

FRIDAY JUNE 3, 2016  
METCALF BUILDING, ROOM 111  
1520 EAST 6<sup>th</sup> AVENUE, HELENA, MONTANA

**NOTE:** It is expected that most available Board members will be participating telephonically. The along with any Board members who so choose, will be present at the location stated above. Interested persons, members of the public, and the media are welcome to attend at the location stated above. Members of the public and press also may join Board members with prior arrangement. Contact information for Board members is available on the Board's Website (<http://deq.mt.gov/DEQAdmin/ber>) or from the Board Secretary (406-444-2544). The Board will make reasonable accommodations for persons with disabilities who wish to participate in this meeting. Please contact the Board Secretary by telephone or by e-mail at [hhoule@mt.gov](mailto:hhoule@mt.gov) no later than 24 hours prior to the meeting to advise her of the nature of the accommodation needed.

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**9:00 AM**

**I. ADMINISTRATIVE ITEMS**

**A. REVIEW AND APPROVE MINUTES**

1. The Board will vote on adopting the April 21, 2016 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 Public Water Supply Laws by Rene Requa at Highlander Bar and Grill, PWISD MT0004764, Lewis and Clark County (FID 2299, Docket No. PWS-14-08), BER 2014-09 PWS.** An Order Vacating Scheduling Orders was issued on May 17, 2016.
  - b. **In the matter of violations of the Water Quality Act by Reflections at Copper Ridge, LLC at Reflections at Copper Ridge Subdivision, Billings, Yellowstone County (MTR105376), BER 2015-01 WQ.** An Order Granting Request to Stay Scheduling Order was issued on April 12, 2016.
  - c. **In the matter of violations of the Water Quality Act by Copper Ridge Development Corporation at Copper Ridge Subdivision, Billings, Yellowstone County (MTR105377), BER 2015-02 WQ.** An Order Granting Request to Stay Scheduling Order was issued on March 22, 2016.
  - d. **In the matter of violations of the Water Quality Act by Buscher Construction and Development, Inc., at Poly Vista Estates, Trailhead, and Falcon Ridge II Subdivisions, Billings, Yellowstone County, BER 2015-03 WQ.** A First Order Modifying the Scheduling Order was issued on April 26, 2016.

2. Non-enforcement cases assigned to the Hearings Examiner
  - a. **In the matter of Phillips 66 Company's appeal of Outfall 006 Arsenic Limits in Montana Pollution Discharge Elimination System Permit No. MT0000256, Billings, Yellowstone County, MT, BER 2014-05 WQ.** On March 25, 2015, the hearing examiner issued an Order Approving the Stipulation to Stay Appeal and ordered the parties to comply with the terms or the stipulation.
  - b. **In the matter of Columbia Falls Aluminum Company's (CFAC) appeal of DEQ's modification of Montana Pollutant Discharge Elimination System Permit No. MT0030066, Columbia Falls, Flathead County, MT, BER 2014-06 WQ.** Two Orders on Motion to Compel DEQ to Produce Documents DEQ Argues are Privileged and a Motion and Brief in Support of Summary Judgement were filed on April 21, 2016.
  - c. **In the matter of Heart K Land & Cattle Co.'s appeal of its final 401 Certification with conditions, BER 2015-05 WQ, application No. MT4010948; MWO-2013-00590-MTB-Addendum, issued by DEQ for the Yellowstone River, Park County, MT.** The Board received the appeal on July 17, 2015. A Proposed Second Amended Scheduling Order was issued on May 10, 2016.
  - d. **In the matter of Westmoreland Resources, Inc.'s, BER 2015-06 WQ, appeal of final MPDES permit No. MT0021229 issued by DEQ for the Absaloka Mine in Hardin, Big Horn County, MT.** A Second Prehearing Order was issued on May 17, 2016.
  - e. **In the matter of the notice of appeal of final MPDES Permit No. MT0000264 Issued by DEQ for the Laurel Refinery in Laurel, Yellowstone County, Montana, BER 2015-07 WQ.** CHS, Inc. filed an Unopposed Motion to Extend Schedule on May 16, 2016.
  - f. **In the matter of termination by DEQ of the application by Payne Logging, Inc. Requesting to move boundaries of the Payne Logging facility in Libby, Lincoln County, Montana, BER 2015-08 JV.** DEQ filed a Combined Reply Brief in Support of Motion to Dismiss, Response Brief in Opposition to Payne Logging's Motion for Judgement on the Pleadings and Response in Opposition to Payne Logging's Request for Oral Argument on May 27, 2016.
  - g. **In the matter of Appeal Amendment AM4, Western Energy Company Rosebud Strip Mine Area B, Permit No. C1984003B, case number BER 2016-03 SM.** McGarvey, Heberling, Sullivan & Lacey filed a Notice of Appearance for Roger Sullivan on May 10, 2016.
3. Contested Cases not assigned to a Hearing Examiner
  - a. **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 April 9, 2014, the hearings examiner issued an Order Granting the Joint Unopposed Motion for Partial Remand of Permit to Department of Environmental Quality and for Suspension of Proceedings. This matter has been stayed while an informal judicial review action proceeded. On March 14, 2016,

Judge Seeley issued an Order on Summary Judgment invalidating the permit modification and remanding the matter for consideration consistent with the opinion.

B. OTHER BRIEFING ITEMS

**III. ACTION ITEMS**

A. NEW CONTESTED CASES

1. In the matter of LT Trucking, LLC, appeal Riverside Contracting Inc., Reclamation Bond Release Permit #2083, CVID#17280, BER2016-04 OC. The Board may assign a permanent Hearing Examiner or decide to hear the matter.
2. In the matter of appeal the denial of non-degradation review, EQ#16-1698, Sanders County, MT, BER2016-05 PWS. The Board may assign a permanent Hearing Examiner or decide to hear the matter.

B. INITIATION OF RULEMAKING

DEQ will propose that the Board initiate rulemaking to:

1. -Amend ARM 17.8.102 to incorporate by reference updated federal and state statutes and regulations, and ARM 17.8.103 to update references stating where the documents may be obtained electronically.

C. REPEAL, AMENDMENT, OR ADOPTION OF FINAL RULES

1. Amend ARM 17.8.610, 17.8.612, 17.8.613, 17.8.614, 17.8.615, 17.8.749, and 17.8.1210 pertaining to open burning permits, issuance or denial of a permit, and general requirements for an air quality operating permit, in response to changes to the Clean Air Act of Montana (the Act). The Department requests that the Board amend the rules as noticed in MAR Notice No. 17-382.

D. OTHER ACTION

E. FINAL ACTION ON CONTESTED CASES

F. Hearing

1. Triennial Review of Water Quality Standards: The board will hold a public hearing to solicit comments from all interested persons on any aspect of Montana's water quality standards that a person believes should be considered for potential revision. A review of water quality standards at least every three years is required per Montana Code Annotated 75-5- 301(3). Montana's water quality standards include the Administrative Rules of Montana Title 17, Chapter 30, subchapters 5 (mixing zones), 6 (water quality standards), 7 (nondegradation), 10 (groundwater protection), 1350 (compliance schedules), and Department of Environmental Quality (DEQ) Circulars DEQ-7 and DEQ-12. Comments should identify the water quality standard at issue, any suggested

revision to the standard, and the basis for the suggested revision, including technical information.

#### **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**