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BEFORE THE BOARD OF ENVIRONMENTAL REVIEW  
OF THE STATE OF MONTANA

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BOARD MEETING )  
OCTOBER 4, 2019 )

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TRANSCRIPT OF PROCEEDINGS

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Heard at Room 111 of the Metcalf Building  
1520 East Sixth Avenue  
Helena, Montana  
October 4, 2019  
9:00 a.m.

BEFORE CHAIR CHRIS DEVENY;  
and BOARD MEMBERS JOHN DEARMENT,  
CHRIS TWEETEN, DEXTER BUSBY,  
HILLARY HANSON, MELISSA HORNBEIN,  
and DAVID LEHNHERR (By telephone)

PREPARED BY: LAURIE CRUTCHER, RPR  
COURT REPORTER, NOTARY PUBLIC

1           WHEREUPON, the following proceedings were  
2 had and testimony taken, to-wit:

3                           \* \* \* \* \*

4           CHAIR DEVENY: Good morning, everyone.  
5 I'd like to call this meeting of the BER to order.  
6 Would Lindsay please take the roll call.

7           MS. FORD: Chris Deveny.

8           CHAIR DEVENY: Here.

9           MS. FORD: Dexter Busby.

10                   (Inaudible)

11           MS. FORD: I can hear him on here but  
12 not -- Hillary Hanson.

13           MS. HANSON: Here.

14           MS. FORD: John Dearment.

15           MR. DEARMENT: Here.

16           MS. FORD: Chris Tweeten.

17           MR. TWEETEN: Present.

18           MS. FORD: Melissa Hornbein.

19           MS. HORNBEIN: Here.

20           MS. FORD: David Lehnherr.

21           MR. LEHNHERR: Here.

22           MS. FORD: All seven Board members are  
23 present. We do have a quorum.

24           CHAIR DEVENY: Okay. Thank you. I want  
25 to make sure that we can hear them, though, since

1 nobody else could but you. In the meantime while  
2 they're working on getting the audio to work, I'd  
3 like to see -- Are there any members of the public  
4 that are on the phone today or any other  
5 interested parties?

6 MS. TRANK: Peggy Trank with Treasure  
7 State Resources Association.

8 CHAIR DEVENY: Welcome, Peggy. Any  
9 other members of the public?

10 (No response)

11 CHAIR DEVENY: Hearing none, let's go  
12 around the room and have introductions real  
13 briefly.

14 MR. HAYES: Ed Hayes, Acting Chief Legal  
15 for DEQ.

16 MS. BOWERS: Kirsten Bowers, DEQ  
17 attorney.

18 MR. MOSER: Kurt Moser, DEQ attorney.

19 MS. SCHERER: Sandy Scherer, DEQ.

20 MS. STEFFENS: Galen Steffens, Water  
21 Quality Planning Bureau Chief, DEQ.

22 MR. SEVERS: Eric Severs, DEQ, Water  
23 Protection Bureau.

24 MR. COLEMAN: Ed Coleman, I'm the Bureau  
25 Chief over DEQ's Coal and Opencut Mining Bureau.

1 MR. HENRIKSEN: Craig Henriksen from the  
2 Air Quality Bureau, DEQ.

3 MS. PAYNE: Rhonda Payne, DEQ Air  
4 Quality Bureau.

5 MS. ULRICH: Liz Ulrich, Air Quality  
6 Bureau, DEQ.

7 MS. HARBAGE: Rebecca Harbage, Public  
8 Policy Director, DEQ.

9 MR. PIZZINI: Eugene Pizzini, Public  
10 Water Supply.

11 MS. KELLY: Myla Kelly, Water Quality  
12 Standards.

13 MR. DAVIS: Tim Davis, DEQ.

14 CHAIR DEVENY: Thank you. Do we have  
15 the audio taken care of?

16 MS. FORD: Can we do a sound check on  
17 folks on the phone. John Dearment, could you just  
18 give us a "present" again, please?

19 MR. DEARMENT: This is John. I'm  
20 present.

21 MS. FORD: The phone, the audio is  
22 working. The Board members are present. We are  
23 good to go.

24 CHAIR DEVENY: Okay. Thank you. This  
25 meeting except for myself is all by phone, so I

1 appreciate if everybody -- Board members, members  
2 of the public -- identify themselves before they  
3 speak, so everybody in the room and everybody on  
4 the phone knows who is speaking at that time. So  
5 thank you.

