

STATE OF MONTANA  
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION  
MINUTES OF THE  
BOARD OF OIL AND GAS CONSERVATION MEETING AND PUBLIC HEARING  
October 14, 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, October 14, 2009, in the conference room of the Billings Petroleum Club in the Crowne Plaza in Billings, Montana. Board members present were Linda Nelson, Don Bradshaw, Ron Efta, Jay Gunderson, Jack King, Bret Smelser and Wayne Smith. Staff present was Tom Richmond, Jim Halvorson, Darrel Hystad, Terri Perrigo, George Hudak, Steve Sasaki and attorney Clyde Peterson.

APPROVAL OF MINUTES

A motion was made by Mr. Smelser, seconded by Mr. King and unanimously passed, to approve the August 26, 2009 business meeting minutes.

PUBLIC COMMENT

There was no public comment.

BOND REPORT

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

FINANCIAL REPORT

Ms. Perrigo distributed the financial report, attached as Exhibit 2. She will check and see what constitutes the \$900 shown as UIC fees

PROPOSED 2010 SCHEDULE

Ms. Perrigo distributed the draft proposed 2010 schedule which is attached as Exhibit 3. Mr. King would like to hold the April meeting in Butte. MT Tech has a new petroleum building and they would like to host the Board for a meeting at a time students are on campus and could attend. Mr. King advised them to send the Board an invitation.

Mr. Smelser would like to hold the June 2010 meeting in Eastern Montana again. He will talk with Glendive, Baker and Sidney officials and get something coordinated.

DEFAULT DOCKET

Mr. Halvorson handed out the Docket Summary attached as Exhibit 4.

## REVISIONS TO CBM WATER MONITORING GUIDELINES

Mr. Russ Levens of the DNRC Water Resources Division was present to discuss modifications to the Groundwater Monitoring and Reporting Guidelines prepared by the CBM Technical Advisory Committee for CBM producers operating in Montana. There were two main revisions: one is the inclusion of timelines regarding how long companies have to respond to requests from TAC and how long TAC has to review plans; and the other change is to make clear that the intention is that Montana School of Mines and Geology is to do the annual report; but if they don't have funding to do it companies must provide the data.

**MOTION:** Mr. Smelser made a motion to concur with the revisions proposed by the CBM TAC. Mr. Bradshaw seconded the motion and it passed unanimously.

## IOFINA NATURAL GAS, INC. (IOFINA) PROJECT UPDATE

Scott Formolo, a geologist with Iofina, and attorney Scotti Gray were present to give a project update, which is outlined in Exhibit 5. Iofina applied for temporary 160-acre spacing in July 08 when Board was in Sidney. They were targeting a formation in an attempt to depressure by removing significant amounts of brine in order to produce natural gas. They did produce over 600 mcf of gas from two wells that showed incremental volume gains in their gas loop. These wells are now shut in because Iofina purchased significant adjacent acreage last spring from Encore and that is going to be the new focus of their gas project. Mr. Formolo said Iofina has found an impressive injection zone for their water and is able to dispose of a lot of water while staying within the pressures established by the state.

Mr. Formolo said Iofina is an iodine producing company, but truly believes they can make a gas play here also. They are currently laying a 12-inch brine line. They have not sold any iodine yet, but the iodine concentration in the brine has been about 50 ppm. Initially Iofina thought they would have approximately 70 percent recovery, but they are finding it is more than that. They are currently making 17 pounds of iodine per day per day per 1000 barrels of brine. Iodine currently sells for approximately \$10 per pound.

Mr. King said his issue is with the commercial nature of the gas. Iofina is producing gas and iodine. They have to continue to be able to show the Board of Oil and Gas that they have commercial gas wells. They have to continue to come before the Board because gas wells need permitted by it. No one permits iodine. He appreciates what Iofina is doing and the fact they are coming before the Board. Mr. Hudak reminded the Board that if Iofina does not produce gas, they cannot use a Class II injection well to dispose of the water. Mr. Smith said something may have to go before the legislature because this could be a glimpse into the future.

Mr. Halvorson said the next step is permanent spacing for wells that have been completed. Ms. Gray said 90 days after Iofina starts producing they will come back for permanent spacing, but she thinks 160 acre spacing will be sufficient.

Mr. Halvorson said he has had a number of calls from mineral and surface owners about well locations at the center of sections because it causes surface and field disruptions. He asked if Iofina had considered giving landowners a say in site selection. Mr. Formolo said they were not trying to make landowners mad; they were just trying to get the wells as close together as possible. He also said they have spent a lot of time in the last month talking to surface owners and hopefully some of their concerns have been addressed.

## STAFF REPORTS

Mr. Sasaki said he would like to dismiss the Ron Sannes show cause hearing tomorrow because of the amount of work that has been accomplished toward cleaning up the leases. He distributed Exhibit 6, which shows the status of the clean up work at various wells.

