



Air, Energy & Mining Division

Navajo Transitional Energy Company, LLC

SURFACE MINING PERMIT C1979012

SPRING CREEK MINE

AMENDMENT 6

DECKER, MT

August 17, 2026

Written Findings

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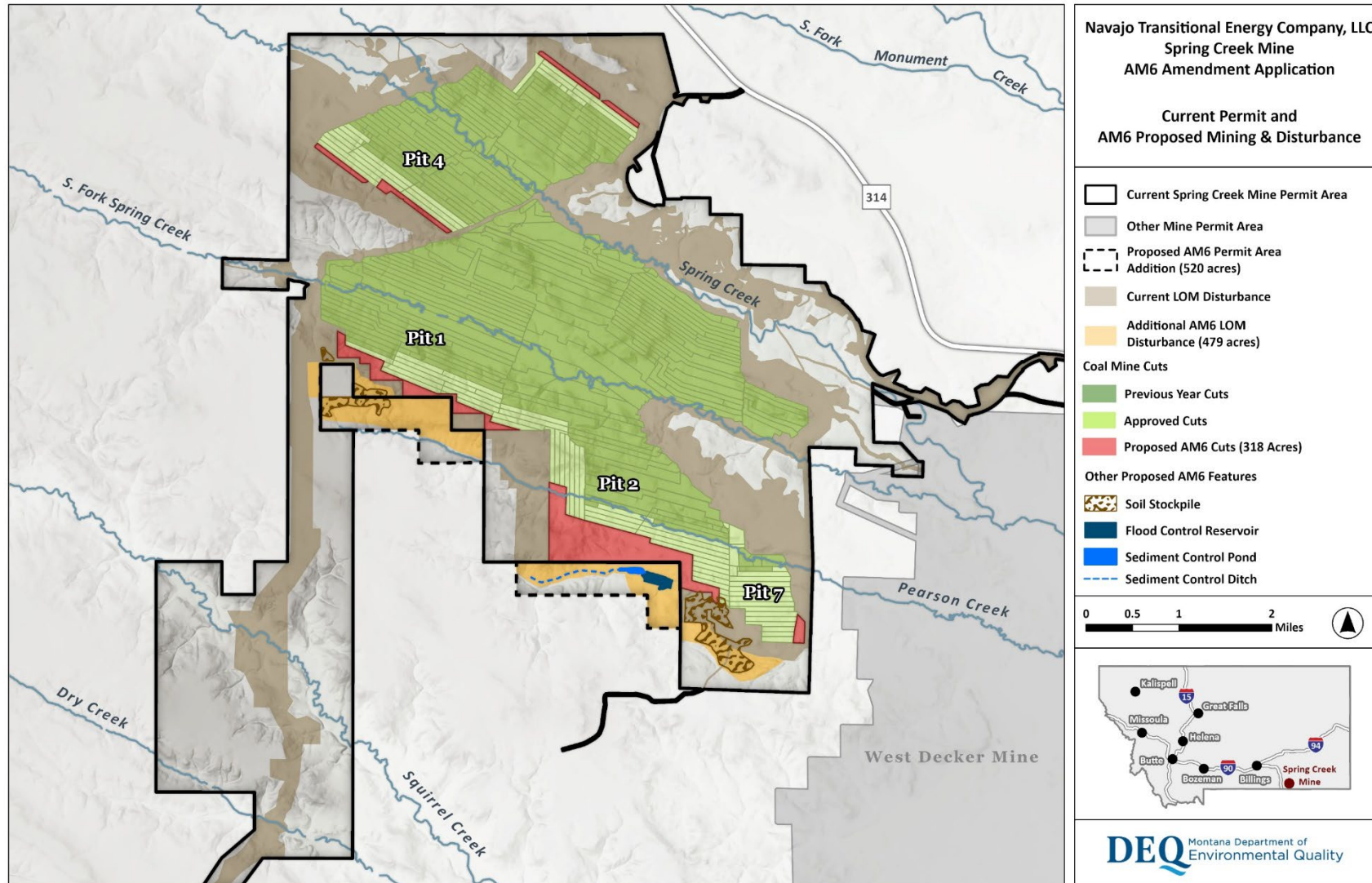
- Attachment 1: Cumulative Hydrologic Impact Assessment
- Attachment 2: Private Property Takings Assessment
- Attachment 3: Response to Comments on Application Completeness, Acceptability, and Environmental Assessment

1.0 INTRODUCTION

Navajo Transitional Energy Company, LLC (NTEC) submitted a mine permit application on May 14, 2025, to the Montana Department of Environmental Quality (DEQ) for a surface mine permit Amendment (AM6), at Spring Creek Coal Mine. NTEC operates the Spring Creek Coal Mine, an existing surface coal mine in Decker, Montana under Permit No. C1979012.

