



September 20, 2017

*Sent via ePermit system*

Dicki Peterson  
Western Energy Company  
Rosebud Mine  
PO Box 99  
Colstrip, MT 59323

Permit ID: C1984003B  
Revision Type: Amendment  
Permitting Action: Deficiency  
Subject: AM5; Round 1 Acceptability Deficiency

Dear Dicki:

The Department of Environmental Quality (DEQ) has completed its acceptability review regarding Western Energy Company's application for SMP C1984003B. The following deficiencies must be adequately addressed before DEQ can determine the application acceptable:

**ARM 17.24.302(1)**: The rule citation on the top of certain pages does not match the rule in which the narrative on that page is trying to address; for example, 17.24.304 is cited on top of the page addressing ARM 17.24.313(1)(b). As just "1(b)" is listed as the subcategory, it appears as though ARM 17.24.304(1)(b) is being addressed instead of 313. As the permit must be "presented clearly and concisely", the rule citation headings throughout the permit must be changed to match the rule being addressed on that page.

Cross-references to other sections of the permit do not provide sufficient information to locate the referenced section efficiently in the epermit system.

For example under "Operations" the "Diversions" page, "17-24-317 Diversions.pdf" states "stream channel diversions are discussed in Appendix J," however, no information is given on where in the ePermit system Appendix J is located. To locate Appendix J, a manual search through all of the ePermit's pages is necessary. A better cross-reference would state: "stream channel diversions are discussed in 'Appendix J - Protection of the Hydrologic Balance.pdf,' attached under Reclamation -> Plan for the Protection of the Hydrologic Balance."

Please revise all cross-references in the permit to guide the reader to the appropriate location in the ePermit system.

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Permit layers are not tagged in most maps. Many required permit layers are not tagged in any map (example, mineral ownership). This renders the function in the epermit to search by map layers useless. Please tag all relevant layers in all maps which contain them.

**ARM 17.24.303(1)(o):** The application references Appendix A in this section, but it does not appear to be attached. Please identify where Appendix A is located.

**ARM 17.24.303(1)(s):** The currently approved acres in Table 303-1 do not match what DEQ has in the database for Rosebud Mine Area B. DEQ has a total of 6,045 for the current acreage. Please provide an explanation for the 193 acre discrepancy.

**ARM 17.24.303(1)(x):** Please update with the current Affidavit of Publication for Western Energy's Notice of Completeness Determination.

**ARM 17.24.303(1)(y)(all rules associated) and (z):** Please provide a map of the mine plan area showing the areas upon which strip or underground mining occurred including the years mined.

**ARM 17.24.304(1)(b):** Please address the following comments and/or issues within the Class III survey to allow DEQ to submit the survey to SHPO.

Site photos, in the form of Google Earth satellite imagery, are not acceptable replacements for on the ground images.

#### **Page 6-1**

“Site and Isolate Find Definitions” – This language should reflect SHPO’s current policies. Please see SHPO’s Bulletin #3 updated 2015 for current definitions.

#### **Page 6-2**

RE: magnetometer use. The heavy reliance on putting probes in “mostly” where anomalies show seems to totally ignore all other potential non-hearth related activity areas across a site. Please discuss in your methodology why this isn’t an issue, or how it is dealt with. Also, please send the PDF’s of the Munson (2007) and Meyer (2007) reports referenced.

#### **Page 8-67**

Site header/identifier missing.

#### **Pages 8-70 – 8-71**

There may have been some mixing of this description with another site. The paragraph prior to the NRHP recommendation contradicts the description as well as the recommendation. Also, amending the previous site description confuses the eligibility issue around what is still there versus what was present before. Based on just the photograph (with the road cut), it appears there is a high potential for additional buried

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materials here and should be eligible based on the presence of a hearth. Therefore, DEQ cannot agree with the current recommendation.

**Page 8-78**

Given the combination of site areas, the size of the revised area, and the presence of tools, a single shovel test is insufficient to warrant a designation of not eligible. Additional testing is needed.

**Pages 8-95 - 8-98**

Given the combination of site areas, the size of the revised area, and the presence of tools, a single shovel test is insufficient to warrant a designation of not eligible. Additional testing is needed. Photos of the fire breaks could have helped provided evidence for lack of soil deposition.

