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BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

BOARD MEETING)
FEBRUARY 20, 2026)

TRANSCRIPT OF PROCEEDINGS - VIA ZOOM

February 20, 2026
9:00 a.m.

BEFORE CHAIR DAVID SIMPSON,
VICE CHAIR STACY AGUIRRE,
BOARD MEMBERS JULIA ALTEMUS, JENNIFER RANKOSKY,
ALLAN PAYNE, and JOSEPH SMITH

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

1 PERSONS PRESENT:

2 Board Attorney Present:

3 Dana Hupp, Interim Board Counsel

4

5 DEQ Personnel Present:

6 Board Secretary: Sandy Moisey Scherer

7 Board Liaison: Deputy Director James Fehr

8 DEQ Director: Sonja Nowakowski

9 DEQ Legal: Catherine Armstrong, Kirsten Bowers,

10 Amanda Galvan, Loryn Johnson, Sam King, Jeremiah

11 Langston, Lee McKenna, Kurt Moser, Isabelle Nebel,

12 and Kaitlin Whitfield

13 DEQ Air, Energy and Mining: Josh Bridgeman, Julian

14 Calabrese, Eric Dahlgren, Mitch Hoffman, Emily

15 Lodman, Alex Mackey, Gabrielle Ostermayer, Brian

16 Schrage, Betsy Townsend, Dan Walsh

17 DEQ Enforcement: Kristen Trapp

18 DEQ Communications: Mae Vader

19 Other Parties Present:

20 Shiloh Hernandez Earthjustice

21 Anne Hedges, and Derf Johnson - MEIC

22 Jeff Oven, Vicki Marquis, and Morgan Pettit,

23 Crowley Fleck

24 Matthew Dolphay, Andrea Grave, and Samuel

25 Yemington, Holland & Hart

1 Persons Present (Continued):

2 David (Kim) Wilson - Morrison Sherwood Wilson &
3 Deola, PLLP

4 Alan Ringlein - A.M. Welles

5 D Cape, Jeremy Cottrell, Timothy Garvin, Jerry
6 Gillespie, Seth Gudgel, Jon P. Heroux, David

7 Kuzara, Nathaniel Huckabay, Juris Ore, Dustin

8 Martens, L. Miller, Jesse Noel, Jeffrey Provenza,

9 Joshua Ralph, Riley Robinson, Wes Sessions, R

10 Spang, Bob Smith, David Traverso, and Kenneth

11 Wooley - Westmoreland

12 Diane Conradi - Conradi Law Office

13 Matthew Bain - Parson Behle & Latimer

14 Frank Bartlett, and J. Fleischman - OSMRE

15 Sarah Zuzulock - Zuzulock Environmental

16 Heather McDowell, Matt Wolfe, and Randy Weimer -

17 Sibanye Stillwater

18 1406****095

19 Krista Lee Evans - Calumet

20 Matt Vincent - Montana Mining

21 Stephanie Bonucci

22 Casey Kennedy - Northern Plains

23

24

25

1 WHEREUPON, the following proceedings were
2 had:

3 * * * * *

4 CHAIR SIMPSON: Good morning, everyone.
5 It's 9:00. Let's bring the meeting to order.
6 Sandy, take roll, please.

7 MS. MOISEY-SCHERER: Chair Simpson.

8 CHAIR SIMPSON: Here.

9 MS. MOISEY-SCHERER: Vice Chair Aguirre.

10 BOARD MEMBER AGUIRRE: (Indicating)

11 MS. MOISEY-SCHERER: Vice Chair Aguirre
12 said that she is on, but her audio is not working.

13 CHAIR SIMPSON: Thank you.

14 MS. MOISEY-SCHERER: Board Member
15 Altemus.

16 BOARD MEMBER ALTEMUS: Good morning.
17 Present.

18 MS. MOISEY-SCHERER: Board Member Payne.

19 BOARD MEMBER PAYNE: Here.

20 MS. MOISEY-SCHERER: Board Member
21 Rankosky.

22 BOARD MEMBER RANKOSKY: Here.

23 MS. MOISEY-SCHERER: Board Member Smith.

24 Let me look for him again. I promoted him, and
25 something happened. Let me check access. Still

1 trying to -- okay. Let me double check here. Joe
2 Smith, okay, he just is rejoining as panelist. We
3 do have a full quorum, sir.

4 CHAIR SIMPSON: Thank you, Sandy. Would
5 you please go through the list of others who are
6 tuned into the meeting here.

7 MS. MOISEY-SCHERER: I'm Sandy
8 Moisey-Scherer; Board Secretary; Dana Hupp, Board
9 Counsel; Laurie Crutcher, Court Reporter; Kurt
10 Moser, DEQ; Vicki Marquis; David Wilson; Diane
11 Conradi; Sam King; Kirsten Bowers; Matthew Bain;
12 Derf Johnson; Jeff Oven; Lee McKenna; Heather
13 McDowell; Morgan Pettis; Sam Yemington; Alan
14 Ringlein; Alex Mackey; Amanda Galvan; Andrea
15 Grave; Catherine Armstrong; Betsy Townsend; Bob
16 Smith; Dave Kuzara; David Traverso; DC 60909;
17 Dustin Martins; Deputy Director Fehr; Jeffrey
18 Provenza; Jeremy Cottrell; Jerry G.; Jesse Noel;
19 Jon P. Heroux; Josh Bridgeman; Ralph Joshua; Juris
20 Ore; Kaitlin Whitfield; Kenneth Wooley; Christa
21 Lee Evans; Kristin Trapp; LM 43070; Loryn Johnson;
22 Matt Vinson; Matt Wolfe; Nathaniel Huckabay; Randy
23 Weimer; Riley Robinson; Sarah Zuzulock; Seth
24 Gudgel; Stephanie Bonucci; Timothy Garvin; Wes
25 Sessions. We have a total of 60 participants

1 today, sir.

2 CHAIR SIMPSON: Thank you. We have
3 quite a full house this morning, don't we?

4 MS. MOISEY-SCHERER: We do.

5 CHAIR SIMPSON: It's got to be a record,
6 at least in recent history. Okay. Thank you,
7 everyone. Let's proceed to the agenda.

8 The first item is to review and approve
9 minutes from our October meeting. As you recall,
10 we had cancelled the December meeting because of a
11 lack of action items. Is there a motion regarding
12 the minutes from the October 20 meeting?

