

Stipulations in Mining Permits

Most major mining permits in Montana contain a significant number of stipulated conditions. This is because under the current permitting process, an application's compliance with substantive statutes is not determined until late in permitting action. At this stage of the process, the project sponsor cannot amend their application without significantly impacting the MEPA process. Additionally, the applicant has little involvement in the MEPA process and frequently is not even made aware that there may be a problem with the application. Therefore the Department fashions remedies (i.e. stipulations) for the compliance issues, often without consultation with the applicant. Further the Department, in many permits, has stipulated conditions without basis in statute. Obviously, this manner of permitting results in numerous permit stipulations.

The proposed changes to MMRA will require the compliance determination to be conducted early in the process where the project sponsor can fashion the compliance remedy by modification to the application. This should significantly reduce or even eliminate the need for permit stipulations.