



**BOARD OF ENVIRONMENTAL REVIEW
MEETING MINUTES**

APRIL 11, 2025

Call to Order

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

Attendance

Board Members Present

Chair Dave Simpson; Board Members Julia Altemus, Amanda Knuteson, Jennifer Rankosky, and Joe Smith.

Vice Chair Stacy Aguirre was not present at the meeting.

Roll was called and a quorum was present.

Board Attorney Present

Terisa Oomens

DEQ Personnel Present

Board Secretary: Sandy Moisey Scherer

Board Liaison: Deputy Director James Fehr

DEQ Director: Sonja Nowakowski

DEQ Communications: Emma Gronda, Madison McGeffers

DEQ Legal: Catherine Armstrong, Isabelle Nebel, Sam King, and Nick Whitaker

DEQ Air, Energy and Mining: Josh Bridgeman, Eric Dahlgren, and Mike Glenn

Other Parties Present

Laurie Crutcher—Crutcher Court Reporting

Elena Hagen—Montana DOJ Agency Legal Services Bureau

Robert Farris-Olsen and David (Kim) Wilson —Morrison Sherwood Wilson & Deola, PLLP

Matt Guptill and Sabrina Temple—Decker Coal Company

Samuel Yemington —Holland & Hart

Vicki Marquis and Mark Stermitz—Crowley Fleck

Todd Briggs—Westmoreland Mining

David Smith—Montana Contractors Association

Lori Watson

I. ADMINISTRATIVE MATERIALS

A. **Review and Approve Minutes**

A.1. **The Board will vote on adopting the December 20, 2024, Meeting Minutes.**

Board member Smith moved to APPROVE the December 20, 2024, meeting minutes. Board member Rankosky SECONDED. The motion PASSED unanimously.

There was no board discussion or public comment.

II. BRIEFING ITEMS

a. Chair Simpson, Board Counsel Oomens, and Sam King of DEQ offered clarification regarding cases.

The Board did not have any additional questions.

III. ACTION ITEMS

a. **In the Matter of the Notice of Appeal and Request for Hearing by Alpine Pacific Utilities Regarding Issuance of MPDES Permit No. MTX000164, BER 2019-06 WQ.**

On March 21, 2025, the parties filed a Joint Status Report and a First Amendment of the Second Stipulation and Request for Retention of Board Jurisdiction. The Board will need to either approve or reject the First Amendment to the Second Stipulation and agree or disagree to retain jurisdiction by the Board.

Chair Simpson asked for counsel to brief the Board about what the case is about, as there is some confusion. Sam King of DEQ gave an update, and discussion ensued.

Chair Simpson asked for a motion to approve the First Amendment to the Second Stipulation. Board member Altemus moved to APPROVE the stipulation. Board member Smith SECONDED.

The motion passed unanimously.

Chair Simpson asked for a motion to retain jurisdiction by the Board, until the next meeting when the attorneys for the parties are present to explain to the Board what the case is about. Board member Smith motioned to RETAIN jurisdiction by the Board. Board member Knuteson SECONDED.

The motion passed unanimously.

IV. NEW CONTESTED CASES

Chair Simpson spoke about the two new contested cases regarding Decker Coal, which are intertwined. One case is regarding the Appeal of the Notice of Violation issued, and the second having to do with the Department order to revise the permit.

Although the case was originally appealed as one case, it has been divided into separate cases as there are two separate issues.

Chair Simpson asked that representatives of Decker Coal Company and DEQ present to the Board their view of what these cases are about. The Board was briefed by Sam King of DEQ and Vicki Marquis of Crowley Fleck, representing Decker Coal Company.

- a. **In the Matter of: Decker Coal Company's Request for Hearing Regarding Permit C1983007 (East Decker Mine), BER 2025-02 SM.**

Discussion ensued.

Board member Altemus motioned to ASSIGN the East Decker violation appeal in its entirety to a Hearing Examiner at Agency Legal Services. Board member Rankosky SECONDED.

Discussion ensued. Board member Altemus WITHDREW her motion.

Board member Smith motioned to RETAIN the Board's control of the East Decker violation appeal until the next Board meeting. Board member Altemus SECONDED.

The motion PASSED unanimously.

- b. **In the Matter of: Decker Coal Company's Request for Hearing Regarding Permit C1987001C (West Decker Mine), BER 2025-01 SM.**

Board member Altemus asked if this issue could be tabled, until the Board has an opportunity to read all briefings and have a special meeting. Chair Simpson asked Board members if they were available April 25th for a special meeting. All Board members indicated they were available.

Board member Altemus motioned to TABLE the West Decker issue until a special meeting to be held on April 25th. Board member Smith SECONDED.

The motion PASSED unanimously.

V. GENERAL PUBLIC COMMENT

No public comment was given.

VI. BOARD CHAIR UPDATE

Chair Simpson gave an update regarding legislative items that surfaced during Legislature. He also would like to ask the parties in the Signal Peak case and Rosebud Mine Amendment 4 case to brief the Board on where they stand at the June 20, 2025 meeting.

Chair Simpson would also like an update on the three cases being handled by Hearing Examiner Cameron.

VII. ADJOURNMENT

Board member Smith MOVED to adjourn the Board Meeting; Board member Altemus SECONDED. The motion PASSED unanimously. The meeting was adjourned at 11:58 A.M.

Board of Environmental Review April 11, 2025, minutes approved:

/s/ David Simpson

DAVID SIMPSON

CHAIR

BOARD OF ENVIRONMENTAL REVIEW

June 20, 2025

DATE