**Pages 8-155 - 8-158**

Given the combination of site areas and the presence of tools, additional shovel probe testing is needed to agree to the assessment of not eligible.

**Page 8-159**

Please describe the current physical and political status of the human remains found at 24RB2505.

**Pages 8-167 - 8-171**

Additional shovel tests across a greater area are needed, especially around the potential hearth area. DEQ has concern regarding the bone eroding from the stream bank. Additional effort is required for this site.

**Pages 8-205 - 8-207**

Site is indicated as not eligible in the header, but eligible under D in the NRHP recommendation. Please ensure it is consistent throughout the document.

**Page 8-225**

Micro flakes were observed in ant hills, yet no test units placed near them? Were any of the probes screened through 1/8 mesh because of this observation? Additionally, the obsidian presents a connection to temporal association and sourcing. The argument that it is eroded and deflated contradicts some of the probe depths indicated in the study. DEQ is concerned this site is either eligible, or needs additional work.

**ARM 17.24.304(1)(c)**: The application provides no explanation or evidence for the

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assertion that no unique scenic or geologic formations or sites are present in Area B, or that no special, exceptional, critical or unique characteristics are present in the permit area or surrounding area. Please include a narrative describing why the area does not contain these features or characteristics.

**ARM 17.24.304(1)(d)**: The description of geology and landforms provided does not appear to include the AM5 area, as Lee and Richard Coulees are not mentioned. Please include the AM5 area in this description.

This description also does not describe why these landforms are not unique. Please include a discussion of the extent of similar geology and landforms in the region.

**ARM 17.24.304(1)(e) and (f)**: DEQ spot checked several baseline field observations in the data tables versus the corresponding field data sheets and inconsistencies were noted. For example:

SW-302 on 7/22/14: SC reported in data tables is 2620 uS/cm (04 Appendix B - Baseline Hydrology Data - Attachment C.pdf, Attachment C-1 page 9 of 12), field sheet reads 5.62 mS (03a Appendix B - Baseline Hydrology Data - Attachment B.pdf, page 109).

SP-301 on 5/22/14: Lab data exists for this date (07 Appendix B - Baseline Hydrology Data - Attachment F.pdf, page 57, and 06 Appendix B - Baseline Hydrology Data - Attachment E.pdf, page 347 and 348), however the field data table and field sheet state no sample was taken (04 Appendix B - Baseline Hydrology Data - Attachment C.pdf, Attachment C-2, page 4 of 12, and 03a Appendix B - Baseline Hydrology Data - Attachment B.pdf, page 87).

DEQ did not check all baseline field data, and it is likely other inconsistencies exist. Please review all baseline field data and ensure it is accurate and consistent.

**ARM 17.24.304(1)(f)(ii)(B)(I)**: Instrumentation and equipment issues at SW-301 have resulted in poor data quality at this site. Poor data quality at SW-301 precludes description of the “minimum, maximum, and average discharge conditions....” Baseline data should continue to be collected until a sufficient and reliable record of data exists to meet the requirements of this rule.

**ARM 17.24.304(1)(f)(iii)**: The appendix referred to in this rule does not contain a description of alternative water supplies. Please include a description of alternative water supplies to satisfy this rule.

**ARM 17.24.304(1)(g)(all)**: 17.24.304(1)(g) Geologic Information.pdf states a geologic inventory is presented in Appendix D, however no Appendix D could be located. Please correct this reference to refer to the appropriate attachment.

**ARM 17.24.304(1)(k)(all)**: All the pieces of the soil survey need to be attached to this submittal. Currently there is a map that covers the entire Area B permit, and only new survey data covering the proposed amendment area.

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**ARM 17.24.304(1)(i)(ii)(D)**: The language associated with this permit material is merely the ARM spelled out. This portion of the permit requires a narrative that addresses which existing land uses are present and those land use classifications under local law, if any. This may be covered in other permit material, but is not referenced for this rule. Please update this permit material to meet the requirements of the ARM's.

**ARM 17.24.305(1)(a)**: Exhibit L1 is missing surface ownership information for the following areas within ½ mile of the area of land affected:

SE ¼, Section 1, T1N R40E

SE ¼, Section 33, T2N R41E

S ½, Section 34, T2N R41E

**ARM 17.24.305(1)(c)**: Please provide a map with the boundaries of land within the proposed permit area upon which the applicant has the legal right to enter and begin mining activities.