13 BOARD MEMBER SMITH: I'll motion to
14 approve the minutes from the October 20th meeting.

15 BOARD MEMBER ALTEMUS: Second.

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

18 (No response)

19 CHAIR SIMPSON: Hearing none, all in
20 favor, say aye.

21 (Response)

22 CHAIR SIMPSON: Opposed.

23 (No response)

24 CHAIR SIMPSON: Motion carries. The
25 next item, this is kind of a housekeeping item

1 that we otherwise would have addressed in
2 December. That's the meeting schedule for 2026,
3 and it's pretty much a reflection of what we've
4 been doing from year to year, but we wanted to
5 review and approve this schedule, assuming that it
6 is acceptable to everyone. If there are any
7 issues, let's bring them up now. And I'll finish
8 that by saying I don't know what I'm doing next
9 week, let alone for the rest of the year.

10 BOARD MEMBER PAYNE: I'll go ahead and
11 make a motion to approve the schedule.

12 BOARD MEMBER RANKOSKY: I'll second.

13 CHAIR SIMPSON: It's been moved and
14 seconded to approve the meeting schedule for 2026.

15 BOARD MEMBER PAYNE: I just have a
16 discussion item. I'm sure we can't accommodate
17 everybody, but I have a prior commitment on June
18 19th, and won't be able to make that meeting.

19 CHAIR SIMPSON: Why don't we revisit
20 that in April.

21 BOARD MEMBER PAYNE: Okay. That's fine.
22 Like I said, I understand you can't accommodate
23 everybody's schedule, so -- but we can talk about
24 it in April.

25 CHAIR SIMPSON: As I said, it's kind of

1 hard to project that far out, but as we get a
2 little nearer, please bring that up, and we'll
3 take a look at whether it would be practical to
4 move that to accommodate you. It been moved and I
5 believe seconded. Further discussion.

6 (No response)

7 CHAIR SIMPSON: Hearing none, all in
8 favor, say aye, to approve the schedule.

9 (Response)

10 CHAIR SIMPSON: Opposed.

11 (No response)

12 CHAIR SIMPSON: Motion carries. Okay.

13 I hope everybody enjoyed their reading assignment
14 for this meeting. It's pretty heavy this time.
15 Let's move along. I'm hopeful that we can wrap
16 this up by 11:00 or 11:30. We'll just see how
17 things go.

18 I wanted to point out that under the
19 briefing items, we had previously included the
20 briefing items in the agenda which made the agenda
21 itself kind of unwieldly, so we've changed the
22 format a little bit to include just current cases
23 in the Board package. Those cases that have
24 either action required or updates have been
25 included in the agenda. So just a word of advice

1 there.

2 So I'd ask if there are any questions on
3 any of the cases that are not otherwise listed on
4 the agenda.

5 (No response)

6 CHAIR SIMPSON: Hearing none, we'll move
7 on. Item III, new contested cases. Item (a), the
8 first item, is the Matter of Appeal and Request
9 for Hearing by Stillwater Mining Company regarding
10 major modification of MPDES permit No. MT0026808.
11 It's case No. BER 2025-05 Water Quality.

12 I think our task here is to decide
13 whether to assign this to a Hearing Examiner from
14 the get-go, or to retain jurisdiction for the time
15 being.

16 Under the discussion we had last time, I
17 think our normal approach here would be to retain
18 jurisdiction until we have a better idea of
19 whether or not a contested case hearing is going
20 to be required.

21 On the other hand, we've got a pretty
22 full plate right now. We're working through all
23 of the cases where jurisdiction was returned to
24 the Board after losing our Hearing Examiners, and
25 so I guess I would leave this up to the Board as

1 to what your thoughts are as to how we ought to
2 proceed on this.

3 I would comment that at least in my
4 experience on the Board, I don't think any of
5 these MPDES cases have gone to a contested case.
6 Most have been ultimately settled. So with that,
7 I would ask if there's a motion.

8 BOARD MEMBER PAYNE: I guess just to
9 start things, I'd make a motion that the Board
10 retain jurisdiction on this application.

11 CHAIR SIMPSON: Is there a second?

12 BOARD MEMBER RANKOSKY: I'll second.

13 CHAIR SIMPSON: It's been moved and
14 seconded that the Board retain jurisdiction on BER
15 2025-05 Water Quality. Discussion.

16 MR. OVEN: Mr. Chair, this is Jeff Oven
17 from Crowley Fleck on behalf of Stillwater. Would
18 you like to hear from Stillwater on the issue?

19 CHAIR SIMPSON: You're welcome to
20 comment if you like.

21 MR. OVEN: Thank you, Mr. Chairman.
22 It's our position that this case involves a
23 modification, a major modification of a permit.
24 We believe it is a contested case, and that
25 ultimately it will come on to hearing.

1 Because there's mixed issues of law and
2 fact, we thought it might be a good idea -- and
3 I've talked with my friend and worthy adversary
4 Mr. Moser a few times about this -- about setting
5 this in front of an examiner, or perhaps even Ms.
6 Hupp or someone to help with the discovery
7 process. There's probably be some depositions and
8 some expert disclosure that's needed.

9 So it was our thought maybe Stillwater
10 and the DEQ could get together, approve an
11 Examiner just to help with the discovery process.
12 And I have talked with Mr. Moser on that, and
13 maybe he has some thoughts as well.

14 CHAIR SIMPSON: Thank you very much.

15 MR. MOSER: Mr. Chairman, this is Kurt
16 Moser with DEQ. Mr. Oven is correct. We have
17 discussed the matter. I think it's DEQ's position
18 that based on the complexity of the case, probably
19 and likely at this point, I mean a contested case
20 hearing may well be necessary.

21 That matter probably, at least in my
22 estimation at this point, the hearing could be two
23 to three days long. It would involve expert
24 testimony and other matters of that nature. So I
25 think it probably would be in the best interests

1 of judicial economy and moving the case forward to
2 appoint a Hearing Examiner.

3 CHAIR SIMPSON: Thank you very much.
4 Discussion? Further comment? Discussion from the
5 Board. Comment.

6 BOARD MEMBER ALTEMUS: This is Ms.
7 Altemus. I know in October we discussed the
8 process of Hearing Examiners, and I think
9 Department of Labor was brought into the
10 discussion. Did we ever get a list of Hearing
11 Examiners? I'm not sure I ever saw one.

12 CHAIR SIMPSON: Yes, we did. I believe
13 I distributed that in a memo to the Board in
14 January.

15 BOARD MEMBER ALTEMUS: Missed it.

16 CHAIR SIMPSON: We can certainly make
17 that available to you again. There are four
18 Hearing Examiners -- I could dig it out of my
19 file, but it would take a minute -- two of which
20 have environmental experience on the resume. One
21 has a degree in environmental science, and the
22 other has done some work for DNRC.

