

Public Scoping Report II

Western Energy Company Area F Rosebud Mine EIS
Colstrip, Montana

December 23, 2013



Consultants in Natural Resources and the Environment

**PUBLIC SCOPING REPORT II
WESTERN ENERGY COMPANY AREA F ROSEBUD MINE EIS
COLSTRIP, MONTANA**

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WESTERN ENERGY EIS

PUBLIC SCOPING REPORT II

INTRODUCTION

The Montana Department of Environmental Quality (DEQ) and the Office of Surface Mining Reclamation and Enforcement (OSM) are preparing a joint Environmental Impact Statement (EIS) to disclose the potential environmental impacts of the proposed Area F expansion of the Rosebud Coal Mine in Colstrip, Montana. A single EIS is being prepared to meet the requirements of the Montana Environmental Policy Act (MEPA) and the National Environmental Policy Act (NEPA). The EIS will help DEQ managers determine if Western Energy Company's (Western Energy) mine permit application for Area F should be approved. The EIS will also help OSM managers prepare the Mining Plan Decision Document for U.S. Department of Interior Assistant Secretary for Land and Minerals (DOI ASLM) approval, disapproval, or conditional approval.

Under MEPA and NEPA, the first phase in preparing an EIS is to conduct "scoping." Scoping is designed to help determine the scope or the number, range, magnitude, and importance of issues and alternatives to be addressed in the EIS.

During the formal public scoping phase of the project, DEQ and OSM sought input from the public and interested organizations and agencies. DEQ held its public scoping period between October 5 and November 5, 2012, and hosted two scoping open houses in Colstrip, Montana on October 16, 2012. The results from that public scoping process are documented in the February 2013 *Public Scoping Report* prepared by ERO Resources Corporation (ERO).

OSM published a Notice of Intent to prepare an EIS and initiated public scoping via the *Federal Register* on August 27, 2013. OSM and DEQ hosted an open house and public hearing in Colstrip, Montana on September 12, 2013. OSM's public scoping period was scheduled to conclude on October 11, 2013, but due to the federal government shutdown, which occurred from October 1 through October 16, OSM extended the public scoping period through November 8. This report documents the results from the 2013 OSM public scoping process and provides summary information from the 2012 DEQ public scoping process.

The main sections of this report are:

- Project background information
- Public scoping activities
- Scoping results
- Summary of future actions

PROPOSED PROJECT

The Rosebud Mine extends from east of Colstrip to about 12 miles west of Colstrip in Rosebud County. Situated in the northern Powder River Basin, the mine is generally north of the Little Wolf Mountains. Western Energy, a subsidiary of Westmoreland Coal Company, operates the

Rosebud Mine. As it currently exists, the Rosebud Mine is a 25,576-acre surface coalmine producing 8 to 10.25 million tons of low-sulfur subbituminous coal annually. The four-unit, 2,100-megawatt Colstrip Steam Electric Station east of the mine uses most of the coal production, which is delivered by conveyor systems.

Area F is a proposed expansion of the Rosebud Mine. It would add coal reserves to the existing Rosebud Mine and extend mine life by an estimated 19 years. The proposed permit boundary for Area F would include an additional 6,746 acres (approximately 4,287 acres would be disturbed) in Township 2 North-Range 38 and 39 East, and Township 1 North-Range 39 East.

The land within the proposed Area F permit boundary is owned by federal, state, and private entities. Current land uses include grazing land, pastureland, cropland, and wildlife habitat.

Tributaries of Horse Creek and West Fork Armells Creek, including Black Hank Creek, Donley Creek, Robbie Creek, and McClure Creek, all of which lie within the drainage of the Yellowstone River, drain the proposed mine area. The ridge system that divides the Horse Creek and West Fork Armells Creek drainages lies in the western portion of the proposed mine area.

A county road, a gas transmission pipeline, and two high-voltage electric transmission lines cross the proposed Area F. Key features of the proposed Area F mine area include the mine pits, scoria pits, soil stock piles, spoil piles, haul roads, haul road ramps, and the area of disturbance.

The Rosebud Mine staff, administration, and operations are based on-site and supported by the Westmoreland offices in Englewood, Colorado. The Rosebud Mine includes the following existing facilities.

- Four active mine operations – Area A, Area B, Area C, and Area D
- A coal processing facility
- Conveyor belt systems
- Maintenance and operations complex
- Haul roads with aggregate surface
- Mine offices
- Mine entrance guard shack and vehicle weighing scale
- Four electric-powered draglines, front-end loaders, excavators, and a fleet of haul trucks for removal of overburden, coal excavation, and coal transportation to the conveyor belt system

Beginning in 2015, Western Energy proposes to mine 2,164 acres within the proposed 6,746-acre Area F permit area and would complete mining operations by 2034. The coal mining method proposed for Area F would be the same area strip mining method that Western Energy currently uses in other permitted areas of the Rosebud Mine.

As proposed, initial operations in 2015 would be limited to mine passes in the northeastern portion of Area F and would sequentially progress toward the southwest then north to the final cuts. As mining progresses to each new portion of Area F, a boxcut would be made to expose the coal seam. Overburden stockpiles, soil stockpiles, and scoria pits would be developed adjacent to the active boxcut pit area. After the initial cut, spoil from succeeding mine passes

would be deposited in previous passes, including the boxcut. The sequence of operations is as follows:

- Sediment control
- Soil salvage
- Access and haul roads
- Blasting
- Overburden removal
- Coal recovery
- Highwall reduction
- Backfilling and recontouring
- Revegetation

Reclamation would be concurrent with and following mining and would facilitate the following post-mine land uses: grazing land, pastureland, cropland, and wildlife habitat.

PUBLIC SCOPING ACTIVITIES

Public scoping provides an opportunity for public and agency involvement during the early planning stages of the NEPA/MEPA analysis. The intent of the scoping process is to gather comments, concerns, and ideas from those who have an interest in or that may be affected by the proposed action.

Several methods were used to inform the public of the proposed project and to solicit comments. These methods included a press release and legal notice, distribution of a scoping newsletter, and a public open house and hearing. Each of these public involvement activities is described below.

Media Advisory and Legal Notice

On September 3, 2013, OSM sent a media advisory announcing the scoping period and public open house and hearing to 48 media outlets and the Montana Governor's Office via email (Table 1). Notice of the scoping period extension was published in the same media outlets on October 24, 2013.

Legal notices of the scoping period and open house and hearing were placed in the *Billings Gazette* and *Forsyth Independent Press* on September 2, 2013. Legal advertisements for the scoping period extension also were placed in both sources on October 30, 2013.

Associated Press	KCFW-TV	KUSM-TV
The Billings Gazette	KCHH-FM	KWOL-FM
The Billings Outpost	KECI-TV	KWYB-TV
Bozeman Daily Chronicle	KFBB-TV	KXGN-TV
The Daily Inter Lake	KHMT-TV	KXLF-TV
Forsyth Independent Press*	KJJR-AM	KXLH-TV
Hysham Echo	KMMS-AM	KYPC-FM
High Plains News Service	KMTF-TV	KYPF-FM
Helena Independent Record	KPAX-TV	KYPW-FM
KAJ-TV	KRTV-TV	KYUS-TV
KBBJ-TV	KSVI-TV	KYYA-AM
KBGF-TV	KTMF-TV	Miles City Star
KBLG-AM	KTVH-TV	Montana Public Radio
KBOZ-AK	KTVM-TV	Newslink
KBUL-AM	KTVQ-TV	Northern Broadcasting Systems
KBZK-TV	KUFM-TV	Western Environmental Trade Association

*Known media that ran stories based on the media advisory.

Scoping Newsletter

OSM sent a newsletter announcing the public scoping period and the open house and hearing to a mailing list comprised of the following:

- Elected officials and local governments
- Federal and state agencies
- Tribes
- Adjacent and nearby landowners
- Individuals who had expressed previous interest in the Rosebud Mine

The newsletter was distributed to about 75 people via postal mail and about 350 people via email on August 30, 2013. The newsletter briefly described the proposed Area F expansion of the Rosebud Mine, identified the project location and major linear facilities, provided the environmental review timeline, and provided information for the public open house and hearing planned for September 12. A written comment form was included as a newsletter insert. A copy of the scoping newsletter and comment form is provided in Appendix A.

Public Scoping Open House and Hearing

OSM and DEQ held a scoping open house and hearing for the public to attend at the Isabel Bills Community Center in Colstrip, Montana on Thursday, September 12, 2013. Representatives of government agencies, elected officials, news media, businesses, and individuals attended the scoping open house and hearing. The event, held from 3:00 pm to 7:00 pm, had an attendance of 11. A list of attendees is in Appendix B.

The open house portion of the meeting was held from 3:00 pm to 4:00 pm. Beginning at 4:00 pm, OSM's project coordinator gave a brief introduction of agency and Western Energy representatives at the meeting and provided a PowerPoint presentation describing the NEPA process. DEQ's MEPA coordinator then gave a brief description of the state's MEPA/permitting processes, which was followed by a description of Western Energy's mine operations by a company representative.

Following the presentations, ERO, the third-party consultant assisting OSM and DEQ with preparation of the EIS, facilitated the oral testimony process. Four people gave oral testimony in front of a certified court reporter. Written testimony was also accepted during the meeting.

Informational handouts were provided to attendees, including the scoping newsletter and comment form (Appendix A). Resource-specific exhibits were on display around the room (Appendix C) and attendees were invited to visit each exhibit, gather information, write comments, and ask questions of resource specialists. The resource specialists included staff from OSM, DEQ, BLM, and ERO.

SCOPING RESULTS

Methods for Comment Collection and Analysis

The objective of the scoping process was to gather comments, questions, and concerns from the public regarding the proposed Area F expansion of the Rosebud Mine. OSM collected comments in the form of oral comments at the public hearing and written submissions sent via U.S. mail, email, facsimile, and the comment forms distributed at the public scoping open house/hearing.

Scoping Results

During the course of the public scoping process, OSM received 259 comment submissions. These comments came from one federal agency (U.S. Department of the Interior National Park Service); four organizations (Northern Plains Resources Council, WildEarth Guardians, ForceChange.com, and the Western Environmental Law Center (WELC), which acted on behalf of the Montana Environmental Information Center (MEIC) and the Sierra Club); two businesses (PPL Montana, LLC and Booth Land & Livestock); and 259 individuals (seven submissions listed two signatories).

As with the DEQ scoping process, a majority (91%) of the comment submissions were a form letter (form letter 3 – see Appendix D). In total, 235 submissions were based on form letter 3. The remainder of submissions, 24 or 9% of the total received, were unique letters or oral comments. A list of all of those who submitted comments during the OSM scoping period can be found in Appendix D. A master list of all of those who submitted comments during either the DEQ or OSM scoping periods can be found in Appendix E.

Content analysis codes developed for and used to code and group comments from the DEQ public scoping process were used to code and group comments from the OSM public scoping process as well. New codes (marked with an asterisk below) were also developed based on an initial review of all recent submissions. Some codes from the DEQ scoping process were modified slightly to better capture comments given during both the DEQ and OSM scoping processes. A summary of the comments from both scoping processes is included in the next

section. The content analysis codes, along with coded submissions (one representative of form letter 3 and unique submissions) from the OSM scoping process are included in Appendix D. All comment submissions from both the DEQ and OSM scoping processes can be found in the Project Record and copies can be requested from either the DEQ or OSM Project Coordinators.

Summary of Scoping Comments

Public scoping comments are summarized below and grouped into categories to assist review. Following each summary statement is a corresponding content analysis code (e.g., “AIR 100”), the number of submittals for each scoping period (OSM or DEQ) that included a comment similar to the summary statement, and the total number of submittals that included a comment similar to the summary statement. Note: Because some comment codes were developed for the OSM scoping process (marked with an asterisk below), the term “N/A” is used in place of a submittal number for the DEQ scoping period.

Air Quality

- Thoroughly evaluate and disclose impacts on air quality.
(AIR 100) OSM: 4 DEQ: 10 Total: 14
- Compliance with air quality standards, such as those for mercury and SO₂, should be evaluated and disclosed.
(AIR 110) OSM: 1 DEQ: 341 Total: 342
- Thoroughly evaluate and disclose the potential for and impacts of methane emissions as a result of strip mining Area F, including economic (lost methane emissions) and the feasibility to recapture methane.
(AIR 120) OSM: 1 DEQ: 1 Total: 2
- The Area F EIS should take into consideration air quality analyses in previous EISs.
(AIR 130) OSM: 1 DEQ: 1 Total: 2

Acid Rain

- Thoroughly evaluate and disclose the potential for acid rain as a result of coal combustion.
(AR 200) OSM: 0 DEQ: 1 Total: 1

Agriculture

- Thoroughly evaluate and disclose impacts on agricultural production and surface use (general).
*(AG 14000) OSM: 5 DEQ: N/A Total: 5
- Thoroughly evaluate and disclose impacts on ranching and grazing access.
*(AG 14010) OSM: 1 DEQ: N/A Total: 1

Alternatives

- Consider other potential consumers of Area F coal in addition to PPL's Colstrip Station and the means by which coal could be shipped to those potential consumers, such as by train.
(ALTS 300) OSM: 0 DEQ: 3 Total: 3
- Consider an alternative that limits tonnage and/or acreage to be mined.
*(ALTS 310) OSM: 1 DEQ: N/A Total: 1
- Consider an alternative that requires underground mining instead of surface strip mining.
*(ALTS 320) OSM: 1 DEQ: N/A Total: 1
- Consider alternatives to continued coal energy generation at Colstrip, such as renewable energy or conservation.
*(ALTS 330) OSM: 1 DEQ: N/A Total: 1
- Consider alternative uses of the land (besides mining) that are environmentally and economically more stable.
*(ALTS 340) OSM: 235 DEQ: N/A Total: 235

Bonding and Financial Assurance

- Thoroughly evaluate and disclose Western Energy's ability to pay for reclamation (general).
(BOND 400) OSM: 1 DEQ: 1 Total: 2
- Consider proposed use and disposal of coal combustion waste (fly ash, scrubber sludge, and bottom ash) on the mine site in reclamation bond calculations.
(BOND 410) OSM: 1 DEQ: 1 Total: 2
- The EIS should consider and disclose bonding and financial assurances sufficient to cover the cost of remediation of coal combustion waste use and disposal (past, present, and future) at PPL's Colstrip Station.
(BOND 420) OSM: 0 DEQ: 1 Total: 1
- Bond should be released on reclaimed portions of other permit areas at the Rosebud Mine.
*(BOND 430) OSM: 2 DEQ: N/A Total: 2
- Bond calculations should account for inflation.
*(BOND 440) OSM: 1 DEQ: N/A Total: 1
- The EIS should consider and disclose bonding and financial assurances sufficient to cover the cost of restoring the hydrologic balance.
*(BOND 450) OSM: 2 DEQ: N/A Total: 2

Climate Change

- Consider the impacts of coal mining on climate change (general).
(CLIM 500) OSM: 239 DEQ: 9 Total: 248

- Thoroughly evaluate and disclose greenhouse gas emissions and impacts on climate from coal combustion in power plants.
(CLIM 510) OSM: 5 DEQ: 344 Total: 349
- Thoroughly evaluate and disclose the impacts of climate change on the land and resources within the state of Montana.
(CLIM 520) OSM: 1 DEQ: 340 Total: 341
- Thoroughly evaluate and disclose the impacts of climate change on Montana’s economy and society.
(CLIM 530) OSM: 1 DEQ: 339 Total: 340
- Include a description of impacts currently occurring due to climate change in the EIS affected environment section.
(CLIM 540) OSM: 0 DEQ: 1 Total: 1
- Thoroughly evaluate and disclose effects of climate change, such as extreme weather events and abrupt climate change, and how these effects may exacerbate mine and/or power plant effects.
*(CLIM 550) OSM: 1 DEQ: N/A Total: 1

Colstrip and Rosebud Power Plants

- Thoroughly evaluate and disclose the direct (primary), indirect (secondary), and cumulative impacts of PPL’s Colstrip Power Plant and/or the Rosebud Power Plant (general).
(CSES 600) OSM: 3 DEQ: 1 Total: 4
- Identify coal ash disposal locations (i.e., backfill in the mine and use on roads and parking lots).
(CSES 610) OSM: 0 DEQ: 1 Total: 1
- The EIS should consider how mercury pollution (water and air) from Colstrip Power Plant is impacting downgradient and downwind water resources.
(CSES 620) OSM: 1 DEQ: 2 Total: 3
- The EIS must address past, present, and future storage of coal combustion waste (fly ash, scrubber sludge, and bottom ash) generated by the Colstrip Power Plant, including storage facilities at the power plant, permitting, use, and disposal of it at the Rosebud Mine, and transportation of it to other locations.
(CSES 630) OSM: 2 DEQ: 2 Total: 4
- Thoroughly evaluate and disclose the likelihood of a sale or closure of the Colstrip Power Plant and the effects.
*(CSES 640) OSM: 1 DEQ: N/A Total: 1

Cooperating Agencies

- OSM should request that the EPA participate as a cooperating agency in the preparation of the EIS, including the scoping process.
*(CA 13000) OSM: 1 DEQ: N/A Total: 1

Cultural and Historic Resources

- Thoroughly evaluate and disclose the impacts on cultural resources and historic landscapes.
(CULT 700) OSM: 2 DEQ: 2 Total: 4
- Ensure compliance with Section 106 of the National Historic Preservation Act.
(CULT 710) OSM: 0 DEQ: 1 Total: 1
- Thoroughly evaluate the impacts on the cultural/historical resources of the Northern Cheyenne, Crow, and other pre-European native peoples.
(CULT 720) OSM: 0 DEQ: 1 Total: 1
- Consult with neighboring tribes to determine what values should be focused on for the cultural resources impacts analysis.
(CULT 730) OSM: 0 DEQ: 1 Total: 1
- For the impacts analysis, a historical baseline that starts prior to any coal development should be used.
(CULT 740) OSM: 0 DEQ: 1 Total: 1

Economics

- The socioeconomic cost of mining (at the Rosebud Mine) and burning coal (general), including externalities, should be quantified (monetary amount) and evaluated in the EIS.
(ECON 800) OSM: 3 DEQ: 341 Total: 344
- The socioeconomic benefits of mining coal (at the Rosebud Mine) and burning coal (at the Colstrip and Rosebud power plants) should be evaluated and disclosed in the EIS.
(ECON 810) OSM: 3 DEQ: 1 Total: 4
- Thoroughly evaluate and disclose the cost of coal-generated energy at the Colstrip and Rosebud power plants versus the cost of alternative forms of energy development, including conservation and efficiency.
*(ECON 820) OSM: 2 DEQ: N/A Total: 2

Environmental Justice

- The EIS should address health problems on nearby tribal lands and adjacent landowners that may be caused by pollution from the Rosebud Mine/Colstrip Station energy complex.
(ENJ 900) OSM: 1 DEQ: 2 Total: 3
- The EIS should include data from Indian Health Services and other medical facilities/agencies on the current health of tribal members on nearby reservations.
(ENJ 910) OSM: 0 DEQ: 1 Total: 1
- When discussing effects of toxins, the EIS should use an impacts analysis area that includes the Northern Cheyenne and Crow reservations.
(ENJ 920) OSM: 0 DEQ: 1 Total: 1

- The EIS should address the impacts of resources development on native cultures (e.g., economic, cultural and lifestyle losses, loss of identity, health losses, traditional ecological knowledge, and lost opportunities for alternative development).
(ENJ 930) OSM: 0 DEQ: 1 Total: 1
- EIS public meetings should be held in Lame Deer to include Native American Community members.
(ENJ 940) OSM: 0 DEQ: 1 Total: 1
- Thoroughly evaluate and disclose the historic negative economic impacts of the mine-power plant complex on the Northern Cheyenne and whether continued operations of the mine-power plants will continue these impacts (specific).
*(ENJ 950) OSM: 1 DEQ: N/A Total: 1
- Thoroughly evaluate and disclose the potential impacts of climate change on environmental justice, particularly for Native American Communities.
*(ENJ 960) OSM: 1 DEQ: N/A Total: 1

Health and Safety

- Health hazards (general) of burning coal should be considered.
(HLTH 1000) OSM: 4 DEQ: 8 Total: 12
- In regard to shipping coal by train, the potential for derailments and other health and safety hazards, such as coal dust, should be evaluated and disclosed.
(HLTH 1010) OSM: 2 DEQ: 7 Total: 9
- Thoroughly evaluate and disclose the health risks of storing, using (pollution controls at the power station), and transporting toxic chemicals at the Rosebud Mine/Colstrip Station energy complex.
(HLTH 1020) OSM: 0 DEQ: 1 Total: 1
- Thoroughly evaluate and disclose the impact of arsenic on local populations (in terms of cancer risks).
(HLTH 1030) OSM: 0 DEQ: 1 Total: 1
- Thoroughly evaluate and disclose the potential hazards of storage (in ponds) and transportation (by pipeline) of coal mining waste (slurry).
(HLTH 1040) OSM: 0 DEQ: 1 Total: 1
- Thoroughly evaluate mercury levels in fish and disclose human health impacts.
*(HLTH 1050) OSM: 1 DEQ: N/A Total: 1

Impacts Analysis

- The EIS must consider direct (primary), indirect (secondary), and cumulative impacts of the mine on all resources.
(IA 1100) OSM: 237 DEQ: 1 Total: 238
- The cumulative impacts analysis in the EIS must include related past, present, and future mining projects (general).
(IA 1110) OSM: 2 DEQ: 1 Total: 3

- Do not include consumption of Area F coal in impacts analysis.
(IA 1120) OSM: 1 DEQ: 1 Total: 2
- For NEPA analysis, consider the Colstrip and/or Rosebud power plants as connected actions to the Rosebud Mine.
*(IA 1130) OSM: 2 DEQ: N/A Total: 2
- The scope of EIS analysis should include the development (past, current, and future) of all lands that Western Energy currently leases (specific).
*(IA 1140) OSM: 1 DEQ: N/A Total: 1

Land Pollution

- Thoroughly evaluate and disclose the potential for land pollution.
(LND 1200) OSM: 0 DEQ: 2 Total: 2

Light Pollution

- Thoroughly evaluate and disclose the potential for light pollution.
(LIT 1300) OSM: 0 DEQ: 1 Total: 1

Maps and Figures

- Include recognizable landmarks and other orienting tools on EIS maps/figures.
*(MAP 15000) OSM: 1 DEQ: N/A Total: 1

Miscellaneous

- Other topics, not easily categorized.
(MISC 1400) OSM: 0 DEQ: 3 Total: 3

Mitigations and Stipulations

- The EIS should consider ways to mitigate secondary and cumulative impacts (deterioration of air quality/climate change) resulting from combustion of Area F coal.
(MIT 1500) OSM: 1 DEQ: 1 Total: 2
- The EIS should propose mitigation measures for water pollution caused by coal combustion waste (fly ash, scrubber sludge, and bottom ash) from the power plant.
(MIT 1510) OSM: 0 DEQ: 2 Total: 2
- The EIS should analyze a means to decrease existing SO₂ emissions.
(MIT 1520) OSM: 0 DEQ: 1 Total: 1
- Require the use of equipment that produces less or no emissions.
*(MIT 1530) OSM: 1 DEQ: N/A Total: 1
- Require off-site mitigation and/or compensation to offset carbon dioxide emissions from the Rosebud Mine and the Rosebud and Colstrip power plants.
*(MIT 1540) OSM: 1 DEQ: N/A Total: 1

Noise

- Thoroughly evaluate and disclose noise impacts.
(NSE 1800) OSM: 1 DEQ: 1 Total: 2

Position Statements

- The Rosebud Mine should be expanded.
(PS 1900) OSM: 0 DEQ: 0 Total: 0
- The Rosebud Mine should not be expanded.
(PS 1910) OSM: 6 DEQ: 12 Total: 18

Purpose and Benefit/Need

- Thoroughly evaluate and disclose the proposed use and the location of the use of coal from Area F, including alternatives such as Asian markets.
(PURP 2000) OSM: 0 DEQ: 2 Total: 2
- Thoroughly evaluate and disclose the need for coal and coal-fired power production in the U.S.
(PURP 2010) OSM: 235 DEQ: 4 Total: 239
- Consider alternatives to coal (in terms of energy production).
(PURP 2020) OSM: 1 DEQ: 8 Total: 9
- Thoroughly evaluate and disclose who will benefit from mining coal in Area F.
(PURP 2030) OSM: 0 DEQ: 1 Total: 1
- Thoroughly evaluate and disclose the short-term benefits (i.e., local employment) versus long-term costs (i.e., reduced ranching potential or environmental degradation) to communities in Rosebud and Treasure counties if Area F is permitted.
(PURP 2040) OSM: 0 DEQ: 5 Total: 5
- Given that coal from the Rosebud Mine is contracted to the Colstrip and Rosebud power plants, the statement of purpose and need for the project should be the generation of electricity, and the impacts analysis and the development of alternatives should reflect this statement (specific).
*(PURP 2050) OSM: 2 DEQ: N/A Total: 2

Reclamation

- Thoroughly evaluate and disclose the potential for successful reclamation (revegetation).
(RECL 3000) OSM: 1 DEQ: 4 Total: 5
- Reclamation should be completed and standards should be attained in other mine permit areas prior to approval of mine expansion.
*(RECL 3010) OSM: 2 DEQ: N/A Total: 2
- Consider climate change when evaluating the potential for successful reclamation.
*(RECL 3020) OSM: 1 DEQ: N/A Total: 1

Recreation

- Thoroughly evaluate and disclose the impacts on recreational opportunities in the Area F permit area, such as hunting.

(REC 4000) OSM: 0 DEQ: 2 Total: 2

Regulatory Issues

- Thoroughly evaluate and disclose whether Montanans' Constitutional right to a clean and healthful environment will be impacted.

(REG 5000) OSM: 0 DEQ: 3 Total: 3

- DEQ's MEPA analysis should be prepared in cooperation with any required federal NEPA analysis to ensure that the environmental analysis meets both federal and state requirements.

(REG 5010) OSM: 0 DEQ: 1 Total: 1

- The EIS should include an explanation of how the Rosebud Mine will comply with the CWA and SMCRA.

(REG 5020) OSM: 0 DEQ: 1 Total: 1

- A MEPA analysis should be done for the coal lease.

(REG 5030) OSM: 0 DEQ: 1 Total: 1

Soils

- Collect baseline soils data on dryland and subirrigated hay bottoms.

*(SOIL 16000) OSM: 1 DEQ: N/A Total: 1

Thank You for Your Comment

- Not Substantive – Comment Noted.

(THY 6000) OSM: 6 DEQ: 8 Total: 14

Toxic Waste

- The EIS should disclose the current release of and storage of toxic waste at both the mine and power station.

(TOX 7000) OSM: 0 DEQ: 1 Total: 1

- The EIS should disclose who will be financially liable for toxic waste at closure and decommissioning of both the mine and the power plant.

(TOX 7010) OSM: 1 DEQ: 1 Total: 2

Transportation

- Thoroughly evaluate and disclose the current condition of rail infrastructure and the impacts coal shipments will have on it (shipping coal by train).

(TRANS 8000) OSM: 2 DEQ: 2 Total: 4

- Thoroughly evaluate and disclose the current condition of road transportation routes and the impacts of coal transport on them.

*(TRANS 8010) OSM: 3 DEQ: N/A Total: 3

- Thoroughly evaluate and disclose the impacts of coal handling, hauling, and transport (including conveyor systems).
*(TRANS 8020) OSM: 2 DEQ: N/A Total: 2

Visual Resources

- Thoroughly evaluate and disclose the impacts on visual resources, such as an undeveloped landscape.
(VSUL 9000) OSM: 1 DEQ: 1 Total: 2

Water

- Thoroughly evaluate and disclose the impacts on water (general).
(WTR 10000) OSM: 241 DEQ: 12 Total: 253
- Thoroughly evaluate and disclose the impacts on surface water quality.
(WTR 10010) OSM: 4 DEQ: 340 Total: 344
- Thoroughly evaluate and disclose the impacts on ground water quality.
(WTR 10020) OSM: 3 DEQ: 341 Total: 344
- Thoroughly evaluate and disclose the impacts on surface water quantity.
(WTR 10030) OSM: 2 DEQ: 2 Total: 4
- Thoroughly evaluate and disclose the impacts on ground water quantity.
(WTR 10040) OSM: 3 DEQ: 2 Total: 5
- The EIS should identify all point sources associated with the mine and power plant.
(WTR 10050) OSM: 0 DEQ: 1 Total: 1
- Thoroughly evaluate and disclose the impacts from storm water discharges from all industrial operations at the Rosebud Mine/Colstrip Station energy complex.
(WTR 10060) OSM: 0 DEQ: 1 Total: 1
- Cumulative impacts of the leaking ash ponds and the leaking surge pond (Castle Rock Lake) should be considered in the impacts analysis for the Armells Creek Drainage.
*(WTR 10070) OSM: 2 DEQ: N/A Total: 2
- Thoroughly evaluate and disclose the potential for successful restoration of the hydrologic balance (specific).
*(WTR 10080) OSM: 240 DEQ: N/A Total: 240
- Thoroughly evaluate and disclose the impacts on alluvial valley floors.
*(WTR 10090) OSM: 236 DEQ: N/A Total: 236
- Make a determination regarding East Fork Armells Creek in the EIS: is it or was it ever ephemeral, what reaches are/were ephemeral, and what impact has past/current strip-mining had on this creek? (specific)
*(WTR 10100) OSM: 1 DEQ: N/A Total: 1

Wetlands and Vegetation

- Thoroughly evaluate and disclose the impacts on wetlands.
(WET 11000) OSM: 1 DEQ: 1 Total: 2

- Thoroughly evaluate and disclose impacts on rare and/or threatened plant species.
*(WET 11010) OSM: 2 DEQ: N/A Total: 2

Wildlife

- Thoroughly evaluate and disclose the impacts on wildlife (general).
(WLDF 12000) OSM: 0 DEQ: 3 Total: 3
- Thoroughly evaluate and disclose the impacts on threatened, endangered, or candidate species that reside in Area F or that will be impacted by the direct, secondary, or cumulative effects of expansion.
(WLDF 12010) OSM: 3 DEQ: 1 Total: 4
- Include an assessment of any potential for take of any listed or candidate species. The analysis area should include the Rosebud Mine/Colstrip Station energy complex area.
(WLDF 12020) OSM: 0 DEQ: 1 Total: 1
- Thoroughly evaluate and disclose the impacts on wildlife habitats and migration corridors.
(WLDF 12030) OSM: 1 DEQ: 2 Total: 3
- Thoroughly evaluate and disclose the impacts on aquatic species, particularly those that are rare or imperiled (e.g., pallid sturgeon).
*(WLDF 12040) OSM: 3 DEQ: N/A Total: 3
- Include potential impacts from the Colstrip power plant, including disposal of coal combustion waste, in the impacts analysis for threatened, endangered, or candidate terrestrial, aquatic, and plant species.
*(WLDF 12050) OSM: 1 DEQ: N/A Total: 1

SUMMARY OF FUTURE ACTIONS

Information collected during the scoping process will assist DEQ and OSM in the development of alternatives and the impact analysis for the Draft EIS (DEIS). DEQ and OSM will develop alternatives or modifications in the DEIS that would appreciably accomplish the same objectives or results as Western Energy's proposal and reduce or eliminate impacts.

There will be a review period after the DEIS is released during which time the public can submit comments on the DEIS. Open houses may also be planned for the DEIS comment period to provide the public the opportunity to ask DEQ and OSM resource specialists questions about the DEIS and to allow the public to directly submit their oral or written comments to DEQ and OSM representatives. The tentative EIS schedule is included in Table 2.

Table 2. Tentative EIS Schedule		
EIS Stage	Timeframe	Public Information or Involvement
1. Initiate EIS Process	Completed	Notice of Intent in the Federal Register and Newsletter
2. Hold Agency and Public Scoping Meetings (MEPA)	Completed	Agency and public scoping open houses – October 16, 2012
3. Hold Agency and Public Scoping Meeting (NEPA)	Completed	Agency and public scoping open house and hearing – September 12, 2013
3. Identify Alternatives to be Studied	Winter 2013 – Spring 2014	
4. Release Draft EIS	Summer 2014	Notice of Availability in the Federal Register and public open houses – Summer 2014
5. Release Final EIS and Issue Record of Decision	Spring 2015	

Note: EIS schedule is tentative and subject to change. This is the anticipated schedule as of November 2013.



