



October 12, 2023

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Dear Mssrs. Calle and Fleischman and Mses. Owens and Haaland,

We are writing to alert you that Signal Peak Energy LLC's Bull Mountains Mine's continued flagrant violations of the Montana Strip and Underground Mine Reclamation Act (MSUMRA) and the Surface Mining Control and Reclamation Act (SMCRA) require immediate enforcement. Specifically, evidence from monitoring records, inspection reports, and public observations indicate that (1) Signal Peak's subsidence control plan does not protect renewable resource lands as evidenced by the significant numerous un-reclaimed subsidence cracks that have damaged the lands in the Permit Area and adjacent areas; (2) Signal Peak's reclamation plan unlawfully exempts the company from any reclamation of subsidence impacts on slopes greater than 20%; and (3) Signal Peak is failing to comply with permit requirements for reclaiming mining impacted lands as exemplified by its failure to protect topsoil and comply

with revegetation requirements. Further, evidence demonstrates that Montana regulators with the Department of Environmental Quality (DEQ) are failing to issue cessation orders, or even notices of violation, when inspections identify conditions that violate provisions of MSUMRA/SMCRA, regulations, or permit provisions.

Consequently, pursuant to 30 U.S.C. § 1271(a)(1) and 30 C.F.R. § 842.11(b)(1)(i) and (ii)(C), Citizens for Clean Energy, 350 Montana, Families for a Livable Climate, Moms Clean Air Force, Montana Conservation Voters, Montana Environmental Information Center, Montana Health Professionals for a Livable Climate, Northern Plains Resource Council, Park County Environmental Council, Sierra Club, and WildEarth Guardians (together, “Community Groups”) request that the Office of Surface Mining Reclamation and Enforcement (OSMRE) perform a federal inspection of this mine, or alternatively, require DEQ to grant the requested citizen inspections within ten days. Following the inspection, OSMRE should issue a cessation order to SPE requiring immediate cessation of the company’s operations at the Bull Mountains Mine pending compliance with the law.

If immediate action is not taken, Signal Peak’s continued blatant violations of its legal obligations to reclaim land impacted by its mining activities will force ranchers and wildlife alike to desert the Bull Mountains. Already two long-time ranching families have left the Bull Mountains under pressure from the mine. Signal Peak has forced another rancher out of the Bulls by canceling a lease. And the company is in the process of attempting to force one of the few remaining ranch families in the Bulls off of their own land through bullying, harassment, and threatened litigation.

The most fundamental premise of SMCRA and MSUMRA is that coal mining may only take place if it will not decrease the productivity of the land. The land must remain capable of supporting existing or higher land uses. It is clear that Signal Peak’s actions—including its failure to reclaim lands affected with subsidence cracks, failure to protect irreplaceable topsoil, and attempts to evade enforcement burdens by forcing residents off the land—are not consistent with the requirements of SMCRA and MSUMRA and must stop.

Finally, even though the federal mining plan was vacated on February 10, 2023 in *350 Montana v. Haaland*,¹ that vacatur in no way lessens SPE’s obligation to complete reclamation. See ARM 17.24.407(1)(b), 522(1), 1118(3). Even if mining stops, there remain damaged water sources and subsidence cracks that SPE and DEQ are lawfully obligated to repair.

Pursuant to 30 C.F.R. § 842.12, Community Groups are providing a copy of this complaint and hereby notify DEQ of the existence of the violations, conditions, and practices detailed herein. Despite months of complaints, DEQ has not taken any meaningful action to address these problems.

¹ Order, Doc. 97, Case No. 9:19-cv-00012-DWM (Feb. 10, 2023).

LEGAL STANDARD

SMCRA requires OSMRE to act promptly to correct violations of SMCRA:

(1) Whenever, on the basis of any information available to [her], including receipt of information from any person, the Secretary has reason to believe that any person is in violation of any requirement of this chapter or any permit condition required by this chapter, the Secretary shall notify the State regulatory authority, if one exists, in the State in which such violation exists. If no such State authority exists or the State regulatory authority fails within ten days after notification to take appropriate action to cause said violation to be corrected or to show good cause for such failure and transmit notification of its action to the Secretary, the Secretary shall immediately order Federal inspection of the surface coal mining operation at which the alleged violation is occurring unless the information available to the Secretary is a result of a previous Federal inspection of such surface coal mining operation. The ten-day notification period shall be waived when the person informing the Secretary provides adequate proof that an imminent danger of significant environmental harm exists and that the State has failed to take appropriate action. When the Federal inspection results from information provided to the Secretary by any person, the Secretary shall notify such person when the Federal inspection is proposed to be carried out and such person shall be allowed to accompany the inspector during the inspection.