23 So there are Hearing Examiners available
24 with qualifications, but as we pointed out last
25 time, since this is a new arrangement, we're not

1 familiar with any of the Hearing Examiners in any
2 more detail than what we've been informed by DLI.

3 BOARD MEMBER ALTEMUS: Thank you.

4 BOARD MEMBER PAYNE: I just kind of have
5 a general comment about --

6 CHAIR SIMPSON: Questions, comments.

7 BOARD MEMBER PAYNE: I have a general
8 comment just about the kind of the process here.
9 I think the last meeting in October, somebody on
10 the Board had mentioned that a lot of times we're
11 kind of asked to make the decision like this, and
12 it's hard for us to get our handle or our minds, I
13 think, around the complexity of the issues. You
14 know, both the Counsel here said this particular
15 one is complex.

16 And maybe it would be helpful if there's
17 a petition that's been filed here, and then I
18 don't think the Department has provided any sort
19 of response at this point. Maybe they typically
20 don't at this point. But it would be helpful if
21 we got the Department's response, and then we
22 could look at it and say how complex is this,
23 because maybe the Department agrees. Maybe
24 there's only one or two issues, you know.

25 So I mean I would find that helpful if

1 we had sort of the -- You know, we have the
2 petitioner saying these are the issues, and if we
3 had the Department's response, that might be
4 helpful.

5 CHAIR SIMPSON: That was the discussion
6 that we had in October, and the idea was to make
7 the Board more active than it has been as new
8 cases come up, and understanding what the cases
9 are all about and what the issues are.

10 And the process that was discussed at
11 that time was for the initial steps to be taken by
12 the Board, with of course assistance from Board
13 Counsel Dana Hupp, and that would involve the
14 prehearing order, setting a schedule, initial
15 briefing. And then there is a requirement in the
16 prehearing order that there be statements from
17 both parties before going to hearing as to what
18 the issues are, and what the legal references are
19 relative to the case, that is, what statutes are
20 at play here.

21 So that was the thought, so that the
22 Board would have a more thorough understanding of
23 these cases before we hand them off to a Hearing
24 Examiner. But there are some cases, I'll
25 certainly acknowledge, that would make more sense

1 to just from get-go hand off to a Hearing
2 Examiner, again, because especially for the time
3 being we've got a pretty full plate.

4 So that's why I'd like to leave it up to
5 the Board as to what direction we ought to go with
6 this.

7 MS. MOISEY-SCHERER: Chair Simpson, this
8 is Sandy.

9 CHAIR SIMPSON: Yes.

10 MS. MOISEY-SCHERER: Board Counsel Hupp
11 has her hand up.

12 CHAIR SIMPSON: Dana, go ahead.

13 BOARD MEMBER PAYNE: She's muted.

14 CHAIR SIMPSON: I think her mic is off.

15 MS. HUPP: Thank you. Chair Simpson and
16 Board Members, in listening to Counsel for the
17 parties it sounds like one of their concerns is
18 the scope of discovery. And if the Board decides
19 to retain jurisdiction, certainly Chairman Simpson
20 and I could facilitate discovery conferences as
21 needed. So I just wanted to add that to the
22 discussion as an option, should the Board decide
23 to retain jurisdiction.

24 CHAIR SIMPSON: Thank you, Dana.

25 Further discussion from the Board.

1 BOARD MEMBER PAYNE: I have a question
2 for Counsel, if that's all right, Chairman. Just
3 they had mentioned that maybe they could agree on
4 a Hearings Officer, if I heard them right. Do
5 they have someone specific in mind?

6 MR. OVEN: This is Jeff Oven from
7 Stillwater again. We really didn't. We had
8 talked about the issue, and I was basically saying
9 that based upon the history of working well with
10 Mr. Moser -- which I think that will continue --

11 Mr. Chairman seemed to offer kind of a
12 hybrid position where we could work with Ms. Hupp
13 and the Board in the interim, get the briefing,
14 get the discovery done, and then at that point we
15 could have briefing, and the Board could decide at
16 that point whether to retain jurisdiction or have
17 a Hearing Examiner, I would assume to do findings
18 of fact and conclusions that the Board could
19 approve.

20 That would be an approach that would be
21 acceptable to Stillwater if that's a modified
22 position. We are very aware of the restraints
23 that are put on this Board by the lack of
24 examiners. So if I heard that proposal right, Mr.
25 Chairman, that would be something that would be

1 acceptable to Stillwater for sure.

2 CHAIR SIMPSON: Thank you. DEQ.

3 MR. MOSER: Mr. Chairman, members of the
4 Board. I mean in my experience working with the
5 Board, we've never had an arrangement quite like
6 that. I think I guess it could be a workable
7 situation. I would again recommend a Hearing
8 Examiner. I mean I think at the end of the day,
9 that's probably where this case is going to have
10 to go.

11 And I think there are some valuable --
12 there is definitely value in having that same
13 Hearing Examiner that's involved in anything from
14 the beginning get-go going through I think the
15 entirety of the case, but obviously it's up to the
16 Board's discretion to decide what they would like
17 to do in this regard.

18 As far as picking a specific Hearing
19 Examiner, I guess it was my understanding that
20 that was supposed to start going to the DLI, but I
21 mean, again, that's the Board's call.

22 CHAIR SIMPSON: Thank you. I have a
23 note here from Deputy Director Fehr that he is
24 sharing the information on Hearing Examiners that
25 the Board received from DLI, so hopefully that's

1 available to you. Further discussion.

2 (No response)

3 CHAIR SIMPSON: It's been moved and
4 seconded that the Board retain jurisdiction for
5 the time being. And just to clarify, the Board
6 well recognizes that we are not really -- it's not
7 really practical for the Board to engage in a full
8 contested case hearing simply because most of the
9 Board members, unlike myself, are not retired and
10 have real jobs. So just a little follow up on the
11 discussion that we had in October. Are we ready
12 to vote?

13 (No response)

14 CHAIR SIMPSON: A motion has been made
15 and seconded that the Board retain jurisdiction
16 temporarily at least on BER 2025-05 Water Quality.
17 All in favor, say aye.

