

STATE OF MONTANA  
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION  
MINUTES OF THE  
BOARD OF OIL AND GAS CONSERVATION MEETING AND PUBLIC HEARING  
May 27, 2009

**BUSINESS MEETING**

CALL TO ORDER

The regular business meeting of the Montana Board of Oil and Gas Conservation was called to order by Chairman Linda Nelson at 2:00 p.m., Wednesday, May 27, 2009, in the conference room of the Billings Petroleum Club in the Crowne Plaza in Billings, Montana. Board members present were Linda Nelson, Wayne Smith, Don Bradshaw, Ron Efta, Jay Gunderson, Jack King and Bret Smelser. Staff present were Tom Richmond, Jim Halvorson, Terri Perrigo, George Hudak, Steve Sasaki and attorney Clyde Peterson.

APPROVAL OF MINUTES

A motion was made by Mr. Smelser, seconded by Mr. Efta and unanimously passed, to approve the April 1, 2009 business meetings.

PUBLIC COMMENT

There was no public comment.

BOND REPORT

Mr. Halvorson distributed the Bond Report, attached as Exhibit 1.

FINANCIAL REPORT AND SCHEDULE FOR 2009

Ms. Perrigo distributed the financial report, attached as Exhibit 2. She also handed out a graph of historical privilege and license tax receipts, attached as Exhibit 3.

DEFAULT DOCKET

Mr. Halvorson handed out the Docket Summary, attached as Exhibit 4. The Board will hear all applications since there are only 25 including show-cause. He said the Continental dockets 60 through 63- 2009 are mirrors of four Burlington applications that have been continued since October 08. The Burlington applications were withdrawn when Continental filed theirs.

## STAFF REPORTS

Mr. Sasaki distributed a summary (Exhibit 5) of an issue with Native American Energy Group, Inc. (NAEGI). Two Change of Operator requests, with NAEGI as the receiving operator, are pending because NAEGI agreed to clean up two well sites as part of the takeover: the Sandvick 1-11 well in Roosevelt County and the S.Wright 5-35 well in McCone County. NAEGI also has a pending drilling permit for a horizontal Charles Formation well. Mr. Sasaki informed NAEGI that until the problems with the well sites are taken care of neither the Change of Operator requests nor the drilling permit could be approved. Mr. Halvorson said NAEGI is delinquent on production reports also and owes a \$60 fine.

MOTION: Mr. King made a motion to schedule Native American Energy Group, Inc. for a Show-Cause hearing for the July 2009 hearing. Mr. Efta seconded the motion and it passed. Mr. Smelser recused himself and did not participate in the proceedings on this matter.

Mr. Sasaki distributed Exhibit 6, a summary of an issue with Hawley Hydrocarbons (Hawley) water and oil spill at the Copley-Haber lease in Pondera County, Montana. Notice of the spill was not provided as required. As of May 6, there has been water discharged from the pit and the wells have not been shut in. Hawley does not have a discharge permit and field staff has ordered the discharge to stop. Mr. Klotz said the disposal well needs cleaned and acidized it so it can take more water. Mr. Sasaki recommends a \$500 fine for failure to report the spill and schedule a show-cause hearing for July for why the spill was not cleaned up in a timely manner.

Mr. Bradshaw asked if Hawley's production could be shut-in. Mr. Peterson said the Montana Supreme Court determined the Board had that authority. Mr. King would like to increase the fine amount and would like some clean up activity to take place between now and the July hearing. Mr. Smelser would like a daily fine until the site is cleaned up and approved. Mr. King wanted to know how many days it would take a prudent operator to clean it up. Mr. Sasaki said 15 days is a reasonable amount of time.

MOTION: Mr. Smelser made a motion to:

- a) fine Hawley Hydrocarbons \$1000 for failure to report a spill at the Copley-Haber lease ;
- b) order the water discharge from the pit to cease immediately;
- c) give Hawley Hydrocarbons until Friday, June 12, 2009 (15 days from tomorrow -- Friday May 29) to clean up the water and oil spill and have it inspected and approved by Mr. Klotz;
- d) fine Hawley Hydrocarbons \$100 per day for every day past June 12, 2009 the spill is not cleaned up;
- e) appear at the Board's July 9, 2009 public hearing if the clean up has not been inspected and approved, where the Board will order Hawley Hydrocarbons production shut-in at that time.

