

1 WHEREUPON, the following proceedings
 2 were had and testimony taken, to-wit:
 3 * * * * *
 4 (Tom Livers present by telephone)
 5 OPERATOR: Tom Livers is leaving the
 6 meeting.
 7 CHAIRMAN RUSSELL: It's 9:05. I'm going
 8 to call this special meeting of the Board of
 9 Environmental Review to order. Noted that Joe
 10 Whalen is probably going to join us at some point
 11 in the very near future. Tom Ellerhoff, do you
 12 want to take over and go through the roll.
 13 MR. ELLERHOFF: Yes. You're certainly
 14 here, Mr. Chairman. Larry Anderson.
 15 MR. ANDERSON: Here.
 16 MR. ELLERHOFF: Heidi Kaiser.
 17 MS. KAISER: Here.
 18 MR. ELLERHOFF: Marvin Miller.
 19 MR. MILLER: Here.
 20 MR. ELLERHOFF: Larry Mires.
 21 (No response)
 22 MR. ELLERHOFF: Is probably not going to
 23 join us. Robin Shropshire.
 24 MS. SHROPSHIRE: Here.
 25 MR. ELLERHOFF: And that's it, Mr.

1 prepared over the past few years, and requested
 2 comments on those.
 3 Notice of both matters was published in
 4 the Montana Administrative Register and mailed to
 5 the persons on the interested persons list on
 6 April 15th. The comment period was noticed to run
 7 from April 15th until July 1st. Recently we
 8 received a request, the Board received a request
 9 for a 30 day extension of the comment period from
 10 the Montana Petroleum Association. We at the
 11 Department discussed that internally, and that
 12 would take the comment period until July 1st. We
 13 believe, and we are recommending --
 14 OPERATOR: Tom Livers is joining the
 15 meeting.
 16 MR. NORTH: We're proposing that rather
 17 than grant a 30 day extension, that a 15 day
 18 extension be granted, and our reason for that is
 19 simply that we feel we need to have the comments
 20 in by July 16th in order to adequately evaluate
 21 them, and prepare -- I'm sorry -- June 16th in
 22 order to adequately prepare for the July 23rd
 23 meeting, Mr. Chairman.
 24 CHAIRMAN RUSSELL: All right. It's been
 25 good policy for the Board upon request to extend

1 Chairman. You have a quorum.
 2 CHAIRMAN RUSSELL: Okay. Well, we have
 3 a special request regarding several affected rules
 4 that are part of amendments to Department Circular
 5 7, and we have a request to extend rulemaking. So
 6 Tom, is there anyone on staff that would like to
 7 speak to this matter?
 8 MR. ELLERHOFF: Yes, Mr. Chairman.
 9 Chief Legal Counsel John North would like to set
 10 the scene for everybody.
 11 MR. NORTH: Mr. Chairman, members of the
 12 Board, John North, Chief Legal Counsel for the
 13 Department.
 14 At the March meeting, the Board did
 15 initiate two processes that we're here to talk
 16 about today. One was specific amendments to the
 17 State's Water Quality Standards which are
 18 contained in DEQ Circular 7, and the action in
 19 March proposed some changes to those standards.
 20 And secondly, as part of the three year
 21 review of our water quality standards that's
 22 required by law, we requested that the Board seek
 23 comments on all of the State's water quality
 24 standards, and then specifically referenced coal
 25 bed methane, and referenced studies that had been

1 public comment periods. I think that's fairly
 2 well known. Before I ask to move this forward
 3 from a Board perspective, Dave, do you want to
 4 address the Board? Since it was your request.
 5 MR. GALT: Mr. Chairman, members of the
 6 Board, for the record, Dave Galt, Director of the
 7 Montana Petroleum Association.
 8 The reasons that MPA would like this are
 9 wholly explained in the letter that I sent. We
 10 have some members that are going through the
 11 studies, and that want to put information on the
 12 record. And certainly the recent Supreme Court
 13 decision has caused some consternation in the
 14 thought process there. So I'd be glad to answer
 15 any questions. I ask for favorable consideration
 16 of the request. Fifteen days would work for us,
 17 too, Mr. Chairman.
 18 CHAIRMAN RUSSELL: That was my next
 19 question. So with that, Board, do you have any
 20 questions regarding this matter for either Dave or
 21 staff?
 22 MR. ELLERHOFF: Mr. Chairman, John North
 23 suggested that Northern Plains also be asked if
 24 they have any comments.
 25 CHAIRMAN RUSSELL: All right. Northern

