IN THE SUPREME COURT OF THE STATE OF MONTANA

Case Nos. DA 22-0064 and DA 22-0068

MONTANA ENVIRONMENTAL INFORMATION CENTER and SIERRA CLUB,

Plaintiffs / Appellees,

v.

MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY, MONTANA BOARD OF ENVIRONMENTAL REVIEW,

Respondents,

and

WESTERN ENERGY CO., NATURAL RESOURCE PARTNERS, L.P., INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 400, and NORTHERN CHEYENNE COAL MINERS ASSOCIATION,

Respondent-Intervenors / Appellants.

Declaration of Russell Batie in Support of Rule 22(2) Motions for Stay

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I, Russell Batie, declare under penalty of perjury as follows:

1. I am the Environmental and Engineering Manager at the Rosebud Mine ("Mine"), which is owned and operated by Westmoreland Rosebud Mining, LLC ("Westmoreland"). I have been employed at the Mine in various capacities for 17 years, and I have served in my current role for five years and have personal knowledge of operations at the Mine, including its operations in the area covered by the AM4 mine permit ("AM4") and the anticipated impacts to the Mine if AM4 operations cease.

2. I filed a declaration in the lower court detailing the significant harms to Westmoreland and the Mine that will result should AM4 be vacated and mining and reclamation operations on AM4 lands be summarily halted. **Ex. A**, 11/8/2021 Batie Declaration.

3. MEIC/Sierra Club subsequently proposed a deferred AM4 vacatur date of April 1, 2022.

4. I filed a second declaration addressing the harms to Westmoreland and the Mine that will result from MEIC/Sierra Club's proposed April 1, 2022 vacatur date, and I specifically responded to factual errors presented in MEIC/Sierra Club's pleadings. **Ex. B**, 12/6/21 Batie Declaration.

5. Shannon Brown, on behalf of Colstrip Power Station operator Talen Montana, LLC, also filed a declaration detailing the significant harms to the Colstrip Power Station that will result should AM4 be vacated and deliveries of coal from AM4 lands cease. Mr. Brown's declaration also responded to factual errors presented in MEIC/Sierra Club's pleadings. I have reviewed Mr. Brown's declaration and it is consistent with and confirms my understanding of these factual matters. **Ex. C**, 12/20/21 Brown Declaration.

6. On January 28, 2022, the lower court adopted MEIC/Sierra Club's proposed AM4 vacatur date of April 1, 2022. I have reviewed the lower court's Order. Based on my review, the lower court's Order does not address the facts presented in my second declaration (**Ex. B**) or Mr. Brown's declaration (**Ex. C**).

Executed this 8th day of February 2021.

Pursuant to § 1-6-105, MCA, I declare under penalty of perjury that the foregoing is true and correct.

Russell Batie

Exhibit A

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MONTANA SIXTEENTH JUDICIAL DISTRICT COURT, ROSEBUD COUNTY

MONTANA ENVIRONMENTAL INFORMATION CENTER, and SIERRA CLUB, Petitioners, vs. MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY, MONTANA BOARD OF ENVIRONMENTAL REVIEW, WESTERN ENERGY CO., NATURAL RESOURCE PARTNERS, L.P., INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 400, and NORTHERN CHEYENNE COAL MINERS ASSOCIATION, Respondents.	Cause No. DV 19-34 **DECLARATION OF RUSSELL BATIE**

I, Russell Batie, declare under penalty of perjury as follows:

1. I am the Environmental and Engineering Manager at the Rosebud Mine ("Mine"), which is owned and operated by Westmoreland Rosebud Mining LLC ("Westmoreland"), formerly Western Energy Company. I have been employed at the Mine in various capacities for 16 years, and I have served in my current role for five years.

2. I am familiar with this Court's October 27, 2021 Order in this matter.

3. I have personal knowledge of Westmoreland's operations at the Mine, including its operations in the area covered by the AM4 Permit (the "AM4 Area"). I also have personal knowledge of the anticipated impacts to the Mine if operations in the AM4 Area were to cease.

