

**MONTANA SEVENTEENTH JUDICIAL DISTRICT COURT
PHILLIPS COUNTY**

<p>MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">and</p> <p>FORT BELKNAP INDIAN COMMUNITY</p> <p style="text-align: center;">Plaintiff-Intervenor,</p> <p style="text-align: center;">v.</p> <p>LUKE PLOYHAR, BLUE ARC, LLC., OWEN VOIGT, AND LEGACY MINING, LLC,</p> <p style="text-align: center;">Defendants.</p>	<p>Cause No.: DV-2023-10</p> <p>Hon. Yvonne Laird</p> <p>[PROPOSED] CONSENT DECREE</p>
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I. BACKGROUND

1. On April 21, 2023, the Montana Department of Environmental Quality (“DEQ”) filed its Complaint in the above-captioned case for declaratory judgment, injunctive relief, and penalties against Luke Ployhar (“Ployhar”), Blue Arc, LLC (“Blue Arc”), Owen Voigt (“Voigt”), and Legacy Mining, LLC (“Legacy”) (collectively, “Defendants”), alleging four violations of the Metal Mine Reclamation Act (“MMRA”), § 82-4-301, MCA, et seq. On June 21, 2023, the Fort Belknap Indian Community (“FBIC” or the “Tribes”) moved to intervene in support of DEQ and submitted a proposed complaint, alleging the same four MMRA violations asserted by DEQ against the Defendants. On September 19, 2023, the Court granted FBIC’s motion to intervene in this case.

2. On October 4, 2024, DEQ filed its First Amended Complaint for penalties, equitable relief, and injunctive relief against Defendants,¹ alleging four violations of the MMRA and asserting a claim of unjust enrichment. On August 20, 2025, FBIC filed its First Amended Complaint against the Defendants, alleging the same four MMRA violations asserted by DEQ against the Defendants. Defendants deny any liability to DEQ or FBIC arising out of the transactions or occurrences alleged in their respective complaints and amended complaints.

A. Parties to Above-Captioned Case

3. DEQ is an agency of the executive branch of the State of Montana charged with applying and enforcing the MMRA.

4. FBIC consists of the Gros Ventre and Assiniboine Tribes, whose seat of government is on the Fort Belknap Indian Reservation in north-central Montana. The Fort Belknap Indian Community Council is the governing body for the FBIC.

5. Blue Arc is a limited liability company, formed in Minnesota and registered in Montana and is a “person” under the MMRA. Section 82-4-303(22), MCA. Ployhar is a resident of the State of Montana and the registered agent of Blue Arc.²

6. Legacy Mining, LLC, is a limited liability company formed in Montana for the purpose of assisting with mining and ore processing activities. Legacy is a “person” under the MMRA. Section 82-4-303(22), MCA. Voigt is a resident of the State of Montana and the registered agent of Legacy.

¹ In its First Amended Complaint, DEQ also asserted claims against Scott Wilson, which were voluntarily dismissed without prejudice as the result of a settlement agreement.

² Blue Arc, LLC’s current registered name with the Montana Secretary of State is BlueArc, LLC.

B. Property Purchase Agreement and DEQ Access over Property

7. In 2001, Ployhar purchased certain real property (“Property”) from the trustee of the bankruptcy estate of the Zortman Mining Company, Inc. (“Zortman Mining”) and transferred it to Blue Arc. Prior to the purchase, Zortman Mining formerly operated a mining complex on certain portions of the Property, which exposed sulfide to water and air, resulting in acid rock drainage that contaminated certain surface and groundwater. Zortman Mining’s former mining complex is near the Fort Belknap Indian Reservation, which is home to the Tribes.

8. Upon Zortman Mining’s bankruptcy, DEQ assumed certain responsibilities for mine reclamation and water treatment in 1999. As part of the ongoing water treatment, DEQ, along with the federal Bureau of Land Management (“BLM”), have expended millions of dollars on the remediation. Water treatment is anticipated for the foreseeable future.

9. As part of the purchase, Ployhar executed a Property Purchase Agreement (“PPA”) with the bankruptcy trustee of Zortman Mining. The PPA contains certain provisions concerning DEQ’s access rights, including Paragraph 5.01 and Paragraph 7.03.

