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BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

BOARD MEETING)
August 22, 2025)

TRANSCRIPT OF PROCEEDINGS (VIA ZOOM)

August 22, 2025

9:00 a.m.

BEFORE CHAIRMAN DAVID SIMPSON,
BOARD MEMBERS JOSEPH SMITH,
JULIA ALTEMUS, and JENNIFER RANKOSKY,

PREPARED BY: LAURIE CRUTCHER, RPR
COURT REPORTER, NOTARY PUBLIC
lauriecrutcher@gmail.com

IN ATTENDANCE:

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:

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

1 WHEREUPON, the following proceedings were
2 had:

3 * * * * *

4 CHAIR SIMPSON: Let's bring the meeting
5 to order and proceed with the people present.
6 Sandy, would you please take roll.

7 MS. MOISEY-SCHERER: Yes. Chair
8 Simpson.

9 CHAIR SIMPSON: Here.

10 MS. MOISEY-SCHERER: Board Member
11 Altemus.

12 BOARD MEMBER ALTEMUS. Here. I
13 apologize. My camera still won't work. I'm
14 sorry.

15 CHAIR SIMPSON: Board Member Rankosky.

16 BOARD MEMBER RANKOSKY: Here.

17 MS. MOISEY-SCHERER: Board Member Smith.

18 BOARD MEMBER SMITH: Here.

19 MS. MOISEY-SCHERER: We have a quorum,
20 sir.

21 CHAIR SIMPSON: Thank you. For the
22 information of the Board members, Allan Payne is
23 our newest Board member, recently appointed
24 replacing Amanda Knuteson. Hopefully he'll be
25 able to join us today. He is traveling out of the

1 country, so he may or may not be able to make that
2 happen. If and when he does, we'll proceed with
3 introductions.

4 So moving along, the first item is
5 review and approve the minutes from the June 2025
6 meeting. Are there any comments or alterations to
7 the minutes?

8 (No response)

9 CHAIR SIMPSON: Hearing none, is there a
10 motion?

11 BOARD MEMBER SMITH: I'll motion to
12 approve the minutes from the June 20th meeting.

13 BOARD MEMBER RANKOSKY: I'll second.

14 CHAIR SIMPSON: It's been moved and
15 seconded to approve the minutes. Any further
16 discussion?

17 (No response)

18 CHAIR SIMPSON: All in favor, say aye.

19 (Response)

20 CHAIR SIMPSON: I heard three.

21 BOARD MEMBER ALTEMUS: Aye.

22 CHAIR SIMPSON: Thank you. Motion
23 passes unanimously to approve the minutes.

24 Moving on to the briefing items, I had
25 not planned on going through this. I guess I

1 would ask if there are -- I mean we'll be
2 discussing some of these cases as we move forward,
3 that is, those that are still active, but are
4 there any questions, comments, relating to the
5 briefing items as presented in the agenda?

6 (No response)

7 CHAIR SIMPSON: Hearing none, let's
8 proceed to the action items.

9 As you recall, at the last meeting
10 Terisa advised us that she would be leaving ALS to
11 take a position with the Public Service
12 Commission. What we did not know at that time was
13 that Agency Legal Services was going to be closed
14 by the Justice Department, so that has left the
15 Board without Legal Counsel really since the last
16 meeting.

17 So we have two needs with respect to
18 Legal Counsel, one is General Counsel for the
19 Board, and second is Hearing Examiner or Hearing
20 Examiners. Initially I had prepared a request to
21 the Governor's office to retain outside Counsel
22 for -- as General Counsel for the Board and also
23 Hearing Examiners for at least two cases.

24 And as that evolved -- we'll talk about
25 Hearing Examiners in a moment -- but that request

1 was approved to retain Dana Hupp as our interim
2 General Counsel. And some of you should be
3 familiar with Dana. She has been representing the
4 Board in the Lake Koochanusa selenium rule
5 litigation that we've had going.

6 And just an aside there that oral
7 arguments were held on that case on the 29th of
8 July and it's now in the hands of the Judge. For
9 at least the time being there is no activity going
10 forward on that.

11 As far as retaining Dana as our General
12 Counsel, in your board packet you should see a
13 letter, there's a letter from Dana expressing
14 interest, and also her, a brief resume. As I
15 said, retaining her has been approved by the
16 Governor, Governor's Office, and the contract has
17 been prepared and it's ready for signature.

18 And so I would request the Board to
19 affirm retaining Dana as General Counsel on an
20 interim basis. This is a one year contract. I'm
21 anticipating that we will at some point in the
22 future be in a position to utilize General Counsel
23 from inside State government, but for the time
24 being this will at least keep the Board on track
25 as far as dealing with the matters before it.

