

STATE OF MONTANA
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
MINUTES OF THE
BOARD OF OIL AND GAS CONSERVATION MEETING AND PUBLIC HEARING
December 10, 2009
BUSINESS MEETING

CALL TO ORDER

The regular business meeting of the Montana Board of Oil and Gas Conservation was called to order by Vice-Chairman Wayne Smith at 2:00 p.m., Wednesday, December 10, 2009, in the conference room of the Billings Petroleum Club in the Crowne Plaza in Billings, Montana. Board members present were Don Bradshaw, Ron Efta, Jay Gunderson, Jack King, Bret Smelser and Wayne Smith. Chairman Linda Nelson was absent. Staff present was 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. Bradshaw and unanimously passed, to approve the October 14, 2009 business meeting minutes.

PUBLIC COMMENT

There was no public comment.

BOND REPORT

Mr. Halvorson distributed the Bond Report, attached as Exhibit 1. A number of single well bonds have been approved for Fort Worth Operating Company, LLC, who is drilling on fee lands within the boundaries of the Fort Peck reservation.

FINANCIAL REPORT

Ms. Perrigo distributed the financial report, attached as Exhibit 2.

2010 SCHEDULE

Ms. Perrigo distributed the proposed 2010 schedule which was discussed at the October business meeting.

MOTION: Mr. Smelser made a motion to change the proposed June 2010 hearing to June 17, 2010 (instead of the 10th) and hold the hearing at the Elks in Sidney where it will be hosted by Baker, Glendive and Sidney. Mr. Bradshaw seconded the motion and it was passed unanimously. Mr. Smelser will make arrangements with the Elks for the use of the building.

The final 2010 schedule is attached as Exhibit 3.

Ms. Perrigo distributed a copy of a letter to the Chairman from Leo Heath at Montana Tech inviting the Board to Butte for either its February or April 2010 meetings. Mr. King spoke with Montana Tech. They have a new building opening in January they would like to showcase, and there will be no finals during either week proposed for the Board meetings so students will be available to attend.

MOTION: Mr. Smelser made a motion to hold the Board's April 29, 2010 hearing in Butte at the new Natural Resources Building at Montana Tech. Mr. Bradshaw seconded the motion and it passed unanimously. Ms. Perrigo was directed to work with Mr. Heath regarding arrangements.

DEFAULT DOCKET

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

Mr. Smelser asked about the status of the Conoco /Continental dispute regarding the operator of the horizontal wells in the overlapping spacing units in Richland County. Mr. Richmond said he had spoken with Mr. Throne (Conoco's attorney) and they have decided to leave the matter alone. It will not be going to court.

Mr. Smith received phone calls from people who will be present tomorrow to protest Docket 143-2009. Mr. King has also received calls regarding this application. Mr. Halvorson received an email about the docket yesterday and also understands there will be protests.

TOI OPERATING AND PAR INVESTMENTS, LLC

Mr. Halvorson distributed Exhibit 5, which includes Orlen (Lenny) Carver's requests for a re-hearing and emergency hearing on Docket 22-2009. That docket (22-2009) resulted in Board Order 132-2009 which ordered forfeiture of TOI Operating's bond.

Mr. Richmond said the Board needs to address Mr. Carver's hearing requests, and needs to decide whether to approve the two pending change of operator requests for some of the wells on the TOI bond: the request to move five wells off the TOI bond to the BlackHawk Resources bond; and the request to move two wells off the TOI bond to the Bensun Energy bond.

TOI OPERATING

Mr. Lenny Carver (Lenny) was present to discuss his request for rehearing and emergency hearing on Docket 22-2009. He wants to operate the TOI wells using the forfeited TOI bond. He says he is 50 percent owner of TOI. Mr. Richmond said when the Board ordered forfeiture of the TOI bond in Board Order 132-2009, there was no decision made about what to do with the producing wells. Mr. Carver and PAR Investments, LLC (PAR) contacted staff after TOI's purchaser was notified oil from its wells was illegal; and after discussion with the Board Chair, other Board members and its attorney, Mr. Lenny Carver and PAR were given administrative authorization from Mr. Richmond to sell their oil and produce the wells until the requests for rehearing could be dealt with today. The Board needs to decide whether or not to allow Mr. Lenny Carver to operate TOI's wells and under what conditions.

