

**BOARD OF ENVIRONMENTAL REVIEW
MEETING MINUTES**

OCTOBER 8, 2021

Call to Order

Chairperson Ruffatto called the meeting to order at 9:00 a.m.

Attendance

Board Members Present

By Zoom: Chairman Ruffatto; Board Members Joseph Smith, David Lehnherr, Jon Reiten
In Person: Board Member David Simpson

A quorum of the Board was present.

Board Attorney(s) Present

Katherine Orr, Attorney General's Office, Department of Justice

DEQ Personnel Present

Acting Board Liaison: Chad Anderson

Board Secretary: Regan Sidner

DEQ Legal: Kirsten Bowers, Nick Whitaker, Catherine Armstrong, Aaron Pettis, Sarah Clerget,
Angela Colamaria, Kurt Moser

Public Policy: Rebecca Harbage, Moira Davin

Water Quality: Amy Steinmetz, Darrin Kron, Jon Kenning

Mining: Chris Cronin

Other Parties Present

Laurie Crutcher, Laurie Crutcher Court Reporting

Shiloh Hernandez

Vicki Marquis

Clayton Elliott

Aaron Bolton

Catherine Laughner

Murry Warhank

Diana Hupp

Wayne Petryshen

Alexis Adams

Jeremy Craft

Caitlin Buzzas

Andrew Cziok

Lauren Sullivan

Aislinn Brown

Derf Johnson

Andy Janes

Emily Qui

Jon Metropoulos

Ellie Hudson-Heck

Eric Regensburger

Jason Gildea

SR Yemington

Andrew Gorder

John Martin

I. ADMINISTRATIVE MATERIALS

A. REVIEW AND APPROVE MINUTES

A.1. | **The Board will vote on adopting the August 13, 2021 meeting Minutes**

There was no board discussion and no public comment.

Board member Smith moved to approve the August 13, 2021 meeting minutes with the amendment that Dave Simpson's name be corrected in the attendance; Board member Lehnherr seconded. The motion passed unanimously.

II. BRIEFING ITEMS

A. CONTESTED CASE UPDATES

II.A.2.I. | **In the matter of: Notice of Appeal and Request for Hearing by Oreo's Refining Regarding Solid Waste License Expiration (License #574).** Katherine provided an update to the Board. Chair Ruffatto has signed a motion for extension in case.

III. ACTION ITEMS

III.1. | **An appeal in the matter of amendment application AM3, Signal Peak Energy LLC's Bull Mountain Coal Mine #1 Permit No. C1993017, BER 2016-07 SM.** Oral argument between the parties was on the agenda for the meeting. An Order Granting Joint Motion for Extension of Time to File Response Briefs to Findings of Facts and Conclusions of Law and Response Briefs was signed by Hearing Examiner Buzzas on August 11, extending the deadline for exceptions to be filed by the parties from September 15 to October 15, 2021. Oral argument did not proceed. The Board granted an extension to file Response Briefs until November 5, 2021.

IV. NEW CONTESTED CASES

IV.1. | **In the matter of Sidney Sugars Incorporated Appeal of Montana Pollutant Discharge Elimination System Permit No. MT0000248, BER 2021-07 WQ.** The Board discussed the merits of retaining the case over assigning to a hearing examiner. Board Member Reiten moved that the Board assign the case to a hearing examiner in its entirety; Board Member Lehnherr seconded. The motion passed unanimously.

V. RULE REVIEW

Chair Ruffatto thanked all interested parties who provided comment or responses comments. The Board discussed the merits of accepting and considering the petition.

Board Member Simpson moved to accept and consider the petition with regard to MCA 17.30.632; Chair Ruffatto seconded. The motion was not carried with Chair Ruffatto and Board Members Smith and Simpson assenting and Board Members Lehnherr and Reiten dissenting.

Board Member Reiten moved to dismiss the petition; Board Member Lehnherr seconded. The motion was not carried with Board Members Reiten and Lehnherr assenting and Chair Ruffatto and Board Members Smith and Simpson dissenting.

Chair Ruffatto moved to schedule a Special Meeting of the Board to address this agenda item; Board Member Simpson seconded. The motion passed unanimously.

VI. BOARD COUNSEL UPDATE

Board Members discussed with Board Counsel Orr the possibility of providing documents to the Board.

VII. GENERAL PUBLIC COMMENT

No public comment was given.

VII. ADJOURNMENT

Board Member Simpson moved to adjourn; Chair Ruffatto seconded. The motion passed unanimously. The meeting adjourned at 10:34 AM.

Board of Environmental Review October 8, 2021, minutes approved:

/s/

STEVEN RUFFATTO
CHAIRMAN
BOARD OF ENVIRONMENTAL REVIEW

DATE