6 With that, we're going to review the  
7 minutes of the August 9th, 2019 meeting. Do any  
8 of the Board members have any discussion of the  
9 minutes, or any additions or corrections?

10 (No response)

11 CHAIR DEVENY: Hearing none, would  
12 someone like to make a motion to approve the  
13 minutes.

14 MS. HORNBEIN: This is Melissa Hornbein.  
15 I will make the motion to approve the minutes from  
16 the August 9th Board meeting.

17 CHAIR DEVENY: Is there a second? I'll  
18 second it.

19 MR. TWEETEN: This is Chris.

20 CHAIR DEVENY: It's been moved and  
21 seconded. Any further discussion?

22 (No response)

23 CHAIR DEVENY: Any discussion from the  
24 public on the minutes of the August meeting?

25 (No response)

1 CHAIR DEVENY: Hearing none, we'll vote  
2 on the minutes. All those in favor of approving  
3 the August 9th, 2019 meeting minutes, signify by  
4 saying aye.

5 (Response)

6 CHAIR DEVENY: Any opposed, signify by  
7 saying nay.

8 (No response)

9 CHAIR DEVENY: Hearing none, the meeting  
10 minutes are approved. Next we'll move on to an  
11 update by our attorney and Hearing Officer Sarah  
12 Clerget.

13 MS. CLERGET: Hi, everybody. This is  
14 Sarah. And going through the update from the  
15 agenda. So 1(a), we've got CMG. And this was  
16 stayed. I actually issued an order, I think it  
17 was yesterday or the day before, after we got a  
18 status update that talked about in the agenda that  
19 set this on a hearing schedule.

20 So it is no longer stayed. They have  
21 thirty days or so to get discovery responses, and  
22 then I've set it through a summary judgment  
23 schedule, so we'll see what happens with that.  
24 They will hopefully proceed accordingly.

25 In Copper Ridge, you guys sent that back

1 last time. So we've got initial disclosures  
2 coming. The parties wanted staggered initial  
3 disclosures about what they're going to use at the  
4 hearing.

5 Based on those initial disclosures,  
6 they're going to give me a schedule that outlines  
7 the additional discovery that they're going to  
8 need. Right now they're contemplating that that  
9 additional discovery is going to include  
10 depositions and written discovery, so that will  
11 probably take a few months. And then we're going  
12 to set it for a hearing, which right now they  
13 think is going to take about a day.

14 So that one you probably won't see again  
15 until the spring, is my guess, at the earliest;  
16 but it will depend a little bit on how that  
17 discovery goes.

18 2(a) you have Alpine Pacific. I just  
19 issued a scheduling order in that, and we're at  
20 the very early stages of discovery, so that's  
21 going to take awhile. You've got until June  
22 before discovery even closes, so that one is a  
23 long haul still to go.

24 CHS is stayed. They're working on  
25 settlement, and they have until November 29th to

1 get back to me about the status of settlement or a  
2 proposed schedule for litigation. So I am waiting  
3 for the update to come on that one.

4 On Laurel Refinery, this one is  
5 consolidated with the CHS case, so it's the same  
6 update as above.

7 The Absaloka Mine, they have until  
8 October 10th to issue me a status report of how  
9 they want to proceed, based on the fact that the  
10 Supreme Court has issued its ruling in Sierra Club  
11 and MEIC versus DEQ and Western Energy. So  
12 waiting for the status report to hear how we're to  
13 proceed with that one.

14 Signal Peak, we've got a two part update  
15 on that one. The first part is the District Court  
16 case update, which is assigned to outside Counsel  
17 Amy Christensen. So I think she sent you an  
18 update, Chris.

19 CHAIR DEVENY: I've been in contact with  
20 Amy. She's been keeping us updated on the two  
21 cases that we assigned her at the last Board  
22 meeting. And in the Signal Peak case regarding  
23 the subpoena issue, in the District Court matter,  
24 BER filed a notice of nonparticipation, and we  
25 anticipate filing a similar notice in the appeal



1 pending before the Montana Supreme Court. So <sup>9</sup>  
2 that's where that is.

