

IN THE SUPREME COURT OF THE STATE OF MONTANA

Case No. DA 22-0064

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.

***Unopposed Motion to Correct the District Court Record
for Cause No. DV 2019-34***

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Pursuant to Mont. R. App. P. 8(6), Westmoreland Rosebud Mining, LLC, f/k/a Western Energy Co., Natural Resource Partners, L.P., International Union of Operating Engineers, Local 400, and Northern Cheyenne Coal Miners (together, Appellants) move this Court to correct the record provided by the district court in this appeal. It has come to the attention of Appellants that the existing record lacks the administrative record from the Montana Board of Environmental Review's evaluation and affirmation of the Montana Department of Environmental Quality's approval of Westmoreland Rosebud Mining, LLC's fourth amendment to its Surface Mining Permit No. C1984003b ("AM4") for the Rosebud Strip Mine.

Under Montana Administrative Procedure Act ("MAPA"), the administrative record is necessary for this Court to review the district court's orders. *See* Mont. Code Ann. §§ 2-4-704(1), -614; *see also Whitehall Wind, LLC v. Mont. Pub. Serv. Comm'n*, 2015 MT 119, ¶ 8, 379 Mont. 119, 347 P.3d 1273 (in reviewing contested case proceedings under MAPA, "[w]e apply the same standards of review that a district court applies..."). Based upon information and belief, the administrative record is currently with Judge Bidegaray.

Counsel for Petitioner/Appellees Montana Environmental Information Center and Sierra Club (collectively, "MEIC") and Respondent Montana Department of Environmental Quality ("DEQ") have been contacted. DEQ does not oppose this motion and MEIC takes no position on the motion.

DATED this 18th day of February 2022.

WESTMORELAND ROSEBUD MINING, LLC

/s/ John C. Martin

John C. Martin

Samuel R. Yemington

Kyle Gray

Victoria A. Marquis

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Attorneys for Appellants/Respondent-Intervenors

CERTIFICATE OF SERVICE

I hereby certify that on the 18th of February 2022, I filed a true and accurate copy of the foregoing Unopposed Motion to Correct the District Court Record for Cause No. DV 2019-34 and Proposed Order via Montana E-File:

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DATED this 18th day of February, 2022.

/s/ Trisa J. DiPaola
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CERTIFICATE OF SERVICE

I, John C. Martin, hereby certify that I have served true and accurate copies of the foregoing Motion - Unopposed to the following on 02-18-2022:

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