18 (Response)

19 CHAIR SIMPSON: Opposed.

20 (No response)

21 CHAIR SIMPSON: I only heard four votes.

22 VICE CHAIR AGUIRRE: Stacy.

23 CHAIR SIMPSON: Yes, Stacy.

24 VICE CHAIR AGUIRRE: Can you hear me?

25 CHAIR SIMPSON: I can hear you.

1 VICE CHAIR AGUIRRE: I couldn't tell --
2 audio issues. So I voted nay.

3 CHAIR SIMPSON: Okay. Thank you, Stacy.
4 Sandy, would you take a roll call vote, please.

5 MS. MOISEY-SCHERER: Yes, sir. Chair
6 Simpson.

7 CHAIR SIMPSON: Aye.

8 MS. MOISEY-SCHERER: Vice Chair Aguirre.

9 VICE CHAIR AGUIRRE: Nay.

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

12 BOARD MEMBER ALTEMUS: Aye.

13 MS. MOISEY-SCHERER: Board Member Payne.
14 Board Member Payne, I'm sorry. I didn't hear you.

15 BOARD MEMBER PAYNE: Yes. I'll vote for
16 the motion.

17 MS. MOISEY-SCHERER: Board Member

18 Rankosky.

19 BOARD MEMBER RANKOSKY: Aye.

20 MS. MOISEY-SCHERER: Board Member Smith.

21 BOARD MEMBER SMITH: Aye.

22 CHAIR SIMPSON: Thank you. Motion
23 carries. Thank you.

24 The next item on the agenda is the
25 Matter of Appeal and Request for Hearing regarding

1 MDEQ's decision on Montana air quality permit No.
2 5263-03, BER 2026-01 Air Quality, and it has to do
3 with the request that we received from Angela
4 Otero with respect to the Department's December
5 15th decision to approve the permit, and the
6 permit applicant was Montana Renewables, LLC for
7 the MRL Great Falls renewable fuels plant. I'm
8 not familiar with that facility at all.

9 In the agenda there is a little
10 elaboration there on what's required for a filing
11 under the Clean Air Act, and the gist of it is
12 that it must include an affidavit including the
13 claims that are made, and this was more in the
14 form of a letter.

15 So the question is, first of all, can
16 the Board accept this, and either hear the case
17 itself or assign it to a Hearing Examiner, or
18 reject the petition as incomplete. And I would
19 ask Dana to elaborate on that for a minute, if you
20 would, please.

21 MS. HUPP: Chairman Simpson and Council,
22 the Chair is correct that the statute found at
23 25-2-218 does require that the request be
24 submitted within thirty days, and that the request
25 must include an affidavit.

1 This request did not include an
2 affidavit, which Ms. Otero recognizes. And I did
3 some brief research, and the word "must" is
4 mandatory, so it would be my position then that
5 her request does not comply with the statute.

6 CHAIR SIMPSON: Thank you, Dana. Is Ms.
7 Otero on the call? Apparently not.

8 MS. MOISEY-SCHERER: I'm not seeing her,
9 sir. I'm sorry. I'm not seeing her.

10 CHAIR SIMPSON: Does the Department have
11 a comment on this?

12 (No response)

13 VICE CHAIR AGUIRRE: Chair Simpson, do
14 we need to make a motion before there's any
15 discussion, or is the question whether we can make
16 a motion or not?

17 CHAIR SIMPSON: Well, I'm just asking
18 for -- Well, we can do it either way, but I was
19 just asking for any further information that might
20 help us with our decision and discussion on this
21 matter, but --

22 VICE CHAIR AGUIRRE: I'm ready to make a
23 motion in the case, so --

24 CHAIR SIMPSON: Okay. Please make your
25 motion.

1 VICE CHAIR AGUIRRE: I make a motion
2 that we reject the petition as incomplete.

3 CHAIR SIMPSON: A motion has been made
4 to reject the petition as incomplete. Is there a
5 second?

6 BOARD MEMBER ALTEMUS: I'll second.

7 CHAIR SIMPSON: It's been moved and
8 seconded to reject this petition. Is there
9 further discussion from the Board?

10 BOARD MEMBER SMITH: I have a quick
11 question, Chair Simpson.

12 CHAIR SIMPSON: Yes.

13 BOARD MEMBER SMITH: Just for
14 clarification, does rejecting this petition in a
15 any way --

16 CHAIR SIMPSON: Excuse me. Yes.

17 BOARD MEMBER SMITH: Does rejecting this
18 petition in any way prohibit Ms. Otero's ability
19 to revise and resubmit?

20 CHAIR SIMPSON: Well, that's a good
21 question. That was a discussion I had with Dana
22 over this. My question was since we're a public
23 board, is there a way, and would it be proper
24 under the law, for the Board to contact the
25 plaintiff -- or petitioner, excuse me -- contact

1 the petitioner, and explain in detail what is
2 required, and solicit a complete application if
3 one can be prepared. I feel a little
4 uncomfortable just rejecting it out of hand, but
5 legally I think that's the right answer.

6 BOARD MEMBER PAYNE: I have a comment
7 here, I guess, which is really, you know, under
8 the Montana unsworn declaration statute -- which
9 is just really missing here -- is the statement
10 that is under the laws and penalty of perjury of
11 Montana that she's -- the foregoing facts are true
12 and correct. That would have made her letter an
13 affidavit.

14 And if this is a contested case, I guess
15 the question also is is a deficient petition
16 sufficient to start a contested case. And I read
17 her -- she kind of, she sort of said, "Well, I'm
18 not a lawyer, and I don't know how to make an
19 affidavit." I think she was trying to -- she
20 acknowledged that there was such a requirement,
21 she just didn't know how to do it.

22 And I think the better pathway here
23 would be to throw -- I would throw it back to DEQ.
24 Do they want to challenge this as deficient? If
25 they don't want to challenge it as deficient,

1 we're supposed to be judicial, in this case a
2 quasi-judicial board, and we have to respond to
3 controversies here, and I'm not sure there's a
4 controversy yet with respect to whether or not she
5 has -- is it sufficient.

6 That's something I think is really
7 incumbent upon DEQ to raise that issue, so I think
8 this question might be a little premature.

9 MS. MOISEY-SCHERER: Chair Simpson, Vice
10 Chair Aguirre has her hand up.

11 CHAIR SIMPSON: Go ahead, Stacy.

12 VICE CHAIR AGUIRRE: The reason I made
13 the motion that I did is I don't feel there's a
14 contested case here, and the law requires that the
15 petition be complete. There's not a contested
16 case. I do not feel like it is our duty to help a
17 petitioner figure out how to accurately and
18 completely make a petition.

