



**BOARD OF ENVIRONMENTAL REVIEW  
MEETING MINUTES**

**AUGUST 22, 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, Jennifer Rankosky and Joe Smith.

Vice Chair Stacy Aguirre and Board member Allan Payne were not present.

Roll was called and a quorum was present.

**Board Attorney Present**

None

**DEQ Personnel Present**

Board Secretary: Sandy Moisey Scherer

Board Liaison: Deputy Director James Fehr

DEQ Director: Sonja Nowakowski

DEQ Legal: Catherine Armstrong, Kirsten Bowers, Sam King, Lee McKenna, and Isabelle Nebel

DEQ Air, Energy and Mining: Emily Lodman

DEQ Enforcement: Chad Anderson

**Other Parties Present**

Laurie Crutcher — Crutcher Court Reporting

Dana Hupp — Worden Thane, P.C.

Vicki Marquis — Crowley Fleck

Samuel Yemington — Holland & Hart

Diane Conradi — Conradi Law Office

Todd Briggs and David Kuzara, Westmoreland

## **I. ADMINISTRATIVE MATERIALS**

### **A. Review and Approve Minutes**

#### **A.1. The Board will vote on adopting the June 20, 2025, Meeting Minutes.**

Board member Smith moved to APPROVE the June 20, 2025, meeting minutes. Board member Rankosky SECONDED. The motion PASSED unanimously.

There was no board discussion or public comment.

## **II. BRIEFING ITEMS**

- a. Chair Simpson asked if the Board had any comments regarding cases. The Board did not have any questions.

## **III. ACTION ITEMS**

### **a. Retain Dana Hupp as Interim Counsel.**

In the last meeting, Board Counsel Oomens announced she was leaving ALS and moving to the Public Service Commission. The Board did not know at that time that ALS would be closed by the Department of Justice, effective August 22, 2025. The Board has two needs with respect to Legal Counsel - one is General Counsel for the Board, and second is for Hearing Examiners. Chair Simpson said that he had received approval from the Governor's Office to retain Interim Counsel, for a period of one year. Chair Simpson introduced Dana Hupp, and she gave a short introduction.

Board member Smith moved to RETAIN Dana Hupp as Interim Counsel for the Board. Board member Rankosky SECONDED. Discussion ensued.

The motion PASSED unanimously.

In light of recent Hearing Examiner changes, Chair Simpson will be reviewing indexes for BER cases with Dana Hupp, to get a better understanding of where cases stand procedurally.

### **b. In the Matter of Appeal and Request for Hearing by Alpine Pacific Utilities regarding Issuance of MPDES Permit No. MtX000164, BER 2019-06 WQ.**

- c. **In the Matter of: Westmoreland Resources, Inc.'s Appeal of Final MPDES Permit No. MT0021229 Issued by DEQ for the Absaloka Mine in Hardin, Big Horn County, Montana, BER 2015-06 WQ.**

Chair Simpson noted that ALS was the Hearing Examiner for both cases. ALS will close August 22, 2025.

Board member Smith moved to have the Board ASSUME jurisdiction of both Alpine Pacific Utilities, BER 2019-06 WQ, and Westmoreland Resources, Inc. Absaloka Mine, BER 2015-06 WQ, until the next Board meeting. Board member Rankosky SECONDED. Discussion ensued.

Kirsten Bowers of DEQ and Vicki Marquis of Crowley Fleck gave a short update for the Absaloka case (BER 2015-06 WQ). No new action is necessary to accept the new petition filed.

The motion PASSED unanimously.

#### IV. GENERAL PUBLIC COMMENT

No public comment was given.

#### V. BOARD CHAIR UPDATE

- a. **FY25 Legal Cost Summary Update**

Chair Simpson spoke about the FY25 legal cost summary. The Board did not have any questions.

- b. **Hearing Examiner Status**

The Board has need for Hearing Examiners. Chair Simpson said there is a completed and signed MOU between DEQ and DLI Office of Administrative Hearings for Hearing Examiners. Deputy Director Fehr spoke in greater detail about the MOU. Dana Hupp will work in coordination with Judy Bovington of DLI as the liaison with the Office of Administrative Hearings when the Board would like to assign cases to Hearing Examiners.

Chair Simpson asked for a motion to affirm that the Chair assume authority for duties for routine and non-substantive issues, until the next Board meeting.

Board member Rankosky motioned to AFFIRM that Chair Simpson assume authority for duties for routine and non-substantive issues, until the next Board meeting. Board member Smith SECONDED. Discussion ensued.

The motion PASSED unanimously.

**VI. ADJOURNMENT**

Board member Rankosky MOVED to adjourn the Board Meeting; Board member Smith SECONDED.  
The motion PASSED unanimously. The meeting was adjourned at 9:53 A.M.

Board of Environmental Review August 22, 2025, minutes approved:

/s/ David Simpson  
DAVID SIMPSON  
CHAIR  
BOARD OF ENVIRONMENTAL REVIEW  
  
October 24, 2025  
DATE