3 MS. CLERGET: And then we've got the  
4 contested case which is continuing in front of me.  
5 There are summary judgment motions, cross motions  
6 for summary judgment filed in that, and the  
7 decision is ripe for decision from me, so they're  
8 waiting on a decision.

9 We were discussing whether or not that  
10 might be in front of the Board at the December  
11 meeting, but for scheduling reasons, because Talen  
12 is in front of you guys in December, I think it's  
13 too much to put both Signal Peak and Talen in  
14 front of you in December.

15 So I think we'll probably -- I'll talk  
16 to the parties and figure out what they want to do  
17 about scheduling that, and depending on the  
18 outcome of the decision and what the parties want,  
19 that may be in front of you -- maybe we'll set a  
20 special meeting or at the February meeting. We'll  
21 talk to the parties and see what they want to do  
22 about that.

23 The Montanore Minerals case, so that  
24 one, it was ripe for a decision. You were  
25 supposed to hear it today, but in the intervening

1 time, a decision came out of the District Court in  
2 a parallel, I guess, case that the District Court  
3 has that affected our underlying case.

4 And so the parties in our Montanore case  
5 asked for a stay pending their appeal to the  
6 Supreme Court of that case. So that matter is  
7 stayed right now, and given what either the  
8 Supreme Court or the District Court do, we're  
9 going to wait to decide whether or not to proceed  
10 on that one. So that's why it is not in front of  
11 you today.

12 In Golden West, we're calling it, is  
13 "G," and I just issued an order on motions  
14 including motions for summary judgment. I issued  
15 a scheduling order. The parties asked for an  
16 additional -- Well, one of the parties asked for  
17 an additional round of summary judgment, which I  
18 granted, so they have until November to finish  
19 another round of summary judgment based on the way  
20 the first order went.

21 And we have a hearing currently set for  
22 January. So the additional summary judgment  
23 deadlines didn't slow that down at all. We're  
24 still set for a January hearing, so you guys will  
25 probably be hearing that sometime in the spring,

1 is my guess.

2 Talen, as you guys know, this one is  
3 proceeding in a very expedited schedule. I know  
4 they've been doing a lot on this case here. So  
5 here's my plug again. This is coming in front of  
6 you at the December 13th meeting, and it's going  
7 to be a big decision that the parties have really,  
8 really been pushing to get that done.

9 And the November schedule, my November  
10 schedule and their November schedule is going to  
11 be a little insane to get this before you guys in  
12 December. So we have a four day hearing scheduled  
13 starting November 12th. We'll get that hearing  
14 done, get the post-trial filing done, and get it  
15 in front of you by December.

16 So please, please be in person for that  
17 December meeting so that -- we have three parties  
18 in that case, and it's going to be a big one. So  
19 I would really push everybody to please be here in  
20 person and plan for that one.

21 Spring Creek Coal is proceeding  
22 according to the scheduling order. They have  
23 until the end of the month. They were working on  
24 settlement, they thought that was a possibility,  
25 so I gave them until the end of the month to

1 either figure out scheduling or give me a proposed  
2 schedule. So they're working on that.

3 Western Energy Area F, this one has an  
4 intervention order I just ruled on a few days ago.  
5 So the mine and the union has intervened, and  
6 they're proceeding according to the scheduling  
7 order. That's just at the very beginning of the  
8 case right now. So that one is going to be again  
9 a long time coming.

10 3(a) is not me.

11 MS. BOWERS: Good morning, Chair Deveny,  
12 members of the Board. This is Kirsten Bowers, DEQ  
13 attorney. Just a brief update on the Western  
14 Energy Rosebud case.

15 The Supreme Court issued an order  
16 September 10th in that case which was mostly  
17 favorable to the Department, and found that we  
18 lawfully interpreted water quality standards,  
19 particularly the standard at 17.30.637 that  
20 applies to ephemeral receiving waters; and that  
21 also our representative monitoring protocol for  
22 wet weather discharges was lawful.

