



November 17, 2023

Mr. Jeff Fleischman
Chief, Denver Field Division
Division USDO/OSMRE
150 East B Street
Casper, WY, 82601

Sent via e-mail to: jfleischman@osmre.gov

RE: Complaint Against Signal Peak Energy, LLC Dated October 16, 2023

Dear Mr. Fleischman:

As promised in its October 27, 2023, letter, the Montana Department of Environmental Quality (DEQ) is providing this letter in response to the October 16, 2023, citizen's complaint submitted by Community Groups (hereinafter "Complainants") to the Office of Surface Mining Reclamation and Enforcement (OSMRE) alleging that Signal Peak Energy, LLC (SPE) is in continued violation of the Montana Strip and Underground Mine Reclamation Act (MSUMRA) and requesting immediate enforcement. Specifically, Complainants assert that (1) SPE's subsidence control plan does not protect renewable resource lands; (2) SPE's reclamation plan unlawfully exempts it from reclaiming subsidence impacts on slopes greater than 20%; (3) SPE is not in compliance with permit requirements for reclaiming mining impacted lands due to a failure to protect topsoil and comply with revegetation requirements; and (4) DEQ is shirking its regulatory authority by failing to issue cessation orders or notices of violations.

Before addressing the substance of Complainants' allegations, as a threshold matter, it should be noted that Complainants' continued use of citizen's complaints as an end-around to permit challenges in an attempt to immediately halt mining operations is contrary to its intended use. As Complainants note, the citizen's complaint is predicated on its invocation of 30 United States Code (U.S.C.) § 1271(a)(1), asking OSMRE to issue a cessation order of the Bull Mountain Mine. But 30 U.S.C. § 1271 only permits an order of cessation when there is both a "violation of any requirement of this chapter or any permit condition required by this chapter," *and* a demonstration that the "condition, practice, or violation also *creates an imminent danger* to the health or safety of the public, or is causing, or can reasonably expected to cause significant, imminent environmental harm to land, air, or water resources." 30 U.S.C. § 1271(a)(2) (emphasis added). Complainants generally allege that SPE is in violation of MSUMRA for failing to repair subsidence cracks. But even if this first demonstrated showing were met (it's not), Complainants never explain how the necessary "imminent danger", or "imminent environmental harm" is occurring from these alleged violations.

Indeed, DEQ, in its continued implementation of MSUMRA, has not found SPE to be in ongoing violation as alleged. Nor, as explained more fully below, does DEQ have reason to believe that SPE is currently in violation of MSUMRA, the administrative rules adopted pursuant thereto, or the permit, or that there exists a condition or practice at SPE's Bull Mountains Mine that creates an imminent danger to the public or that is causing or can be reasonably expected to cause a significant, imminent environmental harm to land, air or water resources. In fact, the citizen's complaint alleges virtually *all* the same issues in which OSMRE and DEQ considered over ten years ago regarding subsidence impacts at the Bull Mountains Mine, which resulted in a joint inspection to the Mine in March 2013 as part of OSMRE's 2013 End-Of-Year Evaluation Oversight. *See* Special Study Oversight Topic Report on Mine Subsidence in Montana (EY 2013), attached hereto as **Exhibit 1**. As a result of that inspection, OSMRE concluded that the "Bull Mountain Mine #1 permit contains a complete subsidence control plan which includes all information as required by the Montana Administrative Rules," and further found that DEQ is (1) effectively monitoring subsidence and subsidence related impacts; (2) effectively using monitoring data and information gathered from inspections to determine the amount and severity of subsidence; and (3) effectively monitoring measures taken to mitigate the effects of any material damage or diminution of value or foreseeable use of lands that may occur including, among other things, replacement of structures and water sources adversely affected by subsidence. *Id.* At 10.

Nothing has changed. SPE's subsidence control plan remains compliant with Montana law, and DEQ continues to appropriately monitor the site for subsidence related impacts. Consequently, DEQ does not believe that a state inspection is triggered by this complaint, nor does DEQ believe that a cessation order is warranted. DEQ intends to continue its ongoing efforts to appropriately monitor and regulate SPE, as required by MSUMRA, its implementing regulations, and SPE's permit.