Consultants in Natural Resources and the Environment

**APPENDIX A —
OUTREACH MATERIALS**

Open House Schedule

OSM has scheduled an open house and public scoping meeting:

Thursday, September 12th

3:00pm – 4:00pm Open House

4:00pm – 7:00pm Presentations and Public Comment

(Oral comments will be limited to 3 minutes/person)

Isabel Bills Community Center

Multipurpose Room,
520 Poplar Drive
Colstrip, MT

Additional Information

Additional information regarding the proposed Rosebud Mine Area F expansion, including Western Energy's application, can be **found on or requested through** DEQ's Coal Program website and OSM's Western Region website:

<http://deq.mt.gov/ea/coal.mcp>

<http://www.wrcc.osmre.gov/>



How to Provide Scoping Comments

OSM needs your input to identify issues or concerns that should be analyzed in the EIS for the proposed Area F expansion of the Rosebud Mine. You can provide comments in two ways:

1. Attend the scoping open house and meeting on September 12th and provide written and/or oral comments to OSM staff there

2. Send written comments to:

Office of Surface Mining Reclamation and Enforcement, Casper Area Office, Western Region

Attn: Franklin Bartlett, Project Coordinator

PO Box 11018

Casper, WY 82601-7032

E-mail: osm-western-energy-area-f-eis@osmre.gov

Please include your address, phone number, e-mail address, and other personal identifying information in your comment. You should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time.

Please submit all comments by October 11, 2013.

For questions regarding the EIS process, please contact Franklin Bartlett at (307) 261-6543 or fbartlett@osmre.gov.

Office of Surface Mining
Reclamation and Enforcement
PO Box 11018
Casper, WY 82601-7032

Western Energy Company's

Rosebud Coal Mine Area F

Environmental Impact Statement

Scoping Newsletter 2 September 2013



Dear Interested Citizen,

The Office of Surface Mining Reclamation and Enforcement (OSM) and the Montana Department of Environmental Quality (DEQ) are preparing a joint environmental impact statement (EIS) for Western Energy Company's (WECO) proposed Area F expansion of the Rosebud Coal Mine. Approval of the surface mine permit application by DEQ and approval of OSM's mining plan decision document (MPDD) by the U.S. Department of the Interior Assistant Secretary for Land and Minerals (ASLM) would result in an expansion of the Rosebud Mine operation west of Colstrip, Montana, extending mine life by 19 years.

The EIS is being prepared to meet the requirements of the Montana Environmental Policy Act (MEPA) and the National Environmental Policy Act (NEPA); it will help DEQ managers determine whether WECO's mine permit application for Area F should be approved or not, and it will help OSM managers prepare the MPDD for ASLM approval or denial.

Under NEPA and MEPA, the first phase in preparing an EIS is to conduct "scoping." The purpose of scoping is to identify the environmental issues associated with the proposed project. DEQ held its public scoping meetings on October 16, 2012. OSM is now asking the public for comments to help determine the scope of the analysis to be contained in the EIS. Please send your thoughts, ideas, and concerns regarding this proposed mine

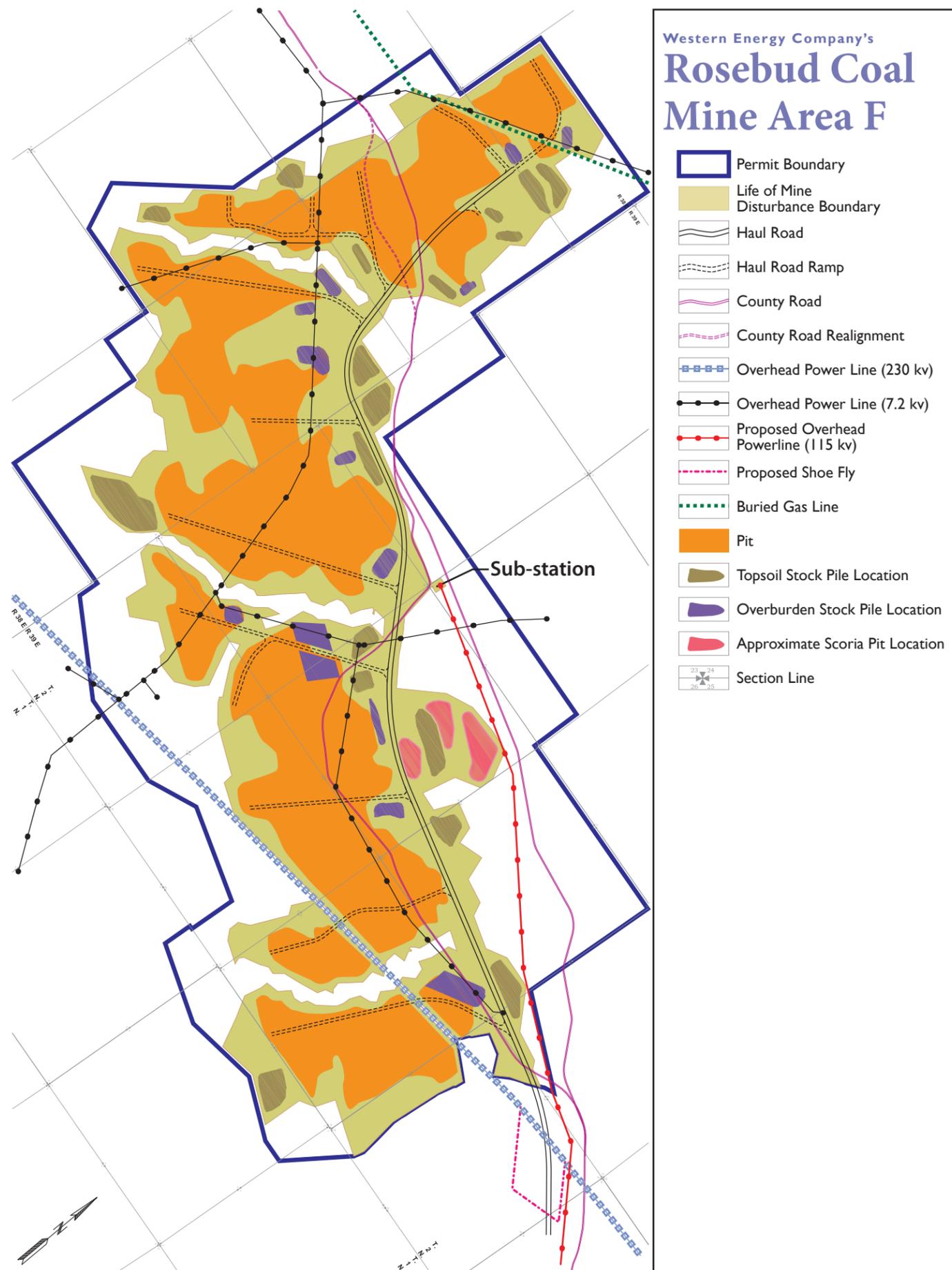
expansion and the issues that should be analyzed in the EIS to OSM by October 11, 2013.

OSM is hosting an open house and public meeting to provide the public with information on the proposed project and an opportunity to submit written and oral comments directly to OSM personnel. The scoping meeting will take place on Thursday, September 12th from 3pm – 7pm at the Isabel Bills Community Learning Center (Multipurpose Room), 520 Poplar Drive, in Colstrip. The open house portion of the meeting will be from 3pm – 4pm. Brief presentations from OSM regarding the EIS process and from WECO regarding the proposed project will begin at 4pm, followed by the opportunity for the public to provide oral and/or written testimony. Oral testimony will be limited to three minutes per person. A court reporter will be on hand to record comments.

We encourage you to attend the open house and meeting and to share your scoping comments with OSM.

Sincerely,


Franklin Bartlett, Coordinator
Office of Surface Mining Reclamation and
Enforcement, Casper Area Office, Western Region



Project Location

The proposed mine area is located in Rosebud and Treasure counties, approximately 12 miles west of Colstrip. Area F would add 6,746 acres to the existing Rosebud Mine. The surface lands of Area F are private, but the subsurface lands are owned by federal and private entities.

Current land uses include grazing land, pastureland, cropland, and wildlife habitat. Tributaries of Horse Creek and West Fork Armells Creek, including Black Hank Creek, Donley Creek, Robbie Creek, and McClure Creek, all of which lie within the drainage of the Yellowstone River, drain the proposed mine area.

Project Description

Beginning in 2015, WECO proposes to mine 2,164 acres within the proposed 6,746-acre Area F permit area and would complete mining operations by 2034. During the first 12 years of production, 4,000,000 tons of coal would be mined annually, with the rate dropping to 3,250,000 tons annually during the last 7 years of production. WECO would utilize an area strip mining method to extract coal. In advance of each mining pass, topsoil, subsoil, and tree soil would be removed from the area

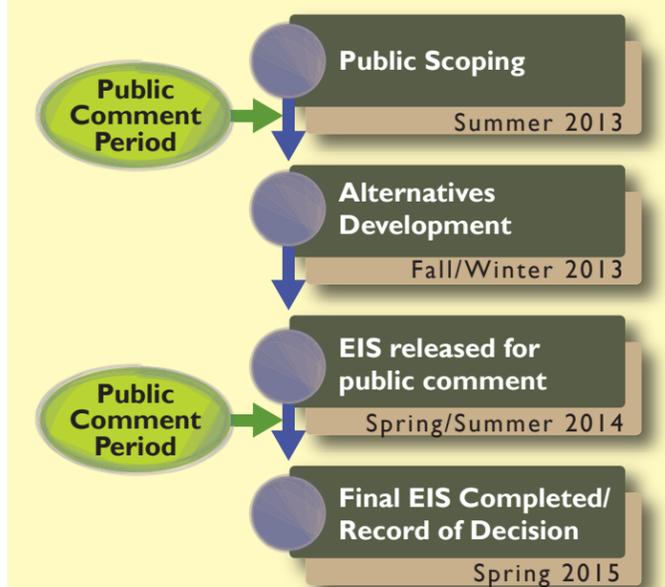


and stockpiled for use later during reclamation. Next, the overburden (sedimentary rock material covering the coal seams) would be drilled and blasted. After leveling the blasted material with a dozer to create a stable work surface, a dragline would then be used to strip the overburden from the mine pass. Overburden would be cast into the mined-out pit created by the preceding pass.

After the dragline exposes the coal seam in each pass, the coal would be drilled and blasted. A loading shovel, front-end loader, or backhoe would load blasted coal into coal haulers. The coal would be transported on an established haul road to Area C. From there, per Western Energy's contract with PPL Montana, most of the coal would be sent via the existing 4.2-mile conveyor to the Colstrip Power Station. Coal with higher sulfur content (an estimated 105,000 tons/year) would be trucked to the Rosebud Power Plant. WECO does not propose to ship any coal from Area F by rail.

Reclamation would be concurrent to and following mining and would facilitate the following post-mine land uses: grazing land, pastureland, cropland, and wildlife habitat.

Project Timeline



**APPENDIX B —
SCOPING OPEN HOUSE ATTENDANCE**

SIGN-IN SHEET

WESTERN ENERGY ROSEBUD MINE AREA F

Public Scoping Meeting

September 12, 2013

Please Print Legibly Name/Agency	Mailing Address	Email Address	Would you like to be on the Western Energy Project EIS Mailing List? Y/N
Name Chaun Scott	Address Box 104 City/Zip Forsyth 59327	ip-news@rangeweb.net	Y
Name Jim Parker	Address 303 N Broadway City/Zip Billings, MT 59101	jimparkereplweb.com	Y
Name Judy Parker	Address 10640 Southridge Rd City/Zip Billings MT		N
Name CLINT MERRIE	Address 3603 ROSEBUD CR. RD City/Zip FORSYTH MT		Y
Name Wally Merrie	Address 3602 Rosebud Cr RD City/Zip Forsyth, MT 59327	-	Y Yes
Name BRAD SAUER	Address 4472 Hwy 39 City/Zip FORSYTH, MT 59327	deecinnce@gmail.com	Y
Name Nick Golder	Address 4472 Hwy 39 City/Zip FORSYTH, MT 59327		Y
Name Olivia Stockman Splinter	Address 220 S. 27th St. Ste. A City/Zip Billings MT 59101	olivia@northernplains.org	Y
Name John White	Address Po Box 745 Colstrip MT 59323		
Name Lymon Ty Morin	Address Box 672 City/Zip Ashland MT 59003		
Name Mike Scott	Address 2020 Tired Man Rd City/Zip Billings MT	mike.scott@sierraclub.org	Y

g

←

SIGN-IN SHEET

WESTERN ENERGY ROSEBUD MINE AREA F

Public Scoping Meeting

September 12, 2013

Please Print Legibly Name/Agency	Mailing Address	Email Address	Would you like to be on the Western Energy Project EIS Mailing List? Y/N
Name Rusty Batie	Address PO Box 2361 City/Zip Colstrip, MT	rbatie@westmoreland.com	Y
Name Gary W. Parry	Address P.O. Box 465 City/Zip Colstrip, MT	gparry@westmoreland.com	Y
Name Angela McDaniel	Address PO Box 20091 City/Zip Helena 59620		
Name Emily Hinz	Address v ↓ .. City/Zip		
Name Franklin Bartlett	Address City/Zip	fbarlett@osmre.gov	
Name JEFF FLEISCHMAN	Address 150 EAST B ST City/Zip CASPER WY 82601	jfleischman@osmre.gov	
Name Melissa Sjolund	Address City/Zip	msjolund@mt.gov	
Name Jeffrey F. Herrick	Address City/Zip		
Name Nate Arave	Address City/Zip	Narave@BLM.gov	
Name Dicki Peterson	Address City/Zip	dpeterson@westmoreland.com	
Name Rich Spang	Address City/Zip	rspang@westmoreland.com	

SIGN-IN SHEET

WESTERN ENERGY ROSEBUD MINE AREA F

Public Scoping Meeting

September 12, 2013

<p style="text-align: center;">Please Print Legibly</p> <p style="text-align: center;">Name/Agency</p>	<p style="text-align: center;">Mailing Address</p>	<p style="text-align: center;">Email Address</p>	<p style="text-align: center;">Would you like to be on the Western Energy Project EIS Mailing List?</p> <p style="text-align: center;">Y/N</p>
Name Robert Smith) MTDEA	Address City/Zip		
Name Daniel Muñoz W/ECO	Address P.O. Box 99 City/Zip Colstrip, MT	Dmunoz@westmureland.com	Y
Name Chris Yde	Address City/Zip		
Name Peter Mahrt	Address P.O. Box 2377 City/Zip Colstrip, MT		
Name Jackie Mappherson	Address City/Zip		
Name	Address City/Zip		

SIGN-IN TO GIVE PUBLIC TESTIMONY
WESTERN ENERGY ROSEBUD MINE AREA F
Public Scoping Meeting
 September 12, 2013

You must sign-in to provide oral testimony during this public meeting. **Please provide your name and contact information on the public meeting sign-in sheet as well.** You will be called to testify in the order listed below. Oral testimony will be limited to 3 minutes per person. A court reporter will prepare a transcript of your testimony for the public record.

Order of Testimony	Please Print Legibly Name/Agency/Organization
1	Name <u>Wesley [Signature]</u>
2	Name <u>BRAD SAUER</u>
3	Name <u>CCMIT WILSON</u>
4	Name <u>Nick [Signature]</u>
5	Name
6	Name
7	Name
8	Name
9	Name
10	Name

APPENDIX C — LIST OF DISPLAY BOARDS AT PUBLIC MEETINGS

- 1) NEPA and MEPA
- 2) Major Federal and State Permits and Approvals
- 3) Wetlands, Springs, Ponds & Cold-Blooded Vertebrates
- 4) Wildlife & Vegetation
- 5) Surface Water Quality & Flows
- 6) Ground Water Quality & Flows
- 7) Ground Water Modeling
- 8) Geology: Coal Seam Characteristics & Overburden Suitability
- 9) Geology: Cross-sections (part 1)
- 10) Geology: Cross-sections (part 2)
- 11) Soils
- 12) Land Use and Reclamation
- 13) Project Map

**APPENDIX D —
OSM SCOPING PROCESS COMMENTS & CODES**

LIST OF OSM SCOPING PROCESS COMMENTERS

Commenter #	Organization	Name	Included in Scoping Report
361		candyo_1@juno.com	*
362		Blevins, Auzie	*
363		Follett, Carol	*
364		McCanse, Roberta	*
365		Hoem, Harold Hoem, Jan	*
366		Brown, Virjeana	*
367		Werner, John	*
368		Hake, Buffy	*
369		DiMauro, Sandra	*
370	PPL Montana, LLC	Parker, Jim	*
371		Newman, Joe	*
372		McClain, Leslie	*
373		Ferrell, Doug	*
374	Booth Land & Livestock	Booth, Mark	*
375	ForceChange.com	Engelfried, Nick	*
376	Northern Plains Resource Council	Splinter, Olivia Stockman	*
377	WildEarth Guardians	Nichols, Jeremy	*
378		Woodcock, Charlene M.	*
379		Narcisco, Claudia	*
380	Western Environmental Law Center, on behalf of the Montana Environmental Information Center and the Sierra Club	Hernandez, Shilo	*
381		Moffitt, Jeni	
382		Nitz, Jennifer	
383		Matthews, Jonathan	
384		McRae, Wally	*
385		Sauer, Brad	*
386		McRae, Clint	*
387		Golder, Nick	*
388	U.S. Department of the Interior, National Park Service	Swanke, Denice	*
389		Perhay, Robert	
390		Ross, Christine	
391		Lingerfelt, Sherry	

Commenter #	Organization	Name	Included in Scoping Report
392		Gordon, Julia	
393		Scown, Patricia	
394		Wolff, Michele	
395		Riddle, Dagmar	
396		Houghton, Sibby	
397		Averill, Carol	
398		Roberts, Mary	
399		Harrington, Jen	
400		Mcglynn, Fred	
401		Dettman, Jim	
402		Riley, Karin	
403		Bertelsen-James, Jan	
404		Spicha, Joe	
405		Copeland, Jeanette	
406		Spiess, Gretchen	
407		Monahan, Brian	
408		Grindinger, Ruth	
409		von Hoffman, Mari	
410		McCanse, Roberta	
411		Peterson, Terence	
412		Glueckert, Bev Beck	
413		Moon, D	
414		Cochrane, Stephanie	
415		Cook, Irene	
416		Beale, David	
417		Mcfadden, H	
418		Byron, Lori	
419		Hanna, Virginia	
420		Armstrong, April	
421		Skare, Dianna	
422		Roby, April	
423		Hanna, Marl	
424		Janover, Sally	
425		Brigham, Sara	
426		Mckay, Michael	
427		Limberhand, Joe	
428		Buchner, Denise	
429		Nagel, Clinton	

Commenter #	Organization	Name	Included in Scoping Report
430		Zimmer, David	
431		Mavor, Susan Mavor, Doug	
432		Perrine, Danielle	
433		Cacopardo, Linda	
434		Case, Jewell	
435		Miller, Robert R.	
436		Hall, Pamela	
437		Bianchi, Don	
438		Mortimer, Wayne	
439		Holzer, Julie	
440		Chandler, Lowell	
441		Thompson, Anne	
442		Jordan, Gil	
443		Ryan, Jennifer	
444		Buehler, Lisa	
445		Whittinghill, Susan	
446		Hardiman, Lisa	
447		Petty, Amy	
448		Wade, Frances	
449		Callahan, Chris	
450		Wilcox, Christine	
451		Mcdougal, Susan	
452		Irish, Renee	
453		Baker, Dorothy	
454		Sennett, Clinton	
455		Kasala, Vicky	
456		Weilage, Krystal	
457		Allison, Janet	
458		Sperandio, Gigliola	
459		Erwin, Keith	
460		Green, Gabriella	
461		Lehnherr, David	
462		Strode, Debra	
463		Wiancko, Judith	
464		Hill, Marilyn	
465		Zizildag, Halme Ebru	
466		Merrell, Scott	

Commenter #	Organization	Name	Included in Scoping Report
467		Drissell, Eric	
468		Bradley, Alan	
469		Starr, Ronna	
470		Mueller, Debbie	
471		Nolan, Monty	
472		Jennings, Gerry	
473		Britain, S. Wolf	
474		Love, Brad	
475		Huygens, Oscar	
476		Schrock, Rob	
477		Baum, Bill	
478		Ashmore, Tara	
479		Rosch, Re	
480		Muhs, Ted	
481		Mcarthur, Steven	
482		Wolf, Jennifer	
483		Allred, Susan	
484		Pereau, Arliss	
485		Moor, Jay	
486		Bacon, David	
487		Carlson, Kay	
488		Reed, Clay	
489		Patterson, Tana	
490		Kijewski, Kenneth	
491		Brown, Virjeana	
492		Adams, Ellen	
493		Posey, Paula	
494		Kaiser, Robert	
495		Kimbler, Elaine	
496		Sherman, Roger	
497		Stewart, Sarah	
498		Hyde, Kathy	
499		Poulsen, Pamela	
500		Seward, Alice	
501		Veik, Roger	
502		Busch, Chris Busch, Dorothy	
503		Lorentz, Marcie	

Commenter #	Organization	Name	Included in Scoping Report
504		Jones, Leland	
505		Lipmanson, Patricia	
506		Clarion, Susan	
507		Walter, Amber	
508		Hagan, Doug Hagan, Carolinn	
509		Kovats, A.B.	
510		Taylor, Marilyn	
511		Wright, Charles	
512		Goehring, Dan	
513		Dixon, Lynne	
514		Walker, Annette Walker, John	
515		Owens, Mary	
516		Baillio, Chris	
517		Kikpatrick, Sunshine	
518		Carey, Robin	
519		Guay, Ralph	
520		Auringer, E. Ita	
521		Dillon, Hester	
522		Elliott, Susan	
523		Handsaker, Heidi	
524		Pahre, James	
525		Crow, Byron	
526		Williams, Erin	
527		Lowe, Catherine	
528		Perryman, Toddy	
529		Standlee, Donna	
530		Wertz, Lori	
531		Cooper, Catherine	
532		Tatz, Janet	
533		Bach, Orville	
534		Thibaudeau, Mary	
535		Gibbs, Rene	
536		Mahle, Peggy	
537		Jack, Gene	
538		Krebill, Kerry	
539		O'Mara, Maureen	
540		James, Jackie	

Commenter #	Organization	Name	Included in Scoping Report
541		Vignere, Joel	
542		Barrow, D	
543		Hoyt, Michael	
544		Daniels, Joan	
545		Lamma, Richard	
546		Dolan, Tim	
547		Peterson, David	
548		Stubbs, Marvelyn	
549		Silverstone, Robert	
550		Watterson, Susan	
551		Sullivan, Dan	
552		Logie, Tim	
553		Renne, Karen	
554		Matthews, Catherine	
555		Braun, Nancy	
556		Shaver, James P	
557		Dewolfe, F Owen	
558		Miller, Marlene	
559		Mlynarek, Angela	
560		Letson, William	
561		Schupbach, Sherry	
562		Jivelekas, George	
563		Lewis, Rick	
564		Aten, Ray Aten, Cynthia	
565		Dockstader, Brian	
566		Mystic, Jacquelyn	
567		Sheldon, Christine	
568		Kreitzer, Jennifer	
569		Madden, James	
570		Wulf, Irene	
571		Purcell, Carrie	
572		Bateman, Guy	
573		Haug, Catherine	
574		O'Connell, Mike	
575		Jordan, Linda	
576		Christenot, P	
577		Spaan-Raymond, Penni	

Commenter #	Organization	Name	Included in Scoping Report
578		Gleaves, Glen	
579		Joslin, Gayle	
580		Taylor, Michelle	
581		Latendresse, Wanda	
582		Clark, Jeannie	
583		Black, Laura	
584		Engelfried, Nick	
585		Carey, Genevieve	
586		Cogswell, Jerald M	
587		Sommers, Myra	
588		Harrington, Jen	
589		Sharp, Marisa	
590		Kelly, Aaron	
591		Kubina, Kyle	
592		Mossett, Kandi	
593		Bennett, Amie	
594		Green, Dorie	
595		Stenseth, Ross	
596		Dunk, Rochelle	
597		Parker, Keith	
598		Schultz, Wm	
599		Sanders, Clarence	
600		Hunner, Bruce	
601		Pritchard, Joyce	
602		Robson, Ella	
603		Zajic, Gary	
604		Skousen, Stan Skousen, Connie	
605		Messenger, Cheri	
606		Lemac, Pam	
607		Kelly, Terry	
608		Dunkum, John	
609		Shaw, Charles	
610		Mcallister, Jean	
611		Glenn, Cheryl	
612		Chaney, Randy	
613		Chazot, Valérie	
614		Murphey, Jim	

Commenter #	Organization	Name	Included in Scoping Report
615		Kelly, Julie Dietrich	
616		Haukebo, Jennifer	
617		Nix, Eric	
618		Busch, L	
619		Barnes, Douglas	

CONTENT ANALYSIS CODES

Subject Code	Category Code	Definition
AIR	100	Air Quality - General
	110	Air Quality - Health Standards
	120	Air Quality - Methane Emissions
	130	Air Quality - Previous EIS analyses
AR	200	Acid Rain
AG	14000	Impacts to Agricultural Production & Surface Use (General)
	14010	Impacts to Ranching and Grazing Access
ALTS	300	Alternatives - PPL Not the Only Potential Consumer
	310	Alternatives - Limit Tonnage/Acreage
	320	Alternatives - Underground Mining
	330	Alternatives - Alternative Energy/Conservation
	340	Alternative Land Uses - Environmental/Economic Stability
BOND	400	Bonding - WECO's ability to pay for reclamation
	410	Bonding - Use and Disposal of Coal Combustion Waste (CCW) at the Mine Site
	420	Bonding - Remediation of CCW at Power Station
	430	Bond Release for Reclaimed Portions of Other Permit Areas
	440	Bonding - Account for Inflation
	450	Bonding - Include Cost to Re-establish the Hydrologic Balance
CLIM	500	Impacts of Coal Mining on Climate Change - General
	510	GHG Emissions and Impacts of Power Plant Coal Combustion
	520	Impacts of Climate Change on MT's Land and Resources
	530	Impacts of Climate Change on MT's Economy and Society
	540	Include Current Impacts in EIS Affected Environment Sections
	550	Include Extreme Climate Change Impacts and the Potential to Exacerbate Mine/Power Plant Impacts in the EIS
CSES	600	Colstrip and Rosebud Power Plants - Direct (Primary), Indirect (Secondary) and Cumulative Impacts (General)
	610	Coal Ash Disposal Locations
	620	Colstrip Power Plant - Mercury Pollution
	630	Storage of CCW
CA	13000	Cooperating Agency - EPA
CULT	700	Cultural/Historic Resources
	710	Section 106 Compliance
	720	Impacts to Cultural/Historic Resources of Native Peoples
	730	Consult with Neighboring Tribes
	740	Pre-coal Development Historical Baseline
ECON	800	Socioeconomic Cost of Mining and Burning Coal
	810	Socioeconomic Benefit of Mining and Burning Coal

Subject Code	Category Code	Definition
	820	Evaluate the Cost of Coal-Generated Power Versus the Cost of Other Energy Methods/Conservation
ENJ	900	Health problems on Tribal and Adjacent Lands
	910	Indian Health Services Data
	920	Include Reservations in the Analysis Area
	930	Impacts of Resources Development on Native Cultures (Socially, Culturally, etc.)
	940	EIS Public Meetings in Lane Deer
	950	Historic and Potential for Future Negative Economic Impacts to the Northern Cheyenne
	960	Consider the Impacts of Climate Change on Environmental Justice, Particularly for Native American Communities
	HLTH	1000
1010		Health/Safety Hazards of Shipping Coal
1020		Health Risks of Storing, Using, and Transporting Toxic Chemicals
1030		Impacts of Arsenic
1040		Health/Safety Hazards of Coal Slurry
1050		Evaluate Mercury Levels in Fish (Human Health)
IA	1100	Direct (Primary), Indirect (Secondary), and Cumulative Impacts
	1110	Related Past, Present, and Future Mining Actions (General)
	1120	Do Not Include Coal Consumption at Colstrip or the Rosebud Power Plants in Impacts Analysis
	1130	Analyze the Colstrip and Rosebud Power Plants as Connected Actions to the Rosebud Mine (NEPA)
	1140	Scope: Analyze Development of All Lands which WECO Currently Leases (Specific)
LND	1200	Land Pollution
LIT	1300	Light Pollution
MAP	15000	Include Recognizable Landmarks on EIS Maps
MISC	1400	Other Misc. Comments
MIT	1500	Mitigate Secondary and Cumulative Impacts to Air Quality/Climate
	1510	Mitigation Measures for Water Pollution
	1520	Decrease Existing SO2 Emissions
	1530	Low/No Emissions Equipment
	1540	Offsite Mitigation/Compensation for Mine and Power Plants' CO2 Emissions
NSE	1800	Noise Impacts
PS	1900	Position Statement: Pro-Expansion of the Rosebud Mine
	1910	Position Statement: Anti-Expansion of the Rosebud Mine
PURP	2000	Proposed Use and Location of Use of Area F Coal
	2010	Need for Coal and Coal-Fired Power Production
	2020	Alternatives to Coal (Energy)
	2030	Coal Mining Beneficiaries

Subject Code	Category Code	Definition
	2040	Short-Term Benefits versus Long-Term Costs of Mining
	2050	Purpose and Need: Generation of Electricity
RECL	3000	Potential for Successful Reclamation (Revegetation)
	3010	Reclaim and Attain Standards on Other Mine Permit Areas Prior to Approving Expansion
	3020	Consider Climate Change Impacts to Reclamation Success
REC	4000	Impacts to Recreation Opportunities
REG	5000	MT Constitution - Right to a Clean & Healthful Environment
	5010	Joint MEPA/NEPA Analysis
	5020	Compliance with CWA and SMCRA
	5030	MEPA Analysis for Coal Lease
SOIL	16000	Collect Baseline Soils Data
THY	6000	Thank You for Your Comment
TOX	7000	Release and Storage of Toxic Waste at the Mine and Power Station
	7010	Financial Liability for Toxic Waste at Closure
TRANS	8000	Condition of & Impacts to Rail Lines (Used for Shipping)
	8010	Condition of & Impacts to Roads (Used for Hauling)
	8020	Impacts of Coal Handling, Hauling, and Transport (General)
VSUL	9000	Visual Resources
WTR	10000	Water (General)
	10010	Surface Water Quality
	10020	Ground Water Quality
	10030	Surface Water Quantity
	10040	Ground Water Quantity
	10050	Identify Point Sources at the Mine and Power Plant
	10060	Impacts of Stormwater Discharge
	10070	Cumulative Impacts of Leaking Ash Ponds and Leaking Surge Pond
	10080	Potential to Restore the Hydrologic Balance (Specific)
	10090	Alluvial Valley Floors
	10100	East Fork Armells Creek - Ephemeral (Specific)
WET	11000	Impacts to Wetlands
	11010	Impacts to Rare and/or Threatened Plant Species
WLDF	12000	Wildlife (General)
	12010	Threatened, Endangered or Candidate Species
	12020	Potential for Take of Listed or Candidate Species
	12030	Impacts to Wildlife Habitats & Migration Corridors
	12040	Impacts to Aquatic Species, Especially Rare and Imperiled
	12050	Power Plant and CCW Impacts to Threatened, Endangered or Candidate Species

361

From: fbartlett@osmre.gov on behalf of [Western-Energy-Area-F-EIS, OSM](#)
To: [Nicole Bauman](#)
Cc: [Emily Corsi](#)
Subject: Fwd: Area F Rosebud Coal Mine expansion
Date: Thursday, September 05, 2013 11:34:19 AM

Nicole,

NOI comment (1 of 4).

Frank B.

----- Forwarded message -----

From: candyo_1@juno.com <candyo_1@juno.com>
Date: Sat, Aug 31, 2013 at 10:38 AM
Subject: Area F Rosebud Coal Mine expansion
To: osm-western-energy-area-f-eis@osmre.gov

PS 1910

My opposition to the expansion rests mostly on the release of CO2 from the coal mined there. We cannot continue utilizing coal the worst of the fossil fuels.

As the use of coal as an energy source is declining due to conversion to natural gas this coal will more than likely be exported but the pollution will still be emitted and affect the atmosphere.

CLIM 500

Living in Pennsylvania a big coal producer you can easily see the aftermath of coal mining. Ramshackle towns surrounded by the detris of coal mines abandon once they were no longer profitable leaving the folks there with huge environmental problems and no hope for the future.

Forty percent of Pa. streams our polluted with runoff from abandon mines leaving them lifeless and unuseable.

The long and short of it is that coal mining and consumption is an environmental disaster from beginning to end so why give approval for expansion?

