

TELECONFERENCE AGENDA

FRIDAY AUGUST 5, 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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9:00 AM

I. ADMINISTRATIVE ITEMS

A. REVIEW AND APPROVE MINUTES

1. The Board will vote on adopting the June 3, 2016 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 Rene Requa at Highlander Bar and Grill, PWISD MT0004764, Lewis and Clark County (FID 2299, Docket No. PWS-14-08), BER 2014-09 PWS.** A Stipulation was filed on July 11, 2016.
 - 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.** A Second Proposed Briefing and Contested Case Hearing Schedule was filed by the Parties on June 25, 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.** A Second Proposed Briefing and Contested Case Hearing Schedule was filed by the Parties on June 25, 2016.
 - 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.** The Parties are proceeding per the Modified Scheduling Order filed 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 Scheduling Order was issued on July 13, 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.** A Reply in Support of Motion for Summary Judgment was filed by Heart K Land and Cattle on July 21, 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 Amended Scheduling Order was issued on May 17, 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.** An Order Modifying the Schedule was issued on July 22, 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.** A Scheduling Order setting dates for filing exceptions and presentation of briefs and oral argument was issued on July 25, 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.** MEIC and Sierra Club filed a Brief in Support of Motion for Summary Judgment on June 15, 2016.
 - h. **In the matter of LT Trucking, LLC, appeal Riverside Contracting Inc., Reclamation Bond Release Permit #2083, CVID#17280, BER2016-04 OC.** A Prehearing Order was issued on July 22, 2016.
 - i. **In the matter of appeal the denial of non-degradation review, Lakes at Heron Subdivision EQ#16-1698, Sanders County, MT, BER2016-05 PWS.** A Scheduling Oder was issued on July 13, 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. The Department will brief the Board on site specific criteria for electrical conductivity and sodium adsorption ratio for Otter Creek, tributary to the Tongue River in southeastern Montana.
2. The Department has been working with a diverse group of stakeholders to develop rules for MCA 75-5-222 (SB 325). The Department would like to brief the Board on the progress of this effort.
3. The Department will brief the Board on the extension of the 45 day review period of 82-4-231(8), MCA, for the written findings in regards to BER2013-07 SM Signal Peak Energy.

4. III. ACTION ITEMS

A. NEW CONTESTED CASES

1. The matter of Violations of the Opencut Mining Act by Big Rock LLC, at Wheeler Gravel Pit, Missoula County, Montana (Opencut No. 719, FID 2471), was filed with the Board on June 15, 2016. A Proposed Scheduling Order was filed by the Parties on July 7, 2016. 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:

C. REPEAL, AMENDMENT, OR ADOPTION OF FINAL RULES

1. Amend ARM 17.8.818, pertaining to the averaging period for the PM-2.5 significant monitoring concentration. The Department requests that the Board amend the rules as noticed in MAR Notice No. 17.838.

D. OTHER ACTION

E. FINAL ACTION ON CONTESTED CASES

F. HEARING

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