Under the proposed mine permit application, NTEC would add 520 acres to the existing reported permit area, add 479 acres to the permitted Life of Mine disturbance within the permit area, and add 318 acres of additional coal cuts within the permitted disturbance area of the mine permit (**Figure 2**). The proposed AM6 would update the mine sequence to end in 2040, add additional coal cuts in Pits 1, 2, 4, and 7 that already lie within the existing permit boundary and LOM disturbance boundary, and add 39.4 million tons of mineable coal to the permit.

Figure 1: Amendment 6 Additional Mining and Disturbance



2.0 DEQ’S RESPONSIBILITIES AND PURPOSE OF WRITTEN FINDINGS

2.1 RESPONSIBILITIES

DEQ is responsible for administrating the Montana Strip and Underground Mine Reclamation Act (MSUMRA) (82-4-201 et seq., MCA) and the implementing rules (Administrative Rules of Montana (ARM) 17.24.301-1309) adopted under MSUMRA. The permitting decision before DEQ is to make a decision regarding the AM6 application under its MSUMRA authority.

In addition, DEQ has the responsibility of fulfilling the requirements of the Montana Environmental Policy Act (MEPA) (Section 75-1-101, *et seq.*, MCA) MEPA requires an environmental review of actions taken by the State of Montana that may significantly affect the quality of the human environment. The intent of the environmental review is to inform the public and public officials of the anticipated impacts in Montana associated with this state action. This environmental review, culminating in the issuance of the Final Environmental Assessment on July 31, 2026, was conducted to fulfill the requirements of MEPA.

DEQ’s need for the action, under MEPA, was to analyze the potential environmental impacts from the project in order to make a more fully informed decision prior to approval or disapproval of the Application. Section 75-1-102, MCA. In accordance with 75-1-201(4)(a), MCA, DEQ cannot impose measures on any permit, in this case, the surface mine permit, as part of the MEPA review process. However, nothing prevents NTEC and DEQ from mutually developing measures that may, at the request of the applicant, be incorporated into a permit or other authority to act. Section 75-1-201(4)(b), MCA.

2.2 WRITTEN FINDINGS AND NOTICE OF DECISION

The purpose of this document is to set forth DEQ’s decision on NTEC’s AM6 Application and the reason for the DEQ decision. The *Written Findings* summarizes information from DEQ’s MEPA assessment, documents DEQ’s MSUMRA permitting decision, the reason for the decision, and the special conditions surrounding the decision or its implementation. The decision is based on information provided by NTEC in its AM6 Application, the Environmental Assessment conducted via MEPA, the *Written Findings*, and the Cumulative Hydrologic Impact Assessment (CHIA). The CHIA includes an analysis of impacts on the hydrologic balance and an assessment of the Probable Hydrologic Consequences of the proposed project.

3.0 MSUMRA WRITTEN FINDINGS

3.1 GENERAL INFORMATION

Applicant	Navajo Transitional Energy Company, LLC (NTEC)
Name of Mine	Spring Creek Coal Mine
MSHA Number	24-01457
Surface Mine Permit Number	C1979012
Type of Mine	Surface
Type of Application	Amendment AM6
Proposed Increase in Permit Area (acres)	520
Total proposed permit area (acres)	14,037
Anticipated Additional Production (tons)	39.4 million

3.2 APPLICATION REVIEW TIMELINE

May 14, 2025	Application for Amendment AM6 (AM6) is received
July 2, 2025	DEQ issued a First Round Completeness Deficiency Letter
August 27, 2025	DEQ received NTEC's response to the First Round Completeness Deficiency Letter
September 25, 2025	DEQ issued a Second Round Completeness Deficiency Letter
October 3, 2025	DEQ received NTEC's response to the Second Round Completeness Deficiency Letter
November 5, 2025	DEQ issued Completeness Determination, issued the Notice of Application, began accepting public comments on AM6 Application Completeness and the Draft Environmental Assessment
December 12, 2025	DEQ received an agency comment for the Completeness Determination
December 30, 2025 January 2, 2026	DEQ received public comments for the Draft Environmental Assessment
January 1, 2026	DEQ received the affidavit of publication from NTEC. The Public Notice was published in the Sheridan Press on November 6, 13, 20, and 26, 2025 and Big Horn County News on November 12, 19, 26 and December 3, 2025
January 2, 2026	Public comment period ended for AM6 Application Completeness and Draft Environmental Assessment
January 6, 2026	DEQ issued First Round Acceptability Deficiency Letter
January 16, 2026	DEQ received NTEC's response to the First Round Acceptability Deficiency Letter