1 Dana is on the call this morning if any⁷
2 of the -- Dana, would you please introduce
3 yourself to the Board. And also Board Members,
4 once Dana has said a few words, if you have any
5 questions or thoughts, please feel free. Dana.

6 MS. HUPP: Good morning. As Chairman
7 Simpson indicated, I've had the pleasure of
8 representing the Board in the selenium litigation
9 for the last couple of years. You do have a copy
10 of my resume. I'm happy to address my experience,
11 but I do --

12 Just briefly, I have an advanced degree
13 in environmental natural resource law. I've been
14 practicing in this area before Federal and State
15 Courts and regulatory agencies for approximately
16 25 years. That experience has included regulatory
17 matters before the DEQ, including contested case
18 proceedings.

19 So with that, I'm happy -- and I have
20 acted as a Hearing Examiner for the AG's Office in
21 the last couple of years, so I do have both MAPA
22 experience and experience with the Montana Water
23 Quality Act, as well as a host of environmental
24 laws.

25 So with that, I'm happy to answer any

1 questions, or if Chairman Simpson, if you want me
2 to expand, I'm happy to do that as well.

3 CHAIR SIMPSON: Thank you very much,
4 Dana. Are there any questions for Dana from the
5 Board?

6 (No response)

7 CHAIR SIMPSON: Thank you. Is there a
8 motion? What I'm asking for is a motion to affirm
9 a decision by the Board to retain Dana Hupp as our
10 General Counsel on an interim basis.

11 BOARD MEMBER SMITH: I'll motion to
12 retain Dana Hupp as our General Counsel.

13 BOARD MEMBER RANKOSKY: I'll second.

14 CHAIR SIMPSON: It's been moved and
15 seconded. Any further discussion?

16 (No response)

17 CHAIR SIMPSON: All in favor, say aye.

18 (Response)

19 CHAIR SIMPSON: Motion carries
20 unanimously. Thank you very much.

21 I'm going to depart from the order in
22 the agenda briefly. If you look under Item 5, we
23 have an item there on Hearing Examiner status.
24 I'd like to talk about that right now. There's
25 been a lot happening in that area as well.

1 There is just in the matter of the last
2 couple of days a completed and signed MOU between
3 Department of Environmental Quality and the
4 Department of Labor and Industry Office of
5 Administrative Hearings under which we may assign
6 cases to Hearing Examiners at DLI.

7 I'd ask James Fehr, would you review for
8 us briefly what's included in this agreement.

9 MR. FEHR: Yes, Chair Simpson. With the
10 dissolution of ALS, that impacts other State
11 agencies, not just DEQ, not just the Board, and so
12 as an executive branch, the Department of Labor
13 has the opportunity to use the Office of
14 Administrative Hearings to act as Hearings
15 Officers, and fulfill some legal needs for State
16 agencies.

17 And so I think that this is a
18 financially responsible move, as well as you've
19 got well qualified Hearings Examiners over there
20 that do have some environmental experience.

21 So roughly the way the MOU is written,
22 basically we would pay for Hearings Examiners --
23 DEQ of course pays the bill -- but we would pay
24 for Hearings Examiners at their State salary
25 including benefits, so we're looking at \$60 an

1 hour or so for that service.

2 So that has been signed as of this week,
3 and the way I would see that working is with Dana
4 now assigned as the Board Counsel, she would work
5 in coordination with Judy Bovington as the liaison
6 with the Office of Administrative Hearings when
7 the Board would like to assign cases to those
8 Hearings Examiners.

9 CHAIR SIMPSON: Thank you, James. Any
10 questions from the Board?

11 (No response)

12 CHAIR SIMPSON: I guess I'd like to say
13 I really appreciate the effort that's gone into
14 making this MOU happen. I think from the Board's
15 standpoint we're at a point right now where the
16 transition I think should be considerably smoother
17 than it might have been a year or so ago, given
18 the number of active cases we've got. And when we
19 talk about fiscal year '25 expenses, we'll get a
20 little deeper into that, but for right now, we are
21 in a position to assign cases to Hearing
22 Examiners.

23 And just to go through the cases that
24 are active right now, the first I wanted to talk
25 about briefly is Alpine Pacific Utilities. ALS

1 was handling this case.

2 I'm not entirely sure I understand the
3 status of this case at this point, which is I need
4 to go back and take a look at the record to
5 develop an understanding of just where we are, but
6 this is one that ultimately I think will need to
7 be assigned.