(2) When, on the basis of any Federal inspection, the Secretary or [her] authorized representative determines that any condition or practices exist, or that any permittee is in violation of any requirement of this chapter or any permit condition required by this chapter, which condition, practice, or violation also creates an imminent danger to the health or safety of the public, or is causing, or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources, the Secretary or [her] authorized representative shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the condition, practice, or violation. Such cessation order shall remain in effect until the Secretary or [her] authorized representative determines that the condition, practice, or violation has been abated, or until modified, vacated, or terminated by the Secretary or [her] authorized representative pursuant to paragraph (5) of this subsection. Where the Secretary finds that the ordered cessation of surface coal mining and reclamation operations, or any portion thereof, will not completely abate the imminent danger to health or safety of the public or the significant imminent environmental harm to land, air, or water resources, the Secretary shall, in addition to the cessation order, impose affirmative obligations on the operator requiring him to take whatever steps the Secretary deems necessary to abate the imminent danger or the significant environmental harm.

30 U.S.C. § 1271(a)(1)-(2).

Implementing regulations further provide:

Any person may request a Federal inspection under § 842.11(b) by providing to an authorized representative a signed, written statement (or an oral report followed by a signed written statement) setting forth information that, along with any other readily available information, may give the authorized representative reason to believe that a violation, condition, or practice referred to in § 842.11(b)(1)(i) exists. The statement must also set forth the fact that the person has notified the State regulatory authority, if any, in writing, of the existence of the possible violation, condition, or practice, and the basis for the person's assertion that the State regulatory authority has not taken action with respect to the possible violation. The statement must set forth a phone number, address, and, if available, an email address where the person can be contacted.

30 C.F.R. § 842.12. When such a request for inspection is made, the law requires a response within 15 days:

Within ten days of the Federal inspection or, if there is no Federal inspection, within 15 days of receipt of the person's written statement, the Office shall send the person the following.

- (1) If a Federal inspection was made, a description of the enforcement action taken, which may consist of copies of the Federal inspection report and all notices of violation and cessation orders issued as a result of the inspection, or an explanation of why no enforcement action was taken;
- (2) If no Federal inspection was conducted, an explanation of the reason why; and
- (3) An explanation of the person's right, if any, to informal review of the action or inaction of the Office under § 842.15.

Id. § 842.12. If an inspection reveals any violation, the agency must issue either a cessation order or a notice of violation. *Id.* §§ 843.11(a), 12(a). The federal citizen complaint provisions of § 1271 are expressly retained even after states obtain exclusive jurisdiction over day-to-day coal mine regulation. 30 C.F.R. § 1253(a).

ANALYSIS

I. Signal Peak's Subsidence Control Plan does not protect Renewable Resource Lands Within or Adjacent to the Permit Area.

SMCRA and MSUMRA require coal mines to restore the land to a condition capable of supporting the uses which it was capable of supporting prior to any mining, and, if any impacts occur, to replace and reclaim the damaged resources. 30 U.S.C. §§ 1202(e), 1258(a)(15), 1265(b)(2), (3), (5), (6), (19), (20); Mont. Code Ann. §§ 82-4-231(1), (10)(f), (h); 85-4-243(1); ARM 17.24.901, 911, 1116(6)(d). Signal Peak is required by law to contemporaneously reclaim lands impacted by mining. 30 U.S.C. § 1202(e); ARM 17.24.1116(6)(d).

Montana regulations require that:

Underground mining operations must be planned and conducted to prevent or minimize subsidence and subsidence-related material damage to the surface to the extent technologically and economically feasible, to maintain the value and reasonably foreseeable use of surface lands, and to prevent contamination, diminution, and interruption of domestic water supplies.

ARM 17.24.911(1). In addition, where underground mining “results in subsidence that causes material damage or reduces the value or reasonably foreseeable use of the surface lands [the operator] shall . . . restore, rehabilitate, or remove and replace each damaged structure, feature or value *promptly* after the damage is suffered to the condition it would have been in if no subsidence had occurred and restore the land to a condition capable of supporting the reasonably foreseeable uses it was capable of supporting before subsidence.” ARM 17.24.911(7) (emphasis added); Mont. Code Ann. § 82-4-243.