Notwithstanding Complainants' repeated misuse of the citizen's complaint process,¹ DEQ addresses the Complainants' allegations in turn, and provides 35 exhibits for OSMRE's use in evaluating the complaint, incorporated herein by reference.

I. SPE's Subsidence Control Plan Is Not Deficient.

Complainants first assert that SPE's subsidence control plan fails to "protect renewable resource lands within or adjacent to the permit area." Cmpl. at 4. In particular, the Complainants allege that (A) subsidence has caused material damage and a diminution in

¹ It should further be noted that to trigger a Federal inspection under SMCRA based on a citizen's complaint, the person or persons requesting the Federal inspection must set forth "readily available information" sufficient to "give the authorized representative reason to believe that a violation, condition, or practice . . . exists." 30 C.F.R. § 842.12. Despite Complainants' 108-page submission, however, Complainants' allegations of subsidence impacts that purportedly rise to the level of material damage contain no sworn affidavits or evidence to support such allegations. Instead, Complainants offer as "evidence" either DEQ's inspection reports, Complainants own prior citizen's complaints that likewise assert unsupported allegations of violations, unauthenticated photos that do not reflect the current condition of the land, and OSMRE's communications explicitly finding that SPE is *not* in violation of MSUMRA, SMCRA, or its permit obligations.

value of the land; (B) cattle are reportedly being injured by the failure to repair subsidence cracks; (C) subsidence cracks pose a danger to wildland firefighters; (D) cracks threaten ranchers, wildlife, and cattle and are not being properly repaired; (E) images of subsidence cracks reveal the nature and extent of the damage; and (F) DEQ is failing to adhere to its duties under MSUMRA and SMCRA and permitting SPE to evade compliance. *Id.* at 4-13. Again, as stated above, these allegations are virtually identical to those topics previously considered and addressed by OSMRE in March 2013, when OSMRE concluded the opposite: that SPE has a sufficient subsidence control plan in place, and DEQ is complying with its obligations under MSUMRA. Nevertheless, each of these allegations are addressed in turn.

A. Complaints fail to demonstrate that subsidence has caused material damage, diminution in value of the land, or prohibits or interferes with grazing cattle, wildlife, and property ownership.

Complainants assert that SPE's reclamation plan is deficient based on subsidence allegedly causing material damage such that "DEQ has failed in its duty to implement MSUMRA and SMCRA and is allowing [SPE] to dodge complying with the requirements of ARM 17.24.901(1)(c)(iii)(A)-(D)."

First, any challenges to SPE's reclamation plan should have already occurred within 30 days of issuing a permit under Montana law, § 82-4-231(9), MCA, not collaterally raised as a citizen's complaint. Moreover, Complainants omit important sections of ARM 17.24.911 to reach such a conclusion. Such relevant omitted sections include the following:

- ARM 17.24.911(1): This [prevention or minimization of subsidence-related material damage to the surface] may be accomplished by leaving adequate coal in place, backfilling, or other measures to support the surface, or by conducting underground mining in a manner that provides for planned and controlled subsidence.
- ARM 17.24.911(2): If the operator utilizes planned and controlled subsidence in the mining operation, all necessary measures must be taken to prevent material damage to non-commercial buildings and occupied residential dwellings and all structures related thereto.

Taken as a whole, the threshold inquiry of ARM 17.24.911 considers what the impact from subsidence will be to buildings and structures. Likewise, for "material damage" for underground mining operations, the definition does not consider simply subsidence impacts or cracks to be "material damage." Instead, it considers "(a) any **functional impairment** of surface lands, features, structures or facilities; (b) any **physical change** that has **an adverse impact on the capability of the affected land to support any current or reasonable uses or causes loss in production or income**; or (c) any change in the **condition, appearance, or utility of any structure or facility** from its pre-subsidence condition. ARM 17.24.301(67) (emphasis added). In other words, whether "material

damage” is occurring is contingent not on the dissatisfaction of any neighboring landowner with the aesthetics of the impacts; it must literally result in “functional impairment” or financial harm to the use of the land.