19 CHAIR SIMPSON: Thank you, Stacy. I
20 would also like to just comment for a minute. In
21 reading through the letter, her main concern
22 seemed to be with ambient air quality and
23 monitoring, and I didn't really see anything that
24 I would consider a claim with respect to the
25 permit itself.

1 Again, not being familiar with the
2 situation, I'm not in a really good position to
3 comment. But I guess if there's anyone, someone
4 in the Department who would like to give us any
5 further input on this, please.

6 MR. LANGSTON: Chair Simpson, this is
7 Jeremiah Langston. I'm the attorney assigned to
8 this case for DEQ. And here's a potential
9 proposal that I think would maybe solve the
10 conundrum here is:

11 We could assign this matter to a Hearing
12 Examiner, and potentially get a preliminary
13 scheduling order issued, wherein typically the
14 parties will propose deadlines once we have that
15 preliminary scheduling order, and in those
16 deadlines we could include a deadline to respond
17 to the sufficiency of the petition, and then that
18 would give an opportunity for all the parties to
19 be heard on this matter.

20 And then I think, I mentioned earlier
21 assigning it to the Hearing Examiner. I think
22 similarly the Board could retain jurisdiction and
23 issue a similar order, and then the Board could
24 take that matter up at some later date. But I do
25 think it would be useful, rather than the Board to

1 sua sponte today take up this issue, to maybe have
2 a little additional process on this.

3 CHAIR SIMPSON: Thank you very much, and
4 if there's room legally to proceed to flesh the
5 issues out a little bit more clearly, that to me
6 would make sense. Further comment?

7 BOARD MEMBER PAYNE: I would offer an
8 amendment to the motion, along the lines that Mr.
9 Langston suggested, about appointing a Hearing
10 Examiner to flesh, to help flesh out that issue
11 and get it resolved in a more formal manner.

12 VICE CHAIR AGUIRRE: Do I need to
13 withdraw my motion? I don't know that you can
14 amend -- Can you amend my motion? You are making
15 a different motion. I think I have to withdraw my
16 motion. Procedurally isn't that the right way to
17 do it?

18 CHAIR SIMPSON: That would be in my
19 opinion a clearer way to do it. So is there a
20 second to withdraw --

21 VICE CHAIR AGUIRRE: I will withdraw my
22 motion.

23 CHAIR SIMPSON: The motion has been
24 withdrawn.

25 BOARD MEMBER PAYNE: Then I'll make a

1 new motion, as I stated before, to follow Mr.
2 Langston's suggestion of appointing a Hearings
3 Officer to help flesh out this issue in a more
4 formal manner.

5 CHAIR SIMPSON: A motion has been made.
6 Is there a second?

7 BOARD MEMBER RANKOSKY: Second.

8 CHAIR SIMPSON: It's been made and
9 seconded to either -- well, to assign this to a
10 Hearing Examiner to work with the Department to
11 flesh out the issues a little better to see if
12 there is a contested case here. Further
13 discussion.

14 BOARD MEMBER ALTEMUS: Chair Simpson,
15 this is Board Member Altemus. I actually like the
16 first motion better. I think the law is the law,
17 and I think we're getting into a slippery slope,
18 but if that's what the Board wants to go down,
19 then I guess I won't oppose, but I just want to be
20 on the record I do like Vice Chair Aguirre's
21 motion better. I just think it's cleaner, but
22 that's my opinion.

23 CHAIR SIMPSON: Thank you. Further
24 discussion or comment?

25 BOARD MEMBER SMITH: I'll say I do agree

1 with Ms. Altemus, assuming this doesn't prohibit
2 some sort of ability to re-petition, but I agree.
3 If it doesn't meet the requirements of a valid
4 petition, and that's been pointed out by our Legal
5 Counsel, I don't know that it's in the best
6 interests of the public to keep this moving
7 forward.

8 CHAIR SIMPSON: Thank you, Joe. I guess
9 I'll repeat the comment I made a little earlier,
10 and that is that my first reaction when I saw this
11 was that the petition was filed within the
12 required time frame, and the petitioner
13 acknowledged that a petition -- or that an
14 affidavit was not included.

15 So it's not a matter of being unaware of
16 the requirement, but I'm not sure that the
17 petitioner has got a good grasp of what is
18 involved in a contested case. That's just a guess
19 based on reading the letter.

20 But I think I would feel more
21 comfortable with this if someone with more
22 familiarity with the issues there could establish
23 whether or not, even in the absence of an
24 affidavit, if there is or is not or are not a
25 claim or claims that could be pursued here in a

1 contested case.

2 At this point I just don't know. And if
3 the Department feels that there is process for
4 doing that, then I'm okay with that. Further
5 comment?

6 BOARD MEMBER ALTEMUS: Mr. Chair, Ms.
7 Hupp has her hand raised.

8 CHAIR SIMPSON: Thank you. Dana.

9 MS. HUPP: Chairman Simpson and Board
10 members. My only comment would be is that if
11 we're trying to -- if the Board would like to try
12 to expeditiously resolve this, I think that
13 appointing a Hearing Examiner could elongate the
14 process, whereas I think Chair Simpson could send
15 out an initial order, and schedule a hearing
16 within the next couple of weeks to have that
17 conversation, and get further clarification.

18 So that is just one option. I just
19 wanted to point out that that may allow the Board
20 to get more information between now and the next
21 meeting, and then make a more informed decision.
22 But ultimately I don't anticipate that this case
23 will move forward, and that you will ultimately
24 need to retain a Hearing Examiner. So I just
25 wanted to add that as food for thought.

1 CHAIR SIMPSON: Thank you, Dana. Well,
2 it's good thought, I believe. So the motion is
3 before us to appoint a Hearing Examiner. Is there
4 an amendment to that motion based on Dana's
5 suggestion?

6 BOARD MEMBER PAYNE: I would offer to
7 amend my motion to fit with Dana's suggestion.

8 CHAIR SIMPSON: Which is for the Board
9 to retain jurisdiction through the initial steps
10 on this moving forward, to try and clarify the
11 issues, so that we make a better informed
12 decision. I think there's a lot of merit in that.

13 BOARD MEMBER PAYNE: Yes.

14 CHAIR SIMPSON: Is there a second?

15 BOARD MEMBER SMITH: I'll second.

16 CHAIR SIMPSON: It's been moved and
17 seconded for the Board to retain jurisdiction on
18 this case, and move forward with the initial
19 prehearing order, and hopefully clarify the
20 issues, so that we can make a more informed
21 decision at our April meeting. Further
22 discussion.