February 20, 2026	DEQ issued a Second Round Acceptability Deficiency Letter
June 15, 2026	DEQ received NTEC's response to the Second Round Acceptability Deficiency Letter
June 17, 2026	DEQ issued an Acceptability Determination. DEQ issued Notice of Acceptability to Big Horn County News to be published on June 24 and July 1, 2026, and opened the Acceptability comment period
June 24 and July 1, 2026	Notice of Acceptability published in the Big Horn County News
July 13, 2026	Public comment period ended for AM6 Application Acceptability Determination
July 13, 2026	DEQ received public comments for the AM6 Application Acceptability Determination
July 31, 2026	DEQ notified the Board of Environmental Review that DEQ was unable to issue a decision by July 31, 2026
August 17, 2026	DEQ issued the Written Findings, Notice of Decision, and Final Environmental Assessment

3.3 FINDINGS

1. DEQ found that the NTEC AM6 application, submitted on May 14, 2025, and revised through June 15, 2026, is complete and accurate, and NTEC has complied with Montana's regulatory program. *See* ARM 17.24.405(6)(a)).
2. NTEC has demonstrated that reclamation, as required by MSUMRA and implementing rules, can be accomplished under the proposed reclamation plan. *See* ARM 17.24.405(6)(a); ARM 17.24.313.
3. The NTEC AM6 application area is not located:
 - a. within an area under study or administrative proceedings under a petition to be designated as unsuitable for strip or underground coal mining operations. *See* 82-4-227(9), MCA and ARM 17.24.405(6)(b));
 - b. within an area designated unsuitable for strip or underground coal mining operations pursuant to 82-4-227(9), MCA;
 - c. on any lands within the boundaries of units of the national park system, the national wildlife refuge system, the national wilderness preservation system, the national system of trails, the wild and scenic rivers system, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act or study rivers or study river corridors established in any guidelines issued under that act, or national recreation areas designated by an act of congress, or on any federal lands within national forests. *See* Section 82-4-227(13), MCA;
 - d. on any lands upon which mining would adversely impact any publicly owned park or place included in the National Register of Historic Places. *See* ARM 17.24.1131 and ARM 17.24.1137);
 - e. where the operation will constitute a hazard to a dwelling, public building, school, church, cemetery, commercial or institutional building, public road, stream, lake, or other public property (*see* 82-4-227(7), MCA) except as conditioned below;
 - f. within 300 feet of any occupied dwelling (*see* 82-4-227(7)(a), MCA);

- g. within 300 feet of any public building, church, school, community or institutional building, or public park (*see* 82-4-227(7)(b), MCA);
 - h. within 100 feet of a cemetery (*see* 82-4-227(7)(c), MCA); or
 - i. within 100 feet of the outside right-of-way line of a public road (*see* 82-4-227(7)(d), MCA).
- 4. NTEC has obtained all surface and mineral rights to conduct mining and reclamation operations authorized under the AM6 application area.
- 5. DEQ has made an assessment of the cumulative hydrologic impacts of all anticipated coal mining on the hydrologic balance within the cumulative impact area. See Attachment 1 which is incorporated into these findings by reference. In that assessment, DEQ has determined that this application will not result in material damage to the hydrologic balance outside the permit area. See Section 82-4-227(3), MCA.
- 6. NTEC has paid all reclamation fees from previous and existing operations as required by 30 CFR Chapter VII, Subchapter R, as verified through the Applicant Violator System (AVS check of August 3, 2026) (*see* ARM 17.24.405(6)(d)).
- 7. The proposed application is not likely to jeopardize the continued existence of threatened or endangered species or result in the destruction or adverse modification of their critical habitats, as determined under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) ARM 17.24.751; Sec. 6, *Unique, Endangered, Fragile or Limited Environmental Resources* of the Final EA) (referencing memorandum of December 19, 2025, from the United States Fish and Wildlife Service).
- 8. NTEC has obtained or applied for required air quality and water quality permits (*see* 82-4-231(2), MCA and ARM 17.24.405(6)(g)).
- 9. There are no pending MSUMRA violations for NTEC at the Spring Creek Coal Mine. No other strip- or underground-coal-mining operation that is owned or controlled by NTEC or by any person who owns or controls the applicant is currently in violation of Public Law 95-87, as amended, any state law required by Public Law 95-87, as amended, or any law, rule, or regulation of the United States or of any department or agency in the United States pertaining to air or water environmental protection, the department may not issue a strip- or underground-coal-mining permit or amendment, other than an incidental boundary revision, until the applicant submits proof that the violation has been corrected or is in the process of being corrected to the satisfaction of the administering agency (*see* 82-4-227(11), MCA and ARM 17.24.405(6)(h)) (AVS check of August 3, 2026).
- 10. Records of DEQ and OSMRE show that NTEC does not own or control any strip- or underground-coal-mining operation that has demonstrated a pattern of willful violations of Public Law 95-87, as amended, or any state law required by Public Law 95-87, as amended, when the nature and duration of the violations and resulting irreparable damage to the environment indicate an intent not to comply with the provisions of MSUMRA (*see* 82-4-227(12), MCA) (AVS check of August 3, 2026).