23 But the case is remanded to District  
24 Court on some questions of fact, whether the facts  
25 supported the outfall selected for representative

1 monitoring, and also whether in applying our  
2 ephemeral rule, the Department properly considered  
3 the downstream intermittent and perennial  
4 stretches, and impaired waters that may need a  
5 TMDL.

6 So we'll keep you posted on how any  
7 remand to the District Court proceeds.

8 CHAIR DEVENY: Thank you, Ms. Bowers.

9 MS. CLERGET: Then the last one is the  
10 update from Amy Christensen, also an outside  
11 Counsel we've hired. That's the appeal of the  
12 Western Energy decision.

13 CHAIR DEVENY: And this is Chris. Amy  
14 wrote to us on this. The update is: "MEIC and  
15 the Sierra Club filed a petition for judicial  
16 review of BER's decision to approve the permit for  
17 the Rosebud Mine. BER filed a motion to dismiss  
18 on the grounds that BER should not have been named  
19 in the petition, since it was the deciding agency,  
20 not a party to the underlying contested case  
21 proceeding."

22 "MEIC and Sierra Club filed their  
23 response brief on September 26th, and BER --" with  
24 Amy in charge -- "will file its reply brief no  
25 later than October 10th, 2019."

1           So that is proceeding, and we'll just  
2 continue to keep updated on that.

3           MS. CLERGET: I think that concludes the  
4 contested case update.

5           CHAIR DEVENY: So let's move on to DEQ's  
6 briefing items. George, the update on the  
7 manganese groundwater standard.

8           MR. MATHIEUS: Yes. If the Board  
9 recalls, we brought a rule package sometime back  
10 that ultimately the Board, we asked the Board if  
11 we could bifurcate that rule package, which we  
12 did, and we committed to going back and doing more  
13 public outreach, and so on and so forth. Myla  
14 Kelly is going to give the Board an update on that  
15 today.

16           MS. KELLY: Good morning, Madam Chair,  
17 members of the Board. Thank you for having me.  
18 My name is Myla Kelly, and I'm the manager of the  
19 Water Quality Standards Program here at Montana  
20 Department of Environmental Quality.

21           As George just mentioned, and as I'm  
22 sure you remember, at a previous Board of  
23 Environmental Review meeting, we came to the BER  
24 to request adoption of a handful of groundwater  
25 criteria. The BER initiated rulemaking, and when

1 it came to adoption of those criteria, we  
2 requested a bifurcation of the criteria, and held  
3 off on requesting adoption for both manganese and  
4 iron. And I am here today to just to give you an  
5 update of where we are with those two parameters,  
6 and what some of our efforts are in continuing  
7 that.

8 It is still a priority for the  
9 Department. It is our goal to have completed the  
10 process, and come back to the Board in 2020 with  
11 requesting adoption -- or initiation of rulemaking  
12 particularly with manganese.

13 We have three different items that we  
14 have been working on as far as our continued  
15 outreach and work towards this ultimate adoption.

16 The first is continued outreach  
17 coordinated between our program and the public  
18 water supply. That has included presentations on  
19 manganese, and the appropriate groundwater  
20 standard and drinking water maximum contaminant  
21 limit to the Montana Water School, to our Region  
22 VIII Head Start Conference, to the Montana  
23 Environmental Health Association, to the Missoula  
24 Community Action Group; and we will continue that  
25 type of outreach into the next calendar year.

1           The second item that we have been  
2 working on is working with EPA. EPA has  
3 recognized the importance of manganese to our  
4 region, particularly given the recent scientific  
5 studies that we referenced in our statement of  
6 reasonable necessity, as well as the high levels  
7 of manganese in Region VIII.

8           In doing that, in recognizing that, EPA  
9 will be forthcoming on a white paper that  
10 demonstrates the appropriate calculation of a  
11 human health criteria for manganese. This will be  
12 based on our work that we completed with their  
13 toxicologist in calculating our proposed criteria.  
14 And this is basically what we had outlined in our  
15 statement of reasonable necessity.

16           So we have been working closely with EPA  
17 on that, and look forward to that white paper  
18 coming out, and that will be coming out in the not  
19 too distant future.