Here, however, the examples of subsidence impacts given in the complaint letter are related to undeveloped rangeland and do not involve subsidence impacts to structures or buildings. SPE’s approved plan of mining is for controlled subsidence, as provided for in ARM 17.24.911. Permit commitments for reclamation of subsidence impacts are found primarily in Section 313 of the permit (See **Exhibit 2** attached hereto), but other commitments and explanations of the SPE controlled subsidence plan can be found throughout the permit including Section 901 through 912 (See **Exhibit 3** attached hereto). This includes a plan for mitigating potential impacts to structures such as the Dunn Mountain Communications Tower, a dwelling, and a pole frame structure as well as impacts from subsidence to domestic water supplies.

Nor do Complainants provide any evidence of economic loss due to planned and controlled subsidence on the 2 Lazy 2 Ranch. In fact, SPE documented that cattle were in the pasture including Section 22 T7N R27E from May 3, 2022, through October 21, 2022. Figure 1 (dated 11/04/22), submitted with the complaint, clearly shows the impacts from heavy grazing over the subsidence area, indicating that subsidence did not interfere with livestock use of the area through the entirety of the normal season of use of the pasture. Consequently, the threshold of material damage, “an adverse impact on the capability of the affected land to support any current or reasonably foreseeable uses or causes loss in production or income” was not triggered.

Furthermore, as OSMRE has previously documented and approved, “SPE only engages in active repair of surface cracks when the disturbance created by the surface crack is more disruptive to the utility of the land than the reclamation action itself.” **Exhibit 1** at 6. Longwall mining was confirmed to be occurring underneath the area shown in Figure 4 on July 16, 2022, and Figure 5 on May 25, 2022. Subsidence usually occurs immediately behind the passage of the longwall miner, approximately 700 ft behind current mining, as the panel advances. Yet photos provided by SPE, from the same locations as those shown in the complaint, but one year later (October 2023), demonstrate that the subsidence cracks have closed without any further action required from the mine (see **Exhibit 4** attached hereto). The natural reclamation of subsidence is one fundamental aspect of the approved SPE subsidence reclamation plan and is working as anticipated.

B. Complainants do not provide evidentiary support for the allegation that cattle have broken legs or injured themselves from subsidence cracks.

Complainants further allege that cattle have “likely” been injured by subsidence cracks, and that ranchers “have reported cattle breaking legs or injuring themselves with the probable cause being subsidence cracks.” Cmplt. at 6, 13. Complainants, however, provide no documented proof to support these allegations. DEQ has never received a substantiated complaint of livestock loss due to a subsidence crack, nor has DEQ documented on any inspection a subsidence crack that has injured livestock or wildlife.

C. DEQ has never received a complaint from any agency that subsidence cracks interfered with wildfire response.

Complainants also allege that subsidence cracks pose “a danger to any wildland fire engines that respond to wildfires in the Bull Mountains.” Cmplt. at 6. But again, Complainants do not supply any documented evidence to support this claim, and DEQ has never received a complaint from a local, state, or federal agency that subsidence cracks were hindering a response to a wildfire. Furthermore, all subsidence cracks are within SPE’s active mine permit boundary and as such, responses to any emergency inside the permit boundary would be coordinated with SPE personnel. SPE has successfully coordinated with DNRC and local firefighting efforts in the past, such as with the 30,000-acre Bobcat fire in 2020 which burned within the permit boundary including and near the facilities area.

D. SPE has actively and promptly engaged in reclamation of subsidence cracks, when necessary.

Complainants further assert that subsidence cracks “threaten imminent harm to the safety and lives of humans, livestock, and wildlife, and are not being reclaimed promptly, as the law requires.” Cmplt. at 6. As shown in Figure 5 of the complaint, however, when asked by a landowner to repair subsidence cracks, SPE has mobilized equipment in a timely manner, even when cracks are still actively subsiding and crack repair is not recommended by DEQ or required by SPE’s permit obligations. What’s more, Figure 5 is dated November 4, 2022, when the land above Panel 9 was actively subsiding. As SPE’s subsidence plan notes, and as OSMRE approved, “repair of cracks will generally not begin until mining of the adjacent panel is complete to ensure that full subsidence has occurred in the area.” **Exhibit 1**, at 3 and **Exhibit 2**, attached hereto.