4. Of the Mine's aggregate extracted coal, approximately thirty percent comes from the AM4 Area on an annual basis. The coal from the AM4 Area is of higher quality than much of the coal from other areas at the Mine.

5. Currently, Westmoreland provides all of its coal to the nearby Colstrip Power Station, which burns the coal to generate electricity. A cessation of operations in the AM4 Area would greatly jeopardize Westmoreland's ability to provide the Colstrip Power Station with coal of sufficient quantity and quality to meet the Power Station's fuel demands. A cessation of operations would also pose heightened safety risks at the Mine.

6. Regarding quantity, a cessation of operations in the AM4 Area would greatly reduce the Mine's extraction rate for at least several months. It would take at least two to four months to move the necessary equipment and perform preliminary work (e.g., removing and storing or depositing topsoil, blasting, removing overburden) before coal could be mined in a different area. During this transition period, Westmoreland would be forced to deplete its inventory of coal in order to make up for the massive loss of production. Westmoreland only has

sufficient inventory to make up for this production loss for approximately one month, after which Westmoreland likely would be unable to provide the Colstrip Power Station with sufficient quantities of coal to meet its contractual obligations. Because the transition period to other Mine areas is likely to last two to four months, Westmoreland would face a multi-month shortage during which it is unable to adequately meet the Colstrip Power Station's fuel demands. This disruption would be especially impactful because of the anticipated spike in demand associated with the coming winter months. In addition, Westmoreland's ability to extract coal in other areas of the Mine is constrained by permit limitations. If Westmoreland is unable to obtain additional permits required to expand production in these areas, that would amplify the shortage posed by the loss of AM4 Area coal.

7. Regarding quality, Westmoreland blends coal from different mining areas before delivering it to the Colstrip Power Station. The coal within the AM4 Area is lower in ash, sodium, and mercury than much of the coal from other areas within the Mine, and the AM4 Area coal is therefore a critical component of the blending process. A cessation of mining in the AM4 Area would force Westmoreland to use a higher ratio of lower quality coal from other Mine areas, which would disrupt the blending process and impair Westmoreland's ability to meet specifications designed to satisfy air quality standards at the Colstrip Power Station.

8. The Colstrip Power Station operates exclusively on coal from the Mine. Thus, the impairment of Westmoreland's ability to provide coal of sufficient quantity and quality would jeopardize the Colstrip Power Station's ability to generate enough electricity to meet the demands of its customers. This risk is particularly grave given the coming winter months, when electricity is typically in high demand in order to generate heat.

9. A cessation of operations in the AM4 Area would pose multiple safety hazards. First, there are approximately 150,000 tons of uncovered coal within the AM4 Area that is ready for imminent extraction. If operations were halted, this coal would remain exposed, posing a number of environmental and safety hazards, including a risk of coal seam fires. Second, a portion of the AM4 Area has already been loaded with explosives for future blasting. If permitted activity within the AM4 Area were to cease, these undetonated explosives would remain in place, posing a danger of accidental detonation. Third, a portion of the AM4 Area has already been blasted but has not yet been mined. If permitted activity within the AM4 Area were to cease, the spoils in the blasted area would collect water, resulting in decreased stability. This would pose a danger of slides or collapse. Fourth, a cessation of operations in the AM4 Area would force Westmoreland to consolidate operations in other areas of the Mine. This would likely increase the density of employees and contractors within a given area. While Westmoreland always strives to maintain a safe work environment, more crowded working conditions marginally increase the chances of an accident. Thus, a cessation of operations in the AM4 Area could have a wide variety of adverse safety consequences.

10. Westmoreland has conducted mining and reclamation operations in the AM4 Area since 2015, resulting in the extraction of four million tons of coal and the reclamation of pits following extraction. Both mining and reclamation within the AM4 Area are covered by the same permit. Thus, a cessation of permitted activity within the AM4 Area would thwart not only Westmoreland's ability to mine, but also its ability to reclaim pits that have already been mined.

