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**Contact:**

Derf Johnson, Montana Environmental Information Center, (406) 581-4634, [djohnson@meic.org](mailto:djohnson@meic.org)

Steve Charter, rancher, Northern Plains Resource Council, (406) 794-4892

Noah Rott, Sierra Club, (406) 214-1990, [noah.rott@sierraclub.org](mailto:noah.rott@sierraclub.org)

## **Office of Surface Mining Rejects 2023 Montana Bill to Weaken Water Quality Standards from Coal Mines**

MONTANA – On Thursday, March 28, 2024, the U.S. Office of Surface Mining (OSM) rejected a law passed by the 2023 Montana legislature that would have weakened water quality protections required of coal mines. OSM’s decision ensures the law will not go into effect in Montana. It found the new Montana law was weaker than minimum federal requirements in six significant ways. OSM only ruled on HB 576, one of two bills that were challenged at the legislature and in court by ranchers and conservation groups. The other bill, SB 392, is still awaiting a final decision by OSM.

In 2023, the Montana Legislature passed two laws ([HB 576](#) and [SB 392](#)) that were signed by Governor Gianforte. These laws were designed to impede the public’s ability to protect water resources and enforce the Montana Strip and Underground Mine Reclamation Act (MSUMRA). HB 576 – sponsored by Rep. Rhonda Knudsen (R-Culbertson) – attempted to weaken environmental protections from coal mines by weakening the definition of “material damage,” a term that protects both surface and groundwater. Under the new law, mining operations could have violated water quality standards and polluted Montana waterways as long as the pollution was not “long term or permanent.” These two terms were not defined. The law was drafted and pushed through the legislature by coal company lobbyists in order to exempt coal mines from enforcement of clean water protections.

“My ranch above the state’s only underground coal mine has already been harmed from impacts to water resources. HB 576 would have caused further harm to my ranching operations and serious harm to others who live near or downstream from mines,” said **Steve Charter, member of the Northern Plains Resource Council**, who operates a cattle ranch above and near the Signal Peak Mine. “Ranchers from across the state traveled to Helena repeatedly to try to stop these bills from harming our operations. We are grateful that OSM took its role seriously, followed the law, and protected agricultural producers who rely on water resources near coal mines.”

Sierra Club, WildEarth Guardians, Citizens for Clean Energy, and Montana Environmental Information Center (represented by Earthjustice) filed suit in Montana District Court in June 2023 because the legislature made the laws immediately effective and retroactive; however, federal law requires changes in a state’s coal regulatory program to be reviewed and approved by federal agencies before implementation. Conservation groups reached an agreement with

the Montana Department of Environmental Quality (DEQ) that ensured the laws would not go into effect until OSM reviewed them for compliance with federal coal mining laws.

“Water is Montana’s most critical, essential natural resource, especially in the arid eastern part of the state,” stated **Derf Johnson, deputy director of the Montana Environmental Information Center**. “Thankfully, this law was roundly rejected by the U.S. Office of Surface Mining, and Montana’s old law remains in place. What this decision by OSM really means is that coal mining corporations cannot violate water quality standards.”

“It’s like the bad old days under the Anaconda Company,” said **Shiloh Hernandez, senior attorney for Earthjustice’s Northern Rockies Office**. “The Montana Legislature caved to coal industry lobbyists and effectively let them rewrite the law to weaken environmental protection and public involvement. Thankfully, federal law prevents this sort of brazen attack on our communities and environment. Those who live downstream of these mines can breathe easier.”

HB 576 would have also allowed DEQ to approve coal mining operations before all relevant information on water resources was obtained, which is a requirement under the Surface Mine Control and Reclamation Act (SMCRA). OSM also rejected this change.

The legislature also adopted an unlawful “loser pays” provision (SB 392). If a party (e.g., non-profit, landowner, etc.) should challenge a coal mining permit under the Montana Surface and Underground Mine Reclamation Act (MSUMRA) and lose, the party would potentially be required to pay the attorneys’ fees of the coal mining corporation. This change, also supported and advanced by the coal industry, is plainly intended to chill public participation and oversight of coal mining in Montana by preventing landowners and nonprofits from taking coal companies to court when they violate the law. This law is still under review by OSM.

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