**ARM 17.24.305(1)(e)**: The names of Hwy 39 and Airport Road are not shown on the maps. There are farm buildings not shown on maps in the NE ¼, Section 14, T1N R40E and airport buildings not shown in Section 12, T1N R40E. Additionally, there appears to be mobile homes not shown in the NW ¼, Section 3, T1N R41E (near skate park).

**ARM 17.24.305(1)(u)**: Not all items shown on maps are depicted in the map legends. Examples are buildings on Exhibit A and elevation contours on all maps.

**ARM 17.24.305(1)(z)**: The location and extent of subsurface water, and the names and locations of surface water bodies, including springs, constructed or natural drains, and irrigation ditches, with the proposed mine plan and adjacent areas are depicted on maps in Appendix O. However, the maps in Appendix O do not contain the required certification per ARM 17.24.305(2)(a) and (b). Please provide the map with the required certification.

**ARM 17.24.312(1)(b)**: The statement associated with 312(1)(b) does not address the ARM's. Please move the paragraphs above that describe wildlife enhancement features to this portion of the permit

**ARM 17.24.313(1)(c)**: Please provide an updated bond to include the first five year period associated with this revision.

**ARM 17.24.313(1)(d)(iv)**: "Area B AM5 Exhibit B PMT Drainage Basins 2017-01 SP.pdf" on the Map Summary -> Maps page shows an increase in elevation in the area of the scoria pit in Section 35. Please explain how this is possible if material is being removed from this area.

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Additionally, the Disturbance Boundary shown on Exhibit B does not match the disturbance boundary shown on "Area B AM5 Exhibit A Approximate Mine Plan 2017-01 SP.pdf". Please correct this feature.

**ARM 17.24.313(1)(e)(ii)(B):** "17.24.313(e)&(f) Drainage Basin Reclamation Plan.pdf" section 17.24.313(1)(e)(ii)(B) states "In areas where the post-mining topography differs from pre-mining requirements..." This does not make sense as there are no "pre-mining requirements". Please change "requirements" to "topography."

**ARM 17.24.313(1)(f)(i):** The text of "17.24.313(e)&(f) Drainage Basin Reclamation Plan.pdf" section 17.24.313(1)(f)(i) is less stringent than the rule. The rule requires USGS named drainages have detailed designs, but these are not included in the permit section text. Please change the text to match the requirements of this rule.

As required by ARM 17.24.313(1)(f)(i), detailed drainage designs must be submitted for Lee Coulee and Richard Coulee.

**ARM 17.24.313(1)(f)(ii):** The drainage channels shown on "Area B AM5 Exhibit B PMT Drainage Basins 2017-01 SP.pdf" lack diversity. The drainage patterns depict somewhat ladder-like in many locations, with evenly spaced side tributaries approximately perpendicular to main channels. Main channels and tributaries tend to be straighter on the PMT than in premine. Please revise the PMT drainages to provide more diversity and more appropriate drainage configuration.

Additionally, please provide the CAD files for Appendix J, Exhibit J-1, Sheet 4-7.

**ARM 17.24.313(1)(g)(i), (ii) and (iii):** These sections refer to Appendix G and Exhibit P for details on soil salvage and handling. These two documents are not available under these names in the submitted materials. Some of the information can be found under other headings; however, the information is only partially complete and only adds the data for the proposed amendment area.

Please update titles and include all pieces of the soil survey to complete the permit.

The final sentence of paragraph 2, says "in consideration of the history suitable conditions." It appears historic or history of... would make more sense. Please review the statement and clarify.

In these sections soil redistribution is referenced to 17.24.702(6), which in turn references back to 17.24.313(h)(i). Please reference both in 17.24.313(1)(g)(i) and clarify where the actual target laydown depths are to be found.

**ARM 17.24.313(1)(h)(ii):** The language associated with this header in the Revegetation Plan does not address the rule. Please update 313(1)(h)(ii) to adequately meet the requirements of the ARM's.

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**ARM 17.24.313(1)(h)(iv):** The narrative for 313(1)(h)(iv) does not meet the definition of the rule. Please include a description of any introduced species intended to be used and justification for including these species for the intended land use.