Mr. Sasaki distributed Exhibit 7, a chronology of the Hawley Hydrocarbons Copley Haber oil/water spill issue. The current problem is that Hawley Hydrocarbons has only paid \$101 of its \$1000 fine. Mr. Sasaki asked if the Board wanted to do anything to speed up payment of the fine. He said he had no contact with Mr. Hawley since the hearing. Chairman Nelson said she told Mr. Hawley to work with staff regarding payment of the fine. Mr. Smith said the Board was willing to work with him, but he never came to the Board. Mr. King said the Board gave Mr. Hawley a break by reducing the fine by half. He did not pay. Mr. Smelser said he would like to send Mr. Hawley saying the remaining \$899 is due within 10 days or the Board will schedule a show-cause hearing to shut in production. The Board's attorney drafted some language for an administrative order regarding this matter.

MOTION: A motion was made by Mr. Smelser, seconded by Mr. Smith and unanimously passed, to: a) order the remaining \$899 be paid by 5pm, Thursday, November 12, 2009; b) order that if the remaining fine is not paid by November 12, the original fine of \$2000 (less the \$101 already paid) is re-imposed; and c) order that if the re-imposed fine is not paid by 5pm on Tuesday, December 1, 2009, that a show-cause hearing will be scheduled for December 10, 2009 to shut in production from Hawley's Pondera County wells.

### History:

1. *At the May 27, 2009 business meeting 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.*

2. *An additional \$1000 was assessed because it took Hawley Hydrocarbons 10 days past the June 12 deadline to clean up the water and oil spill and have it approved and inspected by Mr. Klotz. The fine for this matter now totaled \$2000 – original \$1000 fine plus \$1000 for ten late days.*

3. *Mr. Hawley was advised not to appear at the July 9, 2009 public hearing because the Independent-Observer failed to publish the notice of the show cause hearing.*

4. *Mr. Hawley appeared at the Board's August 27, 2009 public hearing to appeal his \$2000 fine. The Board reduced the fine to \$1000.*

5. *Received check for \$101 from Merrill Hawley on September 29, 2009.*

Mr. Gunderson asked what happens when the Board "shuts-in" production. Mr. Halvorson said the purchaser is notified that it is illegal production. Hawley Hydrocarbons purchaser will be Cenex. It would be hard to padlock everything, so the purchaser is the best way except in some parts of Central Montana where they have people truck it everywhere.

Mr. Richmond said the ground has been broken for the building addition. The estimated completion date is 300 calendar days from start date which was mid-September.

#### OTHER BUSINESS

Mr. Smelser thanked Mr. Richmond and Mr. Halvorson for sending him Bakken core samples for his interview with the BBC.

Mr. Smelser asked staff to attend the MonDak meeting November 19, 2009, where Representative Rehberg and Governor Schweitzer will be speaking.

Mr. Bradshaw reported on the Interstate Oil and Gas Compact Commission annual meeting in Biloxi Mississippi. The basic theme was unconventional hydrocarbons.

Chairman Nelson said Mr. Keith Carver of TOI Operating would like a letter to be distributed to all Board members prior to the show-cause hearing tomorrow. The Board's attorney said it could be handed out at the end of the business meeting but there would be no discussion on the letter or the matter until tomorrow's hearing. Exhibit 8 is a copy of that letter.

#### EXEMPT STAFF PERFORMANCE EVALUATIONS

The Board met in Executive Session to discuss performance of its three exempt employees.

MOTION: A motion was made by Mr. Smelser, seconded by Mr. Bradshaw and unanimously passed, to give Mr. Richmond, Mr. Halvorson and Mr. Hudak 3.5 percent raises effective October 1, 2009.

Ms. Perrigo was directed by Mr. King and the Chairman to get with Mr. Richmond and develop suggestions on how to raise Mr. Sasaki's salary. These suggestions shall be discussed at the Board's December 2009 business meeting.

With no further business the Board adjourned at 4:30 pm.

#### PUBLIC HEARING

The Board reconvened at 8:00 a.m. Thursday, October 15, 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. 123-2009 – A motion was made by Mr. Smelser, seconded by Mr. Gunderson and unanimously passed, to approve the application of Enerplus Resources (USA) Corporation as set forth in Board Order 118-2009.

Docket No. 124-2009 – A motion was made by Mr. King, seconded by Mr. Bradshaw and unanimously passed, to approve the application of Enerplus Resources (USA) Corporation as set forth in Board Order 119-2009.

Docket No. 125-2009 – A motion was made by Mr. King, seconded by Mr. Bradshaw and unanimously passed, to approve the application of Enerplus Resources (USA) Corporation as set forth in Board Order 120-2009.

Docket No. 126-2009 – A motion was made by Mr. King, seconded by Mr. Bradshaw and unanimously passed, to approve the application of Enerplus Resources (USA) Corporation as set forth in Board Order 121-2009.

Docket No. 127-2009 – A motion was made by Mr. King, seconded by Mr. Bradshaw and unanimously passed, to approve the application of Enerplus Resources (USA) Corporation as set forth in Board Order 122-2009.

Docket No. 128-2009 – A motion was made by Mr. Efta, seconded by Mr. Bradshaw and unanimously passed, to approve the application of Sinclair Oil & Gas Company as set forth in Board Order 123-2009.

Docket No. 129-2009 – A motion was made by Mr. Smith, seconded by Mr. Smelser and unanimously passed, to approve the application of Sinclair Oil & Gas Company as set forth in Board Order 124-2009.