11. Westmoreland has already invested millions of dollars in preparatory work, including blasting and drilling, for future mining within the AM4 Area. This investment would be lost if mining in the AM4 Area ceases.

12. Westmoreland plans to extract between 2.5 and 3 million tons of coal from the AM4 Area by the end of 2022. This production would not be realized if mining in the AM4 Area ceases.

Executed this 5th day of November, 2021.

Russell Batie

Exhibit B

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MONTANA SIXTEENTH JUDICIAL DISTRICT COURT, ROSEBUD COUNTY

MONTANA ENVIRONMENTAL INFORMATION CENTER, and SIERRA CLUB, Petitioners, vs. MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY, MONTANA BOARD OF ENVIRONMENTAL REVIEW, WESTERN ENERGY CO., NATURAL RESOURCE PARTNERS, L.P., INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 400, and NORTHERN CHEYENNE COAL MINERS ASSOCIATION, Respondents.	Cause No. DV 19-34 **SECOND DECLARATION OF RUSSELL BATIE**

I, Russell Batie, declare under penalty of perjury as follows:

1. I am the Environmental and Engineering Manager at the Rosebud Mine ("Mine"), which is owned and operated by Westmoreland Rosebud Mining, LLC ("Westmoreland"), formerly Western Energy Company. I have been employed at the Mine in various capacities for 16 years, and I have served in my current role for five years.

2. I am familiar with this Court's October 27, 2021 Order in this matter and with Petitioners' Combined Response brief and accompanying exhibits filed November 22, 2021.

3. I have personal knowledge of Westmoreland's operations at the Mine, including its operations in the area covered by the AM4 Permit (the "AM4 Area"). I also have personal knowledge of the anticipated impacts to the Mine if operations in the AM4 Area were to cease.

4. I have reviewed the Declaration of David Alan Schlissel submitted with Petitioners' Combined Response brief.

5. I understand that Mr. Schlissel asserts that if vacatur of the AM4 permit is delayed until April 2022, it is unlikely that the cessation of mining operations in the AM4 Area will threaten the energy supply or cost of energy in Montana or the Pacific Northwest. I understand that Mr. Schlissel bases this belief in part on his interpretation of my previous declaration and that of the previous manager of the Rosebud Mine, Jack Standa.

6. I disagree with Mr. Schlissel's prediction because his oversimplified calculations do not reflect the complex realities of coal mining at the Rosebud Mine. Rosebud Mine production is a function of a complicated interplay of state and federal government approvals, geology, infrastructure, and labor.

7. First, the Mine must have legal authority to mine coal. At present, the Mine has five permitted areas, four of which are currently in production. It uses coal from all of these

areas to blend together to produce coal that meets the quality requirements in its contract with the Colstrip Power Station. Thus, contrary to Mr. Schlissel's assumption, the Mine's total volume of coal reserves is insufficient to determine whether the Mine will be able to meet contractual commitments. The Mine must have coal available in sufficient quantities to blend to meet the contractual requirements.

8. AM4 produces approximately 180,000 tons of coal each month as an annual average to fulfill the Mine's contractual obligations with the Colstrip Power Station. However, in the first quarter of 2022 we expect to mine approximately 200,000 tons of coal each month from AM4. As stated in my previous declaration, this represents approximately 30% of the Mine's production each month.

9. Currently, the Mine's permitted reserves are as follows (with the caveat that these numbers change daily with mine production):

9.1. The Mine has one permitted pass remaining within Area A. To mine this pass, equipment will need to be moved, which may take 2–4 months, as noted in my prior declaration. We estimate this pass includes approximately 800 thousand tons of coal. At the Colstrip Power Station's current rate of consumption, this represents 1–2 months of production. Because this coal is of higher quality and will be blended with lower quality coal, I estimate mining the coal from the final pass of Area A would take 3–4 months and thus would not be able to replace AM4's production long-term.

