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**TELECONFERENCE AGENDA**

FRIDAY, JANUARY 30, 2015

METCALF BUILDING, ROOM 111

1520 EAST 6<sup>TH</sup> AVENUE, HELENA, MONTANA

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**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](mailto: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 December 5, 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 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.
- c. 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. On December 23, the parties filed Joint Proposed Prehearing Schedule and Form of Order, with a proposed hearing the week of September 28, 2015.
- d. 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. At its December 5 meeting, the Board appointed Mr. Reed as the permanent hearing examiner for this matter.

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 December 16, 2014, the Board received a Joint Status Report from the attorneys for the parties. The parties have requested additional time to present the stipulation, motion, and proposed order to the Board.
  - 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.
  - 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.
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.

### III. ACTION ITEMS

#### A. INITIATION OF RULEMAKING

DEQ will propose that the Board initiate rulemaking to:

1. Amend ARM 17.8.102 to incorporate by reference updated federal and state statutes and regulations.

## B. FINAL ACTION ON CONTESTED CASES

1. **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. On January 1, 2015, the hearing examiner issued Recommended Order on Motion for Summary Judgment recommending the Board issue an order granting the department's motion for summary judgment and provided the Petitioner until January 14 to file written exceptions. No exceptions were received.

## 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