

July 23, 2026

Scott Osterman
Chief Executive Officer
U.S. Critical Materials
206 S. Main, Unit B
Darby, MT 59829

Sent by e-mail to: scott.osterman@uscriticalmaterials.com

RE: U.S. Critical Materials Sheep Creek Project

Dear Mr. Osterman,

On July 20, 2026, the Department of Environmental Quality (DEQ) received your request for a formal determination on the applicability of the Metal Mine Reclamation Act (MMRA), Sections 82-4-301, et seq., Montana Code Annotated (MCA), to your proposed project in the Sheep Creek drainage. In your request you identified 1) the small, anticipated exploration disturbance area of 0.3 acres, 2) the United States Forest Service (USFS) review of the U.S. Critical Materials' (USCM) Plan of Operations, 3) reference to Section 82-4-309, MCA, and 4) USCM's correspondence to USFS District Ranger Dan Pliley as reasons DEQ should determine the MMRA is not applicable to USCM's Sheep Creek exploration project.

DEQ disagrees with your assessment. The MMRA is applicable to USCM's Sheep Creek exploration project for the following reasons:

- disturbance of land during exploration;
- nonexempt operations on federal lands; and,
- no exemption for national security priority to mine rare earth minerals.

Disturbance of Land During Exploration

The MMRA applies to all exploration and mining activities with regards to minerals as defined in Section 82-4-303(16), MCA, unless specifically exempted. USCM's reference to Section 82-4-303(12)(a) as support that a 0.3-acre disturbance is not "material disturbance of the surface" is incorrect and ignores the plain reading of the statutory text. Section 82-4-303(12)(a) states "all activities that are conducted at or beneath the surface of lands and that result in material disturbance of the surface for determining the presence, location, extent, depth, grade, and economic viability of mineralization in those lands, if any, other than mining for production and economic exploitation; and..." DEQ has interpreted the portion of the definition of exploration,

as defined in 82-4-303(12)(a) to mean any human-made alteration of the land surface for determining the presence, location, extent, depth, grade, and economic viability of mineralization in those lands, if any, other than mining for production and economic exploitation. DEQ's interpretation is further supported by the initial phrase contained in the definition whereby "all activities that are conducted" are regulated as an exploration activity. DEQ does not agree with USCM's assertion that the amount of disturbance is a factor for determining whether an exploration activity is regulated if any surface disturbance is proposed.

Nonexempt Operations on Federal Lands

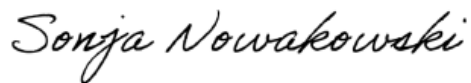
USCM points to Section 82-4-309, MCA, as authority for DEQ to exempt mining on certain federal lands. DEQ has carefully considered the exemption proposed in Section 82-4-309, MCA. In addition, DEQ staff have reviewed the Administrative Rules of Montana (ARM) 17.24.101(9) which details the specific activities that are exempted. ARM 17.24.101(9) states: "Common use pits and quarries on federal land which are available to the general public for the exclusive or nonexclusive procurement of rock or stone and which are administered by the responsible federal agency under appropriate regulations are not subject to these rules, pursuant to 82-4-309, MCA. DEQ has not determined any other type of operations conducted on federal lands are exempt from regulation under the MMRA.

No Exemption for National Security Priority to Mine Rare Earth Minerals

DEQ recognizes the critical need for rare earth minerals. However, DEQ does not have authority to exempt the proposed exploration project from the requirements of the MMRA. Rather, submittal of an application for an exploration license, reviewed in complete compliance with both the MMRA and Montana Environmental Policy Act, is the required process for regulatory consideration of the proposed Sheep Creek project activities.

Please contact me if you have any questions.

Sincerely,



Sonja Nowakowski
Director
Montana Department of Environmental Quality
sonja.nowakowski@mt.gov

CC: Martin Stratte (Hunton), mstratte@hunton.com
Eric Levy-Myers (U.S. Critical Materials), eric@uscriticalmaterials.com