THY 6000

362

From: fbartlett@osmre.gov on behalf of [Western-Energy-Area-F-EIS, OSM](#)
To: [Nicole Bauman](#)
Cc: [Emily Corsi](#)
Subject: Fwd: Comment on Rosebud Coal Mine Expansion
Date: Thursday, September 05, 2013 11:35:06 AM

Nicole,

NOI comment (2 of 4).

Frank B.

----- Forwarded message -----

From: **Auzie or Marilyn Blevins** <albmvb@montanainternet.net>
Date: Mon, Sep 2, 2013 at 10:56 AM
Subject: Comment on Rosebud Coal Mine Expansion
To: osm-western-energy-area-f-eis@osmre.gov
Cc: Gray Harris <grayharris1946@outlook.com>, John Boehmke <jebjrb@yahoo.com>

Dear Sir or Madam:

I have just one comment on the proposed expansion: This Nation should not be expanding any coal mines, and should in fact be working towards shutting down existing mines and shifting to natural gas for power generation. Burning of coal as a fossil fuel is a major source of green house gasses which cause global warming, not to mention a host of other air pollutants. Global warming, if not slowed, is going to cost this country trillions of dollars. This cost will accrue due to increased climatic temperatures, with devastating impact on agricultural systems around the world. Costs will also result from significant rise in ocean levels. I just received my latest copy of National Geographic which contains maps showing areas around the world, and significantly, in the United States, which will be inundated by rising seas in the not too distant future. In fact, we are already paying the price from rising ocean levels, witness the billions in damages along our east coast caused by Hurricane Sandy. The Rosebud Mine should not be expanded; it should be phased out while meeting existing contracts, and eventually closed.

CLIM 510

PS 1910

Thank you for the opportunity to comment.

Auzie Blevins
3328 Aquí Esta Drive
Billings MT 59101

363

From: fbartlett@osmre.gov on behalf of [Western-Energy-Area-F-EIS, OSM](#)
To: [Nicole Bauman](#)
Cc: [Emily Corsi](#)
Subject: Fwd: The Western Energy Company (WECO) Area F of the Rosebud Coal Mine, near Colstrip
Date: Thursday, September 05, 2013 11:35:36 AM

Nicole,

NOI comment (3 of 4).

Frank B.

----- Forwarded message -----

From: **carol follett** <cafollett@gmail.com>
Date: Mon, Sep 2, 2013 at 12:20 PM
Subject: The Western Energy Company (WECO) Area F of the Rosebud Coal Mine, near Colstrip
To: osm-western-energy-area-f-eis@osmre.gov

I am writing to you to express my concern for The Western Energy Company's proposition to expand mining operations into Area F of the Rosebud Coal Mine.

Mining, transporting and burning coal is known to cause severe environmental and human health impacts. I am asking that you study the entire cumulative impact of this additional extraction operation, transportation and use of this coal.

CLIM 500
HLTH 1020
CLIM 510

Please examine the economic cost due to illnesses which will be increased, aggravated or caused by the extraction operation, transportation and use of this coal and factor this into the cost benefit analysis for this project.

ECON 810
HLTH 1000
HLTH 1010

Please also consider the economic impact of the increased use and availability of other energy sources combined with the falling value of coal due to its over supply (Bloomberg, 2013).

PURP 2020
ECON 820

Please determine if this permanent damage to our environment and the depletion of our resources from this expansion is a foolish and unnecessary risk.

Sincerely,
Carol Follett

2605 Lakeridge Lane
Bellingham, WA 98226
(360) 671-0434

364

From: fbartlett@osmre.gov on behalf of [Western-Energy-Area-F-EIS_OSM](#)
To: [Nicole Bauman](#)
Cc: [Emily Corsi](#)
Subject: Fwd: Western Energy expansion of Rosebud mine
Date: Thursday, September 05, 2013 11:36:01 AM

Nicole,

NOI comment (4 of 4).

Frank B.

----- Forwarded message -----

From: **Roberta McCanse** <robertamcc8@gmail.com>
Date: Mon, Sep 2, 2013 at 2:36 PM
Subject: Western Energy expansion of Rosebud mine
To: osm-western-energy-area-f-eis@osmre.gov

As someone who lives in Libby, MT I see, daily, evidence of the damage that can be done by mining companies that are not restricted by a close and watchful public eye.

Where profit is a motive compassion and attention to public health almost always take a back seat. Environmental impact and threats to public health, long term as well as immediate, must be carefully examined and restrictions carefully designed to prevent another disaster such as is being suffered in Libby.

IA 1100

ENT 900

Roberta McCanse
270 Indian Pipe Rd
Libby, Mt 59923
robertamcc8@gmail.com

365

From: fbartlett@osmre.gov on behalf of [Western-Energy-Area-F-EIS_OSM](#)
To: [Emily Corsi](#)
Cc: [Nicole Bauman](#)
Subject: Fwd: "No" to Westmorland Coal mining expansion at Rosebud
Date: Tuesday, October 01, 2013 9:27:27 AM

Emily,

Comment 1 of 4.

Frank b.

----- Forwarded message -----

From: **Harold Hoem** <haroldandjan@gmail.com>
Date: Mon, Sep 30, 2013 at 3:44 PM
Subject: "No" to Westmorland Coal mining expansion at Rosebud
To: osm-western-energy-area-f-eis@osmre.gov

We strongly oppose the expansion of the Westmorland Coal mine at Rosebud. The water in the area has already been negatively affected by current mining, and expansion would exacerbate the problem. Westmorland Coal does not have a good track record. If your EIS is thorough, we are certain you will come to the same conclusion. Look at the health impacts of burning this coal at Colstrip, one of the dirtiest coal-fired power plants in the nation. It has been burning Rosebud Coal all these years. It's time we looked at the bigger picture and required Colstrip to fix the plant before any more coal is supplied to them. We have visited Rosebud and Colstrip this summer and sincerely believe enough is enough.
Thank you for your work.
Harold and Jan Hoem

PS 1910
WTR 10000
HLTH 1000
CSES 600

366

From: fbartlett@osmre.gov on behalf of [Western-Energy-Area-F-EIS, OSM](#)
To: [Emily Corsi](#)
Cc: [Nicole Bauman](#)
Subject: Fwd: Westmoreland Coal
Date: Tuesday, October 01, 2013 9:29:49 AM

Emily,

Comment 2 of 4.

Frank B.

----- Forwarded message -----

From: **Virjeana Brown** <jbrown89531@live.com>
Date: Mon, Sep 30, 2013 at 5:47 PM
Subject: Westmoreland Coal
To: osm-western-energy-area-f-eis@osmre.gov

The U.S. Office of Surface Mining (OSM) and the Montana Department of Environmental Quality (DEQ) are preparing a joint environmental impact statement on Westmoreland's proposed expansion, and are currently collecting comments from the public on the scope of this analysis. I ask that your analysis is robust and fully analyzes the major environmental impacts this proposal would have.

1A 1100

Water quality has already been severely impaired by Westmoreland's current mining activities. DEQ has said that Westmoreland's Rosebud coal mine is the probable source of pollutants. Mining laws prohibit activities that may cause "material damage" to waterways outside of permit boundaries. However, Westmoreland is moving ahead with its permit application anyway.

WTR 10000

Westmoreland Coal Company is proposing this greedy and reckless expansion at a time when we are seeing rapid changes in our energy system. Coal is becoming an outdated form of energy production because of its disproportionate impact on our environment and public health. Last week the Intergovernmental Panel on Climate Change issued a report that reinforced the destructive impacts that human caused climate change is having on our environment and public health. It's time we chart a path to a clean energy future, not continue to unnecessarily rely on outdated and dangerous coal.

THY 6000

Respectfully,
Virjeana Brown

#367

From: fbartlett@osmre.gov on behalf of [Western-Energy-Area-F-EIS, OSM](#)
To: [Emily Corsi](#)
Cc: [Nicole Bauman](#)
Subject: Fwd: Westmorland Coal Expansion at Rosebud Mine
Date: Tuesday, October 01, 2013 9:30:00 AM

Emily,

Comment 3 of 4.

Frank B.

----- Forwarded message -----

From: **J. Kirwin Werner** <jkw@ronan.net>
Date: Mon, Sep 30, 2013 at 6:29 PM
Subject: Westmorland Coal Expansion at Rosebud Mine
To: osm-western-energy-area-f-eis@osmre.gov

Ms/Sir:

In face of the clear and eminent dangers associated with Global Warming, I strongly oppose Westmorland Coal Co. expansion of the Rosebud Mine in Montana. How much of the earth and its ecosystems must we destroy to satisfy corporate greed?
John Werner

PS 1910

368

From: fbartlett@osmre.gov on behalf of [Western-Energy-Area-F-EIS](#), OSM
To: [Emily Corsi](#)
Cc: [Nicole Bauman](#)
Subject: Fwd: Rosebud mine
Date: Tuesday, October 01, 2013 9:31:05 AM

Emily,

Comment 4 of 4.

Thank you and OSM will hopefully be back to work soon.

Frank B.

----- Forwarded message -----

From: **Buffy** <bshake@wtechlink.us>
Date: Tue, Oct 1, 2013 at 5:58 AM
Subject: Rosebud mine
To: osm-western-energy-area-f-eis@osmre.gov

I am against any expansion of the Westmoreland mine.

PS 1910

Water quality has already been severely impaired by Westmoreland's current mining activities. DEQ has said that Westmoreland's Rosebud coal mine is the probable source of pollutants. Mining laws prohibit activities that may cause "material damage" to waterways outside of permit boundaries.

WTR 10000

Westmoreland Coal Company is proposing this greedy and reckless expansion at a time when we are seeing rapid changes in our energy system. Coal is becoming an outdated form of energy production because of its disproportionate impact on our environment and public health. Last week the Intergovernmental Panel on Climate Change issued a report that reinforced the destructive impacts that human caused climate change is having on our environment and public health. It's time we chart a path to a clean energy future, not continue to unnecessarily rely on outdated and dangerous coal.

THY 6000

Buffy Hake
49591 River Rd
Pendleton, OR. 97801

369

From: fbartlett@osmre.gov on behalf of [Western-Energy-Area-F-EIS, OSM](#)
To: [Emily Corsi](#)
Cc: [Nicole Bauman](#)
Subject: Fwd: No to coal!
Date: Tuesday, October 01, 2013 9:32:02 AM

Emily,

Just received another comment, so this would be 5 of 5.

Frank B.

----- Forwarded message -----

From: **Miked** <miked1675@aol.com>
Date: Tue, Oct 1, 2013 at 9:30 AM
Subject: No to coal!
To: osm-western-energy-area-f-eis@osmre.gov

Coal is becoming an outdated form of energy production because of its disproportionate impact on our environment and public health.

THY 6000

Sandra DiMauro
4215 7th Ave. No.
Great Falls, MT 59405

370

From: fbartlett@osmre.gov on behalf of [Western-Energy-Area-F-EIS, OSM](#)
To: [Nicole Bauman](#)
Cc: [Emily Corsi](#)
Subject: Fwd: Scoping Comments to Office of Surface Mining Reclamation and Enforcement ("OSM") - Western Energy Rosebud Mine Area F Expansion Environmental Impact Statement ("Area F EIS")
Date: Thursday, October 17, 2013 3:46:00 PM
Attachments: [Scoping Cmts Cover Letter - OSM.pdf](#)
[Enc 1of2 -Scoping Cmts Final Submittalr 2Nov2012.pdf](#)
[Enc 2of2 MDEQ Response to Comments - TRD 0513-08, P 33.pdf](#)

----- Forwarded message -----

From: **Parker, James M** <jmparker@pplweb.com>
Date: Fri, Oct 11, 2013 at 9:16 AM
Subject: Scoping Comments to Office of Surface Mining Reclamation and Enforcement ("OSM") - Western Energy Rosebud Mine Area F Expansion Environmental Impact Statement ("Area F EIS")
To: "osm-western-energy-area-f-eis@osmre.gov" <osm-western-energy-area-f-eis@osmre.gov>
Cc: "fbartlett@osmre.gov" <fbartlett@osmre.gov>, "jherrick@mt.gov" <jherrick@mt.gov>

Attached please find the subject comments from PPLMT. These comments consist of a cover letter and two enclosures, comprising the three attachments to this email. Please let me know if you should have any questions.

We appreciate the opportunity to comment on this important matter.

James M Parker, PE
Mgr ECS
PPL Montana, LLC
303 N Broadway, Ste 400
Billings, MT 59101
406 237-6932

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James M Parker
Manager – Compliance Services, Env.
PPL Montana, LLC
303 N. Broadway, Suite 400
Billings, MT 59101
Tel. 406.740.9998 Fax 406.237.6901
jmparker@pplweb.com



October 11, 2013

-VIA Electronic Mail -

Mr. Franklin Bartlett, Project Coordinator
Office of Surface Mining Reclamation and Enforcement
Casper Area Office, Western Region
PO Box 11018
Casper, WY 82601-7032

Re: *Scoping Comments to Office of Surface Mining Reclamation and Enforcement (“OSM”) -
Western Energy Rosebud Mine Area F Expansion Environmental Impact Statement
 (“Area F EIS”)*

Dear Mr. Bartlett:

On August 27, 2013, OSM issued a Notice of Intent to Initiate Public Scoping and Prepare an Environmental Impact Statement for Area F of the Rosebud Coal Mine, Rosebud and Treasure Counties, Montana. 78FR52967. OSM and Montana Department of Environmental Quality (“MDEQ”) also jointly hosted a public scoping meeting in Colstrip, Montana on September 12, 2013. OSM and MDEQ are requesting “scoping” comments from the public to “identify the environmental issues associated with the proposed project”. *Area F EIS Scoping Newsletter #2.*

In November, 2012, PPL Montana, LLC (“PPLM”), submitted scoping comments to the MDEQ in regard to the Area F EIS. These comments are enclosed. PPLM would like to reiterate several points expressed in those comments.

First, PPLM believes it inappropriate to consider air quality impacts from downstream consumption by any potential consumer of Area F coal, including Colstrip Units 3 & 4 Steam Electric Station (“CSES”) ¹. Other than being a current and potential future customer, CSES is not related in any other way to the Rosebud surface coal mine. MDEQ has already given an opinion to this effect during renewal of CSES’ Title V permit. This opinion is also enclosed. Second, a comprehensive EIS, based upon the consumption of substantially similar coal to that of Area F, was conducted prior to the initial permitting for CSES. Air emissions from CSES are and always have been well regulated by the permits received for the facility. Third, we would like to emphasize that should CSES consume Area F coal, this consumption would be in full compliance with all applicable regulations, using the existing state of the art and very efficient pollution control systems that have demonstrated a great capability to control emissions from consumption of Rosebud Seam coal. Finally, if OSM and DEQ choose to include ultimate

IA 1120

AIR 130

¹ PPLM has an ownership interest in and operates the CSES.

ECON 810
ECON 800

consumers of coal in its analysis, then you should include all positive, as well as negative, impacts. Specific information about these positive impacts with respect to CSES is available from many sources. The report, The Economic Contribution of Colstrip Steam Electric Station Units 1-4, offers valuable information about the positive impacts of CSES. The report has previously been provided to MDEQ and is also available at the following link: www.colstripeconomicreport.com.

PPLM appreciates the opportunity to comment on the Area F EIS and thanks OSM and MDEQ for your thorough review and consideration of the attached comments. Should you have any questions, please contact me.

Sincerely,



James M Parker, PE
Manager, Environmental Compliance Services
JMP/jmp

Enclosures

James M Parker
Manager – Compliance Services, Env.
PPL Montana, LLC
303 N. Broadway, Suite 400
Billings, MT 59101
Tel. 406.740.9998 Fax 406.237.6901
jmparker@pplweb.com

November 2, 2012

-VIA Electronic Mail -

Mr. Greg Hallsten, Director's Office
Montana Department of Environmental Quality
1520 E. Sixth Avenue
P.O. Box 200901
Helena, MT 59620-0901

SEE CODING
FOR # 142
(DEQ SCOPING)

Re: *Scoping Comments to Montana Department of Environmental Quality - Western Energy Rosebud Mine Area F Expansion Environmental Impact Statement*

Dear Mr. Hallsten:

Attached please find scoping comments from PPL Montana, LLC in regard to the Western Energy Rosebud Mine Area F Expansion Environmental Impact Statement. We appreciate the opportunity to offer comments.

Should you have any questions, please contact me. Thank you.

Sincerely,



James M Parker, PE
Manager, Environmental Compliance Services
JMP/jmp

Attachment

PPL Montana, LLC

Scoping Comments to Montana Department of Environmental Quality (DEQ)

Rosebud Coal Mine Area F Expansion

Environmental Impact Statement

November 2, 2012

DEQ is requesting scoping comments regarding the Rosebud Coal Mine Area F Environmental Impact Statement (EIS). Western Energy Company (Western Energy) is requesting a permit to mine Area F, thereby expanding the existing Rosebud surface coal mine west of Colstrip, Montana. The proposed Area F permit area is owned or controlled by Western Energy and encompasses approximately 6,746 acres. It would add coal reserves to the existing Rosebud Mine and extend mine life by an estimated 19 years. DEQ deemed Western Energy's surface mine permit application complete on August 1, 2012 and is now preparing an EIS.

PPL Montana, LLC (PPLM) has an ownership interest in and operates the Colstrip Units 3&4 Steam Electric Station (CSES). PPLM appreciates the opportunity to provide scoping comments to DEQ and thanks DEQ in advance for its consideration of these comments.

It is our understanding that DEQ is currently planning to include within the scope of the EIS the issue of "Air Quality Permits" for CSES, which DEQ explained encompasses an assessment of air quality compliance impacts if CSES, one potential consumer, burns Area F coal. We understand that these impacts will be assessed as "cumulative", or secondary impacts.

First, PPLM believes that it is speculative and tenuous to consider downstream consumption by any ultimate purchaser of the coal including CSES. CSES is only one of many potential consumers and there is no logical basis to treat CSES any differently than any other potential consumer of the coal. Other than being a current and potential future customer, CSES is not related in any other way to the Rosebud surface coal mine and should be treated in a manner consistent with treatment of any other purchaser of the coal.

However, if the DEQ chooses to include ultimate consumers of coal in its analysis, then DEQ should include all positive, as well as negative, impacts, especially socio-economic impacts, such as employment, tax payments, and improved infrastructure (roads, bridges, utilities). Specific information about these positive impacts with respect to CSES is available from many sources, including Colstrip area residents and businesses, the Southeast Montana Development Corporation, Colstrip governmental entities, and others. The report, [The Economic Contribution of Colstrip Steam Electric Station Units 1-4](#), offers valuable information about the positive impacts of CSES. The report has previously been provided to DEQ and is also available at the following link: www.colstripeconomicreport.com.

Such an analysis with respect to CSES would need to also acknowledge that a comprehensive EIS, which includes impacts to air quality, has already been conducted. That EIS was based upon the consumption of substantially similar coal to that of Area F. In the event CSES were to consume Area F coal, PPLM would not expect any increase in air emissions that would require additional controls. Air emissions from CSES are and always have been well regulated by EPA and the Air and Waste Management Bureau of DEQ. Such regulation will ensure that air quality impacts from the facility do not exceed what is allowed by the permits already in place for the facility.

As a final point, we would like to emphasize that should CSES consume Area F coal, this consumption would be in full compliance with all applicable regulations. CSES has state of the art and very efficient pollution control that has demonstrated a great capability to control emissions from consumption of Rosebud Seam coal.

Montana Department of Environmental Quality Response to Comments in Regard to the Question
Of Whether or Not the Colstrip Steam Electric Station and Westmoreland Rosebud Mine are one Facility.

Conclusion: **“Therefore, the Westmoreland Rosebud Coal Mine and the PPLM Colstrip are not the same source with respect to PSD, NSR, and/or Title V.”**

(From pages 33-39 of the December 4, 2012 TRD for Title V Operating Permit 0513-08)

11. The Title V Permit Appears to Fail to Include Pollutant Emitting Activities Related to the Operation of the Rosebud Coal Mine. PERMIT SECTION and/or TOPIC: COMMENT: The Title V Permit appears to not include pollutant emitting activities related to the mining of coal at the adjacent Rosebud Coal Mine, which provides virtually all of its coal to the Colstrip power plant. In this case, it appears that DEQ must aggregate emissions from the mine together with the power plant as a single source of air pollution, consistent with PSD regulations and the Montana SIP. The Montana SIP states that a major source under both PSD and Title V, as well as a stationary source in general, consists of all the pollutant emitting activities belonging to the same industrial grouping that are located on one or more contiguous or adjacent properties and that are under the common control or ownership of the same person or persons under common control. The Title V Permit must ensure that pollutant emitting activities associated with the Rosebud coal mine, including any underlying construction permits, are fully incorporated into the Title V Permit and that the Permit assures compliance with PSD in regards to operations of the mine. [WildEarth Guardians 6/16/11]

DEPARTMENT RESPONSE: Stationary source determinations are made on a case-by-case basis considering the foundational concepts provided in the FCAA, the Clean Air Act of Montana, and EPA implementing regulations. The current regulatory definition of stationary source for purposes of major New Source Review (NSR) applicability was promulgated in 1980. In its June 1979 opinion in *Alabama Power*, the D.C. Circuit Court of Appeals rejected the definition of a source in EPA's 1978 regulations. As EPA noted in the preamble to its 1980 final rules:

“...the December opinion of the court in *Alabama Power* sets the following boundaries on the definition for PSD purposes of the component terms of “source”: (1) it must carry out reasonably the purposes of PSD; (2) it must approximate a common sense notion of a “plant;” and (3) it must avoid aggregating pollutant-emitting activities that as a group would not fit within the ordinary meaning of “building,” structure, “facility,” or “installation.”

EPA used these guiding principles from the Court's opinion, including the common sense notion of a plant, to develop the three regulatory criteria for determining when permitting authorities should consider two or more pollutant-emitting activities to be a single stationary source for purposes of the major NSR programs. Pursuant to ARM 17.8.801(28) (and analogous to 40 CFR 51.165(a)(1)(i)), a stationary source is any building, structure, facility, or installation, which emits, or may emit any air

pollutant subject to regulation under the FCAA..." Pursuant to ARM 17.8.801(7), a "building, structure, facility, or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same major group (i.e., which have the same two digit code) as described in the standard industrial classification manual, 1987."

To be considered a stationary source for purposes of NSR, the pollutant emitting activities must meet all three of the regulatory criteria. These same criteria were later adopted into the definition of stationary source in 40 CFR 70.2 for purposes of determining when two or more pollutant-emitting activities are considered a stationary source for purposes of the Title V permitting program, and EPA was clear that the language and application of the Title V definition was to be consistent with the NSR definition contained in 40 CFR 52.21. (See 61 FR 34,202-34,210 (July 1, 1996)).

An accounting of the three "same source" regulatory criteria follow.

1) All of the pollutant-emitting activities belong to the same industrial grouping

The PPLM Colstrip facility has a standard industrial classification (SIC) code of 4911 – Electric Services. The Westmoreland Rosebud Coal Mine (Westmoreland), permitted as Western Energy Company, has an SIC code of 1221 – Bituminous Coal and Lignite Surface Mining (which includes Subbituminous coal surface mining). Therefore, the two facilities do not have the same SIC code.

The commenter mentioned that the "mine serves as a support facility for the power plant because it provides more than 50% of its output to the operations power plant." Divergent guidance/case law exists with respect to determining whether facilities can be considered to belong to the same industrial grouping if they, in fact, have different SIC codes (the "support facility" exclusion). At least one court decision specifies that the rule is clear in separating facilities by SIC code, so a different 2-digit SIC code automatically means a separate source. In *Color Communications, Inc., v. Illinois Pollution Control Board and Illinois EPA* (1997), the concept of a support facility was invalidated. Based on this case, the two facilities would be clearly separate with respect to industrial grouping.

Also supporting this distinction (specifically with respect to power plants and adjacent coal mines) is the legislative history of the 1990 FCAA Amendments. The following is an excerpt from a House Report discussing the "major source" definitional language added to the ozone nonattainment provision in § 182 of the Act, 42 U.S.C. § 7511a:

"The definition of "major source" [in the ozone nonattainment area] and elsewhere in the bill uses the term "group of sources located within a contiguous area and under common control." The Committee understands this to mean a group of sources with a common industrial grouping, i.e., the same two-digit SIC code. It is the approach followed by EPA as a result of the Alabama Power litigation. It avoids the

possibility that dissimilar sources, like a power plant and an adjacent coal mine, will be considered as the same "source" because of common ownership."

As explained in the 1980 preamble to the NSR rules, a support facility analysis is only relevant under the same industrial grouping criterion, not to the common control criteria as indicated by the commenter. Support facilities are typically those which convey, store, or otherwise assist in the production of the principal product (45 FR 52695, August 7, 1980). If the principal product in this case is electricity, Westmoreland does not "convey or store" electricity, but it may be considered to "otherwise assist in the production" of electricity by providing some of the fuel used in producing the electricity.

In addition, in EPA correspondence (letter from EPA to Florida Department of Environmental Regulation, August 20, 1990), the support facility exclusion is described with respect to a cogeneration facility and a cement plant, "... can be determined based on the ratio of the fuels used to create electricity and /or steam for an outside party and the fuels used to create electricity/steam for the cement plant. The cogeneration facility should be classified in the grouping that relies most heavily on the fuel input." Using this logic and the percentage of coal production that is directed toward PPLM Colstrip, the support facility exemption would apply to Westmoreland.

However, in a November 12, 1998 letter from EPA to the Colorado Department of Public Health, EPA states that a power plant that provides 100% of the power needs to a brewery (with no other customers at the time of determination), "lacks a primary economic activity of its own; instead, it serves to support the activity of another facility." Westmoreland, by contrast, does not "lack a primary economic activity of its own," and it is not entirely dependent on PPLM Colstrip as a customer. In fact, several large coal mines operate in the same area without contractual agreements to nearby coal-fired utilities.

2) All of the pollutant-emitting activities are located on one or more contiguous or adjacent properties

The PPLM Colstrip facility and Westmoreland are located on contiguous and adjacent properties.

3) All of the pollutant-emitting activities are under the control of the same person (or persons under common control)

Westmoreland is owned and operated by Westmoreland Coal Company which is unaffiliated with the owners and operators of the PPLM Colstrip facility. Therefore, the power plant and the coal mine are not under control of the same person (or persons under common control). No common ownership exists between the two facilities.

As previously mentioned, the commenter suggests that common control exists due to the mine's potential status as a support facility. That assertion is without legal support. Indeed, EPA rejected the commenter's similar permit petition for objection for another facility on February 2, 2011 (Anadarko Petroleum Corporation's Frederick Compressor Station, Order Responding to Request that the Administrator Object to Issuance of a State Operating Permit). There, EPA explained that, while "a support facility analysis may be conducted to determine whether the activities should be treated as

having the same industrial grouping," the analysis has no bearing on the other two factors necessary to require aggregation.

Also supporting this distinction (specifically with respect to power plants and adjacent coal mines) is the legislative history of the 1990 FCAA Amendments. The following is an excerpt from a House Report discussing the "major source" definitional language added to the ozone nonattainment provision in § 182 of the Act, 42 U.S.C. § 7511a:

"The definition of "major source" [in the ozone nonattainment area] and elsewhere in the bill uses the term "group of sources located within a contiguous area and under common control." The Committee understands this to mean a group of sources with a common industrial grouping, i.e., the same two-digit SIC code. It is the approach followed by EPA as a result of the Alabama Power litigation. It avoids the possibility that dissimilar sources, like a power plant and an adjacent coal mine, will be considered as the same "source" because of common ownership."

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As stated in EPA correspondence (letter from EPA to Iowa Department of Natural Resources, September 18, 1995), "EPA's permit regulations do not provide a definition for control. Therefore, we rely on the common definition. Webster's Dictionary defines control as 'to exercise restraining or directing influence over,' 'to have power over,' 'power of authority to guide or manage,' and 'the regulation of economic activity.'"

Much of the guidance with respect to common control refers to degrees of ownership (percent of voting power, members on boards of directors, etc.) which is not relevant in this case because there is no degree of common ownership. Other guidance documents (including the September 18, 1995 letter mentioned above) exist that refer to "companion" facilities (facilities locating on the same property of a major facility), which is also not directly relevant in this case because the facilities are located near (adjacent) to each other and share a boundary (contiguous), but are not "companion" facilities because neither are located on property owned by the other. However, the questions EPA listed in the September 18, 1995 letter may be instructive, if considered in light of EPA's inference that the questions apply to the "companion facilities" that already share property. These questions in bold italics are as follows; with the response in standard text (information in the responses was provided by PPLM and Department review of publicly available Securities and Exchange Commission [SEC] documentation):

"Do the facilities share common workforces, plant managers, security forces, corporate executive officers, or board of executives?" PPLM – Colstrip and Westmoreland do not share these entities.

"Do the facilities share equipment, other property, or pollution control equipment?" No, they do not. The coal conveyor, as mentioned by the commenter, is owned and operated by Westmoreland. This arrangement would be similar to getting fuel from another supplier, for example, who would use its own trucks for delivery. *"What does the contract specify with regard to pollution control responsibilities of the contractee?"* The only contract specification related to pollution control is a maximum percent sulfur in the coal supplied. This is a specification among several other coal quality specifications. *"Can the*

managing entity of one facility make decisions that affect pollution control at the other facility?" No, each facility is responsible for its own pollution control.

"Do the facilities share common payroll activities, employee benefits, health plans, retirement funds, insurance coverage, or other administrative functions?" PPLM – Colstrip and Westmoreland do not share these functions.

"Do the facilities share intermediates, products, byproducts or other manufacturing equipment?" No, they do not. "Can the new source purchase raw materials from and sell products or byproducts to other customers?" There is no "new source" in this situation, but Westmoreland is free to sell coal to other entities (and does) and PPLM – Colstrip is free to buy coal from other entities. "What are the contractual arrangements for providing goods and services?" The contract between Westmoreland and PPLM – Colstrip is a coal supply contract. It is a typical supplier/customer contract.

"Who accepts the responsibility for compliance with air quality control requirements? What about for violations of the requirements?" The mine and plant have separate environmental permits; each respective facility is responsible for its own compliance with air quality control requirements and any violations of those requirements that may occur.

"What is the dependency of one facility on the other?" The PPLM – Colstrip plant is a customer, among several customers, of the mine. "If one shuts down, what are the limitations on the other to pursue outside business interests?" If the mine shuts down, PPLM – Colstrip is free to obtain coal from another supplier. If the plant shuts down, the mine will have one fewer customer.

The commenter mentioned Section III.A.15 which states: "...PPLM shall utilize only coal from the Rosebud seam within Units #3 and #4..." Westmoreland can and does mine from the Rosebud seam, but is not the only mine which can access the Rosebud seam. Therefore, that condition does not limit PPLM – Colstrip to obtaining coal only from Westmoreland to comply with that condition. In addition, the condition is taken from a Montana Facilities Siting Act (MFSA) certificate. The condition originated from an assurance that coal from the Rosebud Seam (or rather coal with the sulfur content of the Rosebud seam) would ensure compliance with the air quality requirements. Because several major coal mines now exist in the general area that are mining coal very similar to that which is located in the Rosebud seam, a case could be made to change the language in the certificate for coal "substantially equivalent" to that which was analyzed during the permitting of Units 3&4.

"Does one operation support the operation of the other?" The two facilities are operated as separate independent facilities. "What are the financial arrangements between the two entities?" The facilities are parties in a coal supply contract as in a supplier/customer relationship.

In an August 2, 1996, EPA memorandum regarding major source determinations for military operations, John S. Seitz indicated that a common control determination must focus on who has the power to manage the pollutant-emitting activities of the facilities at issue, including the power to make or veto decisions to implement major emission-control measures or to influence production levels or compliance with environmental regulations. In this case, each of the facilities manage their own

pollutant-emitting activities and neither would have the ability to make or veto decisions for the other to implement major emission control measures, influence production levels (beyond meeting the terms of the existing contract) , or compliance with environmental regulations.

The Seitz memo also indicates that where, as in this case, a contract provides that less than 100% of output would go to the primary activity (power generation, if it is assumed that Westmoreland is a "support facility" for PPLM – Colstrip), the permitting authority should consider the following factors: (1) how integral the contracted activity is to the primary entity's operations; (2) the percentage of output that goes to the primary entity; (3) whether the activity must be on site to perform its service or produce its product; (4) whether the activity would remain on site if the primary entity no longer received the output; and (5) the terms of the contract between the primary and secondary entities. The factors are as follows in bold italics, with the response in standard text:

(1) How integral the contracted activity is to the primary entity's operations. Coal is integral to PPLM Colstrip's operations; however, Westmoreland coal is not. Coal that is substantially equivalent in quality is currently being obtained and combusted in the other coal-fired boilers in Montana (e.g. Rocky Mountain Power – Hardin and, to a lesser extent, PPLM – Corette) and could potentially be obtained entirely from sources other than Westmoreland.

