

FILED

10/06/2023

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

DA 22-0064

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.

MONTANA ENVIRONMENTAL INFORMATION
CTR. and SIERRA CLUB,

Petitioners/Appellees,

v.

MONTANA DEPT' 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.

MONTANA ENVIRONMENTAL INFORMATION
CTR. and SIERRA CLUB,

FILED

OCT - 6 2023

Bowen Greenwood
Clerk of Supreme Court
State of Montana

ORDER

Plaintiffs/Appellees,

v.

MONTANA DEPT 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.

In its briefing before this Court on appeal, Appellant Montana Department of Environmental Quality (DEQ) has attached and referred to two documents that it alleges were filed in the District Court, captioned [Petitioners' Proposed] Order Awarding Reasonable Fees and Costs, and [Proposed] Order on the Reasonableness of the Conservation Groups' Request for Attorney's Fees, both allegedly filed on May 11, 2022. Our review of the record indicates that neither of these documents was filed with the Clerk of District Court of Rosebud County as neither appears in the Case Register Report for DV-19-34. Thus, they are not part of the record on appeal under M. R. App. P. 8(1).

However, our review of this matter leaves us with the impression that these documents may have been inadvertently omitted from the District Court docket. Under M. R. App. P. 8(6), a district court may correct a record, for good cause, after it is transmitted to this Court if anything material to either party is accidentally or erroneously omitted. As we have determined that the above-described documents are material to one or more issues before this Court on appeal, we have determined that the District Court shall examine the record and correct it if these documents were in fact accidentally or erroneously omitted.

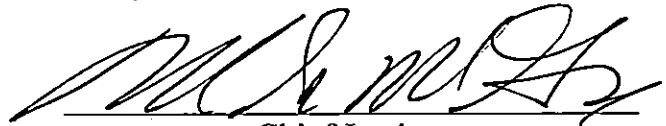
IT IS THEREFORE ORDERED that, pursuant to M. R. App. P. 8(6), the District Court is directed to determine whether the documents captioned [Petitioners' Proposed] Order Awarding Reasonable Fees and Costs, and [Proposed] Order on the Reasonableness of the Conservation Groups' Request for Attorney's Fees, were accidentally or erroneously omitted from the record in this case.

IT IS FURTHER ORDERED that, on or before October 23, 2023, the District Court EITHER CORRECT THE RECORD and provide this Court with an updated Case Register Report OR PROVIDE NOTICE to this Court that the above-described documents are not part of the record in this case.

The Clerk is further directed to give notice of this Order to all counsel of record.

Dated this ¹²6 day of October, 2023.

For the Court,

A handwritten signature in black ink, appearing to be 'M. S. M. D. H.', written over a horizontal line.

Chief Justice