



P. O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • Website: www.deq.state.mt.us

AGENDA

FRIDAY, JANUARY 25, 2013
METCALF BUILDING, ROOM 111

1520 EAST SIXTH AVENUE, HELENA, MONTANA

NOTE: Individual agenda items are not assigned specific times. For public notice purposes, the meeting will begin no earlier than the time specified; however, the Board might not address the specific agenda items in the order they are scheduled. The Board will make reasonable accommodations for persons with disabilities who wish to participate in this meeting. Please contact the Board Secretary by telephone at (406) 444-6701 or by e-mail at jwittenberg@mt.gov no later than 24 hours prior to the meeting to advise her of the nature of the accommodation you need.

9:00 A.M.

I. ADMINISTRATIVE ITEMS

A. REVIEW AND APPROVE MINUTES

1. December 7, 2012, Board meeting minutes.

II. BRIEFING ITEMS

A. CONTESTED CASE UPDATE

1. Enforcement cases assigned to the Hearing Examiner
 - a. **In the matter of violations of the Montana Septage Disposal and Licensure Laws by James Vaughn, d/b/a Any Time Septic & Porta-Potty, Lake County, BER 2011-06 SDL.** On November 26, 2012, the hearing examiner, having determined that the pending motion for summary judgment be resolved in the department's favor, issued *Order Vacating Hearing and Prehearing Conference Dates* and will schedule new dates concerning penalties following issuance of the recommended order concerning summary judgment.
 - b. **In the matter of violations of the Public Water Supply laws by the city of Ronan Public Water Supply System, PWSID #MT0000318, Ronan, Lake County, BER 2012-04 PWS.** A hearing is scheduled for January 31, 2013. A *Motion to Stay Hearing* was filed on January 7, 2013.
 - c. **In the matter of violations of the Montana Solid Waste Management Act by Valley County Refuse District #1 at the Valley County Landfill, Glasgow, BER 2012-06 SW.** On November 1, 2012, the Board received *DEQ Motion for Summary Judgment and Brief in Support of Motion*, and on December 17, 2012, it received *Valley County Refuse District #1's Brief in Opposition to DEQ's Motion for Summary Judgment*. A contested case hearing is set for January 23, 2013. On December 28, 2012, the Board received *DEQ Reply Brief for Motion [for] Summary Judgment*.
 - d. **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.** On December 11, 2012, the hearing examiner issued *Order Granting Extension* giving the parties through March 8, 2013, to settle the matter or file a proposed schedule.

- e. **In the matter of violations of the Montana Solid Waste Management Act by Asphalt Plus, LLC, a corporation, and Michael C. and Melinda M. Oedekoven, as individuals, at 425 Johnson lane, Billings, Yellowstone County, BER 2012-13 SW.** On December 5, 2012, attorney for DEQ filed *Unopposed Motion for Extension of Time*, and on December 11, the hearing examiner issued *Order Granting Extension of Time* giving the parties through February 22, 2013, to settle the matter or file a proposed scheduling order.
- 2. Other Cases Assigned to a Hearing Examiner
 - a. **In the matter of the request for hearing by Hawthorne Springs Property Owners Association; H Lazy Heart, LLC; Patchy, Inc.; and other residents regarding Opencut Mining Permit No. 2258, issued to Farwest Rock Products, Missoula County, BER 2012-09 OC.** A contested case hearing is scheduled for April 16, 2013.
- 3. Contested Cases not assigned to a Hearing Examiner
 - a. **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.** At its July 27, 2012, meeting, the Board voted to hear all matters in this case. On September 11, 2012, the Board granted a motion to stay proceedings until disposition of the Petition for Judicial Review filed in the Sixth Judicial District.
 - b. **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.** On November 28, 2012, the Board received *Western Energy Company and DEQ's Proposed Scheduling Order*, and on December 10, the hearing examiner issued *First Prehearing Order* setting a hearing for July 19, 2013. On December 19, the Board received *Motion to Intervene* from counsel for Montana Environmental Information Center and Sierra Club. On December 24, attorney for the Appellant filed *Agreed Motion for Extension to File Response Briefs and Reply Briefs Regarding Intervention and Agreed Motion to Vacate First Scheduling Order*. On January 2, 2013, the hearing examiner issued *Order Granting Extension to File Briefs on Motion to Intervene and Order Vacating First Scheduling Order*.

III. ACTION ITEMS

A. REPEAL, AMENDMENT, OR ADOPTION OF FINAL RULES

- 1. In the matter of final adoption of the proposed amendments to Title 17, Chapter 38, Sub-Chapter 1, Public Water and Sewer Plans, Cross Connections, and Drilling Water Wells, by adding a new rule to address the repair of significant deficiencies and add a new line item and fee to the plan review fee tables, as noticed in MAR, 17-340A.

B. NEW CONTESTED CASES

- 1. **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.** The Board received the request on January 3, 2013. The Board may appoint a permanent hearings examiner or decide to hear the matter.

2. **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, Billings, BER 2013-02 AQ.** The Board received the request on January 3, 2013. The Board may appoint a permanent hearings examiner or decide to hear the matter.

C. OTHER ACTION ON CONTESTED CASES

1. **In the matter of violations of the Opencut Mining Act by Brad Blakeman at the Camas Prairie Gravel Pit, Sanders County, BER 2012-01 OC.** A contested case proceeding took place before the full Board on September 28, 2012, and the Board found in favor of the department. At its December 7 meeting, the Board voted to have the parties confer and develop a reclamation plan for Mr. Blakeman to implement and the department to approve and monitor. The plan is to be brought before the Board for a final decision regarding penalty.
2. **In the matter of violations of the Montana Septage Disposal and Licensure Laws by James Vaughn, d/b/a Any Time Septic & Porta-Potty, Lake County, BER 2011-06 SDL.** On November 26, 2012, the hearing examiner, having determined that the pending motion for summary judgment be resolved in the department's favor, issued *Order Vacating Hearing and Prehearing Conference Dates*, and *Recommended Order for Partial Summary Judgment* in January 2013. An order accepting the recommended order for partial summary judgment will be presented for signature. A new hearing date will be scheduled to take up the issue of penalties.
3. **In the matter of the request for hearing by Earth Justice, Montana Environmental Information Center, Sierra Club, and National Wildlife Federation regarding the Administrative Order on Consent issued to PPL Montana, LLC, BER 2012-10 MFS.** On September 18, 2012, the Board received *Election of PPL Montana, LLC for Proceeding to Occur in District Court Pursuant to Mont. Code Ann. §75-20-223(1)*.

IV. GENERAL PUBLIC COMMENT

Under this item, members of the public may comment on any public matter within the jurisdiction of the Board that is not otherwise on the agenda of the meeting. Individual contested case proceedings are not public matters on which the public may comment.

V. ADJOURNMENT