(2) The percentage of output that goes to the primary entity. According to data provided by Westmorland Coal Company in a Securities and Exchange Commission filing (form S-4) as filed July 7, 2011, starting in 2010, Westmoreland was contracted to provide approximately 10 million tons of coal per year to PPLM Colstrip Units 1-4, which is approximately 77% of its maximum average production of 13 million tons per year (or 90% of the overall average production of 11 million tons per year). Production information was taken from the Westmoreland Coal Company website.

(3) Whether the activity must be onsite to perform its service or produce its product. The circumstances are different in this case in that the two facilities are contiguous and adjacent, but do not share the same site. As demonstrated by other similar facilities (PPLM Corette, Rocky Mountain Power, - Hardin), it is not necessary for the facilities to share the same site or to be contiguous and adjacent for coal to be supplied for combustion in a boiler.

(4) Whether the activity would remain on site if the primary entity no longer received the output. As previously discussed, Westmoreland currently sells coal to other customers and would continue that practice to a larger extent if PPLM Colstrip no longer received the output.

(5) The terms of the contract between the primary and secondary entities. The contract between Westmoreland and PPLM – Colstrip is a long-term coal supply contract. It is a typical supplier/customer contract.

Based on the guidance provided by EPA with respect to common control, the Department believes that the strongest piece of evidence pointing toward common control is the large percentage of coal mined

by Westmoreland that is provided to PPLM Colstrip through a coal supply contract. However, that is the only piece of evidence that points in that direction. The facilities have no common ownership, no common workforce or administrative functions, no common/shared site, and no common control of pollutant-emitting activities, permits or compliance with air quality regulations. Both facilities could acquire their respective business interests from other parties and are, in fact, already doing so to some extent.

Guidance aside, the most recent and definitive decision with respect to the determination of common control was *Winnebago Industries, Inc. and CDI, LLC, v. Iowa Department of Natural Resources and Iowa Environmental Protection Commission* (Case No. CVCV018608, in the Iowa District Court for Hancock County, 2009). In the record of that decision, the parties agreed that the test for "common control" is found in the SEC's regulations at 17 CFR § 240.12(b)2. The SEC definition provides:

"The term control (including the terms controlling, controlled by and under common control with) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person (or organization or association), whether through the ownership of voting shares, by contract or otherwise."

EPA's use of the SEC definition was first described in a 1980 Federal Register notice (see 45 FR 59,874-59,878) and has been mentioned in multiple EPA guidance documents since that time. In the 1980 notice, EPA stated it will determine control on a case-by-case basis and will be guided by the general definition of control used by the SEC. In *Winnebago Industries, Inc. and CDI, LLC, v. Iowa Department of Natural Resources and Iowa Environmental Protection Commission*, the Iowa District Court determined, relying on SEC definition, that "a company having 'common control' must have the right, or at least be given permission, to somehow actually participate in the other company's decision-making," specifically "having any right or permission to be involved in the pollution control decisions."

Therefore, with respect to common control, the Department asserts that it does not exist in this case. The Department has not obtained any information from the commenter, PPLM or Westmoreland, SEC documentation, or the Department's interactions with the facilities, that indicates PPLM "participates" or has any "right or permission to be involved in the pollution control decisions" of Westmoreland.

In addition, while the facts specific to control have changed over time, when EPA permitted Colstrip Units 3&4 under PSD in 1979 (prior to Montana having its own SIP-approved PSD program), the coal mine was not included in the permit or in the PSD analysis, although the mine was in existence and the definition of "source" from the 1978 PSD regulations was arguably more broad (see the June 1979 D.C. Circuit Court of Appeals opinion in *Alabama Power*). In the 1978 PSD regulations, the definition of source was as follows: "Source" means any structure, building, facility equipment, installation or operation (or combination thereof) which is located on one or more contiguous or adjacent properties and which is owned or operated by the same person (or by persons under common control)." In addition, the mine at that time was owned in its entirety by Montana Power Company, who also had some ownership in Colstrip Units 3 & 4. During the proposal and building phases of Colstrip Units 3 & 4, significant extra efforts were made to ensure operational independence between the mine and the Colstrip units

because of concerns raised by the other Colstrip Unit 3 & 4 partners regarding the potential for unfair market advantages within the percentage of generation owned by Montana Power Company.

In summary, many different pieces of EPA guidance and correspondence emphasize that whether to aggregate sources for purposes of PSD, NSR, and Title V applicability is a case-by-case determination that represents highly fact-specific decisions. While recognizing that EPA has issued many source determinations in its own permitting actions and provided source determination guidance to other permitting authorities that might be informative in future permitting actions, the September 22, 2009 EPA memorandum from Gina McCarthy clearly states that "no single determination can serve as an adequate justification for how to treat any other source determination for pollutant-emitting activities with different fact-specific circumstances."

The three "same source" criteria must all be satisfied to indicate that two facilities should be regulated as the same source under PSD, NSR, and Title V. With respect to these "fact-specific circumstances," only one of the three "same source" regulatory criteria is clear: the Westmoreland Rosebud Coal Mine and the PPLM Colstrip facility occupy contiguous and adjacent properties. It is also clear that the two entities have separate SIC codes. With regard to the possible "support facility" exemption, there is case law and/or guidance on both sides of the issue. Westmoreland clearly does not "lack a primary economic activity of its own," and is not entirely dependent on PPLM Colstrip as a customer.

As summarized above under the third test, for "common ownership and control," the only indication of common control would be the coal supply contract; no other evidence of common ownership or control exists. Under EPA guidance, even if the facilities shared a site (which these facilities do not), this would only be one of the many considerations for common control. In addition, Westmoreland does not supply 100% of its output to PPLM Colstrip. It has maintained and, based on the level of output contracted with PPLM Colstrip, will continue to maintain other customer contracts for coal sales. However, beyond the guidance, as previously mentioned, the most definitive decision in this area was the 2009 Iowa District Court Decision. There is no evidence to indicate PPLM "participates" or has any "right or permission to be involved in the pollution control decisions." Therefore, the Westmoreland Rosebud Coal Mine and the PPLM Colstrip are not the same source with respect to PSD, NSR, and/or Title V. They will remain as separate permitted sources.

#371

From: fbartlett@osmre.gov on behalf of [Western-Energy-Area-F-EIS, OSM](#)
To: [Nicole Bauman](#)
Cc: [Emily Corsi](#)
Subject: Fwd: BAN COAL
Date: Thursday, October 17, 2013 3:41:18 PM

Nicole,

Here is the first of a series of emails with comments that OSM received during the shutdown.

You'll get 18 emails total. Many of the emails contain the same comment sent on the same day just from different individuals. Note that some of the emails have attached .Word or .pdf documents.

Thanks and I will mark the last email sent.

Frank B.

----- Forwarded message -----

From: **Joe Newman** <solarfeller@gmail.com>
Date: Tue, Oct 1, 2013 at 9:42 AM
Subject: BAN COAL
To: osm-western-energy-area-f-eis@osmre.gov

Coal is poisoning our lakes with mercury, causing global warming and destroying our air, why in the world should we want to burn more of it for? STOP ALL COAL

PS1910

Joe Newman
Box 833
Bozeman
Montana

#372

From: fbartlett@osmre.gov on behalf of [Western-Energy-Area-F-EIS, OSM](#)
To: [Nicole Bauman](#)
Cc: [Emily Corsi](#)
Subject: Fwd: Rosebud Coal Mine Proposed Expansion EIS Comment
Date: Thursday, October 17, 2013 3:41:53 PM

----- Forwarded message -----

From: **Leslie McClain** <mcclain.leslie@gmail.com>
Date: Tue, Oct 1, 2013 at 11:19 AM
Subject: Rosebud Coal Mine Proposed Expansion EIS Comment
To: osm-western-energy-area-f-eis@osmre.gov

To the U.S. Office of Surface Mining and Montana Department of Environmental Quality,

During your evaluation of the environmental impacts of the proposed Rosebud Coal Mine expansion, please evaluate the impacts the mine will have on water quality. Not just water quality within the permit boundary, but to water (surface and ground) outside the permit boundary. Please also look at the cumulative impacts of the prior operations in addition to the proposed expansion. Also, the impacts of the purpose of the project - to produce coal fired electricity. What are the impacts of burning the coal? Please take a comprehensive look at not only the impacts of the extraction activities but also the purpose of the action - to supply coal to a coal burning facility.

WTR 10030
WTR 10040
IA 1110
PURP 2050
IA 1100
CSES 600

I urge you to look at the impacts this project will have on Montana's citizens and the citizens of the United States in terms of air quality and water quality. What are the impacts the Montana's tourism economy from the environmental impacts? Please look at the rising levels of mercury in the fish in Montana's waters. Mercury has been proven to be linked to coal burning air pollutants. This is detrimental to the health of Montana citizens and visitors who eat fish from the streams and lakes of the state.

AIR 100
ECON 800
HLTH 1050
CSES 620

Thank you for considering my comments.

Sincerely,
Leslie McClain
8523 SE 9th Ave
Portland, OR 97202

#373

From: fbartlett@osmre.gov on behalf of [Western-Energy-Area-F-EIS, OSM](#)
To: [Nicole Bauman](#)
Cc: [Emily Corsi](#)
Subject: Fwd: Westmoreland Expansion Project
Date: Thursday, October 17, 2013 3:42:06 PM

----- Forwarded message -----

From: **Doug Ferrell** <ferrelldoug@gmail.com>
Date: Wed, Oct 2, 2013 at 8:59 AM
Subject: Westmoreland Expansion Project
To: osm-western-energy-area-f-eis@osmre.gov

OSM & DEQ:

I am concerned about the expansion of Westmoreland's Rosebud mine, particularly from the standpoint of impacts on our atmosphere and climate. I realise these issues may be somewhat beyond the scope of your analysis and decision, but I feel it is important that, as a society, we take steps to consider these issues, as we make decisions that will affect our future.

CLIM 500

Thank you for the opportunity to comment.

Doug Ferrell
21 Riverfront Drive
Trout Creek, MT 59874
406-827-4341

#374

From: fbartlett@osmre.gov on behalf of [Western-Energy-Area-F-EIS, OSM](#)
To: [Nicole Bauman](#)
Cc: [Emily Corsi](#)
Subject: Fwd:
Date: Thursday, October 17, 2013 3:42:33 PM
Attachments: [western energy.PDF](#)

----- Forwarded message -----

From: **Rachael Booth** <boothland@yahoo.com>
Date: Thu, Oct 10, 2013 at 10:30 AM
Subject:
To: "osm-western-energy-area-f-eis@osmre.gov" <osm-western-energy-area-f-eis@osmre.gov>

Thanks,

Rachael Booth
Booth Land & Livestock
Administrative Assistant

PO Box 72 Lucerne, CO 80646
Office: (970) 353-7055
Cell: (970) 371-6927
Fax: (970) 353-8401

Page 1

We Invite Your Comments
Western Energy Rosebud Mine Area F Expansion
Environmental Impact Statement

Name <small>(Please Print)</small>	Mark Booth	Date	10/7/13
Company/Organization	Booth Land & Livestock		
Street Address	P.O. Box 72		
City, State, Zip Code	Lucerne, CO 80646		
E-mail	MCBGO489@ADL.COM		

Comments: The Area F expansion will in essence block another 6 miles of the Horse Creek and Arnells Creek valley floor, so in total, approximately 18 miles will be divided and access blocked. Wildlife migration, cattle migration and grazing rotation will be impacted greatly.

WJLDF 19030

AG 14010

Groundwater supplies will also be affected and flows interrupted with so much additional acreage exposed to evaporation and dewatering without any augmentation. It is virtually impossible to not affect the shallow groundwater.

WJTR 10040

We are the only ones impacted by Area F. Booth has already lost thousand of acres of ranchland, both grazing and crop to areas C and C West where many

AG 14000



Please continue on reverse side

Comments (continued)

miles of pit are opened for 1 or 2 passes of mining RECL 3000 then left open for years, while reclaimed ground is never released from bond and returned to the landowners control to use as they wish.

Does it make sense to permit more land for mining when not 1 acre has ever been returned and while countless miles of open pits exist.

The entire valley will be without cropland Ag 14000 to raise winter feed and all of the winter pasture will be gone, as well as access from one side Ag 14010 of the ranch to the other will be very limited and inconvenient.

If by some fluke or mistake, area F were to be permitted, I believe all of Areas A, C, and Crest BOND 430 reclaimed ground should be released and returned to its WTR 10040 owners with water supplies in each pasture or parcel and all pits currently open should be fully mined out, reclaimed, final bonds released, and returned to the owners' full RECL 3010

Please send any additional written comments to the mailing address or e-mail address below. All comments must be received by **October 11, 2013**.

Attn: Franklin Bartlett, Project Coordinator
Office of Surface Mining Reclamation and Enforcement
Casper Area Office, Western Region
Dick Cheney Federal Building
PO Box 11018, 150 East B Street
Casper, WY 82601-7032
email: osm-western-energy-area-f-eis@osmre.gov

continued on additional sheet.

page 3

Area F comments continued

Booth Land
& Livestock

control.

The entire valley will be tied up with haul roads and other infrastructure to support the pits and the transport to the power plants for another 20 years ^{AG 14000} plus. Then if the current timeline for final release is factored in it will be another 40 years, (or more???) no one knows because no one will take responsibility to approve the release for full unobstructed use by the surface owners.

These are all things which need carefully considered.

Thank you for your consideration.

Sincerely,

Mark Booth

#375

From: fbartlett@osmre.gov on behalf of [Western-Energy-Area-F-EIS, OSM](#)
To: [Nicole Bauman](#)
Cc: [Emily Corsi](#)
Subject: Fwd: Comments on Rosebud Mine Area F Expansion EIS
Date: Thursday, October 17, 2013 3:42:51 PM

----- Forwarded message -----

From: **Nick Engelfried** <nicke.activism@gmail.com>
Date: Fri, Oct 11, 2013 at 1:07 PM
Subject: Comments on Rosebud Mine Area F Expansion EIS
To: osm-western-energy-area-f-eis@osmre.gov

Dear Mr. Bartlett,

I am a campaigner for ForceChange.com, a web site that allows people to voice their concerns about issues they care about through online petitions. I'm writing to deliver a petition signed by 168 ForceChange users, requesting that the EIS for the proposed Area F mine expansion at the Rosebud Mine in Montana include an analysis of how increased coal mining at Rosebud will fuel additional climate change and regional air pollution. I would like to submit this petition as part of OSM's official comment period on this project. Here is the text of the letter signed by ForceChange users:

CLIM 500
AIR 100

Dear Mr. Bartlett,

We, the undersigned, strongly urge the OSM to consider the regional and global climate change implications of expanding the Rosebud Mine, in your Environmental Impact Statement for Westmoreland Coal's proposed Area F expansion. Because almost all the new coal would go to feed the Colstrip Power Plant, the impacts of this plant's contribution to regional air pollution and global climate change must be considered during the EIS process. The proposed Area F expansion would extend the Rosebud Mine's life by an estimated 19 years, likely prolonging the life of the Colstrip Plant as well.

CLIM 500
AIR 100

Among US power plants, Colstrip ranks eighth in the nation for its contribution to climate change, and it is the single largest carbon emitter in Montana. Colstrip is far and away Montana's largest source of nitrous oxides, sulfur dioxide, particulate matter, and other air pollutants. Yet without a nearby source of readily available coal, it's unclear that Colstrip would continue operating indefinitely. Emissions from Colstrip which result from mining coal at Rosebud must therefore be factored into the Area F EIS.

CLIM 510

Coal, the world's dirtiest energy source, is rapidly becoming a less important part of our energy mix. The US is moving away from coal as cleaner, better energy options become available, and this is good news for people's health. Extending the life of one of the nation's largest strip mines, and one of our dirtiest power plants, makes no sense and would only prolong the suffering of communities affected by pollution. Please consider these impacts when you conduct your EIS for the proposed Area F expansion.

HLTH 1000

ForceChange requires petition signers to create an account using valid contact information, so as to ensure the authenticity of all of our online signatures. To view the petition and full list of signatories on this petition, please

see <http://forcechange.com/84473/stop-mine-expansion-from-fueling-air-pollution-and-climate-change/>

I hope these comments will be entered into the record. Thank you for your time,

Nick Engelfried

Online campaigner

ForceChange.com

376

From: fbartlett@osmre.gov on behalf of [Western-Energy-Area-F-EIS, OSM](#)
To: [Nicole Bauman](#)
Cc: [Emily Corsi](#)
Subject: Fwd: Rosebud Coal Mine Area F scoping comments
Date: Thursday, October 17, 2013 3:43:15 PM
Attachments: [RosebudMineAreaFScopingCommentsFNL_2013-10-11.doc](#)

----- Forwarded message -----

From: **Olivia Stockman Splinter** <olivia@northernplains.org>
Date: Fri, Oct 11, 2013 at 4:23 PM
Subject: Rosebud Coal Mine Area F scoping comments
To: osm-western-energy-area-f-eis@osmre.gov

Please see attachment.

Olivia Stockman Splinter

Director of Organizing and Campaigns
Northern Plains Resource Council
220 South 27th Street, Suite A
Billings, MT 59101
Phone: 406.248.1154 x110
Fax: 406.248.2110
olivia@northernplains.org
www.northernplains.org



Northern Plains Resource Council is a grassroots conservation and family agriculture group. We organize Montana citizens to protect our water quality, family farms and ranches, and unique quality of life. If you aren't a member, you should join!



October 11, 2013

Office of Surface Mining Reclamation and Enforcement,
Casper Area Office, Western Region
Attn: Franklin Bartlett, Project Coordinator
PO Box 11018
Casper, WY 82601-7032

Dear Sirs,

Thank you for accepting our scoping comments on the Rosebud Coal Mine Area F potential expansion.

Thank you for determining that this expansion should be assessed according to the National Environmental Policy Act (NEPA). As an organization with many members in very close proximity to the mine as well as in the surrounding region, a thorough Environmental Impact Statement is imperative.

We ask that your assessment take a full look at the following areas:

- Water and hydrologic balance:

Area F would expand the mine into two new drainages, Horse Creek and West Fork of Armells Creek. Accurate pre mine baseline on water quality and quantity for both groundwater and surface water is necessary in order to mitigate potential future water quality and quantity issues and in order to properly restore the Hydrologic Balance, as required by law, to the area after mining. This baseline information needs to be readily available and easily accessible to the public. It is imperative the hydrologic balance be restored before a reclamation bond is released. The hydrologic balance portion of the law should be upheld and enforced, not ignored. Cumulative impacts of the leaking ash ponds and the leaking surge pond (Castle Rock Lake) need to be considered and added to the impacts of the Armells Creek Drainage.

WTR 10010
WTR 10020
WTR 10030
WTR 10040

WTR 10080

WTR 10070

- Bonding:

The bond established should be higher than the cost of re-establishing the hydrologic balance, should the company forfeit the bond. The costs of reclamation should not be passed on to landowners and the taxpayers. Also, an inflationary clause needs to be added to the bond should the reclamation commence years into the future.

BOND 450

BOND 440

- Reclamation:

Any mine expansion should not occur until reclamation has occurred and standards have been attained in other areas of the mine. The restoration of native range should be the ultimate goal, not to weaken the species requirements or weaken the laws pertaining to reclamation.

RECL 3010

- Cumulative Impacts:

A comprehensive look at the entire area is needed. The cumulative impacts of other mining in the area, including the proposed Otter Creek mine, natural gas and coal bed methane and other resource development should be assessed.

IA 1110

- Cultural and Historic Resources:

OSM should conduct full and complete ethnographic and archeological surveys in the area impacted by the Area F Rosebud mine expansion and include as much of this information as allowed by law.

CULT 700

- Market:

An honest look at the dwindling domestic coal market and coal values should be addressed with regards to this mine expansion. Will this mine expansion be economical and feasible within the life of this proposed expansion?

PURP 2010

Sincerely,

Walter Archer, Chair
Northern Plains Resource Council
220 S. 27th Street, Suite A
Billings, Montana 59101

Brad Sauer, Co-Chair
Rosebud Protective Association
4472 Highway 39 S
Forsyth, Montana 59327

#377

From: fbartlett@osmre.gov on behalf of [Western-Energy-Area-F-EIS](#). OSM
To: [Nicole Bauman](#)
Cc: [Emily Corsi](#)
Subject: Fwd: Rosebud Mine Area F EIS Comments
Date: Thursday, October 17, 2013 3:43:43 PM
Attachments: [2013-10-11 WG Rosebud Mine Scoping Comments.pdf](#)

----- Forwarded message -----

From: **Jeremy Nichols** <jnichols@wildearthguardians.org>
Date: Fri, Oct 11, 2013 at 9:15 PM
Subject: Rosebud Mine Area F EIS Comments
To: osm-western-energy-area-f-eis@osmre.gov

Attached, please find comments from WildEarth Guardians regarding OSMRE's proposal to approve a mining plan for the Rosebud coal mine in southeastern Montana. Thank you.

Sincerely,

Jeremy Nichols





October 11, 2013

BY ELECTRONIC MAIL

Franklin Barlett, Project Coordinator
Office of Surface Mine Reclamation and Enforcement, Western Region
Casper Area Office, Dick Cheney Federal Building
150 East B Street
Casper, WY 82601-7032
Western-energy-area-f-eis@OSMREre.gov

Re: Rosebud Mine Area EIS Scoping Comments

Dear Mr. Barlett,

WildEarth Guardians (“Guardians”) submits the following comments regarding the Office of Surface Mining Reclamation and Enforcement’s (“OSMRE’s”) proposal to prepare an environmental impact statement (“EIS”) in order to analyze and assess the impacts of approving a mining plan that would allow Western Energy Company to expand operations at the company’s open pit Rosebud mine in southeastern Montana. In total, approval of the plan would authorize the addition of 6,746 acres of federal land to the Rosebud mine, of which more than 4,000 acres will be strip-mined.

We request that OSMRE deny the proposed mining plan. We have a number of concerns over the direct, indirect, and cumulative impact to air quality, water quality, and special status species in the region. We are particularly concerned over the impacts of burning coal from the Rosebud mine, which exclusively fuels the 2,272-megawatt Colstrip Steam Electric Station, the second largest coal-fired power plant west of the Mississippi River, and the nearby 41-megawatt Rosebud Power Station. If OSMRE decides to continue to process the proposed mining plan and prepare an EIS, we request the Agency address the following issues:

PS 1910

1. OSMRE Must Fully Analyze and Assess the Direct and Indirect Surface Impacts of Mining the Lease.

OSMRE must fully analyze and assess the surface impacts of mining the proposed lease. We impress upon OSMRE to fully analyze and assess the impacts of mining to the following:

a. Impacts to Rare Imperiled Fish, Wildlife, and Plants

OSMRE must analyze and assess impacts to rare imperiled fish, wildlife, and plants within and near the proposed lease area, including species listed under the Endangered Species Act as threatened, endangered, proposed, or candidate. We are particularly concerned over impacts to imperiled species in the Missouri River drainage, including the pallid sturgeon, sturgeon chub, and other imperiled species. As part of analyzing and assessing impacts to listed species, OSMRE must consult with the U.S. Fish and Wildlife Service in accordance with Section 7 of the Endangered Species Act.

WET 11010
WLD F 12010
WLD F 12040

b. Impacts to Surface Water Quality

With regards to water quality, OSMRE must fully analyze and assess water quality impacts to ensure compliance with state water quality standards. OSMRE must identify all existing water quality problems in the area that will be directly, indirectly, and cumulatively affected by the proposed action and disclose any contribution the proposed action will make to those water quality problems. We are especially concerned that a number of streams in the area, including Rosebud Creek and Armells Creek, are not supporting their designated beneficial uses due to excessive pollution. Not only that, but according to the Montana Department of Environmental Quality, Total Maximum Daily Loads have not been developed for impaired streams in the area. OSMRE must ensure that its action ensures compliance with relevant water quality standards in accordance with the Clean Water Act.

WTR 10010

c. Impacts to Air Quality

AIR 100

OSMRE must fully analyze and assess impacts to air quality, including impacts to air quality in the context of all national ambient air quality standards ("NAAQS"), prevention of significant deterioration ("PSD") increments for Class I and II areas, and visibility impacts to Class I areas. We are particularly concerned over the impacts of the mining to NAAQS for ozone, particulate matter, and nitrogen dioxide (which is produced during blasting). OSMRE must specifically address all emissions sources, particularly those that are not permitted by the State of Montana. We request that OSMRE further address the impacts of fugitive emissions, including fugitive volatile organic compound and nitrogen dioxide emissions associated with blasting and stripping of overburden. OSMRE must quantify emissions from the mine to ensure an accurate and adequate analysis and assessment of air quality impacts.

AIR 110

d. Climate Change Impacts

OSMRE must analyze and assess the climate change impacts of approving the proposed mining plan. To this end, we request OSMRE quantify the direct, indirect, and cumulative greenhouse gas emissions that would result from issuing the proposed lease, including emissions of methane, carbon dioxide, and other greenhouse gases that have been found to endanger public health and welfare. We also request that OSMRE analyze and assess the extent to which these emissions are likely to contribute to global climate change. This should be a simple exercise given that current levels of atmospheric carbon dioxide are fueling global climate change. In this case, it appears that any level of extended carbon dioxide emissions would pose significant impacts.

CLIM 500

2. OSMRE Must Address Connected Actions and Impacts

OSMRE must analyze and assess the direct, indirect, and cumulative impacts of all connected actions in the EIS. See 40 C.F.R. § 1508.25(a)(1). Connected actions include actions that automatically trigger other actions that may require an EIS, actions that cannot or will not proceed unless other actions are taken previously, and actions that are interdependent parts of a larger action and depend upon the larger action for their justification. *Id.* at § 1508.25(a)(1)(i)-(iii).

Here, the EIS must analyze the direct indirect, and cumulative impacts of the operation of the Colstrip and Rosebud power plants. The Rosebud mine is the sole fuel source for these power plants and OSMRE's action in approving the proposed mining plan, which will extend the life of the Rosebud mine by 19 years, will extend the life of these power plants. This extended operation is an action that is not only interdependent with the mining, but it would not occur but for OSMRE's approval of expanded mining at Rosebud. To this end, the EIS must address the air quality impacts of the power plants (including greenhouse gas and climate change impacts), the water quality impacts, the impacts of coal combustion waste handling and disposal, and any other relevant environmental impacts associated with the power plants.

Other connected actions OSMRE must address include:

- The impacts of coal handling, hauling, and transport. The analysis must address the impacts of conveyor systems, trucking, and rail hauling.
- Infrastructure maintenance/improvements. The road and rail system facilitating the transport of coal must be maintained and/or improved. The impacts of these connected actions must be addressed in the EIS.
- The impacts of water diversion and transport to the mine and power plants.

To the extent that OSMRE believes that any of the aforementioned activities are not "connected actions," then at least the Agency is obligated under NEPA to fully analyze and assess the impacts of these actions as indirect impacts. Indirect impacts are impacts that are "caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable." 40 C.F.R. § 1508.8(b). In this case, the OSMRE must, at a minimum, analyze and assess the reasonably foreseeable indirect impacts associated with the continued operation of the Rosebud Mine, as well as the impacts of the operation of the Colstrip Steam Electric Station and the Rosebud Power Station.

3. OSMRE Must Analyze and Assess Cumulative Impacts

OSMRE must analyze and assess the direct impacts of the proposed coal lease together with the impacts of all past, present, and reasonably foreseeable impacts, also known as cumulative impacts.

In this case, we have concerns over a number of other ongoing and potential activities

IA 1130
CSES 600

IA 1130

CLIM 510

TRANS 8020

TRANS 8010

TRANS 8000

WTR 10000

within and near the Rosebud coal mine that cumulatively indicate that the proposed coal lease will significantly impact the environment. These activities may include but are not limited to:

- Oil and gas development, including the drilling and fracking of oil and gas wells, the refracking of wells, the development of gathering systems, the construction and operation of compressor stations and processing plants, truck traffic, and other related activities, poses significant cumulative air quality impacts, water quality impacts, fish and wildlife impacts, and impacts in terms of greenhouse gas emissions. IA 1110
- Other coal-fired power plants in the region (particularly in or near the Powder River Basin, including the Wyodak and Dave Johnston power plants in Wyoming and the Hardin and Corette power plants in Montana), which pose significant cumulative air quality impacts, water quality impacts, fish and wildlife impacts, and impacts in terms of greenhouse gas emissions.
- Other coal mines in the Powder River Basin, especially other nearby surface mines, which pose significant cumulative air quality impacts, water quality impacts, fish and wildlife impacts, and impacts in terms of greenhouse gas emissions. IA 1100
- Off-road vehicle use, which poses significant cumulative impacts to air quality, wildlife and fish, soils, and other values.

4. **OSMRE Must Rigorously Explore and Objectively Evaluate a Range of Reasonable Alternatives**

OSMRE must analyze a range of reasonable alternatives. In addition to the No Action Alternative, we request that the OSMRE consider in detail all or portions of the following alternatives either as alternative mitigation measures or as alternatives to the proposed actions.

a. Alternative Mining Levels

We request the OSMRE consider in detail an alternative that limits the amount of coal tonnage and/or acreage to be mined to lower levels than are currently proposed. Such an alternative will limit the extent to which the direct and indirect impacts of mining, the conveyor line, and the Colstrip Steam Electric and the Rosebud Power Stations will occur, as well as incentivize power plant owners to develop alternative non-coal-fired electricity generation. ALS 310

b. Underground Mining

We request that OSMRE consider in a detail an alternative that would require underground mining, rather than surface strip mining. This alternative would not only significantly limit the surface impacts of mining, but would also limit the reclamation burden on Western Energy Co.

c. Low or No Pollutant Emitting Equipment

We request that, in order to limit air quality impacts, that OSMRE consider in detail an alternative that requires the use of equipment that produce less or no emissions, such as natural gas-fired vehicles and machinery and electric machinery powered by solar panels or other renewable energy sources. We also request that OSMRE investigate whether it should require equipment maintenance standards to ensure that pollutant emitting machinery is maintained and operated such that air emissions are minimized to the maximum extent practicable.

MIT 1530

d. Other Air Quality Mitigation Alternatives

We request that OSMRE consider in detail an alternative or alternative that mitigates the air quality impacts of the proposed mining. For instance, OSMRE should consider in detail an alternative that establishes stronger emission limits at the Colstrip Steam Electric and the Rosebud Power Stations for both criteria air pollutants and hazardous air pollutants, an alternative that requires more stringent mitigation to eliminate nitrogen dioxide emissions during blasting (including an alternative that prohibits cast blasting to prevent orange clouds from forming), and an alternative that requires a compensatory reduction in emissions for any and all emissions that would continued and/or increase as a result of the proposed coal lease. This last alternative could involve the OSMRE and/or WECO securing commitments from oil and gas operators in the region to reduce their emissions.

MIT 1500

e. An Alternative that Requires WECO to Undertake Actions to Limit or Reduce Other Greenhouse Gas Emissions

We request the OSMRE consider in detail an alternative or alternatives that mitigate greenhouse gas emissions associated with the proposed mining. The OSMRE should consider requiring that Western Energy Company secure an increase in the efficiency of the Colstrip Steam Electric Station and/or the Rosebud Power Station to reduce the total carbon dioxide emission rate (this could be accomplished through the establishment of a limit on carbon dioxide emissions at the plant, either through a total cap or lower emission rate), require the use of low carbon fuels for the operation of any heavy machinery, and/or require that Western Energy Company use renewable energy to power the Rosebud mine and conveyor system.

MIT 1500

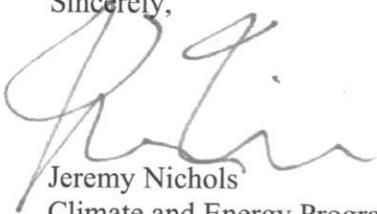
e. An Alternative that Requires Offsite Mitigation or Compensation for the Impacts in Other Ways

Offsite mitigation, as well as mitigation that requires compensation, is explicitly authorized under NEPA. The definition of mitigation includes “[c]ompensating for the impact by replacing or providing substitute resources or environments.” 40 C.F.R. § 1508.20(e). In this case, we request the OSMRE consider an alternative or alternatives that would require Western Energy Company to offset its carbon dioxide emissions from the mine and the two power stations with offsite mitigation by developing a comparable amount of renewable energy. Such a mitigation measure would provide additional generation and also help to create cleaner energy sources that will eventually offset the greenhouse gas emissions produced by coal mining and burning. The OSMRE could play a key role in spurring utilities to begin investing in and developing renewable energy as a means to limit fossil fuel consumption.