Mr. Bradshaw seconded the motion and it passed unanimously.

Mr. Hudak gave an update on the Enerplus well injecting CO2 into the Bakken Formation through the Burning Tree well. They started at the end of January, injected for six weeks and then let it soak. They then let it flow thinking it would flow for 2-3 months. Results are not as hoped. They will pump the well while determining the economic feasibility of continuing.

## OTHER BUSINESS

Mr. Halvorson handed out Exhibit 7, a list of revisions/comments regarding forms. This is part of the Helena office rulebook update project. Main proposed changes are: a) redesign the completion report (Form 4) to better handle horizontal wells; b) eliminate Form 7, the Transportation Agency's Monthly Report of Receipts and Disposition of Crude Oil; c) cease to use Form 11, the Reservoir Survey Report, and revise the rules to say it shall be submitted ..... "if required by the Board."; and d) eliminate the Form 24 (Irrevocable Standby Letter of Credit) and replace it with a new form 14-2B.

Mr. Richmond brought up renewal of the Legal Services contract. Chairman Nelson is satisfied with Agency Legal Services and Mr. Peterson and Mr. Buslee. She recommended the Board renew the legal services contract with them.

MOTION: Mr. King made a motion to renew the legal services contract with Agency Legal Services of the Department of Justice for fiscal year 2010. Mr. Smelser seconded the motion and it passed unanimously.

Mr. Richmond said the building addition bill (HB5) went into law 10 days after submitted to the Governor because he did not sign it.

Mr. Richmond said the Board will seek primacy from EPA for carbon sequestration as per SB 498. EPA rules will not be final until approximately 2011. There is no funding to seek primacy. Fees are authorized in the bill but cannot be collected until primacy is obtained. Mr. Richmond thinks IOGCC and GWPC will assist in developing the application. The Board belongs to the Plains Carbon Reduction Partnership and will coordinate with them.

Mr. Richmond reported on the impact of HB 2 personal services reductions. The legislature eliminated funding for 3.0 FTE. The Environmental Coordinator position is back in the budget but in a restricted line-item so those personal services dollars can not be used for anything else. Seven percent vacancy savings was applied. The Oil and Gas Division personal services budget will be hard-hit in the 2011 biennium, because it has the equivalent of only 1.5 FTE to absorb vacancy savings, retirement payouts, market adjustments, etc. It may be necessary in the 2011 biennium to either ask people to voluntarily reduce their hours or have layoffs. A position-by-position and function review will be performed if it appears any reduction in force is necessary. That review will assist in determining which position(s)/function(s) to eliminate.

Chairman Nelson asked about the Default Docket with Automatic Continuance policy and the Board's authority to impose a penalty in order to pay someone's travel costs to attend a hearing. Mr. Peterson said the Board could impose the penalty but does not have the spending authority to use that money to pay another party's travel costs. Mr. Peterson said the policy is that all fines go to the general fund. Mr. Halvorson said this may have been a one-time situation, and he feels the message is out that the Board was not happy. Mr. Peterson recommended the Board do nothing at this time.

Mr. Richmond and Mr. Bradshaw reported on their trip to Alaska for the IOGCC meeting. Mr. King attended also. The next IOGCC meeting is the annual meeting in Biloxi Mississippi in October.

Mr. Smelser spoke with the town of Baker about holding a hearing there. They want to coordinate with Glendive and have it there next year.

Mr. Smelser said the second MonDak Energy Alliance meeting was held in Sidney last Thursday.

#### PUBLIC HEARING

The Board reconvened at 8:00 a.m. Thursday, May 28, 2009, in the conference room of the Billings Petroleum Club on the 22<sup>nd</sup> floor of the Crowne Plaza Billings, to hear the matters docketed for public hearing. As a result of the discussion, testimony and technical data placed before the Board, the following action was taken in each matter.

