

**Peterson Declaration**  
**EXHIBIT 11**

**MONTANA BOARD OF ENVIRONMENTAL REVIEW**

**IN THE MATTER OF:** )  
**APPEAL AMENDMENT AM4** )  
**WESTERN ENERGY** )  
**COMPANY, ROSEBUD STRIP** )  
**MINE AREA B** )  
**PERMIT NO. C1984003B** )  
\_\_\_\_\_ )

**CAUSE NO. BER 2016-03 SM**

**DECLARATION OF DICKI PETERSON IN SUPPORT OF RESPONDENT-  
INTERVENORS' OPPOSITION TO PETITIONERS' MOTION FOR SUMMARY  
JUDGMENT**

I, Dicki Peterson, declare under the penalty of perjury as follows:

1. I, Dicki Peterson, am the Permit Coordinator with Western Energy Company (“Western Energy”). I have been employed by Western Energy since 2001. I became Permit Coordinator in 2007. In that capacity, I maintain Western Energy’s environmental permits and serve as a liaison between Western Energy Company and the Montana Department of Environmental Quality (“DEQ”). As part of these responsibilities, I compile and submit any applications for environmental permits, and coordinate Western Energy’s response to any technical deficiency letters from DEQ.

2. On June 15, 2009, Western Energy submitted permit Application 00184 (AM4), Area B Permit Amendment to DEQ. I have been involved in the permit application process for AM4 since its inception. DEQ issued eight rounds of deficiencies letters during its consideration of the AM4 Permit. I was responsible for coordinating Western Energy’s response to each deficiency letter. Multiple scientists assisted in responding to these inquiries, including but not limited to Michael Nicklin, Richard Spang, and Wade Steere.

3. On December 22, 2009, DEQ issued its first round of technical deficiencies to Western Energy, requesting the Company update production and acreage tables in its Application. Western Energy submitted the requested information on March 18, 2010.
4. On June 1, 2010, DEQ issued a second round deficiency letter to Western Energy. The letter requested that Western Energy review and correct the life of mine disturbance calculations for the permit, submit an updated Hydrological Control Plan, and make a number of other substantive and procedural revisions. Western Energy addressed DEQ's requests and submitted the required supplemental information on November 15, 2010.
5. On March 14, 2011, DEQ issued its third round deficiency letter to Western Energy. DEQ requested that Western Energy revise its Fish and Wildlife Plan to bring it in accord with the requirements of ARM 17.24.312, commit to making Post-Mine Topography adjustments during final regrading, and address why certain coal within the Permit area would remain unmined. Western Energy addressed these concerns and responded to DEQ's deficiency letter on January 19, 2012.
6. On February 29, 2012, DEQ emailed Western Energy comments on the Comprehensive Evaluation of Probable Hydrologic Consequences Areas A, B and C ("PHC Report"). On April 4, 2012, it then requested that Western Energy update the PHC Report for Rosebud Mine to reflect new developments. On May 3, 2013, DEQ sent Western Energy a letter describing the requirements of the revised PHC.
7. Western Energy performs continual monitoring at the Rosebud Mine site. The revised PHC, which Western Energy submitted to DEQ on June 16, 2013, updated tables and other information to reflect new information gleaned during the monitoring process.

8. DEQ issued its fourth round deficiency letter on May 16, 2012. Western Energy responded on March 25, 2013, which included the requested updates to the Fish and Wildlife Plan, indications of how reclaimed land will be used, among other changes.

9. DEQ issued its fifth round deficiency letter on July 23, 2013. Unlike previous deficiency letters, this one also included a number of questions about the revised PHC, which was submitted on June 16, 2013. DEQ probed for information on a number of subjects that are relevant to the present litigation, including why the PHC Report applied certain standards for evaluating sulfate rather than the standards articulated by Hutcheson in Beef Briefs, inquiries as to whether certain data relied upon by Western Energy in drafting the revised PHC Report is useful for determining mining's impact on Total Dissolved Solids ("TDS"), and it also noted that certain information (including information about Areas D, E, and F) did not need to be included in the PHC Report because it was not directly relevant to Areas A, B, and C (which was the subject of the PHC). Specifically, DEQ noted that "Area F is a prospecting area, not a permit area" and therefore need not be included in the PHC. DEQ did note that "[t]he use of water level measurements in Area F to extend the potentiometric surface maps is appropriate."

10. Western Energy responded to each of DEQ's inquiries. For instance, it noted that under the criteria in the Hutcheson study, most groundwater at in the Rosebud Mine area would be unsuitable for livestock even before mining commence; that the TDS information in the PHC Report "provides information on the range and variability of TDS concentrations in each area of the Rosebud Mine;" and Western Energy agreed to remove details (such as information that it had evaluated and submitted to DEQ about Area F) from the PHC Report.

