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**MEETING MINUTES
JANUARY 25, 2013**

Call to Order

The Board of Environmental Review's regularly scheduled meeting was called to order by Chairman Russell at 9:00 a.m., on Friday, January 25, 2013, in Room 111 of the Metcalf Building, 1520 East Sixth Avenue, Helena, Montana.

Attendance

Board Members Present: Larry Mires

Board Members Present via Telephone: Chairman Joseph Russell, Marvin Miller, Joe Whalen, Larry Anderson, Heidi Kaiser, and Robin Shropshire

Board Attorney Present: Katherine Orr, Agency Legal Services Bureau

Board Secretary Present: Joyce Wittenberg

Court Reporter Present: Laurie Crutcher, Crutcher Court Reporting

Department Personnel Present: Tom Livers – Director's Office; John North and Norman Mullen – Legal; Judy Hanson – Permitting & Compliance Division; Charles Homer, Bob Habeck, Julie Merkel, and Vickie Walsh – Air Resources Management Bureau; Eugene Pizzini and Rachel Clark – Public Water Supply & Subdivisions Bureau; Eric Urban – Water Quality Planning Bureau; Paul Skubinna – Water Protection Bureau; John Arrigo – Enforcement Division

Interested Persons Present: Ken Morrison – PPL Montana; Michael Rieley and Gwen Vashro

Roll call was taken to confirm attendance.

I.A.1 Review and approve December 7, 2012, Board meeting minutes.

Mr. Mires MOVED to approve the December 7, 2012, Board meeting minutes. Mr. Miller SECONDED the motion. The motion CARRIED with a unanimous vote.

III.A.1 In the matter of final adoption of the proposed amendments to Title 17, Chapter 38, Subchapter 1, Public Water and Sewer Plans, Cross Connections, and Drilling Water Wells. *(taken out of order)*

Mr. Pizzini said the Board had initiated rulemaking on September 27, that a public hearing was held on November 28, and that no comments were received. He said the department recommends adoption of the rulemaking as proposed.

Chairman Russell asked if anyone wanted to comment on the matter. There was no response.

Chairman Russell called for a motion to adopt the rule as proposed, and accept the Presiding Officer's report, and the House Bill 521 and 311 Analyses. Mr. Whalen so MOVED. Mr. Miller SECONDED the motion. The motion CARRIED with a unanimous vote.

(At this time, the Board returned to the scheduled order of the agenda.)

II.A.1.a In the matter of violations of the Montana Septage Disposal and Licensure Laws by James Vaughn, d/b/a Any Time Septic & Porta Potty, BER 2011-06 SDL.

Ms. Orr said an order on a renewed motion for summary judgment was issued January 17. She said the next step in this case is a hearing on the penalty.

II.A.1.b In the matter of violations of the Public Water Supply Laws by the city of Ronan Public Water Supply System, BER 2012-04 PWS. *(No discussion took place regarding this matter.)*

Ms. Orr said this case has been deemed submitted concerning a pending motion for summary judgment filed by DEQ. She said she will rule on the pending motion soon.

II.A.1.c In the matter of violation of the Montana Solid Waste Management Act by Valley County Refuse District #1 at the Valley County Landfill, BER 2012-06 SW. *(No discussion took place regarding this matter.)*

Ms. Orr said an order was issued vacating the January 23 hearing and resetting it for March 27. She said oral argument was heard on the pending motion for summary judgment on January 23 and that a recommended order will be issued soon.

II.A.1.d 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. *(No discussion took place regarding this matter.)*

- II.A.1.e In the matter of violations of the Montana Solid Waste Management Act by Asphalt Plus, LLC, a corporation, and Michael C. and Melinda M. Oedekoven, as individuals, at 425 Johnson Lane, Billings, Yellowstone County, BER 2012-13 SW. *(No discussion took place regarding this matter.)*
- II.A.2.a In the matter of the request for hearing by Hawthorne Springs Property Owners Association; H Lazy Heart, LLC; Patchy, Inc.; and other residents regarding Opencut Mining Permit No. 2258, issued to Farwest Rock Products, BER 2012-09 OC. *(No discussion took place regarding this matter.)*
- II.A.3.a In the matter of the request for hearing by William E. Smith, on behalf of Mike Adkins, regarding Park County's denial to validate Adkins Class III Waste Tire Monofill License No. 517, BER 2012-05 SW.

Ms. Orr said there is a parallel proceeding of this case in Park county. She said a status report is due on March 27, but that the parties could report on it at the next Board meeting.

- II.A.3.b In the matter of the notice of appeal and request for heating by Western Energy Company (WECO) regarding its MPDES Permit No. MT0023965 issued for WECO's Rosebud Mine in Colstrip, BER 2012-12 WQ. *(No discussion took place regarding this matter.)*

- III.B.1 In the matter of the request for hearing by Montana Environmental Information Center and Sierra Club regarding DEQ's issuance of Montana Air Quality Permit No. OP0513-08 for the Colstrip Steam Electric Station, Colstrip, BER 2013-01 AQ.

- III.B.2 In the matter of the request for hearing by Montana Environmental Information Center and Sierra Club regarding DEQ's issuance of Montana Air Quality Permit No. OP2953-07 for the JE Corette Steam Electric Station, Colstrip, BER 2013-02 AQ.

Ms. Orr said both III.B.1 and III.B.2 involve a challenge to the issuance of an air quality permit, one at the Colstrip steam electric station and the other at the JE Corette station.

The Board discussed the likelihood of the JE Corette case becoming moot, since there is a possibility of the station closing or being mothballed. Discussion also took place regarding the Board's interest in hearing the matter. The Board took no action on these two items.

Ms. Kaiser recused herself from any action regarding these cases.

- III.C.1 In the matter of violations of the Opencut Mining Act by Brad Blakeman at the Camas Prairie Gravel Pit, Sanders County, BER 2012-01 OC.

Ms. Orr said this item will be moved to the March meeting because Mr. Blakeman was not notified that it was on the agenda. She confirmed that the penalty was still under the Board's consideration and indicated that she would summarize the record for the Board.

III.C.2 In the matter of violations of the Montana Septage Disposal and Licensure Laws by James Vaughn, d/b/a Any Time Septic & Porta Potty, Lake County, BER 2011-06 SDL.

Ms. Orr said a recommended order on the renewed motion for summary judgment had been issued, but was not in the packet. She recommended placing this item on the March agenda also.

III.C.3 In the matter of the request for hearing by Earth Justice, Montana Environmental Information Center, Sierra Club, and National Wildlife Federation regarding the Administrative Order on Consent issued to PPL Montana, LLC, BER 2012-10 MFS.

Ms. Orr said PPL removed the case to District Court and that the petitioners filed a petition for review. She said the matter has been properly removed to District Court and that the Board will have nothing further to do with the case.

IV. General Public Comment

Chairman Russell asked if anyone in the audience would like to address the Board on any matters that pertain to the Board. There was no response.

V. Adjournment

Chairman Russell called for a motion to adjourn. Mr. Miller so MOVED. Mr. Mires SECONDED the motion. The motion CARRIED with a unanimous vote.

The meeting adjourned at 9:29 a.m.

Board of Environmental Review January 25, 2013, minutes approved:



JOSEPH W. RUSSELL, M.P.H.
CHAIRMAN
BOARD OF ENVIRONMENTAL REVIEW

March 22, 2013

DATE