10. Paragraph 5.01 of the PPA provides: “Possession. Sole and exclusive possession of the Property shall be delivered to Purchaser on the Closing Date, provided, however, that Purchaser acknowledges that the Property is conveyed subject to the right of access of the Montana Department of Environmental Quality and its agents for the completion of reclamation, as more particularly set forth in Paragraph 7.03.”

11. Paragraph 7.03 of the PPA provides: “Access Rights of Agencies. Purchaser acknowledges that the Montana Department of Environmental Quality (“MDEQ”) has assumed certain responsibility for reclamation and water treatment at the Property, and agrees to allow MDEQ and its agents reasonable access to the Property as necessary to perform these functions,

before and after the Closing Date. Purchaser agrees to assume sole responsibility for negotiating any limitations to such access that may be required in Purchaser's discretion, and further agrees that the negotiation of such limitations is not a condition of Purchaser's commitment to purchase the Property under this Agreement."

12. DEQ and Blue Arc have had ongoing disagreements regarding the scope of DEQ's access rights across the Property under the PPA.

C. Challenge to Exploration License

13. On February 1, 2021, DEQ approved Blue Arc's Application for Exploration License No. 00846 ("Exploration License"), subject to the posting of bond, authorizing Blue Arc to conduct certain exploration activities on the Property. Along with other environmental groups, FBIC challenged DEQ's environmental assessment associated with the Exploration License in this Court. *See Fort Belknap Indian Community, et al., v. Mont. Dep't of Env'tl. Quality, et al.*, DV-2021-13, Mont. 17th Jud. Dist. (April 1, 2021). This Court stayed that legal action pending resolution of the alleged violations asserted against the Defendants in the present case.

D. Alleged Violations in Present Case

14. In 2021, DEQ discovered eight disturbances located on Section 7 of Township 28 North, Range 25 East, M.P.M. of the Property. DEQ sent violation letters to Defendants, alleging that the Defendants violated the MMRA by creating the disturbances. On September 18, 2023, DEQ, through its independent contractor, reclaimed six of the disturbances at the permission of the Court. Two of the disturbance locations, Disturbance No. 7, known as the Pink Eye Portal, and Disturbance No. 8, known as the Badger King Portal, are historical adits and were not reclaimed.

15. On April 21, 2023, DEQ filed its Complaint in this matter and its First Amended Complaint on October 4, 2024. As an intervenor, FBIC submitted a proposed complaint on June 21, 2023, in this matter and filed their First Amended Complaint on August 20, 2025. The eight disturbances are the subject of the respective complaints and amended complaints. Defendants deny the material factual allegations and legal claims that DEQ and FBIC have asserted, including any and all charges or wrongdoing or liability arising out of any of the conduct, statements, acts or omissions that were alleged or could have been alleged in this action.

16. DEQ and the Defendants (collectively, the “Signatory Parties”) wish to resolve all claims in this case, whether alleged or unalleged, in order to avoid further timely and costly litigation. The Signatory Parties agree, and this Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Signatory Parties in good faith, that settlement of this matter will avoid prolonged and complicated litigation between the Signatory Parties, and that this Consent Decree is fair, reasonable, and in the public interest and also in furtherance of the purpose of the MMRA.

Now, THEREFORE, with the consent of the Signatory Parties, it is hereby ADJUDGED, ORDERED, AND DECREED as follows:

II. JURISDICTION AND VENUE

17. This Court has jurisdiction over this action and venue is proper before this Court pursuant to §§ 82-4-361(2), (7), MCA.

18. Subject to the provisions herein, the Signatory Parties reserve all legal and equitable rights and defenses available to them to enforce or defend the provisions of this Consent Decree.

III. PARTIES BOUND

19. This Consent Decree shall apply and is binding on DEQ, Luke Ployhar, Blue Arc, LLC, Owen Voigt, and Legacy Mining, LLC, and each's respective successors, agents, and assigns. FBIC, along with its successors, agents, and assigns, is bound by Paragraph 26, Paragraph 28, Paragraph 46, and the dismissal of its claims with prejudice.

