

PRELIMINARY DETERMINATION
ON PERMIT APPLICATION

Date of Mailing: July 22, 2013

Name of Applicant: Western Energy Company

Source: Surface Coal Mine and Extraction Facility

Proposed Action: The Department of Environmental Quality (Department) proposes to issue a permit, with conditions, to the above-named applicant. The application was assigned Montana Air Quality Permit Application Number 1570-07.

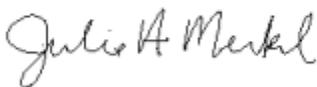
Proposed Conditions: See attached.

Public Comment: Any member of the public desiring to comment must submit such comments in writing to the Air Resources Management Bureau (Bureau) of the Department at the above address. Comments may address the Department's analysis and determination, or the information submitted in the application. In order to be considered, comments on this Preliminary Determination are due by August 6, 2013. Copies of the application and the Department's analysis may be inspected at the Bureau's office in Helena. For more information, you may contact the Department.

Departmental Action: The Department intends to make a decision on the application after expiration of the Public Comment period described above. A copy of the decision may be obtained at the above address. The permit shall become final on the date stated in the Department's Decision on this permit, unless an appeal is filed with the Board of Environmental Review (Board).

Procedures for Appeal: Any person jointly or severally adversely affected by the final action may request a hearing before the Board. Any appeal must be filed by the date stated in the Department's Decision on this permit. The request for a hearing shall contain an affidavit setting forth the grounds for the request. Any hearing will be held under the provisions of the Montana Administrative Procedures Act. Submit requests for a hearing in triplicate to: Chairman, Board of Environmental Review, P.O. Box 200901, Helena, MT 59620.

For the Department,



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JM:DCK
Enclosure

DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air Resources Management Bureau
P.O. Box 200901, Helena, Montana 59620
(406) 444-3490

DRAFT ENVIRONMENTAL ASSESSMENT (EA)

Issued To: Western Energy Company
P.O. Box 99
Colstrip, MT 59323

Montana Air Quality Permit (MAQP): 1570-07

Preliminary Determination Issued: 07/22/2013

Department Decision Issued:

Permit Final:

1. *Legal Description of Site:* Area F is located in Sections 3-6, Township 1 North, Range 40 East in Rosebud County, Sections 19, 20, and 27-34 in Township 2 North, Range 40 East in Rosebud County, and Sections 12-14 and 23-25, Township 2 North, Range 39 East in Treasure County. The list of permitted equipment can be found in Section I of the permit analysis.
2. *Description of Project:* Western Energy Company (Western Energy) proposed an expansion to the geographic extent of the mine. The existing air quality permit explicitly defined the physical area in which mining activities are permitted. As such, Western Energy requested an expansion of this physical boundary into a new area designated as Area F. No additional coal production capacity or stationary or portable equipment are proposed.
3. *Objectives of Project:* the objective of the expansion project is to further extend the life of the mine by expanding areas from which coal will be extracted.
4. *Alternatives Considered:* In addition to the proposed action, the Montana Department of Environmental Quality – Air Resources Management Bureau (Department) considered the “no-action” alternative. The “no-action” alternative would deny issuance of the air quality preconstruction permit to the proposed facility. However, the Department does not consider the “no-action” alternative to be appropriate because Western Energy demonstrated compliance with all applicable rules and regulations as required for permit issuance. Therefore, the “no-action” alternative was eliminated from further consideration.
5. *A Listing of Mitigation, Stipulations, and Other Controls:* A list of enforceable conditions, including a Best Available Control Technology (BACT) analysis, would be included in MAQP #1570-07.
6. *Regulatory Effects on Private Property:* The Department considered alternatives to the conditions imposed in this permit as part of the permit development. The Department determined that the permit conditions are reasonably necessary to ensure compliance with applicable requirements and demonstrate compliance with those requirements and do not unduly restrict private property rights.

7. The following table summarizes the potential physical and biological effects of the proposed project on the environment. The “no-action” alternative was discussed previously.