8 But for now, since we've lost our
9 Hearing Examiner at ALS, I would ask for a motion
10 to assume jurisdiction of this case until such
11 time as we're in a position to assign it to a
12 Hearing Examiner. The new Hearing Examiner will
13 have to review the record and go from there.

14 BOARD MEMBER SMITH: Chair Simpson, I
15 have a question.

16 CHAIR SIMPSON: Yes.

17 BOARD MEMBER SMITH: If we retain
18 jurisdiction of these cases, I assume that would
19 be just between now and the next Board meeting,
20 what do you anticipate that would entail as far as
21 involvement from us?

22 CHAIR SIMPSON: Well, I'm getting a
23 little bit ahead of myself here, but I have --
24 Well, as I mentioned earlier, there's been a lot
25 going on in the couple of weeks, and one item that

1 is not on the agenda -- I'd added under action
2 items -- is to affirm the authority of the Chair
3 to handle routine and non-substantive actions in
4 contested cases assumed by the Board.

5 And what that means is routine orders,
6 scheduling conferences, those kinds of things,
7 status conferences, status reviews, scheduling,
8 and so on, so that we can keep these cases going.

9 So to answer your question, what I would
10 plan to do in this case is to review the record --
11 Sandy has the complete records for all of these
12 cases -- and make a determination of just where we
13 are; and then from that point at our next meeting
14 we would presumably assign this to a Hearing
15 Examiner at DLI.

16 BOARD MEMBER SMITH: Okay. Thank you
17 for that.

18 CHAIR SIMPSON: So that's how I would
19 propose to proceed in the case of Alpine Pacific.

20 And the other one would be the Valley
21 Garden case. That's one that was being handled by
22 Rob Cameron. I plan to get into these records a
23 little bit more deeply and determine to my own
24 satisfaction at least where we stand in the
25 process, and advise the Board at the next meeting,

1 so that we can make a decision whether we want to
2 retain those under Board jurisdiction going
3 forward or assign it to a Hearing Examiner.

4 BOARD MEMBER SMITH: So would we be
5 motioning to retain jurisdiction on all ongoing
6 cases that were assigned to ALS then, or just
7 these two new cases on the agenda?

8 CHAIR SIMPSON: To all cases that were
9 being handled by ALS, and there's a limited number
10 of them that are active, and I singled out these
11 two, Alpine and Westmoreland Absaloka as the two
12 active cases, and there's some questions about the
13 Absaloka case, which we'll get into in a minute.

14 So I thought I would handle these
15 individually, and we've already assumed the Rob
16 Cameron cases, so these are the only two
17 remaining.

18 BOARD MEMBER SMITH: I would go ahead
19 and motion that we retain jurisdiction of the
20 cases until the next Board meeting.

21 BOARD MEMBER ALTEMUS: Second.

22 CHAIR SIMPSON: It's been moved and
23 seconded to assume the ALS cases until the next
24 Board meeting. Further discussion.

25 (No response)

1 CHAIR SIMPSON: Hearing none, all in
2 favor, say aye.

3 (Response)

4 CHAIR SIMPSON: Opposed.

5 (No response)

6 CHAIR SIMPSON: Motion carries
7 unanimously. Thank you very much.

8 The next case, the BER 2015-06, this is
9 one that I've wondered quite a bit about because
10 it's now ten years old, and I had not realized
11 that this case had been settled back in 2020
12 before any of us were on the Board.

13 And I included a copy of the settlement,
14 as well as several amendments to that settlement
15 agreement, but I guess I would ask DEQ if that
16 interpretation of the record is correct, and
17 whether there is any activity on this case.

18 And the reason it's relevant is that we
19 have a new case that we're going to consider in a
20 moment that has been, a new petition that's been
21 filed on the renewal of the MPDES permit at
22 Absaloka. And when we saw that, when that came
23 in, I really wasn't clear as to what the
24 relationship was between this earlier case and
25 this new petition. So I guess I would ask DEQ to

1 offer any clarification they can as to the
2 relationship between those two cases.

3 MS. BOWERS: Good morning, Chair Simpson
4 and members of the Board. This is Kirsten Bowers
5 representing DEQ, and I see Vicki Marquis is on
6 the call, too. She represents Westmoreland in
7 this matter.

8 And as to your first question, which I
9 think is why is this matter still before the
10 Board, so the renewal permit issued June 1st, and
11 Westmoreland timely appealed that permit renewal.
12 And the 2020 settlement agreement you noted
13 allowed for an appeal to remain under the Board's
14 jurisdiction under the same case docket number.
15 So that's why it's still pending because there is
16 an appeal of the renewal.

