



P. O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544

**AGENDA**

FRIDAY, MARCH 20, 2015  
METCALF BUILDING, ROOM 111  
1520 EAST 6<sup>TH</sup> AVENUE, HELENA, MONTANA  
\*\*\*\*\*

**NOTE:** The Board will make reasonable accommodations for persons with disabilities who wish to participate in this meeting. Please contact the Board Secretary by telephone (406-444-2544) or by e-mail ([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 January 30, 2015, 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 Opencut Mining Act by Bay Materials, LLC at Normont Farms Pit, Toole County, Montana, BER 2014-07 OC.** Discovery by the parties is ongoing.
- b. 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 in September 2014. On December 23, 2014, the parties submitted a Joint Proposed Prehearing Schedule and Form of Order, suggesting a hearing the week of September 18, 2015. On March 6, 2015, the hearing examiner issued the First Prehearing Order requesting the parties submit a proposed schedule by March 16, 2015.
- c. 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. On March 5, 2015, the hearing examiner issued the First Prehearing Order requesting the parties submit a proposed schedule by March 13, 2015.

**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 January 12, 2015, the parties filed Joint Motion for Partial Dismissal of Appeal and Continued Stay of Proceedings. On March 5, 2015, the hearing examiner issued Order for Partial Dismissal of Appeal and Continued Stay of Proceedings extending the stay until July 14, 2015.
  - 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. On March 5, 2015, the hearing examiner issued the First Prehearing Order giving the parties until March 13, 2015, to file a proposed schedule.
  - 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. On March 6, 2015, the hearing examiner issued the First Prehearing Order giving the parties until March 16, 2015, to file a proposed schedule.
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 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 (MEIC) 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 Board was scheduled to hold oral argument on Appellant MEIC's Motion for Summary Judgment, filed April 11, 2014, and on Signal Peak Energy's Cross Motion for Summary Judgment, filed May 30, 2014. On March 12, 2015, the Board received Appellant Montana Environmental Information Center's Unopposed Motion to Reset Hearing on Summary Judgment requesting that oral argument be delayed until the Board's May 29, 2015, meeting.

## B. OTHER BRIEFING ITEMS

1. The department will brief the Board on a future rule initiation to adopt site-specific electrical conductivity (EC) and sodium adsorption ratio (SAR) criteria for Otter Creek, tributary to the Tongue River, based on the natural EC and SAR of Otter Creek.

2. The department will brief the Board on EPA's recent action regarding Montana's Numeric Nutrient Criteria and Variance Rules.

### III. ACTION ITEMS

#### A. REPEAL, AMENDMENT, OR ADOPTION OF FINAL RULES

1. In the matter of proposed adoption of amendments to ARM 17.8.103, ARM 17.8.201, ARM 17.8.202, ARM 17.8.204, 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; remove references to certain outdated and/or improperly incorporated federal guidance and/or policy documents; and the repeal of ARM 17.8.206 pertaining to methods and data. The department is requesting that the Board adopt the amendments as proposed in MAR 17-367, and amended in the Notice of Adoption.

#### B. FINAL ACTION ON CONTESTED CASES

1. **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 March 2, 2015, the parties filed a joint Stipulation for Dismissal. An order dismissing the matter will be presented for the Board'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