



**BOARD OF ENVIRONMENTAL REVIEW
MEETING MINUTES**

APRIL 7, 2023

Call to Order

Chairman Simpson called the meeting to order at 9:00 a.m.

Attendance

Board Members Present

By Zoom: Chairman Simpson; Board Members Stacy Aguirre, Julia Altemus, Lee Bruner, Jennifer Rankosky, and Joe Smith. Board member Jon Reiten joined the meeting later, due to technical difficulties.

Roll was called and a quorum was present.

Board Attorney Present

Terisa Oomens

DEQ Personnel Present

Board Liaison: James Fehr

Board Secretary: Sandy Moisey Scherer

DEQ Legal: Catherine Armstrong, Kirsten Bowers, Angie Colamaria, Sam King, Lee McKenna, Kurt Moser, Nicholas Whitaker, Jessica Wilkerson, Colson Williams

Public Policy: Moira Davin

Air, Energy & Mining: Emily Lodman, Bob Smith

Other Parties Present

Laurie Crutcher, Crutcher Court Reporting

Aislinn Brown, Elena Hagen – Montana DOJ Agency Legal Services Bureau

Bill Mercer, Sarah Bordelon – Holland & Hart

Barbara Chillcott – WELC

Shiloh Hernandez, Amanda Galvan – Earthjustice

Robert Colter – Indian Law Resource Center

Kaden Keto – Jackson Murdo & Grant

Derf Johnson, Anne Hedges – MEIC

Ray Stout, Kootenai Valley Record

Owen P. Voigt, Legacy Mining

Luke Ployhar

Noelle Boyer

I. ADMINISTRATIVE MATERIALS

A. **Review and Approve Minutes**

A.1. **The Board will vote on adopting the February 24, 2023, Meeting Minutes**

Board member Smith moved to APPROVE the February 24, 2023, meeting minutes. Board member Altemus SECONDED. The motion PASSED unanimously.

There was no board discussion or public comment.

B. **Introduction of new Board members and Board Chair**

Board members gave brief introductions.

II. BRIEFING ITEMS

The Board did not have any comments.

III. ACTION ITEMS

a. **In the Matter of: Appeal and Request for Hearing by Westmoreland Rosebud Mining LLC Regarding Issuance of MPDES Permit No. MT0032042, Colstrip, MT, BER 2022-06 WQ.**

Chairman Simpson requested the parties give a brief statement to address the settlement agreement and the questions that were raised. Bill Mercer from Holland and Hart and Kirsten Bowers from DEQ provided updates. Discussion ensued.

Board member Bruner motioned to DIRECT the parties to update the Board at each Board meeting. Board member Reiten SECONDED. The motion passed unanimously.

The Board took a ten-minute break. Roll was called and a quorum was present. Board member Reiten introduced himself as he was not present at the beginning of the meeting. All meeting attendees were identified.

b. **In the Matter of Luke Ployhar, for review of determination made by the Department of Environmental Quality on the Application for Exploration License #00860, BER 2022-03 HR.**

Chairman Simpson reviewed the case with Board members, clarifying matters before the Board today. He allowed legal counsel ten minutes each for oral argument.

Legal counsel giving oral argument were Kaden Keto from Jackson, Murdo & Grant; Sam King from DEQ; and Amanda Galvan from Earthjustice.

The Board engaged in discussion whether to approve or deny the remand.

Board member Aguirre motioned to DISMISS the petition for the contested case. Board member Reiten SECONDED. The motion passed unanimously.

The Board discussed whether to proceed with an informal or advisory role in the proceeding, and if in the affirmative, what that procedure ought to be.

Board member Aguirre motioned that the Board NOT CONTINUE with this matter as an action item. Board member Rankosky SECONDED. The motion passed unanimously.

IV. GENERAL PUBLIC COMMENT

No public comment was given.

V. BOARD COUNSEL UPDATE AND EXECUTIVE SESSION

The Board moved to Executive Session after Adjournment of the Board Meeting.

VII. ADJOURNMENT

Board member Altemus MOVED to adjourn the Board Meeting and move to Executive Session; Board member Reiten SECONDED. The motion PASSED unanimously. The meeting adjourned at 10:37 A.M.

Board of Environmental Review April 7, 2023, minutes approved:

/s/ David Simpson
DAVID SIMPSON
CHAIRMAN
BOARD OF ENVIRONMENTAL REVIEW

June 9, 2023
DATE