17 And does that answer your first
18 question? And I'll let Vicki speak to that, too,
19 if she has comments.

20 CHAIR SIMPSON: I do have a question,
21 but I'd like to let Vicki respond before asking
22 that.

23 MS. MARQUIS: Good morning, Chair
24 Simpson, members of the Board. And I agree with
25 what Kirsten Bowers has explained to the Board as

1 well. Notably this settlement agreement that you
2 mentioned didn't finally dispose of the case. It
3 didn't resolve the case finally so that it could
4 end. The case remained on your agenda, as you
5 know.

6 And so the new appeal, when we filed it,
7 we filed it using that same case number because
8 that's what the settlement agreement and Board
9 order adopting that settlement required, as
10 Kirsten explained.

11 CHAIR SIMPSON: Okay. Well, thank you
12 very much. That does answer my question, that
13 apparently this new petition carries the same case
14 number, so the old case number does not go away,
15 and the new case, the new petition, does not have
16 a new case number; is that how this is intended to
17 be structured?

18 MS. BOWERS: That's correct, Chair
19 Simpson.

20 MS. MARQUIS: We agree as well.

21 CHAIR SIMPSON: Thank you very much. So
22 I believe that by the structure of the motion to
23 assume the ALS cases we have essentially assumed
24 this case until the next meeting. Is that
25 presumption correct? We don't need a separate

1 motion, and I'm asking the parties for their view
2 on that.

3 MS. BOWERS: Chair Simpson, members of
4 the Board. I think that is correct, that your
5 motion would have covered assumption of this
6 matter, too, the Westmoreland matter.

7 CHAIR SIMPSON: I think so. I believe
8 we've taken care of that so --

9 MS. MARQUIS: (Nods head) --

10 CHAIR SIMPSON: So we don't need a new
11 action to accept this new petition.

12 The last item is one I mentioned
13 earlier. I believe that with respect to cases
14 that the Board has assumed jurisdiction, that the
15 Chair has the authority to handle non-substantive
16 matters with respect to keeping those cases moving
17 forward. And what I mean by that is any routine
18 matters that don't require a vote of the Board.

19 And so in order to proceed with
20 reviewing these cases and issuing any orders that
21 are appropriate, I would ask for a motion from the
22 Board to affirm the authority of the Chair to
23 handle routine and non-substantive actions in
24 these contested cases in the interim while they're
25 under the jurisdiction of the Board.

1 (No response)

2 CHAIR SIMPSON: Is there a motion?

3 BOARD MEMBER RANKOSKY: I motion to --

4 I'm not going to remember everything that you just
5 said -- I motion to affirm the Chair's -- whatever
6 you just said.

7 CHAIR SIMPSON: I guess I could have
8 been clearer, Jen -- just the authority of the
9 Board Chair to keep these cases moving. Thank
10 you.

11 BOARD MEMBER RANKOSKY: Yes.

12 BOARD MEMBER SMITH: I'll second.

13 CHAIR SIMPSON: It's been moved and
14 seconded. Further discussion.

15 (No response)

16 CHAIR SIMPSON: All in favor, say aye.

17 (Response)

18 CHAIR SIMPSON: Is there a fourth?

19 Opposed.

20 (No response)

21 CHAIR SIMPSON: Did I miss something? I
22 only heard three votes.

23 BOARD MEMBER ALTEMUS: I said aye.

24 CHAIR SIMPSON: Thank you, Julia. Thank
25 you very much. I appreciate it. That concludes

1 our action items. Are there any further questions
2 or matters for discussion? This is kind of a --
3 You know, compared to the actions that we normally
4 take at these meetings, this has been kind of a
5 convoluted process because of the legal situation
6 we have found ourselves in. So if there are any
7 further questions, thoughts, clarifications before
8 we move on, I'll be happy to address those.

9 (No response)

10 CHAIR SIMPSON: Thank you very much.
11 Let's move on. The next item on our agenda is
12 general public comment. And under this item
13 members of the public may comment on any matter
14 under the jurisdiction of the Board that is not
15 otherwise on the agenda for the meeting.
16 Individual contested case proceedings are not
17 public matters on which the public may comment.
18 Is there any general public comment? Any members
19 of the public who have a matter they'd like to
20 comment on?

21 (No response)

22 CHAIR SIMPSON: Hearing none, we will
23 move forward. Board Chair update. And we've
24 already discussed the Hearing Examiner status, I
25 did include on the agenda -- or in the meeting

1 materials the summary for fiscal 2025, similar
2 what we had done for 2024, so you can see what our
3 legal expenses have been; also with a short memo
4 highlighting some particular items of interest
5 that are summarized on that table.

