

STATE OF MONTANA  
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION  
MINUTES OF THE  
BOARD OF OIL AND GAS CONSERVATION MEETING AND PUBLIC HEARING  
December 3 & 4, 2014

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, December 3, 2014, at its office at 2535 St. Johns Avenue in Billings, Montana. Board members present were Chairman Nelson, Ron Efta, John Evans, Jack King, and Peggy Ames Nerud. Staff present was John Gizicki, Jim Halvorson, George Hudak, Ben Jones, Gary Klotz, Dave Popp, Erin Ricci, and Rob Stutz.

APPROVAL OF MINUTES

A motion was made by Mr. King, seconded by Mr. Evans and unanimously passed, to approve the minutes of the October 15, 2014, business meeting.

PUBLIC COMMENT

Northern Plains Resources Council Members Debra Muth, Red Lodge, MT, and Michelle Harper, Bridger, MT, were present and made the following statements: Ms. Muth would like to see the Board pursuing the transparency in contained & uncontained spills the Board of Oil and Gas Conservation Website (BOGC) web site. She feels it is also hard to find information on flaring. She would like to see flaring stopped. Ms. Muth feels that the release of gas is worse than carbon dioxide and mineral owners do not get payment from the gas that is flared. Ms. Muth would like flaring requests to be reviewed at public hearings.

Mr. Halvorson stated that flaring volumes are on the internet and it may be possible to publish a summary report of spills in the future. However, the transfer of servers to Helena and changes in procedures make significant changes to the website problematic at this time.

Ms. Muth and Ms. Harper thanked the Board and understand the issues.

Mr. King asked if there is a gas flaring summary on website currently. Mr. Halvorson responded that the summary exists under the well history section of the on-line data system.

Ms. Harper feels the board needs more field inspectors and asked if more inspectors will be hired. Mr. Halvorson said there is no new FTE in the 17 biennium proposal and the existing vacant inspector position is to be removed as a result of a required 4% reduction in the personnel budget.

Mr. Dave Galt, the Executive Director of the Montana Petroleum Association (MPA), feels BOGC record keeping has always been good; just hard to access. Mr. Galt stated that flaring is required for all released gas and that air quality controls are established by the DEQ. Mr. Galt stated that MPA would be happy to work with the board on staffing issues this coming legislative session.

### American Midwest

Mr. Gizicki passed out Exhibit 1. American Midwest Oil & Gas Corp. (American Midwest) had fractured two wells without prior administrative approval. Mr. Gizicki recommended that a penalty of \$2,500 per well be assessed.

Mr. Johnson appeared on behalf of American Midwest. Mr. Johnson stated they overlooked having to get fracture approval. He had expected only to submit sundries subsequent to the well treatment and was not aware of the pre-approval requirement.

**Motion** – Ms. Ames-Nerud made the motion to fine American Midwest \$2,500.00 per well and Mr. Efta seconded it. The motion passed unanimously.

### Augusta Exploration

Mr. Gizicki reported that Augusta Exploration, LLC (Augusta) drilled the Krone-Augusta 31-32 well in Lewis and Clark County. Augusta moved the drilling rig off the well site without properly casing or abandoning the well. Mr. Gizicki requested that Augusta appear before the Board in the spring and present its plan to either complete or abandon the well.

Mr. Don Lee, Attorney, represented Augusta. He stated that the company is awaiting results from gas samples analysis and do not want to do anything with the well until the analyses are available. They are willing to put up additional money in escrow to assure that the well will be properly completed.

Mr. King would like to increase Augusta's bond and/or fine them. Mr. Halvorson indicated that it was not clear that the act of moving a rig off the well constituted a violation of the drilling permit and that discussion of a bond increase could be deferred until spring. Mr. King stated that Augusta could give a report at the February 25, 2015 meeting.

Ms. Ames-Nerud stated that Augusta needs to bring a plan to the February 25, 2015 meeting. Mr. Halvorson recommended that Augusta appear on that date and present a timeframe to complete or properly plug and abandon the well.

Mr. King made a motion to require that August Exploration appear at the February business meeting and present its plan and schedule for completion or abandonment of the Krone-August 31-32 well. Ms. Ames-Nerud seconded. The motion passed unanimously.

### FINANCIAL STATEMENT

Ms. Ricci passed out the financial statement attached as Exhibit 2. They were reviewed and filed.

### BOND SUMMARY

Mr. Halvorson presented the bond report attached as Exhibit 3.

Mr. Halvorson said Bensun Energy has had compliance issues in the past and now has a change of operator request submitted for two additional wells. Mr. Don Lee, Attorney, representing Bensun Energy, was present, along with Lance Bensun.

