

**BOARD OF ENVIRONMENTAL REVIEW
MINUTES**

September 24, 2020

Call to Order

Chairperson Deveny called the Supplemental meeting, on Selenium Water Quality Standards, to order at 9:00 a.m.

Attendance

Board Members Present

By ZOOM: Chairperson Chris Deveny, David Lehnherr, Dexter Busby, John DeArment, Chris Tweeten, Jeremiah Lynch, Hillary Hanson

Board Attorneys Present

Sarah Clerget, Attorney General's Office (AGO)
Amy Christensen, Attorney with Christensen and Prezeau

DEQ Personnel Present

Board Liaison: George Mathieus
Interim Board Secretary: Deb Sutliff
Director's Office: Shaun McGrath, Rebecca Harbage
DEQ Legal: Angie Colamaria, Kirsten Bowers, Sandy Moisey-Scherer, Sarah Christofferson
Water Quality: Tim Davis, Lauren Sullivan, Myla Kelly, Joanna McLaughlin, Moira Davin

Interested and other parties present

Senator Mike Cuffe; Representative Steve Gunderson; Laurie Crutcher Court Reporting; Stu Levit with the Confederated Salish and Kootenai Tribes; Michael Jamison with the National Parks Conservation Association; Shawna Kelsey, City Council – Troy, MT; Sue Ireland with Kootenai Tribes; Clayton Elliott and David Brooks with MT Trout Unlimited; Dave Hadden with Headwaters Montana; Julianne McLaughlin, Tonya Fish, and Ayn Schmidt with EPA; John Kilpatrick with USGS; Vicki Marquis with Holland & Hart; Michael Ryan; Brad Smith; Travis Schmidt; Jason Gildea; Erin Sexton; Kelsea Harris; Kayla Glossner; Lars Sander-Green; Mark Adzick; Rachel Malison

I. ACTION ITEM

I.A | Initiation of Rulemaking

The Department is requesting initiation of rulemaking for Selenium Water Quality Standards for Lake Kookanusa and the Kootenai River.

Mr. Mathieus introduced Myla Kelly, Manager, and Lauren Sullivan, Technical Project Lead with DEQ's Water Quality Standards and Modeling Section, as presenters.

Ms. Kelly provided background, framework and process of how they arrived at this point and Ms. Sullivan addressed the technical and scientific aspects of the proposed standards. They both responded to questions from Board members.

Chair Deveny called for public comment on whether to initiate the proposed rulemaking.

Mr. Elliott, Mr. Smith, Mr. Sexton, Mr. Sander-Green, Mr. Schmit, Mr. Levit, Mr. Hadden, Mr. Jamison, and Ms. Ireland provided comments in support of the rulemaking.

Senator Cuffe and Ms. Marquis provided opposing comments.

After brief discussion, Mr. Tweeten moved to initiate the rulemaking and that Sarah Clerget be appointed as the party to conduct the administrative hearing. Chair Deveny seconded the motion. The motion passed with five in favor and Board Member Busby opposed.

IV. Board Counsel Update

The Board will discuss the cost of outside counsel, and decide how to proceed utilizing outside counsel in the future on current District and Supreme Court actions.

V. Public Comment

Representative Gunderson apologized for not commenting on the rulemaking previously. He said he felt DEQ had not appropriately utilized EQC or WPCAC to keep the Legislature apprised of the rulemaking.

[received via text during the meeting] Shawna Kelsey introduced herself to members and offered support of DEQ recommended standards and that the BER move forward with establishing the standard.

VI. Adjournment

Chairperson Deveny motioned to adjourn at 11:17 a.m. Mr. Lynch seconded the motion. The motion carried unopposed.

Board of Environmental Review September 24, 2020 minutes approved:

 /s/
CHRISTINE DEVENY
CHAIRPERSON
BOARD OF ENVIRONMENTAL REVIEW

December 14, 2020
DATE