Docket No. 53-2009 – Board staff placed this application on the Default Docket for approval without hearing if no protests were received by 10:00 a.m. on the day of the hearing. No protests were received. The application of Beartooth Oil & Gas Company was approved as set forth in Board Order 52-2009.

Docket No. 54-2009 – Board staff placed this application on the Default Docket for approval without hearing if no protests were received by 10:00 a.m. on the day of the hearing. No protests were received. The application of Tomahawk Oil Company Inc. was approved as set forth in Board Order 53-2009.

Docket No. 55-2009 – The application of Bayswater Explanation and Production, LLC was continued to the July 2009 Hearing.

Docket No. 56-2009– A motion was made by Mr. Smelser, seconded by Mr. Bradshaw and unanimously passed, to approve the application of Altamont Oil & Gas, Inc. as set forth in Board Order 54-2009.

Docket No. 57-2009– The application of Altamont Oil & Gas, Inc. was continued to the July 2009 hearing.

Docket No. 58-2009 – A motion was made by Mr. Smith, seconded by Mr. Bradshaw and unanimously passed, to approve the application of Brigham Oil & Gas, LP as set forth in Board Order 55-2009. Mr. King recused himself and did not participate in this action.

Docket No. 59-2009 – A motion was made by Mr. Efta, seconded by Mr. Smelser and unanimously passed, to approve the application of Brigham Oil & Gas, LP as set forth in Board Order 56-2009. Mr. King recused himself and did not participate in this action.

Docket No. 60-2009 – A motion was made by Mr. Smelser, seconded by Mr. Efta and unanimously passed, to approve the application of Continental Resources, Inc. as set forth in Board Order 57-2009.

Docket No. 61-2009 – A motion was made by Mr. Smelser, seconded by Mr. Efta and unanimously passed, to approve the application of Continental Resources, Inc. as set forth in Board Order 58-2009.

Docket No. 62-2009 – A motion was made by Mr. Smelser, seconded by Mr. Efta and unanimously passed, to approve the application of Continental Resources, Inc. as set forth in Board Order 59-2009.

Docket No. 63-2009 – A motion was made by Mr. Smelser, seconded by Mr. Efta and unanimously passed, to approve the application of Continental Resources, Inc. as set forth in Board Order 60-2009.

Docket No. 64-2009 – The application of NFR Bear Paw LLC was withdrawn.

Docket No. 65-2009 – A motion was made by Mr. Efta, seconded by Mr. Gunderson and unanimously passed, to approve the application of J. Burns Brown Operating Company as set forth in Board Order 61-2009.

Docket No. 66-2009 – A motion was made by Mr. Smelser, seconded by Mr. Bradshaw and unanimously passed, to approve the application of J. Burns Brown Operating Company as set forth in Board Order 62-2009.

Docket No. 67-2009 – A motion was made by Mr. Smith, seconded by Mr. Bradshaw and unanimously passed, to approve the application of J. Burns Brown Operating Company as set forth in Board Order 63-2009.

Docket No. 68-2009 – A motion was made by Mr. Smelser, seconded by Mr. Efta and unanimously passed, to approve the application of J. Burns Brown Operating Company as set forth in Board Order 64-2009.

Docket No. 69-2009 – A motion was made by Mr. Bradshaw, seconded by Mr. Efta and unanimously passed, to approve the application of J. Burns Brown Operating Company as set forth in Board Order 65-2009.

Docket No. 70-2009 – A motion was made by Mr. Bradshaw, seconded by Mr. Efta and unanimously passed, to approve the application of J. Burns Brown Operating Company as set forth in Board Order 66-2009.

Docket No. 71-2009 – A motion was made by Mr. Smelser, seconded by Mr. Bradshaw and unanimously passed, to approve the application of J. Burns Brown Operating Company as set forth in Board Order 67-2009. Mr. King recused himself and did not participate in this action.