ARM 17.24.901 requires a subsidence control plan to be submitted with plans for underground mining. Among other requirements, the plan must include a survey that identifies structures, renewable resource lands, and domestic water supplies within the permit area and adjacent areas, and whether subsidence, if it should occur, could cause material damage or diminish the reasonably foreseeable use of such structures or lands, or could contaminate, diminish, or interrupt such domestic water supplies. ARM 17.24.901(1)(c)(i)(F). “Renewable resource lands” are “aquifers and areas for the recharge of aquifers and other underground waters, areas for agricultural or silvicultural production of food and fiber, and grazing lands.” ARM 17.24.301(106).

The operation plan for Signal Peak’s permit includes a subsidence control plan. *See Operations Plan*. The plan relies on a 1990 report prepared by J.F.T. Agapito and Associates, entitled “Prediction of Subsidence for Bull Mountains.” *See Operations Plan, Appendix 901-2*. Based on this report, Signal Peak noted that the general area is currently used for grazing cattle, but the predicted maximum subsidence “will not cause material damage or diminution of value or foreseeable use of the grazing land.” *Operations Plan at 901-5*. Signal Peak concluded that “[t]here are no renewable resource lands with the Permit Area, or adjacent areas that could be affected by subsidence [and] [n]o further information is required for renewable resource lands.” *Id.* at 901-6. Therefore, DEQ has not required Signal Peak to comply with ARM 17.24.901(1)(c)(iii)(A)-(D), which requires “a detailed description of the measures to be taken to prevent subsidence and subsidence-related damage;” “a detailed description of the measures to be taken to mitigate the effects of any material damage or diminution of value or foreseeable use of lands that may occur;” “a detailed description of measures to be taken to determine the degree of material damage or diminution of value or foreseeable use of the surface;” and “any other information that the department deems necessary to demonstrate compliance with ARM 17.24.911.”

Yet, monitoring data and observations by landowners and residents indicate that significant and numerous subsidence cracks have affected land owned by neighboring ranchers and land owned by Signal Peak. *See Figures 1-6 below*. This subsidence has caused material damage and a diminution in value of the land, and presents serious hazards for grazing cattle,

wildlife, and property owners. Ranchers have reported cattle breaking legs or injuring themselves with the probable cause being subsidence cracks. In spring and summer, the cracks can be hidden by tall grass, creating a unique hazard for vehicles. This is a danger to ranchers. It is also a danger to any wildland fire engines that respond to wildfires in the Bull Mountains. Such fires are occurring with increasing frequency, exemplified by the BobCat fire in September 2020 and the Dunn Mountain fire in 2008. The cracks in the ground threaten imminent harm to the safety and lives of humans, livestock, and wildlife, and are not being reclaimed promptly, as the law requires. Further, for subsidence cracks that Signal Peak has attempted to reclaim, Figures 7 and 8 below of a reclamation effort, demonstrate the extent of the impacts and the damage to the land, notwithstanding such repair efforts.



Figure 1. Subsidence cracks, 2 Lazy 2 Ranch, Sec. 22, T7N, R27E (November 4, 2022)



Figure 2. Subsidence cracks, south end of Panel 9 (October 30 2022)



Figure 3. Subsidence cracks, 2 Lazy 2 Ranch, Sec. 22, T7N, R27E (November 4, 2022)



Figure 4. Aerial view of subsidence cracks, 2 Lazy 2 Ranch, Sec. 22, T7N, R27E (November 4, 2022)