MIT 1540

We appreciate the opportunity to comment. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Nichols', written over the word 'Sincerely,'.

Jeremy Nichols
Climate and Energy Program Directors
WildEarth Guardians
1536 Wynkoop, Suite 301
Denver, CO 80202
(303) 437-7663
jnichols@wildearthguardians.org

#378

From: fbartlett@osmre.gov on behalf of [Western-Energy-Area-F-EIS, OSM](#)
To: [Nicole Bauman](#)
Cc: [Emily Corsi](#)
Subject: Fwd: NO to an expansion of Westmoreland's Rosebud coal strip mine in eastern Montana
Date: Thursday, October 17, 2013 3:44:09 PM

----- Forwarded message -----

From: **Charlene Woodcock** <charlene@woodynet.net>
Date: Sun, Oct 13, 2013 at 12:17 PM
Subject: NO to an expansion of Westmoreland's Rosebud coal strip mine in eastern Montana
To: osm-western-energy-area-f-eis@osmre.gov

The scientific evidence of human-caused climate change is very clear and accepted by all serious scientists and all those of us who observe our surroundings and are aware of rising rates of asthma and other bronchial diseases from breathing increasingly polluted air.

Thousands of open train cars are carrying coal and spreading toxic coal dust across Montana and on to the Pacific ports where it will be carried to China. There it will be burned and its pollution will cross the ocean to pollute California and the other western states (as has been shown by coal dust from China found in Sierra snow and ice). We know the mining, transporting, and burning of fossil fuels are driving climate change, so how can increasing rather than terminating these terribly destructive activities possibly be justified?

It is the responsibility of the US Office of Surface Mining and the Montana Department of Environmental Quality to protect the long term interests of the residents of Montana and the land and water and air of our state, not to guarantee increased profits for Westmoreland Coal Company. I trust you will fulfill your obligations to us.

THY 6000

Sincerely,

Charlene M. Woodcock
37 West Main Street, #D
Bozeman, MT 59715

379

From: fbartlett@osmre.gov on behalf of [Western-Energy-Area-F-EIS](#). OSM
To: [Nicole Bauman](#)
Cc: [Emily Corsi](#)
Subject: Fwd: Study all impacts regarding the expansion of the Rosebud Mine in area F. including impacts on groundwater and connected actio...
Date: Thursday, October 17, 2013 3:45:44 PM

----- Forwarded message -----

From: **Bartlett, Franklin** <fbartlett@osmre.gov>
Date: Thu, Oct 17, 2013 at 12:48 PM
Subject: Fwd: Study all impacts regarding the expansion of the Rosebud Mine in area F. including impacts on groundwater and connected actio...
To: OSM Western-Energy-Area-F-EIS <osm-western-energy-area-f-eis@osmre.gov>

----- Forwarded message -----

From: **Claudia Narcisco** <cnarcisco@yahoo.com>
Date: Sat, Oct 5, 2013 at 11:49 PM
Subject: Study all impacts regarding the expansion of the Rosebud Mine in area F. including impacts on groundwater and connected actio...
To: fbartlett@osmre.gov

Oct 6, 2013

Mr. Franklin Bartlett

Dear Mr. Bartlett,

I am writing to ask that my concerns regarding the expansion of the Rosebud Mine into area F are addressed in the scoping process of the Environmental Impact Statement. Expanding the Rosebud mine will have serious impacts on both water availability and water quality North of the mine and will add greenhouse gases into our atmosphere, further accelerating global climate change.

I request that the full scope of environmental and social impacts are studied in the EIS, including the cumulative impacts of this expansion coupled with the operation of the Sarpy Creek Mine (also Westmoreland), existing mining at Rosebud, and the operation of the Colstrip power plant. Please address the following in the study:

- * How will the expansion of the mine contribute to climate change?
- * Is there a market for this coal and are their alternative uses for the land which would be mined that are both environmentally and economically more stable, given the declining demand for coal and electricity generated by coal?
- * What are the downstream impacts for East Fork Armells, West Fork

1A 1100

CLIM 500
PURP 2010
ACTS 340
WTR 10000

Armells, and Sarpy Creek drainages?

* Will the mine be able to restore the hydrologic balance in the reclamation process? Will they be required to do so?

* Are there alluvial valley floors in the area to be mined or downstream that could be impacted by strip mining?

WTR 10080

WTR 10090

Thank you for addressing these concerns. I applaud OSM's decision to get involved in this study and look forward to participating in a robust and thorough review.

Sincerely,

Claudia Narcisco
5607 Gharrett Ave
Missoula, MT 59803-3009
(406) 531-3673

--

Frank Bartlett
Program Analyst
GIS/Environmental Protection
DOI-OSMRE
150 East B Street
Casper, WY 82601
307-261-6543
fbartlett@osmre.gov

#380

From: fbartlett@osmre.gov on behalf of [Western-Energy-Area-F-EIS, OSM](#)
To: [Nicole Bauman](#)
Cc: [Emily Corsi](#)
Subject: Fwd: scoping comments Area F
Date: Thursday, October 17, 2013 3:45:46 PM
Attachments: [10.11.2013 - Fed NEPA Scoping Cmts - RB Area F - MEIC, Sierra Club, WELC.pdf](#)

----- Forwarded message -----

From: **Bartlett, Franklin** <fbartlett@osmre.gov>
Date: Thu, Oct 17, 2013 at 9:23 AM
Subject: Fwd: scoping comments Area F
To: OSM Western-Energy-Area-F-EIS <osm-western-energy-area-f-eis@osmre.gov>

----- Forwarded message -----

From: **Shiloh Hernandez** <hernandez@westernlaw.org>
Date: Fri, Oct 11, 2013 at 5:00 PM
Subject: scoping comments Area F
To: "Bartlett, Franklin" <fbartlett@osmre.gov>

Mr. Bartlett,

Please see attached scoping comment letter submitted on behalf of the Montana Environmental Information Center and Sierra Club regarding the expansion of Area F of the Rosebud Mine.

Sincerely,

Shiloh Hernandez

Staff Attorney

Western Environmental Law Center

103 Reeder's Alley

Helena, MT 59601

tel: 406.204.4861

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Frank Bartlett
Program Analyst
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DOI-OSMRE
150 East B Street
Casper, WY 82601
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Northwest
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Helena, Montana 59601
(406) 443-3501

Southwest
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Taos, New Mexico 87571
(575) 751-0351

Defending the West www.westernlaw.org

Western Environmental Law Center

October 11, 2013

Comments and Exhibits via Post, Comments only via Electronic Mail

Frank Bartlett
Project Coordinator
Office of Surface Mining, Reclamation and Enforcement
Western Region, Casper Area Office
Dick Cheney Federal Building
PO Box 11018
150 East B Street
Casper, Wyoming 82601-7032
(307) 261-6543
fbartlett@osmre.gov

RE: SCOPING COMMENTS FOR AREA F EIS

Mr. Bartlett:

I am submitting this comment letter regarding the proposed Area F Expansion of the Rosebud coal strip mine on behalf of the Montana Environmental Information Center (MEIC) and the Sierra Club (collectively, "Citizens"). The Citizens look forward to full participation in this environmental review process and fully expect the Office of Surface Mining (OSM) to carefully consider the multifarious impacts of this massive mine expansion and the connected mine mouth operation at the Colstrip Electric Generating Station.

The Montana Environmental Information Center is a 501(c)(3) nonprofit organization founded in 1973 with approximately 5,000 members throughout the United States and the State of Montana. MEIC is dedicated, in part, to the preservation and enhancement of the natural resources and natural environment of Montana and to the gathering and disseminating of information concerning the protection and preservation of the human environment through education of its members and the general public concerning their rights and obligations under local, state and federal environmental protection laws and regulations. MEIC is also dedicated, in part, to assuring that federal officials comply with and fully uphold the laws of the United States that are designed to protect and enhance the environment from pollution. MEIC and its members have intensive, long-standing recreational, aesthetic, scientific, professional, and spiritual interests in the responsible production and use of energy, the reduction of greenhouse (GHG) pollution as a means to ameliorate our climate crisis, and the land, air, water, and community impacted by

climate change. MEIC submits these comments on its own behalf and on behalf of its adversely affected members.

Sierra Club is America's oldest and largest grassroots environmental organization. Sierra Club has 1.4 million members and supporters. Founded in 1892, the Sierra Club has been working for well more than a century to protect communities, wild places, and the planet itself. Sierra Club is dedicated to exploring, enjoying, and protecting the wild places of the Earth; to practicing and promoting the responsible use of the Earth's resources and ecosystems; to educating and enlisting humanity to protect and restore the quality of the natural and human environment; and to using all lawful means to carry out these objectives. Sierra Club's concerns encompass the exploration, enjoyment and protection of the lands and waters of Montana. Sierra Club submits these comments on its own behalf and on behalf of its adversely affected members.

The Citizens previously submitted comments regarding the proposed Area F expansion to the Montana Department of Environmental Quality. Those comments are attached and are incorporated here by reference.¹

1. Proposed Action

Western Energy Company (WEC) has submitted an application to expand its Rosebud Strip-Mine by nearly 7,000 acres into a location denominated Area F. 78 Fed. Reg. 52,967, 52,967-68 (Aug. 27, 2013). WEC proposes to strip-mine approximately 2,000 of these acres. *Id.* at 52,967. This expansion would extend the life of the mine by 19 years. *Id.* It would allow WEC to strip-mine approximately 71 million tons of coal. *Id.* at 52,967, 52,968. The purpose of mining this coal is to supply fuel to two nearby power plants. The vast majority of this coal is destined, pursuant to an existing contract between WEC and PPL Electric Utilities, for the Colstrip Steam Electric Station, a massive coal-fired power plant adjacent to the strip-mine. *Id.* at 52,968. A smaller quantity of low quality, high sulfur coal will be trucked to the Rosebud Power Plant. *Id.*

2. Background

The Northern Pacific Railway began strip mining coal from the Rosebud coal seam in the early Twentieth Century as a non-union shop in order to power its locomotives and to unburden itself of the costs of dealing with the underground coal miners' unions.² Hence the birth of Colstrip. The Colstrip coal significantly undercut the prices of coal from underground mines near Bozeman and Red Lodge, allowing Northern Pacific to save significant amounts on fuel, while undermining the more labor intensive mines and the unions in the other towns. "It is ironical, however, that the commitment to Colstrip delayed the Northern Pacific from converting to diesel

¹ Comment Letter from Mont. Env'tl. Info.Ctr. & Sierra Club to Chris Yde, Mont. Dep't of Env'l. Quality (Oct. 1, 2012) (attached as Exhibit 1); Comment Letter from Mont. Env'tl. Info. Ctr. & Sierra Club to Greg Hallsten, Mont. Dep't of Env'tl. Quality (Nov. 5, 2012) (attached as Exhibit 2).

² K. Ross Toole, *The Rape of the Great Plains: Northwest America, Cattle, and Coal* 99 (1976).

fuel for many years and hence it was, in the end, more costly than profitable.”³ Thus, from the beginning strip mining in Colstrip undermined unions, created jobs while killing more, and delayed the transition to superior energy sources.

The Montana Power Company (MPC) and its wholly owned subsidiary WECO took over the mine in 1959 in anticipation of construction of coal-fired power plants.⁴ Not long thereafter, MPC, along with Puget Sound Power and Light, announced its intention to construct the massive mine-mouth power complex that exists today.⁵ From the beginning, there was massive opposition to the project. The original proposal to construct the first two units at Colstrip received over 3000 public comments, 95% of which steadfastly opposed the development.⁶

Units 1 and 2 were planned to have a 30-year operational life.⁷ It has long been acknowledged that construction of the Colstrip mine-mouth energy project placed short-term gains (30 years of strip-mining) above long-term social and environmental impacts. In its EIS for the first two units at the Colstrip Station, the Montana Department of Health and Environmental Sciences wrote: “The long-term adverse effects may well outweigh the short term gains.”⁸ The EIS further noted the likelihood that construction of the plant and mine would create a boom that would be followed by a bust from closure of the plant:

An economy based on the exploitation of the coal is developed in the coal fields, as well as where the electrical energy is being consumed. The short term gains to the Colstrip area are made known by the interests involved in building the plant and mining the coal. Jobs are created and money enters the local economy from these jobs. As long as the coal is mined and the power is generated, the flow of money through the community is assured. When the coal is exhausted, *or its use for production of electricity becomes obsolete, the economy and way of life dependent upon the exploitation of that coal will suffer. Many feel that this consequence is inevitable; that only its magnitude and timing are in question.* Improper reclamation of the land may destroy the original economic base of the region; the land used for agriculture. Numerous examples of boom and bust cycles can be cited. There is little evidence that this sort of thing will not happen in the Fort Union Region.⁹

The EIS also noted the likelihood of long-term impacts from environmental degradation from the mine-power-plant complex:

³ *Id.* at 100.

⁴ *Id.*

⁵ *Id.* at 101; Mont. Dep’t of Health & Env’tl. Sciences, Environmental Impact Statement on the Proposed Montana Power Company Electrical Generating Plant at Colstrip, Montana ii, 87 (Mar. 1973).

⁶ Mont. Dep’t of Health & Env’tl. Sciences, Environmental Impact Statement on the Proposed Montana Power Company Electrical Generating Plant at Colstrip, Montana at 87.

⁷ *Id.* at iii.

⁸ *Id.* at ii (emphasis added).

⁹ *Id.* at 83.

The possible local destruction and regional degradation of the ecosystem by the proposed Colstrip plant also has long term implications. Land use changes adversely affecting food production, modification or loss of recreational areas for present and future generations, and changes in natural species may be more significant to our descendants than our use of electricity over the next several decades. Residents of the area will be subjected to changes in social and psychological pressures from this industrial economy and life style, as the change is made from an agricultural base to a more industrial one. Future residents may encounter the reverse situation; that is, adapting to an agrarian life style should the industrial form be removed or altered.¹⁰

The EIS ended with a cautionary note regarding the nature of short-term decision making and the potential gravity of future repercussions:

It is also much easier to accept decisions that have more personal and quicker results than ones less personal and farther removed in time. It is, therefore, easier to decide in favor of a power plant that will prevent a small power shortage in one's own town in four years than to be concerned with the fate of a large portion of the United States society fifty years from now. Even though some very serious problems for man-kind seem to loom in the future if he continues on his present course, he is reluctant to give up his immediate comforts. This concept is well illustrated by our attitude towards energy in this society. *When evaluated at some future date, the proposed Colstrip plant may prove to have been very efficient at solving one immediate problem, but in doing so having created other problems of much greater scope and duration.*¹¹

Looking back from a distance of forty years, this cautionary note seems prescient. The short-term gains from building the plant and developing the Rosebud strip-mine, have contributed to significant long-term environmental degradation—climate change—that is now a global crisis and will be among the greatest challenges to this and future generations throughout the 21st century and after.

3. Purpose and Need

“The statement [of purpose and need] shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action.” 40 C.F.R. § 1502.13. “[A]n agency may not define the objectives of its action in terms so unreasonably narrow that only one alternative from among the environmentally benign ones in the agency's power would accomplish the goals of the agency's action, and the EIS would become a foreordained formality.” *Friends of Southeast's Future v. Morrison*, 153 F.3d 1059, 1066 (9th Cir. 1998).

¹⁰ *Id.* at 84.

¹¹ *Id.* at 85.

Here, OSM must acknowledge that the scope of the action includes not only strip-mining coal at the Rosebud Mine, but also combustion of the coal at the Colstrip Generating Station and the Rosebud Power Plant. The power plant and mine are inextricably connected: the units were designed specifically to burn coal from the Rosebud Mine and would have to undergo significant and expensive modifications to burn coal from other sources,¹² WECO is exclusively under contract to supply coal to Colstrip and it has no stated intention to ship the coal elsewhere (aside from the Rosebud Power Plant).¹³ Viewed in this light, it is clear that the purpose of the proposed Area F expansion is to meet the public's need for electricity. See Boarder Power Plant Working Group v. Dep't of Energy, 260 F. Supp. 2d 997, 1029-31 (S.D. Cal. 2003) (finding that purpose and need for construction of power line included consideration of power plants that would supply power to lines). Consequently, and as described more fully below, the statement of purpose and need should be the generation of electricity, and the environmental impact statement (EIS) should consider a wide range of alternatives that would meet the public's energy needs, such as renewable energy, energy efficiency and conservation.

PURP 2050

4. Scope

The scope of an EIS must consider among other things three types of actions, including connected, similar, and cumulative actions. 40 C.F.R. § 1508.25(a). Connected actions are “closely related and therefore should be discussed in the same impact statement.” *Id.* “Actions are connected if they: (i) Automatically trigger other actions which may require environmental impact statements. (ii) Cannot or will not proceed unless other actions are taken previously or simultaneously. (iii) Are interdependent parts of a larger action and depend on the larger action for their justification.” *Id.* Cumulative actions are actions “which when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same impact statement.” *Id.* § 1508.25(a)(2). Similar actions are actions “which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography.” *Id.* at 1508.25(a)(3). Actions are plainly connected and must be considered together in an EIS if one would not exist but for the other or the purpose of one action is to accomplish the next. *Thomas v. Peterson*, 753 F.2d 754, 758(9th Cir. 1985); *City of Davis v. Coleman*, 521 F.2d 661, 677 (9th Cir. 1975) (“The argument that the principal object of a federal action does not result from federal action contains its own refutation.”). The purpose of requiring consideration of connected actions is to “prevent agencies from minimizing the potential environmental consequences of a proposed action (and thus short-circuiting NEPA review) by segmenting or isolating an individual action that, by itself, may not have a significant

¹² *Wash. Utilities & Transp. Comm'n v. PSE, Inc.*, Docket No. UE-07 ___, Prefiled Direct Testimony of Michael L. Jones on behalf of Puget Sound Energy at 3, 6-7, 12-14 (Dec. 3, 2007) (revised redacted Oct. 14, 2011) (attached as Exhibit 2a).

¹³ See U.S. Secs. & Exchange Comm'n, Form 8-K, Westmoreland Coal Company (Aug. 4, 2011) (noting that Rosebud Mine had previous unprofitable coal contract for shipping coal beyond Colstrip that was discontinued) (attached as Exhibit 2b); John T. Boyd Co., Due Diligence Fuel Supply Review: Colstrip and Corrette Generating Stations Montana at 3-12, 4-2 (June 2000) (finding that sale of Rosebud coal to other third parties would not be economical and that mine is not well positioned to sell coal beyond Colstrip) (attached as Exhibit 2c).

environmental impact.” *Citizens’ Comm. to Save Our Canyons v. U.S. Forest Serv.*, 297 F.3d 1012, 1028 (10th Cir. 2002).

A. Coal Combustion

Here, it is clear that expansion of the Rosebud strip mine should be analyzed alongside the combustion of the coal at the Colstrip Generating Station and the Rosebud Power Plant. The acknowledged purpose of the Area F expansion is to provide coal to the Colstrip Generating Station and the Rosebud Power Plant.¹⁴ Advocates for the power plant acknowledge, “[t]he Colstrip facility was conceived and developed as a mine-mouth generation plant.”¹⁵ Indeed, using “one of the best known and most respected analytical tools in the policy analysis arena” power-plant advocates have concluded that if the power-plant did not exist, “89 percent of [the] WECO operation, including the transportation of the coal, would also cease to exist.”¹⁶ Apparently WECO has no intention of shipping the coal elsewhere. 78 Fed. Reg. at 52,968 (“WECO does not propose to ship any coal from Area F by rail.”)¹⁷ Indeed, the Rosebud Mine’s previous contract to ship coal to generating facilities in Minnesota was recently discontinued because it was “unprofitable.”¹⁸ Similarly, the Colstrip Station cannot exist without the Rosebud Mine because its Title V operating permit under the Clean Air Act prohibits it from burning coal that is not from the Rosebud seam.¹⁹ Additionally, the Colstrip Station was constructed to burn the low sodium coal of the Rosebud seam, and use of coal from other mines in the Powder River Basin would likely damage the boilers, due higher sodium contents.²⁰ Accordingly, coal combustion at the Colstrip Generating Station and Rosebud Power Plant and disposal of the resultant coal combustion waste (CCW) must be included within the scope of the EIS. This means that the direct, indirect, and cumulative effects of coal combustion and CCW disposal must be fully analyzed. 40 C.F.R. § 1508.25(a), (c). It also means that the alternatives considered must include alternatives to continued operations at the power plants. *Id.* § 1508.25(b). Accordingly, the EIS should compare the cost of continued coal use at Colstrip

IA 1130

CUM 510

CSES 630

CSES 600

¹⁴ OSM, Scoping Newsletter 2 (Sept. 2013) (attached as Exhibit 3); 78 Fed. Reg. 52,967, 52,967-68 (Aug. 27, 2013).

¹⁵ Tooles, Barkley & Polzin, *The Economic Contribution of Colstrip Steam Electric Station Units 1-4*, 13 (Nov. 2010) (attached as Exhibit 4).

¹⁶ *Id.* at 7, 13.

¹⁷ And even if WECO could economically ship coal elsewhere by rail, the EIS would still be required to consider the impacts of such combustion as indirect and cumulative effects of the proposed action. *Mid-States Coal. for Progress v. Surface Transp. Bd.*, 345 F.3d 520, 549-50 (8th Cir. 2003) (holding that agency evaluating construction of railway to transport coal had to consider as indirect effects air pollution from coal consumption even though the exact locations where the coal would be burned were not certain).

¹⁸ U.S. Secs. & Exchange Comm’n, Form 8-K, Westmoreland Coal Company at 6 (Aug. 4, 2011); John T. Boyd Co., *Due Diligence Fuel Supply Review: Colstrip and Corrette Generating Stations Montana* at 3-12, 4-2, 4-9 (June 2000).

¹⁹ Mont. Dep’t of Env’tl. Quality, Air Quality Operating Permit OP0513-09 at 5 (Sept. 2013) (attached as Exhibit 4a).

²⁰ *Wash. Utilities & Transp. Comm’n v. PSE, Inc.*, Docket No. UE-07 ___, Prefiled Direct Testimony of Michael L. Jones on behalf of Puget Sound Energy at 3, 6-7, 12-14 (Dec. 3, 2007).

Generating Station and Rosebud Power Plant for two more decades, with the cost of generating electricity from alternative methods, as well as reducing energy demand through conservation and efficiency. *See infra* Part 6.

ECON 820

B. All Mining Activities at Rosebud Mine

In addition to consideration of the impacts of coal combustion and CCW disposal, the scope of the EIS should also consider all past and future mining of lands that WECO has leased. Analysis of the impacts of incremental expansions of a strip-mine without a broad analysis of the total impact of all proposed and reasonably foreseeable mining operations is contrary to the purpose of NEPA. The reality is that individual mine expansions cannot justify the massive capital investments associated with the development of a strip mine. *See, e.g., Cady v. Morton*, 527 F.2d 786, 795 (9th Cir. 1975); *Bragg v. Robertson*, 54 F. Supp. 2d 635, 651 (S.D. W. Va. 1999). Nevertheless, case law shows that it is not uncommon for project developers to break larger projects into small parts (or “gerrymander” them) in order to avoid thorough NEPA analysis, and, worse, agencies often accede to the such practice. *E.g., Cady*, 527 F.2d at 795; *Bragg*, 54 F. Supp. 2d at 651; *Save Our Sonoran, Inc. v. Flowers*, 408 F.3d 1113, 1122 (9th Cir. 2005) (“In essence, Lone Mountain’s [developer] argument is that it can constrain the Corps’ responsibility under NEPA by submitting a gerrymandered series of applications. However, the scope of the Corps’ responsibility under NEPA is not dictated by the applicant; rather, it is directed by statute.”).

Here, the EIS must include within the scope of analysis development of all lands which WECO currently holds under lease.

IA 1140

5. Cooperating Agencies and EPA Involvement

NEPA requires agencies that carry out EISs to cooperate with other agencies with special environmental expertise. Thus, “[p]rior to making any detailed statement [read: EIS], the responsible Federal official *shall consult with and obtain the comments of* any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved.” 42 U.S.C. § 4332(2)(C) (emphasis added). Such cooperation should occur “early in the NEPA process.” 40 C.F.R. § 1501.6. The lead agency “shall . . . request the participation of each cooperating agency in the NEPA process at the earliest possible time.” Cooperating agencies “shall . . . participate in the scoping process.” *Id.* § 1501.6(b)(2). Further, the Clean Air Act specifically requires the Environmental Protection Agency (EPA) to review and comment on any EIS.

The Administrator [of EPA] shall review and comment in writing on the environmental impact of any matter relating to duties and responsibilities granted pursuant to this chapter [the Clean Air Act] or other provisions of the authority of the Administrator, contained in any . . . major Federal agency action . . . to which section 4332(2)(C) of this title applies Such written comment shall be made public at the conclusion of any such review.

42 U.S.C. § 7609(a).

Here, EPA should be closely involved in the preparation of the instant EIS. Expansion of the Rosebud Mine and the inevitable (and intended) combustion of the coal and disposal of the CCW will lead to air, water, and soil pollution, areas in which EPA plainly possesses special expertise. Accordingly, OSM should request that EPA participate as a cooperating agency in the preparation of the EIS, including participation in the scoping process. Additionally, as noted below, OSM must consult with the U.S. Fish and Wildlife Service pursuant to the Endangered Species Act.

CA 13000

6. Alternatives

NEPA requires agencies preparing an EIS to evaluate “alternatives to the proposed action.” 42 U.S.C. § 4332(2)(C)(iii); *Id.* § 4332(2)(E). The alternatives analysis “is the heart of the environmental impact statement.” 40 C.F.R. § 1502.14. The EIS must “rigorously explore and objectively evaluate all reasonable alternatives and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.” *Id.* § 1502.14(a). The agency must “devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits.” *Id.* § 1502.14(b). This analysis is critical to ensuring that NEPA analysis leads to “excellent action,” rather than just an accumulation of paper. *Id.* § 1500.1(c).

This requirement, like the “detailed statement” [EIS], seeks to ensure that each agency decision maker has before him and takes into proper account all possible approaches to a particular project (including total abandonment of that project) which would alter the environmental impact and the cost-benefit balance. Only in that fashion is it likely that the most intelligent, optimally beneficial decision will ultimately be made.

Calvert Cliffs Coordinating Comm., Inc. v. U.S. Atomic Energy Comm’n, 449 F.2d 1109, 1114 (D.C. Cir. 1971).

In its alternatives analysis, the agency must “include reasonable alternatives not within the jurisdiction of the lead agency.” *Id.* § 1502.14(c). Agencies must also consider alternatives that would partially meet the purpose and need of a project. *NRDC v. Hodel*, 865 F.2d 288, 296 n.4 (D.C. Cir. 1988). “The existence of reasonable but unexamined alternatives renders a [NEPA] analysis inadequate.” *Friends of Southeast’s Future v. Morrison*, 153 F.3d 1059, 1065 (9th Cir. 1998).

Agencies “must look at every reasonable proposal within the range dictated by the nature and scope of the proposal.” *Id.* Agencies may not limit, however, the scope of alternatives to the goals of a private project proponent. *Simmons v. U.S. Army Corps of Eng’rs*, 120 F.3d 664, 669 (7th Cir. 1997). Such limitation is a “losing proposition,” and agencies have a “duty under NEPA to exercise a degree of skepticism in dealing with self-serving statements from a prime beneficiary of the project.” *Id.* Further, courts have long interpreted the mandate to consider reasonable alternatives to require agencies contemplating energy projects to consider reasonable alternative forms of energy generation and energy conservation. *NRDC v. Morton*, 458 F.2d

827, 833-38 (D.C. Cir. 1972); *Hodel*, 865 F.2d at 295-97 (agency required to consider conservation alternatives in analysis of decision to issue oil and gas leases); *Libby Rod & Gun Club v. Poteat*, 457 F. Supp. 1177, 1186-8 (D. Mont. 1978), *aff'd in part and rev'd in part on other grounds*, 59 F.2d 742 (9th Cir. 1979).

Coal is fast becoming obsolete as an energy source on account of its excessive pollution, reduced social acceptance, and decreasing ability to compete economically. It is highly likely that the next two decades—the proposed lifetime of strip-mining in Area F—combustion of coal, especially from old polluting plants like the Colstrip Station, will no longer be an acceptable source of energy, for social and economic reasons. Accordingly, OSM must consider alternatives to continued coal generation at Colstrip, such as increase deployment of renewable energy and increased energy conservation and efficiency.

ALTS 330

A. Coal Is Losing Both Its Social License and Ability to Compete Economically

Coal fired power generation is fast becoming an obsolete and uneconomical source of electricity, as society is becoming less tolerant of the multifarious harms wrought by coal pollution. President Obama, in laying out his plan for action to combat the crisis of climate change, specifically singled out the need to stop the harm from coal and coal plants:

Today, about 40 percent of America's carbon pollution comes from our power plants. But here's the thing: Right now, there are no federal limits to the amount of carbon pollution that those plants can pump into our air. None. Zero. We limit the amount of toxic chemicals like mercury and sulfur and arsenic in our air or our water, but power plants can still dump unlimited amounts of carbon pollution into the air for free. That's not right, that's not safe, and it needs to stop.

So today, for the sake of our children, and the health and safety of all Americans, I'm directing the Environmental Protection Agency to put an end to the limitless dumping of carbon pollution from our power plants, and complete new pollution standards for both new and existing power plants.²¹

The President has clearly articulated what has been apparent for some time now: our country needs to transition away from dirty polluting energy from coal plants to renewable energy sources and more efficient use of energy.²² On national and international levels major investors—such as the World Bank, European Investment Bank, and the U.S. Import-Export Bank—have declined or refused to invest in coal energy.²³ It has been repeatedly noted that

²¹ Barak Obama, President of United States of America, Remarks on Climate Change at Georgetown University (June 25, 2013), *available at* <http://www.whitehouse.gov/the-press-office/2013/06/25/remarks-president-climate-change> (attached as Exhibit 5).

²² Executive Office of the President, The President's Climate Action Plan at 6-10 (June 2013) (attached as exhibit 6).

²³ World Bank Group, *Toward a Sustainable Energy Future for All: Directions for the World Bank Group's Energy Sector at 25* ("The WBG will provide financial support for greenfield coal power generation only in rare circumstances.") (attached as Exhibit 7); European Investment

“coal is a dead man walking.”²⁴ Major private investors have recently announced that investments in coal a dead end.²⁵ A recent report by Goldman Sachs sums up the current and projected state of the coal industry:

Thermal coal has enjoyed a long period of strong demand growth but in our view the next 10 years will not be as benign. . . .

Earning a return on incremental investment in thermal coal mining and infrastructure capacity is becoming increasingly difficult. Mines are long-lived assets with a long payback period, while thermal coal is a geographically abundant resource in an industry with relatively low barriers to entry. As coal demand becomes increasingly constrained, the competition among suppliers is likely to intensify. The change in outlook is reflected in the way diversified mining companies are reallocating their capital towards more attractive sectors.²⁶

Among the reasons behind the impending obsolescence of coal are (1) decreasing acceptance of pollution from coal and, accordingly, increased regulation of coal pollution; (2) increased competition from other energy sources, such as renewables and natural gas; and (3) increases in energy efficiency.²⁷ A chief reason for the decreased social acceptance of coal is that its externalities—i.e., costs borne by society which are not included in the purchase price of coal—are tremendous, amounting annually to hundreds of billions of dollars in the United States alone.²⁸ As society has become better able to recognize and calculate these costs that are being foisted upon it, there has been an ever-growing rejection of coal as a legitimate energy source. Stock value of coal companies is plummeting; stock in Peabody, the largest private sector coal

Bank, Ex-Im Bank Move Away from Coal Financing, Sustainable Business (July 31, 2013), available at <http://www.sustainablebusiness.com/index.cfm/go/news.display/id/25102>.

²⁴ Steven Mufson, *Coal's Burnout: Have Investors Moved to Cleaner Energy Sources*, Wash. Post (Jan. 1, 2011), available at <http://www.washingtonpost.com/wp-dyn/content/article/2011/01/01/AR2011010102146.html> (quoting Kevin Parker, global head of asset management and member of the executive committee at Deutsche Bank); Derek Sands, *US Coal Industry "A Dead Man Walkin": New York Mayor*, Platts (Feb. 27, 2011) (quoting Michael Bloomberg, mayor of New York City), available at <http://www.platts.com/latest-news/coal/Washington/US-coal-industry-a-dead-man-walking-New-York-6203214>.