6 I guess overall, what's happening is
7 that although sometimes it doesn't seem like it,
8 we have been clearing cases, primarily through
9 settlement, faster than what we've been receiving
10 new cases, which is a very good thing, I think,
11 even though if this continues, we might find
12 ourselves with not a lot to do.

13 But as of now, we've got just a handful
14 of cases, three that were returned by Rob Cameron,
15 plus the other two we just talked about. So we've
16 got five active cases, we've got several that have
17 been stayed.

18 As far as legal costs last year, of
19 course, the largest single cost had to do with the
20 selenium rule litigation, and of course that has
21 wound down with the oral arguments as I mentioned
22 earlier.

23 I guess I'd ask if there are any
24 questions or comments from the Board on the cost
25 summary update and status of cases?

1 BOARD MEMBER SMITH: I don't have any
2 questions, but I do want to thank Deputy Director
3 Fehr for putting that together. That was a nice
4 summary, and thank you.

5 CHAIR SIMPSON: Any other thoughts,
6 questions, comments?

7 (No response)

8 CHAIR SIMPSON: Thank you very much,
9 everyone. I believe that wraps us up. Anything
10 further before we move for adjournment?

11 (No response)

12 CHAIR SIMPSON: Is there a motion to
13 adjourn?

14 BOARD MEMBER RANKOSKY: Motion to
15 adjourn.

16 BOARD MEMBER SMITH: Second.

17 CHAIR SIMPSON: It's been moved and
18 seconded to adjourn the meeting. Thank you very
19 much, everyone.

20 One other comment. At our next meeting
21 in October, I expect that the Rosebud Westmoreland
22 AM5 case will be up for decision by the Board.
23 There was a motion to extend the time for
24 responses to exceptions. That was granted on the
25 basis that it wouldn't delay review by the Board.

1 So you should be receiving all of the findings of
2 fact, conclusions of law, as well as the
3 exceptions prior to the next meeting. Other than
4 that --

5 MS. MOISEY-SCHERER: Chair Simpson, this
6 is Sandy. Sam Yemington has his hand up.

7 CHAIR SIMPSON: Oh, I'm sorry. Mr.
8 Yemington.

9 MR. YEMINGTON: Chair Simpson, members
10 of the Board. This just goes to your last comment
11 with respect to the Board's expectations for the
12 October hearing on those proposed findings and
13 conclusions, and the exceptions that will be fully
14 briefed by that time.

15 I represent Westmoreland in that matter.
16 I'm not aware if DEQ Counsel or MEIC Counsel is on
17 the meeting. But I would submit from our
18 perspective that it would be helpful, and I think
19 it would be helpful for the Board, to have a bit
20 of clarity with respect to what the Board expects
21 at the October meeting, whether that is simply
22 oral argument, or the amount of time that will be
23 allotted to the individual parties to present
24 those exceptions and their responses to those
25 exceptions.

1 So just from a party perspective, if the
2 Board would provide additional clarification on
3 its expectancies, then we can I think move forward
4 in a more focused manner in preparation for
5 October.

6 CHAIR SIMPSON: Okay. Thank you. Lee
7 McKenna, you have your hand up as well.

8 MS. McKENNA: Thank you. I'm Lee
9 McKenna, I'm an attorney for DEQ, and I am
10 defending the challenge to the permit issued to
11 the A.M. Welles opencut case that was previously
12 assigned to Mr. Cameron, and I just wanted to ask
13 for clarification as to -- I'm not quite sure who
14 will be deciding the pending motions.

15 So we have motions in limine that were
16 fully briefed, and we had a hearing on April 26th,
17 2024, and the Board secretary has a copy of the
18 audio video recording for that motions hearing
19 that occurred. So we've been waiting for a
20 decision from the Hearing Examiner Mr. Cameron for
21 a year and four months now.

22 So I'm just curious as to who will be
23 deciding that motion. And I would request that
24 Ms. Hupp be assigned to issue a decision on that.

25 CHAIR SIMPSON: Well, for the time being

1 that will be a Board decision, and I have not had
2 an opportunity to review the record on that case,
3 but that's one of my first priorities is to gain
4 an understanding of just what the status is, and
5 it may very well involve a status conference. I
6 don't know yet. But certainly Ms. Hupp will be
7 involved in that as Counsel for the Board.

8 But we will review that, and you will be
9 hearing from us before the next meeting on what
10 the next step will be.

11 MS. McKENNA: Thank you. I think a
12 status conference would be helpful for the Board
13 to understand the proceedings.

