

August 18, 2022

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Dear Mssrs. Dorrington and Smith,

In its landmark decision overturning DEQ's issuance of a permit to Signal Peak Energy, LLC (SPE), the Montana Board of Environmental Review explained that "The dominant historical land use in the Bull Mountains" since European settlement "is ranching" and, consequently, the "limited water resources in the Bull Mountains, in particular groundwater-fed springs, are critical for stock watering and ranching operations." *In re Bull Mountains*, No. BER 2013-05 SM, at 37 (Mont. Bd. of Env't Rev. Jan. 14, 2016). SPE's operations at the Bull Mountains Mine gravely imperil this ranching heritage, having damaged numerous water resources above the mine that are relied upon by ranching operations. Adding insult to injury, SPE's conduct at the mine has repeatedly and knowingly violated the law for years without any real repercussions from the State of Montana.

Evidence from a recent federal criminal prosecution against SPE and various directors of the company, and other publicly available information indicate that SPE is in ongoing violation of the Montana Strip and Underground Mine Reclamation Act (MSUMRA) and the Surface Mining Control and Reclamation Act (SMCRA). Specifically, evidence indicates that SPE

- (1) falsified its certification of compliance with MSUMRA;
- (2) failed to abate unlawful disposal of toxic waste since 2013 to present;
- (3) is violating water pollution regulations under MSUMRA, the Clean Water Act (CWA), and the Safe Drinking Water Act (SDWA);
- (4) is violating permit requirements for evaluating impacts to the hydrologic balance and has done so continuously since approximately 2008; and

(5) is violating the requirement to disclose the identity of mine owners—in particular SPE has not disclosed who owns the Gunvor Group, Ltd., an international commodities trader that owns one-third interest in the mine and that the U.S. government has repeatedly linked to the current Russian regime.

Consequently, pursuant to 30 U.S.C. § 1271(a)(1) and ARM 17.24.1204, .1206, Montana Environmental Information Center, Northern Plains Resource Council, Sierra Club, and WildEarth Guardians (collectively, “Conservation Groups”) request that Montana Department of Environmental Quality (DEQ) perform an inspection of this mine within ten days of your receipt of this complaint. We request our representatives to attend the inspection as provided in ARM 17.24.1204(1). Following the inspection, DEQ should issue a cessation order to SPE requiring immediate cessation of the company’s destructive and lawless operations at the Bull Mountains Mine. (A copy of the citizen complaint previously sent to OSM is attached hereto.)

#### **LEGAL STANDARDS FOR CONDUCTING INSPECTIONS UPON CITIZEN COMPLAINTS AND TAKING ENFORCEMENT ACTION**

SMCRA requires the regulatory authority to act promptly to correct violations of SMCRA:

**(1)** Whenever, on the basis of any information available to him, 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 his 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 his 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 his authorized representative determines that the condition, practice, or violation has been abated, or until modified, vacated, or terminated by the Secretary or his 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).

MSUMRA, in turn, requires DEQ to conduct a prompt inspection upon receiving a report of any violation of MSUMRA, its rules, or any permit issued under MSUMRA:

(1) Any person may request an inspection of any operation by furnishing the department with a signed statement, or an oral report followed by a signed statement, giving the department reason to believe that there exists a violation of the Act, the rules adopted pursuant thereto, or the permit or that there exists a condition or practice 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. The identity of any person supplying information to the department relating to a possible violation or imminent danger or harm must remain confidential with the department, if requested by that person, unless that person elects to accompany the inspector on the inspection.

(2) If the report or statement alleges facts that, if true, would constitute a prohibited condition, practice, or violation and states the basis upon which the facts are known or provides other corroborating evidence sufficient to give the department reason to believe that the prohibited condition, practice or violation exists, the department shall conduct an inspection to determine whether the condition, practice, or violation exists or existed. If the department conducts an inspection pursuant to (1), it shall notify the person who requested the inspection as far in advance as practicable of when the inspection is to occur. The person who has provided the statement or report must be allowed to accompany the inspector. The person is under supervision and control of the inspector while within the permit area. The person does not have a right to enter buildings or structures without the consent of the person in control of the building or without a search warrant.