²⁵ E.g., Anthony Yuen, *The Unimaginable: Peak Coal in China*, Citi Research (Sept. 4, 2013) (attached as Exhibit 7.1) (explaining expected decrease in coal consumption in China and global ripple effects); Bernstein Research, *Asian Coal and Power: Less, Less, Less . . . The Beginning of the End of Coal* (June 2013) (attached as Exhibit 7.1a).

²⁶ Christian Lelong et al., Goldman Sachs, *Rocks & Ores, The Window for Thermal Coal Investment Is Closing 3* (July 24, 2013) (attached as Exhibit 7.2).

²⁷ *Id.* at 20-29; Lifeng Fang, Greenpeace, *The Myth of China's Endless Coal Demand 4* (2013) (attached as Exhibit 7.2a).

²⁸ See *infra*, Part 8.A-B, E (detailing costs of externalities from coal).

company, has been reduced dramatically.²⁹ Bankruptcy seems probable for some (e.g., Arch Coal).³⁰

It is becoming increasingly clear that Colstrip's owners are also aware coal's obsolescence and are looking to divest themselves of their interests at Colstrip. The Vice President of Corporate Affairs of Puget Sound Energy, the largest owner of Colstrip, recently acknowledged, "[W]e know the end of coal is soon. . . . We know coal is a dead end."³¹ Portland General Electric, another partial owner of Colstrip, recently commissioned a study to help that utility develop a low-carbon resource portfolio.³² The study repeatedly noted that one option is "Colstrip displacement" (i.e., removing the Colstrip Station from its portfolio) and that to meet 2030 emissions targets, "displacing Colstrip by 2030 is necessary."³³ Furthermore, it is reported that even the operator (and partial owner) of Colstrip, Pennsylvania Power and Light (PPL), is looking to divest itself of Colstrip by selling its interest in the plant: the apparent motive—insufficient return on investment.³⁴ Low electricity rates have caused the Colstrip Station to shut down for extended periods recently because it has been unable to sell its expensive power for a profit.³⁵ While electricity prices have been down, electricity generated by the Colstrip Station is expensive, as a recent report from the Montana Public Service Commission demonstrated: electricity from Colstrip Unit 4 was the most expensive source of electricity in the energy portfolio of NorthWestern Energy, a major Montana utility.³⁶ And that was without accounting for Colstrip's outsized externalities—CCW and carbon pollution—externalities that are likely to be constrained in the future.³⁷ Another reason that the forecast for Colstrip looks so bad is that the cost to mine coal from the Rosebud Mine is the highest in the region, costing approximately

²⁹ Moody's Investor Service, Moody's Downgrades Peabody to Ba2; Outlook Stable (Aug. 21, 2013), available at https://www.moodys.com/research/Moodys-downgrades-Peabody-to-Ba2-outlook-stable--PR_280688?source=email_rt_mc_body&app=n.

³⁰ Seeking Alpha, Arch Coal: Walking Dead (Sept. 2, 2012), available at <http://seekingalpha.com/article/841941-arch-coal-walking-dead>.

³¹ Letter from Bruce Nilles, Sierra Club, and Anne Hedges, Mont. Env'tl. Info. Ctr., to Mont. Pub. Serv. Comm'n 10-11 (Aug. 26, 2013) (attached as Exhibit 7.3).

³² Energy+Environmental Economics, PGE Low Carbon IRP Portfolios (May 28, 2013) (attached as Exhibit 8).

³³ *Id.* at 5, 15, 30, 33

³⁴ Mike Dennison, *PPL Montana Putting Its Montana Power Plants Up for Sale*, *Industry Sources Say* Billings Gazette (Dec. 2013), available at http://billingsgazette.com/news/state-and-regional/montana/ppl-montana-putting-its-montana-power-plants-up-for-sale/article_81370bb7-a171-5d33-a05e-1b42a2c68ca1.html (attached as Exhibit 9).

³⁵ *Id.*

³⁶ Jason Brown, Mont. Pub. Serv. Comm'n, Historical Residential Electric Rates, Supply Portfolio and Unit Prices of NorthWestern Energy 11 (Sept. 2011) (attached as Exhibit 10).

³⁷ See Obama *supra* note 16 (describing future regulation of carbon from existing coal plants); Hazardous and Solid Waste Management System; Identification and Listing of Special Wastes; Disposal of Coal Combustion Residues from Electric Utilities, 75 Fed. Reg. 35,128, 35,128 (June 21, 2010) (proposed rule to regulate CCW as solid or hazardous waste) (attached as Exhibit 11).

\$16/ton, a price which is expected to increase over the next 20 years to over \$20/ton.³⁸ And, as mentioned below, Colstrip is constrained by its air pollution permit, from obtaining coal from other sources.

The Sixth Conservation and Electric Power Plan (Sixth Power Plan) of the Northwest Power and Conservation Council (NPCC), a regional organization that maintains and develops power plans for the Northwest (Montana, Idaho, Oregon, and Washington) also foresees reduced coal generation. The NPCC's vision for the next twenty years is that "[c]onventional coal plants"—like Colstrip—"will operate with effective carbon-reducing technologies or be displaced by resources that emit less or no carbon."³⁹ "The resource strategy does not include any additional coal-fired generation to serve the region's needs. Further, the Council's plan demonstrates that meeting the Northwest power system's share of carbon reductions called for in some state, regional, and federal carbon-reduction goals will require reduced reliance on the region's existing coal plants."⁴⁰ Researchers see this forecast—continued reduced reliance on coal—for utilities across the nation.⁴¹ It is highly unlikely that Colstrip will ever be retrofitted with equipment for carbon capture and sequestration (CCS), because such technology is not currently commercially competitive,⁴² and is not likely to be in the future.⁴³

B. Renewable Energy and Energy Efficiency and Conservation Are the Future

While the economics for coal in the United States and abroad look dismal for the future, development of renewable energy sources and investments in energy conservation and efficiency are promising.⁴⁴ In order to meet carbon reduction goals in the Northwest, the NPCC's Sixth Sixth Power Plan proposes "reduced reliance on coal" and a "carefully coordinated retirement of and *replacement of half the existing coal-fired generation serving the region with conservation, renewable generation, and lower carbon emitting resources.*"⁴⁵ The Sixth Power Plan found that conservation is "by far the lowest-cost and lowest-risk resource available in the region."⁴⁶ This finding reflects the analysis of the Montana Public Service Commission showing that efficiency

³⁸ John T. Boyd Co., Powder River Basin Coal Resource and Cost Study: Campbell, Converse and Sheridan Counties, Wyoming; Big Horn, Powder River, Rosebud, and Treasure Counties, Montana at 4-6 (Sept. 2011) (attached as Exhibit 12).

³⁹ Northwest Power and Conservation Council, Sixth Conservation and Electric Power Plan 1-14 (Feb. 2010) (attached as Exhibit 13).

⁴⁰ *Id.*

⁴¹ Forrest Small & Lisa Frantzis, Ceres, The 21st Century Electric Utility: Positioning for a Low Carbon Future (July 2010) (attached as Exhibit 13.a1a)

⁴² Northwest Power and Conservation Council, Sixth Conservation and Electric Power Plan at AP-13.

⁴³ See Amory B. Lovins & Rocky Mountain Inst., Reinventing Fire: Bold Business Solutions for the New Energy Era 185 (2011) (stating that CCS "faces challenges from its high costs and uncertain performance, which limit its access to capital").

⁴⁴ See, e.g., Intergovernmental Panel on Climate Change, Renewable Energy Sources and Climate Change Mitigation: Special Report (2012) (attached as Exhibit 13a1).

⁴⁵ Sixth Power Plan, *supra*, at 7.

⁴⁶ *Id.* at 3 (emphasis added).

measures are four times more cost-effective than energy generated by Unit 4 of the Colstrip Station.⁴⁷ The plan also noted that “the most readily available and cost-effective renewable resource is wind power and it is being developed rapidly.”⁴⁸ As the Montana Public Service Commission has acknowledged, “Montana has outstanding wind energy potential. The wind generation potential in Montana far exceeds what the state’s utilities can use.”⁴⁹

Further, “[t]he region needs to devote significant effort to expanding the supply of cost-effective renewable resources, many of which may be small scale and local in nature.”⁵⁰ Further, given the risk that coal producers will ultimately be required to pay for their carbon pollution, “some renewable generation is cost-effective even without renewable portfolio standards.”⁵¹

In addition to wind, the Sixth Power Plan notes that other viable renewable and low carbon energy options include small scale geothermal projects, upgrades of existing hydropower projects, and bioresidue energy recovery.⁵² The Plan also encourages commercialization of deep-water wind energy and wave energy projects.⁵³

A highly detailed analysis of different future energy scenarios by Amory Lovins concluded that scenarios based on large scale renewable energy generation (called the “renew” scenario) and widespread distributed generation (the “transform” scenario) combined with aggressive energy efficiency measures have by far, the greatest social, economic, and environmental value. Such measures are affordable and feasible when compared with business as usual scenarios or scenarios involving significant development of nuclear power and coal with CCS.⁵⁴ And, the clincher, the renewable and distributed energy scenarios were superior in reliability, security benefits, environmental responsibility, public health benefits, and public acceptability.⁵⁵

In sum, coal energy is fast becoming obsolete: uneconomic, environmentally harmful, and socially unacceptable. Renewable energy and energy conservation and efficiency, on the other hand, are making tremendous gains in cost, and are far superior in environmental and social acceptability. Large-scale deployment of renewable energy and conservation measures are reasonable alternatives that should be considered as alternatives to 20 more years of coal-fired energy generation at the Rosebud strip-mine and Colstrip Generating Station and Rosebud Power Plant.

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⁴⁷ Mont. Pub. Serv. Comm’n, *supra* note 10, at 11 (attached as Exhibit 13a).

⁴⁸ Sixth Power Plan, *supra*, at 4.

⁴⁹ Mont. Pub. Serv. Comm’n, Draft Economic Impacts of Proposed Amendments of the Montana Department of Public Service Regulation’s Qualifying Facility Rules 31 (Aug. 2013).

⁵⁰ Sixth Power Plan, *supra*, at 4.

⁵¹ *Id.* at 5.

⁵² *Id.* at AP-11.

⁵³ *Id.* at AP-12.

⁵⁴ Lovins, *Reinventing Fire*, *supra* at 213-15.

⁵⁵ *Id.*; see also Amory B. Lovins, *A Farewell to Fossil Fuels: Answering the Energy Challenge* Foreign Affairs (Apr./Mar. 2012) (attached as Exhibit 14).

7. Strip-Mining and Coal Transportation

Under NEPA, the process of scoping serves to define the scope of an EIS and to identify “significant issues to be analyzed in depth in the” EIS. 40 C.F.R. § 1501.7(a)(2). An EIS must address direct, indirect, and cumulative impacts associated with a proposed action. *Id.* § 1508.25(c). Direct effects are those effects “caused by the action” which “occur at the same time and place.” *Id.* § 1508.8(a). Effects are indirect if they are “caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable.” *Id.* § 1508.8(b). Cumulative effects are the impacts “on the environment which result[] from the incremental impact of the action when added to other past, present, and reasonably foreseeable future acts, regardless of what agency (Federal or non-Federal) or person undertakes such other actions.” *Id.* § 1508.7. Here, OSM must consider the direct, indirect, and cumulative effects of the Rosebud strip-mine.

A. Contemporaneous Reclamation

Reclamation of strip-mined land should occur “as contemporaneously as practicable with the surface mining operations.” 30 U.S.C. § 1265(b)(16). Where full reclamation is “not feasible,” strip-mining operations may not be conducted. *Id.* §§ 1202(c), 1272(a)(2). The Surface Mining Control and Reclamation Act (SMCRA) employs a bonding procedure to assure that reclamation occurs. *Id.* § 1269. Under this procedure, the strip-mining company is required to secure a bond that should be sufficient for full reclamation, and then after mining, the company is supposed to receive portions of its bond as it progresses through the various stages of reclamation. *Id.* § 1269(c).

There are significant concerns that full reclamation of coal mining operations in Montana, and particularly at the Rosebud strip-mine, is simply not feasible. This concern is borne out by the amount of strip-mined lands that have been fully reclaimed in the past 40 years: of the 40,028 acres that have been disturbed by strip-mining, only 67 acres have received full bond release indicating full reclamation.⁵⁶ OSM and the Montana Department of Environmental Quality (DEQ) insist that this near complete lack of full reclamation at any mine in Montana is due not to “the quality of reclamation and/or the ability to support the post-mine land use,” but rather due to the fact that the standards for complete reclamation are onerous, requiring reclamation through an entire disturbed drainage basin before final bond release is available.⁵⁷ However, neither OSM nor DEQ has presented any evidence to support its asserted justification for lack of full mine reclamation, and they have offered similar excuses in the past.⁵⁸ More importantly, after nearly half a century of strip mining, they are unable to point to a single large-scale success in full reclamation. That full reclamation is simply not feasible on arid lands in Montana is

⁵⁶ Office of Surface Mining, Annual Evaluation Report for the Montana Regulatory Program 8 (2012) (attached as Exhibit 15); *see also* Office of Surface Mining, Contemporaneous Reclamation in Montana (EY 2012) 1-13 (2012) (attached as Exhibit 16) (showing that no mine of any significant size has obtained any final bond reclamation).

⁵⁷ OSM, Contemporaneous Reclamation in Montana at 13.

⁵⁸ Harris Epstein et al., *Undermined Promise: Reclamation and Enforcement of the Surface Mining Control and Reclamation Act 1977-2007* (2007) (attached as Exhibit 16a).

underscored by recent statements by the operators of the Spring Creek mine, who have acknowledged that they have “no idea” what vegetation will grow on back-filled mining lands and admit having “no control over what seeded plant communities will result in reclaimed areas.”⁵⁹ The possibility of restoration of vegetation on strip-mined lands—which the Spring Creek operators are having problems with—is rendered still less likely due to the documented history of cyclical drought in the region, and particular to Colstrip, the cumulative impact on vegetation from acid-rain producing sulfur dioxide (SO₂), among other air pollutants from the Colstrip Station.⁶⁰ All of these problems will be further exacerbated by the worsening impacts of climate change, which is causing increased extreme precipitation events, shifts in seasonal precipitation and runoff, decreased precipitation and runoff, and more severe and prolonged drought in the western United States.⁶¹

If operators admit complete lack control and understanding (“no idea” what vegetation will return) of revegetation, it is hard to see how they can assure reestablishment of the hydrologic regime following strip-mining. Indeed studies and commentators have long suggested that such hydrologic reclamation just can’t be done in the arid west. For example, Woessner et al. (1979), in an analysis limited to water pollution from total dissolved solids (TDS), concluded that strip-mining results in significant degradation of ground water at the mine site that will persist for well over a century, and potentially over a millennium, after mining.⁶² Acclaimed historian K. Ross Toole, in recounting the region’s documented fragile ecology and history of cyclical drought, as well as settlers’ repeated failure to understand this ecology, famously compared the conceit of strip-mining reclamation to “lipstick on a corpse.”⁶³ Generalities aside, evidence specific to the Rosebud Mine suggests that reclamation of the water resources in the mine area is not feasible. WECO itself acknowledges that the strip-mining process will lead to significantly elevated levels of TDS after the pit is backfilled, that the TDS levels will exceed (i.e., violated) the standards for the current water classification and, consequently will require at least a temporary reclassification of the groundwater to a lower use-class, and that the levels will not decrease until the pit has fully recharged and emptied at least one time, a process that will at minimum take hundreds of years, and likely much longer.⁶⁴ And DEQ acknowledges that surface waters affected by the mine—East Fork Armells Creek—are impaired due to the strip-mining operations.⁶⁵ In addition to the harm to surface- and ground-water caused by the Rosebud strip-mine, disposal of CCW at the Colstrip Station is causing significant groundwater contamination

⁵⁹ OSM, Annual Evaluation Report 2012 at 13.

⁶⁰ K. Ross Toole, *The Rape of the Great Plains* 151-56 (1976).

⁶¹ U.S. Global Change Research Program, *Global Climate Change Impacts in the United States* 45-47, 124 (2009) (attached as Exhibit 17).

⁶² Woessner et al, *The Impacts of Coal Strip Mining on the Hydrologic System of the Northern Great Plains: Case Study of Potential Impacts on the Northern Cheyenne Reservation*, 43 *J. of Hydrology* 459-64 (1979) (attached as Exhibit 18)

⁶³ Toole, *supra* note 50 at 144.

⁶⁴ Comment Letter from Mont. Env'tl. Info.Ctr. & Sierra Club to Chris Yde, Mont. Dep't of Env'tl. Quality, *supra* note 1 at 4-7 (citing Area F application).

⁶⁵ Mont. Dep't of Env'tl. Quality, *Final Water Quality Integrated Report A-160* (2012).

around the power plant's ash ponds.⁶⁶ Reclamation of hydrologic resources may likely be further impaired by historic backfilling of CCW from the power plant in the strip-mine's mine-out pits.⁶⁷

WTR 10070

Given the mandates of SMCRA and the uncertainty and controversy surrounding reclamation, the EIS must carefully evaluate the feasibility of full reclamation in light of the aforementioned documented challenges to reclamation, and must fully address the lack of full reclamation in Montana. If contemporaneous reclamation is not feasible, no mining may be permitted.

RECL 3000
WTR 10080

B. Water Impacts

To say the least, strip-mining significantly affects water resources. SMCRA prohibits strip-mining activities that may cause "material damage" to the hydrologic balance beyond the permit boundaries of a proposed strip-mine. 30 U.S.C. § 1260(b)(3). Montana has defined "material damage" to include violations of water quality standards. Mont. Code Ann. § 82-4-203(31). As noted, East Fork Armells Creek is impaired due to nitrates/nitrites, nitrogen, specific conductance, total dissolved solids, and alterations in stream side vegetation.⁶⁸ Strip-mining at the Rosebud Mine is specifically noted as a source of this impairment.⁶⁹ Because this evidence seems to clearly show that the Rosebud Mine is causing material damage to the hydrologic balance outside the permit area, it would seem that additional mining activities may not be permitted, given the prohibition of such damage in SMCRA. WECO and DEQ, however, asserted that its pollution is not in fact impairing East Fork Armells Creek because the creek is only an ephemeral waterway.⁷⁰ This suggestion, however, is dubious, as DEQ's predecessor, the Montana Department of Health and Environmental Sciences, in its initial EIS for the Colstrip Station, found that East Fork Armells Creek is an "intermittent stream."⁷¹ History and consistency notwithstanding, because of this controversy, the EIS must determine if East Fork Armells Creek is ephemeral (as opposed to intermittent or perennial), what sections of the creek are ephemeral, whether the creek was historically ephemeral, and whether strip-mining has dewatered the creek. WECO can hardly be permitted to avoid water quality standards by destroying the receiving waters. See *Bragg v. Robertson*, 72 F. Supp. 2d 642, 661-62 (S.D. W. Va. 1999), judgment vacated, 248 F.3d 275 (4th Cir. 2001) (agency cannot allow coal companies to avoid water quality standards by completely obliterating intermittent streams).

WTR 10080

WTR 10090

⁶⁶ See Letter from Jenny Harbine, Earthjustice, to Jake Kandelin, Mont. Dep't of Env'tl. Quality (July 25, 2013) (attached as Exhibit 20).

⁶⁷ Mont. Dep't of Health & Env'tl. Sciences, Environmental Impact Statement on the Proposed Montana Power Company Electrical Generating Plant at Colstrip, Montana at 51 (1973).

⁶⁸ Mont. Dep't of Env'tl. Quality, Integrated Report, *supra* note 55, at A-160.

⁶⁹ *Id.*

⁷⁰ Mont. Dep't of Env'tl. Quality, Response to Comments, MPDES Permit Number MT 0023965 1 (2012).

⁷¹ Mont. Dep't of Health & Env'tl. Sciences, Environmental Impact Statement on the Proposed Montana Power Company Electrical Generating Plant at Colstrip, Montana at A-14.

As noted, WECO acknowledges that groundwater accumulating in mine spoils will be significantly polluted.⁷² This polluted water will certainly migrate to ground and surface waters beyond the permit boundary. The EIS must evaluate the downstream and down-gradient effects of polluted spoils water (including identifying any locations where groundwater will discharge to surface water). Similarly, the EIS must evaluate any water impacts from past disposal of CCW in mine pits and impacts from use of bottom ash on roads and other structures throughout the mine. Additionally, the EIS must consider the cumulative impacts of mining and (climate change on the likelihood and feasibility of reclamation.

WTR 10010
WTR 10020
WTR 10070
CSES 610
RECL 3020

C. Alluvial Valley Floors

Under SMCRA, a regulatory authority may not approve an application for strip-mining that will damage alluvial valley floors (AVFs). 30 U.S.C. § 1260(b)(5). This prohibition is a reflection of the importance of AVFs to sustainable agricultural operations in the west. As noted in previous comments,⁷³ which are incorporated here by reference, WECO's application does not present adequate information to determine whether AVFs may exist in the project area. There are indications that portions of Black Hank Creek and Donley Creek contain unconsolidated alluvial deposits. The EIS must fully assess whether these are AVFs, and whether other AVFs exist in the area of the proposed expansion. If there are AVFs, they may not be mined.

WTR 10090

D. Methane Emissions from Coal Mining

Methane is a powerful greenhouse gas (GHG), its global warming potential 80-100 times more potent than carbon dioxide (CO₂) over a 20 period.⁷⁴ Significant amounts of methane are emitted during the process of coal mining.⁷⁵ Because methane is a short-lived but very potent GHG, significant near-term climate benefits can be obtained through near-term reductions in methane emissions, especially unnecessary methane emissions, such as those that are emitted as a collateral effect of coal mining.⁷⁶ The EIS must quantify methane emissions that will result from expansion of the Rosebud strip-mine into Area F. The EIS should also consider the feasibility of requiring capture of such methane prior to any mining operations.

AIR 120

The climate benefits of reducing methane emissions have been estimated at \$2381 per metric ton.⁷⁷ Because NEPA specifically mandates that agencies "insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations," 42 U.S.C. § 4332(2)(B), the EIS must monetize the value of any lost methane emissions.

AIR 120

⁷² See Comment Letter from Mont. Env'tl. Info.Ctr. & Sierra Club to Chris Yde, Mont. Dep't of Env'tl. Quality, *supra* note 1 at 2-8 (citing Area F application).

⁷³ *Id.* at 7-8.

⁷⁴ Drew T. Shindell et al., *Improved Attribution of Climate Forcing Emissions* 326 Science 716, 717 (2009) (attached as Exhibit 21).

⁷⁵ Drew Shindell, *Simultaneously Mitigating Near-Term Climate Change and Improving Human Health and Food Security* 335 Science 183, 186-87 (2012) (attached as Exhibit 22).

⁷⁶ *Id.* 186-88.

⁷⁷ *Id.*

E. Cultural Impacts

As noted in earlier comments, the EIS must fully consider impacts on cultural resources.⁷⁸ Additionally, the EIS must address the historically negative economic impacts of energy development on the Northern Cheyenne Reservation.⁷⁹ Despite the energy boom in southeastern Montana in the 1970s and 1980s when the Colstrip Station was built and the Rosebud Mine expanded dramatically, almost all economic indicators on the Northern Cheyenne Reservation worsened: the poverty rate increased, median family income decreased, unemployment tripled, and homeownership fell.⁸⁰ Further, reservation residents, despite making up a large percentage of the working age population, were only able to gain a small fraction of the energy-related jobs.⁸¹ Thus, despite the wealth generated by the construction of the power-plants and mine, the reservation actually suffered. The EIS must acknowledge this history, evaluate the reasons for it, and determine whether continued operations of the mine-power plant will continue to have negative economic impacts on the Northern Cheyenne.

CULT 700
ENJ 950

ENJ 950

F. Effect of Sale or Closure of Colstrip

As mentioned earlier, the Colstrip Station is nearly ten years past its original life-expectancy.⁸² The EIS that accompanied construction of Units 1 and 2 foresaw the eventual closure of the mine and power-plant (“[w]hen the coal is exhausted, or its use for production of electricity becomes obsolete”) and noted that when this happens “the economy and way of life dependent upon the exploitation of the coal will suffer.”⁸³ The EIS found no reason to believe the Colstrip would avoid the “boom and bust cycle” that has accompanied mineral development elsewhere.⁸⁴ The EIS also found that in the end the area would be worse off for having had the mine and power plant because, among other things, “[i]mproper reclamation of the land may destroy the original economic base of the region,” i.e., agriculture.⁸⁵

As noted earlier, prediction of the original Colstrip EIS is being realized: coal is becoming obsolete as a form of energy, renewable and efficiency are superior means of meeting energy needs, and the owners of the Colstrip Station are looking for the exit. Given these

⁷⁸ Comment Letter from Mont. Env'tl. Info. Ctr. & Sierra Club to Greg Hallsten, Mont. Dep't of Env'tl. Quality, *supra* note 1 at 20-21.

⁷⁹ A. Bonogofsky, *What We Can Learn from the Energy Boom and Its Impacts on the Northern Cheyenne Economy* (Sept. 13, 2013) (attached as Exhibit 22a) (citing U.S. Bureau of Land Management, Report of Impacts to Northern Cheyenne, Chapter 3 (2002) (attached as Exhibit 22b)).

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² Mont. Dep't of Health & Env'tl. Sciences, Environmental Impact Statement on the Proposed Montana Power Company Electrical Generating Plant at Colstrip, Montana at iii (noting the “30-year life of the plant”).

⁸³ *Id.* at 83.

⁸⁴ *Id.*

⁸⁵ *Id.*

circumstances, the EIS must fully evaluate the likelihood of a sale or closure of the Colstrip Station. It must also fully evaluate the effects of closure of the power plant. What will it mean for the mine? The Community? What are the long term liabilities from CCW disposal at the power plant? What are the long term liabilities of past CCW use and disposal at the mine? What are potential impacts to Montana ratepayers?

CSE3 640
BOND 410
TAX 7010

G. Cumulative Impacts of Mining and Climate Change

As noted in the Citizens earlier comments, which are incorporated here by reference, the impacts of the strip-mine over the next two decades will be impacted by the effects of climate change (for which the mine itself is in part responsible).⁸⁶ The hydrologic conditions at the outset of strip-mining are simply no longer present and these conditions are expected to change still further.⁸⁷ Climate change is causing both more frequent and severe drought and more frequent extreme precipitation events.⁸⁸ Precipitation patterns are also shifting.⁸⁹ Heat and water stress, along with increases in pests, will affect crops and rangeland.⁹⁰ Thus, re-vegetation and reclamation of strip-mined lands will become even less feasible than it is presently. These combined effects of climate change and strip-mining must be considered together in the EIS.

JA 1130

H. Possible export of coal

Even though WECO disclaims any intention to ship coal from the Rosebud Mine beyond the Colstrip Station and the Rosebud Plant, 78 Fed. Reg. at 52,968, unless shipping is prohibited (by contract, regulation, or otherwise) or physically or economically infeasible, the EIS must consider all impacts associated with shipping and exporting the coal, including transportation impacts (from increased trains, accidents, air pollution, derailments, and coal dust), impacts of export infrastructure, and impacts of combustion. See, e.g., *Mid-States Coal. for Progress v. Surface Transp. Bd.*, 345 F.3d 520, 549-50 (8th Cir. 2003).

HLTH 1610
TRANS 8000
TRANS 8010
TRANS 8020

8. Combustion

As mentioned, an EIS must fully consider the direct, indirect, and cumulative impacts of a given action, as well as the direct, indirect, and cumulative effects of connected actions. 40 C.F.R. § 1508.25(a), (c). The impacts of combustion of coal from the Rosebud Mine at the Colstrip Station and Rosebud Power Plant must be considered as connected actions, as outlined above, *supra* Part 4.A, or else as indirect effects of strip-mining, given that the purpose of expanding the mine is to supply coal to the two plants (pursuant to contract) and that the Colstrip Station is constrained (by permit) to burning Rosebud coal. See, e.g., *Sierra Club v. Marsh*, 769 F.2d 868,

JA 1130

⁸⁶ Comment Letter from Mont. Env'tl. Info.Ctr. & Sierra Club to Chris Yde, Mont. Dep't of Env'tl. Quality, *supra* note 1, at 2-4.

⁸⁷ *Id.*; U.S. Global Change Research Program, Global Climate Change Impacts in the United States, *supra* note 52, at 123-28.

⁸⁸ U.S. Global Change Research Program, Global Climate Change Impacts in the United States, *supra* note 52, at 123-28.

⁸⁹ *Id.*

⁹⁰ *Id.*

878-79 (1st Cir. 1985) (agency had to consider effects of private development on island because purpose of federal project to construct causeway and port was to enable such private development on island).

A. Air Pollution

The Colstrip Station is one of the largest sources of air pollution in the nation. The massive plant emits between 14 million and 18 million tons of CO₂ annually, placing it among the top 15 point sources of GHG pollution in the nation.⁹¹ Carbon dioxide, as elaborated below, is the principle pollutant driving the crisis of global climate change. Colstrip is also the seventeenth largest source of mercury emission in the nation, emitting over 900 lbs. of the toxin annually, approximately 1% of total mercury emitted by coal plants in the nation.⁹² Mercury is a potent toxin that “damages the central nervous system, thyroid, kidneys, lungs, immune system, eyes, gums, and skin,” it causes permanent brain impairment, and it is most threatening to fetuses and young children.⁹³ Colstrip is the ninth largest source of nitrogen oxides (NO_x) in the nation, emitting approximately 33,000 tons annually.⁹⁴ Nitrogen oxides when exposed to sunlight create ground-level ozone, which is responsible for various forms of respiratory impairment.⁹⁵ Additionally, NO_x emissions cause nitrogen loading in water bodies, which accelerates eutrophication and oxygen depletion.⁹⁶ The Colstrip Station is also among the largest emitters of lead pollution in the nation, emitting nearly 800 pounds of lead annually.⁹⁷ The plant also emits significant amounts of particulate matter (PM), sulfur dioxide (SO₂), and selenium.⁹⁸ In its EIS, OSM must consider the impacts of 20 years of continued emissions from the Colstrip Station, as well as the Rosebud Power Plant. Specifically, the EIS should address the following aspects of this pollution.

AIR 100

In twenty years of continued operations, the Colstrip Station alone will emit approximately 300 million tons of CO₂ (at an annual rate of 15 million tons); half of these emissions will be attributable to coal from Area F. *See* 78 Fed. Reg. at 52,967-68 (stating that Area F will supply 3.5 to 4 million tons annually to plant for 19 years). OSM must fully address the climate implications of this significant amount of emissions. As the Citizens elaborated in their comments to DEQ, there is an overwhelming scientific consensus that GHG emissions from

CLIM 510

⁹¹ Env'tl. Integrity Project, *Dirty Kilowatts: America's Most Polluting Power Plants 7* (July 2007) (attached as Exhibit 23); EPA, Facility Level Information on Greenhouse Gases Tool, <http://ghgdata.epa.gov/ghgp/main.do>; Environment America, *America's Dirtiest Power Plants: Their Oversized Contribution to Global Warming and What We Can Do About It* at 28 (2013).

⁹² Env'tl. Integrity Project, *Dirty Kilowatts*, *supra* note 82, at 2, 22.

⁹³ United Nations Environmental Program, *Mercury: Time to Act* 23 (2013) (attached as Exhibit 24).

⁹⁴ Env'tl. Integrity Project, *Dirty Kilowatts*, *supra* note 82, at 17.

⁹⁵ *Id.* at 15.

⁹⁶ *Id.*

⁹⁷ Environmental Integrity Project, *America's Top Power Plant Toxic Air Polluters* 14 (Dec. 2011) (attached as Exhibit 25).