Mr. Stutz stated there are two options for approving the change of operator. The first option is the Board can direct the administrator to approve it, or the second option is change the required bond amount.

Mr. Halvorson recommends approving change in operator, but if future violations were to occur the Board would schedule a hearing to consider additional bonding.

Mr. Efta said he would increase bond from the start, doubling the bond to \$20,000 each.

**Motion** – Mr. King made the motion to approve Mr. Halvorson's recommendation Mr. Evans seconded. The motion passed. Mr. Efta abstained.

#### DOCKET SUMMARY

Mr. Halvorson discussed the docket summary, attached as Exhibit 4. The exhibit contains a four page overall docket summary, one page showing applications placed on the Default Docket, one page of applications to be heard, and a one page summary of the status of all applications before the Board for its December 4, 2014, public hearing.

#### GAS FLARING REPORT

Mr. Jones passed out and discussed the gas flaring report, attached as Exhibit 5. The Board's rule allows 100 mcf/day of gas to be flared based upon a monthly average. Bakken wells typically produce more than the allowable amount for a period of time, and some wells are located in areas of no existing pipeline infrastructure.

Mr. Jones stated there are 15 flaring exception requests being made at this time. All requests are for wells that are either connected to a pipeline but are flaring due to high line pressure, or there is currently insufficient compression capacity at nearest gathering system.

Mr. King would like more specific economic information and any right away issues in the gas flaring report. Mr. Jones stated that there are no right-of-way issues identified in the current requests and most exceptions are necessary due to limited gathering system capacity.

Mr. Evans also would also like to look at more specific economic information.

**Motion** – Mr. Efta made the motion to approve the gas flaring requests. Mr. Evans seconded, and it passed unanimously.

#### STAFF REPORTS

##### Mr. Hudak

Mr. Hudak stated two people had been interviewed for the Glendive field inspector position. They have an offer out, but are waiting to hear back. He passed out the proposed hearing schedule for 2015, attached as Exhibit 6. It was asked if the Board is going to Butte in April. Mr. Evans appreciates the Board going. Chairman Nelson thought student attendance would not be the best because it would be the same time as finals. Other members of the Board agreed and it was decided to not go to Butte in 2015.

**Motion** – Mr. King made the motion and Ms. Ames-Nerud seconded to approval of the proposed 2015 hearing schedule.

Mr. Halvorson

Mr. Halvorson is going to Helena on December 17, 2014, for mid-year budget review. He will discuss expected expenditures for the rest of the fiscal year, as well as, if the Board is currently on track for funding this fiscal year. Currently, there is an increase in the personal services budget for the 2017 biennium. Mr. Halvorson said he is hoping the job descriptions for the executive secretary position and permitting clerk position have been sent to classification so he can move forward with filling those positions. A current filled position in the Billings office is also under classification at this time.

Mr. Stutz

Mr. Stutz gave an update on the three pending cases: Anne Ostby, Hekkel vs Amestoy, and Carbon County Resources Council (CCRC). Mr. Stutz stated there has not been any movement on the Anne Ostby case since the last meeting. Briefing has been completed in the Hekkel vs. Amestoy case. Michael Zimmerman, attorney for the Hekkel, has asked the court for a decision. Jack Tuholske, attorney for CCRC, moved to dismiss all the procedural issues from the CCRC case. Mr. Stutz also stated that Endeavor Energy Resources, LP has filed a bankruptcy notice that he is looking into.

OTHER BUSINESS

Setbacks

Mr. Halvorson asked if the Board would like to pursue setback issues.

Chairman Nelson feels the legislature is aware of issues related to setbacks and will likely send the issues back to the Board. Chairman Nelson asked that members of the audience to participate in this discussion.

Mr. King thinks setbacks could go to the legislature, but does agree with the Chairman that the matter will probably be referred back to the Board. Mr. King feels the current rules work pretty well and that the permit protest process has been successfully used to resolve issues involving setbacks from homes.

Mr. Adam Haight with Northern Plains Resources Council stated he is working with the legislature on a bill related to setbacks.

Mr. Dennis Trudell with Northeastern Land and Mineral Owners Association thinks it good to look at these rules. Issue do come up, the rules do need to be looked at occasionally.

Ms. Ames-Nerud thinks this is something the Board should consider so someone does not have to look at a well from their window.

Mr. Efta does not think this is an issue for horizontal wells as much as it is for vertical wells and possibly there should be different setback requirements for vertical and directionally drilled wells. He feels the oil companies work well with land owners.

