



Montana Department of
ENVIRONMENTAL QUALITY

"Healthy environment, healthy people"

Steve Bullock, Governor
Tracy Stone-Manning, Director

P. O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • Website: www.deq.mt.gov

October 2, 2013

VIA INTEROFFICE MAIL

Ed Coleman
Bureau Chief-IEMB
Department of Environmental Quality

RE: Signal Peak Bull Mountain Coal Mine No. 1—Permit C1993017 Amendment No. 3—
Montana Private Property Assessment Act Compliance

Ed,

In my capacity as legal counsel to the Coal and Uranium Section of IEMB, I have reviewed proposed activity as described in the draft Environmental Assessment provided to me by the Coal and Uranium Section, the applicable provisions of the Montana Strip and Underground Mine Reclamation Act, §§ 82-4-201 through 254, MCA ("MSUMRA"), and the rules adopted pursuant thereto and the Montana Private Property Assessment Act, §§ 2-10-102 through 105, MCA.

Based on my review, I completed the Private Property Assessment Checklist ("PPA Checklist") that is attached to this letter as Attachment A.

Although granting the permit contemplates subsidence of the surface immediately above areas subject to underground mining, the adverse impacts are limited to land included in the Life of Mine permit area that must be reclaimed under the terms of the permit and MSUMRA. Therefore, the proposed activities to be undertaken upon approval of the permit application would not result in permanent occupation of property or adverse impacts that would deprive an owner of all beneficial use of the property within the permit area or of adjacent property outside the permit area. Accordingly, the PPA Checklist indicates that the conditions and requirements of the permit do not constitute "action with taking or damaging implications" under the Montana Private Property Assessment Act.

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If I can be of further assistance with this matter, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Dana David", with a stylized flourish extending to the right.

Dana David
Special Assistant Attorney General
MTDEQ
direct: 406-444-2626
fax: 406-444-4386
email: ddavid@mt.gov

ATTACHMENT A

PRIVATE PROPERTY ASSESSMENT ACT CHECKLIST

DOES THE PROPOSED AGENCY ACTION HAVE TAKINGS IMPLICATIONS UNDER THE PRIVATE PROPERTY ASSESSMENT ACT?

Yes	No	
√		1. Does the action pertain to land or water management or environmental regulation affecting private real property or water rights?
	√	2. Does the action result in either a permanent or indefinite physical occupation of private property?
	√	3. Does the action deprive the owner of all economically viable uses of the property?
	√	4. Does the action deny a fundamental attribute of ownership?
	√	5. Does the action require a property owner to dedicate a portion of property or to grant an easement? [If the answer is NO, skip questions 5a and 5b and continue with question 6.]
	n/a	5a. Is there a reasonable, specific connection between the government requirement and legitimate state interests?
	n/a	5b. Is the government requirement roughly proportional to the impact of the proposed use of the property?
	√	6. Does the action have a severe impact on the value of the property?
	√	7. Does the action damage the property by causing some physical disturbance with respect to the property in excess of that sustained by the public generally? [If the answer is NO, do not answer questions 7a through 7c.]
	n/a	7a. Is the impact of government action direct, peculiar, and significant?
	n/a	7b. Has government action resulted in the property becoming practically inaccessible, waterlogged, or flooded?
	n/a	7c. Has government action diminished property values by more than 30% and necessitated the physical taking of adjacent property or property across a public way from the property in question?

Taking or damaging implication exist if YES is checked in response to question 1 and also to any one or more of the following questions: 2, 3, 4, 6, 7a, 7b, 7c; or if NO is checked in response to questions 5a or 5b.

If taking or damaging implication exists, the agency must comply with §5 of the Private Property Assessment Act, to include the preparation of a taking or damaging impact assessment. Normally, the preparation of an impact assessment will require consultation with agency legal staff.