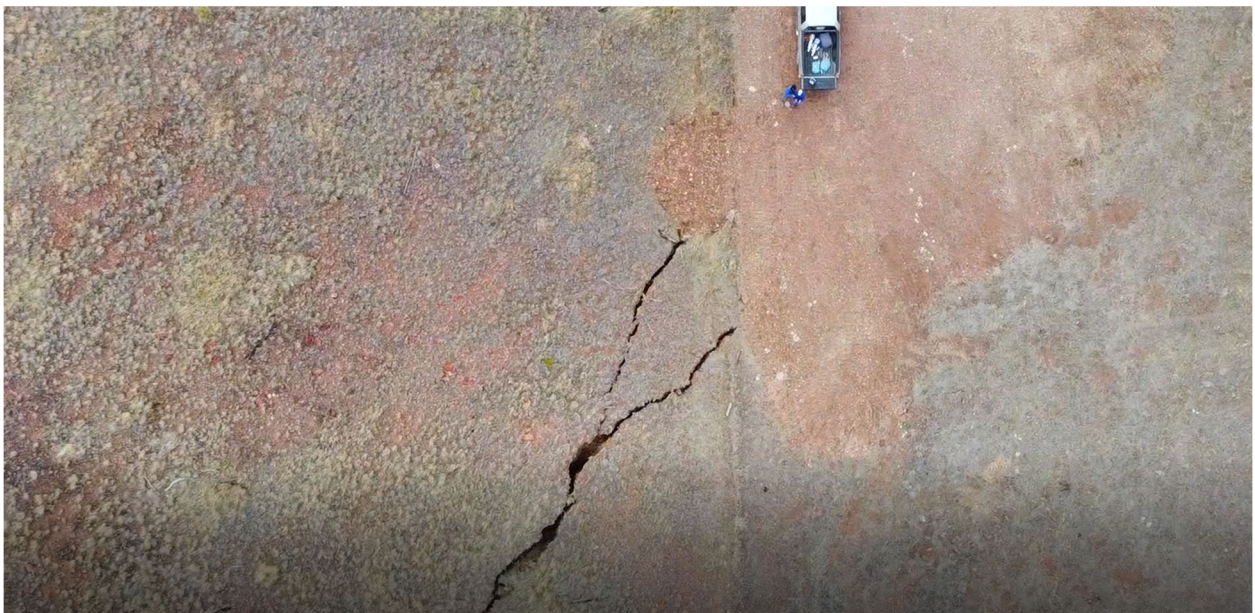


Figure 5. Aerial view of subsidence cracks repaired on the right side (2 Lazy E Ranch, Sec. 22, T7N, R27E), unrepaired on the left side (My Green Earth, Sec. 27, T7N, R27E) (November 4, 2022)



Figure 6. Subsidence crack, 2 Lazy 2 Ranch, Sec. 22, T7N, R27E (November 4, 2022)



Figure 7. Subsidence repair, 2 Lazy 2 Ranch, Sec. 22, T7N, R27E (June 22, 2022)

Figure 8. Subsidence repair, 2 Lazy 2 Ranch, Sec. 22, T7N, R27E (June 22, 2022)



The captions for figures 7 and 8 show that the attempts at subsidence repair failed and have not removed safety threats or returned the land to the state that existed prior to mining (i.e., capable of supporting the same uses that the land was capable of supporting prior to mining, Mont. Code Ann. § 82-4-203(44)).

Community Groups have previously raised these concerns with DEQ and OSMRE.² In response, to Community Groups' concerns regarding subsidence, DEQ responded:

*Subsidence – DEQ monitors for subsidence during regular inspections and specifically during aerial inspections. Observed subsidence cracks are documented on DEQ inspection reports for follow-up. Surface reclamation is conducted on an as needed basis for subsidence cracks which fail to reclose naturally, or which must be addressed more expediently. Refer to inspection reports for documentation of subsidence observations of surface reclamation activities conducted during inspections.*³

Based on DEQ's assertion that Signal Peak's subsidence control plan was adequate, OSMRE responded as follows:

In response to your allegation, MT DEQ submitted permitting documents, including the Cumulative Hydrologic Impact Assessment (CHIA), to OSMRE that demonstrate that the reclamation and mitigation of impacts to water resources impacted by subsidence was considered by MT DEQ and addressed in the permit. In 2013, OSMRE evaluated portions of SPE's Bull Mountains Mine #1 as part of a special oversight study on mine subsidence in Montana. During that review, we found that the permit contained a complete subsidence control plan with all required elements. Nothing in the material provided by MT DEQ indicates that the subsidence plan was no longer adequate. MT DEQ provides monthly inspection reports to OSMRE for inspections conducted at the Bull Mountains Mine #1. In their response, MT DEQ again provided OSMRE with inspection reports demonstrating that it monitors for subsidence during regular inspections and that any subsidence cracks observed during these inspections are documented on MT DEQ inspection reports for follow-up. According to MT DEQ's

² Citizen Complaint from Community Groups to OSMRE (July 6, 2022) (**Exhibit 1**); Citizen Complaint from Community Groups to DEQ (August 18, 2022) (**Exhibit 2**).