Docket No. 72-2009 – A motion was made by Mr. Smith, seconded by Mr. Smelser and unanimously passed, to approve the application of J. Burns Brown Operating Company as set forth in Board Order 68-2009. Mr. King recused himself and did not participate in this action.

Docket No. 73-2009 – The application of J. Burns Brown Operating Company was withdrawn.

Docket No. 74-2009 – A motion was made by Mr. Smelser, seconded by Mr. Bradshaw and unanimously passed, to approve the application of J. Burns Brown Operating Company as set forth in Board Order 69-2009.

Docket No. 75-2009 – The application of Iofina Natural Gas, Inc. was continued to the July 2009 hearing.

Docket No. 390-2008 – The application of Burlington Resources Oil & Gas Company LP was withdrawn.

Docket No. 391-2008 – The application of Burlington Resources Oil & Gas Company LP was withdrawn.

Docket No. 392-2008 – The application of Burlington Resources Oil & Gas LP was withdrawn.

Docket No. 393-2008 – The application of Burlington Resources Oil & Gas Company LP was withdrawn.

Docket No. 394-2008 – The application of Burlington Resources Oil & Gas Company LP was withdrawn.

Docket No. 395-2008 – The application of Burlington Resources Oil & Gas LP was withdrawn.

Docket No. 396-2008 – The application of Burlington Resources Oil & Gas LP was withdrawn.

Docket No. 397-2008 – The application of Burlington Resources Oil & Gas LP was withdrawn.

Docket No. 398-2008 – The application of Burlington Resources Oil & Gas Company LP was withdrawn.

Docket No. 425-2008 – The application of Crusader Energy Group, LLC was continued to the July 2009 Hearing.

Docket No. 15-200 & 17-2009 FED – The application of Montana Land & Exploration, Inc. was withdrawn.

Docket No. 31-2009 – The application of Crusader Energy Group, LLC was continued to the July 2009 Hearing.

Docket No. 32-2009 – The application of Continental Resources, Inc. was continued to the July 2009 Hearing.

Docket No. 33-2009 – The application of Continental Resources, Inc. was continued to the July 2009 Hearing.

Docket No. 34-2009 – The application of Continental Resources, Inc. was continued to the July 2009 Hearing.

Docket No. 35-2009 – The application of Continental Resources, Inc. was continued to the July 2009 Hearing.

Docket No. 38-2009 – The application of Zenergy, Inc. was withdrawn.

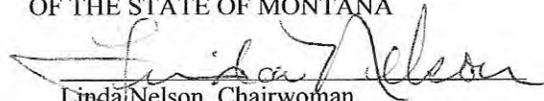
Docket No. 21-2009 – A motion was made by Mr. King, seconded by Mr. Smelser and unanimously passed, to dismiss the matter in regard to Athena Energy LLC and Red Maple Energy Inc. as set forth in Board Order 70-2009.

Docket No. 52-2009 – A motion was made by Mr. Smelser, seconded by Mr. Smith and unanimously passed, to order Mountain Pacific General Inc. to: a) plug and properly abandon the Copenhaver #1 well by August 20, 2009; and b) test the Fossum #10-8 well for economic capability by August 20, 2009 and forward the report to the Board as set forth in Board Order 71-2009.

NEXT MEETING

The next business meeting of the Board will be Wednesday, July 8, 2009 at 2:00 p.m. in the Billings Petroleum Club in the Crowne Plaza Billings in Billings, Montana. The next regular public hearing will be Thursday, July 9, 2009, beginning at 8:00 a.m. in the conference room of the Billings Petroleum Club in the Crowne Plaza Billings, in Billings, Montana. The filing deadline for the July 9, 2009 public hearing is June 11, 2009.

BOARD OF OIL AND GAS CONSERVATION  
OF THE STATE OF MONTANA



Linda Nelson, Chairwoman  
Wayne Smith, Vice-Chairman  
Don Bradshaw  
Ronald S. Efta  
Jay Gunderson  
Jack King  
Bret Smelser

ATTEST:



Terri H. Perrigo, Executive Secretary