Potential Physical and Biological Effects							
		Major	Moderate	Minor	None	Unknown	Comments Included
A	Terrestrial and Aquatic Life and Habitats					✓	yes
B	Water Quality, Quantity, and Distribution			✓			yes
C	Geology and Soil Quality, Stability, and Moisture					✓	yes
D	Vegetation Cover, Quantity, and Quality					✓	yes
E	Aesthetics			✓			yes
F	Air Quality			✓			yes
G	Unique Endangered, Fragile, or Limited Environmental Resource					✓	yes
H	Demands on Environmental Resource of Water, Air, and Energy					✓	yes
I	Historical and Archaeological Sites					✓	yes
J	Cumulative and Secondary Impacts			✓			yes

SUMMARY OF COMMENTS ON POTENTIAL PHYSICAL AND BIOLOGICAL EFFECTS: The following comments have been prepared by the Department. Only off-site impacts created by the release of air pollutants are address. Some inferences are made to the potential physical and biological effects to receptors within the boundary of the project are address.

Department of Environmental Quality (DEQ) officials under the Montana Environmental Policy Act (MEPA), in conjunction with the United States Department of Interior – Office of Surface Mining, Reclamation, and Enforcement (OSMRE) are conducting a formal Environmental Impact Statement (EIS). Any conclusions present within this preliminary assessment are based information available to the Department as the time of this assessment. The conclusions of the EIS will supersede those presented within this draft EA. Department will update this section or provide reference at the time the EIS is final.

A. Terrestrial and Aquatic Life and Habitats:

The proposed expansion would result in increased emissions of fugitive dust and loss of terrestrial habitans by disturbances created by surface mining activities. Conditions which control fugitive dust would be required within MAQP #1570-07 to ensure significant air quality impacts would not occur. Such conditions would include; specific best management practices, requirement to maintain a fugitive dust control plan, as well as, inherit reasonable precautions requirements. No significant sources of surfaces waters are near the project site. Due to the proximity of surface waters to the Western Energy site, any impact to off-site aquatic life and habitant would be expect to be minor.

B. Water Quality, Quantity, and Distribution:

Emissions resulting from this permitting action would likely have a minor or limited effect on the water quality, water quantity, and distribution, as surface waters are not prevalent within the immediate area surrounding the mine site. Particulate matter emissions from disturbance of soils and coal deposits would be deposited at varying distance within the mine boundary or vicinity depending upon particle size, location of release, and wind affects. However, because of pollutant characteristics and generally good dispersion in the area, minor pollutant deposition on surface waters near the project area may occur from surface disturbances and roadways. Air emissions from this source would not likely impact groundwater. Therefore, fugitive dust emissions the project would be expected to have only minor impacts to water quality, quantity or distribution in the area.

C. Geology and Soil Quality, Stability, and Moisture:

This project would be expected to impact the geology and soil properties from land disturbances associated with mining operations and material handling activity. The air quality permit associated with this project would contain limitations and conditions to minimize the effect of the emissions to off-site aspects. However, the potential effects would be determined through the formal EIS.

D. Vegetation Cover, Quantity, and Quality:

The particulate matter, PM₁₀, and PM_{2.5} emissions from this project would be expected to have an effect on the surrounding vegetation with respect to cover, quantity and quality; however, the air quality permit associated with this project would contain limitations to minimize the impact on the surrounding environment. Overall, this project would expect to have minor effects on the vegetation cover, quantity and quality. The formal EIS will address the overall impact, as well, as require reclamation step to ensure that native vegetation is returned to the site.

E. Aesthetics:

The expansion project would likely have minor impacts on the surrounding property from a visual perspective. However, activity within the expansion area would be similar to current mining operations located adjacent to the proposed project area. The degree of visual impact would be similar to existing impacts from current operations. In addition, depositions of particulate matter species would not likely have any significant impact to other aesthetic aspects of the surround area as only a minor increase in emission would occur as a result of this project. The Department determined minor changes in the aesthetic value of the site would be expected as a result of this project.

F. Air Quality:

The proposed expansion would impact receptors and resources within the proposed project area due to an increase in fugitive emissions of particulate matter, PM₁₀, and PM_{2.5} from the expanded length of access and haul roads. Emissions of particulate matter from coal extraction and processing, as well as, related overburden and topsoil material handling are accounted for within the existing emission inventory and would not increase as a result the permit action. Emissions of nitrogen oxide (NO_x), carbon monoxide (CO), volatile organic compounds (VOC), sulfur dioxide (SO₂), and non-criteria pollutants, generated during blasting of various surface and subsurface layers, are also accounted for within the existing air quality permit and would not increase.