14 CHAIR SIMPSON: That's my thinking as
15 well, and I'd like to review the record before
16 proceeding with that.

17 MS. McKENNA: Very good. Thank you.

18 CHAIR SIMPSON: With respect to the
19 first question, as far as the expectation of the
20 Board at the next meeting, we expect, as I said
21 earlier, the responses to exceptions to be filed
22 with the Board secretary before the next meeting
23 in time for the agenda and board package.

24 Our past practice on these case has been
25 to allot about 20 minutes for each party to

1 summarize their case before discussion by the
2 Board. Not having had a chance to review the
3 proposed findings of fact, conclusions of law, and
4 the exceptions yet, I guess I would like to leave
5 that question open, but as far as past practice,
6 that's how we've handled it.

7 MS. McKENNA: Thank you.

8 CHAIR SIMPSON: Does that answer --

9 MS. McKENNA: Well, not exactly because
10 the --

11 CHAIR SIMPSON: -- the question with
12 regard to Rosebud AM5? Mr. Yemington.

13 MR. YEMINGTON: Yes, Chair Simpson, that
14 largely answers that, and I certainly appreciate
15 that the Board hasn't had the opportunity to
16 review the exceptions, which won't be submitted
17 until a week from today, and the responses which
18 will follow approximately a month later. So I
19 certainly appreciate that aspect of it.

20 In anticipation of the meeting in
21 October, perhaps after the Board has an
22 opportunity to consider those exceptions and the
23 responses, we could either have a status
24 conference, or the Board could issue an order
25 clarifying the expectations of Counsel and the

1 parties at the October meeting once they have an
2 understanding of sort of what's on their plate.

3 CHAIR SIMPSON: We'll do that, yes.

4 MR. YEMINGTON: And Chair Simpson --

5 CHAIR SIMPSON: Are there further
6 questions?

7 MR. YEMINGTON: If I could make one
8 further comment.

9 CHAIR SIMPSON: Go ahead.

10 MR. YEMINGTON: And this is in line with
11 the comment made by DEQ. I also represent
12 Westmoreland in the Area F case, which the Board
13 has assumed jurisdiction of in June.

14 That case is similarly situated to the
15 AM5 case, with the exception that there's been no
16 proposed order issued by Hearing Examiner Cameron.
17 It was fully briefed, and objections to the
18 proposed submissions from the parties were filed
19 as well.

20 I only note this because in the agenda
21 item that was presenting the procedural posture of
22 Area F in this month's agenda, it noted that
23 exceptions had been filed, and I suspect that
24 that's just a scribner's error on part of the
25 Board.

1 There's no exceptions filed in Area F,
2 and those will only come after the Board issues
3 that proposed decision.

4 The second piece of that is, similar to
5 the comment by DEQ, it may make sense for a
6 scheduling -- or excuse me -- a status conference
7 among the parties to get the Board up to speed or
8 whoever will be handling the issuance of the
9 proposed decision by the Board, given that it is a
10 very complex case, and the filings are quite
11 voluminous.

12 But with that said, obviously I think
13 the Board is well situated to handle it, but to
14 the extent it makes sense to have a status
15 conference to get folks up to speed, I certainly
16 think that makes sense as well.

17 CHAIR SIMPSON: I certainly agree, and I
18 think maybe it was a matter of use of perhaps the
19 wrong terminology. My understanding is that there
20 have been proposed findings of fact, conclusions
21 of law, prepared by the parties, and that the
22 parties have issued what I called exceptions.
23 Apparently those -- "objections" would be the
24 correct terminology; is that right?

25 MR. YEMINGTON: Chair Simpson, members

1 of the Board. That's correct. That's how I would
2 characterize it as well. I suspected that was the
3 case. So yes, I think everybody is on the same
4 page.

5 CHAIR SIMPSON: Okay. Well, as far as
6 these active cases go, I plan to within the next
7 couple of weeks review the records on those, at
8 least as far as recent actions. I don't know that
9 I want to read the whole thing back to the
10 beginning, but just enough to understand where we
11 are, and if there's a need for it, bring the
12 parties together for a status conference, so we
13 have a starting point for whoever picks up these
14 cases going forward.

15 MS. MOISEY-SCHERER: Chair Simpson, this
16 is Sandy. Diane Conradi from Conradi Law Offices
17 would like to make a comment. She has her hand
18 up.

19 CHAIR SIMPSON: Please proceed.

20 MS. CONRADI: Good morning, Chair
21 Simpson. Following up on Lee -- I am Counsel for
22 Valley Garden, who is the proponent in the A.M.
23 Welles/DEQ/Valley Garden case.

24 I just wanted to clarify, following up
25 on Lee McKenna's comments, that we could

1 anticipate at the next meeting that there will be
2 some action requested by the Board.

