

IN THE SUPREME COURT OF THE STATE OF MONTANA

DA 22-0064

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MONTANA ENVIRONMENTAL INFORMATION  
CTR. and SIERRA CLUB,

Plaintiffs/Appellees,

v.

WESTMORELAND ROSEBUD MINING, LLC, f/k/a  
WESTERN ENERGY CO., NAT. RES. PARTNERS, L.P.,  
INT'L UNION OF OPERATING ENGINEERS, LOCAL  
400, and N. CHEYENNE COAL MINERS ASS'N,

Respondent-Intervenors/Appellants.

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MONTANA ENVIRONMENTAL INFORMATION  
CTR. and SIERRA CLUB,

Petitioners/Appellees,

v.

O R D E R

MONTANA DEP'T OF ENVIRONMENTAL QUALITY,

Respondent/Appellant,

MONTANA BD. OF ENVIRONMENTAL REVIEW,  
WESTMORELAND ROSEBUD MINING, LLC, f/k/a  
WESTERN ENERGY CO., NAT. RES. PARTNERS L.P.,  
INT'L UNION OF OPERATING ENGINEERS, LOCAL  
400, and N. CHEYENNE COAL MINERS ASS'N,

Respondents.

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MONTANA ENVIRONMENTAL INFORMATION  
CTR. and SIERRA CLUB,

Plaintiffs/Appellees,

v.

MONTANA DEP'T OF ENVIRONMENTAL QUALITY,  
MONTANA BD. OF ENVIRONMENTAL REVIEW,

Respondents,

and

WESTMORELAND ROSEBUD MINING, LLC, f/k/a  
WESTERN ENERGY CO., NAT. RES. PARTNERS L.P.,  
INT'L UNION OF OPERATING ENGINEERS, LOCAL  
400, and N. CHEYENNE COAL MINERS ASS'N,

Respondent-Intervenors/Appellants.

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Pursuant to the Internal Operating Rules of this Court, this cause is classified for oral argument before the Court sitting en banc and is hereby set for argument on Monday, April 3, 2023, at 10:30 a.m. in the Strand Union Building, Ballroom A on the campus of Montana State University, Bozeman, Montana, with an introduction to the oral argument beginning at 10:00 a.m.

IT IS FURTHER ORDERED that pursuant to M. R. App. P. 17(3), oral argument times in this cause number shall be forty (40) minutes for the Appellants and thirty (30) minutes for the Appellees.

The parties shall direct their arguments to the following issues:

1. Did the hearing officer err in limiting the issues and evidence the Conservation Groups could present in the contested case proceeding while allowing DEQ and Westmoreland to present evidence outside the administrative record on which DEQ based its permitting decision?
2. Did the Board of Environmental Review err in its allocation of the burden of proof?
3. Did the District Court err in reversing the Board's decision to uphold DEQ's approval of the AM4 permit amendment upon the Board's finding that AM4 is designed to prevent material damage?

The Court does not require argument from the Board of Environmental Review or on the other issues raised in the parties' briefs.

Counsel should be mindful of the provisions of M. R. App. P. 17(6).

The Court will not entertain any motions to reschedule.

The Clerk of this Court is directed to provide a copy of this Order to all counsel of record, James W. Stordahl, Court Administrator of the Eighteenth Judicial District, Katy Brandis, Pre-Law Advisor, Montana State University, Elaine Gagliardi, Interim Dean, Alexander Blewett III School of Law, University of Montana, Jordan Gross, Associate Dean, Alexander Blewett III School of Law, University of Montana, Phil Stempin, Communications Director, Alexander Blewett III School of Law, University of Montana, John Mudd, Executive Director, State Bar of Montana, and to the Honorable Katherine M. Bidegaray, District Judge.