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**TELECONFERENCE MINUTES
JANUARY 14, 2010**

Call to Order

The Board of Environmental Review's special meeting regarding its Greenhouse Gas rulemaking was called to order by Chairman Russell at 9:04 a.m., on Thursday, January 14, 2010, in Room 35 of the Metcalf Building, 1520 East Sixth Avenue, Helena, Montana.

Attendance

Board Members Present: Larry Mires

Board Members Present via Phone: Chairman Joseph Russell, Marvin Miller, Heidi Kaiser, Larry Anderson, Robin Shropshire, and Joe Whalen

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: Richard Opper (Director), Tom Livers (Deputy Director); Jim Madden, David Rusoff, and Norman Mullen – Legal; Judy Hanson– Permitting & Compliance Division; David Klemp, Charles Homer, Vickie Walsh, Debbie Skibicki, and Debra Wolfe – Air Resources Management Bureau

Interested Persons Present (*Disclaimer: Names are spelled as best they can be read from the official sign-in sheet.*): Jeff Chaffee – Bison Engineering, Inc.; Todd Everts – Environmental Quality Council; Jim Parker – PPL Montana; Dave Galt – Montana Petroleum Association; Don Allen – Western Environmental Trade Association; Leo Berry - Browning, Kaleczyc, Berry and Hoven, P.C.

Interested Persons Present via Phone: Bill Thompson, Rick Walsh, Ross Welchel – NorthWestern Energy; Hailey Shipp – Northern Ag Network/Northern News Network; Haley Beaudry – Columbia Falls Aluminum

- I. In the matter of the adoption of new rules and amendments in Title 17, Chapter 8, Subchapters 5, 6, 7, 8, 9, and 12 to set minor and major source permitting thresholds for greenhouse gas emissions.

Mr. Livers said the Department is requesting that the Board terminate the greenhouse gas rulemaking and cancel the associated hearing scheduled to take place at the January 22 regular Board meeting. Mr. Livers provided an account of the rulemaking: he detailed the federal actions that were driving the rulemaking; recapped the initiation of the rulemaking that took place by the Board in December 2009; and described the action taken by the Environmental Quality Council at a recent meeting and the formal letter to the Board that followed. Mr. Livers said the EQC action, which prevents the Board from adopting the rule until late June, essentially defeats the purpose of the rulemaking, which was to act immediately in the wake of the federal rule and avoid the dilemma of either having to issue hundreds of unnecessary permits or knowingly violate state law by not issuing the permits.

Mr. Livers summarized some of the concerns brought forth at both the EQC meeting and the December Board meeting, such as lack of stakeholder involvement and uncertainty surrounding the rules. He also emphasized the agricultural exemption included in the Montana Clean Air Act, since there were concerns that the rules would subject agricultural operations to air quality permitting.

Discussion took place regarding the EQC's authority to make this determination and any options the Board might have to challenge it.

Chairman Russell asked if anyone present would like to speak to the issue.

Mr. Parker stated that PPL Montana agrees with the Department's recommendation to not proceed with the rulemaking

Mr. Miller MOVED to terminate the greenhouse gas rulemaking and cancel the January 22 hearing. Ms. Kaiser SECONDED the motion. After providing his own comments, Chairman Russell called for a VOTE and the motion CARRIED 6-1.

- II. General Public Comment

Chairman Russell asked if any member of the audience would like to speak regarding any matters pertaining to the Board. There was no response.

After a brief discussion, it was determined that the January 22 meeting could take place via teleconference, due to the public hearing being cancelled.

III. Adjournment

Chairman Russell called for a motion to adjourn. Mr. Miller so MOVED. Mr. Whalen SECONDED the motion. The motion CARRIED with a unanimous VOTE.

The meeting adjourned at 9:30 a.m.

Board of Environmental Review January 14, 2010, minutes approved:

JOSEPH W. RUSSELL, M.P.H.
CHAIRMAN
BOARD OF ENVIRONMENTAL REVIEW

DATE