⁹⁸ Mont. Dep't of Health & Env'tl. Sciences, *Environmental Impact Statement on the Proposed Montana Power Company Electrical Generating Plant at Colstrip, Montana* at 29-33, A-6 to A-9.

human activities are altering the atmosphere and global climate; coal combustion is the worst offender—the authorities cited in the Citizens’ previous comments are incorporated here by reference.⁹⁹ It is also clear that the impacts of climate change are currently being felt across the nation, including the mountains and plains of Montana.¹⁰⁰ Warmer temperatures are driving outbreaks of forest pests that have devastated millions of acres of forest throughout the Rocky Mountains, including large areas in Montana.¹⁰¹ Climate warming is causing and is predicted to continue to cause warmer water temperatures in streams and rivers and low summer flows, harming cold-water fish, such as trout, and destroying their habitat.¹⁰² Hotter temperatures and earlier spring snowmelt is also causing and expected to continue to cause longer and more damaging wildfire seasons.¹⁰³ It is also melting the glaciers in Glacier National Park—with all of the park’s fabled glaciers to be melted by 2025.¹⁰⁴ These impacts to natural systems are, in turn, harming important sectors of Montana’s economy: the state’s \$300 million annual sports fishing industry has suffered due to climate impacts to fish and streams, the destruction of forests from increased fires and forest pests outbreaks is harming and will continue to harm the state’s timber industry, higher temperatures and water shortages have harmed and are projected to continue to harm the agricultural sectors of the state’s economy, and reduced snow pack and earlier snow melt is harming and is projected to continue to harm the skiing and winter sports industries.¹⁰⁵ Additionally, climate change is causing and is projected to continue to threaten

⁹⁹ See Comment Letter from Mont. Env’tl. Info. Ctr. & Sierra Club to Greg Hallsten, Mont. Dep’t of Env’tl. Quality, *supra* note 1 at 6-10; see also Cook et al., *Quantifying the Consensus on Anthropogenic Global Warming in the Scientific Literature* 8 *Env’t Research Letters* 1 (2013) (attached as Exhibit 26) (concluding that 97% of peer-reviewed scientific papers on climate change agreed with the scientific consensus that global warming is occurring and is caused by human activities); see also Intergovernmental Panel on Climate Change, Working Group 1 Contribution to the IPCC Fifth Assessment Report *Climate Change 2013: The Physical Science Basis*, Summary for Policy Makers (2013) (attached as Exhibit 26a).

¹⁰⁰ See text and sources cited in Comment Letter from Mont. Env’tl. Info. Ctr. & Sierra Club to Greg Hallsten, Mont. Dep’t of Env’tl. Quality, *supra* note 1 at 6-10.

¹⁰¹ Jeffery B. Mitton & Scott M. Ferrenberg, *Mountain Pine Beetle Develops an Unprecedented Summer Generation in Response to Climate Warming* 179 *Am. Naturalist* E163 (2012) (attached as Exhibit 27); U.S. Global Change Research Program, *Global Climate Change Impacts in the United States*, *supra* note 52, at 136-37; Jesse A. Logan, *Climate Change Induced Invasions by Native and Exotic Pests*, U.S.D.A. Forest Service (2006) (attached as Exhibit 27a).

¹⁰² Daniel J. Isaak, et al., *The Past as Prelude to the Future for Understanding 21st-Century Climate Effects on Rocky Mountain Trout*, 37 *Fisheries* 542 (2012) (attached as Exhibit 28); U.S. Global Change Research Program, *Global Climate Change Impacts in the United States*, *supra* note 52, at 137; Stephen Saunders et al., *Rocky Mtn Climate Org. & NRDC, Hotter and Drier: The West’s Changed Climate* at 31 (2008) (attached as Exhibit 28); Nat’l Wildlife Fed’n, *Swimming Upstream: Freshwater Fish in a Warming World* (2013) (attached as Exhibit 28a1).

¹⁰³ U.S. Global Change Research Program, *Global Climate Change Impacts in the United States*, *supra* note 52, at 136-37; Hotter and Drier, *supra* note 93, at 20-21; Climate Central, *The Age of Western Wildfires* (2012) (attached as Exhibit 28a).

¹⁰⁴ Hotter and Drier, *supra* note 93, at 25-26.

¹⁰⁵ *Id.* at 29-34; U.S. Global Change Research Program, *Global Climate Change Impacts in the United States*, *supra* note 52, at 133, 136-37.

public health, causing, for example, increased spread of vector borne diseases such as West Nile virus, hantavirus, Lyme disease, and Rocky Mountain spotted fever.¹⁰⁶ And the impacts of climate change are imperiling some of Montana's most iconic species—wolverines and grizzly bears.¹⁰⁷ In short, climate change “threatens the basic elements of life for people around the world [and Montana]—access to water, food production, health, and use of the land and the environment.”¹⁰⁸ The EIS must discuss how continued coal combustion will contribute to climate change and how those impacts will continue to harm numerous aspects of Montana's economy, ecology, and society. To the degree that there is uncertainty about the future impacts of climate change due to potentially different emissions scenarios, the EIS must construct different climate scenarios. See *Save Our Ecosystems v. Clark*, 747 F.2d 1240, 1246 n.9 (9th Cir. 1984) (“Reasonable forecasting and speculation is . . . implicit in NEPA, and we must reject any attempt by agencies to shirk their responsibilities under NEPA by labeling any and all discussion of future environmental effects as ‘crystal ball’ inquiry.”).

CLIM 510
CLIM 520
CLIM 530

B. Health Impacts

In evaluating the air pollution impacts of twenty more years of operations at the massive Colstrip Station and the Rosebud Plant, the EIS should give specific attention to the tremendous impacts that coal pollution has on public health. 40 C.F.R. § 1508.25(c) (must consider direct, indirect, and cumulative impacts); *id.* § 1508.27(b)(2) (must consider impacts to public health and safety); 42 U.S.C. § 4331(b)(1) (NEPA is intended to assure that “all Americans have “safe, healthful, productive, and esthetically and culturally pleasing surroundings”); *id.* § 4331(c) (everyone has a right to a “healthful environment” and correspondingly “a responsibility to contribute to the preservation and enhancement of the environment”); Mont. Const. art. II, § 3 (right to a “clean and healthful environment” is an inalienable right of all Montanans).

HLTH 1000

An abundance of evidence demonstrates that coal combustion has devastating impacts on public health, causing hundreds of thousands of deaths annually.¹⁰⁹ One recent study by the Clean Air Task Force found the following health impacts for coal combustion in the United States:

¹⁰⁶ U.S. Global Change Research Program, *Global Climate Change Impacts in the United States*, *supra* note 52, at 95-96; see also AP, *West Nile Virus Appears in 6 Montana Counties*, *Billing Gazette* (Aug. 16, 2013), available at, http://billingsgazette.com/news/state-and-regional/montana/west-nile-virus-appears-in-montana-counties/article_cff4551c-ffbc-567c-9a8c-60d969d59cab.html.

¹⁰⁷ See 78 Fed. Reg. 7,863, 7,874-77 (Feb. 4, 2013) (finding that climate change is threatening wolverines in Montana); *Greater Yellowstone Coal, Inc. v. Servheen*, 665 F.3d 1015, 1024-30 (9th Cir. 2011) (explaining science showing that climate change, by causing massive die-off of white bark pine, is threatening grizzly bears in the Greater Yellowstone Ecosystem).

¹⁰⁸ Nicholas Stern et al., *Stern Review: The Economics of Climate Change* vi (2006) (attached as Exhibit 29a).

¹⁰⁹ Clean Air Task Force, *The Toll from Coal* 10 (Sept. 2010) (13,000 annual mortalities in US) (attached as Exhibit 30); Conservation Action Trust, *Urbanemissions.info*, Greenpeace, *Coal Kills: An Assessment of Death and Disease Caused by India's Dirtiest Energy Source* at 1 (2012) (80,000 to 115,000 premature deaths annually); Health and Environment Alliance, *The Unpaid Health Bill: How Coal Power Plants Make Us Sick*, at 5 (March 2013) (estimating 18,500

Health Impact	Incidence (annual)	Valuation (in \$millions)
Mortality	13,200	\$96,300
Hospital Admissions	9,700	\$230
ER Visits for Asthma	12,300	\$5
Heart Attacks	20,400	\$2,230
Chronic Bronchitis	8,000	\$3,560
Asthma Attacks	217,600	\$11
Lost Work Days	1,627,800	\$150 ¹¹⁰

The annual costs to the economy from these health impacts is staggering: over \$100 billion.¹¹¹ When all of the externalities of coal are added up, the harm caused by coal to our national economy has been estimated at \$175-\$530 billion annually.¹¹² Indeed, it appears that the cost of the harms from burning coal is greater than the benefit derived from using coal forenergy.¹¹³ These health impacts are cumulative effects of coal combustion, which must be acknowledged, addressed, quantified, and monetized in the EIS.

HEALTH 1500
MUTU 1000

The Clean Air Task Force has specifically found that the Colstrip Station is responsible for 31 premature deaths annually, 48 heart attacks annually, 530 asthma attacks, 22 hospital admissions, 19 cases of chronic bronchitis, and 31 ER visits for asthma.¹¹⁴ The impacts must be identified, evaluated, and quantified in the EIS. Further, the EIS must consider whether the externalities caused by the Rosebud strip mine and coal combustion at the Colstrip and Rosebud plants is greater than the value created by such activities. See 42 U.S.C. § 4332(2)(B); 40 C.F.R. § 1502.23.

ECON 800
ECON 810

C. Coal Combustion Waste

Disposal of CCW is a reasonably foreseeable effect of the proposed Area F expansion of the Rosebud Mine. See 40 C.F.R. § 1508(b) (indirect effects). It is also a connected action, as the coal is destined by contract to the power plants and the Colstrip Station is mandated by permit to

premature deaths due to coal pollution annually in European Union); Edward Wong, *Air Pollution Linked to 1.2 Million Premature Deaths in China*, N.Y. Times (Apr. 1, 2013) (reprinting 1.2 million premature deaths annually due to air pollution in China) (attached as Exhibit 33).

¹¹⁰ Clean Air Task Force, *The Toll from Coal*, *supra* note 99, at 10.

¹¹¹ *Id.*

¹¹² Paul R. Epstein, et al., *Full Cost Accounting for the Life Cycle of Coal*, 1219 Ann. N.Y. Acad. Sci. 73, 93 (2011) (attached as Exhibit 34); *see also infra*.

¹¹³ Nicolas Z. Muller et al., *Environmental Accounting for Pollution in the United States Economy*, 101 Am. Econ. Rev. 1649, 1673 (2012) (attached as Exhibit 35); Ben Machol & Sarah Rizk, *Economic Value of U.S. Fossil Fuel Electricity Health Impacts*, 52 Env'tl. Int'l 75, 78 (2013) (concluding that the health impacts of electricity from coal are 1 to 3 times greater the retail price of electricity) (attached as Exhibit 36).

¹¹⁴ Clean Air Task Force, *Interactive Map: Existing Power Plants*, http://www.catf.us/fossil/problems/power_plants/existing/map.php?state=Montana.

burn only coal from the Rosebud coal seam. *See supra* Part 4.A. CCW contains numerous hazardous pollutants, including “antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, nickel, selenium, silver, and thallium.” 75 Fed. Reg. at 35,138. The CCW impoundments that serve the Colstrip plant have been leaking and contaminating the underlying aquifer with toxics and pollutants since their construction, impacting the water quality of both ground and surface water as well as the ecological and human communities that depend on that water. The Montana DEQ and Colstrip’s owners have made feeble attempts to control or abate the pollution, but without success.

It is highly probable, if not 100% certain, that if coal from Area F is mined that it will ultimately pollute the aquifer surrounding Colstrip’s CCW impoundments. The EIS must consider the pollution that is being caused by leakage from the coal sludge ponds.¹¹⁵ The EIS should also consider the impacts of CCW that has been backfilled in the mine and used as fill and road base (among other things) throughout the mine operation.¹¹⁶ The EIS must also evaluate how and where the CCW produced by combustion of coal from Area F will be disposed.

WTR 10000
CSES 630

D. Water Use

It is projected that more severe and prolonged droughts will occur in the Great Plains as a result of climate change.¹¹⁷ In the event of a severe drought, the large quantity of water pumped from the Yellowstone to operate the Colstrip Station and the Rosebud Power Plant may negatively impact aquatic and other species that rely on water from the Yellowstone, or alternatively limit operations of the plant. The EIS should consider these potential impacts.

WLD12040
WTR 10000

E. Economic Cost of GHG Pollution

Currently, polluters like the Colstrip Station are allowed to dump unlimited quantities of GHG pollution into the atmosphere for free. This does not, however, mean that there are no costs associated with GHG emissions. One influential and highly respected report, the Stern Review, concluded that unabated climate change result in a 5-20% reduction in the value of the global economy, “now and forever.”¹¹⁸ From scientifically-based estimates of the cost of impacts of climate change, economists have been able to calculate estimates of the monetized damages associated with an incremental increase in carbon emissions in a given year, i.e., the social cost of carbon. Estimates range from \$11 to \$900 (and increase over time).¹¹⁹ The U.S. Government,

¹¹⁵ See Letter from Earthjustice to MDEQ, *supra* note 58.

¹¹⁶ Mont. Dep’t of Health & Env’tl. Sciences, Environmental Impact Statement on the Proposed Montana Power Company Electrical Generating Plant at Colstrip, Montana at 51 (noting “stated intention” to backfill CCW in mined-out pits and the potential of water pollution to result).

¹¹⁷ U.S. Global Change Research Program, Global Climate Change Impacts in the United States, *supra* note 52, at 124.

¹¹⁸ Stern Review, *supra* note 99, at 143.

¹¹⁹ Interagency Working Group on Social Cost of Carbon, U.S. Government, Technical Support Document:—Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis—Under Executive Order 12866 (May 2013) (attached as Exhibit 37); Frank Ackerman &

while advocating a range of values, has pegged the central value at \$33 per ton (a higher value is probably more appropriate if, as some studies suggest, the earth's climate sensitivity is mildly large¹²⁰). In its EIS, OSM must seek to monetize the impacts of carbon emissions. 42 U.S.C. § 4332(2)(B) (agency must "insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations"); 40 C.F.R. § 1502.23 (same). To the degree that there is any uncertainty, the agency must make reasonable predictions and apply a range of potential values. The central value endorsed by the Interagency Working Group on the Social Cost of Carbon, \$33 per ton, should be the starting point of this analysis. In any event, the EIS must not pretend that there is no cost associated with carbon emissions. ECON 800

F. Extreme Events, Tipping Points, and Abrupt Climate Change

Under NEPA agencies are required to consider the reasonably foreseeable impacts of proposed actions. 40 C.F.R. § 1508.7-8. This includes "impacts which have catastrophic consequences, even if their probability of occurrence is low, provided that the analysis of the impacts is supported by credible scientific evidence, is not based on pure conjecture, and is within the rule of reason." *Id.* § 1502.22(b).

he EIS should also consider extreme weather events that are becoming more frequent due to the crisis of climate change.¹²¹ The EIS must consider extreme events that could result from climate change. The EIS should also consider how extreme events could exacerbate the impacts of operations of the mine and power plants. CLIM 550

The EIS must also consider the possibility that the GHGs that will result from burning the approximately 70 million tons of coal in Area F may lead to or contribute to the surpassing of climate tipping points due to climate feedbacks (such as thawing methane deposits).¹²² It is possible that a small amount of additional forcing could trigger some of these feedbacks, pushing the planet past points of no return.¹²³ This issue must be carefully evaluated in the EIS.

The EIS must also consider the potential effects of abrupt climate change, such as rapid melting of ice sheets in Antarctica or Greenland (causing rapid sea level increases), rapid release of arctic and sub-arctic methane deposits, changes in the Atlantic meridional overturning circulation, or a

Elizabeth A. Stanton, Economics for Equity & Environment, Climate Risks and Carbon Prices: Revising the Social Cost of Carbon (2010) (attached as Exhibit 38).

¹²⁰ Hansen et al., *Climate Sensitivity, Sea Level and Atmospheric Carbon Dioxide*, Philo. Trans. R. Soc'y (Sept. 16, 2013) (attached as Exhibit 39).

¹²¹ See text and sources cited in Comment Letter from Mont. Env'tl. Info. Ctr. & Sierra Club to Greg Hallsten, Mont. Dep't of Env'tl. Quality, *supra* note 1 at 6-10; Thomas C. Peterson et al. (eds.), *Explaining Extreme Events of 2012 from a Climate Perspective*, Special Supplement to the Bulletin of the American Meteorological Society (Sept. 2013) (attached as Exhibit 40).

¹²² James Hansen, *Tipping Point: Perspective of a Climatologist* (attached as Exhibit 41).

¹²³ *Id.*

rapid shift in global precipitation patterns.¹²⁴ Relatedly, the EIS must consider the impacts of unabated climate change, including the possibility of social collapse and the impacts that are projected to most gravely harm impoverished populations and the developing parts of the world.¹²⁵

G. Human Rights and Environmental Justice

The EIS should also consider the impacts of climate change on human rights and environmental justice. As mentioned above, mining and burning of coal is a principle driver of climate change. Climate change impacts affect the achievement of basic human rights, including the right to life, the right to adequate food, the right to water, the right to health, the right to adequate housing, and the right to self-determination.¹²⁶ These rights are all constituents of the right to a clean and healthful environment. *Id.* at 7.¹²⁷ The right to life—the “supreme right” that is “basic to all human rights”—is and will continue to be threatened by climate change due to increased “heatwaves, floods, storms, fires, and droughts” and increases in “hunger and malnutrition and related disorders impacting on child growth and development; cardiorespiratory morbidity and mortality related to ground-level ozone.” *Id.* at 9. “Climate change will exacerbate weather-related disasters which already have devastating effects on people and their enjoyment of the right to life For example, an estimated 262 million people were affected by climate disasters annually from 2000 to 2004.” *Id.* The right to adequate food is also recognized as an international human right. *Id.* at 9-10 (e.g., “[T]he International Convention on Economic, Social, and Cultural Rights . . . enshrines ‘the fundamental right of everyone to be free from hunger.’”). “According to one estimate, 600 million people will face malnutrition due to climate change.” *Id.* at 10. “The Special Rapporteur on the right to food has documented how extreme climate events are increasingly threatening livelihoods and food security.” *Id.* at 10. Climate change is also impacting and will continue to impact the human right to water: “Loss of glaciers and reductions in snow cover are projected to increase and negatively affect water availability for more than one-sixth of the world’s population supplied by meltwater from mountain ranges. Weather extremes, such as drought and flooding, will also impact on water supplies.” *Id.* at 11. Human rights treaties also recognize the human right to health. *Id.* at 12. “Climate change is projected to affect the health status of millions of people, including through increases in malnutrition, increased diseases and injury due to extreme weather events, and an increased burden of diarrhoeal, cardiorespiratory, and infectious diseases. Global warming may also affect the spread of malaria and other vector borne diseases in some parts of the world.” *Id.* at 12.

ENJ 960

¹²⁴ U.S. Climate Change Science Program, *Abrupt Climate Change* at 2 (Dec. 2008) (attached as Exhibit 42); Intergovernmental Panel on Climate Change, *Climate Change 2007: Synthesis Report* at 54 (2007) (attached as Exhibit 43).

¹²⁵ World Bank, *Turn Down the Heat: Why a 4° C Warmer World Must Be Avoided* (Nov. 2012) (attached as Exhibit 44).

¹²⁶ United Nations, *Report of the Office of the United Nations High Commissioner for Human Rights on the Relationship between Climate Change and Human Rights*, UN Doc. A/HRC/10/61, at 8-15 (Jan. 15, 2009) (attached as Exhibit 44a).

¹²⁷ The San Salvador Protocol of the American Convention on Human Rights recognizes the “right to live in a healthy or satisfactory environment.” *Id.*; Mont. Const. art. II, § 3 (inalienable right to a clean and healthy environment).

Climate change is affecting and will continue to affect the human right to adequate housing in various ways, including “[s]ea level rise and storm surges [that] will have a direct impact on many coastal settlements.” *Id.* at 13. Furthermore, “the effects of climate change will be felt most acutely on those segments of the population who are already in vulnerable situations due to factors such as poverty, gender, age, minority status, and disability.” *Id.* at 15. Recent research estimates that climate change presently causes 400,000 deaths each year, the majority of which are in developing regions.¹²⁸ It is further recognized that the impacts of climate change in the United States pose a particular threat to Native American communities.¹²⁹ These are grave impacts to fundamental rights, which must be disclosed in the EIS. ENJ 960

9. Endangered Species

Under the Endangered Species Act (ESA) federal agencies must assure that their actions do not jeopardize threatened or endangered species or cause destruction or adverse modification of critical habitat. 16 U.S.C. § 1536(a)(2). In order to insure this substantive protection, agencies are under a procedural obligation to consult with the U.S. Fish and Wildlife Service (Service) prior to undertaking any action that “may affect” threatened or endangered species or critical habitat. 50 C.F.R. § 402.14(a). In considering whether an action “may affect” species or habitat, agencies must broadly consider the effects of their action, which is defined as

the direct and indirect effects of an action on the species or critical habitat, together with the effects of other activities that are interrelated or interdependent with that action, that will be added to the environmental baseline. The environmental baseline includes the past and present impacts of all Federal, State, or private actions and other human activities in the action area, the anticipated impacts of all proposed Federal projects in the action area that have already undergone formal or early section 7 consultation, and the impact of State or private actions that are contemporaneous with the consultation in progress. Indirect effects are those that are caused by the proposed action and are later in time, but still are reasonably certain to occur. Interrelated actions are those that are part of a larger action and depend on the larger action for their justification. Interdependent actions are those that have no independent utility apart from the action under consideration.

Id. § 402.02 (definition of “effects of the action”). Given this broad definition, the determination of whether the action “may affect” any species or habitat must consider the effects of coal combustion at the Colstrip Station and Rosebud Power Plant, as combustion of coal at these plants is an interrelated and interdependent action, and the resultant air pollution and coal combustion waste (CCW) are indirect effects of expanded mining operations in Area F. FA 1130
WLDF12050

¹²⁸ DARA, Climate Vulnerability Monitor: A Guide to the Cold Calculus of a Hot Planet at 16-19 (2012) (attached as Exhibit 45).

¹²⁹ U.S. Global Change Research Program, Global Climate Change Impacts in the United States, *supra* note 52, at 101, 128.

As the Citizens noted in their comments to DEQ, various threatened, endangered, and candidate species are present in Rosebud County: black-footed ferret (*Mustela nigripes*), least tern (*Sterna antillarum athalassos*), pallid sturgeon (*Scaphirhynchus albus*), greater sage grouse (*Centrocercus urophasianus*), and Sprague's pipit (*Anthus spragueii*).¹³⁰ Other species in Montana that may potentially be affected by air, water, and soil pollution from coal combustion at the Colstrip and Rosebud plants include: whooping crane (*Grus Americana*) and Ute Ladies'-tresses (*Spiranthes diluvialis*). As elaborated below, twenty additional years of operation of the mine and power plants may affect these animals. Accordingly, OSM must not only evaluate the potential impacts in the EIS, but must also consult with FWS to assure that the direct and indirect effects of the proposed action do not jeopardize any of these species or destroy critical habitat. If jeopardy or destruction of critical habitat may result, the actions may not go forward (unless granted an extremely rare exemption from the ESA by the Endangered Species Committee, 16 U.S.C. § 1536(e), (h)).

Pallid sturgeon inhabit the Yellowstone River. 55 Fed. Reg. 35,541, 36,641 (Sept. 6, 1990). "[W]ater quality can affect individual[] sturgeon during many life phases and localized and/or regionally poor or degraded water quality should be viewed as a threat to the species."¹³¹ Because pallid sturgeon are long-lived, piscivorous fish, they "may be at greater risk . . . to contaminants that bioaccumulate and cause reproductive impairment."¹³² Mercury, selenium, and lead are pollutants that bioaccumulate.¹³³ "Tissue samples from three Missouri River pallid sturgeon and 13 other pallid sturgeon mostly collected from the Mississippi River had metals (e.g., mercury, cadmium, and selenium) . . . at concentrations of concern."¹³⁴ Pallid sturgeon also have a low tolerance for hypoxic or low oxygen levels in waters.¹³⁵ "Anthropogenic changes within the range of pallid sturgeon that affect dissolved oxygen concentrations could be affecting survival and recruitment."¹³⁶

Portions of the lower Yellowstone River, downwind of the power plants, are impaired and only partially support aquatic life, due to lead pollution and nitrogen.¹³⁷ The Colstrip Station is a major source of both lead and nitrogen pollution.¹³⁸ Nitrogen pollution from NO_x emissions causes eutrophication, which leads in turn to oxygen depletion of waters.¹³⁹ The impacts of

¹³⁰ Letter from Western Env'tl. Law Ctr. to Greg Hallsten, Mont. Dep't of Env'tl. Quality, *supra* note 1, at 21-22.

¹³¹ U.S. Fish & Wildlife Service, Draft Revised Recovery Plan for the Pallid Sturgeon (*Scaphirhynchus albus*) at 25 (Mar. 2013) (attached as Exhibit 45a).

¹³² *Id.* at 23.

¹³³ Mont. Dep't of Health & Env'tl. Sciences, Environmental Impact Statement on the Proposed Montana Power Company Electrical Generating Plant at Colstrip, Montana at A-9 to A-10.

¹³⁴ FWS, Draft Recovery Plan, *supra* note 124, at 24.

¹³⁵ *Id.* at 25.

¹³⁶ *Id.*

¹³⁷ Mont. Dep't of Env'tl. Quality, Final Water Quality Integrated Report, *supra* note 60, at A-15, 161.

¹³⁸ Env'tl. Integrity Project, Dirty Kilowatts, *supra* note 85, at 16-17 (NO_x); Environmental Integrity Project, Power Plant Toxic Air, *supra* note 91, at 14 (lead).

¹³⁹ Env'tl. Integrity Project, Dirty Kilowatts, *supra* note 85, at 15.

nitrogen and low-oxygen in water could be worsened by warming water temperatures associated with climate change (which is an issue the EIS must address).¹⁴⁰ The Colstrip Station is also a major source of mercury, selenium, and cadmium, the deposition of which may cause harm to aquatic life, including pallid sturgeon, in the Yellowstone River.¹⁴¹ Selenium, cadmium, mercury pollution from coal-fired power plants are known to be harmful to aquatic life, including sturgeon.¹⁴² Additionally, East Fork Armells Creek (which is also impaired for failing to support aquatic life), which flows into the Yellowstone River, may transport pollution from the mine and power plants to the Yellowstone River, which may in turn harm sturgeon. The EIS must consider these impacts, and OSM must consult with FWS on these potential impacts.

WLDP
12040

Least tern inhabit Montana, including the lower segments of the Yellowstone River.¹⁴³ Least tern are piscivorous, feeding on fish in lakes, rivers, and streams.¹⁴⁴ As noted, mercury is a potent neuro-toxin that bioaccumulates in fish, as do lead and selenium. Also noted above, the Colstrip Station is a major source of mercury, lead, and selenium. The accumulation of these pollutants in fish and in turn least tern may affect the birds. Accordingly, the EIS must consider these potential effects, and OSM must consult with FWS regarding these impacts.

The Ute ladies'-tresse is a threatened plant. Ladies'-tresses are not listed as present in Rosebud County, Montana, but are listed by FWS as being present in three nearby Wyoming counties—Crook, Campbell, and Sheridan—adjacent to southeastern Montana.¹⁴⁵ Because known population of Ute ladies'-tresses exist adjacent to southeastern Montana, they may also be present in Rosebud County. And even if not present in Rosebud County, the Wyoming populations may be impacted by air pollution from the Colstrip and Rosebud power plants. Significant winds blow south from Colstrip towards Wyoming.¹⁴⁶ Sulfur dioxide from the power plants is known to be harmful to plants. As the Montana Department of Health and Environmental Studies recognized nearly half a century ago, SO₂ “has been shown to produce toxic symptoms in several sensitive plant species at very dilute concentrations in the atmosphere.”¹⁴⁷ “Atmospheric concentrations as low as 0.1 ppm sulfur dioxide produce injury in

¹⁴⁰ See FWS, Draft Recovery Plan, *supra* note 124, at 24 (noting that low oxygen levels and high water temperatures can be lethal to sturgeon).

¹⁴¹ Env'tl. Integrity Project, Dirty Kilowatts, *supra* note 85, at 22 (mercury emissions); Mont. Dep't of Health & Env'tl. Sciences, Environmental Impact Statement on the Proposed Montana Power Company Electrical Generating Plant at Colstrip, Montana at A-9 to A-10 (selenium and cadmium emissions).

¹⁴² See, e.g., U.S. Fish & Wildlife Service, Draft Biological Opinion for the Desert Rock Energy Project at 120-21 (attached as Exhibit 46); FWS, Draft Recovery Plan, *supra* note 124, at 23-25.

¹⁴³ U.S. Fish & Wildlife Service, Interior Population of the Least Tern (*Sterna Antillarum*): Recovery Plan at 6 (1990) (attached as Exhibit 47).

¹⁴⁴ *Id.*

¹⁴⁵ U.S. Fish & Wildlife Service, Species Profile, Ute Ladies'-tresses, <http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=Q2WA> (follow “Wyoming” hyperlink).

¹⁴⁶ Mont. Dep't of Health & Env'tl. Sciences, Environmental Impact Statement on the Proposed Montana Power Company Electrical Generating Plant at Colstrip, Montana at 20-24.

¹⁴⁷ *Id.* at A-6.

sensitive plant species if the fumigation is extended over prolonged periods of time.”¹⁴⁸ Because Ute ladies'-tresses “may be present” in areas impacted by the Area F expansion or the dispersion of SO_x from the Colstrip and Rosebud plants, OSM must conduct a biological assessment (BA) about potential impacts. 16 U.S.C. § 1536(c)(1). OSM must also consider and fully disclose potential impacts in its EIS.

WET 11010

The whooping crane is a “flagship species for the North American wildlife conservation movement, symbolizing the struggle for survival that characterizes endangered species worldwide.”¹⁴⁹ The whooping crane, a striking and photogenic bird, is the tallest North American bird, standing five feet tall.¹⁵⁰ The one remaining wild population of whooping cranes summers in Wood Buffalo Park in northern Alberta/southern Northwest Territories and migrates to the Gulf coast of Texas to winter.¹⁵¹ The cranes’ migration route crosses eastern Montana, downwind of the Colstrip and Rosebud power plants.¹⁵² Cranes are most vulnerable while migrating.¹⁵³ Whooping cranes may be susceptible to harm from environmental toxins.¹⁵⁴ Cranes are omnivores and eat fish,¹⁵⁵ which can be one pathway for toxins that could affect them. Air pollution from the power plants could directly harm cranes, and toxins deposited from the air pollution from the plants—such as mercury, lead, selenium, and cadmium—could also harm cranes, as these toxins can bioaccumulate in fish. Furthermore, whooping cranes are susceptible to harm from climate change, which carbon pollution from coal plants is driving.¹⁵⁶ Because pollution from the mine and power plants may affect whooping cranes, OSM must consult with FWS about potential effects. Further, the EIS for the Area F expansion must fully consider the impacts of air pollution from the power plants on migrating whooping cranes.

WLDf 12050

The greater-sage grouse is a candidate species for listing under the ESA, as FWS has determined that they are warranted for listing but that such listing is precluded by higher priorities. 75 Fed. Reg. 13,910, 13,910 (Mar. 23, 2010). Sage grouse have long been present in the area of the Rosebud Mine.¹⁵⁷ Sage grouse are “dependent on large areas of contiguous sage brush.” 75 Fed. Reg. at 13,916. Habitat fragmentation has led to decline in sage grouse. *Id.* at 13,931. Strip-mining obliterates sage brush habitat, by stripping it away and then blowing up the underlying earth, removing the coal, burning it, and dumping the dirt and toxic coal combustion waste back in the void. Reestablishing sage brush after strip-mining it not likely feasible on any reasonable short-term time scale, as operators in Montana have acknowledged.¹⁵⁸ The cumulative impacts

¹⁴⁸ *Id.*

¹⁴⁹ U.S. Fish & Wildlife Service, International Recovery Plan: Whooping Crane (*Grus americana*) at 1 (Mar. 2007) (attached as Exhibit 48).

¹⁵⁰ *Id.* at 2.

¹⁵¹ *Id.* at 4.

¹⁵² *Id.* at 4, 13.

¹⁵³ *Id.* at 5.

¹⁵⁴ *Id.* at 29.

¹⁵⁵ *Id.* at 8.

¹⁵⁶ *Id.* at 25-26.

¹⁵⁷ Mont. Dep’t of Health & Env’tl. Sciences, Environmental Impact Statement on the Proposed Montana Power Company Electrical Generating Plant at Colstrip, Montana at A-16.

¹⁵⁸ See *supra* Part 7.A.

of climate change and industrial energy development are also likely having a negative impact on sage grouse.¹⁵⁹ Accordingly, OSM should conduct early consultation regarding impacts to sage grouse, 16 U.S.C. § 1536(a)(4). OSM's EIS must also fully consider the impacts of strip-mining, coal combustion, and CCW disposal on sage grouse.

WLDF 12050

The black footed ferret is an endangered species that may also be affected by the Area F expansion, along with interconnected and interdependent actions and its direct, indirect, and cumulative impacts. A small population of ferrets was recently reintroduced onto the Northern Cheyenne Indian Reservation just south of the Rosebud Mine.¹⁶⁰ Black footed ferrets depend upon prairie dogs for prey, and thus are closely associated with prairie dog colonies.¹⁶¹ Subterranean prairie dog colonies will be obliterated by the strip-mining process. This would harm ferrets. Additionally, ferrets may be harmed by other activities at the power plants and strip-mine. Equipment could crush ferrets. Additionally, air pollution can harm vegetation which is the food source for prairie dogs, and in turn harm ferrets.¹⁶² Furthermore, both prairie dogs and ferrets could be harmed by the massive amounts of toxics—such as mercury, lead, selenium, cadmium—that are deposited from air pollution over a large area surrounding the power plants. For these reasons, OSM should consult with FWS about potential impacts to ferrets, and the EIS should fully address these potential impacts.