11. NTEC is in compliance with all applicable federal and state cultural resource requirements, including ARM 17.24.318, ARM 17.24.1131, and ARM 17.24.1137 (see ARM 17.24.405(6)(f)).
12. The required bond for the Spring Creek Coal Mine permit is \$181,816,800. The bond amount was assessed as part of the DEQ review of the AM6 application. Approval of AM6 allows for mining in the proposed areas, though annual bond calculations with associated projected disturbances must be submitted and approved by the department before any future mining can occur. Therefore, additional bond is not required with the approval of AM6.

3.4 PRIVATE PROPERTY TAKINGS

The 1995 Montana state legislature passed House Bill (HB) 311, which requires a state agency to prepare an assessment of whether a proposed agency action will result in a taking of private property. DEQ prepared the assessment which concludes that the action approval of the AM6 application does not result in the taking of private property. The Private Property Takings Assessment is attached to these Written Findings as Attachment 2.

3.5 MSUMRA NOTICE OF DECISION

Based on the information found in NTEC's AM6 Application and these findings, DEQ hereby approves the application as revised through June 15, 2026, and DEQ grants the permit subject to the condition(s) / modification(s) shown in Section 3.6 of this document.

3.6 CONDITIONS/MODIFICATIONS

In accordance with ARM 17.24.413 DEQ is issuing the permit with the following conditions:

ARM 17.24.312(1)(d)(ii) In accordance with the June 12, 2026, Montana Sage Grouse Habitat Consultation Letter and Mitigation Plan, disturbance is prohibited in the No Surface Occupancy area (see **Figure 2**). This area may be disturbed only upon written agreement from the Montana Sage Grouse Habitat Conservation Program. Additionally, NTEC must pay \$57,060.18 to the State of Montana Sage Grouse Stewardship Account prior to any disturbance approved with amendment AM6. NTEC must also pay a compensatory mitigation obligation of \$1,707,353.05 to be deposited in the Montana Sage Grouse Stewardship Fund (see MCA 76-22-111(1)(a)(ii)) prior to the construction of the haul road approved in amendment AM5.

ARM 17.24.304(1)(b); ARM 17.24.518(1): All Eligible or Undetermined sites proposed to be disturbed by AM6 must be avoided with at least a 100-foot buffer until the Montana State Historic Preservation Office (SHPO) concurs with site eligibility and any sites found to be Eligible are properly mitigated (see **Figure 2**).

The two exclusion areas combined total 319 acres. The perimeter of the exclusion area must be marked in accordance with ARM 17.24.524(4) within **60 days** of approval of this amendment.