9.2. The Mine has approximately 9 million tons of permitted coal in Area B, exclusive of the AM4 Area. Approximately 7 million tons of this coal is on the far west end of Area B, in what is called Area B Extension. The Mine is actively

mining this coal, so it cannot serve to replace lost production from AM4. Area B Extension coal also requires blending with higher quality coal to achieve contractual quality requirements. The remainder of non-AM4 coal lies in Area B East and is currently a non-active area requiring preparation before production can be restarted. Since the pit has been inactive for some time, I estimate it would take at least 6–8 months to prepare that area for mining to attempt to replace some of the AM4 production. Once preparation is completed (and assuming no safety or other issues are identified) there are approximately 2 million tons of mineable coal available in Area B East.

9.3. The Mine has approximately 2.5 million tons of permitted coal remaining in Area C. The Mine is actively mining Area C as part of its current production, so Area C cannot serve as a replacement for AM4. When that coal is mined, Area C will be fully mined out, with only reclamation work remaining. The coal remaining in Area C represents less than half a year's worth at the current rate of production.

9.4. The Mine's permitted reserves in Area F are being challenged by the Petitioners in federal court and before the Board of Environmental Review. In each case, Petitioners are seeking vacatur of the permit. If Petitioners obtain their requested relief in either action, the permitted reserves in Area F will not be available to replace AM4 coal. Further, the Mine is currently mining one pit in Area F, which is considered "direct ship" quality. The pit is very short and does not have the capacity to satisfy the Colstrip Power Station's demand. This coal does meet contract specifications and does not require blending, but it not of high

enough quality that it can be blended with lower quality coal, particularly coal with higher sodium levels. As we progress in this part of Area F, we expect the sodium to increase, so that we will have to blend with lower sodium coal. This part of Area F has 9 million tons of coal remaining. To access higher quality coal in another part of Area F would require an investment of approximately $6–7 million, and I expect that it would take approximately 8–10 months of preparatory work to build necessary infrastructure before coal production could begin.

10. In sum, of the Mine's permitted reserves, the only available long-term replacement for the approximately 180,000–200,000 tons of coal mined from AM4 each month are in the portion of Area B that has significant engineering challenges and could be available (if at all) no earlier than 6–8 months, and in undeveloped parts of Area F that would also require substantial preparatory work and would not produce coal for electrical generation for at least 8–10 months. I previously offered the 2–4 month timeframe in reference to Area A, specifically to address the expected winter demand spike by identifying the earliest that any short-term replacement could be available if the Court vacated the permit in the near-term because Petitioners had not, at that time, proposed deferred vacatur until April. That estimate was not intended to imply that it would require only 2–4 months for the Mine to be in a position to *fully* replace the coal from AM4 over the long-term.

11. Second, the Mine's production is dependent on geology. As noted above, the Mine blends coal from multiple sources to achieve contractual specifications. AM4 is important to the Mine's production because it is high quality coal that can be blended with other coal. Vacating the AM4 permit would do more than reduce the permitted reserves available, it would significantly reduce the volume of higher quality coal that the Mine has available for blending.

12. Third, the Mine's production requires substantial engineering. AM4 is a well-developed portion of the mine, with well-established pits. If the Mine is forced to replace the AM4 coal with coal from other permitted areas earlier than planned, it will necessarily be required to mine in pits with more difficult engineering strategies and to develop currently undeveloped parts of the Mine. Because of the engineering and construction requirements, Areas B and F cannot be available in the near term. Once they become available, they cannot serve as a single-source long-term replacement for AM4 because of coal quality and operational constraints.

13. Fourth, the Mine is limited by its manpower availability. Coal mining requires skilled labor, and there is a limited pool of individuals with the appropriate skills. The Mine has been actively attempting to hire for the past several months. The Covid-19 pandemic has also negatively impacted attendance.

