

TELECONFERENCE AGENDA
THURSDAY APRIL 21, 2016
METCALF BUILDING, ROOM 111
1520 EAST 6th 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://deq.mt.gov/DEQAdmin/ber>) 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 hhoule@mt.gov no later than 24 hours prior to the meeting to advise her of the nature of the accommodation needed.

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12:00 PM

I. ADMINISTRATIVE ITEMS

A. REVIEW AND APPROVE MINUTES

1. The Board will vote on adopting the February 5, 2016 meeting minutes.

B. REVIEW, MODIFY, AND APPROVE REMAINING 2016 MEETING SCHEDULE

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 Rene Requa at Highlander Bar and Grill, PWISD MT0004764, Lewis and Clark County (FID 2299, Docket No. PWS-14-08), BER 2014-09 PWS. Scheduling Order was issued on December 23, 2015.**
- b. **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. An Order Granting Request to Stay Scheduling Order was issued on April 12, 2016.**
- c. **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 February 29, 2016, the parties filed a Joint Stipulation to Stay Scheduling Order.**
- d. **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. A Scheduling Order was issued on November 16, 2015.**

2. Non-enforcement cases assigned to the Hearings Examiner

- a. **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 25, 2015, the hearing examiner issued an Order Approving the Stipulation to Stay Appeal and ordered the parties to comply with the terms or the stipulation.
- b. **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.** A Joint Motion to Vacate the Remaining Scheduling Order Dates was filed by the parties on April 12, 2016.
- c. **In the matter of Heart K Land & Cattle Co.'s appeal of its final 401 Certification with conditions, BER 2015-05 WQ, application No. MT4010948; MWO-2013-00590-MTB-Addendum, issued by DEQ for the Yellowstone River, Park County, MT.** The Board received the appeal on July 17, 2015. An Amended Scheduling Order was issued on February 11, 2016.
- d. **In the matter of Westmoreland Resources, Inc.'s, BER 2015-06 WQ, appeal of final MPDES permit No. MT0021229 issued by DEQ for the Absaloka Mine in Hardin, Big Horn County, MT.** An Order Granting Request for Stay was issued on January 27, 2016.
- e. **In the matter of the notice of appeal of final MPDES Permit No. MT0000264 Issued by DEQ for the Laurel Refinery in Laurel, Yellowstone County, Montana, BER 2015-07 WQ.** The Department of Environmental Quality filed a Response to Motion to Compel and Disclosure of Individuals and Documents on March 25, 2016.
- f. **In the matter of termination by DEQ of the application by Payne Logging, Inc. Requesting to move boundaries of the Payne Logging facility in Libby, Lincoln County, Montana, BER 2015-08 JV.** The Department of Environmental Quality filed a Motion to Dismissed and Brief in Support of Motion on April 12, 2016.
- g. **In the matter of Appeal Amendment AM4, Western Energy Company Rosebud Strip Mine Area B, Permit No. C1984003B, case number BER 2016-03 SM.** Montana Environmental Information Center filed an Unopposed Motion for Admission Pro Hac Vice of Walton D. Morris, JR on March 16, 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. This matter has

been stayed while an informal judicial review action proceeded. On March 14, 2016, Judge Seeley issued an Order on Summary Judgment invalidating the permit modification and remanding the matter for consideration consistent with the opinion.

B. OTHER BRIEFING ITEMS

1. At a future meeting, the Department will propose that the Board initiate rulemaking on public water supply rule package that incorporates 2015 federal rules into the Montana rules. Included in this package will be adoption of the new federal revised total coliform rule. Federal regulations contain a requirement that this rule be incorporated by February 13, 2017. This will be a lengthy and complex rule package. At this meeting, the Department will give the Board an overview of the package, provide materials outlining the proposed rule changes, describe the Department's proposed deviations from the federal rules and alternative selections where the federal regulations provide alternative methods for compliance, answer Board questions, and give Board members an opportunity to request information pertaining to this matter.

III. ACTION ITEMS

A. NEW CONTESTED CASES

B. INITIATION OF RULEMAKING

DEQ will propose that the Board initiate rulemaking to:

1. Amend ARM 17.8.818 Review of Major Stationary Sources and Major Modifications – Source Applicability and Exemptions, to remove the averaging period for the particulate matter with a diameter of less than 2.5 microns (PM-2.5) significant monitoring concentration (SMC).

C. REPEAL, AMENDMENT, OR ADOPTION OF FINAL RULES

1. Update Circular DEQ-2. The department is updating wastewater operator certification classes, which are detailed in DEQ-2. Therefore, the DEQ-2 circular needs to be updated to remove the outdated information and to add reference to the new information.

D. OTHER ACTION

E. FINAL ACTION ON CONTESTED CASES

1. **In the matter of the revocation of Montana Air Quality Permit No. MAQP# 2554-05, issued to Eureka Pellet Mills (Inc.), Eureka, Lincoln County, MT, BER 2015-04a AQ; the revocation of Montana Air Quality Permit No. MAQP 3039-02, issued to Eureka Pellet Mills (Inc.), Superior, Mineral County, MT, BER 2015-04b AQ; and the revocation of Montana Air Quality Permit No. MAQP# 4057-00, issued to Montana Renewable Resources (LP), Eureka, Lincoln County, MT, BER 2015-04c AQ. On March 8, 2016, Orders of Dismissal were prepared for the Chair's signature.**

2. **In the matter of Appeal of the Denial for the Silverado Heights Subdivision Lots 1 and 10 Rewrite, EQ # 16-1383, Ravalli County, Montana, case number BER 2016-01 PWS.** On March 8, 2016, an Order of Dismissal with Prejudice was issued by the Hearing Examiner and on March 25, 2016, an Order of Dismissal with Prejudice was prepared for the Chair's signature
3. **In the matter of Appeal of the Denial for the Wiediger Family Transfer EQ # 16-1116, Ravalli County, Montana, case number BER 2016-02 PWS.** On March 8, 2016, an Order of Dismissal with Prejudice was issued by the Hearing Examiner and on March 25, 2016, an Order of Dismissal with Prejudice was prepared for the Chair's signature
4. **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.** The parties have filed a Stipulation for Entry of Final Agency Decision, Proposed Board Order, and a modified MPDES Permit for the Board's consideration and final action.

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