3 CHAIR SIMPSON: I can give a definite
4 maybe.

5 MS. CONRADI: Okay. All right.

6 CHAIR SIMPSON: We will, as I said,
7 we're going to -- I'm going to take a look at,
8 Dana and I will take a look at these cases, and of
9 course I'll consult with her on what our next step
10 in the process should be.

11 But we find ourselves with several of
12 these cases having had to assume jurisdiction when
13 the Board itself really has not been active in the
14 process up to this point, so we've got a little
15 catching up to do to figure out just where we are.

16 If we're in a position where a decision
17 from the Board is timely based on that review, it
18 will go on the agenda for the next meeting. If
19 not, it will in all likelihood be assigned to a
20 Hearing Examiner. Does that answer your question?

21 MS. CONRADI: Yes. Thank you.

22 CHAIR SIMPSON: Thank you very much,
23 Diane. I can understand the concerns of the
24 parties in these cases that are hanging out there,
25 and we're going to do our best to get them moving

1 again by the next meeting. And without having
2 reviewed the records yet, I can't say exactly what
3 form that's going to take, but that's our
4 intention is to do whatever it takes to keep these
5 cases moving. Further questions or comments from
6 anyone on the call?

7 (No response)

8 CHAIR SIMPSON: Thank you very much. I
9 believe we had a motion and a second to adjourn;
10 am I correct, Sandy?

11 MS. MOISEY-SCHERER: That is correct,
12 sir.

13 CHAIR SIMPSON: A motion has been made
14 and seconded to adjourn the meeting. Thank you
15 very much everyone, and we'll reconvene in
16 October. All in favor, say aye for adjournment.

17 (Response)

18 CHAIR SIMPSON: Motion carries. Thank
19 you very much everyone. See you in a couple
20 months.

21 (The proceedings were concluded

22 at 9:53 a.m.)

23 * * * * *

24

25

C E R T I F I C A T E

STATE OF MONTANA

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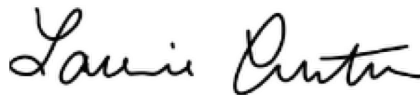
COUNTY OF LEWIS & CLARK

)

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 - 30 - 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 26th day of
August, 2025.



LAURIE CRUTCHER, RPR

Court Reporter - Notary Public

My commission expires

March 9, 2028.