(3) Within ten days of the inspection, or if there is no inspection, within 15 days of receipt of the citizen's written statement, the department shall send the person and the alleged violator the following:

(a) if an inspection was made, a description of the enforcement action taken, or, if no enforcement action was taken, an explanation of why no enforcement action was taken and notice of the person's right to informal review;

(b) if no inspection was made, an explanation of the reason why and notice of the person's right to informal review.

(4) The department shall give copies of all materials in (3) within the time limits specified in that section to the person alleged to be in violation, except the name of the person supplying information must be removed unless disclosure of his or her identity is permitted under (1).

ARM 17.24.1204.

### ANALYSIS OF THE VIOLATIONS

Based on information from SPE's recent criminal proceedings, sworn testimony from quasi-judicial proceedings, and information from the U.S. Environmental Protection Agency and other sources, we have reason to believe SPE is operating in violation of SMCRA, MSUMRA, and its permit.

1. First, SPE appears to have knowingly filed a false certification in support of its permit application. SMCRA and MSUMRA require a permit applicant to swear under oath to the accuracy of the information submitted in the permit application. 30 C.F.R. § 778.9(b); ARM 17.24.303(1)(m). This includes a sworn certification that the permit applicant, its affiliates, operators, and employees are not in violation of any provision of SMCRA or MSUMRA or any provision of a permit issued under either law. ARM 17.24.303(1)(m); Mont. Code Ann. § 82-4-251(1).

This information is critical because the regulatory authority must deny a permit application if (1) the applicant is "in violation of Public Law 95-87 [SMCRA], as amended, any state law required by Public Law 95-87 [MSUMRA], as amended, or any law, rule, or regulation of the United States or of any department or agency in the United States pertaining to air or water environmental protection" or (2) the applicant "has demonstrated a pattern of willful violations of Public Law 95-87 [SMCRA], as amended, or any state law required by Public Law 95-87 [MSUMRA], as amended, when the nature and duration of the violations and resulting irreparable damage to the environment indicate an intent not to comply with the provisions of this part." Mont. Code Ann. § 82-4-227(11), (12).

Here, evidence indicates that SPE's sworn certification of compliance with SMCRA, MSUMRA, and other environmental protection laws, which the company submitted in 2013 and relied on again in 2016 was false and, further, that SPE knowingly submitted the false certification to the DEQ. Specifically, SPE's then-President and CEO, John DeMichiei submitted a sworn certification in 2013 and 2014 (and again when SPE resubmitted its application in 2016) that no "subsidiary, affiliate, or person" controlled by or under common control of SPE or any "officer, partner, or any individual owning" ten percent of stock in SPE was subject to Mont. Code Ann. § 82-4-251(1),

which requires compliance with all provisions of MSUMRA and permits issued pursuant to the law. Based, in part on this certification, DEQ determined that SPE was not in violation of SMCRA, MSUMRA, or laws of environmental protection, and that the company did not have a pattern of violations of SMCRA or MSUMRA. Mont. Code Ann. § 82-4-227(11)-(12).

At the time that SPE submitted this certification, evidence indicates that it was habitually committing knowing violations of health and safety laws, including, the requirements of MSUMRA and SPE's own permit regarding proper disposal of waste. In the recent criminal prosecution of SPE—which resulted in a guilty plea, a \$1,000,000 fine, and probation—the U.S. Attorney's Office submitted the following offer of proof:

From approximately 2013 until 2018 Signal Peak Energy, LLC, an operator of a coal mine located outside of Roundup, Montana which is subject to the Mine Safety and Health Act, habitually violated mandatory health and safety standards applicable to the operation of the mine. These violations consisted of both standards regarding environmental safety and worker safety. **These violations occurred with the full knowledge, direction, and participation of the most senior management of the mine during that period, including the President and CEO, the Vice President of Surface Operations, the Vice President of Underground Operations, and the Safety Manager.**

In the Summer months of 2013, as a part of these habitual violations, senior managers of Signal Peak Energy, LLC directed mine employees to improperly dispose of mine waste by pumping the waste into abandoned sections of the mine. This waste, known colloquially as "slurry," consisted of wastewater, industrial chemicals used in the mining process, and unprocessed soil containing heavy metals including arsenic and lead over groundwater tolerances.

