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Montana Mining Victory – Reclamation Backfilling Not Required by Montana Supreme Court

On January 12, 2016, the mining industry scored a victory when the Montana Supreme Court upheld a Montana Department of Environmental Quality (DEQ) determination in face of a challenge based on state constitutional provisions and statutes. Back in 2012, the Golden Sunlight Mine (GSM), near Whitehall, Montana, applied to expand its mining operation to develop a nearby smaller pit. In response to the submitted reclamation plan, the DEQ issued an environmental impact statement with several alternatives. Ultimately, the DEQ rejected all alternatives requiring complete backfilling in favor of an alternative that allowed for partial backfilling and installation of an in-pit sump to prevent pollution to local aquifers. The Montana Environmental Information Center (MEIC) challenged DEQ's decision on grounds of being "arbitrary and capricious" and that "full reclamation", as contemplated in Article IX, Section 2 of the Montana Constitution, requires complete backfilling. Previously, in 2011, MEIC had challenged a mine expansion at GSM on similar constitutional grounds but had lost and failed to appeal. Judge Loren Tucker, Fifth Judicial District, granted summary judgment for the mine finding the DEQ's determination was reasonable and the constitutional challenge was precluded as the issue had already been decided in 2011. On appeal, the Montana Supreme Court affirmed Judge Tucker, stating that the constitutional challenge was precluded and the DEQ had acted reasonably in choosing the partial backfill alternative. By choosing to not overturn the lower court and require complete backfilling, the Montana Supreme Court's demonstrated judicial restraint that resulted in a victory for GSM and a victory for mining throughout the state.

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