14. I understand the Mr. Schlissel has suggested that the Mine and the Colstrip Power Station "increase their inventories" of coal prior to the vacatur of the AM4 permit. If such action were feasible, the only source within the Mine capable of producing the proposed stockpiling would be the AM4 Area. However, it is not feasible for two reasons. First, the Mine does not have the necessary labor force to increase production beyond the Colstrip Power Station's current demands, nor do I expect the Mine would be able to hire staff on short notice for such a surge in production. Second, neither the Mine nor the Colstrip Power Station has sufficient area permitted to accommodate a stockpile as suggested by Mr. Schlissel.

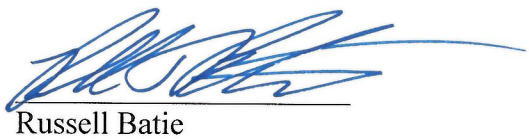
15. I understand that Petitioners assert that deferring vacatur until April would provide sufficient time to wind down operations in AM4 in an orderly fashion. The lead time

must be sufficient so that all placed explosives are detonated, all exposed coal is removed, and at least interim action is taken to stabilize the pit prior to reclamation.

16. Further, Petitioners do not address the concern raised by Martin Van Oort regarding permitting for reclamation. Westmoreland has won awards for the quality of its reclamation, which is designed to be integrated with the mining process to the extent possible. All of the reclamation plans for the AM4 Area are in the AM4 Permit, and the Department has taken the position in Mr. Van Oort's declaration that reclamation cannot proceed if the AM4 Permit is vacated. Westmoreland would work promptly and cooperatively with the Department to obtain a new permit approval for reclamation of the AM4 Area, but it would necessarily take time, during which the exposed pit would delay reclamation activity.

17. Finally, I do not believe replacing the AM4 coal from a source other than the Rosebud Mine is a viable solution given the current infrastructure. Coal from the Mine is carried on a conveyor belt to the Colstrip Power Station. Because there is no current way to offload trains at the Mine or the Colstrip Power Station, the replacement coal must be shipped by truck. If a semi-truck carries approximately 40 tons, even assuming coal could be purchased from another source and trucked to Colstrip, moving 180,000 tons of coal per month would require 4,500 vehicle trips per month, or 150 trucks per day.

Executed this 6th day of December, 2021.



Russell Batie

Exhibit C

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MONTANA SIXTEENTH JUDICIAL DISTRICT COURT, ROSEBUD COUNTY

MONTANA ENVIRONMENTAL INFORMATION CENTER, and SIERRA CLUB, Petitioners, v. MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY, MONTANA BOARD OF ENVIRONMENTAL REVIEW, WESTERN ENERGY CO., NATURAL RESOURCE PARTNERS, L.P., INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 400, and NORTHERN CHEYENNE COAL MINERS ASSOCIATION, Respondents, and TALEN MONTANA, LLC, Proposed Respondent-Intervenor.	Case No. DV-19-34 Judge: Hon. Katherine M. Bidegaray **DECLARATION OF SHANNON BROWN**

I, Shannon Brown, declare under penalty of perjury as follows:

1. I am over 18 years of age.

2. I reside in Montgomery County, Texas.

3. I make this Declaration in support of Talen Montana, LLC's ("Talen Montana") Reply Brief in Support of Motion to Intervene as Respondent.

4. I make this Declaration based upon personal knowledge. The basis of my personal knowledge is as follows: Since May 2018, I have served as senior director of asset management at Talen Energy Supply, LLC ("Talen"), an indirect corporate parent of Talen Montana. In that capacity, I have represented Talen Montana on various committees relating to Units 3 and 4 of the Colstrip Steam Electric Station ("Units 3&4"), including committees providing oversight for the supply of coal to Units 3&4 and the operation of Units 3&4. My responsibilities related to coal supply include profit and loss of the power generation, coal supply contract negotiations, managing commercial and contractual issues arising under Talen Montana's coal supply agreement, approving invoices, and otherwise administering the coal supply agreement between Talen Montana and Westmoreland Rosebud Mining, LLC ("Westmoreland"). Through my role, I have gained extensive knowledge and experience regarding Unit 3&4's coal needs and the supply of coal from Rosebud Mine to Units 3&4.