E. Figures 7 and 8 of the Complaint are not current and do not accurately reflect subsidence repair.

Complainants, furthermore, allege that Figures 7 and 8 to the complaint indicate that SPE’s reclamation efforts are deficient. Cmplt. at 6. These figures, however, are from June 2022 and were taken during active subsidence repair where topsoil had been pushed into temporary piles while repair work was being completed; they do not show the final reclamation. Photo 9 in **Exhibit 5**, **Exhibit 6**, and **Exhibit 7** attached hereto were taken by DEQ inspectors over Section 22, T7N R27E on 2 Lazy 2 Ranch property on July 18, 2022 and show finished grading of subsidence repair. Further inspections by DEQ vegetation experts in 2023 of the same property indicated that subsidence cracks from Panel 8, mined in 2020, were healing with no further action required (See Photo 2 of **Exhibit 8**, attached hereto).

Indeed, Complainants’ general assertions that SPE is not adhering to its subsidence plan, performing inadequate subsidence repairs, or failing to proactively implement safety measures, are misguided. In fact, when the longwall miner was underneath Fattig Creek road in 2020 and again in 2021, inspectors routinely observed that all appropriate safety

measures were taken, including signage and pilot cars hired by SPE to ensure safe travel over the road while it was subsiding (See **Exhibit 9** attached hereto). Moreover, when the longwall miner was below Dunn Mountain, the mine successfully subsided the mountain while protecting a communications tower critical for emergency communications without any lost time (See **Exhibit 10** and **Exhibit 11** attached hereto). Inspections in 2013 also demonstrated the work completed to repair subsidence cracks on top of Dunn Mountain, as requested by Mrs. Ellen Pfister. (See **Exhibit 12** and **Exhibit 13** attached hereto).

F. DEQ is adhering to its obligations under MSUMRA and is ensuring Signal Peak complies with its requirements of ARM 17.24.901(1)(c)(iii)(A)-(D).

Finally, Complainants conclude, based on its own unsupported assertions, that DEQ “has failed in its duty to implement MSUMRA and SMCRA and is allowing [SPE] to dodge complying with the requirements of ARM 17.24.901(1)(c)(iii)(A)-(D). Cmplt. at 13. Contrary to Complainants’ allegations that the permit does not adequately address ARM 17.24.901(c)(iii), the permit in Section 901-912 identifies grazing land as the renewable resource (See **Exhibit 3** attached hereto). Complainants’ assertion, furthermore, is belied by the fact that multiple reviews by OSMRE and DEQ have concluded the opposite: that SPE’s permit “is in compliance with SMCRA, MSUMRA, and its approved permit.” See OSMRE to Complainants, Sept. 2, 2022. In fact, Complainants cite this conclusion in its complaint. Cmplt. at 12. The text of the main subsidence reclamation plan, **Exhibit 2** attached hereto, had not been altered since 2017 when it was updated for major revision TR3, which added an additional Waste Disposal Area to the facilities area (compare to the reclamation plan in place during the 2013 oversight study, **Exhibit 14** attached hereto). Commitments for subsidence reclamation have not changed since the 2013 special oversight review.

