

MINUTES

March 21, 2014

Call to Order

The Board of Environmental Review's regularly scheduled meeting was called to order by Madam Chair Shropshire at 9:02 a.m., on Friday, March 21, 2014, in Room 111 of the Metcalf Building, 1520 East Sixth Avenue, Helena, Montana.

Attendance

Board Members Present: Madam Chair Shropshire and Larry Mires

Board Members Present via Phone: Joan Miles, Chris Tweeten, Joe Russell, and Heidi Kaiser

Board Members Absent: Marietta Canty

Board Attorney Present: Katherine Orr, Attorney General's Office, Department of Justice

Board Secretary Present: Joyce Wittenberg

Court Reporter Present: Laurie Crutcher, Crutcher Court Reporting

Department Personnel Present: Tracy Stone-Manning (Director); Tom Livers (Deputy Director); Steve Kilbreath – Director's Office; John North, Carol Schmidt, Norman Mullen, Paul Nicol, Dana David – Legal; Jon Dilliard, Eugene Pizzini, Rachel Clark, Barb Kingery – Public Water Supply & Subdivisions Bureau; David Klemp, Eric Merchant, Julie Merkel, Rebecca Harbage, Hoby Rash, Ed Warner – Air Resources Management Bureau; John Arrigo – Enforcement Division; Ed Coleman, Chris Cronin, Bob Smith – Industrial & Energy Minerals Bureau; Eric Urban, Dave Feldman – Water Quality Planning Bureau;

Interested Persons Present (*Disclaimer: Names are spelled as best they can be read from the official sign-in sheet.*): Benjamin Schmidt – Missoula City-County Health Department; Anne Hedges – Montana Environmental Information Center;

At the request of Chairman Shropshire, Mr. Livers took roll call of Board members present.

I.A.1 Review and approve January 21, 2014, Board meeting minutes.

Chairman Shropshire called for a motion to approve the January 21, 2014, meeting minutes. Mr. Mires noted that the minutes indicated, under the Call to Order, that the meeting was called to order on July 26, 2013, but should be January 21, 2014. Mr. Mires MOVED to adopt the minutes with the correction. Ms. Miles SECONDED the motion. The motion CARRIED 6-0.

II.A.1.a 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.b In the matter of violations of the Sanitation in Subdivision Act and Public Water Supply Laws by Roger Emery at the Sunrise Motel, Sidney, Richland County, BER 2013-06 SUB. *(No discussion took place regarding this matter.)*

II.A.2.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.

Ms. Orr said WECO and the department are working out terms of the permit, so the proceedings will be suspended pending those attempts.

II.A.2.b 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.

Ms. Orr said this matter is possibly going to have disposition on summary judgment.

III.A.1 In the matter of the amendment of the Missoula City-County air quality regulations to clarify the wildfire smoke emergency episode avoidance plan; add a temporary permitting process for portable industrial sources; clarify general outdoor burning procedures and the definition of bonfire; modify existing paving rules; provide general rule clarification and the addition of solid fuel burning devices for licensed mobile food vendors; and remove the administrative review process for certain permitting actions.

Mr. Merchant provided context regarding the proposed revisions. He explained that the rule initiation and associated public processes took place at the local level, and the department has determined that the proposed rule revisions are procedurally and substantively consistent with the applicable statutory requirements for adoption and implementation of changes to the regulatory program. Mr. Merchant responded to questions from the Board.

Mr. Schmidt said Missoula City-County Health Department is requesting that the Montana State Board of Environmental Review simultaneously approve two records of adoption for the Missoula City-County Air Pollution Control Program. He provided background information on the proposals.

Chairman Shropshire called for a motion to amend the Missoula County air quality regulations. Ms. Miles so MOVED. Mr. Russell SECONDED the motion. After some discussion, Ms. Miles amended her motion to approve the amendment of Missoula City-County air quality regulations, and the amendment process. Mr. Russell concurred with the amendment. Chairman Shropshire asked if there was anyone in the audience who would like to comment on the matter. No one responded. The motion CARRIED with a 6-0 vote.

Ms. Miles congratulated Missoula City-County Health Department on their national accreditation award. She said they are now one of 31 public health departments in the country that have gone through a voluntary accreditation process to ensure they are operating at high performance. Mr. Russell and Chairman Shropshire echoed the congratulations.

III.B.1 In the matter of the request to initiate rulemaking to amend Title 17, Chapter 36, Subchapter 9, On-Site Subsurface Wastewater Treatment Systems by updating definitions and Table 1 Setback Distances to provide consistency between the subdivision rules in Title 17, Chapter 36 and Circular DEQ-4, 2013 edition; amend Title 17, Chapter 38, Subchapter 101(4)(d) to adopt by reference the proposed changes to Title 17, Chapter 36 for Subdivisions, specifically ARM 17.36.320 through 17.36.323 and 17.36.325, and to remove the adoption by reference in ARM 17.36.327; amend Title 17, Chapter 38, Subchapter 106(2)(a), (d), and (e) to provide fee structure consistency for review of public water supply and sewage systems that correspond to the proposed changes to Department Circular DEQ-1, the adopted changes to Department Circular DEQ-4, 2013 edition, and new proposed Department Circular DEQ-10; and to amend Title 17, Chapter 38, Subchapter 106(2) to add a provision (f) for the review of public water supply systems that correspond to proposed Department Circular DEQ-16.