Mr. King asked what "conditions" exist for the Board in regard to Mr. Lenny Carver's request to operate the TOI wells. Mr. Richmond said new operators usually post a bond. They file all the paperwork and staff either approves the bond administratively or refers the matter to the Board if there are questions or other issues. Mr. Lenny Carver is proposing to become a new operator but use the existing TOI bond. The Board can allow that, because the bond forfeiture documents have not yet been submitted; or it can make Mr. Carver get a new bond; or the Board can let him operate under the existing TOI bond and make him get additional bonds to increase the overall bond amount.

Mr. Gunderson wondered how the Board could take a company's bond and then give it to someone else. Mr. Efta asked if the Board is required to know who the owners of a well are. Mr. Richmond said not typically. The organization report that is submitted is on the company that is operating the well—not necessarily the owner of the well. Mr. Efta asked if TOI was created after the bankruptcy of Crown Oil which was owned by both Lenny and Keith Carver. Lenny Carver said yes. Mr. Efta also noted that one of Lenny's letter's in Exhibit 5 says Lance Benson, who is requesting some of the wells be transferred to his bond, was also a partner in Crown Oil.

Mr. King is concerned that proper notice has not been given for a rehearing or emergency hearing. Mr. Richmond said everything being requested, except the TOI bond/Lenny Carver operator issue, is administrative and notice is not necessary. Mr. Lenny Carver said he would withdraw his requests for a rehearing and an emergency hearing if the Board would decide on the bond issue today.

Lenny Carver said he just finished plugging the Watts and Dore wells. The Clark well has been plugged but still needs a surface plug and restoration. He just moved onto the Labonte but had some problems in the hole. Well site issues have been taken care of at the Sundheim and Theil wells. Lenny Carver requests that the Board keep the TOI bond in place and name him the operator.

Mr. Smelser wants the Board to know that Lenny's sincerity is genuine and he has shown he is willing to step up to the plate and take care of this. Mr. Bradshaw said in the last two months more has been done on these wells than has been done in last five years and he appreciates it. Mr. Smith reminded Board members the reason this matter is being discussed is due to non-performance for at least the past six years,

Mr. Efta thinks the Board will set a bad precedent if it rescind's its original action, after it found sufficient cause to forfeit TOI's bond after a lengthy and heated hearing. He does not think the Board should go against its prior action and thinks that Lenny Carver should get a new bond because the Board took the TOI bond.

Mr. Smith agrees with Mr. Efta. TOI's non-performance is what caused this. The same people are still involved and the Board is being asked to trust them again.

Mr. Efta remembers Keith Carver telling the Board many times that his operation (TOI) had nothing to do with his dad (Lenny Carver) Now the Board is being told that all along Lenny was 50 percent owner.

Mr. Richmond shares some discomfort because it is all the same people. But the Board has not dealt directly with Lenny so he is willing to give him a chance to work these things out. He recommends the Board approve bond reinstatement for Lenny Carver to operate under TOI bond

Mr. Smelser said even though TOI has not changed structurally there is a new 50 percent owner. He suggests the Board give TOI under Lenny Carver until June 2010 to plug the Clark and LaBonte.

MOTION: Mr. Smelser made a motion, seconded by Mr. Bradshaw and passed, to rescind the forfeiture part of Board Order 132-2009 and allow Mr. Lenny Carver operate under the existing TOI bond and report at the June 16, 2010 business meeting in Sidney on the status of the wells on that bond. Mr. Efta opposed the motion. He would not reverse the Board's previous bond forfeiture because the Board had sufficient cause for its action, and he feels the Board sets a bad precedent by reversing its decision.

PAR INVESTMENTS LLC CHANGE OF OPERATOR REQUEST

Mr. Mike Gleason of PAR Investments, LLC (PAR) was present to discuss his pending change of operator request to transfer five wells off the TOI bond onto the Black Hawk Resources bond. He expressed displeasure about the denial of the transfer in Board Order 132-2009, the subsequent inability of PAR Investments to sell its oil, and his inability to get answers from staff. He also questioned why PAR was not allowed to transfer its own wells to its own bond (the Black Hawk Resources bond) Mr. Smith said the PAR wells were on the TOI bond and that is why the Change of Operator was not approved – because of ties with TOI.

Mr. Smelser reminded Mr. Gleason that he, Mr. Richmond and Mr. Peterson spent a lot of time making it possible for Mr. Gleason to sell his oil after the TOI bond had been forfeited.