Based on ambient concentration determinations of past monitoring and modeling, the representativeness of the current, as well as, proposed mining activity, and the amount of emission increases from the expansion of the access and haul roads any impact is expected to be minor. The potential for impact is further mitigated when considering the dispersion characteristics of the locale, properties of pollutants, and the conditions established in MAQP #1570-07. The Department has determined that the amount of increased particulate emissions resulting from the proposed project would not cause a significant degradation and any impact to air quality from the proposed project would be expected to be minor as a result of the current permit action.

G. Unique Endangered, Fragile, or Limited Environmental Resources:

In an effort to identify any unique endangered, fragile, or limited environmental resources in the area, the Department contacted the Montana Natural Heritage Program, Natural Resource Information System (NRIS). In this case, the area was defined by the section, township, and range of the proposed location with an additional 1-mile buffer zone. Search results identified the following animal species of concern may be present within the search radius:

- Golden Eagle
- Greater Sage-Grouse
- Burrowing Owl
- Red-headed Woodpecker
- Pinyon Jay
- Hoary Bat
- Pallid Bat
- Greater Short-horned Lizard
- Western Hog-nosed Snake
- Milksnake

Based upon the limited information available at this time, the Department is unable to determine the extent of impacts to unique endangered, fragile, or limited environmental resources created by the proposed project. Upon the conclusion and release of the final EIS the impacts to unique endangered, fragile, or limited environmental will be established.

H. Demands on Environmental Resource of Water, Air, and Energy:

The proposed project would necessitate an increase in the demand for environmental resources of water, air, and energy. Based upon the limited information available at this time the Department is unable to determine the extent of additional demands for these elements. Upon completion of the formal EIS the demand impacts on environmental resources of water, air and energy will be addressed.

I. Historical and Archaeological Sites:

According to cultural resource file search conducted by the State Historic Preservation Office (SHPO), there are multiple recorded cultural sites and previously conducted cultural resource inventories. Based on the findings of the initial file search SHPO recommends that a cultural resource inventory be performed on the expansion site.

At this time the Department is not in the position to stipulate a position with respect to the impact of this project on historical and archaeological sites until a formal cultural resource inventory can be accomplished.

J. Cumulative and Secondary Impacts:

With the exception of any consideration to the impacts for which the Department has determined that insufficient information is available (terrestrial and aquatic life and habitats; geology and soil quantity, stability, and moisture; vegetation cover, quantity, and quality; unique endangered, fragile, or limited environmental resource; demands on historical and archaeological sites; environmental resource of water, air, and energy); the overall cumulative and secondary impacts from the proposed project to the physical and biological receptors in the immediate area due to increase emissions of particulate from the proposed expansion would be expected to be minor. Air pollution from the facility would be controlled by Department-determined BACT, as discussed in Section III of the permit analysis, along with the limitations and conditions in MAQP #1570-07. The Department believes that this facility could be expected to operate in compliance with all applicable rules and regulations as outlined within the air quality permit.

8. The following table summarizes the potential economic and social effects of the proposed project on the human environment. The “no-action” alternative was discussed previously.

Potential Social and Economic Effects							
		Major	Moderate	Minor	None	Unknown	Comments Included
A	Social Structures and Mores				✓		yes
B	Cultural Uniqueness and Diversity				✓		yes
C	Local and State Tax Base and Tax Revenue				✓		yes
D	Agricultural or Industrial Production			✓			yes
E	Human Health			✓			yes
F	Access to and Quality of Recreational and Wilderness Activities			✓			yes
G	Quantity and Distribution of Employment				✓		yes
H	Distribution of Population				✓		yes
I	Demands for Government Services			✓			yes
J	Industrial and Commercial Activity			✓			yes
K	Locally Adopted Environmental Plans and Goals				✓		yes
L	Cumulative and Secondary Impacts			✓			yes

SUMMARY OF COMMENTS ON POTENTIAL ECONOMIC AND SOCIAL EFFECTS: The Department has prepared the following comments.

