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MINUTES
December 6, 2013

Call to Order

The Board of Environmental Review's regularly scheduled meeting was called to order by Chairman Shropshire at 9:04 a.m., on Friday, December 6, 2013, in Room 111 of the Metcalf Building, 1520 East Sixth Avenue, Helena, Montana.

Attendance

Board Members Present: Joan Miles

Board Members Present via Teleconference: Chairman Shropshire, Larry Mires, Heidi Kaiser, and Joe Russell

Board Members Absent: Chris Tweeten and 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: Tom Livers (Deputy Director); John North, Dana David, Kirsten Bowers, Kurt Moser – Legal; Jon Dilliard, Eugene Pizzini, – Public Water Supply & Subdivisions Bureau; David Klemp – Air Resources Management Bureau; John Arrigo – Enforcement Division; Ed Coleman, Chris Cronin, Chris Yde, JJ Conner, Bob Smith - Industrial & Energy Minerals Bureau

Interested Persons Present (*Disclaimer: Names are spelled as best they can be read from the official sign-in sheet.*):

Mr. Livers took roll call at the Chairman's request.

I.A.1 Review and approve the October 4, 2013, teleconference meeting minutes.

Mr. Mires MOVED to approve the October 4, 2013, minutes as written. Mr. Russell SECONDED the motion. The motion CARRIED with a 5-0 vote.

I.A.2 Review and approve the October 29, 2013, teleconference meeting minutes.

Ms. Miles MOVED to approve the October 29, 2013, minutes as written. Mr. Mires SECONDED the motion. The motion CARRIED with a 5-0 vote.

I.B. Set 2014 meeting schedule.

Mr. Livers said the department is proposing January 21, March 21, May 30, July 25, September 26, and December 5, based primarily around rule adoption schedules. He reminded the Board that January 21 is a Tuesday, while the rest of the dates are Fridays.

Chairman Shropshire called for a motion to approve the 2014 calendar as discussed. Mr. Mires so MOVED. Ms. Kaiser SECONDED the motion. The motion CARRIED with a 5-0 vote.

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.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 the parties are busy with prehearing preparation.

II.A.2.b 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.

Ms. Orr said she has ruled on all the motions that were pending in this case.

II.A.2.c 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 she hopes to have rulings on all the pending motions by the end of next week.

III.A.1 In the matter of violations of the Sanitation in Subdivisions Act and Public Water Supply Laws by Roger Emery at the Sunrise Motel, Sidney, Richland County, BER 2013-06 SUB.

Ms. Orr said this is a Subdivision Act violation, and a Notice of Violation and Administrative Compliance and Penalty Order was issued by the department on September 26, and that a hearing was requested by Sunrise Motel on October 24 challenging the penalties.

Chairman Shropshire called for a motion to appoint Ms. Orr as the permanent hearing examiner for this matter. Mr. Russell so MOVED. Ms. Miles SECONDED the motion. The motion CARRIED with a 5-0 vote.

III.A.2 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 provided an overview of the appeal.

Chairman Shropshire called for a motion to appoint Ms. Orr as the permanent hearing examiner for this matter. Mr. Russell so MOVED. Mr. Mires SECONDED the motion.

Mr. Russell said he would prefer the Board not appoint a permanent hearing examiner at this point, but rather see how the case plays out. The motion and second were WITHDRAWN by Mr. Russell and Mr. Mires. NO ACTION was taken on this matter.

III.B.1 In the matter of the request for hearing by Hawthorne Springs Property Owners Association; H Lazy Heart, LLC; Patchy, Inc.; and other residents regarding the Opencut Mining Permit No. 2258, issued to Farwest Rock Products, Missoula County, BER 2012-09 OC.

Ms. Orr explained the status of this case. Discussion took place between the Board and Ms. Orr.

<Mr. Tweeten joined the meeting via teleconference at this time.>

Chairman Shropshire called for a motion to authorize her to sign the recommended order. Mr. Russell so MOVED. Mr. Mires SECONDED the motion. The motion CARRIED with a 5-0 vote. (Mr. Tweeten chose not to vote since he was not present for the discussion.)

III.B.2 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 the Board has before it an order dismissing the case with prejudice and provided an overview of the case.

Chairman Shropshire called for a motion to authorize her to sign the order dismissing the case. Ms. Miles so MOVED. Mr. Mires SECONDED the motion. The motion CARRIED with a 6-0 vote.

III.C.1 In the matter of DEQ's request that the Board initiate rulemaking to amend the insitu coal operations rule as requested by the Office of Surface Mining.

Mr. Smith requested that the Board initiate rulemaking to amend the rules that implement the Montana Strip and Underground Mine Reclamation Act, to make the insitu coal gasification rules as stringent as the federal counterpart, 30 CFR 828, enforced by the Office of Surface Mining.

Ms. Kaiser recused herself from taking action on this matter.

Chairman Shropshire called for a motion to initiate the rulemaking. Mr. Russell MOVED to initiate the rulemaking. Ms. Miles SECONDED the motion. Chairman Shropshire asked if there was any public comment on the rulemaking and there was no response. The motion CARRIED with a unanimous vote.

III.C.2 In the matter of DEQ's request that the Board initiate rulemaking to adopt New Rule I pertaining to the administrative requirements for limited opencut operations.

Mr. Cronin requested that the Board initiate rulemaking to adopt a new rule in ARM 17.24, Subchapter 2, pertaining to the administrative requirements for limited opencut operations. He said the new rule would implement legislative changes. He and Mr. Coleman responded to questions from the Board.

After much discussion, including whether a public hearing was necessary or appropriate, Chairman Shropshire called for a motion to initiate the rulemaking. Mr. Mires MOVED to initiate the rulemaking as proposed by the department (with no hearing). Ms. Kaiser SECONDED the motion. Chairman Shropshire asked if there was any public comment on the matter and no one responded. The motion CARRIED with a 6-0 vote.

IV. General Public Comment

Chairman Shropshire asked if there was anyone who would like to address the Board. There was no one.


Mr. Livers discussed the January meeting, reminding that it would begin on Tuesday, January 21 at 9:00 a.m. with the meeting into early afternoon, followed by a break, then the PPL case hearings, which could go through Thursday.

V. Adjournment

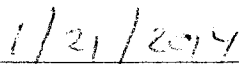
Chairman Shropshire called for a motion to adjourn. Ms. Miles so MOVED. Mr. Mires SECONDED the motion. The motion CARRIED with a unanimous VOTE.

The meeting adjourned at 11:12 a.m.

Board of Environmental Review December 6, 2013, minutes approved:



ROBIN SHROPSHIRE
CHAIRMAN
BOARD OF ENVIRONMENTAL REVIEW



DATE