³ Ltr. from D. Walsh, DEQ, to J. Fleischman, OSMRE (August 5, 2022) (**Exhibit 3**). This response by DEQ fails to address the minimum legal requirements of reclaiming contemporaneously and promptly and promptly fixing safety issues. Documentation is necessary but not the ultimate goal, which is to reclaim contemporaneously and fix promptly. How long, we ask, does DEQ wait for nature to close a crack? How does DEQ determine addressing open cracks "more expediently"? These are basic concerns that DEQ has failed to address in its responses to citizen complaints.

implementing regulations and the approved permit, surface reclamation is required for subsidence cracks that fail to naturally reclaim, sometimes described as “healing on their own,” and those that must be addressed more expeditiously.

Based on the material reviewed, it appears that SPE is in compliance with SMCRA, MSUMRA, and its approved permit and that all subsidence-related water impacts are being monitored, with temporary mitigation measures in place where needed, to determine if further mitigation is necessary. If it is determined that springs and wells affected by mining will not recover, MT DEQ has stated that it will require SPE to submit revised mitigation plans. OSMRE does not have reason to believe that a water resources or subsidence-related violation exists at this time, and a TDN is not warranted for this issue.⁴

In response to a separate Citizen Complaint submitted by some of the undersigned Community Groups regarding Signal Peak’s ongoing failure to protect, replace, and reclaim impacted water resources on December 14, 2022, DEQ responded as follows:

Mining at the Bull Mountains Mine is ongoing, and a normal surface expression of underground mining is subsidence of the land surface. Permanent remediation of a spring or well is not possible when the land surface is still subsiding or may be affected by a future panel.⁵

Signal Peak’s [Reclamation Plan](#) provides:

Subsidence features generally include minor surface cracks. In local areas, cracks with significant width or scarps may occur. Subsidence features will be reclaimed as necessary to restore the pre-mining land use . . . Although not anticipated, any features that are found to significantly disrupt the surface or groundwater hydrologic balance will be addressed. Features such as cracks that concentrate flow and lead to excessive erosion will be corrected. 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 . . . In general, repairs will salvage and replace topsoil where possible or steps will be taken to avoid the displacement or loss of topsoil into the crack. Cracks with sufficient width and length of up-gradient drainage path will be repaired to prevent excess loss of top soil into the crack. It is expected that heavy equipment will be required for most repairs. The method and equipment chosen will minimize damage to the land caused by access routes, material storage or incidental activities.

Reclamation Plan at 313-5 – 313-6.

⁴ Ltr. from J. Fleischman, OSMRE, to Community Groups (September 2, 2022) (**Exhibit 4**).

⁵ Letter from D. Walsh, DEQ, to J. Fleischman, OSMRE (January 18, 2023) (**Exhibit 5**).

It is evident from the documentation above that Signal Peak wrongly asserts its mining operations “will not cause material damage or diminution of value or foreseeable use of the grazing land” or that “[t]here are no renewable resource lands with the Permit Area, or adjacent areas that could be affected by subsidence [and] [n]o further information is required for renewable resource lands.” Therefore, DEQ has failed in its duty to implement MSUMRA and SMCRA and is allowing Signal Peak to dodge complying with the requirements of ARM 17.24.901(1)(c)(iii)(A)-(D), to provide:

1. “a detailed description of the measures to be taken to prevent subsidence and subsidence-related damage;”
2. “a detailed description of the measures to be taken to mitigate the effects of any material damage or diminution of value or foreseeable use of lands that may occur;”
3. “a detailed description of measures to be taken to determine the degree of material damage or diminution of value or foreseeable use of the surface;” and
4. “any other information that the department deems necessary to demonstrate compliance with ARM 17.24.911” and to reclaim these damaged lands promptly.

Clearly, large subsidence cracks, like the ones documented above, are not going to “heal on their own” quickly enough to prevent a safety hazard to humans, cattle, and wildlife thus DEQ must require Signal Peak to promptly reclaim these damaged lands, which – thus far – it has refused to do.