Docket No. 130-2009– The application of XTO Energy Inc. was continued to the December 2009 hearing.

Docket No. 131-2009 – A motion was made by Mr. King, seconded by Mr. Efta and unanimously passed, to approve the application of EOG Resources, Inc. as set forth in Board Order 125-2009.

Docket No. 132-2009 – A motion was made by Mr. Bradshaw, seconded by Mr. King and unanimously passed, to approve the application of EOG Resources, Inc. as set forth in Board Order 126-2009.

Docket No. 133-2009 – A motion was made by Mr. Bradshaw, seconded by Mr. King and unanimously passed, to approve the application of EOG Resources, Inc. as set forth in Board Order 127-2009.

Docket No. 134-2009 and 1-2010 FED – The application of Anschutz Exploration Corporation involves land under the jurisdiction of the Bureau of Land Management (BLM) of the United States Department of Interior. The order will be issued by the BLM.

Docket No. 135-2009 – A motion was made by Mr. Bradshaw, seconded by Mr. King and unanimously passed, to approve the application of Armstrong Operating, Inc. as set forth in Board Order 128-2009.

Docket No. 136-2009 – A motion was made by Mr. Smith, seconded by Mr. Gunderson and unanimously passed, to approve the application of Stephens Energy Company LLC as set forth in Board Order 129-2009.

Docket No. 137-2009– The application of Oasis Petroleum LLC was continued to the December 2009 hearing.

Docket No. 138-2009– The application of Oasis Petroleum LLC was continued to the December 2009 hearing.

Docket No. 139-2009 – A motion was made by Mr. King, seconded by Mr. Smelser and unanimously passed, to approve the application of ECA Holdings. L.P. as set forth in Board Order 130-2009.

Docket No. 88-2009 – The application of Iofina Natural Gas, Inc. was withdrawn.

Docket No. 89-2009 – The application of Iofina Natural Gas, Inc. was withdrawn.

Docket No. 100-2009 – A motion was made by Mr. Smelser, seconded by Mr. Gunderson and unanimously passed, to approve the application of Panther Energy Company, LLC as set forth in Board Order 131-2009.

Docket No. 22-2009 – A motion was made by Mr. Smith, seconded by Mr. Efta and unanimously passed, to order the forfeiture of the TOI Operating bond. A second motion was made by Mr. Bradshaw, seconded by Mr. Efta and unanimously passed, to not approve the pending Change of Operator request moving wells off of the TOI bond onto the Black Hawk Resources bond.

Docket No. 52-2009 – A motion was made by Mr. Smelser, seconded by Mr. Bradshaw and unanimously passed, giving Mountain Pacific General Inc. 30 days from the date of today's hearing to pay the \$1000 fine issued in Board Order 116-2009, and until the June 2010 Board hearing to plug, abandon and file all paperwork on the Fossum #10-8 well.

Docket No. 97-2009 – A motion was made by Mr. Smelser, seconded by Mr. Smith and unanimously passed, to give Native American Energy Group, Inc. until the Board's June 2010 public hearing to complete the wellsite cleanups at the S. Wright 5-35 well in McCone County, Montana and the Sandvick 1-11 well in Valley County, Montana.

Docket No. 140-2009 – The Show-Cause Hearing for Ronald M. or Margaret Ann Sannes was dismissed.

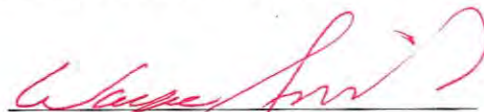
Docket No. 141-2009 – The Show-Cause Hearing for Provident Energy Associates of Montana, LLC was dismissed.

Docket No. 142-2009 – A motion was made by Mr. King, seconded by Mr. Gunderson and unanimously passed, to: a) fine Delphi International, Inc. \$1700 for failure to appear. This amount is in addition to the \$300 fine levied in June 2009 for delinquent production reports and set forth in Board Order 228-2007; b) shut-in Delphi International, Inc.'s production until the total \$2000 fine is paid and all production reports are current; and c) authorize staff to lift this shut-in order if Delphi International Inc. pays the \$2000 fine and has all production reports current by 5:00 pm on Monday, November 16, 2009. If the fine is not paid by that time, a representative from Delphi International Inc. must appear at a BOGC hearing to request it be lifted.

#### NEXT MEETING

The next business meeting of the Board will be Wednesday, December 9, 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, December 10, 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 December 10, 2009 public hearing is November 12, 2009.

#### BOARD OF OIL AND GAS CONSERVATION OF THE STATE OF MONTANA



Linda Nelson, Chairwoman

Wayne Smith, Vice-Chairman

Don Bradshaw

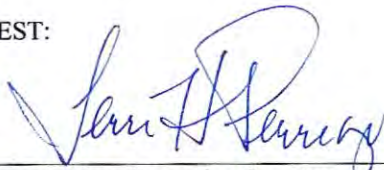
Ronald S. Efta

Jay Gunderson

Jack King

Bret Smelser

ATTEST:



Terri H. Perrigo, Executive Secretary