A. Social Structures and Mores:

The proposed project would not expect a significant disruption to any native or traditional lifestyles or communities (social structures or mores) in the area because the proposed project area is currently undeveloped agricultural or livestock grazing land. Further the expansion area is predominately owned by private entities or individuals. The Department is not aware of any current utilization by native or traditional communities. Therefore no known impact to social structures and mores would be expected.

B. Cultural Uniqueness and Diversity:

As discussed within the aforementioned section the proposed project would not be expected to impact the cultural uniqueness and diversity of the area because the proposed project would be located within area which is currently undeveloped and for the most part under private ownership.

C. Local and State Tax Base and Tax Revenue:

The proposed expansion would not likely result in any increase in production capacity or a need for additional employees; therefore no effect on the local/state tax base or tax revenue would be expected.

D. Agricultural or Industrial Production:

The proposed project would likely displace or otherwise affect agricultural land or practices. Livestock grazing on private lands would require relocation; however, private owners would have understanding of this impact and would have willingly relinquished these rights under the lease contract. Therefore, impact on agricultural or industrial production as a result of the proposed project would be expected to be minor.

E. Human Health:

The proposed project would result in a minor increase in emissions the expansion project. However, MAQP #5707-07 contains limitations and conditions including, but not limited to, the BACT requirements discussed in Section III of the permit analysis, to ensure that the operations would maintain compliance with all applicable rules and standards. These rules and standards are designed to be protective of human health. Any impact to human health from the proposed project would be expected to be minor.

F. Access to and Quality of Recreational and Wilderness Activities:

The majority of the surface lands within the expansion area are under private ownership. A single section and two partial geographic sections are owned by the State of Montana. As a limited area of public land encompasses the mine expansion there would be some impact to access to recreational and wilderness activities. The public lands impacted do not appear to be designated recreational areas with state developed or maintained facilities such as, trails, campsites, day use areas, etc. However, these areas would not be available for public use during the time the area is occupied by Western Energy until completion of the reclamation process. Therefore, minor impacts to access to and quality of recreational and wilderness activities would be expected.

G. Quantity and Distribution of Employment:

According to Western Energy the proposed project would not necessitate the hiring of additional employees, therefore no effect on the quantity and distribution of employment would be expected as a result of the expansion.

H. Distribution of Population:

As no additional employees are expected from this project an impact on the distribution of population would not be expected.

I. Demands for Government Services:

Government services would be required for acquiring the appropriate permits from government agencies and for ongoing interaction with Western Energy. The expansion would not likely increase the need for government service resources beyond the current capacity. As a result of this project demands for government services would be expected to be minor.

J. Industrial and Commercial Activity:

The proposed project would not result in any increase in production from the Western Energy site; however, an expansion of the area of impact of industrial or commercial activity would occur. The geographic expansion into Area F would result in a disturbance of an additional 4,287 acres of land. However, as no additional production would result and any increase in air emissions would result from fugitive emissions from haul roads and access roads. As the majority of the land is under private ownership for which the land owners have willingly relinquished right to any impact to industrial and commercial activity would be expected to be minor as a result of this project.

K. Locally Adopted Environmental Plans and Goals:

The Department is not aware of any locally adopted environmental plans or goals. State and federal air quality standards and air quality plans would apply to proposed site.

L. Cumulative and Secondary Impacts:

Overall, cumulative and secondary impacts from this project would result in a minor to impacts to the economic and social environment in the immediate area. As previously stated, the proposed project would not result in any change to Western Energy personnel and would not result in any increase in ore production at the facility. The Department believes that Western Energy could be expected to operate in compliance with all applicable rules and regulations as outlined in MAQP #1570-07.

Recommendation: No Department-required EIS is recommended.

If an EIS is not required, explain why the EA is an appropriate level of analysis:

The DEQ and OSMRE are conducting a formal Environmental Impact Statement (EIS) for the proposed Western Energy expansion into Area F.

Other groups or agencies contacted or which may have overlapping jurisdiction: Montana Historical Society – State Historic Preservation Office, Natural Resource Information System – Montana Natural Heritage Program, DEQ – MEPA Office, and OSMRE.

Individuals or groups contributing to this EA: Department of Environmental Quality – Air Resources Management Bureau, Montana Historical Society – State Historic Preservation Office, Natural Resource Information System – Montana Natural Heritage Program, DEQ – MEPA

EA prepared by: D. Kuenzli

Date: July 18, 2013