Complainants further lament that DEQ has “refused” to “require SPE to promptly reclaim . . . damaged lands.” Cmplt. at 13. In addition to the fact that the extent of damage is neither material nor remains in the condition Complainants would have OSMRE believe, DEQ has engaged in extensive efforts to ensure citizens’ groups are adequately informed and that inspections upon request occur, when necessary. DEQ meets regularly with The Bull Mountains Land Alliance and Northern Plains Resource Council. Since the start of longwall mining DEQ has responded in a timely manner to requests by various landowners to inspect subsidence cracks (See **Exhibit 15**, **Exhibit 16**, and **Exhibit 17** attached hereto). In December 2022, DEQ agreed to inspect subsidence cracks of concern from landowners from an informal email request process. The last request for an inspection was on 5/31/2023 (See **Exhibit 18** attached hereto). No reply was sent by the concerned citizen to the request for further details on the site location for DEQ (See **Exhibit 19** attached hereto). Nonetheless, inspectors have inspected areas of concern from landowners as often as possible when the sites can be readily accessed (See **Exhibit 20** attached hereto).

II. SPE’s Permit Requirements, Approved by OSMRE, Permits Delay of Reclamation For Subsidence on Slopes Greater than 20%.

A. DEQ and OSMRE's failures to fulfill their responsibility to reject the mining plan from including areas with slopes greater than 20%.

Complainants, additionally, assert that SPE's exemption from reclaiming or repairing subsidence cracks on slopes greater than 20% "plainly violates MSUMRA and SMCRA and calls into serious question whether longwall mining was lawfully permitted in the Bull Mountains in the first place." Again, Complainants had every opportunity to challenge issuance of the permit on these grounds at the time of its issuance. Complainants cannot forgo the necessary exhaustion of its administrative remedies to do so retroactively through OSMRE.

Furthermore, the approved permit does *not* provide SPE with a blanket exemption from repairing or reclaiming subsidence cracks on slopes greater than 20%. Instead, the approved permit states the following "Subsidence features will be reclaimed as necessary to restore the pre-mining land use. Where the disturbance and damage necessary for repair exceed the disruption due to the feature, no repair will be made ***unless the features are counter to ARM 17.24.911***. ... Due to the damage necessary for repair, minor surface cracks (generally less than 6 inches in width) or cracks on slopes greater than 20% will not be repaired ***unless otherwise directed by the Department***" (See **Exhibit 2** attached hereto) (emphasis added). Thus, given the danger of immediately repairing cracks on steep slopes, and the interference with land use if such repairs are made, SPE is not required to repair cracks on steep slopes *unless* ARM 17.24.911 could be violated without such immediate repairs. OSMRE, well aware of this requirement, approved this over ten years ago. Final EY2013, **Exhibit 1**, at 3.

And in fact, SPE *has* completed reclamation on steep slopes. Fields SU004A, SU004B, and BH032 are all on slopes greater than 45% (See **Exhibit 21** and **Exhibit 22** attached hereto). Multiple large reclamation projects, additionally, have occurred on slopes greater than 20% (See **Exhibit 23** attached hereto, major reclamation fields outlined in red).

It's important to note, too, for Complainants' edification, the purpose of delaying reclamation or repair of some subsidence cracks. DEQ has observed that most subsidence cracks in the Bull Mountains close on their own without the need for mechanical equipment. Use of heavy equipment for reclamation often causes more surface disturbance and introduces more potential for weed establishment than letting cracks fill in naturally. SPE's permit requires the use of Best Management Practices (BMP) in reclaiming disturbances. And BMPs for the most successful reclamation are to wait until the panel has finished subsiding before determining which cracks require further reclamation. An example of steep slope cracks healing on their own is from a complaint on this same issue in 2010 (See **Exhibit 24** and **Exhibit 25** attached hereto). In contrast, as depicted in the photo in **Exhibit 25**, reclamation of the crack on top of the hill resulted in more disturbance than the naturally healed crack on the greater than 20% slope.

And in the event cracks on steep slopes do occur, DEQ is not sitting idly by or ignoring whether immediate reclamation or repair is necessary. DEQ monitors subsidence features on steep slopes through routine helicopter and drone inspections. These inspections

monitor the extent of cracks, erosion resulting from the features, and the progression of healing of these features (See **Exhibit 26**, **Exhibit 27**, and **Exhibit 28** attached hereto). OSMRE, furthermore, is copied on all inspection reports.