Ms. Kingery said in the last legislative session and previous rulemakings, some rules were identified as needing to be updated. She identified the rules and the changes that were being proposed. She answered questions from board members.

Chairman Shropshire called for a motion to initiate the rulemaking to amend the sewage system requirements, subdivision rules, onsite surface wastewater and public water rules, and to appoint Ms. Orr as the permanent hearing examiner. Ms. Kaiser so MOVED. Mr. Mires SECONDED the motion. The motion CARRIED with a 6-0 vote.

III.C.1 In the matter of the amendment of the insitu coal operations rule as requested by the Office of Surface Mining (OSM). The change will only be removing the language stating that ARM 17.24.320 (Plans for Disposal of Excess Spoil) is not applicable to insitu coal operations. This was requested by OSM as it made the States rule less stringent then the federal rule.

Mr. Coleman requested the Board adopt the proposed amendment to the rules that implement Montana's Strip and Underground Mine Reclamation Act, and provided details of the proposed amendments.

Chairman Shropshire called for motion to adopt the amendment of ARM 17.24.905 as set forth in the draft notice. Ms. Miles so MOVED. Chairman Shropshire amended the call for motion to adopt the amendment and the 311 Analysis. Ms. Miles concurred

with the amended motion. Mr. Russell SECONDED the motion. Ms. Kaiser recused herself from taking action on this matter. Ms. Shropshire asked if anyone would like to comment on the matter, and no one responded. The motion CARRIED 5-0.

III.C.2 In the matter of the adoption of New Rule I pertaining to the administrative requirements for limited opencut operations. The Department is proposing New Rule I in order to implement the provisions for limited opencut operations in Section 5 of Senate Bill 332 (2013).

Mr. Cronin addressed the Board and explained the rulemaking. He said New Rule I sets forth administrative procedures necessary to implement Section 5 of Senate Bill 332 and the department believes adopting the rule directly supports the intent of the 2013 Act Revisions.

Chairman Shropshire called for public comment on the rulemaking. There was no response.

Chairman Shropshire called for a motion to adopt New Rule I and incorporate the 311 checklist. Ms. Kaiser so MOVED. Mr. Mires SECONDED the motion. The motion CARRIED 6-0.

III.C.3 In the matter of final adoption of proposed amendments to Title 17, Chapter 30, Subchapter 6, temporary water quality standards for the New World Mining District, as noticed in MAR 17-352.

Mr. Urban said the Board initiated rulemaking to amend the Temporary Water Quality Standards for the New World Mining District on January 21, and that a public hearing was held on February 20. He said the proposed amendments modify the effective time frame for the temporary water quality standards, which are set to expire on June 4, 2014, by extending them to June 4, 2019.

Chairman Shropshire called for public comment on the rulemaking. No one commented.

Chairman Shropshire called for a motion to adopt the proposed amendments, the 521/311 Analyses, and the Hearings Examiner Report. Mr. Mires so MOVED. Mr. Russell SECONDED the motion. The motion CARRIED 6-0.

III.D.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.

Mr. Livers described Rule 41a for the Board.

Mr. Mullen addressed the Board regarding both BER 2013-01 and BER 2013-02. He provided the legal aspects of the cases.

Mr. Klemp provided details of the technical aspects of the settlement. He said the settlements resolve two petitions that were filed with EPA against the two Title V permits that were issued. He responded to questions from the board.

Ms. Kaiser recused herself from taking action on both cases.

Chairman Shropshire called for a motion to authorize her to sign the order dismissing the matter with prejudice. Ms. Miles so MOVED. Mr. Russell SECONDED the motion. The motion CARRIED 5-0.

III.D.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, Billings, BER 2013-02 AQ.

Chairman Shropshire called for a motion to authorize her to sign the order dismissing the matter with prejudice. Mr. Mires so MOVED. Mr. Russell SECONDED the motion. The motion CARRIED 5-0.

IV. General Public Comment

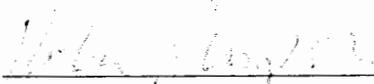
Chairman Shropshire asked if any member of the audience would like to speak to any matters before the Board. No one responded.

V. Adjournment

Chairman Shropshire called for a motion to adjourn. Mr. Mires so MOVED. Ms. Miles SECONDED the motion. The motion CARRIED 6-0.

The meeting adjourned at 10:58 a.m.

Board of Environmental Review March 21, 2014, minutes approved:



ROBIN SHROPSHIRE
CHAIRMAN
BOARD OF ENVIRONMENTAL REVIEW



DATE