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TELECONFERENCE AGENDA

FRIDAY, SEPTEMBER 26, 2014

METCALF BUILDING, ROOM 111

1520 EAST SIXTH AVENUE, HELENA, MONTANA

NOTE: It is expected that most available Board members will be participating telephonically. The Board attorney and secretary, along with any Board members who so choose, will be present at the location stated above. Interested persons, members of the public, and the media are welcome to attend at the location stated above. Members of the public and press also may join Board members with prior arrangement. Contact information for Board members is available on the Board's Website (<http://www.deq.mt.gov/ber/index.asp>) or from the Board Secretary (406-444-2544). The Board will make reasonable accommodations for persons with disabilities who wish to participate in this meeting. Please contact the Board Secretary by telephone 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 needed.

9:00 A.M.

I. ADMINISTRATIVE ITEMS

A. REVIEW AND APPROVE MINUTES

1. The Board will vote on adopting the July 25, 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.** On August 1, 2014, the parties submitted a Proposed Schedule with a hearing proposed for the week of April 27, 2015.
 - 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, and on August 29, 2014, he filed Department's Motion to Continue Hearing and Request for Prehearing Conference.
 - c. **In the matter of final action regarding the 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 was presented to the Board at its July 25 meeting. The Board did not take action on the order.

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. On August 5, 2014, the Board received Status Report from the attorneys for appellant YELP.

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 hearings 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 July 25 Board meeting:

- 7/11/14 – Appellant Montana Environmental Information Center's Reply in Support of Motion for Summary Judgment
- 7/30/14 – DEQ's Surreply Brief in Response to MEIC Reply Brief Filed July 7, 2014
- 7/30/14 – DEQ's Unopposed Motion for Leave to File Surreply Brief and to Extend Briefing Schedule
- 7/30-14 – DEQ's Request for Oral Argument
- 7/30/14 – DEQ's Notice of Errata for Response Brief Filed May 30, 2014
- 8/4/14 – Order Granting Leave to File Surreply and Extending Briefing Schedule
- 8/8/14 – Signal Peak Energy, LLC's Combined Reply in Support of Cross-Motion for Summary Judgment and Surreply to MEIC's Motion for Summary Judgment
- 8/25/14 – Appellant Montana Environmental Information Center's Surreply in Support of Summary Judgment

B. OTHER BRIEFING ITEMS

1. The department will provide the Board with a report regarding the air quality permit fees that are anticipated for the next calendar year, as required by ARM 17.8.510(1).

III. ACTION ITEMS

A. REPEAL, AMENDMENT, OR ADOPTION OF FINAL RULES

1. In the matter of final adoption of the proposed amendments to ARM 17.8.501 Definitions and 17.8.504 Air Quality Permit Application Fees, to adjust air quality permit application fees to more closely reflect the cost of processing a permit application, clarify relevant definitions, and make other housekeeping amendments, as noticed in MAR 17-360.
2. In the matter of final adoption of proposed amendments to ARM 17.8.818 Review of Major Stationary Sources and Major Modifications – Source Applicability and Exemptions and 17.8.820 Source Impact Analysis, to reflect changes to major New Source Review Prevention of Significant Deterioration of Air Quality permitting regulations, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC) for PM_{2.5}, as noticed in MAR 17-361.

B. NEW CONTESTED CASES

1. **In the matter of Phillips 66 Company's appeal of Outfall 006 Arsenic Limits in Montana Pollution Discharge Elimination System Permit No. MT0000256, Billings, Yellowstone County, MT, BER 2014-05 WQ.** The Board received the appeal on August 6, 2014. The Board may appoint a permanent hearings examiner or decide to hear the matter.
2. **In the matter of Columbia Falls Aluminum Company's (CFAC) appeal of DEQ's modification of Montana Pollutant Discharge Elimination System Permit No. MT0030066, Columbia Falls, Flathead County, MT, BER 2014-06 WQ.** The Board received the appeal on August 22, 2014. The Board may appoint a permanent hearings examiner or decide to hear the matter.
3. **In the matter of violations of the Opencut Mining Act by Bay Materials, LLC at Normont Farms Pit, Toole County, Montana, BER 2014-07 OC.** The Board received the appeal on August 29, 2014. The Board may appoint a permanent hearings 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