5. I have reviewed the November 18, 2021 declaration of Mr. David Alan Schlissel and identified numerous errors in it with respect to Units 3&4. Select errors are discussed herein. Mr. Schlissel has never been employed at Units 3&4 or conducted any work at the Colstrip Steam Electric Station ("CSES").

Units 3&4 Background

6. CSES is a coal-fired power plant in Colstrip, Montana that depends on coal to generate power. CSES Units 1&2 were retired in early 2020. Units 3&4 are the remaining active coal-fired units, and they each have a net generating capacity of approximately 740 MW. Units 3&4's current capacity is therefore approximately 1,480 MW.

7. Talen Montana is the operator and a co-owner of Units 3&4. Talen Montana's ownership interest is 30% of Unit 3.

8. As operator of Units 3&4, Talen Montana is responsible for day-to-day operations and power generation activities, long-term scheduling and planning, compliance with permits, management of environmental liabilities, and otherwise acting on behalf of the Units 3&4 co-owners.

9. NorthWestern Corporation (d/b/a NorthWestern Energy) is another co-owner of Units 3&4.

10. A significant amount of Talen Montana's and NorthWestern Energy's power generated by Units 3&4 is supplied to Montana customers, including homeowners, commercial and industrial facilities, municipalities, and other customers. As noted above, Units 3&4 collectively can produce 1480 MW, of which approximately 375 to 450 MW are supplied to Montana customers. This is based on my belief that most, if not all, of NorthWestern Energy's share of the energy generated by Units 3&4 is supplied to Montana customers, in addition to the distribution of energy within Montana by Talen Montana's affiliates.

Current Coal Supply and Usage by Units 3&4

11. Rosebud Mine has been and is currently the exclusive supplier of coal to Units 3&4. Units 3&4 typically burn 500,000 to 600,000 tons of coal per month, and during most years is forecasted to burn around 7 million tons of coal per year (Units 3&4 will typically burn less during years with planned outages for maintenance).

12. With respect to Talen Montana's ownership interest in Units 3&4 specifically, Talen Montana and Westmoreland currently have a contract in place through 2025 requiring Westmoreland to supply coal from Rosebud Mine to Units 3&4. The contract is a full requirements contract obligating Westmoreland to supply all coal required by Talen Montana for its interest in Units 3&4. Talen Montana is obligated to purchase from Westmoreland all coal for its interest in Units 3&4, with a limited exception for test burns of coal from other mines.

Impacts of Vacatur of AM4 Permit on Ability to Fuel Units 3&4

13. Without sufficient coal supply of adequate quality from Rosebud Mine to CSES, Units 3&4 will be unable to run at full capacity (or potentially at all). If the coal supply from Rosebud Mine is completely halted, Units 3&4 has only about 25-30 days of coal stored on-site, meaning that Unit 3&4 operations could cease in a month or less.

14. Contrary to Mr. Schlissel's speculation, Talen Montana does not have the ability to materially expand Units 3&4 on-site storage of coal beyond the current supply of 25-30 days. The coal is in a "dead pile" that is covered in a concrete-like crust to prevent release of dust from the coal. The dead pile, which has not been significantly used since 2008, is used for emergency situations only. The amount of coal Units 3&4 can store on the dead pile is physically constrained

based on the size of the storage area. Accordingly, Units 3&4 does not have the ability to stockpile additional coal to accommodate a near-term loss of AM4 coal supply between now and April 2022.