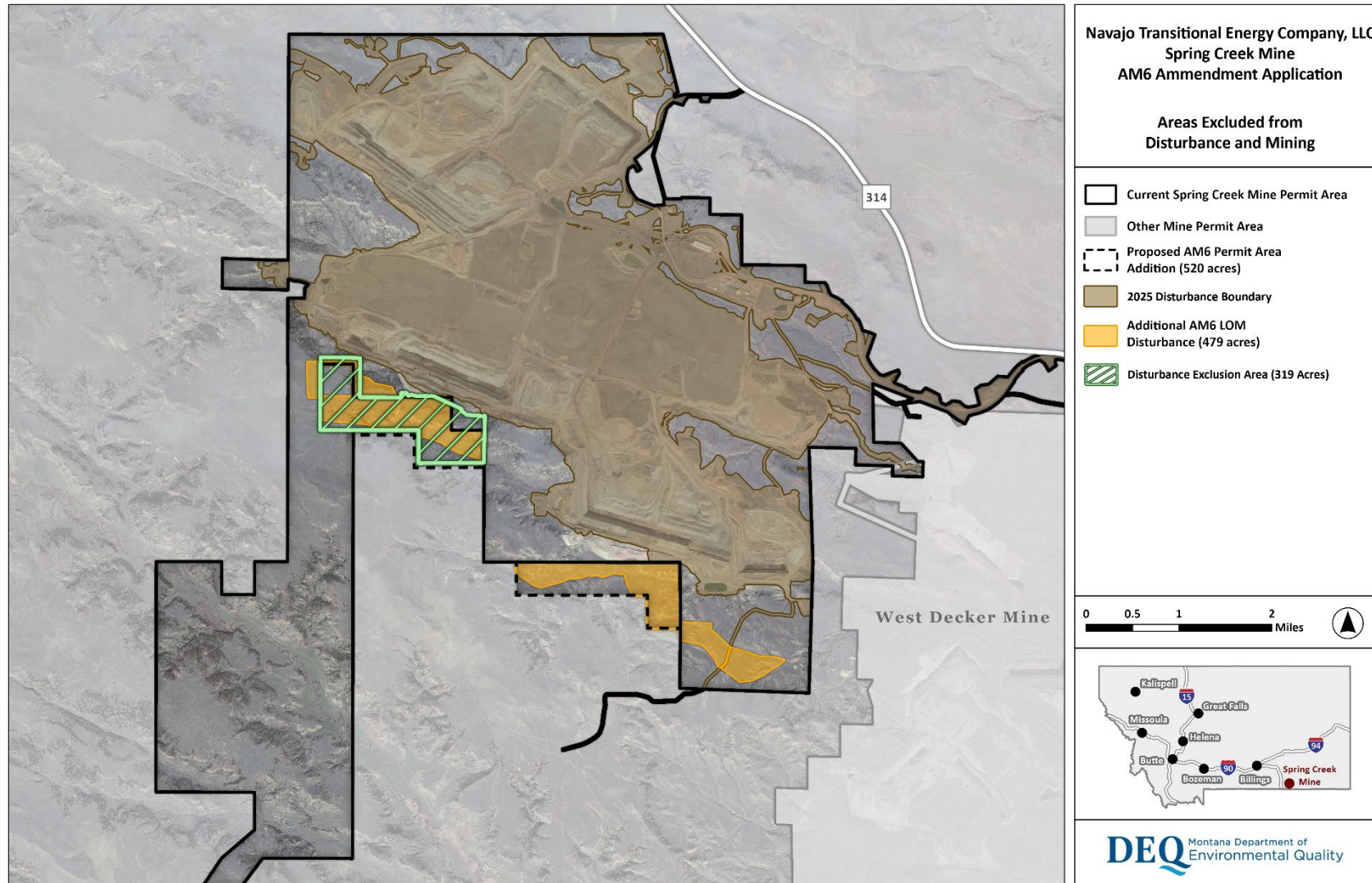


Figure 2: No Disturbance Areas.

3.7 RESPONSES TO PUBLIC COMMENTS

See Attachment 3 for Responses to Public Comments received on DEQ’s Acceptability determination.

3.8 APPEAL OF DEQ’S MEPA DECISION

Any action or proceeding challenging a final agency decision alleging failure by DEQ to comply with MEPA or inadequate compliance with a MEPA requirement must be brought in state district court or in federal court, as appropriate, within 60 days after issuance of the Written Findings pursuant to Section 75-1-201(5)(a)(ii), MCA.

3.9 APPEAL OF DEQ’S MSUMRA DECISION

In accordance with 82-4-206, MCA, and 82-4-231, MCA, an applicant, permittee, or person with an interest that is or may be adversely affected by DEQ’s decision under MSUMRA may request a hearing before the Board of Environmental Review (Board) by submitting a written request stating the reason for the request within 30 days after DEQ’s decision.

3.10 ADDITIONAL INFORMATION

The Final EA and electronic copies of this *Written Findings* can be downloaded as PDFs from DEQ’s webpage: <https://deq.mt.gov/mining/Programs/coal>. For additional information regarding the Final EA or to request an electronic version of the Final EA, please contact the DEQ Coal Mining Section, DEQ Mining Bureau, DEQ, PO Box 200901, Helena, MT 59620-0901.

4.0 APPROVAL

This Written Findings and Notice of Decision is effective on signature.



August 17, 2026

Eric Dahlgren
Mining Bureau Chief