



Montana

Board of Environmental Review

P. O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • Website: www.deq.state.mt.us

TELECONFERENCE MINUTES

JANUARY 27, 2012

Call to Order

The Board of Environmental Review's regularly scheduled meeting was called to order by Chairman Russell at 9:02 a.m., on Friday, January 27, 2012, in Room 111 of the Metcalf Building, 1520 East Sixth Avenue, Helena, Montana.

Attendance

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

Board Attorney Present: None

Board Secretary Present: Joyce Wittenberg

Court Reporter Present: Susan Johnson

Department Personnel Present: Tom Livers (Deputy Director); John North, Jane Amdahl, James Madden, Carol Schmidt – Legal; Judy Hanson – Permitting & Compliance Division; Jon Dilliard, Eugene Pizzini – Public Water Supply & Subdivisions Bureau; Debra Wolfe and Whitney Walsh – Air Resources Management Bureau;

Interested Persons Present: *no members of the public were present in the room or on the phone*

- I.A.1 | Review and approve December 2, 2011, Board meeting minutes.
 Mr. Mires MOVED for the Board to adopt the December 2, 2011, meeting minutes. Mr. Miller SECONDED the motion. The motion CARRIED with a unanimous vote.
- II.A.1.a | In the matter of the Notice of Violations of the Montana Water Quality Act by North Star Aviation, Inc. at Ravalli County Airport, Ravalli County, BER 2009-10 WQ.
- II.A.1.b | In the matter of violations of the Opencut Mining Act by Deer Lodge Asphalt, Inc., at the Olsen Pit, Powell County, Montana, BER 2011-02 OC.
- II.A.1.c | In the matter of violations of the Public Water Supply Laws by Jore Corporation at Jore Corporation, Lake County, BER 2011-05 PWS.
- II.A.1.d | 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.
- II.A.1.e | In the matter of violations of the Public Water Supply Laws by Olson's Lolo Hot Springs, Inc. at Lolo Hot Springs, PWSID #MT0000805, Missoula County, BER 2011-09 PWS.
- II.A.1.f | In the matter of violations of the Opencut Mining Act by Ell Dirt Works, LLC, at the Gene Foss Pit 1, Richland County, BER 2011-11 OC.
- II.A.1.g | In the matter of violations of the Water Quality Act by SK Construction, Inc. on US Highway 2 near Bainville, Roosevelt County, BER 2011-20 WQ.
- II.A.2.a | In the matter of CR Kendall Corporation's request for a hearing to appeal DEQ's decision to deny a minor permit amendment under the Metal Mine Reclamation Act, BER 2002-09 MM.
- II.A.2.b | In the matter of the appeal and request for hearing by Roseburg Forest Products Co. of DEQ's Notice of Final Decision regarding Montana Ground Water Pollution Control System Permit No. MTX000099, BER 2010-09 WQ.
- II.A.2.c | In the matter of the appeal and request for hearing by Maurer Farms, Inc.; Somerfeld & Sons Land & Livestock, LLC; Jerry McRae; and Katrina Martin regarding the DEQ's final decision to amend the MATL's certificate of compliance, BER 2010-16 MFS.
- II.A.2.d | In the matter of the appeal and request for hearing by the City of Helena regarding the DEQ's Notice of Final Decision for Montana Pollutant Discharge Elimination System (MPDES) Permit No. MT0022641, BER 2011-08 WQ.
- II.A.2.e | In the matter of the request for hearing by Marshall Warrington, Jr., regarding Opencut Permit No. 487, issued to Plum Creek Timberlands, LP, for the Dorr Skeels site in Lincoln County, BER 2011-12 OC; the request for hearing by Patricia Warrington, regarding Opencut Permit No. 487, issued to Plum Creek Timberlands, LP, for the Dorr Skeels site in Lincoln County, BER 2011-13 OC; the request for hearing by Nancy Scott, Dale Whitton, Kimberly Mole, Jess Hodge, Katherine G. Potter, Sharon B. Johnson, Clinton C. Johnson, James, D. Ward, and Korrie L. Ward

regarding Opencut Permit No. 487, issued to Plum Creek Timberlands, LP, for the Dorr Skeels site in Lincoln County, BER 2011-15 OC; and the request for hearing by John Hutton regarding Opencut Permit No. 487, issued to Plum Creek Timberlands, LP, for the Dorr Skeels site in Lincoln County, BER 2011-17 OC.

II.A.2.f In the matter of the request for hearing by Steven K. Endicott & Ruth Ann Endicott, regarding Opencut Permit No. 487, issued to Plum Creek Timberlands, LP, for the Dorr Skeels site in Lincoln County, BER 2011-14 OC; and the request for hearing by Robert W. Gambill regarding Opencut Permit No. 487, issued to Plum Creek Timberlands, LP, for the Dorr Skeels site in Lincoln County, BER 2011-18 OC.