20           The third thing that I wanted to mention  
21 was that we have some ongoing internal  
22 discussions, and will be conducted at the Division  
23 Administrator and our Bureau Chief level, of how  
24 the bureaus and programs will work to implement  
25 the new groundwater criteria, given that we know



1 we do have high background levels in Montana of  
2 manganese. And we will continue that outreach  
3 internally in order to determine how this  
4 groundwater criteria will be implemented across  
5 the Department, and at that point we will open up  
6 a stakeholder work group to discuss the  
7 implementation.

8 CHAIR DEVENY: Thank you, Ms. Kelly. Do  
9 members of the Board have questions?

10 (No response)

11 CHAIR DEVENY: Are Board members still  
12 on line? I just want to make sure you're still  
13 here. I'm not hearing from any of you.

14 MS. HORNBEIN: This is Melissa. I'm  
15 still here.

16 MR. TWEETEN: I'm still here. This is  
17 Chris.

18 CHAIR DEVENY: Okay. I like it when you  
19 all speak at once.

20 Melissa, go ahead. I think you had a  
21 comment.

22 MS. HORNBEIN: I don't. I just was  
23 verifying I'm still on the line.

24 CHAIR DEVENY: Okay. Great. Thank you,  
25 Ms. Kelly, and DEQ. It looks like you're making

1 some good progress on this very important issue.

2 Were there any other briefing items that  
3 you want to include, George?

4 MR. MATHIEUS: (Shakes head)

5 CHAIR DEVENY: Let's move on then to the  
6 Regional Haze Program. We've got a request to  
7 adopt a couple orders on this, so DEQ.

8 MR. MATHIEUS: Thank you. Sure. The  
9 agenda item is somewhat self-explanatory. I think  
10 Liz Ulrich is presenting to you this morning.

11 MS. ULRICH: Good morning, Madam Chair,  
12 members of the Board. I'm Liz Ulrich, and I'm the  
13 supervisor of the Analysis and Planning Section of  
14 the Department's Air Quality Bureau.

15 In 2012, the Environmental Protection  
16 Agency issued a Federal Implementation Plan, or  
17 FIP as we use the term, for a Regional Haze  
18 Program in Montana.

19 As a result, we heard from our  
20 stakeholders that they would like the State to be  
21 in the lead of this program, and we were directed  
22 by Governor Bullock in his 2016 energy blueprint  
23 to take over from the EPA the Regional Haze  
24 Program for the upcoming planning cycle.

25 Today's action is one step in the

1 process to transfer the authority to implement the  
2 Regional Haze Program from the Environmental  
3 Protection Agency to the State of Montana.

4 There are a lot of details provided in  
5 your packet, and I think it is starting on Page  
6 14, but I just want to reiterate a couple of  
7 important points and answer any questions you have  
8 about this process.

9 So again, the current goal is to  
10 transfer the emission limits for the four  
11 facilities identified in the FIP to the Montana  
12 State Implementation Plan or SIP. The stringency  
13 of the limits will remain the same. It just  
14 places the State of Montana in the lead for  
15 implementing the regional haze requirements, and  
16 remove these requirements from FIP.

17 So why go through the process of  
18 requesting a Board order? According to 40 CFR  
19 Part 51 Appendix A, specific criteria are required  
20 in a SIP submittal. One of these is that it  
21 contain evidence that the State has an enforceable  
22 mechanism to ensure compliance with the  
23 requirements submitted.

24 That is what the Department is asking  
25 for today, orders that adopt the emission control

1 strategies included in the Exhibit A's. We will  
2 then be able to work with the EPA to submit them  
3 for approval into the Montana SIP.

4 We invited comments on this action for  
5 three weeks prior to us coming before you today,  
6 and received four comments. Three have supported  
7 Montana being in the lead of our regulatory  
8 programs, and one from EPA that provided insight  
9 on what they believe should be included in the  
10 exhibits to make them more approvable once we  
11 submit them.

12 We have worked with EPA, other  
13 stakeholders, and the affected parties on this  
14 step, and will continue to engage them into the  
15 future.

16 With that, the Department requests that  
17 the Board adopt the proposed orders, and I and  
18 members of the Regional Haze team are here to  
19 answer any questions that you might have.

20 CHAIR DEVENY: Thank you. Liz, I  
21 suspect there might be some questions. Do Board  
22 members have any questions of Ms. Ulrich?