IV. TERMS OF SETTLEMENT

A. Total Payment in Full Satisfaction

20. Defendants agree to pay the total sum of \$200,000 to DEQ in full satisfaction of any and all claims that have been or could be brought in this case and alleged debts owed, including for reclamation of the disturbances ("Total Payment"). Defendants shall pay the Total Payment as follows:

- a. Subject to Paragraph 20(b) below, Defendants shall pay the Total Payment in five equal installments of \$40,000, remitted by either cashier's check or cash, to DEQ. The first payment shall be due no later than six months after this Court adopts this Consent Decree, with successive payments due on the anniversary date of the first payment each following year thereafter, with the final payment due no later than four years after the date of the first payment.
- b. At their sole discretion, Defendants may elect to pay the Total Payment before it is due under Paragraph 20(a) without incurring any prepayment penalty for the early payment.

21. Any change in ownership or corporate status of the Defendants, including any transfer of assets or real or personal property, shall in no way alter Defendants' obligation to pay the Total Payment.

22. DEQ shall deposit the Total Payment into the Environmental Rehabilitation and Response Account as set forth in §§ 82-4-311 and 75-1-110, MCA. DEQ agrees that the Total Payment shall be used in furtherance of the remediation and ongoing water treatment at Zortman Mining Complex.

B. Access Agreement

23. Blue Arc and DEQ agree to execute the Access Agreement, which is attached as **Exhibit A**. The Access Agreement memorializes DEQ's access rights across the Property for purposes of ongoing water treatment and remediation obligations. No later than 90 days after this Court adopts the Consent Decree, Blue Arc and DEQ shall each execute the Access Agreement.

C. Exploration License

24. Blue Arc agrees to withdraw Exploration License No. 00846 at issue in *Fort Belknap Indian Community, et al., v. Mont. Dep't of Env'tl. Quality, et al.*, DV-2021-13, Mont. 17th Jud. Dist. (April 1, 2021). No later than 90 days after this Court adopts the Consent Decree, Blue Arc shall send a letter to DEQ withdrawing Exploration License No. 00846. The withdrawal of the license is without prejudice to resubmit an application for an exploration license and shall not constitute a waiver of future rights.

D. Safety Gates on Historical Portal Entrances

25. Blue Arc agrees to install safety gates on Disturbance No. 7 (Pink Eye Portal) and Disturbance No. 8 (Badger King Portal). Prior to doing so, Blue Arc shall submit the plans for the safety gates to DEQ, but no consent is required from DEQ for Blue Arc to install the safety gates and the installation of gates are not subject to DEQ's approval. Blue Arc agrees to bear all costs and expenses associated with installation of the safety gates. No later than 1 year after this

Court adopts the Consent Decree, Blue Arc shall have installed the safety gates on the two portals.

V. COSTS AND FEES

26. All parties to this case shall bear their own costs and attorneys' fees.

VI. EFFECTIVE DATE AND TERMINATION

27. The effective date of this Consent Decree shall be the date that the Court enters this Consent Decree. The Consent Decree shall terminate upon satisfaction of the provisions in Section IV of this Consent Decree. Termination of this Consent Decree shall not affect the provisions in Section VII, which shall survive the termination of this Consent Decree. If the Court declines to enter this Consent Decree, Defendants are released of any and all obligations under this Consent Decree and the making of this Consent Decree shall be without prejudice to the Defendants. This Consent Decree may not be modified or altered without the written agreement of all of the Signatory Parties and approval of the Court.

VII. EFFECT OF SETTLEMENT

28. All Claims Resolved. This Consent Decree resolves all DEQ's and FBIC's claims at issue in this case. Defendants are relieved of any and all liability for the claims and legal violations alleged in DEQ's Complaint and Amended Complaint. Defendants are relieved of any and all liability for the claims and legal violations alleged in FBIC's Complaint and Amended Complaint.

29. Covenants. DEQ covenants not to sue or to take administrative action against Defendants with regard to the claims alleged in the Complaint and Amended Complaint.

30. Release. DEQ fully and forever releases and discharges Defendants and Defendants' successors, affiliates and associated companies, subsidiaries, assigns, agents,

representatives, consultants, shareholders, members, managers, directors, officers, managers, partners, employees, and attorneys from any and all actions, claims, causes of action, demands, costs, or expenses for damages or injuries, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of, relating to, or in connection with the above-captioned case.

