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. 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