**ARM 17.24.313(1)(h)(viii):** The language associated with this rule states that it is addressed in 313(1)(h)(iv). Soil tillage, amendments, and other techniques to assist in vegetation establishment are not presented with a discussion of introduced species. Please update the language to refer to the appropriate permit language.

**ARM 17.24.313(1)(h)(x):** The application proposes to sample two of the last four years prior to bond release. This meets the previous version of the ARM 17.24.726 rules. Please update the ARM 17.24.313(1)(h)(x) language to say that Western Energy will sample in accordance with ARM 17.24.726. This will allow only having to change ARM 17.24.726 information if there are future rule changes.

**ARM 17.24.314(1):** Highwall reduction in Richard Coulee in Section 29, T1N R40E disturbs wetland G500 outside the mine footprint area. Please evaluate if changes to the PMT could minimize the disturbance to this wetlands area.

**ARM 17.24.314(1)(c):** "17.24.314 Hydrologic Balance.pdf" does not address all portions of this rule. Please include a statement that alternative sources of water will be provided if protection of quantity cannot be ensured.

**ARM 17.24.314(2)(b):** In "Appendix J - Protection of the Hydrologic Balance.pdf" the second to last paragraph on page 6 states "Design details for sedimentation ponds and traps are presented in Appendix J." Please clarify this reference.

**ARM 17.24.314(2)(d):** The following deficiencies were identified in "Appendix P - Rosebud MQAP.pdf":

In the first line of Section 1.0 "Industrial and Energy Minerals Bureau" should be "Coal and Opencut Mining Bureau."

All references to "DEQ Coal Program" should be changed to "DEQ Coal Section."

Appendix P-2, Section 3.2.1, page 2, states AM5 disturbance only in Lee and Richard Coulee, there is also disturbance in EFAC drainage associated with the haul road.

Because SW-301 is intermittently influenced by groundwater, a crest gauge should be installed on Richard Coulee near the downstream permit boundary to measure purely ephemeral flows.

Monitoring should include quarterly flow and water quality for Rosebud Creek upstream from Richard Coulee and downstream from Lee Coulee.

Appendix P-2, Table 1, note (a) should be changed to match Appendix P-1, Table 1, note (a).

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Springs which support stream reaches containing aquatic life should also be sampled for total nutrients and total metals for comparison to aquatic life standards.

**ARM 17.24.314(3)(all):**

**Groundwater Model**

Because the groundwater models' primary function is to support the PHC, groundwater model attachments should be uploaded on the Reclamation -> Plan for the Protection of the Hydrologic Balance page under "Probable Hydrologic Consequences Attachments."

A complete review of the groundwater models could not be conducted because the MODFLOW files for the following simulations could not be located:

RB-Mine-2016-existing permit 2093.gvw

RB-Mine-2016-existing permit and AM5 2093.gvw

RB-Mine-2016-Steady-State-Final\_01-05-2017.gvw

Initial comments based only on review of the model reports are included below.

**Appendix I-A - Rosebud Mine Model Report.pdf**

The report does not reference Table GM-5. Please reference this table in the appropriate location in the report.

Table GM-8 is referenced in the report before Table GM-7. Please number tables in sequential order in the order the references appear in the text.

Recharge zone K is not labeled in Figure GM-15. Please include a label for the zone.

The timing of mining at the Big Sky Mine included in the transient simulation is not shown in any figure. Please include the timing of mining at the Big Sky Mine on Figure GM-17 or a separate figure.

On Figure GM-18, page 2, the time series graphs for WM-168 and WM-153 are missing leader lines. Please include a leader line connecting these graphs to the appropriate well locations on the map.

There appears to be a positive skew in the Layer 5 residuals for higher observed values (see Figure GM-12, page 2). Additionally, positive residuals are clustered in the AM5 area in Layer 1 (see Figure GM-13, page 1). Please evaluate if any reasonable changes can be made to provide a more random distribution of residuals.

**Appendix I-B - Area B AM5 Model Report.pdf**

In Table IB-2, the "Recharge" line for Layers 4 and 5 refers to interburden. Please correct

this to the McKay and sub-McKay as appropriate.

**The following deficiencies were identified in "Appendix O - Probable Hydrologic Consequences.pdf":**

East Fork Armells Creek is sometimes listed as the East Fork of Armells Creek. Please be consistent in using the official name. In some cases the acronym, EFAC, is used. If this acronym is to be used, its usage should be consistent and the acronym should be defined in parentheses after the first use of the full name, e.g. East Fork Armells Creek (EFAC).

