



Montana
Board of Environmental Review

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MINUTES

May 29, 2015

Call to Order

The Board of Environmental Review's regularly scheduled meeting was called to order by Madam Chair Shropshire at 9:01 a.m., on Friday, May 29, 2015, in Room 111 of the Metcalf Building, 1520 East Sixth Avenue, Helena, Montana.

Attendance

Board Members Present: Larry Mires

Board Members Present via Teleconference: Chairman Shropshire, Heidi Kaiser, Chris Tweeten, Marietta Canty

Board Members Absent: Joe Russell, Joan Miles

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: Tom Livers – Director; John North, Dana David, Carol Schmidt, and Norm Mullen – Legal; Hoby Rash, Julie Merkel, Eric Merchant, Liz Ulrich, and Annette Williams – Air Resources Management Bureau; Jon Dilliard, Tammy Filiater, and Eugene Pizzini – Public Water Supply & Subdivisions Bureau; John Arrigo – Enforcement Division; Jon Kenning and Paul Skubinna – Water Protection Bureau; George Mathieus, Eric Urban, Erik Makus, Michael Pipp, Amy Steinmetz; Ed Coleman, Emily Hinz, and Melissa Sjolund – Industrial & Energy Minerals Bureau

Interested Persons Present: Ella Smith and Cameron Clevidence – Northern Plains Resource Council;

I.A. Review and approve March 20, 2015, Board meeting minutes.

Chairman Shropshire asked if any members of the Board had comments on the draft minutes. No one commented.

Mr. Mires MOVED to approve the minutes as submitted. Mr. Tweeten SECONDED the motion. The motion CARRIED 5-0.

II.A.1.a. 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 has been continued to October 5, 2015.

II.A.1.b. 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 the hearing in this matter has been continued to October 19, 2015.

II.A.1.c. 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 is expecting the parties to jointly file a new scheduling order on June 30, 2015.

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.

No discussion took place regarding this matter

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.

No discussion took place regarding this matter.

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.

No discussion took place regarding this matter.

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.

A brief discussion took place regarding procedure when no hearing examiner has been assigned to the case.

III.A.1. In the matter of final action regarding proposed amendments to ARM 17.8.102 and 17.8.103 to incorporate by reference updated federal and state statutes and regulations.

Ms. Ulrich said the department recommends the Board adopt the rules and reminded that the Board initiated the rulemaking in January 2015. She said a public hearing was conducted March 5, 2015, and no comments were received.

Chairman Shropshire called for a motion to adopt the proposed amendments set forth in the draft notice of amendment, and the attached House Bill 521 and 311 analyses, and the Presiding Officer's report. Mr. Tweeten so MOVED. Ms. Kaiser SECONDED the motion. Chairman Shropshire asked if there were any members of the public who wished to comment on the matter. There was no one. The motion CARRIED 5-0.

III.B.1. 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.

Mr. Reed said the parties in this matter. He said the case is scheduled for hearing July 19, 2016.

Chairman Shropshire called for a motion to appoint Mr. Reed as the permanent Hearings Examiner for this matter. Mr. Mires so MOVED. Mr. Tweeten SECONDED the motion. The motion CARRIED 5-0.

III.B.2. 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.

Mr. Reed said this matter is scheduled for hearing June 14, 2016.

Chairman Shropshire called for a motion to appoint Mr. Reed as the permanent Hearings Examiner for this matter. Mr. Mires so MOVED. Mr. Tweeten SECONDED the motion. The motion CARRIED 5-0.

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 did.

Mr. Livers explained that the Board will have new members June 1. He thanked Ms. Shropshire for chairing the Board for the past two years. Tom thanked Larry Mires and Heidi Kaiser for their service on the Board, and thanked Joe Russell for his years of service to the Board and for serving as chairman for multiple terms.

Chairman Shropshire noted that Ms. Miles will be the new chair of the Board as of July 1.

V. Contested Case Hearing

The Board held oral argument 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.

VI. Adjournment

The meeting adjourned at

Board of Environmental Review July 31, 2015, minutes approved:

Joan Miles

JOAN MILES
CHAIRMAN
BOARD OF ENVIRONMENTAL REVIEW

July 31, 2015

DATE