11. DEQ issued its sixth round deficiency letter on January 15, 2014. DEQ requested additional information about the surface water model used to create Tables G-1, G-2, G-3 and G-

5 of the PHC, as well as the inputs to the model and how those inputs were calculated. DEQ also requested that Western Energy include an explanation in the PHC Report of why Areas A, B, and C should be evaluated in the PHC Report while Areas D and E should be evaluated separately. Western Energy responded on February 3, 2014. It provided the supplemental information requested by DEQ into Appendix G of the PHC, and revised Page 1 of the PHC Report to explain why the PHC Report focused on Areas A, B, and C.

12. DEQ issued its seventh round deficiency letter on June 3, 2014. As part of that deficiency letter, DEQ requested “[a] more complete explanation of the hydrologic response of East Fork Armells Creek to mining.” DEQ specifically requested confirmation that “the proposed operation has been designed to minimize impacts to the hydrologic balance and prevent material damage to the hydrologic balance outside the permit area.” The letter also noted that no aquatic life surveys had been completed for East Fork Armells Creek since the 1970’s and suggested that Western Energy “*conduct a current aquatic survey along stretches of EFAC adjacent to the Rosebud Mine permit areas (Areas A, B, and C) to identify assemblages of aquatic life using the stream habitat.*” Western Energy responded to the deficiency letter on February 2, 2015 and also submitted an Amended PHC Report in February 2015 comprehensively evaluating the hydrologic impacts, if any, of mining on East Fork Armells Creek.

13. Finally, DEQ issued its eighth and final deficiency letter on March 5, 2015, requesting a number of small changes. Western Energy complied and submitted its response on March 10, 2015.

14. Western Energy takes its environmental stewardship responsibilities very seriously. In fact, Western Energy has received fourteen awards since 1987 for its reclamation, including an

award issued in 2011 for “Excellence in Surface Coal Mining & Reclamation.” A complete list of the fourteen awards issued to Western Energy for its reclamation efforts at Rosebud Mine is appended to this declaration.

15. The following photos illustrate the reclamation Western Energy regularly performs at the Rosebud Mine.







I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 21, 2016.

s/ Dicki Peterson  
Dicki Peterson

## A. RECLAMATION AWARDS

• <i>Director's Award</i>	"Excellence in Surface Coal Mining & Reclamation Award" - U.S. Department of the Interior (OSM)	2011
• <i>Good Neighbor Award</i>	"Excellence in Surface Coal Mining & Reclamation Award" - U.S. Department of the Interior (OSM)	2006
• <i>Area A Final Reclamation Design</i>	"Excellence in Surface Coal Mining & Reclamation Award" - U.S. Department of the Interior (OSM)	2005
• <i>Sharp-tailed Grouse Dancing Ground</i>	"Excellence in Surface Coal Mining & Reclamation Award" - U.S. Department of the Interior (OSM)	1999
• <i>Eagle Rock Mining – Area C</i>	"Excellence in Surface Coal Mining & Reclamation Award" - U.S. Department of the Interior (OSM)	1998
• <i>Rangeland Reclamation - 1991</i>	<u>Hall of Fame</u> – "Excellence in Surface Coal Mining & Reclamation Award" - U.S. Department of the Interior (OSM)	1997
• <i>Eagle Rock Mining – Area C</i>	<u>Finalist</u> : "Excellence in Surface Coal Mining & Reclamation Award" - U.S. Department of the Interior (OSM)	1997
• <i>Mixed Shrub Reclamation</i>	<u>Finalist</u> : "Excellence in Surface Coal Mining & Reclamation Award" - U.S. Department of the Interior (OSM)	1997
• <i>Salvaging Petroglyph in Tact</i>	"Excellence in Surface Coal Mining & Reclamation Award" - U.S. Department of the Interior (OSM)	1993
• <i>Rangeland Reclamation</i>	"Excellence in Surface Coal Mining & Reclamation Award" - U.S. Department of the Interior (OSM)	1991
• <i>Award for Energy Innovation</i>	U.S. Department of Energy	1987
• <i>Outstanding Conservation Award</i>	National Institute for Urban Wildlife	1987
• <i>Conservation of Columbian Sharp-tailed Grouse</i>	The Nature Conservancy, Montana Centennial Project – Certification of Appreciation	1985 - 1989
• <i>Urban Wildlife Sanctuary</i>	National Institute for Urban Wildlife	1987