15. Talen Montana's ability to obtain replacement coal for Units 3&4 is extremely limited, and it is very unlikely Talen Montana would be able to obtain any replacement coal even by the end of 2022. Accordingly, merely delaying vacatur of the AM4 permit by four months provides Talen Montana with no additional options to replace its coal supply.

16. First, Talen Montana does not have rail unloading facilities that would enable transport of coal to CSES by rail, and any construction of such facilities would take significant time and would be extremely expensive. Building new rail unloading facilities would take substantially longer than four months; it could take years to get such facilities permitted and constructed. For instance, construction of new facilities and burning of new coal would likely require an amendment to the air permit for Units 3&4, which could also take significant time (again, longer than four months) to obtain. Further, Talen Montana would likely need to do test burns for any new alternative coal source to assess its viability for combustion at Units 3&4.

17. Second, trucking coal to CSES presents other logistical challenges related to transporting large volumes of coal over long distances. In 2019 when Talen Montana was exploring alternative coal sources, Talen Montana calculated that approximately 724 truck trips per day would be required to supply Units 3&4 with coal entirely by truck (i.e., one truck every two minutes). Additionally, as with transporting new coal by rail, transporting new coal by truck would likely require test burns and an amendment to the air permit.

18. Third, contracts for coal and rail deliveries are typically negotiated at least a year or more in advance. Based on my current knowledge of the coal market and railroad capacities

currently, I do not believe there are material volumes for additional coal that Talen Montana could contract to buy and deliver prior to the end of 2022.

19. With respect to coal from other areas of Rosebud Mine, the coal within Rosebud Mine is not interchangeable. Even if Westmoreland is able to relocate its mining operations to other areas of Rosebud Mine (which is questionable for the reasons outlined in the December 6, 2021 Declaration of Russell Batie), it is unclear if Units 3&4 could burn coal from other areas of Rosebud Mine if that coal does not meet the contract specifications. Coal that does not meet contract specifications may disrupt boiler operations and threaten compliance with various permitting obligations. Blending coal from different mine areas is one way Rosebud Mine maintains the coal quality, but if the coal from AM4 cannot be mined and blended with coal from other areas, the resulting coal blend may not be of sufficient quality for Units 3&4.

20. For instance, Westmoreland's Environmental and Engineering Manager Russell Batie has stated that "AM4 is important to the Mine's production because it is a high-quality coal that can be blended with other coal." Batie December 6 Declaration ¶ 11. Area B coal cannot replace AM4 coal because it must be blended with higher quality coal to meet Westmoreland's contractual obligations to Units 3&4 related to coal quality. *See* Batie December 6 Declaration ¶ 9.2. According to Westmoreland, other areas of the mine are not suitable to replace the AM4 coal supply because Westmoreland already planned to mine those areas in the near future in addition to the AM4 area and potentially because mining activities in some of the other areas are also subject to ongoing legal challenges. *See* Batie December 6 Declaration ¶¶ 9.3, 9.4, 10. Thus, without AM4 it is unclear if Westmoreland will be able to supply coal that Units 3&4 can use to operate.

Impacts on Energy Supply if Units 3&4 Cannot Run at Full Capacity

21. As discussed in my prior declaration, there are significant potential impacts to the supply of energy to Montana and the region if Units 3&4 cannot run at full capacity due to a lack of fuel supply. These impacts remain a threat even if the supply of coal from AM4 is not cut off until April 2022.

22. Planned maintenance outages at Units 3&4 do not occur annually and do not occur every spring. Planned maintenance outages are carefully scheduled based on current energy market supply and the need to conduct certain maintenance and construction activities while units are offline. Additionally, Units 3&4 are almost never scheduled for outage at the same time (i.e., their outages are staggered so that one unit remains online at all times). No outage for either unit is currently planned for Spring or Fall 2022. The next planned outage is Unit 4 scheduled for 2024.

23. A "forced" unplanned outage in Spring 2022 due to lack of fuel supply would impact both energy supply and prices in potentially unpredictable ways. Even taking one unit offline in the spring could cause issues due to the 2021 drought that continues to affect the supply of hydropower. Once offline, the Colstrip unit may take at least a full day to come back online. If both units are offline, it may take several days to get both units online.

