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AGENDA

FRIDAY, JULY 26, 2013

METCALF BUILDING, ROOM 111

1520 EAST SIXTH AVENUE, HELENA, MONTANA

NOTE: Individual agenda items are not assigned specific times. For public notice purposes, the meeting will begin no earlier than the time specified; however, the Board might not address the specific agenda items in the order they are scheduled. The Board will make reasonable accommodations for persons with disabilities who wish to participate in this meeting. Please contact the Board Secretary by telephone at (406) 444-6701 or by e-mail at jwittenberg@mt.gov no later than 24 hours prior to the meeting to advise her of the nature of the accommodation you need.

9:00 A.M.

I. ADMINISTRATIVE ITEMS

A. REVIEW AND APPROVE MINUTES

1. May 17, 2013, Board meeting minutes.

II. BRIEFING ITEMS

A. CONTESTED CASE UPDATE

1. Enforcement cases assigned to the Hearing Examiner
 - a. **In the matter of violations of the Public Water Supply Laws by Trailer Terrace Mobile Park, LLC, Dennis Deschamps and Dennis Rasmussen at the Trailer Terrace, PWSID No. MT0000025, Great Falls, Cascade County, BER 2012-11 PWS.** The parties have until August 1, 2013, to settle the matter or file a joint proposed prehearing schedule.
 - b. **In the matter of violations of the sanitation in subdivisions act by Levi Britton at the 80th Street Estates Subdivision, Billings, Yellowstone County, BER 2013-03 SUB.** A First Prehearing Order was issued on March 26, giving the parties until April 8, 2013, to submit a joint proposed schedule.
2. Other Cases Assigned to a Hearing Examiner
 - a. **In the matter of the request for hearing by Hawthorne Springs Property Owners Association; H Lazy Heart, LLC; Patchy, Inc.; and other residents regarding Opencut Mining Permit No. 2258, issued to Farwest Rock Products, Missoula County, BER 2012-09 OC.** Oral argument on DEQ's motion for summary judgment took place May 20, 2013, and a decision is pending.
3. Contested Cases not assigned to a Hearing Examiner
 - a. **In the matter of the request for hearing by William E. Smith, on behalf of Mike Adkins, regarding Park County's denial to validate Adkins Class III Waste Tire Monofill License No. 517, BER 2012-05 SW.** At its July 27, 2012, meeting, the Board voted to hear all matters in this case. On September 11, 2012, the Board granted a motion to stay proceedings until disposition of the Petition for Judicial Review filed in the Sixth Judicial District. Counsel for DEQ submitted a written status report concerning the progress of the case in District Court on March 11, 2013. Counsel for Protecting Paradise filed a written status report on May 9, 2013.

- b. **In the matter of the notice of appeal and request for hearing by Western Energy Company (WECO) regarding its MPDES Permit No. MT0023965 issued for WECO's Rosebud Mine in Colstrip, BER 2012-12 WQ.** On December 19, the Board received *Motion to Intervene* from counsel for Montana Environmental Information Center and Sierra Club. On December 24, attorney for the Appellant filed *Agreed Motion for Extension to File Response Briefs and Reply Briefs Regarding Intervention and Agreed Motion to Vacate First Scheduling Order*. On January 2, 2013, the hearing examiner issued *Order Granting Extension to File Briefs on Motion to Intervene and Order Vacating First Scheduling Order*. On January 23, 2013, the Board received *Opposition Brief to Motion to Intervene* from the attorney for the Appellant, and on February 8 it received *Reply in Support of Motion to Intervene* from the proposed intervener. A hearing on the *Motion to Intervene* occurred on May 7, 2013. On June 13, 2013, counsel for Western Energy filed *Motion for Pro Hac Vice Admission for Good Cause Shown* to admit John C. Martin.
- c. **In the matter of the request for hearing by Montana Environmental Information Center and Sierra Club regarding DEQ's issuance of Montana Air Quality Permit No. OP0513-08 for the Colstrip Steam Electric Station, Colstrip, BER 2013-01 AQ.** At its January 25 meeting, the Board chose to not appoint a hearings examiner for this matter. On May 28, 2013, the hearing examiner issued *Second Amended Scheduling Order*, setting oral argument on pending motions for October 22, 2013. The contested case hearing is set for December 6, 2013.
- d. **In the matter of the request for hearing by Montana Environmental Information Center and Sierra Club regarding DEQ's issuance of Montana Air Quality Permit No. OP2953-07 for the JE Corette Steam Electric Station, Billings, BER 2013-02 AQ.** At its January 25, 2013, meeting, the Board chose to not appoint a hearings examiner for this matter. On May 28, 2013, the hearing examiner issued *Second Amended Scheduling Order*, setting oral argument on pending motions for October 22, 2013. The contested case hearing date is set for the regularly scheduled meeting in January or February of 2014.

B. OTHER BRIEFING ITEMS

1. Nutrient Reduction Strategy Briefing – The department will brief the Board on water quality items facing the BER and explain how they all tie together.
2. Legislative Briefing – The Department will brief the Board on bills passed by the 2013 Legislature that affect the Board.
3. Current Rulemakings – The department will present a brief description of rulemakings currently in progress.

III. ACTION ITEMS

A. NEW CONTESTED CASES

1. **In the matter of the notice of appeal and request for hearing by City of Whitefish regarding DEQ's notice of final decision for its MPDES Permit No. MT0030414 issued for Whitefish Water Treatment Plant, BER 2013-04 WQ.** The Board received the appeal on June 12, 2013. The Board may assign a permanent hearing examiner or decide to hear the matter.

IV. GENERAL PUBLIC COMMENT

Under this item, members of the public may comment on any public matter within the jurisdiction of the Board that is not otherwise on the agenda of the meeting. Individual contested case proceedings are not public matters on which the public may comment.

V. ADJOURNMENT