23 (No response)

24 CHAIR SIMPSON: All in favor, say aye.

25 (Response)

1 BOARD MEMBER ALTEMUS: Reluctantly aye.

2 CHAIR SIMPSON: Opposed.

3 VICE CHAIR AGUIRRE: Nay.

4 CHAIR SIMPSON: Sandy, would you take a
5 roll call, please.

6 MS. MOISEY-SCHERER: Chair Simpson.

7 CHAIR SIMPSON: Aye.

8 MS. MOISEY-SCHERER: Vice Chair Aguirre.

9 VICE CHAIR AGUIRRE: Nay.

10 MS. MOISEY-SCHERER: Board Member

11 Altemus.

12 BOARD MEMBER ALTEMUS: Reluctant aye.

13 MS. MOISEY-SCHERER: Board Member Payne.

14 BOARD MEMBER PAYNE: Aye.

15 MS. MOISEY-SCHERER: Was that an aye,

16 sir?

17 BOARD MEMBER PAYNE: Yes, aye.

18 MS. MOISEY-SCHERER: Board Member

19 Rankosky.

20 BOARD MEMBER RANKOSKY: Aye.

21 MS. MOISEY-SCHERER: Board Member Smith.

22 BOARD MEMBER SMITH: Aye.

23 CHAIR SIMPSON: Thank you. Motion

24 carries.

25 The next item is in the Matter of Notice

1 of Appeal and Request for Hearing by Westmoreland
2 Absaloka Mining, LLC, for coal surface mine permit
3 C1985005, Noncompliance No. CN2026001. This is
4 case No. BER 2026-02 SM, Surface Mining.

5 I'd like to defer discussion on this
6 until after we go through the oral argument on the
7 Department's motion to dismiss. So let's move on
8 to the action items.

9 First is the Notice of Appeal and
10 Request for Hearing by the Montana Environmental
11 Information Center and Sierra Club regarding
12 approval of surface mine permit No. C2011003F, BER
13 2019-05 OC -- I'm not sure why that's under
14 opencut -- Western Energy Area F.

15 At the last meeting, the Board voted to
16 appoint BER Counsel Dana Hupp as successor Hearing
17 Examiner at the October 24th meeting. I won't go
18 into a lot of detail, but I'm pleased to report to
19 the Board that we have signed a contract with Dana
20 to complete that case as Hearing Examiner.

21 However, she will not be able as Hearing
22 Examiner to represent the Board when we get to the
23 stage of the completed findings, proposed findings
24 of fact and conclusions of law. So we will need
25 to find alternate Counsel.

1 I haven't consulted with DLI, but I
2 presume that's where we would likely look to see
3 if we can find someone there who would be willing
4 to step in on that basis. So anyway, that's the
5 status of Area F right now.

6 The next item, Matter of Notice of
7 Appeal and Request for Hearing by Alpine Pacific
8 Utilities regarding issuance of the MPDES permit
9 MTX000164, BER 2019-06 Water Quality.

10 On the 26th of January, I issued an
11 order requesting a status report. DEQ filed a
12 status report on February 5th with a motion to
13 dismiss, and Alpine filed a letter objecting to
14 some requirements included in the amended permit,
15 but to my knowledge did not file a new petition
16 within the specified time frame.

17 We have recently been notified by Alpine
18 that they want to respond to the Department's
19 motion to dismiss, and ask for a time extension
20 into next week, so this one we'll just need to
21 table, and pick up at our April meeting.

22 * * * * *

23 (BER 2022-04 OC Valley Gardens
24 transcript bound separately)

25 (9:48 a.m. and reconvened at 10:10 a.m.)

* * * * *

1
2 CHAIR SIMPSON: Let's move on with the
3 next couple of items, and then we'll take a short
4 break before moving into the Absaloka matter.

5 Request for a Hearing regarding Rosebud
6 Mine Area B Amendment 5, Permit No. C1A4003-B, BER
7 2022-05. This has to do with Amendment 5 and the
8 petition filed by Westmoreland Rosebud for costs
9 and expenses. Reply briefs have been filed, and
10 we need to decide when to hear oral arguments on
11 the threshold matter of jurisdiction, which I
12 presume we will need to do before proceeding any
13 further.

14 So I believe we've got to plan to deal
15 with this at our April meeting. There's still a
16 couple of more recent filings on this that we'll
17 need to deal with, but that should be well in hand
18 before we get -- long before we get to the April
19 meeting.

20 So I guess I would ask if there are any
21 questions on that before we move on to the next
22 item.

23 BOARD MEMBER PAYNE: Chairman, I'm not
24 sure. Are you proposing that we hear these
25 arguments at our next meeting then? Is that what

1 you're proposing?

2 CHAIR SIMPSON: At the next regular
3 meeting, yes.

4 BOARD MEMBER PAYNE: All right.

5 CHAIR SIMPSON: That would be in April.
6 We'll get some additional information out on that,
7 but Dana and I have spent some time going through
8 this, and because of recent changes in statute,
9 there seems to be some question as to whether or
10 not the Board has jurisdiction here.

11 This was a relatively -- this was a new
12 idea in my mind. I mean I've dealt with the
13 mining law for decades, and I was not aware that
14 parties could file for costs, legal costs, on
15 administrative hearings, but apparently that
16 provision is in there.

17 So we'll, as before, get an order out on
18 what it is that we'll need to do at that meeting,
19 but I think it's our feeling that we need to
20 resolve that before going any further as far as
21 deciding whether to retain jurisdiction or assign
22 to a Hearing Examiner.

23 Item (e), Decker Coal Company request
24 for hearing. This is Permit C1987001-C, West
25 Decker Mine, BER 2025-01 SM Surface Mining.

1 We issued an order on December 9th
2 extending the stay until the Board's February
3 meeting, and the parties have filed status
4 reports, and they requested a stay until its April
5 meeting or later.

6 So I guess we just need to decide
7 whether the April meeting is sufficient, or
8 whether we ought to provide a little bit more time
9 until June. If the parties are on, I would ask
10 for your thoughts on that based on where you are
11 right now. Is Decker Coal on?

12 MS. MARQUIS: Yes. Good morning, Chair
13 Simpson, members of the Board. Vicki Marquis here
14 representing Decker Coal.

15 CHAIR SIMPSON: What are your thoughts
16 at this point as far as additional time needed in
17 your discussions with the Department?

