

**AGENDA**

FRIDAY, JULY 31, 2015

METCALF BUILDING, ROOM 111

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

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**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 May 29, 2015, meeting minutes.

B. OCTOBER MEETING DATE DISCUSSION

**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 May 19, 2015, the parties filed Second Joint Proposed Prehearing Schedule and Form of Order. On May 20, the hearing examiner issued Order Adopting Second Joint Proposed Prehearing Schedule and Setting Prehearing Conference and Hearing Dates, setting a hearing for September 14, 2015. On May 28, DEQ Counsel filed Unopposed Motion to Continue Hearing Date, requesting a hearing date of October 5, 2015. On June 1, the hearing examiner issued Order Continuing Hearing Date, setting the hearing for October 5, 2015. On June 16, Bay Materials filed Bay Materials, LLC's Response Brief in Opposition to DEQ's Motion for Summary Judgment.
- 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 May 19, 2015, the parties filed Second Joint Proposed Prehearing Schedule and Form of Order, requesting a hearing the week of October 5, 2015, or later. On May 20, the hearing examiner issued Order Adopting Second Joint Proposed Prehearing Order and Setting Prehearing Conference and Hearing Dates, setting a hearing for October 5, 2015. On May 28, DEQ Counsel filed Unopposed Motion to Continue Hearing Date, requesting the hearing be scheduled for October 19, 2015. On June 1, the hearing examiner issued Order Continuing Hearing Date, setting the hearing for October 19, 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 July 14, 2015, the hearing examiner issued a Scheduling Order with a hearing date at the end of January, 2016.
  - d. **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.** On May 26, 2015, the hearing examiner issued a Scheduling Order with a hearing date of July 19, 2016.
  - e. **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.** On May 26, 2015, the hearing examiner issued a Scheduling Order with a hearing date of June 14, 2016.
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 June 11, attorney for appellant filed Unopposed Motion to Extend Stay and Reporting Deadlines, requesting continuance of the Stay until February 1, 2016. On June 16, the hearing examiner issued Order Extending Stay / Reporting Deadlines, continuing the Stay until February 1, 2016.
  - 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.** On March 25, 2015, 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.

## B. LEGISLATION BRIEFING

### III. ACTION ITEMS

#### A. NEW CONTESTED CASES

1. **In the matter of violations of the Water Quality Act by Buscher Construction and Development, Inc., at Poly Vista Estates, Trailhead, and Falcon Ridge II Subdivisions, Billings, Yellowstone County, BER 2015-03 WQ.** The Board received the appeal on June 8, 2015. The Board may assign a permanent hearing examiner or decide to hear the matter.

#### B. INITIATION OF RULEMAKING

DEQ will propose that the Board initiate rulemaking to:

1. Adopt site specific electrical conductivity (EC) and sodium adsorption ratio (SAR) criteria for Otter Creek, tributary to the Tongue River. The proposed criteria are based on the natural EC and SAR of Otter Creek.
2. Meet the requirements of Section 128 of the federal Clean Air Act (CAA) regarding State boards and "conflict of interest."

### 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.

**11:00 a.m.**

### V. CONTESTED CASE HEARING

**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