Mine employees pumped this slurry into the abandoned section of the mine for up to approximately two weeks. Several employees later stated that they pumped this slurry into this abandoned section of the mine until the section was full and could hold no additional mine waste. Disposing mine waste in this manner legally required approval of both the Mine Health and Safety Administration (MSHA) and the Environmental Protection Agency (EPA) which Signal Peak Energy did not obtain. As such, by disposing of the mine waste in this manner without approval, Signal Peak willfully violated a mandatory safety standard applicable to the mine.

A similar incident occurred in the Spring of 2015. On this occasion, agents of Signal Peak Energy, LLC commissioned the drilling of two bore holes into the ground that led to another abandoned section of the mine. Senior managers of Signal Peak Energy, LLC directed mine employees to pump more "slurry" mine waste into the abandoned section through the bore holes. This "slurry" had the same basic composition as the "slurry" improperly disposed of in 2013. Estimates vary, but this pumping occurred for up to six weeks. In this case, the pumping was discontinued after a witness discovered that seals between the abandoned mine works and the operating mine had been breached, causing flooding in areas of the operating mine. Signal Peak Energy,

LLC obtained a permit to inject water in the ground via these bore holes but this permit did not allow for the disposal of this “slurry” mine waste. As such, by once again disposing of the mine waste in this manner without approval, Signal Peak was willfully violating a mandatory safety standard applicable to the mine.

Offer of Proof, *United States v. Signal Peak Energy, LLC*, No. CR-21-79 (Oct. 5, 2021) (attached as Exhibit 1) (emphasis added).<sup>1</sup> Before discussing how this criminal conduct violated SMCRA and MSUMRA, it must be noted that this was not an isolated incident. The U.S. Attorney who secured the conviction described the atmosphere of lawlessness that has prevailed at the Bull Mountains Mine:

This case holds Signal Peak Mine accountable for its utter disregard for environmental and worker health and safety standards. Mine owners provided little in the way of meaningful oversight of mine operations as long as the mine’s managers could meet reported safety and production goals,” U.S. Attorney Leif M. Johnson said in a broad summary of the case. “That lax oversight fostered a climate of fraud, which today cost the mine \$1 million in fines. **In addition, mine managers lied about the mine’s expenses, its safety record, and other matters, which separately resulted in individual criminal convictions and charges for nine persons, including former mine vice presidents and their associates, on crimes ranging from embezzlement, tax evasion and bank fraud to money laundering, drugs and firearms violations.**”<sup>2</sup>

Not only did this violate criminal laws related to mine safety, SPE’s SMCRA permit did not permit disposal of coal waste contaminated with industrial chemicals and heavy metals to be pumped into the mine (as the offer of proof suggests). As such, SPE’s disposal of this waste in the mine was also a violation of SMCRA and MSUMRA. Accordingly, the U.S. Attorney’s offer of proof demonstrates that SPE’s sworn certification that it was complying with SMCRA and MSUMRA in 2013 and 2016 was false—at the same time SPE was swearing that it was complying with the law, its directors were knowingly violating the law—in further violation of the law. Such deceitful and environmentally harmful conduct is anathema to SMCRA and MSUMRA and constitutes grounds for suspension and revocation of SPE’s permit. ARM