Section 1.4.1.2, on page 8, states "Resaturation of backfill, primarily by lateral groundwater flow from the undisturbed coal and vertical recharge, can be expected to result in temporary increases in TDS..." Please delete "temporary" from this sentence. Increases in TDS are expected to persist for a significant period of time, such that they are effectively permanent on a timescale relevant to humans.

Section 3.2.5.5, on page 68, refers to delineation of extent of fires on Exhibit E, however this information does not appear to be contained in Exhibit E. Please provide a correct reference to the location of the delineation of the extent of the fires.

Section 3.2.6.1 refers to Table 23A at the bottom of page 69. There is no Table 23A. Please correct this reference.

The bullets in Section 3.2.6.1.4, on page 70, refer to Tables 26A, 27B, and 28C. These tables do not have letters in their designations. Please correct these references.

Section 3.2.6.2.4 and Table 33 compare pond water quality for dissolved metals to water quality standards. According to DEQ-7, Human Health Standards for surface water, except for aluminum, are applicable to the total fraction. Please only use the total fraction for comparisons to DEQ-7 Human Health Standards for all metals except aluminum. Section 3.2.6.3 should be updated after the Army Corp of Engineers determination of jurisdiction for wetlands is finalized.

Section 3.2.9 and Section 3.3.8 should be updated when DEQ finalizes the AVF determination for Richard Coulee.

Section 3.3.2.2, on page 83, states: "Following active mining, the channels, including underlying alluvial substrate, will be reestablished in the postmine topography." DEQ cannot locate any provisions in the reclamation plan to segregate and replace the alluvial substrate. Please correct or clarify this statement.

Section 3.3.3.1 does not discuss potential changes to surface water quality in Lee and Richard coulees due to contributions from spoil groundwater. Please include a discussion of the probable impacts of migration of spoil groundwater on surface water resources in these areas.

Section 3.3.4.2 does not discuss all of the potential impacts of mining on some springs: SP-307 is located in a highwall reduction area, and SP-306 is located in a boxcut reduction area, thus these springs will be physically disturbed by mining. Spring SP-77 and the seeps in the vicinity may be impacted by the haul road, which is constructed through the area of these springs and seeps. Spring WR 42A 108402 is located within the 5-foot drawdown contour predicted by modeling, thus may be impacted by drawdown if it is sourced by the Rosebud Coal or overburden in connection with the Rosebud Coal. Please expand the discussion of probable impacts to springs to be more descriptive and include all probable impacts of mining.

Section 3.3.3.1, on page 86, states "Mitigation plans will be developed and implemented for all springs that are impacted by mining related activities." DEQ is unaware of any mitigation plans for springs. Please clarify this statement.

Section 3.3.4.4, on page 86, states "The quantity of water and use of the down-gradient ponds (e.g. WR 42A 181544 00) may be impacted during mining due to reduced water supply resulting from the impoundment of tributary runoff." Richard Coulee upstream from pond WR 42A 181544 00 will be impounded, not only the tributaries. Please revise this section to accurately describe the nature of impacts to downstream ponds.

Section 3.3.4.5 does not discuss all of the potential impacts of mining on some wetlands: Wetland G44b is within the mine footprint and will be mined out. Most of wetland G500 is within a highwall reduction area and will be physically disturbed. Wetland G300 will be physically disturbed by haulroad construction. Parts of wetland G400 will be physical disturbed by haulroad construction and highwall reduction. Wetlands G013a and G013b are located in a boxcut reduction area and will be physically disturbed. Wetlands G011 and G012 are located in a topsoil storage area and will likely be disturbed. Please expand the discussion of probable impacts to wetlands to be more descriptive and include all probable impacts of mining.

The discussion of potential impacts to the Lee Coulee Reservoir is very brief. Please include an analysis which includes quantitative estimates of the changes in water quantity and quality in this reservoir both during and after mining and reclamation.

Section 3.3.6, on page 89, states "...land undisturbed by mining in the Richard Coulee drainage is estimated to supply about 346 acre-feet per year on average compared to the volume of use per the water right of 90 acre-feet per year." It is unclear if this estimate includes undisturbed lands upstream from mining, which would be impounded, or only undisturbed land downstream from mining, which would not be impounded. Please clarify this statement.