18 MS. MARQUIS: As we indicated, we do
19 feel that we can get these things resolved in
20 advance of the April meeting, but in order to
21 avoid continuing to come back to the Board and
22 asking for more extensions, perhaps going until
23 June would be appropriate.

24 CHAIR SIMPSON: Thank you. DEQ.

25 MR. KING: Yes, good morning, Board

1 Chair. Can you hear me? Good morning, Board
2 Chair, members of the Board.

3 CHAIR SIMPSON: Please go ahead.

4 MR. KING: DEQ is amenable to extending
5 to the June meeting for further update.

6 CHAIR SIMPSON: Thank you very much. Is
7 there a motion?

8 BOARD MEMBER PAYNE: I would move to
9 extend this matter until the June Board meeting.

10 CHAIR SIMPSON: Is there a second?

11 BOARD MEMBER ALTEMUS: Mr. Chair, I'll
12 second. But I do want to point out that Ms. Hupp
13 has had her hand raised, so I'm not sure if she
14 wants to speak to this or the previous issue,
15 because she had her hand raised then as well.

16 CHAIR SIMPSON: Okay. Thank you. I'm
17 sorry. I didn't have -- I don't have Dana on my
18 screen here, so I didn't see the hand. Dana.
19 Sorry to skip over you.

20 MS. HUPP: Chairman Simpson and members
21 of the Board. I would like to briefly address the
22 prior matter when you've finalized your voting on
23 this issue before we take a break, if possible.

24 CHAIR SIMPSON: Do we need a vote?

25 (No response)

1 CHAIR SIMPSON: Did you hear me, Dana?

2 MS. HUPP: I didn't. I'm sorry.

3 CHAIR SIMPSON: My question is: Do we
4 need a vote? I presume that we don't.

5 MS. HUPP: To extend the stay? I would
6 go ahead and vote, because that way the parties
7 have that information, and it doesn't conflict
8 with any prior Board orders as it relates to the
9 motion to extend the stay.

10 CHAIR SIMPSON: I thought you were
11 referring to Amendment 5 when you said the prior
12 matter.

13 MS. HUPP: I am, and we can address that
14 now, or I can wait until you're done addressing
15 this issue on the motion related to Decker Coal.
16 Either way.

17 CHAIR SIMPSON: Let's vote on the Decker
18 Coal question, and then come back. Is there any
19 further discussion on extending the stay on West
20 Decker until the June meeting?

21 (No response)

22 CHAIR SIMPSON: Hearing none, proceed
23 with the vote. All in favor, say aye.

24 (Response)

25 CHAIR SIMPSON: Opposed.

1 (No response)

2 CHAIR SIMPSON: Motion carries. Thank
3 you very much.

4 (BER 2022-05 Rosebud Mine Area B
5 transcript bound separately)

6 * * * * *

7 (BER 2025-04 SM Absaloka Mine
8 Transcript bound separately)

9 * * * * *

10 (Reconvened at 12:23 p.m.)

11 CHAIR SIMPSON: The only item we have
12 remaining -- well, it's not the only item -- but
13 we had deferred the -- let me get my papers
14 together here. We had deferred action on
15 Westmoreland's petition challenging the Notice of
16 Noncompliance that is related to this same topic,
17 that is, the filing of a bond and the amount of
18 the bond.

19 We can either retain jurisdiction or we
20 can assign it to a Hearing Examiner. I don't
21 think there's any question that because this is a
22 challenge, or a challenge to a Notice of
23 Noncompliance, that the Board has jurisdiction
24 here. And I also feel pretty confident that if
25 this does go to a contested case hearing, there's

1 going to be a lot of expert witnesses and
2 presentation of evidence.

3 VICE CHAIR AGUIRRE: Chair Simpson, I
4 guess I need you to repeat that. I'm somewhat
5 confused on why we're voting on that.

6 CHAIR SIMPSON: Well, if you'll go back
7 to item -- what was it -- I guess it was III(c)
8 under the new cases.

9 Westmoreland has a filed a Notice of
10 Appeal and Request for Hearing for Challenging
11 Notice of Noncompliance No. CN2026001, Case No.
12 BER 2026-02 Surface Mining.

13 VICE CHAIR AGUIRRE: Thank you for
14 clarifying.

15 CHAIR SIMPSON: If you recall from the
16 earlier discussion, there was reference made to
17 this Notice of Noncompliance, and the challenge
18 thereon, so we do need to take action as to how
19 the Board is going to deal with this Notice of
20 Noncompliance -- or the challenge to the Notice.
21 Excuse me.

22 BOARD MEMBER PAYNE: Chairman, I believe
23 there was a motion to combine the matter we just
24 dismissed with the new petition, and maybe at this
25 point we can recognize that that motion is

1 probably moot now that the other matter has been
2 dismissed.

3 CHAIR SIMPSON: Yes. And I probably
4 should have mentioned that first, but yes, in my
5 view it's moot. I don't believe we need to take
6 any action on it.

7 I don't know. I guess just as a
8 practical matter, if this case, or as this case
9 moves forward, it's going to pull in all of the
10 questions that have come up with regard to the
11 bond calculation that was prepared by
12 Westmoreland. I just can't see how the case can
13 proceed to a contested case without that
14 happening.

15 So I guess I've got some further
16 comments on this whole matter, but I guess I'd
17 like to resolve this question of how we handle the
18 case at this point, that is, whether we assign it
19 to a Hearing Examiner, or whether we retain
20 jurisdiction for the initial steps in the process,
21 keeping in mind we've got a pretty full plate
22 right now.

23 MS. MOISEY-SCHERER: Chair Simpson, this
24 is Sandy. Sam King of DEQ has his hand up.

25 CHAIR SIMPSON: Yes. Mr. King.

1 MR. KING: Yes. Thank you, Board Chair.
2 I'm not sure -- Yes, Ms. Marquis is still on. So
3 I don't want to speak out of turn. I think
4 there's going to be I suspect some disagreement on
5 the scope of what this case is; and two, it's our
6 position, and we haven't briefed it yet, that this
7 again isn't appropriate for a contested case. It
8 is appropriate for a hearing, and those two things
9 are distinct from our position.

10 So I'd like to I guess reserve that for
11 another day. I think if the Board wants to vote
12 to appoint a Hearing Examiner or hear it
13 themselves, they can do that, but we have some
14 issues, same as today, regarding what is the scope
15 of this proceeding, and what are the issues that
16 are to be resolved by the merits.