Similarly, the provision of the Reclamation Plan exempting Signal Peak 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. There is no regulatory exception in the State’s program to the requirement to “promptly” restore land damaged by subsidence. ARM 17.24.911(7)(a). The Bull Mountains are a mountainous landscape with many slopes exceeding 20%. Nevertheless, the land is important for grazing. As noted, cattle have likely already broken legs in subsidence cracks. A mountain slope without cracks can be used for grazing, while one covered with subsidence cracks cannot. If cracks on slopes cannot be filled, the land cannot be reclaimed. Mont. Code Ann. § 82-4-203(44) (reclamation means “mak[ing] those lands capable of supporting the uses that those lands were capable of supporting prior to any mining or to higher or better uses”). And if the land cannot be fully reclaimed, it cannot be mined. 30 U.S.C. § 1202(c) (purpose of SMCRA is to “assure that surface mining operations are not conducted where reclamation as required by this chapter is not feasible”); ARM 17.24.405(6)(a) (mining may not be approved unless applicant demonstrates that “reclamation can be accomplished”).

II. Signal Peak Must Immediately Stop Mining or Disturbing Areas with Slopes Greater than 20%

Allowing Signal Peak to receive approval of a mining plan that exempts prompt and complete repair of mining impacts on slopes greater than 20% not only violates the law as noted above, it also demonstrates DEQ and OSM’s failures to fulfill their responsibility to reject the

mining plan from including areas with slopes greater than 20%. There are three responsible parties here who have agency on this issue.

First and foremost, Signal Peak is responsible for knowing and complying with the law regardless of whether or not the regulatory authorities—DEQ and OSMRE—do their jobs correctly.

Second, Signal Peak apparently does not want to spend the money or use the correct equipment to reclaim on slopes above 20%. That is their choice, but that choice comes with the requirement that Signal Peak not mine nor disturb any areas with slopes above 20%. The regulatory authorities must immediately correct the mine plan to exclude these areas and require Signal Peak to promptly fix, repair, and reclaim the areas their activities have disturbed.

Not only is Signal Peak attempting to dodge its basic legal responsibilities, but it is also trying to force area ranchers off their own land on the basis that the costs to Signal Peak of mitigating water and subsidence impacts are too expensive for the company.⁶ Signal Peak obviously fails to comprehend that its obligations to address subsidence are required by MSUMRA, SMCRA, and its permit regardless of whether anyone is ranching the land. See Mont. Code Ann. § 82-4-203 (reclamation means restoring land to uses the “land was capable of supporting prior to any mining” regardless of whether the coal company has harassed landowners off their land). Regulators should not countenance Signal Peak’s bullying and flouting the obligations of the law.

In summary, subsidence has been much more severe and widespread than predicted in the 1990 Agapito Report. Montana Environmental Information Center (MEIC) alerted DEQ to this fact during an August 5, 2016 meeting in which it explained that the reclamation bond was inadequate to cover the cost of subsidence repair.⁷ DEQ responded that “[i]f MEIC is aware of any information which supports the assertion that impacts of subsidence have been much worse than anticipated in 1992, DEQ would welcome the opportunity to consider this information for purposes of determining whether the current bond calculation is sufficient.”⁸

III. Signal Peak’s Failure to Comply with Permit Requirements to Reclaim Damaged Lands, Abuse of Topsoil, and Inadequate Revegetation.

ARM 17.24.701 through 17.24.731 set forth the requirements for the handling and protection of topsoil and for revegetation. Signal Peak’s Reclamation Plan includes a Soil Removal, Storage, and Redistribution Plan (313-6 – 313-9) and a Revegetation Plan (313-9 –

⁶ See Ltr. from Parker Phipps, SPE, to Steve Charter (Nov. 14, 2022) (arguing that company is attempting to expel rancher from his own property because Signal Peak has spent “tens of thousands of dollars ... mitigating temporary hydrologic disturbances, hauling water ... and addressing subsidence issues on [rancher’s] property”) (**Exhibit 6**).

⁷ See Memo from B. Convery to T. Livers and G. Mathieus, Re: Follow-up Responses to MEIC Re: Amendment 3 of Bull Mountain Coal Mine at 2 (Aug. 8, 2016) (**Exhibit 7**).

⁸ *Id.*

313-13). However, as demonstrated in Figures 9-13 below, Signal Peak is failing to comply with its approved Reclamation Plan.

