

September 21, 2020

Buster and Megan Bullock  
Bullock Contracting, LLC  
54 Elkhorn Road  
Boulder, MT 59632

Sent via email to: [mbullock@jeffbb.net](mailto:mbullock@jeffbb.net)

**RE: Approval of Operating Permit Application No. 00199 – Bullock Contracting, LLC**

Dear Mr. and Ms. Bullock,

On October 9, 2019, Bullock Contracting, LLC (Bullock) submitted Operating Permit Application No. 00199 to the Montana Department of Environmental Quality (DEQ) for the construction and operation of a proposed 71-acre construction aggregate quarry (Devil's Elbow Quarry) located approximately 13 miles northeast of Helena, Montana. A revised version of the application was submitted to DEQ in January 2020. A draft permit and compliance document were issued on February 12, 2020. A permit issued by DEQ would authorize Bullock to mine from the Devil's Elbow Quarry.

DEQ published the Draft Environmental Assessment (EA) on February 26, 2020, which analyzed the possible environmental impacts of the Proposed Action. DEQ identified the Proposed Action as the preferred alternative. A 30-day public comment period was initiated after publication of the Draft EA. Upon request, the public comment period was extended to April 17, 2020. Over 30 private individuals and the Montana Department of Transportation provided comments on the draft EA. On September 21, 2020, DEQ issued a Final EA. The Final EA includes responses to substantive comments submitted during the public comment period, along with minor edits and corrections to the EA. The decisions contained in this decision document are based on the analysis documented in the Final EA.

## **DEQ's Decisions**

DEQ has applied the significance criteria, according to the Administrative Rules of Montana (ARM) 17.4.608, to determine the significance of potential impacts on the human environment. After applying those criteria, DEQ has determined that preparation of an EA is the appropriate level of review under the Montana Environmental Policy Act (MEPA). A summary of DEQ's review of the significance criteria is included in the Final EA.

DEQ has decided to approve Bullock's application for an operating permit, selecting Alternative 2 (the Proposed Action), as described in Final EA. Pending bond submittal and approval, the approved operating permit allows Bullock to mine at the Devil's Elbow Quarry. Before commencing activity authorized by this permit, the permittee must be in compliance with Title 75, Chapter 2, Montana Code Annotated (MCA) as amended, Title 75, Chapter 5, MCA, as amended, Title 75, Chapter 6, MCA, as amended, and administrative rules adopted pursuant to these laws. Based on the application information submitted by Bullock, DEQ has determined Bullock to be in compliance with these statutory provisions.

Pursuant to Section 82-4-335(10), MCA, DEQ has determined that Bullock has provided the current information required in 82-4-335(5)(a), MCA. In addition, on September 14, 2020, DEQ and Bullock finalized an Administrative Order on Consent (AOC) as part of the ongoing effort to correct the violation cited in Violation Letter No. VLHRM20190531-00032. The finalized AOC satisfies the requirements of 82-4-335(10)(a)(ii), MCA. Provided that the application material remains unchanged at the time of submission of the bond and that the AOC remains in force at the time of submission of the bond, the requirements of 82-4-335(10), MCA will be addressed satisfactorily.

Pursuant to Sections 82-4-337(1)(h)(i) and 82-4-338, MCA, Bullock is required to file with DEQ a reclamation bond in a form and amount determined by DEQ. DEQ will calculate the bond in accordance with Section 82-4-338, MCA, and is required to provide Bullock with the bond determination within 40 days of the date of this decision document (Section 82-4-337(2)(c), MCA). A final permit may not be issued until Bullock submits, and DEQ accepts, the corresponding bond.

## Permit Stipulations

Pursuant to Section 82-4-337(2)(b), MCA, DEQ shall consult with the applicant before placing stipulations in a draft or final permit. Permit stipulations in a draft or final permit may, unless the applicant consents, address only compliance issues within the substantive requirements of this part or rules adopted pursuant to this part. For a stipulation imposed without the applicant's consent, DEQ shall provide to the applicant, in writing, the reason for the stipulation, a citation to the statute or rule that gives DEQ the authority to impose the stipulation, and, for a stipulation imposed in the final permit that was not contained in the draft permit, the reason that the stipulation was not contained in the draft permit.

On September 18, 2020, Bullock consented to adding stipulations to the final Hard Rock Mining Operating Permit. Bullock agreed with DEQ's request to add one stipulation (Stipulation No. 1) that it deemed was needed to address substantive requirements of the Metal Mine Reclamation Act. Bullock further agreed with DEQ's request to add two stipulations (Stipulation Nos. 2 and 3) to address public comments submitted during review under the Montana Environmental Policy Act. The permit stipulations are shown below.

- **Stipulation No. 1.** Bullock shall commence quarterly monitoring of groundwater nitrate levels in at least two separate residential wells near the quarry upon first using blasting at the Devil's Elbow site. One baseline sampling event should take place at the selected wells within one month before the blasting event. Groundwater monitoring shall continue at the two residential wells until at least one year has passed since the date of the last blasting event. If measured groundwater nitrate levels increase above the baseline nitrate levels at either residential well and are measured to be at or above 7.5 mg/L at either residential monitoring well, groundwater monitoring shall continue at both wells until measured nitrate levels fall below 7.5 mg/L or return to baseline nitrate levels for consecutive quarterly monitoring events. Groundwater monitoring results shall be submitted to DEQ for review within two weeks of receipt by Bullock.
- **Stipulation No. 2** Bullock shall limit hours of mining, excavation, crushing, and screening to 7 AM – 7 PM, Monday through Saturday. Other activities, including loading, hauling, and equipment maintenance, shall be limited to daylight hours (30 minutes before sunrise to 30 minutes after sunset), Monday through Sunday.
- **Stipulation No. 3** Bullock shall locate the crusher in a pit that is at least 8 feet below grade on at least three sides with a setback of no greater than 600 feet from the pit wall, or construct noise reduction berms surrounding the crusher at least 8 feet high around the crusher. Berms shall be constructed and

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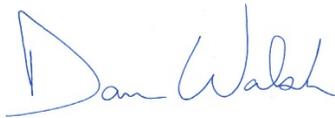
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placed to reduce noise at adjacent residences to the north, northeast, southwest, and west of the pit, and shall be at least 8 feet high and established no more than 600 feet from the crusher.

## **Appeal of DEQ's Decisions**

Legal actions seeking review of DEQ's approval of Bullock's operating permit must be filed within 90 days from the date of this decision document under Section 82-4-349(1), MCA. Any action or proceeding alleging a failure by DEQ to comply with MEPA, or inadequate compliance with a MEPA requirement, must be brought within 60 days after issuance of this decision document pursuant to Section 75-1-201(5)(a)(ii), MCA.

Sincerely,

A handwritten signature in blue ink that reads "Dan Walsh". The signature is written in a cursive style with a large initial "D".

Dan Walsh  
Chief, Hard Rock Mining Bureau  
Air, Energy and Mining Division  
Montana Department of Environmental Quality  
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File: 00199.3