17 CHAIR SIMPSON: I certainly agree with
18 you, Mr. King, and I anticipate that if this was
19 referred to a Hearing Examiner, for example, that
20 it would be the Hearing Examiner that would be
21 evaluating the arguments that you're going to be
22 presenting. And then of course the alternative is
23 for the Board to deal with this as it moves
24 forward.

25 So I would ask the question that maybe

1 -- Did I understand you to say that you were going
2 to respond to the petition ahead of any action by
3 the Board on a Hearing Examiner? Are you going to
4 file a response?

5 MR. KING: Yes, if that's amenable to
6 you, Mr. Chair. I think we would like to file a
7 pretty brief response about what this looks like,
8 and potentially we can bring this, we can get into
9 that at the next April Board meeting, if that's
10 amenable to you.

11 CHAIR SIMPSON: It certainly would be to
12 me. I guess I would ask the Board if there are
13 any further comments on this, and if not, maybe a
14 motion to table this until April would be
15 appropriate.

16 BOARD MEMBER PAYNE: I would move that
17 the Board table that matter until the April
18 meeting.

19 CHAIR SIMPSON: Is there a second?

20 VICE CHAIR AGUIRRE: I'll second.

21 CHAIR SIMPSON: It's been moved and
22 seconded to table this matter, the challenge to --
23 the petition challenging the Notice of
24 Noncompliance until the April meeting. Further
25 discussion.

1 (No response)

2 CHAIR SIMPSON: All in favor, say aye.

3 BOARD MEMBER ALTEMUS: I'm sorry, Chair
4 Simpson. Can I interrupt for just a second? I
5 mean it seemed like Ms. Marquis wanted to respond
6 after Mr. King. May I ask to let her do that?

7 CHAIR SIMPSON: Okay. I'm sorry. I did
8 not --

9 BOARD MEMBER ALTEMUS: She did have her
10 hand up. She unmuted, and so --

11 CHAIR SIMPSON: Okay. The Board --

12 VICE CHAIR AGUIRRE: I don't think she's
13 on any more.

14 BOARD MEMBER ALTEMUS: She is.

15 VICE CHAIR AGUIRRE: Oh, good.

16 CHAIR SIMPSON: Well, my understanding
17 was that she was there, but I apologize. I don't
18 have a complete picture on my screen of everybody
19 in on the call here at one time. So Ms. Marquis,
20 yes, please.

21 MS. MARQUIS: Thank you, Chairman
22 Simpson, and Board Member Altemus. It's
23 Westmoreland's view that this should follow the
24 normal contested case process. The Board looked
25 at this issue in the Decker matter, and concluded

1 that it has jurisdiction, and that all of its
2 cases are contested cases.

3 So this matter could be forwarded to the
4 Hearing Examiner at this point in the process, and
5 then the Hearing Examiner would have an
6 opportunity to be in at the front end of this
7 case, and could review whatever DEQ might file,
8 and we could proceed through the Hearing Examiner
9 to ensure that the scope of the appeal and the
10 jurisdictional issues, if any are raised, are
11 handled appropriately, and then brought to the
12 Board in the time and manner that would be
13 appropriate.

14 CHAIR SIMPSON: Thank you very much.
15 Further questions, comments from the Board.

16 (No response)

17 CHAIR SIMPSON: It's been moved and
18 seconded to table this matter until the April
19 meeting, so that DEQ has a chance to respond. All
20 in favor, say aye.

21 (Response)

22 CHAIR SIMPSON: Opposed.

23 (No response)

24 CHAIR SIMPSON: Motion carries. Thank
25 you very much.

1 Okay. Just a couple more items. The
2 first is general public comment. It says under
3 this item members of the public may comment on any
4 public matter within the jurisdiction of the Board
5 that is not otherwise on the agenda for the
6 meeting. Individual contested case proceedings
7 are not public matters on which the public may
8 comment. Is there any public comment?

9 (No response)

10 MS. MOISEY-SCHERER: Chair Simpson, this
11 is Sandy. There's no public comment.

12 CHAIR SIMPSON: Thank you very much.
13 Just one more item which should only take a
14 minute.

15 In the process of working through what
16 we needed to do in order to affirm the appointment
17 as Dana Hupp as the Hearing Examiner for Rosebud
18 Area F, I had occasion to go back and
19 refamiliarize myself with the Montana
20 Administrative Procedure Act, and there are a
21 couple of items in there that I just wanted to
22 share with the Board. You're probably aware of
23 them if you've read the statute.

24 And so the first is 2-4-611 under
25 Montana Administrative Procedure Act, and I think

1 the Board complied with this at the last meeting.

2 "A hearing examiner must be assigned with due
3 regard to the expertise required for the
4 particular matter."

5 And so the question that comes to my
6 mind is how do we approach that requirement as
7 stated in the statute when we assign -- we haven't
8 yet done it -- but when we start assigning hearing
9 examiners to the DLI group. We don't need to
10 resolve that right now, but just a question that
11 we're going to want to address here at some point.

12 And then the other is one that I think
13 it's important to keep in mind, and I think I've
14 stated it before. This is 2-4-612, MCA, and this
15 has to do with hearings, rules of evidence,
16 cross-examination, judicial notice.

17 It says, "The agency's experience,
18 technical competence, and specialized knowledge
19 may be utilized in the evaluation of evidence."

20 And just, I think that's important just
21 to underscore the fact that we are a public board,
22 and part of our responsibility is to bring our
23 background knowledge and some common sense into
24 these cases that come before us, and I think we've
25 done a pretty good job of that, but I just wanted

1 to reinforce that statement from the statute that
2 affirms that responsibility that we have.

3 So with that, I think we're ready to
4 proceed to adjournment. Anything else from the
5 Board for the good of the order?

6 (No response)

7 CHAIR SIMPSON: Is there a motion to
8 adjourn?

9 BOARD MEMBER PAYNE: I'll move to
10 adjourn.

11 VICE CHAIR AGUIRRE: I'll second.

12 CHAIR SIMPSON: It's been moved and
13 seconded to adjourn the meeting. All in favor say
14 aye.

15 (Response)

16 CHAIR SIMPSON: Thank you very much for
17 everyone's participation. It's been a good
18 meeting. It took a little longer than I had
19 expected, but most things do. So all estimates
20 are optimistic. Thank you again. Have a good
21 weekend.

22 (The proceedings were concluded
23 at 12:37 p.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 -48- 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 7th day of
March, 2026.

Laurie Crutcher

LAURIE CRUTCHER, RPR
Court Reporter - Notary Public
My commission expires
March 9, 2028.

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