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<sup>1</sup> Troublingly, these were not Signal Peak’s first violations of worker safety standards. Between 2008 and 2022, Signal Peak was cited for over **1,600 mine safety violations**. MSHA Violations (Exhibit 1), *available at* <https://www.msha.gov/mine-data-retrieval-system>; *see also* Derf Johnson, Signal Peak Energy Violates Safety Standards and Disputes Fines, MEIC (May 8, 2013), *available at* <https://meic.org/signal-peak-energy-violates-safety-standards-disputes-fines/>. At least one such violation resulted in the death of an employee. U.S. Dep’t of Labor Mine Safety and Health Admin., Report of Investigation (Jan. 2, 2010) (CAI-2010-01), *available at* [https://www.msha.gov/sites/default/files/Data\\_Reports/Fatals/Coal/2010/ft110c01\\_0.pdf](https://www.msha.gov/sites/default/files/Data_Reports/Fatals/Coal/2010/ft110c01_0.pdf). Despite SPE’s criminal efforts to conceal evidence of accidents at the mine, at least 122 accidents have been reported since the mine began operating in 2008. MSHA, Accidents (Exhibit 2), *available at* <https://www.msha.gov/mine-data-retrieval-system>.

<sup>2</sup> Tom Lutey, Signal Peak Fined \$1 Million for Safety, Pollution Violations, *Billings Gazette* (Jan. 31, 2022) (emphasis added) (Exhibit 3).

17.24.406(1)-(3) to 407(1). It certainly “demonstrate[s] a pattern of willful violations” of MSUMRA, as well as other laws, indicating “an intent not to comply with the provisions” of MSUMRA. Mont. Code Ann. § 82-4-227(12). That DEQ has taken no action commensurate to SPE’s nearly decade-long pattern of criminal conduct undermines public trust and confidence in state regulators. DEQ must not turn a blind eye to such blatant and systemic lawlessness.<sup>3</sup>

Conservation Groups request an immediate inspection to determine whether SPE has corrected its false certification in its permit application. Until this violation is corrected, DEQ must issue a cessation order halting operations at the mine.

2. Second, this same information from SPE’s criminal prosecution indicates that the company has for years been disposing of toxic mine processing waste in violation of its permit, SMCRA, and MSUMRA. SPE’s permit requires the company to dispose of mine waste, including underground development waste and coal processing waste, in the waste disposal area (WDA). SPE Permit at 920-1 (“The permittee proposes to dispose of underground development waste with coal processing waste in the Waste Disposal Areas (WDAs) illustrated on Maps 901-1 and 901-1A.”), 920-6 (“All mine development waste and coal processing waste will be permanently disposed of in the WDAs illustrated on Map 901-1 and 901-1A.”), 920-7 (“Material from all sources will be intermixed in the WDAs for final disposal.”). The permit does not allow disposal of coal waste in the mine. *Id.* at 920-1. This is because, among other things, “[b]ackstowing of coal processing waste products would include non-marketable coal fines” and would “unnecessarily endanger the workforce, increasing the risk of spontaneous combustion or fire.” *Id.* Moreover, SPE has proposed using the “mine pool” as a source of replacement water for springs or wells that are impacted by mining operations. SPE Permit, App. 313-2-4. And neither DEQ nor SPE assessed the hydrologic impacts of storing mine waste in the mine void in the probable hydrologic consequences report (PHC) or the cumulative hydrologic impact assessment (rendering the current PHC and CHIA invalid).

Violation of a permit requirement is a violation of SMCRA and MSUMRA. 30 U.S.C. § 1271(a)(1); Mont. Code Ann. § 82-4-251(1). There is no indication that SPE has in any way abated this violation by removing the toxic slurry that it knowingly pumped into a geological layer that the company has identified as a source of replacement water.<sup>4</sup> SPE’s blatant disregard for the environment, the public, and those who rely on the water resources of the Bull Mountains is a repeated practice of the company. When SPE dewatered a well used for stock watering in 2019, it initially provided replacement water contaminated with oil.

The Conservation Groups recognize that DEQ has suggested that SPE can paper over its illegal disposal of this toxic waste through a minor permit revision outside of the view of the public, but SMCRA and MSUMRA grant no such indulgence. Minor revisions are impermissible if the proposed change will affect post mining land use or the hydrologic balance. ARM 17.24.301(66),

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<sup>3</sup> Such dishonesty regarding ongoing violations, discovered after issuance of a permit, is a basis for suspension and revocation of the improvidently issued permits, which should also occur here. ARM 17.24.406(2)-(3), .407.

<sup>4</sup> The mine has damaged numerous water resources above the mine, relied upon by ranching operations above the mine, as well as wildlife.

