

MINUTES
January 30, 2015

Call to Order

The Board of Environmental Review's regularly scheduled meeting was called to order by Madam Chair Shropshire at 9:04 a.m., on Friday, January 30, 2015, in Room 111 of the Metcalf Building, 1520 East Sixth Avenue, Helena, Montana.

Attendance

Board Members Present via Teleconference: Madam Chair Shropshire, Heidi Kaiser, Larry Mires, Joe Russell, Joan Miles, Marietta Canty, and Chris Tweeten

Board Attorney Present: Ben Reed, Attorney General's Office, Department of Justice

Board Secretary Present: Joyce Wittenberg

Court Reporter Present: Laurie Crutcher, Crutcher Court Reporting

Department Personnel Present: John North, Paul Nicol, Dana David, Kurt Moser, and Norm Mullen – Legal; Hoby Rash, Julie Merkel, Annette Williams, and Liz Ulrich – Air Resources Management Bureau; Jon Dilliard – Public Water Supply & Subdivisions Bureau; John Arrigo – Enforcement Division

Interested Persons Present: *No members of the public were present*

Chairman Shropshire took roll call of Board members present. All Board members were present via telephone.

I.A. Review and approve December 5, 2014, Board meeting minutes.

Chairman Shropshire asked if anyone had comments on the draft minutes. Two changes were recommended. The minutes reflect Ms. Canty as being present at the meeting, when she was actually present via telephone. Also, item II.A.1.d notes that no discussion took place, when in fact there actually was discussion as also noted.

Mr. Mires MOVED to approve the minutes with the corrections noted. Ms. Miles SECONDED the motion. The motion CARRIED with a 7-0 vote.

II.A.1.a. 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.

Mr. Reed said he had received a request to withdraw the appeal from Mr. Rasmussen, so he expects this matter to conclude.

II.A.1.b. In the matter of violations of the Opencut Mining Act by Bay Materials, LLC at Normont Farms Pit, Toole County, BER 2014-07 OC.

Mr. Reed said this matter is ongoing.

II.A.1.c. In the matter of violation of the Opencut Mining Act by Somont Oil Company, Inc., at Somont Oil Company gravel pit, Toole County (Permit No. 2597, FID 2326, Docket No. OC-14-021), BER 2014-08 OC.

Mr. Reed said this matter is ongoing.

II.A.1.d. In the matter of violations of the Public Water Supply Laws by Rene Requa at Highlander Bar and Grill, PWSID MT0004764, Lewis and Clark County (FID 2299, Docket No. PWS-14-08), BER 2014-09 PWS.

Mr. Reed said he was in the process of issuing a scheduling order in this matter.

II.A.2.a. In the matter of the notice of appeal and request for hearing by Yellowstone Energy Limited Partnership (YELP) regarding issuance of MPDES Permit No. MT0030180 for YELP's facility in Billings, MT, BER 2014-01 WQ.

Mr. Reed said YELP has agreed to partially withdraw the bulk of its appeal after reaching an agreement with DEQ on most of the permit conditions. He said the remainder should be resolved by March, with a hearing, if necessary, in July.

II.A.2.b. In the matter of Phillips 66 Company's appeal of Outfall 006 Arsenic Limits in MPDES Permit No. MT0000256 Billings, Yellowstone County, BER 2014-05 WQ.

Mr. Reed said this matter is ongoing.

II.A.2.c. In the matter of Columbia Falls Aluminum Company's (CFAC) appeal of DEQ's modification of MPDES Permit No. MT0030066, Columbia Falls, Flathead County, BER 2014-06 WQ.

Mr. Reed said this matter is ongoing.

II.A.3.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.

Mr. Reed had no updates to share in this matter.

II.A.3.b. In the matter of the notice of appeal for hearing by Montana Environmental Information Center regarding DEQ's approval of coal mine permit No. C1993017 issued to Signal Peak Energy, LLC, for Bull Mountain Mine No. 1 in Roundup, MT, BER 2013-07 SM.

Mr. Reed said there are two summary judgment motions pending in this matter, one of which will likely require a hearing to resolve.

III.A.1. In the matter of the department's request to initiate rulemaking to amend ARM 17.8.102 to incorporate by reference updated federal and state statutes and regulations.

Ms. Ulrich provided a briefing on the proposed rulemaking.

Chairman Shropshire asked if any member of the public would like to comment on the proposed rulemaking. There was no one.

Chairman Shropshire called for a motion to initiate the rulemaking and appoint a hearing examiner to conduct a hearing. Ms. Miles MOVED to initiate the rulemaking. Mr. Russell SECONDED the motion. The motion CARRIED with a 7-0 vote.

III.B.1. In the matter of violations of the Sanitation in Subdivisions Act and Public Water Supply Laws by Roger Emery at the Sunrise Motel, Sidney, Richland County, BER 2013-06 SUB.

Mr. Reed provided information about the case and responded to questions from Board members. He noted that the title of the final document indicated a dismissal order, but should actually be an order granting summary judgment. The text within the document was correct.

Mr. Russell MOVED to amend the document to an order granting summary judgment. Ms. Miles SECONDED the motion. Mr. Tweeten made a substitute motion that the Board approve and authorize the signature of the recommended order on the motion for summary judgment, the Mr. Reed be directed to prepare a new document to substitute for the one that is captioned "Order of Dismissal that would be captioned "Order Granting Summary Judgment," and that the Chair be authorized to sign the corrected order. Mr. Russell concurred with the substitute motion. Ms. Miles SECONDED the motion. The motion CARRIED with a 7-0 vote.

IV. General Public Comment

Chairman Shropshire asked if any member of the audience would like to speak to any

matters before the Board. No one responded.

Mr. North said the next meeting, scheduled for March 20, would likely be an in-person meeting.

V. Adjournment

Chairman Shropshire called for a motion to adjourn. Mr. Tweeten so MOVED. Ms. Miles SECONDED the motion. The motion CARRIED unanimously.

The meeting adjourned at 9:34 a.m.

Board of Environmental Review January 30, 2015, minutes approved:

ROBIN SHROPSHIRE
CHAIRMAN
BOARD OF ENVIRONMENTAL REVIEW

DATE