In one stark example, Signal Peak has left un-reclaimed an area surrounding Dunn Mountain which was severely damaged in December 2010 when Signal Peak notified a neighboring landowner of a crack from the floor of the mine all the way to the open ground above and asked permission to build a road into the site. After working through the night to build a road to the site, Signal Peak workers began pulling the face of Dunn Mountain down to fill in the approximately two hundred feet deep, one quarter mile long crack and any semblance of topsoil on the shale face was scraped into the crack. Signal Peak hauled large tankers of nitrogen which they pumped into various holes which they drilled down to the coalface to prevent spontaneous combustion. A man camp was established on the site, along with a fuel dump, and heavy machinery hauled nitrogen to the site. This project went on from December 2010 through the middle of February 2012.

DEQ conducted inspections in the summer of 2012, August 2018 (in response to a citizen complaint made in July 2018), and, most recently, in July 2022. Attempts at reseeding and reclaiming this site have been unsuccessful, and DEQ has required no further action on the part of Signal Peak to reclaim the impacted land. Some of the steep slopes have no mulch and are developing deep rills. Eleven years have now passed since Signal Peak damaged the land, with only minimal efforts at reclamation, which have been unsuccessful. *See* Figures 9-11 below.



Figure 9. Nitrogen scar at Dunn Mountain, My Green Earth ranch (Oct. 30, 2022)



Figure 10. Site of man camp at Dunn Mountain, My Green Earth ranch (Summer 2018)



Figure 11. Site of un-reclaimed man camp at Dunn Mountain, My Green Earth ranch (Oct. 30, 2022)



Figure 12. Example of scalped topsoil which occurred in 2020 at the beginning of Panel 8 (Oct. 30, 2022)



Figure 13. Example of scalped topsoil which occurred in 2020 at the beginning of Panel 8 (Oct. 30, 2022)

Clearly, Signal Peak is failing to follow its approved Reclamation Plan and DEQ is failing to conduct the required monitoring and enforcement to ensure impacted lands are reclaimed promptly.

In a meeting between Bull Mountain Land Alliance and DEQ coal section personnel on November 9, 2022, landowners articulated some of the above concerns about Signal Peak's failure to conserve topsoil, and also that many cracks will clearly not close on their own. DEQ agreed that Signal Peak needs to be salvaging any topsoil according to their permit, and based on the footage and information we were providing they were concerned Signal Peak might not be doing that. DEQ committed to ensuring that their inspectors immediately begin to prioritize looking into Signal Peak's practices with topsoil, and to conduct studies on the areas that Signal Peak has supposedly reclaimed. Additionally, DEQ acknowledged that they would work with Bull Mountain landowners when they see subsidence cracks to begin more proactively investigating whether certain cracks will close on their own or not. We appreciate DEQ's commitment to investigating this, and want to ensure that this happens.

CONCLUSION

In conclusion, the Community Groups respectfully request a federal inspection of the Bull Mountains Mine and the land above the mine, pursuant to 30 U.S.C. § 1271 and 30 C.F.R. § 842.11, sufficient to determine if Signal Peak is continuing to violate the law as described above. The Community Groups respectfully request that their representatives, attorneys, and any necessary experts be permitted to participate in the inspection. Following the inspection, OSMRE is requested to issue a cessation order halting operations of the mine pending compliance with the law. Signal Peak is an outlier in the coal mining industry and a serial scofflaw. It must not be permitted to continue to violate the law with impunity.

We appreciate your efforts to make this inspection happen and ensure that Signal Peak complies with state and federal law. If there is anything we can do to expedite the process, please contact us.

Sincerely,



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Exhibits

Exhibit	Document
1	Citizen Complaint from Community Groups to OSMRE (July 6, 2022)
2	Citizen Complaint from Community Groups to DEQ (August 18, 2022)
3	Ltr. from D. Walsh, DEQ, to J. Fleischman, OSMRE (August 5, 2022)
4	Ltr. from J. Fleischman, OSMRE, to Community Groups (September 2, 2022)
5	Letter from D. Walsh, DEQ, to J. Fleischman, OSMRE (January 18, 2023)
6	Ltr. from Parker Phipps, SPE, to Steve Charter (Nov. 14, 2022)
7	Memo from B. Convery to T. Livers and G. Mathieus, Re: Follow-up Responses to MEIC Re: Amendment 3 of Bull Mountain Coal Mine (Aug. 8, 2016)