(72). As noted, the “mine pool” has been identified as a source of replacement water. A permit change that designates the mine pool as a repository for toxic mine processing waste plainly may affect post mining land uses and the hydrologic balance.

Conservation Groups request an immediate inspection to determine whether SPE has abated its unlawful placement of toxic waste in the mine void. Until this violation is corrected, DEQ must issue a cessation order halting operations at the mine.

3. Third, information from EPA indicates a pattern of violations of environmental protection laws, including the CWA, the SDWA, and MSUMRA. MSUMRA performance standards require discharges to “be in compliance with all federal and state laws and regulations and applicable effluent limitations.” ARM 17.24.633(4). Moreover, the permittee must conduct operations to prevent “material damage” to the hydrologic balance outside the permit area. *Id.* 17.24.631(1). Material damage includes violation of any water quality standards. Mont. Code Ann. § 82-4-203(31). Further, as noted, an applicant may not obtain a permit if it is in violation of MSUMRA or other environmental protection laws. *Id.* § 82-4-227(11). Nor may an applicant obtain a permit if it has demonstrated a pattern of violations indicative of its intent to not follow the requirements of MSUMRA. *Id.* § 82-4-227(12).

SPE’s disregard for environmental protection laws, among others, is further demonstrated by its repeated violations of effluent limitations and other requirements of the CWA and SDWA. According to EPA records, SPE has been and continues to be in violation of the CWA for 12 of the last 12 quarters and in violation of the SDWA for 7 of the last 12 quarters.<sup>5</sup> While DEQ has issued multiple violation letters to SPE, the agency has taken no formal enforcement action against the company for any of these violations, further eroding public confidence in the agency’s ability to police this operation. SPE has had 71 days of violations of effluent limitations from outfalls 1, 2, 8, and 10 since 2013, in violation of the CWA and MSUMRA.<sup>6</sup> The pollutants discharged in excessive quantities are settleable solids, suspended solids, iron, pH, and oil and grease. SPE has on multiple occasions discharged pollutants in excess of 1000% of applicable limits.<sup>7</sup> SPE has also repeatedly discharged stormwater in excess of effluent limits for iron, aluminum, and suspended solids. In the last 12 quarters, SPE’s aluminum discharges have exceeded limits by 245%, 2,200%, 83%, 940%, and 1,860%. SPE’s iron discharges have exceeded limits by 280%, 2,650%, 129%, 1,130%, and 2,130%. SPE’s suspended solids discharges have exceeded effluent limits by 242%, 592%, 910%, 173%, and 454%.

SPE’s pollution discharges have violated and continue to violate monitoring and reporting requirements of the CWA, which are also violations of MSUMRA. ARM 17.24.633(4). SPE committed unauthorized discharges and reporting violations and failed to submit CWA monitoring reports in 2020 and 2021, since 2019 the company has been in continuous violation

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<sup>5</sup> EPA, Enforcement Compliance History Online (ECHO), Signal Peak Energy—Bull Mountains No. 1 (attached as Exhibit 5).

<sup>6</sup> EPA, Effluent Limit Exceedances Report (May 13, 2022) (Exhibit 6).

<sup>7</sup> EPA, ECHO, Signal Peak Energy—Bull Mountains No. 1.

for failing to submit annual reports required by its stormwater permit.<sup>8</sup> While DEQ may have discretion to ignore unlawful action under the CWA, the agency has a mandatory duty to enforce the provisions of MSUMRA, including the requirement to remain in compliance with the CWA regulations and effluent limitations. ARM 17.24.633(4).

Conservation Groups request an immediate inspection to determine whether SPE has abated its continued and unrelenting violations of requirements of the CWA, MSUMRA, and the SDWA. Until these violations are corrected, DEQ must issue a cessation order halting operations at the mine.

