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AGENDA

FRIDAY, DECEMBER 5, 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

The Board will vote on adopting the September 26, 2014, meeting minutes.

B. SET 2015 MEETING SCHEDULE

The Board will discuss meetings dates for next year.

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 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 tabled taking action on the order until it became clear that the District Court would assume jurisdiction. The parties filed their complaint in the First Judicial District on October 24, 2014.

- c. **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 schedule for this matter has been set, and discovery by the parties is ongoing.
 - d. **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.
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.** This matter continues to be stayed. On November 7, 2014, the Board received a joint Status Report from the attorneys for the parties. The parties have requested more time to finalize a stipulation that will conclude this matter.
 - b. **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. At its September 26 meeting, the Board appointed Mr. Reed as the permanent hearing examiner for this matter.
 - c. **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. At its September 26 meeting, the Board appointed Mr. Reed as the permanent hearing examiner for this matter.
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 stating that a modified permit would 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.** There are currently two motions for summary judgment pending in this case that require resolution before hearing.

B. OTHER BRIEFING ITEMS

1. The department will brief the Board on Legislation.

III. ACTION ITEMS

A. INITIATION OF RULEMAKING

DEQ will propose that the Board initiate rulemaking to:

1. Amend ARM 17.8.103, ARM 17.8.202, ARM 17.8.204, ARM 17.8.206, and ARM 17.8.230 to reference the latest version of the Montana Ambient Air Quality Program Quality Assurance Project Plan; incorporate applicable federal ambient air quality monitoring rules and guidance by reference; and remove references to certain outdated and/or improperly incorporated federal guidance and/or policy documents. The department is requesting these amendments to establish a single set of quality assurance requirements applicable to all ambient air quality monitoring conducted within the state of Montana.

B. REPEAL, AMENDMENT, OR ADOPTION OF FINAL RULES

1. In the matter of proposed adoption of amendments to 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 storm water discharges, general permits, and conditions applicable to all permits, and repeal of ARM 17.30.1110, 17.30.1115, and 17.30.1117 pertaining to storm water discharges issued under the Montana Pollutant Discharge Elimination System (MPDES). The Department is requesting that the Board only adopt the amendments to 17.30.1106.

C. NEW CONTESTED CASES

1. **In the matter of violation of the Opencut Mining Act by Somont Oil Company, Inc., at Somont Oil Company gravel pit, Toole County (Permit No. 2597, FID 2326, Docket No. OC-14-021), BER 2014-08 OC.** The Board received the appeal on September 16, 2014. The Board may appoint a permanent hearings examiner or decide to hear the matter.
2. **In the matter of violations of the Public Water Supply Laws by Rene Requa at Highlander Bar and Grill, PWISD MT0004764, Lewis and Clark County (FID 2299, Docket No. PWS-14-08), BER 2014-09 PWS.** The Board received the appeal on October 2, 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