Section 3.3.7 refers to an analysis of premine versus postmine runoff in the East Fork Armells Creek drainage, but no analysis of the Lee Coulee and Richard Coulee drainages were included. Please include an analysis similar to Attachment H for the Lee Coulee and Richard Coulee drainages.

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Section 4.4.3 does not discuss how the location of the drawdown changes as a result of AM5 mining, i.e. how drawdown expands southward. Please include a discussion of this effect.

Section 4.4.5, on page 132, states “By the time the groundwater reaches the permit boundary, SC values are expected to be within the range of natural variability and statistically indeterminate compared to premine conditions and uses should not be impacted.” While this may likely be the case, please provide additional analysis which demonstrates that this is the probable outcome of the proposed mining in AM5.

In Table 8, footnote (a) refers to “Livestock standards.” Please avoid using the term “standards” when referring to livestock water quality guidelines. No numeric standards for livestock drinking water exist in Montana.

In Table 10, notes use both letters and numbers. Please correct the notes to use only letters to match the references in the table.

In Table 26, page 2 of 2, the end date for SP-310 is surrounded by a gray box. Please clarify the meaning of this box or remove it.

DEQ will evaluate the conclusions of Anticipated Impact and Rationale columns in Table 36 and Table 51, and Comments and Potentially Impacted columns in Table 50 when all other deficiencies which may affect these conclusions are resolved.

In Table 51, if the completion unit of a well is unknown please describe all possible impacts including the worst case impact, i.e. if the well was completed in the Rosebud Coal.

Figures 3, 5, 64-66, and 75 do not show the same mineplan features as Exhibit A. These figures should be updated to match the most recent mine plan for AM5.

The last cut in C-West (CW-33) is not shown in Figure 4. Please include all permitted mine cuts in this figure.

Figure 62 contains references to Figure 65A, B, C, and D for detail maps. These maps are contained in Figures 63A, B, C, and D. Please correct these references.

**ARM 17.24.314(4):** See ARM 17.24.314(3).

**ARM 17.24.315(1):** No general plan was included for pond Lee-1. Please include the design plan for this proposed sedimentation pond.

**ARM 17.24.321(1)(a):** No information regarding this rule was provided for the haul road which runs through Sections 13, 24, and 25 leading to the mine area in the Fossil Fork tributary of Lee Coulee. Please provide a design for this haul road similar to the haul road leading to the Richard Coulee mine area.

**ARM 17.24.325(2)(b)(all), (c)(all):** DEQ has not yet made written findings concerning

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this rule (AVF). Further evaluation of the subsequent rules will be completed after DEQ's determination is complete.

**ARM 17.24.325(3)(all):** Review contingent on DEQ's determination pursuant to 17.24.325(2)(b).

**ARM 17.24.501(3)(b):** Please include at the bottom of 501(3)(b); The method and design specifications for placing and compacting such materials must be approved by DEQ.

**ARM 17.24.501(4)(c):** There is a lack of complexity in the slopes shown in "Area B AM5 Exhibit B PMT Drainage Basins 2017-01 SP.pdf" compared to the premine topography shown in "Area B AM5 EXHIBIT U Premine Topo with Drainage Basins 2017-01 SP.pdf". The PMT contains many long and wide even slopes. Try to include more concave slope profiles similar to the premine slopes. More minor ridges/swales should also be added to reduce the wide even-sloped hillsides.

**ARM 17.24.634(1)(all), (2):** Deficiencies in drainage basin reclamation have been identified in 17.24.313(e)&(f), 17.24.314(1)&(3), and 17.24.501(4).

**ARM 17.24.703(1), (1)(a), (1)(b), and (2):** These sections describe testing for a soil substitution site. Please remove the extra field testing, and reference the spoil sampling protocol, since soil substitution sites are spoil. Hand testing for coarse soil materials can still be utilized for specific planting sites; however, the planting surface will be tested and the texture is part of the lab result.

**ARM 17.24.711(1):** The MCA Rule no longer applies. It has been removed from the MCA. Please correct permit language.

**ARM 17.24.723(1), (2), (3) and (4):** The use of bottom ash was previously approved for Area A and Area D. The use of bottom ash has proven to be very minimal. Consider removing this language and not using the material to reduce the need for monitoring and tracking of the material.