B. DEQ does not regulate land lease or access agreements.

Complainants, additionally, request a Federal inspection and cessation order on the grounds that SPE “is . . . trying to force area ranchers off their own land on the basis that the costs to [SPE] of mitigating water and subsidence impacts are too expensive for the company.” As has been repeatedly emphasized to citizen’s groups during meetings and in formal response letters, however, DEQ does not regulate land lease or access agreements; in fact, the agency is specifically precluded from determining property ownership interests under MSUMRA. See ARM 17.24.303(1)(p)(ii) (noting that “nothing in this section may be construed to authorize [DEQ] to adjudicate property rights disputes”).

III. Permit Requirements for Reclaiming Mining Impacted Lands

A. SPE is in compliance with its approved Reclamation Plan.

Complainants again re-allege that SPE is “failing to comply with its approved Reclamation Plan” and “DEQ is failing to conduct required monitoring and enforcement to ensure impacted lands are reclaimed promptly.” Cmplt. at 15, 17. As discussed above, however, this allegation is patently untrue.

In support of this claim, Complainants’ rely on Figures 9-13 of the Complaint. *Id.* at 15. The fields in Figure 9 of the complaint are identified in the Annual Mine Report as Fields BH032, BH034, SU001, SU004A, and SU0048 (See **Exhibit 21** attached hereto). The fields were seeded in 2013, 2016, and 2018 (See **Exhibit 29** attached hereto). The fields are monitored yearly as part of the Annual Mine Report, and no phase of bond release has been requested at this time on the fields. The fields have also been inspected by DEQ, and DEQ has given no further recommendations for additional seeding since 2018 (See **Exhibit 30**, **Exhibit 31**, **Exhibit 5**, and **Exhibit 20** attached hereto). Accordingly, Complainants’ suggestion that these fields were neither reseeded nor monitored is false, and DEQ has repeatedly addressed the concerns of Ms. Ellen Pfister (See **Exhibit 32** attached hereto) and the Bull Mountains Land Alliance concerning these fields since the disturbance was created and has never found the mine to be in violation of MSUMRA.

Additionally, an OSMRE oversight inspection report in 2016 noted some drainage reclamation had been completed to reestablish connectivity from subsidence with more reclamation slated for the future (See **Exhibit 33** attached hereto). In the last OSMRE oversight inspection in 2019, OSMRE staff concluded that the mine is in compliance with contemporaneous reclamation commitments (See **Exhibit 34** attached hereto). Nor have any “Man Camps,” as allegedly depicted in Figures 10 and 11 of the complaint (which these photos do not actually show), ever been established at SPE. Instead, typical surface disturbances include pads for equipment and staging areas used in reclamation and surface activities such as mobile fuel tanks and pads for drill rigs.

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Finally, it bears repeating that final reclamation and Phase IV bond release has yet to occur. In ensuring all reclamation is adequately completed, DEQ holds \$255,896 for subsidence crack reclamation as well as additional bond for other subsidence impacts including stream and pond restoration, permanent mitigation of water sources, and road reclamation (See **Exhibit 35** attached hereto).

B. Topsoil was replaced back onto reclaimed areas.

Lastly, Complainants' voice a concern about SPE's conservation of topsoil, previously discussed with DEQ. Cmplt. at 18. But DEQ disagrees with any insinuation that topsoil is *not* being preserved. Figure 7 and 8 of the complaint shows that topsoil was properly pushed away into temporary piles from the subsidence repair area while SPE repaired subsidence cracks. **Exhibit 6** and **Exhibit 7** attached hereto were taken by DEQ inspectors over Section 22, T7N R27E on 2 Lazy 2 Ranch property on July 18, 2022, and show that topsoil was appropriately replaced back onto the reclamation area. DEQ will continue to monitor the salvaging of topsoil. Figure 12 (dated 11/30/2022), submitted with the complaint, is of an area where topsoil was temporarily stored during subsidence repair; soil was not "scalped" and instead, the photo shows where vegetation is regrowing after the stockpile was removed.

