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**BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
STATE OF MONTANA**

**IN THE MATTER OF:
VIOLATIONS OF THE OPENCUT
MINING ACT BY JAMES TIMIS AT
THE TIMIS EXCAVATION SITE,
FLATHEAD COUNTY, MONTANA
[FID #1449, DOCKET NO. 02-07-55]**

CASE NO. BER 2008-02 OC

ORDER OF DISMISSAL

The Department of Environmental Quality, through its Counsel, Ms. Jane Amdahl and James Timis through his Counsel, Mr. Alan L. Joscelyn, have signed an Administrative Order on Consent and a Stipulation to Dismiss. The Administrative Order on Consent and the Stipulation to Dismiss resolve all issues raised in the appeal from the Notice of Violation and Administrative Compliance and Penalty Order dated January 11, 2008. Therefore, pursuant to the Administrative Order on Consent and the Stipulation to Dismiss and for good cause shown,

IT IS HEREBY ORDERED that the above-captioned matter before the Board of Environmental Review is DISMISSED with prejudice. Each party shall bear its own costs.

DATED this ____ day of January, 2009.

KATHERINE J. ORR
Hearing Examiner
Agency Legal Services Bureau
1712 Ninth Avenue
P.O. Box 201440
Helena, MT 59620-1440

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CERTIFICATE OF SERVICE

I hereby certify that I caused a true and accurate copy of the Order of Dismissal to be mailed to:

Ms. Joyce Wittenberg
Secretary, Board of Environmental Review
Department of Environmental Quality
1520 East Sixth Avenue
P.O. Box 200901
Helena, MT 59620-0901
(original)

Ms. Jane Amdahl
Legal Counsel
Department of Environmental Quality
P.O. Box 200901
Helena, MT 59620-0901

Mr. John Arrigo, Administrator
Enforcement Division
Department of Environmental Quality
P.O. Box 200901
Helena, MT 59620-0901

Mr. James Timis
P.O. Box 1042
Marion, MT 59925

Mr. Alan Joscelyn
Gough, Shanahan, Johnson & Waterman
P.O. Box 1715
Helena, MT 59624

DATED: _____