**ARM 17.24.724(3):** This aspect of 724 has not been included. The subsequent portions of this permit material do not make sense without this line included. Please include 724(3) to read "Technical standards may be derived from:".

**ARM 17.24.725(1) and (2):** These sections do not include language referencing MCA 82-4-235(3). Please update this language so areas that meet these exemptions may be applied for phase III bond release prior to the completion of the standard responsibility period.

**ARM 17.24.764(1)(all)and (2)(all):** Please address this rule with the following: All areas within currently approved for cropland reclamation within the Area B permit area were approved prior to 2004, when this rule was initiated. There are no proposed cropland areas proposed within AM5.

**ARM 17.24.801(1),(2), and (3):** The permit language associated with this rule indicates that Appendix Q has the appropriate material to meet the ARM's. This appendix has not been included as part of the application. Please submit Appendix Q with the Alluvial Valley Floor portions of the permit so it can be reviewed.

**ARM 17.24.802(1)(all), (2) and (3)(all):** The permit language associated with this rule indicates that Appendix Q has the appropriate material to meet the ARM's. This appendix has not been included as part of the application. Please submit Appendix Q with the Alluvial Valley Floor portions of the permit so it can be reviewed.

**ARM 17.24.802(3)(a) and (b):** The permit language associated with this rule indicates that Appendix Q has the appropriate material to meet the ARM's. This appendix has not been included as part of the application. Please submit Appendix Q with the Alluvial Valley Floor portions of the permit so it can be reviewed.

**ARM 17.24.804(1)(all), (2), (3), and (4):** The permit language associated with this rule indicates that Appendix Q has the appropriate material to meet the ARM's. This appendix has not been included as part of the application. Please submit Appendix Q with the Alluvial Valley Floor portions of the permit so it can be reviewed.

**ARM 17.24.805(1):** The permit language associated with this rule indicates that Appendix Q has the appropriate material to meet the ARM's. This appendix has not been included as part of the application. Please submit Appendix Q with the Alluvial Valley Floor portions of the permit so it can be reviewed.

**ARM 17.24.806(1), (2), (3), (4), and (5):** The permit language associated with this rule indicates that Appendix Q has the appropriate material to meet the ARM's. This appendix has not been included as part of the application. Please submit Appendix Q with the Alluvial Valley Floor portions of the permit so it can be reviewed.

**ARM 17.24.1002(3):** MCA 82-4-226(7) used in this sentence is incorrect. The correct MCA is 82-4-226(6). Please correct.

**ARM 17.24.1005(1)(b):** The permit language does not match the language stated in ARM 17.24.1005 (1)(b). Please update permit language.

**ARM 17.24.1005(3):** The permit language is slightly confusing. Please insert (3) after ARM 17.24.1005.

**ARM 17.24.1011(1):** Several subsections related to this rule are not included in the application. Please ensure all subsections are appropriately addressed.

**ARM 17.24.1012(1):** Please include the following sentence in permit language, "Additional measures may be specified by DEQ."

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Upon receipt of satisfactory responses to these deficiencies, DEQ will determine the application to be acceptable.

Please feel free to contact Robert D. Smith at 406-444-7444 with questions regarding this letter.

Sincerely,

A handwritten signature in blue ink that reads "Chris Yde". The signature is written in a cursive style with a large initial "C".

Chris Yde, Supervisor  
Coal and Uranium Program  
Industrial and Energy Minerals Bureau  
Phone: 406-444-4967  
Fax: 406-444-4988  
Email: CYde@mt.gov

Cc: Jeff Fleischman, Office of Surface Mining  
Lauren Mitchell, Office of Surface Mining

FC: 620.112 (AM5)

## **Gilbert, Sharona**

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**From:** Do Not Reply <DoNotReply@mt.gov>  
**Sent:** Wednesday, September 20, 2017 3:57 PM  
**To:** Eichhorn, Ashley  
**Cc:** jfleischman@osmre.gov; lmittchell2@osmre.gov; DEQCoal; fbartlett@osmre.gov; Gilbert, Sharona; dpeterson@westmoreland.com  
**Subject:** Acceptability Review Deficiency for Rosebud Mine:

Deficiencies were identified for Permit: C1984003B, Application Number: during the Acceptability Review. Please log into the ePermitting system to view the deficiency letter.