Mr. Smith asked for an explanation of how Mr. Gleason and PAR are tied in with TOI. Mr. King also wanted to know the relationship with Black Hawk Resources.

Mr. Gleason said Titan Oil Inc. (TOI) owed Dakota Western Bank (DWB) in Bowman ND a lot of money. In lieu of foreclosure, DWB took Titan's wells over. DWB operated the Montana wells under the TOI bond and Black Hawk Resources owned by Lee Scherer operated the ND wells. Then the ND bank examiners said DWB could not be both a bank and an oil company, so PAR Investments, LLC, (PAR) was created to take care of the oil activities. PAR is made up of private shareholders of DWB. Mr. Gleason said he is not a shareholder of DWB. PAR bought out Black Hawk after about five years and now Black Hawk Resources is a wholly owned operating arm subsidiary of PAR Investments. TOI is a contractor that pumps PAR's wells. PAR shareholders are not willing to put any more money into these wells. They want to sell the wells and get out of the business.

Mr. King asked where the money will come from to continue operations and the clean up. Mr. Gleason said PAR is leasing to a third party that will operate and receive the majority of revenues from PAR wells. PAR will take a monthly fee and the third party will have incentive to put wells back in production because they can make a lot of money.

Mr. King wanted to know what will happen with the Andrew Peterson well. Mr. Gleason said it needs recompleted or plugged and abandoned. The wellsite is cleaned up. But it is not economic. There is a zone there that could probably be commercial, but PAR estimates it would cost \$170-\$200 thousand to recomplete and the investors are not willing. A recompletion of the Peterson will not happen under PAR. Mr. King would like to see this well be plugged and abandoned. He would like to see closure instead of just handing it off to another operator.

Mr. Gleason said if the pending Change of Operator is not approved then PAR's negotiations with the third party and ability to sell any of the wells will probably go away. Mr. King asked what the total daily production is for the five wells proposed for transfer. Mr. Gleason said approximately 100 barrels a day.

Mr. Efta asked if the bankers are cutting their losses. Mr. Gleason said yes. Mr. Efta asked about the lease agreement being entered into. Is it with a member of the Carver family. Mr. Gleason said yes – Lenny Carver. They are entering into a lease agreement with Lenny to take care of PAR wells because they currently have to hire so many contractors. Lenny will give PAR a monthly check. PAR signs over oil revenues for the month to Lenny. The more work Lenny does, the more money he makes. PAR has given Lenny all its revenues since September 1, 2009. That is how he has plugged wells. PAR is still trying to sell these wells though and Lenny knows that.

MOTION: Mr. King made a motion, seconded by Mr. Smelser and unanimously passed, to transfer the A. Peterson, Dane, Carlson Lick 22-12, Carlson Lick 21-41 and Sundheim 14-15 wells from the TOI bond to the BlackHawk bond and require BlackHawk to return to the Board's business meeting on June 16, 2010 to show what the plans are for the wells – particularly the Peterson.

BENSUN ENERGY CHANGE OF OPERATOR REQUEST

Mr. Lance Benson of Bensun Energy in Sidney was present to request two wells from the TOI bond be put on his bond. Bensun Energy has put up two single well \$10,000 certificates of deposit as bonds for the BN wells in Fallon County. He wants to inject into the Dakota at the BN 12-11 and is working with Mr. Hudak on those requirements. He got a two-year oil lease on the BN 11-11 and plans on completing the well and putting it back on line. It has a tubing leak that needs fixed. The Canadians who were present at the last board hearing are not involved in this. They said they were not interested in continuing with these wells. Mr. Benson's plans are to tie into this disposal well. Citation and Newfield are excited also because currently there is only one disposal well and there is no way to control cost. Mr. King asked if Bensun Energy is funded well enough to perform. Mr. Benson said yes. He has banking lined up to buy equipment and has family money behind him. He has significant funds to complete plans.

Mr. King asked when he expects to have a revenue stream. Mr. Benson said in about seven to ten days on the disposal well.

Mr. Smith was concerned about the location of the disposal well. Mr. Benson said the battery is not where the location is. The water line will be on the same site as the disposal was before. Water will be pipelined to the injection well. Mr. Sasaki said that is a better option than trying to build a battery where the existing well is. Mr. Benson said he will have all the required precautions in place such as a built up location, alternative runoff, etc. All regulations will be followed.

