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**TELECONFERENCE AGENDA**

FRIDAY, MAY 29, 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 March 20, 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.** On March 16, 2015, the parties filed Joint Motion to Vacate First Prehearing Order and Form of Order requesting to vacate the First Prehearing Order and set June 2, 2015, as the deadline for the parties to submit a proposed revised prehearing schedule. On March 30, 2015, the hearing examiner issued Order Vacating Scheduling Order and ordered the parties to confer and file dates for a new scheduling order by June 2, 2015.
- 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.** On March 6, 2015, the hearing examiner issued the First Prehearing Order requesting the parties submit a proposed schedule by March 16, 2015. The parties filed Joint Response to First Prehearing Order on March 16, requesting an extension of the deadline to file a prehearing schedule. On March 27, the hearing examiner issued Order Extending

Deadline for Submittal of Joint Proposed Prehearing Schedule ordering the parties to confer and propose a schedule by June 2, 2015. On March 30, the hearing examiner issued Order Vacating Scheduling Order and ordered the parties to confer and file dates for a new scheduling order by June 2, 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.** On March 5, 2015, the hearing examiner issued First Prehearing Order requesting the parties submit a proposed schedule by March 13, 2015. On March 13, after consultation with the appellant, the DEQ attorney filed Request for Extension, requesting that the deadline for filing a hearing schedule be extended to May 15. On March 25, the hearing examiner issued Scheduling Order setting a hearing for September 4, 2015. On March 30, the hearing examiner issued Order Vacating Scheduling Order and ordered the parties to confer and file dates for a new scheduling order by June 2, 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.** On March 11, 2015, the Board received Stipulation to Stay Appeal from the parties. On March 25, the hearing examiner issued Order approving the stipulation and ordered the parties to comply with the terms or the stipulation.
- 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 parties filed Stipulated Scheduling Order on March 11, 2015, proposing a hearing the week of April 20, 2016. On March 25, the hearing examiner issued Scheduling Order scheduling a hearing for April 18, 2016.

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.

### III. ACTION ITEMS

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

1. In the matter of the amendment of ARM 17.8.102 and 103 to incorporate by reference updated federal and state statutes and regulations.

#### B. NEW CONTESTED CASES

1. **In the matter of violations of the Water Quality Act by Reflections at Copper Ridge, LLC at Reflections at Copper Ridge Subdivision, Billings, Yellowstone County (MTR105376), BER 2015-01 WQ.** The Board received the appeal April 7, 2015. On May 5, the hearing examiner issued First Prehearing Order requesting the parties consult with each other and file a proposed schedule by May 22, 2015. The Board may assign a permanent hearing examiner or decide to hear the matter.
2. **In the matter of violations of the Water Quality Act by Copper Ridge Development Corporation at Copper Ridge Subdivision, Billings, Yellowstone County (MTR105377), BER 2015-02 WQ.** The Board received the appeal April 7, 2015. On May 5, the hearing examiner issued First Prehearing Order requesting the parties consult with each other and file a proposed schedule by May 22, 2015. The Board may assign a permanent hearing 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. CONTESTED CASE HEARING – **POSTPONED (date to be determined)**

**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 Board will 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.

### VI. ADJOURNMENT