II.A.2.g In the matter of the request for hearing by Glenn Miller, Rick Sant, Ralph & Edna Neils, Berneiee A. Zucker, Patricia Anderson, Tina K. Moore, Marc Zahner, Donald E. White, Jacki Bruemmer, Betty Longo, Tracy Nicely, Michael Dunn, Dennis Thayer, James Hopkins, Debbie Zahner, James P. Tomlin, Howard C.A. Hunter, George Stachecki, Marie Mabee, Harold Mabee, Patricia Warrington, Lily S. Parker, Linda S. Fisher, Steven E. Fisher, Connie Karns, John Ritchie, Grant Denton, Karen & Ben Pelzel, Richard L. Johnson, N.E.W. Boss, Jane O. Drayton, Leonard H. Drayton, Warren Robbe, Katherine G. Potter, Robert B. Potter, Bonnie Gannon, Kim F. Taylor, Linda Cochran, Helen R. Lockard, Marshall Warrington, Jr., Bruce Kinney, Devan Kinney, Jon Kinney, Joel Kinney, Karen Legue, Angeline R. Allen, Gary Allen, Bonnie Sonnenberg, Bud Biddle, Eunice Boeve, Ron Boeve, Kathleen Burbridge, Harold Lewis, Ken Mole, and Lois M. Mole, regarding Opencut Permit No. 487, issued to Plum Creek Timberlands, LP, for the Dorr Skeels site in Lincoln County, BER 2011-16 OC.

II.A.2.h In the matter of the request for hearing by Frank Gruber, Broadwater Estates, regarding the DEQ's denial of permit modifications to Groundwater Permit No. MTX000157, BER 2011-22 WQ.

II.A.3.a In the matter of violations of the Montana Underground Storage Tank Act by Jeanny Hlavka, individually and d/b/a J.R. Enterprise, LLC, at the Fort Peck Station, Valley County, BER 2010-08 UST.

Chairman Russell informed the Board members that Katherine Orr was not present, but that information provided on the agenda regarding the contested cases was up to date.

Mr. Miller noted that in item II.A.2.e the date for the contested case hearing, reflected as April, 16, 2011, should be April 16, 2012.

III.A.1 In the matter of the amendment of ARM Title 17, Chapter 38, Sub-chapter 3, Cross Connections in Drinking Water Supplies, and the amendment of ARM 17.38.208, 17.38.225, and 17.38.234.

Mr. Pizzini said the department is proposing to update existing rules to remove duplicative, confusing, and outdated language, and to provide clarification. He requested two amendments to the notice and said the department is recommending

initiation of the rulemaking and appointment of a hearings officer. Mr. Pizzini responded to questions from the Board.

Chairman Russell called for public comment regarding the request for rulemaking. There was no response.

Chairman Russell called for a motion to move forward on rulemaking and appoint Katherine. Mr. Whalen so MOVED. Mr. Miller SECONDED the motion. Board members clarified that the motion included the two requested amendments. The motion CARRIED with a unanimous vote.

- III.B.1 In the matter of the request for hearing by Plum Creek regarding the DEQ's final decision on the amendment of their Groundwater Permit No. MTX000092, BER 2011-21 WQ.

Chairman Russell called for a motion to authorize him to sign the order dismissing the case. Mr. Miller so MOVED. Ms. Kaiser SECONDED the motion. The motion CARRIED with a unanimous vote.

- III.C.1 In the matter of violations of the Opencut Mining Act by the City of Ronan at Ronan, Lake County, BER 2011-23 OC.

Chairman Russell called for a motion to appoint Katherine. Ms. Kaiser so MOVED. Mr. Mires SECONDED the motion. The motion CARRIED with a unanimous vote.

- III.C.2 In the matter of violation of the Metal Mine Reclamation Act by Noble Excavating, Inc. at Nickleback Rock Quarry, Lincoln County, BER 2011-24 MM.

Chairman Russell called for a motion to appoint Katherine. Ms. Kaiser so MOVED. Mr. Miller SECONDED the motion. The motion CARRIED with a unanimous vote.

- III.C.3 In the matter of violations of the Opencut Mining Act by Emerald Hills Development Company at the Emerald Hills Pit, Yellowstone County, BER 2011-25 OC.

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

- III.C.4 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.

Chairman Russell called for a motion to appoint Katherine as the permanent hearings examiner for this matter. Mr. Mires so MOVED. Mr. Miller SECONDED the motion. Mr. Whalen commented that this is a common issue throughout state and that

perhaps the Board should hear the matter. Chairman Russell called for the vote and the motion FAILED unanimously.

IV. General Public Comment

Chairman Russell asked if there was anyone in the audience that would like to speak to the Board on matters within the Board's jurisdiction. There was no response.

Mr. Livers reminded everyone that the next meeting is scheduled for March 23 and that it is expected to be an in-person meeting in Helena. He said there would be several briefing items including briefings on water reuse standards, nutrient issues, and changes in DEQ-2. He also noted that the department would be returning with DEQ-4.

Mr. Mires discussed the oil and gas development in North Dakota and Eastern Montana. He requested a briefing on the Board's roles and responsibilities.

Mr. Livers said the department can provide a high-level overview of the role the department has in oil and gas development.

V. Adjournment

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

The meeting adjourned at 9:45 a.m.

Board of Environmental Review January 27, 2012, minutes approved:



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

3/23/2012
DATE