. Access to and Quality of Recreational and Wilderness Activities

Minor impacts on the quality of recreational and wilderness activities would result from equipment operations and pollutant deposition, but no changes in the type of existing opportunities for recreational and wilderness activities in the area would be expected from the operation of the screening plant. Minor effects on the quality of recreational activities might be created by noise from equipment operations. Any changes in the quality of recreational and wilderness activities from noise, created by operating the equipment at the site, would be expected to be minor and intermittent.

G. Quantity and Distribution of Employment

The screening plant operations would be portable and facility operations would have only minor effects on the quantity and distribution of employment in the area because only a few employees would be needed for the operation.

H. Distribution of Population

The screening plant operations would be small and would only require a few employees. No individuals would be expected to permanently relocate to the area as a result of operating the coal load out facility. Therefore, the facility would not disrupt the normal population distribution in the initial area or any future area of operation.

I. Demands of Government Services

Minor increases would be seen in traffic on existing roadways in the area while the operations are in progress. In addition, government services would be required for acquiring the appropriate permits from government agencies and for government personnel to verify compliance with the existing permits. Demands for government services would be minor.

J. Industrial and Commercial Activity

The screening plant operation would represent only a minor increase in the industrial activity in the area because the source would be relatively small and would be portable and temporary in nature. No additional industrial or commercial activity would be expected as a result of the proposed operations.

K. Locally Adopted Environmental Plans and Goals

Wolf Mountain Coal would be allowed, by permit, to operate in areas designated by EPA as attainment or unclassified. The permitted production limits and opacity limits would be protective of air quality while the facility is operating. Because the facility would be a small and portable source and would have intermittent and seasonal operations, any effects from the facility would be minor and short-lived.

L. Cumulative and Secondary Impacts

The screening plant operations would cause minor cumulative and secondary impacts to the social and economic aspects of the human environment in the immediate area because the source is a portable, temporary source. Minor increases in traffic would result in minor effects on local traffic in the immediate area. Because the source is relatively small and temporary, only minor economic impacts to the local economy would be expected from operating this facility.

Recommendation: An EIS is not required.

If an EIS is not required, explain why the EA is an appropriate level of analysis: All potential effects resulting from construction and operation of the proposed facility are minor; therefore, an EIS is not required.

Other groups or agencies contacted or which may have overlapping jurisdiction: Department of Environmental Quality - Permitting and Compliance Division (Industrial and Energy Minerals Bureau); Montana Natural Heritage Program; and the State Historic Preservation Office (Montana Historical Society).

Individuals or groups contributing to this EA: Department of Environmental Quality (Air Resources Management Bureau and Industrial and Energy Minerals Bureau), Montana Natural Heritage Program, and State Historic Preservation Office (Montana Historical Society).

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