IV. Conclusion

In closing, DEQ finds Complainants' allegation unsupported by the facts, predicated on outdated and misleading photos, conclusory statements, its own prior unsupported citizen's complaints, and omissions and misstatements of applicable law. The only evidentiary support—supplied herein—indicates that OSMRE approves of SPE's reclamation plan; that DEQ is continuing to appropriately monitor SPE's operation to ensure compliance with MSUMRA and its permit obligations; and that SPE is following these obligations. As always, DEQ intends to continue with its regular ongoing compliance oversight of SPE, including monthly compliance inspections and the review of periodic reports. But DEQ strongly disagrees that any Federal inspection is required or that a cessation order is appropriate.

DEQ staff welcome a discussion with OSMRE should you have questions about this response or need additional information.

Sincerely,



Dan Walsh
Mining Bureau Chief
Department of Environmental Quality
(406) 444-6791

Cc: Frank Bartlett

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List of Exhibits:

Exhibit 1: OSMRE Special Study Oversight Topic Report on Mine Subsidence in Montana (EY 2013)

Exhibit 2: Appendix 313-1 (Description) to Permit No. C1993017 (2023-02-03)

Exhibit 3: Section 901 - 912 to Permit No. C1993017 (2017-07-03)

Exhibit 4: Subsidence Pictures of Areas in Complaint Provided by SPE (2023-10)

Exhibit 5: DEQ Inspection Report (2022-7-18)

Exhibit 6: DEQ Inspection Photo in Section 22, T7N R27E on 2 Lazy 2 Ranch (2022-07-18)

Exhibit 7: DEQ Inspection Photo in Section 22, T7N R27E on 2 Lazy 2 Ranch (2022-07-18)

Exhibit 8: DEQ Inspection Report (2023-7-17)

Exhibit 9: DEQ Inspection Photo of Fattig Creek Subsidence (2020-2-13)

Exhibit 10: Photo of Subsidence Monitoring at Dunn Mountain Communications Tower (2011-08-20)

Exhibit 11: DEQ Inspection Report (2021-9-15)

Exhibit 12: DEQ Inspection Photo on Dunn Mountain (2013-9-12)

Exhibit 13: DEQ Inspection Photo on Dunn Mountain (2013-10-8)

Exhibit 14: 2012 SPE Reclamation Plan, from MR148 (approved 2012-9-6)

Exhibit 15: DEQ E-mail Correspondence to Ellen Pfister (2019-09-09)

Exhibit 16: DEQ E-mail Correspondence to Ellen Pfister (2019-09-16)

Exhibit 17: DEQ Inspection Report (2019-9-24)

Exhibit 18: E-mail Communication from November BMLA-DEQ Meeting (2022-12-30)

Exhibit 19: E-mail Communication New Cracks on 2 Lacy 2 Ranch (2023-6-1)

Exhibit 20: DEQ Inspection Report (2023-04-25)

Exhibit 21: 2022 Annual Report Reclamation Map – SPE (2023-03-31)

Exhibit 22: Nitrogen Scar Area – Slope of 45% or Greater. Section of Map Provided by SPE

Exhibit 23: Steep Slope Map with Overlay of Major Reclamation Fields

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Exhibit 24: Citizen's Subsidence Complaint (2010-10-18)

Exhibit 25: Photos provided by SPE of Subsidence Reclamation and Natural Healing

Exhibit 26: DEQ Inspection Report (2023-06-15)

Exhibit 27: DEQ Inspection Report (2023-05-25)

Exhibit 28: DEQ Inspection Report (2022-10-26)

Exhibit 29: 2022 Annual Report RMDS SPE (2023-03-31)

Exhibit 30: DEQ Inspection Report (2018-7-16)

Exhibit 31: DEQ Inspection Report (2018-8-29)

Exhibit 32: DEQ Letter to Ellen Pfister (2018-07-27)

Exhibit 33: OSMRE Inspection Report (2016-04-25)

Exhibit 34: OSMRE Inspection Report (2019-04-24)

Exhibit 35: Appendix 313-1 (Costs) to Permit No. C1993017 (2023-02-03)