23 (No response)

24 CHAIR DEVENY: Hearing none, I think  
25 we'll open it up for public comment at this point

1 to see if any members of the public have any  
2 comment on the proposed orders.

3 (No response)

4 CHAIR DEVENY: Anybody on line have any  
5 comments, on the phone?

6 (No response)

7 CHAIR DEVENY: Hearing none, I would  
8 like to make a motion then for the Board to  
9 request that the orders proposed for the Regional  
10 Haze issue be adopted. Perhaps that's not the  
11 best way to phrase that.

12 MS. CLERGET: I think so.

13 MS. HORNBEIN: Chris, was that --

14 CHAIR DEVENY: That's a motion.

15 MS. HORNBEIN: This is Melissa. I'll  
16 second the motion.

17 CHAIR DEVENY: The motion to adopt the  
18 orders as set forth by DEQ has been moved and  
19 seconded. Is there any discussion?

20 (No response)

21 CHAIR DEVENY: Hearing none, we'll have  
22 a vote. All those in favor of the order, please  
23 signify by saying aye.

24 (Response)

25 CHAIR DEVENY: Any opposed, please say

1     nay.

2                     (No response)

3                     CHAIR DEVENY:   Hearing none, the motion  
4     passes and the orders are approved.  Thank you for  
5     your work on this.

6                     MS. CLERGET:   We have a new contested  
7     case.

8                     CHAIR DEVENY:   Moving right along, we  
9     have a new contested case.  Sarah.

10                    MS. CLERGET:   So this is the City of  
11     Great Falls.  The information is in your packet at  
12     Page 42.  And this is your standard menu of  
13     options.  You get to keep it for all substantive  
14     decisions, assign it to me for only procedural  
15     purposes; you can assign it to me for summary  
16     judgment, keep the hearing; you can assign it to  
17     me for everything.  So it's up to you guys.  I'm  
18     here to answer any questions you have.

19                    As I anticipate, the question will be  
20     can I take this.  The answer is the same as  
21     always.  Yes, as long as everybody is all right  
22     with other attorneys from the Agency Legal  
23     Services being assigned as needed.

24                    CHAIR DEVENY:   Any questions of Sarah on  
25     this regarding procedural issues?

1 (No response)

2 CHAIR DEVENY: Could I have somebody  
3 from the Board make a motion?

4 MR. TWEETEN: Madam Chair, this is  
5 Chris. I move that we assign this case to Sarah  
6 for all purposes.

7 MR. BUSBY: This is Dexter. Second.

8 CHAIR DEVENY: It's been moved and  
9 seconded that this case be assigned to Sarah for  
10 all purposes. Is there any discussion on the  
11 motion?

12 (No response)

13 CHAIR DEVENY: Hearing none, all those  
14 in favor of the motion signify by saying aye.

15 (Response)

16 CHAIR DEVENY: Any opposed?

17 (No response)

18 CHAIR DEVENY: Hearing none, the motion  
19 passes.

20 MS. CLERGET: The next thing on the  
21 agenda is the Counsel update, and I apologize for  
22 my late minute submission. That was my fault for  
23 getting it to you guys late. But it came to you  
24 in an email yesterday, and has been posted on the  
25 website.

1           This is a memo that I did, and it's in  
2 draft form right now. It was just kind of a heads  
3 up that as part of our obligations, our statutory  
4 obligations, we've been working diligently to do  
5 our biennial review of the rules.

6           And part of that process has been  
7 working with DEQ, and we're going to continue with  
8 them more as we go forward. But Chris and I  
9 wanted to give you a heads up that this was some  
10 of the work that we were doing, and one of the  
11 things we're going to do is continue to work with  
12 DEQ on this memo, which is essentially just a list  
13 of all of our ARMs. So we're continuing to work  
14 with them on that, and I just wanted to give you  
15 guys a heads up that that was happening.

16           CHAIR DEVENY: George, do you have  
17 anything to add?

18           MR. MATHIEUS: Sure. Thanks, Madam  
19 Chair. I can add to that. So yes. So as I think  
20 we discussed a few months ago, that at least the  
21 three of us, we have done a quick review, looking  
22 at roughly eight statutes and the applicable rules  
23 that fall under those statutes and the Board's  
24 authority.