31. Future Damages. Inasmuch as the injuries, damages, and losses resulting from the events giving rise to the above-captioned lawsuit may not be fully known and may be more numerous or more serious than it is now understood or expected, DEQ agrees, as a further consideration, that the release in Paragraph 30 applies to any and all injuries, damages, and losses resulting from the events giving rise to the above-captioned case, even though now unanticipated, unexpected and unknown, as well as any and all injuries, damages and losses which have already developed and which are now known or anticipated.

32. No Admission of Liability. This Consent Decree and any terms or representations made herein shall not be construed as admissions of wrongdoing or liability against Defendants. Except in proceedings to enforce the provisions of this Consent Decree, the Consent Decree shall not be admissible in any judicial or administrative proceedings. Nothing in this Consent Decree shall constitute an admission of any wrongdoing or any admission or adjudication of any issue of fact or violations of any law.

33. No Third-Party Beneficiaries. Except as provided in Paragraph 30 and Paragraph 31, this Consent Decree is not intended to confer any benefit whatsoever on any person, entity, or party other than the Signatory Parties.

34. Future Violations of MMRA. If in the event Defendants are found liable by a court of competent jurisdiction for any future MMRA violations unrelated to the claims in the

above-captioned case, the Signatory Parties agree that any such violation shall qualify as a repeat violation for purposes of determining an appropriate penalty under § 82-4-1001(1)(c), MCA.

35. Acknowledgement. Defendants acknowledge the past history and effects of Zortman Mining's historical mining activities on the landscape, including resulting acid rock drainage and, the environmental sensitivity of the area with respect to ongoing water treatment resulting from these past activities.³

36. Future Exploration/Mining Approval. Nothing in this Consent Decree shall be construed to limit, restrict, or preclude Defendants from applying for and obtaining an exploration license, mining permit, or any other form of approval, including but not limited to a small miner exclusion statement. Nothing in this Consent Decree waives any of Defendants' rights or claims unless expressly stated in this Decree.

VIII. ENTIRE AGREEMENT AND MODIFICATION

37. This Consent Decree constitutes the final, complete, and exclusive agreement and understanding among the parties hereto with respect to the settlement embodied in the Consent Decree and supersedes all prior agreements and understandings, whether oral or written, concerning the settlement embodied herein. No other document, representation, inducement, agreement, understanding or promise unless otherwise stated or explicitly incorporated by reference herein constitutes any part of this Consent Decree, nor shall it be used in construing the terms of this Consent Decree.

IX. NOTICE AND CURE

38. Notice of Default: Prior to seeking judicial enforcement of this Consent Decree or any remedy for an alleged breach hereof, the non-breaching Signatory Party shall provide written

³ Defendants note their intent to issue a statement after the conclusion of this litigation.

notice of the alleged default or breach to the breaching Signatory Party (the “Default Notice”). The Default Notice shall: (i) identify the specific provision(s) of the Consent Decree alleged to have been breached; (ii) describe in reasonable detail the facts and circumstances constituting the alleged breach; and (iii) identify the actions the non-breaching Signatory Party believes are necessary to cure the breach.

39. Response to Default Notice: Within twenty (20) days of receipt of a Default Notice, the Signatory Party receiving such notice shall respond in writing, either: (i) agreeing to cure, or (ii) disputing that a breach has occurred.

40. Cure Period: In the event the Signatory Party receiving a Default Notice has agreed to cure, the Signatory Party shall have forty-five (45) days from receipt of the Default Notice to cure the alleged breach (the “Cure Period”). If the alleged breach is of a nature that cannot reasonably be cured within forty-five (45) days, the Cure Period shall be extended provided that the breaching Signatory Party: (i) commences cure efforts within the initial forty-five (45) day period; (ii) provides the non-breaching Signatory Party with a written plan for cure, including a proposed timeline, within the initial forty-five (45) day period; and (iii) diligently and continuously pursues cure to completion. In no event shall the extended Cure Period exceed one hundred twenty (120) days from receipt of the Default Notice without the written consent of the non-breaching Signatory Party or an order of this Court.

41. Good Faith Consultation: In the event the Signatory Party receiving the Default Notice refuses to cure, or if the Signatory Parties cannot agree on a cure, the Signatory Parties shall engage in good faith consultation to attempt to resolve the alleged breach or dispute for at least forty-five (45) days from the Default Notice without judicial intervention. Either Signatory

Party may request a meeting or conference (in person or by telephone/video) to discuss the alleged breach and potential resolution.