MOTION: Mr. Smelser made a motion, which was seconded by Mr. Gunderson and unanimously passed, to transfer the BN 12-11 and 11-11 wells to Bensun Energy and to require that Bensun Energy return to the Board business meeting on June 16, 2010 in Sidney to report on the status of the wells.

STAFF REPORTS

Steve Sasaki said Mountain Pacific and Hawley Hydrocarbons both paid their fines by the deadlines.

Mr. Halvorson requested the Board schedule a show cause hearing for Rocky Mountain Gas, Inc. for failure to plug and abandon six wells in Powder River County, Montana, as shown on Exhibit 6. The wells were originally drilled as coal bed methane wells but never produced commercially. Mr. Halvorson spoke with someone from Sheridan WY who used to work for Rocky Mountain Gas Inc. and he was told the company has disappeared.

MOTION: Mr. King made a motion, seconded by Mr. Smelser and unanimously passed, to schedule a Show Cause hearing for February 2010 for Rocky Mountain Gas Inc. why their bond should not be forfeited and/or other penalties for failure to plug the six wildcat Castle Rock wells in Powder River County that are on its bond.

Mr. Halvorson distributed Exhibit 7 which shows how to access the Weekly Activity letter online.

Mr. Richmond said the Board is still involved in two lawsuits. The Board won a minor victory in the Wildlife Federation lawsuit regarding infill drilling in Cedar Creek Gas field in Fallon County. The plaintiffs claimed the environmental assessments (EA) done for the wells were not adequate under MEPA. The Board's defense was that a MEPA challenge cannot be brought against the Board because statute says a separate action must be brought in District Court. The judge agreed with the Board and the trial will be in July. The Board will probably have to hire a sage grouse specialist because one of the main issues is whether increased well density had an adverse affect on sage grouse.

Mr. Richmond said the other lawsuit is against MEIC/Northern Plains/Tongue River Water users. It is the same constitutional challenges they had in the Diamond Cross case. They are challenging the Board's record of decision after the EIS as if it were a permit. The case was filed in Helena and oral arguments are next week.

Mr. Richmond and Mr. Halvorson attended the MonDak Energy Alliance in Sidney a few weeks ago.

Mr. Richmond traveled to Washington DC to talk about support for hydraulic fracturing. He saw Senator Tester for a couple minutes and had good visits with Tester and Rehberg's staff. He also had a long, not so good, visit with Baucus' staff. The Environmental Protection Agency says they have no money to do a study of hydraulic fracturing, nor to they have money to finish the studies on CO2 sequestration and Class VI wells.

Mr. Hudak sent out bills for annual injection well fees last week.

OTHER BUSINESS

Mr. Smelser thanked Mr. Richmond and Mr. Halvorson for attending the MonDak Energy Alliance meeting. The topping facility is moving forward and should start spudding in 1-2 years.

Mr. King wants to make a short statement next business meeting about companies whose bonds the Board has forfeited, particularly those that say they do not have enough money and the Board continues letting them run wells.

Mr. Smith thinks there is a new Bakken play up in the Cut Bank area.

With no further business the Board adjourned at 4:50 pm.

PUBLIC HEARING

The Board reconvened at 8:00 a.m. Thursday, December 10, 2009, in the conference room of the Billings Petroleum Club on the 22nd floor of the Crowne Plaza Billings, to hear the matters docketed for public hearing. Because of the discussion, testimony and technical data placed before the Board, the following action was taken in each matter.

Docket No. 143-2009 – A motion was made by Mr. Smelser, seconded by Mr. Gunderson and unanimously passed, to approve the application of Somont Oil Co., Inc. as set forth in Board Order 136-2009.

Docket No. 144-2009 – 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 137-2009.

Docket No. 145-2009 – 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 Enerplus Resources (USA) Corporation was approved as set forth in Board Order 138-2009.

Docket No. 146-2009 – 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 139-2009.

Docket No. 147-2009 – 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 Enerplus Resources (USA) Corporation was approved as set forth in Board Order 140-2009.

Docket No. 148-2009 – 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 Enerplus Resources (USA) Corporation was approved as set forth in Board Order 141-2009.

Docket No. 149-2009 – 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 Enerplus Resources (USA) Corporation was approved as set forth in Board Order 142-2009.