25           And the two things that we were



1 primarily focusing on were: Has there been  
2 statutory changes that consequently require rule  
3 changes, yes or no? And then subsequently has  
4 there been any repealers, for example.

5 So we're done with that review, just  
6 like this week actually, and I have not had time  
7 to review it. I would propose that maybe we sit  
8 down, the three of us again, and hash out a plan,  
9 and see what else we may or may not need to do.

10 So that's where we're at.

11 CHAIR DEVENY: Okay. Great. So I just  
12 wanted to let Board members know that the three of  
13 us have been working on this, and it is something  
14 that, even though it's sometimes not the most  
15 interesting work to do, it's really important that  
16 we keep our rules up to date and in good shape.  
17 So with that --

18 MS. CLERGET: I think that's all for the  
19 Counsel update.

20 CHAIR DEVENY: George, did you have  
21 anything else to add today?

22 MR. MATHIEUS: No.

23 CHAIR DEVENY: I did have one request of  
24 DEQ. We're already here in the last quarter of  
25 the year, and we need to be setting a schedule for

1 the next year's BER meetings. So Lindsay, if you  
2 could get the dates from the Secretary of State's  
3 Office, and send out an email, and see if Board  
4 members have any conflicts with any of those  
5 dates, if we need to shuffle them at all. And  
6 then at the December Board meeting we can vote on  
7 what the schedule would be.

8 MS. FORD: That's already in place, and  
9 the final meeting dates will be before you at the  
10 December meeting, but there will be an email  
11 before you guys --

12 CHAIR DEVENY: I should have known you  
13 were already on it. You're way ahead of me.

14 MS. CLERGET: So I'll just put another  
15 plug in here. I'm sorry to sound like a broken  
16 record. But I use those dates. I mean we're  
17 setting litigation deadlines based on those dates,  
18 so lots and lots of people are dependent on those  
19 dates happening, and us having a quorum, and  
20 they're really important.

21 So please take the time and sit down,  
22 and if there is weddings coming up, or some out of  
23 town travel, or whatever, I'd rather move the  
24 dates now, than have people not come later,  
25 because there are so many people that depend on

1 those dates happening when we say they're going to  
2 happen. And so a big plug to really sit down with  
3 your schedule and consider what you can be there  
4 for.

5 CHAIR DEVENY: And another big plug to  
6 be here next, in December for the meeting, because  
7 another probably a day long hearing -- or not  
8 hearing, but a Board hearing. So at this point  
9 we've pretty much gone through the agenda.

10 MS. CLERGET: General public comment.

11 CHAIR DEVENY: There is an opportunity  
12 for some general public comments. Do members of  
13 the public have comment on anything that we  
14 haven't already commented on?

15 (No response)

16 CHAIR DEVENY: Anybody on the phone have  
17 any public comment?

18 (No response)

19 CHAIR DEVENY: Hearing none, I think  
20 we're ready for adjournment. Can I have a motion  
21 to adjourn from anybody?

22 MR. BUSBY: This is Dexter. I move  
23 adjournment.

24 CHAIR DEVENY: I'll second it. All  
25 those in favor, signify by saying aye.

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(Response)

CHAIR DEVENY: All opposed.

(No response)

CHAIR DEVENY: Motion carries. The meeting is adjourned.

(The proceedings were concluded

at 9:35 a.m. )

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C E R T I F I C A T E

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STATE OF MONTANA )

: SS.

COUNTY OF LEWIS & CLARK )

I, LAURIE CRUTCHER, RPR, Court Reporter,  
Notary Public in and for the County of Lewis &  
Clark, State of Montana, do hereby certify:

That the proceedings were taken before me at  
the time and place herein named; that the  
proceedings were reported by me in shorthand and  
transcribed using computer-aided transcription,  
and that the foregoing - 28 - pages contain a true  
record of the proceedings to the best of my  
ability.

IN WITNESS WHEREOF, I have hereunto set my  
hand and affixed my notarial seal  
this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
LAURIE CRUTCHER, RPR  
Court Reporter - Notary Public  
My commission expires  
March 9, 2020.

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