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By: Aleisha Solem

Mark L. Lucas
1520 East Sixth Avenue
Helena, Montana 59601
(406) 444-0201
mark.lucas@mt.gov

*Attorney for Respondent Montana
Department of Environmental Quality*

STATE OF MONTANA BOARD OF ENVIRONMENTAL REVIEW

**IN THE MATTER OF:
APPEAL AMENDMENT AM4,
WESTERN ENERGY COMPANY,
ROSEBUD STRIP MINE AREA B
PERMIT NO. C198400B**

CASE NO. BER 2016-03 SM

**RESPONDENT MONTANA
DEPARTMENT OF
ENVIRONMENTAL QUALITY'S
NOTICE OF OPPOSITION AND
REQUEST TO CONTEST WESTERN
ENERGY'S RECUSAL AFFIDAVIT**

COMES NOW Respondent, the Montana Department of Environmental Quality, by and through its undersigned counsel, and hereby provides Notice of its Opposition to the May 21, 2019 Section 2-4-611(4), MCA, Recusal Affidavit of John C. Martin, Esq., and of the Department's Request to Contest the same at oral argument before the Board, insofar as Western Energy has not met its burden to file a sufficient affidavit of bias or lack of independence on the part of any Board member. *See In re Burnett Land, LLC (Four Sixes Ranch)* (April 4, 2001), 2000-06 HW, Order Denying Disqualification of Hearing Examiner

Dated: May 28, 2019



Mark L. Lucas

1520 East Sixth Avenue
Helena, Montana 59601
(406) 444-0201
mark.lucas@mt.gov.

*Attorney for Department of
Environmental Quality
Air, Energy and Mining
Division*

CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of May, 2019, a true and accurate copy of Respondent Montana Department of Environmental Quality's Notice of Opposition and Request to Contest Western Energy's Recusal Affidavit in BER 2016-03 SM was mailed by electronic mail, addressed as follows:

Original by electronic mail:

Sarah Clerget
Hearing Examiner
Agency Legal Services Bureau
1712 Ninth Avenue
P.O. Box 201440
Helena, MT 59620-1440
sclerget@mt.gov;
asolem@mt.gov;

Lindsay Ford
Secretary, Board of Environmental Review
Department of Environmental Quality
1520 East 6th Avenue
P.O. Box 200901
Helena, MT 59620-0901
Lindsay.Ford@mt.gov;

Shiloh Hernandez
Laura King
Western Environmental Law Center
103 Reeder's Alley
Helena, MT 59601
Telephone: (406) 204-4861
hernandez@westernlaw.org;

Derf Johnson
Montana Environmental Information Center
107 W. Lawrence St., #N-6
Helena, MT 59624
Telephone: (406) 443-2520
djohnson@meic.org;

Walton D. Morris, Jr.
Morris Law Office, P.C.
1901 Pheasant Lane
Charlottesville, VA 22901
Telephone: (434) 293-6616
wmorris@fastmail.net;

Roger Sullivan
McGarvey, Heberling, Sullivan & Lacey
345 1st Ave. E.
Kalispell, MT 59901
rsullivan@mcgarveylaw.com;

W.A. Forsythe
Moulton Bellingham, PC
27 North 27th Street, Suite 1900
P.O. Box 2559
Billings, MT 59103-2559
Telephone: (406) 248-7731
Fax: (406) 248-7789
andy.forsythe@moultonbellingham.com

John C. Martin
Holland & Hart LLP
975 F Street NW, Suite 900
Washington, DC 20004
Telephone: (202) 654-6915
Fax: (877) 590-8755
jcmartin@hollandhart.com;

William Mercer
Victoria A. Marquis
Holland & Hart LLP
401 N. 31st Street, Suite 1500
P.O. Box 639
Billings, MT 59103
ww Mercer@hollandhart.com;
vamarquis@hollandhart.com;

Mark Lucas
Sarah Christopherson
Legal Counsel
Montana Department of Environmental
Quality
1520 East Sixth Avenue
Helena, MT 59601
Mark.Lucas@mt.gov;
Sarah.Christopherson@mt.gov;


Sandy Scherer, Legal Secretary
DEPARTMENT OF ENVIRONMENTAL QUALITY