



Montana Board of Environmental Review

P. O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • Website: www.deq.state.mt.us

AGENDA

FRIDAY, JULY 25, 2014

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 4 days 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. The Board will vote on adopting the May 30, 2014, 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.** A Fifth Order Granting Extension was issued on May 16, 2014, giving the parties through August 1, 2014, to settle the matter or file a joint proposed prehearing schedule.
 - b. **In the matter of violations of the Sanitation in Subdivisions Act and Public Water Supply Laws by Roger Emery at the Sunrise Motel, Sidney, Richland County, BER 2013-06 SUB.** On June 4, 2014, the attorney for DEQ filed Department of Environmental Quality's Motion for Summary Judgment and Brief in Support.
2. Non-enforcement cases assigned to the Hearings Examiner
 - a. **In the matter of the notice of appeal and request for hearing by Yellowstone Energy Limited Partnership (YELP) regarding issuance of MPDES Permit NO. MT0030180 for YELP's facility in Billings, MT, BER 2014-01 WQ.** On April 29, 2014, the attorney for YELP filed Unopposed Motion to Stay Proceedings, and on May 6, 2014, the Interim Hearings Examiner issued Order Granting Motion to Stay Proceedings, requiring a status report no later than August 1, 2014.

3. Contested Cases not assigned to a Hearing Examiner
 - a. **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 April 9, 2014, the hearing examiner issued an Order Granting the Joint Unopposed Motion for Partial Remand of Permit to Department of Environmental Quality and for Suspension of Proceedings. On May 14, 2014, DEQ filed a Status Report regarding the matter. A modified permit will be made available for public comment on or before June 9, 2014.
 - b. **In the matter of the notice of appeal for hearing by Montana Environmental Information Center regarding DEQ's approval of coal mine permit No. C1993017 issued to Signal Peak Energy, LLC, for Bull Mountain Mine No. 1 in Roundup, MT, BER 2013-07 SM.** The following documents have been filed in this matter since the March 21 Board meeting, and resolution of two motions is pending.
 - 4/11/14 – Appellant Montana Environmental Information Center's Motion for Summary Judgment and Brief in Support
 - 5/30/14 – Department of Environmental Quality Response Brief in Opposition to [MEIC's] Motion for Summary Judgment
 - 5/30/14 – Signal Peak Energy, LLC's Cross-Motion for Summary Judgment
 - 5/30/14 – Signal Peak Energy, LLC's Combined Response to MEIC's Motion for Summary Judgment and Brief in Support of Cross-Motion for Summary Judgment

III. ACTION ITEMS

A. INITIATION OF RULEMAKING

DEQ will propose that the Board initiate rulemaking to:

1. In the matter of the amendment of ARM 17.30.1101, 17.30.1102, 17.30.1105, 17.30.1106, 17.30.1107, 17.30.1111, 17.30.1341 and 17.30.1342 pertaining to Montana pollutant discharge elimination system (MPDES) permits, purpose and scope, definitions, permit requirements, exclusions, designation procedures: small municipal separate storm sewer systems (MS4s), application procedures, permit requirements, general permits and conditions applicable to all permits and repeal of ARM 17.30.1110, 17.30.1115 and 17.30.1117 application procedures: general, notice of intent procedures, and transfer of permit coverage.

B. REPEAL, AMENDMENT, OR ADOPTION OF FINAL RULES

1. Title 17, Chapter 36, Sub-Chapter 9, On-Site Subsurface Wastewater Treatment Systems by updating definitions and Table 1 Setback Distances to provide consistency between the subdivision rules in Title 17, Chapter 36 and DEQ Circular 4, 2013, edition. Title 17, Chapter 38, Sub-chapter 101(4)(d) to adopt by reference the proposed changes to Title 17, Chapter 36 for Subdivisions; specifically ARM 17.36.320 through 17.36.323, 17.36.325 and to remove the adoption by reference to ARM 17.36.327. Title 17 Chapter 38, Sub-chapters 106(2) (a), (d), and (e) to provide fee structure consistency for review of public water supply and sewage systems that correspond to the proposed changes to

Department Circular DEQ-1, the adopted changes to Department Circular DEQ-4, 2013 edition, and new proposed Department Circular DEQ-10. Title 17, Chapter 38, Sub-chapter 106(2) to add a provision (f) for the review of public water supply systems that corresponds to proposed Department Circular DEQ-16.

2. The Department recommends adoption of the proposed amendments to Title 17, Chapter 38, Sub-Chapter 1, Public Water and Sewer Plans, Cross Connections, and Drilling Water Wells, updating Department Circulars DEQ-1 and DEQ-3 related to public drinking water design standards to the 2014 edition, clarification of the requirements for the submission of plans and specifications, clarification of the engineering review fee tables, updating expedited checklists, adding new Department Circular DEQ-10 describing the use of spring's as a public source and new Department Circular DEQ-16 describing the use of cisterns for non-community public water systems, and amendments to Title 17, Chapter 36, Sub-chapter 3, Subdivisions/On-site Subsurface Wastewater Treatment, to adopt the 2014 editions of DEQ-1 and DEQ-3.
3. In the matter of new Department Circular DEQ-12A "Montana base numeric nutrient standards" for surface waters, and the amendment of rules in MAR Notice No. 17-356 to incorporate the base numeric nutrient standards into the water-quality standards. The Department is requesting the new circular and the rule amendments be adopted by the Board.

C. FINAL ACTION ON CONTESTED CASES

1. **In the matter of appeal and request for hearing by Missoula County and the Clark Fork Coalition regarding DEQ's issuance of MPDES Permit No. MT0000035 issued to M2Green Redevelopment's site in Frenchtown, MT, BER 2014-02/03 WQ.** On June 30, 2014, the Board received Stipulation for Dismissal of Administrative Appeal signed by the parties. An order to dismiss the appeal will be presented for the Chair to sign.
2. **In the matter of violations of the Clean Air Act of Montana by Myrstol Logging, Inc., Clyde Park, Park County, MT, BER 2014-04 AQ.** The Board received the appeal on June 2, 2014, and on June 11, a First Prehearing Order was issued. On June 25, 2014, the Board received an informal notice from the appellant that he was withdrawing his appeal. On July 14, 2014, the Board received a formal Withdrawal of Request for Contested Case from the appellant. An order dismissing the case will be presented for the Chair's signature.

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