Docket No. 150-2009 – Board staff placed this application on the Default Docket for approval without hearing if no protests were received by 10:00a.m. on the day of the hearing. No protests were received. The application of Enerplus Resources (USA) Corporation was approved as set forth in Board Order 143-2009.

Docket No. 151-2009 – 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 Enerplus Resources (USA) Corporation was approved as set forth in Board Order 144-2009.

Docket No. 152-2009 – 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 XTO Energy Inc. was approved as set forth in Board Order 145-2009.

Docket No. 153-2009 – 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 XTO Energy Inc. was approved as set forth in Board Order 146-2009.

Docket No. 154-2009 – 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 XTO Energy Inc. was approved as set forth in Board Order 147-2009.

Docket No. 155-2009 – 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 XTO Energy Inc. was approved as set forth in Board Order 148-2009.

Docket No. 156-2009 – 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 XTO Energy Inc. was approved as set forth in Board Order 149-2009.

Docket No. 157-2009 – 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 XTO Energy Inc. was approved as set forth in Board Order 150-2009.

Docket No. 158-2009 – A motion was made by Mr. Gunderson, seconded by Mr. King and unanimously passed, to approve the application of Devon Energy Production Company, L.P. as set forth in Board Order 151-2009.

Docket No. 159-2009 – A motion was made by Mr. King, seconded by Mr. Smelser and unanimously passed, to approve the application of Devon Energy Production Company, L.P. as set forth in Board Order 152-2009.

Docket No. 160-2009 and 2-2010 FED – A motion was made by Mr. Bradshaw, seconded by Mr. Gunderson and unanimously passed, to approve the application of Armstrong Operating, Inc. as set forth in Board Order 153-2009. There are tribal and/or other federal lands included in this application and the Bureau of Land Management of the United States Department of Interior will issue the order pertaining to those lands.

Docket No. 161-2009 – A motion was made by Mr. Smelser, seconded by Mr. Bradshaw and unanimously passed, to approve the application of Shakespeare Oil Company, Inc. as set forth in Board Order 154-2009.

Docket No. 162-2009 – A motion was made by Mr. Smelser, seconded by Mr. Bradshaw and unanimously passed, to approve the application of Shakespeare Oil Company, Inc. as set forth in Board Order 155-2009.

Docket No. 163-2009 – 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 Continental Resources, Inc. was approved as set forth in Board Order 156-2009.

Docket No. 164-2009 – A motion was made by Mr. Smelser, seconded by Mr. Bradshaw and unanimously passed, to approve the application of Continental Resources, Inc. as set forth in Board Order 157-2009.

Docket No. 165-2009 – 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 NFR Bear Paw Basin LLC was approved as set forth in Board Order 158-2009.

Docket No. 46-2009 – The application of NFR Bear Paw Basin LLC was withdrawn.

Docket No. 101-2009– The application of Zenergy, Inc. was continued to the February 2010 Hearing.

Docket No. 108-2009– The application of XTO Energy Inc. was withdrawn.

Docket No. 130-2009– The application of XTO Energy Inc. was continued to the February 2010 Hearing.

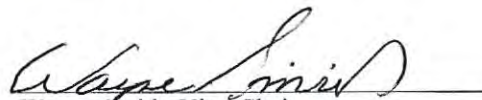
Docket No. 137-2009 – A motion was made by Mr. King, seconded by Mr. Efta and unanimously passed, to approve the application of Oasis Petroleum LLC as set forth in Board Order 159-2009.

Docket No. 138-2009 – The application of Oasis Petroleum LLC was withdrawn.

NEXT MEETING

The next business meeting of the Board will be Wednesday, February 24, 2010 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, February 25, 2010 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 February 25, 2010 public hearing is January 28, 2010.

BOARD OF OIL AND GAS CONSERVATION OF THE STATE OF MONTANA



Wayne Smith, Vice-Chairman

Don Bradshaw

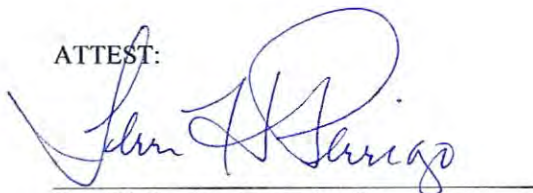
Ronald S. Efta

Jay Gunderson

Jack King

Bret Smelser

ATTEST:



Terri H. Perrigo, Executive Secretary