<p>\$</p> <p>\$60 - 9:25</p> <p>1</p> <p>1st - 15:10</p> <p>2</p> <p>20 - 24:25 2015-06 - 14:8 2020 [2] 14:11, 15:12 2024 [2] 20:2, 23:17 2025 [5] 1:6, 1:10, 4:5, 20:1, 31:17 2028 - 31:23 20th - 4:12 22 [2] 1:6, 1:10 25 [2] 7:16, 10:19 26th [2] 23:16, 31:16 29th - 6:7</p> <p>3</p> <p>30 - 31:12</p> <p>5</p> <p>5 - 8:22</p> <p>9</p> <p>9 - 31:23 9:00 - 1:11 9:53 - 30:22</p> <p>A</p> <p>a.m [4] 1:11, 23:11, 28:22, 30:22 ability - 31:14 able [2] 3:25, 4:1 Absaloka [3] 13:11, 13:13, 14:22 accept - 17:11 act [2] 7:23, 9:14 acted - 7:20 action [5] 5:8, 12:1, 17:11, 19:1, 29:2 actions [4]</p>	<p>12:3, 17:23, 19:3, 28:8 active [8] 5:3, 10:18, 10:24, 13:10, 13:12, 20:16, 28:6, 29:13 activity [2] 6:9, 14:17 added - 12:1 additional - 23:2 address [2] 7:10, 19:8 adjourn [5] 21:13, 21:15, 21:18, 30:9, 30:14 adjournment [2] 21:10, 30:16 Administrative [3] 9:5, 9:14, 10:6 adopting - 16:9 advanced - 7:12 advise - 12:25 advised - 5:10 affirm [5] 6:19, 8:8, 12:2, 17:22, 18:5 affixed - 31:16 AG's - 7:20 agencies [3] 7:15, 9:11, 9:16 Agency - 5:13 agenda [12] 5:5, 8:22, 12:1, 13:7, 16:4, 19:11, 19:15, 19:25, 24:23, 26:20, 26:22, 29:18 agree [3] 15:24, 16:20, 27:17 agreement [5] 9:8, 14:15, 15:12, 16:1, 16:8 ahead [3] 11:23, 13:18, 26:9 Allan - 3:22 allot - 24:25 allotted -</p>	<p>22:23 allowed - 15:13 Alpine [3] 10:25, 12:19, 13:11 already [2] 13:15, 19:24 ALS [8] 5:10, 9:10, 10:25, 11:9, 13:6, 13:9, 13:23, 16:23 Altemus [6] 1:18, 3:11, 3:12, 4:21, 13:21, 18:23 alterations - 4:6 although - 20:7 AM5 [3] 21:22, 25:12, 26:15 Amanda - 3:24 amendments - 14:14 among - 27:7 amount - 22:22 Anderson - 2:9 answers - 25:14 anticipate [2] 11:20, 29:1 anticipating - 6:21 anticipation - 25:20 apologize - 3:13 apparently [2] 16:13, 27:23 appeal [3] 15:13, 15:16, 16:6 appealed - 15:11 appointed - 3:23 appreciate [4] 10:13, 18:25, 25:14, 25:19 appropriate - 17:21 approve [4] 4:5, 4:12, 4:15, 4:23 approved [2] 6:1, 6:15 approximately [2] 7:15, 25:18</p>	<p>April - 23:16 argument - 22:22 arguments [2] 6:7, 20:21 Armstrong - 2:6 aside - 6:6 asking [3] 8:8, 15:21, 17:1 aspect - 25:19 assign [6] 9:5, 10:7, 10:21, 11:11, 12:14, 13:3 assigned [6] 10:4, 11:7, 13:6, 23:12, 23:24, 29:19 assume [5] 11:10, 11:18, 13:23, 16:23, 29:12 assumed [5] 12:4, 13:15, 16:23, 17:14, 26:13 assumption - 17:5 ATTENDANCE - 2:1 attorney - 23:9 audio - 23:18 August [3] 1:6, 1:10, 31:17 authority [4] 12:2, 17:15, 17:22, 18:8 aye [7] 4:18, 4:21, 8:17, 14:2, 18:16, 18:23, 30:16</p> <p>B</p> <p>basically - 9:22 beginning - 28:10 benefits - 9:25 BER - 14:8 best [2] 29:25, 31:13 bill - 9:23 bit [4] 11:23, 12:23, 14:9, 22:19 board [95] 1:1, 1:5, 1:17, 2:3,</p>	<p>2:4, 3:10, 3:12, 3:15, 3:16, 3:17, 3:18, 3:22, 3:23, 4:11, 4:13, 4:21, 5:15, 5:19, 5:22, 6:4, 6:12, 6:18, 6:24, 7:3, 7:3, 7:8, 8:5, 8:9, 8:11, 8:13, 9:11, 10:4, 10:7, 10:10, 11:14, 11:17, 11:19, 12:4, 12:16, 12:25, 13:2, 13:4, 13:18, 13:20, 13:21, 13:24, 14:12, 15:4, 15:10, 15:24, 15:25, 16:8, 17:4, 17:14, 17:18, 17:22, 17:25, 18:3, 18:9, 18:11, 18:12, 18:23, 19:14, 19:23, 20:24, 21:1, 21:14, 21:16, 21:22, 21:25, 22:10, 22:19, 22:20, 23:2, 23:17, 24:1, 24:7, 24:12, 24:20, 24:22, 24:23, 25:2, 25:15, 25:21, 25:24, 26:12, 26:25, 27:2, 27:7, 27:9, 27:13, 28:1, 29:2, 29:13, 29:17 Board's [3] 10:14, 15:13, 22:11 Bovington - 10:5 Bowers [6] 2:6, 15:3,</p>	<p>15:4, 15:25, 16:18, 17:3 branch - 9:12 brief - 6:14 briefed [3] 22:14, 23:16, 26:17 briefing [2] 4:24, 5:5 briefly [4] 7:12, 8:22, 9:8, 10:25 Briggs - 2:16 bring [2] 3:4, 28:11</p> <p>C</p> <p>camera - 3:13 Cameron [6] 12:22, 13:16, 20:14, 23:12, 23:20, 26:16 can't - 30:2 care - 17:8 carries [4] 8:19, 14:6, 16:13, 30:18 case [36] 6:7, 7:17, 11:1, 11:3, 11:10, 12:10, 12:19, 12:21, 13:13, 14:8, 14:11, 14:17, 14:19, 14:24, 15:14, 16:2, 16:3, 16:4, 16:7, 16:13, 16:14, 16:15, 16:16, 16:24, 19:16, 21:22, 23:11, 24:2, 24:24, 25:1, 26:12, 26:14, 26:15, 27:10, 28:3, 28:23 cases [36] 5:2, 5:23, 9:6, 10:7, 10:18, 10:21, 10:23, 11:18, 12:4, 12:8, 12:12, 13:6, 13:7,</p>
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