WLDF 12010

WLDF 12030

Finally, a number of species have been listed or are proposed to be listed as threatened or endangered species due to the impacts of climate change—the Elkhorn coral,¹⁶³ the Staghorn coral,¹⁶⁴ the polar bear,¹⁶⁵ and the wolverine.¹⁶⁶ Emissions from the proposed expansion of the Rosebud strip-mine and coal combustion at the Colstrip Station and Rosebud Power Plant will contribute to and exacerbate the effects of climate change. As such, they may affect these species. Accordingly, such effects must not only be disclosed and analyzed in the EIS, but OSM must also consult with FWS and the National Marine Fisheries Service about potential impacts to these species.

WLDF 12050

10. Conclusion

Thank you for carefully considering these comments. The Citizens look forward to fully participating in the ongoing NEPA process regarding the proposed expansion of Area F of the

¹⁵⁹ Nat'l Climate Assessment and Advisory Committee, Draft National Climate Assessment, ch. 19 at 666-67 (2013) (attached as Exhibit 49).

¹⁶⁰ U.S. Fish & Wildlife Service, Black Footed Ferret Draft Recovery Plan 18-22 (Feb. 2013) (attached as Exhibit 50).

¹⁶¹ *Id.* at 13.

¹⁶² Mont. Dep't of Health & Env'tl. Sciences, Environmental Impact Statement on the Proposed Montana Power Company Electrical Generating Plant at Colstrip, Montana at A-6 to A-7; FWS Recovery Plan, *supra* note 153, at 23.

¹⁶³ 71 Fed. Reg. 26,852, 26,852-901 (May 9, 2006).

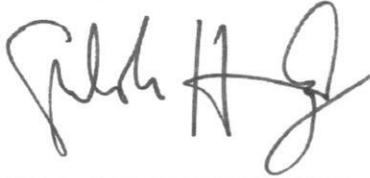
¹⁶⁴ *Id.*

¹⁶⁵ 73 Fed. Reg. 28,212, 28,212 (May 15, 2008).

¹⁶⁶ 78 Fed. Reg. 7,864, 7,864, 7,877, 7,886 (Feb. 4, 2013).

Rosebud strip-mine. Should you have any questions about our comments, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Shiloh H. Hernandez', written over a horizontal line.

Shiloh Hernandez
Western Environmental Law Center
103 Reeder's Alley
Helena, Montana 59601
406.204.4861
hernandez@gmail.com

on behalf of Montana Environmental Information Center and the Sierra Club

1 be a question and answer at that point.

2 If you do have questions, and you would
3 like to chat with someone, we welcome you to
4 talk to any of the folks here, the Agency folks
5 or the Western Energy folks, following the
6 public testimony portion of this.

7 So, I think we will go ahead and get
8 started and first one is.

9 MS. CORSI: Wally McRae.

10 MR. WALLY McRAE: First of all, my name
11 is Wally McRae, M-c-R-A-E.

12 You can spell the Wally with an I-E or
13 a Y, however if you would like.

14 I would like to thank the OSM and the
15 DEQ for giving us an opportunity once again to
16 comment at a scoping hearing.

17 I would like to start with prehistory,
18 the settlement patterns when human beings first
19 came into this area.

20 The Native Americans tended to
21 congregate on a high elevation, but very, very
22 close to water. They needed two things. They
23 needed to be able to see where their enemy and
24 the Buffalo were, and they also needed the
25 water.

1 As the Anglos came into the country,
2 they also were looking for water, and almost
3 without exception, they first settled and
4 continuously operated successful ranches in this
5 entire area.

6 We're located on a live stream and at
7 the mouth of the side creek coming into that
8 live stream, pointing out how very essential
9 water is, and has been, throughout history and
10 prehistory.

11 The first Anglos that came to the
12 country were gold miners, and probably followed
13 then by agriculturalists.

14 The gold miners came, but they didn't
15 necessarily go where there was water. They went
16 where there was gold. But, they aren't here
17 anymore. Water wasn't important to them.

18 And the coal mines will come and go,
19 and we want to be sure that after you leave,
20 that there is still water here for
21 agricultural.

WTR 10080

AG 14000

22 The history of mining in the Colstrip
23 area has not been good as far as this goes. As
24 every one in this room probably knows, you have
25 to have an idea in mind to reestablish the

1 hydrological balance of the area.

WTR 10080

2 And you can get involved in arguing
3 what the area is, whether it's the mine site or
4 some offsite; whether it's the county of
5 Rosebud. Whether it's southeastern Montana, or
6 it's some area west of the Mississippi River.
7 There's constant haggling over what the area is.

8 Mining creates some problems, but
9 almost without exception, the problems that
10 mining and failure in reclamation exhibits is
11 onsite, with the exception of water. That water
12 does not stay onsite.

13 We've been mining coal in Montana, once
14 again, for quite a while. Under SMACRA and
15 under the Montana Reclamation Act.

16 I don't know of one place in the state
17 where the hydrologic balance has been restored.
18 There have been bonds put up, and yet I see
19 no --

WTR 10080

20 MS. BAUMAN: Go ahead and finish your
21 thought. You can go ahead and finish your
22 thought. I was letting you know.

23 MR. McRAE: I don't know of any area in
24 Montana where the hydrologic balance has been
25 restored.

WTR 10080

1 It only can happen at one time to
2 restore the hydrologic balance, and that's
3 during the course of mining. You've got to do
4 it then. After you spread your spoils, topsoil,
5 plant, whatever it is you do, it's too late.

6 The companies have figured out that it
7 is cheaper to forfeit the bond than it is to
8 actively try to restore that aquifer.

9 And more and more and more, we're
10 getting evidence that water is escaping the mine
11 site and affecting downstream agricultural
12 users.

AG 14000

13 You're opening up a whole new area now.
14 You're moving away from West Armells Creek. We
15 are also concerned about what happens at Otter
16 Creek, because we have land on Tongue River, and
17 if you mess that up, we're going to be faced
18 with that one, too.

19 I'll quit. I could go on, but I'll
20 quit.

21 MR. HERRICK: Thank you.

22 MS. CORSI: Is there anyone else who
23 would like to sign up to give testimony?

24 MR. SAUER: Just as well, I guess.

25 MS. CORSI: Okay. I'll just have you

385

1 go ahead and start, and then make sure you sign
2 up for us and bring it back.

3 MR. SAUER: My name is Brad Sauer.
4 B-R-A-D; S-A-U-E-R. I ranch out on Rosebud Creek
5 between Colstrip and Lame Deer.

6 Three minutes just isn't long enough to
7 talk about the potential of a lifetime of
8 damage, maybe even generations.

9 I'll start out with why I think OSM is
10 here. OSM is here because the Montana law,
11 MEPA, is inadequate. So I am thankful for OSM
12 being here and conducting this EIS.

13 However, I would have liked to have
14 seen a better map in the mailing, one that,
15 like, had "north" on it, that sort of the thing,
16 and recognizable landmarks to those of us that
17 live here.

MAP 15000

18 The gentleman from the mine just talked
19 about, you know, a lot of the economic impacts
20 that coal mining has in a positive way.

21 Wally alluded to life here before
22 Colstrip and coal mining.

23 In your EIS, I would call for you to do
24 a thorough, real socioeconomic analysis,
25 something that says more than "10 AUMs will be

ECON 800

1 lost on federal acres", if there are any within
 2 the site, which I can't really tell from the
 3 map.

4 You know, for once, cow prices are up.
 5 Amazing thing. Good thing. And those cows are
 6 sustainable.

7 The coal is gone with the water, and
 8 the mines move on. We have to stay here. We
 9 want to stay here and continue to live and work
 10 and grow things.

11 So, please, for once -- and I have not
 12 seen an EIS that has done this -- please, for
 13 once, do a good socioeconomic analysis of how
 14 the mining will impact the existing industry
 15 that's already in place, and has been in place
 16 for over 100 years.

17 I'm going to talk longer than three
 18 minutes, but thank you for letting me know how
 19 long I have spoken.

20 The gentleman from the mine talked
 21 about where we're getting our energy from. And
 22 the slide passed before me fast enough where I
 23 wasn't sure that it even talked alternative
 24 energy. I just wanted to mention that.

25 The price of coal that is, for example,

ECON 800

AG 140000

THY 6000

1 being paid to the federal government by the
2 lessees of the -- or the procurers of the coal
3 is not adequate enough to enable the BLM to
4 maintain a budget to put out coal fires. We
5 have recent experience with that.

6 So, in the last year, we have a number
7 of coal seams on fire, and I have been informed
8 that there is no budget present in the BLM to
9 put out burning coal seams.

10 So, maybe you guys could flip them a
11 few more bucks and any -- the federal and the
12 private owners of the coal could actually be
13 responsible for it.

14 Let's see.

15 Yeah, again, please adequately
16 represent what is here -- what was here before
17 Colstrip, and how things will be displaced.

18 You know, all that being said, I
19 realize we need energy here, and we need power,
20 but we'd like to see for once a real-time
21 reclamation with an attempt to maybe ask for the
22 bond back for the Phase III.

23 And that's -- you know, no one's ever
24 done that. That's the restoration of the
25 hydrologic balance.

THY 6000

BOND 430

1 The two sitting over there have been
2 coming to these things for over 40 years asking
3 for that, and it's documented.

4 How come nobody's tried it? Don't we
5 have the technology? Aren't we far enough along
6 in the world in our development of things?
7 Can't we do that? Doesn't it mean, like, you
8 know, we're better than we were before? Hasn't
9 the coal mining industry learned anything?

10 Is the reclamation bond adequate enough
11 that is going to be collected to cover the
12 current costs of reclamation, including the
13 restoration of the hydrologic balance?

14 That would be something of interest in
15 an EIS. That would be something new and
16 completely relevant, and I'd applaud your
17 efforts if you did that.

18 Thank you.

19 MR. HERRICK: Thank you. That was very
20 good. We appreciate it.

21 MS. CORSI: Does anyone else want to
22 give public testimony?

23 MR. CLINT McRAE: Thanks for the
24 opportunity to speak.

25 I'll do this as fast as I can. I'll

WTR 10080

BOND 450

1 The two sitting over there have been
2 coming to these things for over 40 years asking
3 for that, and it's documented.

4 How come nobody's tried it? Don't we
5 have the technology? Aren't we far enough along
6 in the world in our development of things?
7 Can't we do that? Doesn't it mean, like, you
8 know, we're better than we were before? Hasn't
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18 Thank you.

19 MR. HERRICK: Thank you. That was very
20 good. We appreciate it.

21 MS. CORSI: Does anyone else want to
22 give public testimony?

23 MR. CLINT McRAE: Thanks for the
24 opportunity to speak.

25 I'll do this as fast as I can. I'll

#386

1 try to stay within the 3 minutes, but --

2 MS. BAUMAN: Could you spell out your
3 name for her, also.

4 MR. CLINT McRAE: My name is Clint
5 McRae. M-c-R-A-E.

6 And my family and I ranch on Rosebud
7 Creek south of the Colstrip.

8 I want to talk a little bit -- and
9 also, thanks to OSM for being here today. We do
10 appreciate it.

11 I want to talk a little bit about water
12 quality and about the important aspects that we
13 in agriculture rely on.

14 Dad talked a little bit about that, and
15 I want to go into it in a little more depth.

16 One of the things that the EIS should
17 have in it as far as water quality goes is the
18 pre-mine baseline on our groundwater. And that
19 includes livestock wells, springs, reservoirs,
20 and the shallow aquifers that are in the coal
21 seams, and may be in the sand below or on top of
22 it.

23 This baseline information should
24 include, but not be limited to, sulfates,
25 electrical time conductivity, sodium, boron, TDS

1 and sediment, among other things. And this is
2 for the existing groundwater that's already
3 there.

4 As far as water quantity, we also need
5 pre-mine baseline information on static well
6 levels. And these are livestock wells and
7 domestic wells both. We need the recovery rates
8 on those wells.

9 We also need to look at the water
10 quantity in developed springs and flow rates on
11 undeveloped springs. And, of course, this goes
12 along with water quality, too. And also, we
13 need to have flow rates and recovery rates on
14 livestock and livestock wells.

15 Surface waters. We need pre-mine
16 baseline on water volumes in the ephemeral
17 streams and also live streams, such as Armells
18 Creek, water quality in it, and also the
19 components of groundwater listed above, which
20 includes sulfates, electrical conductivity,
21 sodium, boron, TDS, sediment, among others.

22 The reason we bring this up is, we have
23 a mine just over the hill, the Peabody Coal
24 Mine, that has a middle coulee spring. In fact,
25 there are five springs in that drainage. I

WTR 10040

WTR 10030

WTR 10010

1 think four of them are gone, and the one that's
2 still there, the Middle Coulee Spring, is in the
3 reclamation right now.

4 I think three years ago, cattle were
5 turned in there, and within six days, there was
6 -- or three days, there was six dead cows.
7 That spring was contaminated to the point where
8 it was killing cattle.

9 We asked the Montana DEQ to get the
10 pre-baseline information on those springs, and
11 they told us they couldn't find it. That either
12 means that they're incompetent in that they
13 can't find it, or No. 2, they actually can't
14 find it and don't know where it's at. Either
15 way, that is not a good thing to start out.

16 We would like to see the information
17 I've just talked about not only taken but made
18 available to the public, easily available to the
19 public, because it is not now.

20 What happened in Middle Coulee is
21 absolutely wrong. And that's what we're trying
22 to avoid.

23 Also, we need look at soil samples on
24 dryland and subirrigated hay bottoms. And I
25 think once you get into the Armells Creek

SOIL 16000

1 drainage and the tributaries, there is some hay
2 that is put up. We need some soil samples in
3 that area for baseline.

4 And the reason I bring this up is there
5 has been some hayground on the lower end of
6 Armells Creek here that's been soured because of
7 too much water being discharged down the creek,
8 so we need to get soil samples on those areas.

9 This also includes riparian areas of
10 the wetlands and ephemeral streams.

WTR 10000

11 As far as bond release, we need to make
12 sure that the land that the bond covers is
13 enough to cover the costs, taking into
14 consideration the worst case scenario, and we
15 question whether that's been done up to this
16 point.

BOND 4000

17 I want to close by saying, we're not
18 opposing Area F. We've been sometimes cast into
19 the anti-coal and anti-mining category. I stand
20 here today on record saying we are not opposing
21 Area F.

22 But, we're being critical of it. We
23 have a reason to be critical of it because the
24 livelihood that I am involved with -- I'm the
25 fourth generation. My daughters are fifth --

AG 14000

1 relies on one thing, and that is water in the
2 Colstrip area.

3 Thank you.

4 MR. HERRICK: I'm not emceeding, but
5 those are all very valuable comments, and I do
6 appreciate those.

7 Coach, is that --

8 MS. BAUMAN: Do we have anyone else
9 that would like to speak?

10 MS. CORSI: Get you to sign in,
11 please.

12 MR. GOLDER: My name is Nick Golder.
13 N-I-C-K; G-O-L-D-E-R.

14 I have lived here a lot of years and
15 been through this mining thing quite a lot.

16 These guys have alluded to the water
17 thing, and the man here spoke about the money
18 that comes in from the coal, and that's very
19 significant.

20 But we were here -- our industry was
21 here before they started digging coal. And our
22 industry hopefully will be here after the coal
23 is gone.

24 And Clint said something about, well,
25 let me sum up what happens when you open a coal

1 relies on one thing, and that is water in the
2 Colstrip area.

3 Thank you.

4 MR. HERRICK: I'm not emceeding, but
5 those are all very valuable comments, and I do
6 appreciate those.

7 Coach, is that --

8 MS. BAUMAN: Do we have anyone else
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16 These guys have alluded to the water
17 thing, and the man here spoke about the money
18 that comes in from the coal, and that's very
19 significant.

20 But we were here -- our industry was
21 here before they started digging coal. And our
22 industry hopefully will be here after the coal
23 is gone.

24 And Clint said something about, well,
25 let me sum up what happens when you open a coal

1 mine. It opens the spigot on the confined
2 aquifer from up above and waterlogs the valley
3 down below. And Clint spoke about that.

WTR 10080

4 Down Armells Creek here, what was good
5 hayland, good hayland, it's swamp grass now, if
6 it grows anything, because there's too much
7 water. And so we would anticipate that that
8 would happen here.

9 I have had some plans in the past,
10 still have. Tried to point out to a mining
11 engineer here quite a number of years ago how
12 you could capture that water; convey it across
13 the refilled spoil pit without contaminating it
14 with two to four times the dissolved solids, and
15 bring it out the other side, and he said, "Hey,
16 that's a great idea."

WTR 10000

17 And then talk about a thing like French
18 drain conveyor across the pit and reconnect with
19 the aquifer flow was. I'm talking about aquifer
20 flow, not just the static water in the coal or
21 above or below it.

22 But, anyway, he said, "Gosh, I can do
23 that, and we can do this and this and this."

24 And I'm having a devil of a time
25 getting rid of that water. And, of course, he

1 was hauling it down below Colstrip and dumping
2 it out because so much of it was coming in.
3 And, of course, that water has now ruined a lot
4 of hayland down in the country there.

AG 14000

5 But, anyway, he took that to his
6 superiors. And in two weeks' time, they sent
7 him to Brazil.

8 And so, we are less than impressed with
9 the revegetation there. Wally and I, here, had
10 quite a lot to do with getting that on the books
11 in the first place.

12 Lots of revegetation has done quite
13 well, but grass is not much good without water
14 for the livestock, and the water gets
15 contaminated in this process, or lost entirely.

16 And there are things that could be
17 done, but so far, all it's done is ruin the
18 water permanently.

19 And so we just feed you people, and so
20 you give us a hard time getting that done, is
21 what it amounts to.

22 But people will still need food. And,
23 yeah, energy is fine, but there are some ways to
24 do it better. But, yeah, it will cost a little
25 more.

1 But, people are still going to have to
2 eat 100 years from now. We've got an increasing
3 population in America, and we don't need to cut
4 down the available land that helps produce food.

5 But mining has the habit of draining
6 the aquifers above the mine and waterlogging the
7 valley down below. This is a long-standing
8 practice.

WTR 10080

9 And there are things that can be done
10 about that, but so far, nothing has been done.

11 I'm aware that SMACRA, Surface Mining
12 Control and Reclamation Act, says it will
13 restore the hydrologic balance. It's not done
14 so, period.

15 And so for those of us that have the
16 ongoing business, not the boom-and-bust business
17 of mining, the ongoing business of feeding
18 people, we would like to see the water taken
19 care of properly.

20 Thank you.

21 MS. CORSI: Is there anyone else that
22 wants to give testimony?

23 (No response.)

24 MR. HERRICK: At that, thank you.

25 I think that we will adjourn for the

#388

From: fbartlett@osmre.gov on behalf of [Western-Energy-Area-F-EIS, OSM](#)
To: [Emily Corsi](#)
Cc: [Nicole Bauman](#)
Subject: Fwd: NPS Comments, EQ-13/0182: Area F of the Rosebud Coal Mine
Date: Thursday, October 24, 2013 8:42:24 AM
Attachments: [attachment.zip](#)

Emily,

One more comment from the National Park Service.

Let me know if you have any questions.

Thanks,

Frank B.

----- Forwarded message -----

From: <NPS_Environ_Rev@noreply.nps.gov>
Date: Wed, Oct 23, 2013 at 4:04 PM
Subject: NPS Comments, EQ-13/0182: Area F of the Rosebud Coal Mine
To: osm-western-energy-area-f-eis@osmre.gov
Cc: imrextrev@nps.gov, briana_w_collier@nps.gov

Dear Franklin,

Attached please find NPS comments on EQ-13/0182, the Area F of the Rosebud Coal Mine.

If you have questions, please contact David Hurd at imrextrev@nps.gov.



United States Department of the Interior
NATIONAL PARK SERVICE
Little Bighorn Battlefield National Monument
Exit 510, Off I-90 Hwy 212
Crow Agency, MT 59022-0039



FILE CODE: L7619

October 22, 2013

Franklin Bartlett
Project Coordinator
Office of Surface Mining Reclamation and Enforcement
Western Region, Casper Area Office
Dick Cheney Federal Building
PO Box 11018, 150 East B Street
Casper, WY 82601

Dear Mr. Bartlett:

The purpose of this letter is to provide scoping comments on the proposed development of Area F of the Rosebud Coal Mine. Little Bighorn Battlefield National Monument is located near the Interstate 90 and U.S. Highway 212 intersection, approximately 45 miles west-southwest of the project area.

Little Bighorn Battlefield National Monument would likely experience limited impacts from additional vehicular traffic on Highway 212 (coal trucks, related mine equipment/vehicles and also mine-workers commuting to/from site). Additionally, we could experience air quality, night sky (haze) and soundscape impacts from mining operations at the proposed site. It is not possible for us to quantify extent of potential impact without additional information, although impacts would likely be small because of the distance from the site.

TRANS 8010
AIR 100
NSE 1800
USUL 9000

Little Bighorn Battlefield National Monument is often utilized as a rest area for traffic on Highway 212. Montana Department of Transportation is planning to construct a rest area in our vicinity in 2015. Depending on the coal mine project timeline, the new rest area would likely mitigate issues related to increased incidental visitation.

I appreciate the opportunity to provide comment on this project. Please feel free to contact me by email at denice_swanke@nps.gov, or telephone (406) 638-3201, if you would like to discuss this further.

Sincerely,

Denice Swanke
Superintendent

**APPENDIX E —
DEQ AND OSM SCOPING COMMENTERS**

DEQ AND OSM SCOPING COMMENTERS

Commenter #	Organization	Name	Additional Commenter # (Repeat Commenters)
1		Flavin, Patrick	
2		Donofrio, Mac	
3		Thomas, Kris	
4		Dodson, William	
5		Waight, Jean	
6		Pilling, Helen	
7		McGarry, Julieann	
8		McSloy, T.A.	
9		Jessup, Wynn	
10		Dolman, Aart	
11		Bateman, Guy	194, 572
12		Hecht, Nathan	
13		Jennings, Gerry	215, 472
14		Dostal, Mary	
15		Hazen, Libby	
16		Witt, Jill MacIntyre	
17		Swearingen, Jennifer	
18		Flanery, Bill	
19		Wachsmuth, John	
20		Siebel, Gonnie	
21		Eichwald, Linda	
22		Hyndman, Donald W	23
23		Hyndman, Donald	22
24		Richardson, Gail Richardson, John	
25		Fella, Monica	
26		Starshine, Dorothy	
27		Thompson, John	
28		Sciolino, Anthony	
29		Hodges, Grace	
30		Kilmer, Thomas	
31		Seaich, Jessica	
32		Leonard, Richard	
33		Blackler, Edd	232
34		Gnam, Steven	
35		Thompson, Sally	

Commenter #	Organization	Name	Additional Commenter # (Repeat Commenters)
36		Gavey, Lydia	
37		Holder, Cindy	
38		Parnell, Ric	
39		Hoch, Joseph	275
40		Jones, Charlene	
41		Richards, Belle	
42		Barrett, Heidi	
43		Decker, Kenneth	
44		Barcus, Colleen M	
45		Eggen, Eric	
46		Fujita, Peggy	
47		Bhimani, Sarah	
48		Rosenleaf, Patricia	
49		Mollohan, Kent	
50		Webb, Dean	
51		Milliken, Gerry	
52		Boettcher, Barbara	
53		Nueva, Hailee	
54		Tapp, Jane	
55		Dunkum, John	308, 608
56		Whiting, Betty	
57		Catlett, Duane	
58		Clark, Carl	
59		Edwards, Carol	
60		Braun, Stephen	
61		Hendrickson, Borg	
62		Ayoub, Charyn	
63		Sanders, Robert	
64		Davis, Jody	
65		Juedeman, Mark	
66		Ferguson, Laura	
67		Marum, Elizabeth	
68		Bishop, Norman	
69		Berry, Larissa	
70		Lienhard, Judith	
71		Jones, Brian C	
72		Hash, Colton	
73		Sikorski, Wade	213

Commenter #	Organization	Name	Additional Commenter # (Repeat Commenters)
74		McDougal, Suzanna	231
75		Hoem, Harold Hoem, Janice	365
76		Fee, Kerry	
77		Sweaney, James	254
78		Ravet, Suzanne	
79		Mackin, Mark	
80		Taylor, Elizabeth A	
81		Bremer, John	
82		Marsh, Carol	241
83		Severtson, Molly	
84		Bergeron, Briana	
85		Follett, Thelma	
86		Maneta, Diana	
87		Mansfield, Clarissa	
88		Ray, John W.	
89		Hurdle, Joan	
90		Kalur, Jerome	
91		Weaver, Nora	
92		Adams, Jane	
93		Dakin, Sarah	
94		Johnson, Derf	
95		Heckel, Jim	
96		Orms, Sarah	
97		Matthews, Jonathan	326, 383
98		Schwab, Susan	
99		Schultz, Christian	
100		Daum, Chris	
101		Elkind, Linda	
102		Wirth, Jennifer	
103		Levit, Stu	
104		Alexander, Sarah	
105		Reck, Margie	293
106		Crowley, Jeanne	
107		Hultgren, Raso	
108		Follett, Carol	363
109		Barnett, Kyle	
110		Hastings, Katie	

Commenter #	Organization	Name	Additional Commenter # (Repeat Commenters)
111		Hastings, Lynn	
112		McClain, Leslie	372
113		Roberts, Shelia	
114		Helding, Linda	135
115		Ellenberger, David	
116		Johnson, Sherri	137
117		DeVries, Johanna	
118		Fogarty, D	
119		Ross, Barbara	
120		Himebaugh, Glenn	
121		LaCasse, Craig	
122		Chessin, Bert	
123		Scarff, Steve	
124		Dayton, Shari	
125		Clow, Catherine	
126		Polequaptewa, Jean	
127		Banks, Anne	
128		Trauth, Claire	145
129		Mapes-Jordan, April	
130		Craig, Sarah	
131		Gandulla, Julie	
132		Fry, Linda	
133		Pedersen, Johannes	
134	Cottonwood Environmental Law Center	Gorder, Andrew	
135		Helding, Linda	114
136		Werner, J Kirwin	
137		Johnson, Sherri	116
138		Christiansen, Howard	
139		Garding, Louis	
140		Miller, Harold	
141		Mobley, M	
142	PPL Montana, LLC	Parker, Jim	370
143	Western Environmental Law Center, on behalf of the Montana Environmental Information Center and the Sierra Club	Hernandez, Shilo	380
144		Dillon, John	
145		Trauth, Claire	128

Commenter #	Organization	Name	Additional Commenter # (Repeat Commenters)
146		Marshall, Lisa Anne	
147		Gordon, Julia	392
148		Dillon, Hester	521
149		Annear, Harry	
150		Castro, Sharon	
151		Ryan, Penny	
152		Laird, Wade	
153		Gerrard, Bruce	
154		Black, Laura	583
155		Glueckert, Bev Beck	412
156		Sukut, Mark Sukut, Lisa	
157		Divis, David	
158		Kimbler, Elaine	495
159		Dummond, Paul	
160		Dean, Sarah	
161		Mallory, Regina	
162		Reese, Clare Schommer	
163		Moor, Jay	485
164		Strode, Debra	462
165		Slater, Leon	
166		Smith, Steven	
167		Stewart, Sarah	497
168		Dunham, Janet	
169		Dewey, Robin	
170		Jarnevic, Michael	
171		Feeley, Kath	
172		Dettman, Jim	401
173		Hayes, Gregory	
174		Crittenden, Karen	
175		Vignere, Joel	541
176		Rosch, Re	479
177		Schroedel, Edie	
178		Schultz, Wm	324, 598
179		Bianchi, Don	437
180		Marolf, Megan	
181		Buchner, Scott	
182		Blevins, Auzie	362

Commenter #	Organization	Name	Additional Commenter # (Repeat Commenters)
183		Macy, Jennifer	
184		Perryman, Toddy	528
185		Giles, Anthony	
186		Goodman, Bonnie	
187		Gerrish, Marion	
188		Riddle, Dagmar	395
189		Buehler, Lisa	444
190		Mortimer, Wayne	438
191		Nichols, Sandi	
192		Krueger, Janice	
193		Voss, Jerry	
194		Bateman, Guy	11, 572
195		Gleaves, Glen	578
196		Barnes, Douglas	619
197		Kuntzelman, Richard	
198		Ogrinc, Timothy	
199		Carlson, Lorraine	
200		Jar, Sarah	
201		Sherman, Susan Sherman, Michael	
202		Miller, Robert R.	434
203		Sanders, Colleen	
204		Daniels, Joan	544
205		Klotz, Friederike	
206		Nelson, Diane	
207		Hirsch, Katharina	
208		Tatz, Janet	532
209		Bertelsen-James, Jan	403
210		Murphey, Jim	614
211		Elliot, Susan	522
212		Goehring, Dan	512
213		Sikorski, Wade	73
214		Starr, Ronna	469
215		Jennings, Gerry	13, 472
216		Chandler, Lowell	440
217		Gloege, Randall	
218		Blanchard, Rhiannon	
219		Becker, Dale	

Commenter #	Organization	Name	Additional Commenter # (Repeat Commenters)
220		Wayne, Lawrence	
221		Dobesh, Barbara	
222		Hall, Madison Ambrose	
223		Trauth, Melissa	
224		Williams, Erin	526
225		Mcclure, Marcella	
226		Spivey, Hudson	
227		Martini, Steve	
228		Horan, Tim	
229		Westphal, Natalia	
230		Lehnherr, David	461
231		McDougal, Suzanna	74
232		Blackler, Edd	33
233		Baum, Bill	477
234		Posey, Paula	493
235		Michaud, Elizabeth	
236		Kewley, Sandi	
237		Sowell, Jenny	
238		Robson, Ella	602
239		Cheroske, Andrea	
240		Ososki, Karen	
241		Marsh, Carol	82
242		Angus, Billy	
243		Baker, Dawn	
244		Jones, Leland B	504
245		Chastin, Jerri	
246		Chistenot, Paul	
247		Holbrook, John	
248		Weilage, Krystal	456
249		Mcclure, Susan	
250		Pray, Tracy	
251		Chott, Elissa	
252		Lamma, Richard	545
253		Michelman, Barbara	
254		Sweaney, James	77
255		Merlesena, Michael	
256		Beeson, Margaret	
257		Jenkins, Kathrine	

Commenter #	Organization	Name	Additional Commenter # (Repeat Commenters)
258		Horne, Jr., Robert	
259		Mason, Julie	
260		Renne, Karen	553
261		Cushman, Elizabeth	
262		Abern, Leslee	
263		Ashmore, Tara	478
264		Foolery, Tom	
265		Sennett, Jim	
266		Cunningham, Karen	
267		Owens, Mary	515
268		Adams, Megan	
269		Mcdougal, Graeme	
270		Hopkins, Sherry	
271		Jeter, Elloie	
272		Foster, Jackie	
273		Hanson, Deborah	
274		Gray, Lael Gray, Darrell	
275		Hoch, Joseph	39
276		Mavor, Susan	
277		Capelle, Ty	
278		Stauber, Steve	
279		Cox, Jeanne	
280		Dear, Elizabeth	
281		Mavor, Susan Mavor, Doug	431
282		Srnoguy, Lilyana	
283		Boldinger, Benjamin	
284		Ramsey, Eric	
285		Petersen, Robert	
286		Cooke, Lorenza	
287		Nagel, Clinton	429
288		Sykora, Kelly	
289		Turner, Gregg	
290		Jensen, Kathryn	
291		Lane, April	
292		Mutschler, Allan	
293		Reck, Margie	105

Commenter #	Organization	Name	Additional Commenter # (Repeat Commenters)
294		McCoy, Justin	
295		Karlovich, Christine	
296		Mccanse, Roberta	364, 410
297		Stevens, Nike	
298		Hanson, Virginia	
299		Green, Dorie	594
300		Trolinger, Charlotte	
301		Sample, Dawn	
302		Layton, Jonathon	
303		Ashmore, Brenda	
304		Mcevoy, Stephen	
305		Schooley, Grant	
306		Ristow, Heather	
307		Banwart, Albert	
308		Dunkum, John	55, 608
309		Lefohn, Phyllis	
310		Werner, Amy	
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