24. Likewise, although energy demand is typically reduced in the spring as compared to the winter, energy demand surges again in the summer months – as shown by Mr. Schlissel's own Chart 1. It is crucial for both Units 3&4 to be online during the summer months to meet that demand surge.

25. Units 3&4 are important dispatchable energy sources for this energy usage in Montana specifically and the northwest region more generally for all seasons. A dispatchable energy source is one that can be dispatched up and down to meet energy demand.

26. Non-dispatchable energy sources are those like wind and solar, which cannot be turned on and off to meet demand. Their power generation is dependent on external environmental factors. Hydropower is likewise partially dependent on external environmental factors; for instance, droughts will limit the supply of available hydropower.

27. Mr. Schlissel's graph showing the availability of hydropower, notably, shows 2020 rather than 2021. A significant drought in 2021 limited the availability of hydropower in the west and is expected to have impacts on the available supply of hydropower for at least the next year.

28. Solar power currently only supplies a very limited amount of energy within Montana (approximately 17 MW), and is unlikely to be a suitable replacement in the short-term for the approximately 375-450 MW supplied by Units 3&4 within the state of Montana. Transmitting solar power from California, as Mr. Schlissel suggests, may be theoretically possible, but it would be extremely costly and inefficient to move that power.

29. Accordingly, even if there is reduced energy demand in the spring and no unforeseen significant weather events that create a demand surge in the spring months, Montana may still face an energy shortage if the AM4 area cannot be mined further beginning April 2022. This is due to the surge in demand in summer months, the lack of readily available replacement coal, the lack of readily available replacement energy, and the continuing drought limiting the supply of hydroelectric generation.

30. Mr. Schlissel's hypothetical "worst case" scenario – that Talen Montana could operate just one unit for four months and then rely on coal from a new area of the Rosebud Mine

– is therefore not the worst-case scenario. The worst-case scenario is that Units 3&4 don't run all, especially if Westmoreland is not able to supply Units 3&4 with coal of sufficient quantity for significantly longer than four months because it cannot use or blend AM4 coal, and Talen Montana is not able to obtain replacement fuel for Units 3&4 until sometime in 2023 or even later.

31. Further, Mr. Schlissel understates the energy supply impacts of his own "worst case" scenario. Operating just one unit into the summer months – when energy demand increases – may very well be insufficient to meet energy demand in Montana.

Impacts on Price if Units 3&4 Cannot Run at Full Capacity

32. Mr. Schlissel's statement that "Colstrip is the most expensive resource in the portfolio . . . Northwestern Energy" is misleading and incomplete at best.

33. Talen Montana participates in wholesale energy markets where it sells power based on its variable cost to produce power. The variable cost to produce power is based on the current operational cost.

34. The dispatch of power to consumers in the region through the wholesale energy markets is based on the variable costs that power producers bid, with the daily market price determined by supply-demand fundamentals.

35. The variable cost to produce power at Units 3&4 is extremely low – around $20 per megawatt hour (MWh). For comparison, a typical natural gas peaking generation unit with a typical natural gas cost has the variable cost to produce around $45 per MWh. Natural gas generation is a dispatchable resource with more than double the cost of Units 3&4.

36. As a result, Units 3&4 are among the first to get dispatched to meet energy demand, generally running around the clock, and are among the cheapest sources of energy to consumers sold through the wholesale markets.

37. Current 2022 average on-peak power prices in the northwest are almost $60/MWh. Per MWh power prices in the region have already doubled in the past 12 months and are among the highest prices seen in the region in the past 10 years. If Units 3&4 are unable to operate and supply power to the wholesale markets, to the extent replacement power is available, it will be more expensive and result in increased prices to consumers.

Executed this 20th day of December, 2021.

Shannon Brown