4. Fourth, during this same period of time, SPE has been in continuous violation of its MSUMRA permit requirements for monitoring impacts to water resources from mining. SPE's permit requires the company to conduct detailed quantitative analyses of impacts to water resources above the mine, including detailed analyses of water quantity, aquatic life, vegetation, and wildlife use at springs above the mine and reference springs. SPE Permit App. 313-4 (Exhibit 4). SPE's contractors admitted under oath that the company has never—not once—over the course of more than a decade complied with this design standard (i.e., requirement) of its permit.<sup>9</sup> Worse, this unlawful conduct was perpetrated with the full knowledge and approval of DEQ, further undermining public confidence in the regulatory authority.<sup>10</sup> After this ongoing violation came to light, SPE and DEQ again attempted to surreptitiously remove these critical provisions for assessing impacts to the hydrologic balance from the permit via a minor revision, without public notice or comment. This was one of approximately 280 minor revisions that SPE and DEQ have made to the permit without public oversight over the past ten years—which is an abuse both by SPE and DEQ. However, because this dramatic change to and removal of the methods for assessing impacts to the hydrologic balance may affect the hydrologic balance, DEQ and SPE could not have used a minor revision to accomplish this change in the absence of a major revision and public scrutiny. ARM 17.24.301(66), (72). As such, the supposed change is void *ab initio*, and SPE remains in violation of the permit provisions for assessing impacts to the hydrologic balance. DEQ's and SPE's attempt to substantially alter and weaken the methods for assessing impacts to water resources is doubly inexcusable because SPE has a long history of violating monitoring requirements. In 2019, SPE unilaterally decided to cease monitoring water resources in winter months, which resulted in a notice of noncompliance from DEQ (which the agency and SPE ultimately settled, again hidden from the view of the public). Prior to that, SPE had violated monitoring requirements for assessing impacts at Litsky Spring, the first major spring to be undermined, and this violation prevented DEQ from making any determination of whether the spring had been impacted.<sup>11</sup>

Conservation Groups request an immediate inspection to determine whether SPE has abated its

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<sup>8</sup> *Id.*

<sup>9</sup> Hrg. Tr. at 769, 786-87, 893 (Exhibit 7).

<sup>10</sup> *Id.* at 787 (“[E]ven though this is still part of the permit, it’s not followed, and DEQ—it’s your understanding that DEQ doesn’t require it to be followed? A. That is my understanding.”).

<sup>11</sup> Expert Disclosure of Peter Schade at 7 (Exhibit 8).

continued violations of its permit regarding assessment of impacts to the hydrologic balance. Until these violations are corrected, DEQ must issue a cessation order halting operations at the mine.

5. Fifth, publicly available information further indicates that SPE is currently in violation of its obligation to fully disclose those who own and control the mine. ARM 17.24.303(1)(g); ARM 17.24.301(83). SPE's permit indicates that 33.3% of the company is owned by Pinesdale, LLC, which is, in turn, wholly owned by Gunvor Group, Ltd. SPE Permit tbl. 303-4(e). The permit fails, however, to identify any of the owners of Gunvor.

This is not only an illegal omission, but also a glaring problem because the U.S. government has repeatedly asserted a connection between Gunvor and the current Russian regime, including Vladimir Putin. The U.S. Department of Treasury wrote in a press release in 2014: "Putin has investments in Gunvor and may have access to Gunvor funds."<sup>12</sup> As one author recently wrote: "If we are to believe an old rumor, denied but nevertheless spread through the heart of American diplomacy (and then via Wikileaks), ... the Russian president took a cut from each barrel exported from Russia, through the Swiss trading company Gunvor, which was once headed by a former KGB colleague."<sup>13</sup> U.S. State Department cables from 2008 alleged that Gunvor is "just a front for 'massive corruption.'"<sup>14</sup>

Other investigations have found further evidence of this connection.<sup>15</sup> This demonstrates the necessity of full disclosure of the owners of Gunvor. At present, the United States has placed sanctions on the Russian regime and the Montana Governor's office has stated an intention to not to support Russia's war with Ukraine by "removing any benefit that supports or advances Russia's vicious war machine."<sup>16</sup> Notably, recent news reports suggest that Gunvor may be helping Russian crude oil reach world markets.<sup>17</sup> In short, it is critical that SPE disclose the entire structure of ownership and control of Gunvor to assure compliance with MSMRA.