42. Enforcement: If the alleged breach is not cured within the Cure Period (as may be extended), and the Signatory Parties have been unable to resolve the dispute through good faith consultation, the non-breaching Signatory Party may seek enforcement of this matter for purposes of enforcement of this Consent Decree.

X. SIGNATORIES

43. Each undersigned representative of the Signatory Parties certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind the party he or she represents. The Consent Decree may be signed in counterparts, and its validity shall not be challenged on that basis.

XI. EFFECT OF AN APPEAL

44. If an appeal is taken from this Consent Decree, it shall suspend Defendants' obligations in this Consent Decree, including their payment obligations under Section IV. If the Court's entry of this Consent Decree is reversed or remanded on appeal, Defendants are released from any and all obligations under this Consent Decree and the making of this Consent Decree shall be without prejudice to the Defendants. If this Consent Decree is affirmed on appeal, the date of the Montana Supreme Court's remittitur shall be treated as if the Consent Decree were entered on that date and Defendants' obligation under Section IV shall begin as if this Court entered the Consent Decree on the date of the remittitur.

XII. NOTICES

45. All notices, requests, claims, demands, waivers, and other communications hereunder shall be in writing and shall be deemed to have been given: (a) when delivered by

hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective Signatory Parties at the addresses provided below:

Montana Department of Environmental Quality

Dan Walsh
Administrator, Air, Energy, & Mining Division
P.O. Box 200901
Helena, MT 59620-0901
dwalsh@mt.gov

with a copy to (with such copy not constituting notice):

Sam King
Chief Legal Counsel
P.O. Box 200901
Helena, MT 59620-0901
samuel.king@mt.gov

Luke Ployhar and Blue Arc, LLC

Luke Ployhar
P.O. Box 263
Gallatin Gateway, MT 59730-0263
lployhar@gmail.com

with a copy to (with such copy not constituting notice):

Matthew Dolphay
Holland & Hart LLP
P.O. Box 639
Billings, MT 59103
mhdolphay@hollandhart.com

Owen Voigt and Legacy Mining, LLC

Owen Voigt
P.O. Box 183
Basin, MT 59631
ovoigt20@gmail.com

with a copy to (with such copy not constituting notice):

Abigail Brown
Parsons Behle & Latimer
P.O. Box 104
Helena, MT 59624
abbybrown@parsonsbehle.com

XIII. FINAL JUDGMENT

46. The claims of DEQ and FBIC in the above-captioned case are dismissed with prejudice. The Consent Decree is a final judgment of the Court as to the above-captioned case and is entered as judgment under Montana Rules of Civil Procedure 54 and 58. The Clerk shall administratively close this case on the Court’s docket.

MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY

Date: 5/22/2026

Signed by:
Sonja Nowakowski
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Sonja Nowakowski
Director
Montana Department of
Environmental Quality

LUKE PLOYHAR AND BLUE ARC, LLC

Date: _____

Luke Ployhar

Owen Voigt and Legacy Mining, LLC

Owen Voigt
P.O. Box 183
Basin, MT 59631
ovoigt20@gmail.com

with a copy to (with such copy not constituting notice):

Abigail Brown
Parsons Behle & Latimer
P.O. Box 104
Helena, MT 59624
abbybrown@parsonsbehle.com

XIII. FINAL JUDGMENT

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MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY

Date: _____

Sonja Nowakowski
Director
Montana Department of
Environmental Quality

LUKE PLOYHAR AND BLUE ARC, LLC

Date: 5/22/2026

Luke Ployhar
Luke Ployhar

Date: 5/22/2026

Luke Ployhar
Blue Arc, LLC

OWEN VOIGT AND LEGACY MINING, LLC

Date: May 22, 2026

Owen Voigt
Owen Voigt

Date: May 22, 2006

Owen Voigt as president of Trilord Mining
Legacy Mining, LLC
LLC

SO ORDERED this _____ day of _____ 2026.

Honorable Yvonne Laird
District Court Judge

OWEN VOIGT AND LEGACY MINING, LLC

Date: _____

Owen Voigt

Date: _____

Legacy Mining, LLC

SO ORDERED this _____ day of _____ 2026.

Honorable Yvonne Laird
District Court Judge