1 Plains, do you want to comment?
 2 MS. FISHER: Well, Mr. Chairman, yes,
 3 we would like to put in our two cents. And I
 4 guess as background, Northern Plains has known
 5 about the comment period for quite a while now
 6 since the verdict came out, and we had a couple
 7 members attend the public hearing, Mark Fix and
 8 Roger Muggli, and also we were Plaintiffs in the
 9 lawsuit that recently got decided on the 20th,
 10 eight days ago. And although we believe that
 11 there's been ample time for the public comment
 12 period, and we do believe that it has been a long
 13 time, we also believe in the public comment
 14 process, and so I think we would be willing to go
 15 with the 15 day extension.
 16 CHAIRMAN RUSSELL: Thanks for your
 17 comment.
 18 MS. FISHER: Thank you.
 19 CHAIRMAN RUSSELL: With all that in
 20 mind, Board, do you have any questions before we
 21 make any motions to move this forward?
 22 (No response)
 23 CHAIRMAN RUSSELL: Hearing none, I would
 24 entertain a motion to accept the Department's
 25 recommendation to extend the comment period for an

1 pretty good timing. I'm guessing that that's
 2 okay. It's almost by proxy, but I think that's
 3 okay. It's still a unanimous vote.
 4 The only matter that -- Anytime the
 5 Board meets, we need to allow a public comment
 6 period, so is there anyone that is participating
 7 in this meeting that would like to speak to the
 8 Board on matters that the Board has influence on?
 9 (No response)
 10 CHAIRMAN RUSSELL: Anyone jumping up
 11 there, Tom?
 12 MR. ELLERHOFF: None here, Mr. Chairman.
 13 CHAIRMAN RUSSELL: Anyone on the phone?
 14 (No response)
 15 CHAIRMAN RUSSELL: Seeing none, I will
 16 entertain a motion to adjourn.
 17 MR. MILLER: I so move. This is Miller.
 18 CHAIRMAN RUSSELL: It's been moved by
 19 Marvin. Is there a second?
 20 MS. KAISER: I'll second. This is
 21 Heidi.
 22 CHAIRMAN RUSSELL: It's been moved and
 23 seconded. Any discussion?
 24 (No response)
 25 CHAIRMAN RUSSELL: Hearing none, all

1 additional 15 days to June 16th; is that correct,
 2 John?
 3 MR. NORTH: Yes.
 4 MR. ELLERHOFF: That is correct.
 5 CHAIRMAN RUSSELL: And republish the MAR
 6 accordingly, the notice.
 7 MS. KAISER: So moved. This is Heidi.
 8 CHAIRMAN RUSSELL: It's been moved by
 9 Heidi. Is there second?
 10 MR. MILLER: Second. This is Miller.
 11 CHAIRMAN RUSSELL: It's been seconded by
 12 Marv. Any further discussion?
 13 (No response)
 14 CHAIRMAN RUSSELL: All those in favor,
 15 signify by saying aye.
 16 (Response)
 17 CHAIRMAN RUSSELL: Any opposed?
 18 (No response)
 19 CHAIRMAN RUSSELL: Hearing none, the
 20 motion carries unanimously.
 21 MR. ELLERHOFF: Mr. Chairman, I might
 22 add that Misty just came over and said that Larry
 23 Mires has been trying to get through and can't,
 24 but he would like to vote in favor of the motion.
 25 CHAIRMAN RUSSELL: Okay. I guess that's

1 those in favor, signify by saying aye.
 2 (Response)
 3 CHAIRMAN RUSSELL: Opposed.
 4 (No response)
 5 CHAIRMAN RUSSELL: This meeting is
 6 adjourned.
 7 (The proceedings were concluded
 8 at 9:14 a.m.)
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1 CERTIFICATE

2 STATE OF MONTANA)

3 : SS.

4 COUNTY OF LEWIS & CLARK)

5 I, LAURIE CRUTCHER, RPR, Court Reporter,

6 Notary Public in and for the County of Lewis &

7 Clark, State of Montana, do hereby certify:

8 That the proceedings were taken before me at

9 the time and place herein named; that the

10 proceedings were reported by me in shorthand and

11 transcribed using computer-aided transcription,

12 and that the foregoing - 9 - pages contain a true

13 record of the proceedings to the best of my

14 ability.

15 IN WITNESS WHEREOF, I have hereunto set my

16 hand and affixed my notarial seal

17 this day of , 2010.

18

19 LAURIE CRUTCHER, RPR

20 Court Reporter - Notary Public

21 My commission expires

22 March 9, 2012.

23

24

25

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