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<sup>12</sup> U.S. Dep't of Treasury, Press Release, Treasury Sanctions Russian Officials (Mar. 20, 2014) (Exhibit 9).

<sup>13</sup> Matthieu Auzanneau, *Oil, Power, and War: A Dark History* 527 (2018) (excerpts attached as Exhibit 10).

<sup>14</sup> Christopher Matthews & Andrew Grossman, U.S. Money Laundering Probe Touches Putin's Inner Circle, *Wall Street Journal* (Nov. 5, 2014) (Exhibit 11).

<sup>15</sup> *E.g.*, Public Eye, *Gunvor in Congo* (2017) (Exhibit 12) (detailing connections between Gunvor and Putin and noting that, while Gunvor has publicly "kept denying having any connection with the Kremlin," Gunvor representatives were "using this very same connection to persuade the Congolese authorities to engage in dealings with them").

<sup>16</sup> State of Montana Newsroom, Gov. Gianforte Formally Launches Process to Divest Russian Assets (Mar. 2, 2022), [https://news.mt.gov/Governors-Office/Gov\\_Gianforte\\_Formally\\_Launches\\_Process\\_to\\_Divest\\_Russian\\_Assets](https://news.mt.gov/Governors-Office/Gov_Gianforte_Formally_Launches_Process_to_Divest_Russian_Assets).

<sup>17</sup> Julia Simon, NPR, *Despite U.S. Sanctions, Oil Traders Help Russian Oil Reach Global Markets* (Apr. 22, 2022) (Exhibit 13).

Conservation Groups request an immediate inspection to determine whether SPE has fully disclosed the ownership and control structure of its one-third owner, Gunvor Group. Until this violation is corrected, DEQ must issue a cessation order halting operations at the mine.

Our members have learned from visual inspections and conversation with employees and landowners that DEQ is not requiring and SPE is not conducting reclamation of water resources and subsidence damage on mine property. Thus, springs, seeps, ponds, and stream reaches impacted by mining on SPE's property are going unreclaimed, threatening significant impacts for the groundwater dependent ecosystems in the Bull Mountains. Similarly, subsidence cracks on mine property are not being reclaimed in a timely fashion, if at all. These cracks threaten imminent harm to the safety and lives of humans, livestock, and wildlife.

By law, SPE must contemporaneously reclaim lands impacted by mining, including reclaiming water resources to support wildlife habitat and aquatic life, among other things. 30 U.S.C. § 202(e); ARM 17.24.1116(6)(d). DEQ and SPE, however, do not appear to be reclaiming impacted water resources and subsidence on SPE property. For example, neither DEQ nor SPE appear to have taken any effort to either (1) determine if Litsky Spring is flowing with the same quality, quantity, and seasonality as it was prior to undermining, or (2) reclaim the spring if such impacts have occurred. Nor does it appear that SPE is reclaiming subsidence cracks on its property.

Conservation Groups request an immediate inspection to determine whether SPE is in fact reclaiming all water resources on its property that have been undermined and subsidence impacts on SPE property. Until this violation is corrected, DEQ must issue a cessation order halting operations at the mine pending compliance with the law on all of the violations described in this citizens complaint.

## CONCLUSION

It is clear that at every level SPE and its owners have had a fraught relationship with the law. The evidence cited above demonstrates a clear pattern of unlawful and ongoing conduct at SPE. Accordingly, Montana Environmental Information Center, Northern Plains Resource Council, Sierra Club, and WildEarth Guardians respectfully request an inspection, pursuant to 30 U.S.C. § 1271 and ARM 17.24.1204, sufficient to determine if SPE is continuing to violate the law as described above. Montana Environmental Information Center, Northern Plains Resource Council, Sierra Club, and WildEarth Guardians respectfully request that their representatives, attorneys, and any necessary experts be permitted to participate in the inspection. Following the inspection, DEQ is requested to issue a cessation order halting operations of the mine pending compliance with the law.

We appreciate your efforts to make this inspection happen and ensure that SPE 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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