Mr. Evans feels the legislature may complicate setbacks and that a discussion on setback requirements would be worthwhile.

Mr. Stutz stated letting the legislature talk about it would at least give the Board background for any rulemaking they might choose to do. Mr. Halvorson stated the legislature will already be in session before the Board could start discussion on setbacks. Mr. Stutz suggested that staff monitor any bills during the session and discuss them at the April 29, 2015, meeting.

Ms. Carry Le Seur with Baumstark Braaten Law Partners stated setback issues had been debated in the North Dakota Legislature. She felt it would be useful for the Board to review materials related to that discussion.

Chairman Nelson asked if the Board should delay further action until the legislative session is over. The general consensus from the Board was to wait until the end of the legislative session to take further action.

#### Board Member Appointments

Chairman Nelson stated that three seats were up for appointment. Mr. Smelser has already stated he will not be seeking reappointment, Mr. Efta stated he would like to be reappointed, and Mr. King had not decided yet if he would like to be reappointed. Chairman Nelson also stated that Ms. Ames-Nerud's appointment still needs approval from the legislature.

#### Staff Reviews

The meeting temporary closed while the Board discussed staff reviews. When the meeting reconvened Chairman Nelson recommended salary increases for Mr. Hudak, Mr. Jones, and Mr. Halvorson.

**Motion** – Ms. Ames-Nerud made the motion to approve Chairman Nelson recommendations and Mr. Evans seconded. The motion passed unanimously.

#### PUBLIC HEARING.

The Board reconvened on Thursday, December 4<sup>th</sup>, 2014, at 8:00 a.m. at the Board's hearing room at its office at 2535 St. Johns Avenue in Billings, Montana, 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. 342-2014– The application of Denbury Onshore, LLC was continued to the February 2015 hearing.

Docket No. 343-2014– The application of Denbury Onshore, LLC was continued to the February 2015 hearing.

Docket No. 344-2014– The application of Denbury Onshore, LLC was continued to the February 2015 hearing.

Docket No. 345-2014 – A motion was made by Mr. Smith, seconded by Mr. Evans and unanimously passed, to approve the application of Somont Oil Company, Inc. as set forth in Board Order 342-2014.

Docket No. 346-2014 – A motion was made by Mr. Smith, seconded by Mr. Evans and unanimously passed, to approve the application of Somont Oil Company, Inc. as set forth in Board Order 343-2014.

Docket No. 347-2014 – Board staff placed this application on the Default Docket for approval without hearing if no protests or requests for hearing were received by 10:00 a.m. on the day of the hearing. None were received. The application of Oasis Petroleum, Inc. was approved as set forth in Board Order 357-2014.

Docket No. 348-2014 – Board staff placed this application on the Default Docket for approval without hearing if no protests or requests for hearing were received by 10:00 a.m. on the day of the hearing. None were received. The application of Oasis Petroleum, Inc. was approved as set forth in Board Order 358-2014.

Docket No. 349-2014– The application of Oasis Petroleum, Inc. was continued to the February 2015 hearing.

Docket No. 350-2014 – A motion was made by Mr. King, seconded by Mr. Efta and unanimously passed, to approve the application of Oasis Petroleum, Inc. as set forth in Board Order 344-2014.

Docket No. 351-2014 – A motion was made by Mr. Efta, seconded by Mr. King and unanimously passed, to approve the application of Oasis Petroleum, Inc. as set forth in Board Order 345-2014.

Docket No. 352-2014 – A motion was made by Mr. Efta, seconded by Ms. Ames-Nerud and passed, to continue the application of Oasis Petroleum, Inc. as set forth in Board Order 347-2014. Mr. King voted against the motion.

Docket No. 353-2014– The application of Oasis Petroleum, Inc. was continued to the February 2015 hearing.

Docket No. 354-2014 – Board staff placed this application on the Default Docket for approval without hearing if no protests or requests for hearing were received by 10:00 a.m. on the day of the hearing. None were received. The application of XTO Energy Inc. was approved as set forth in Board Order 359-2014.

Docket No. 355-2014– The application of XTO Energy Inc. was continued to the February 2015 hearing.

Docket No. 356-2014– The application of XTO Energy Inc. was continued to the February 2015 hearing.

Docket No. 357-2014 – A motion was made by Mr. King, seconded by Mr. Efta and unanimously passed, to approve the application of Anadarko Minerals, Inc. as set forth in Board Order 348-2014.

Docket No. 358-2014 – A motion was made by Ms. Ames-Nerud, seconded by Mr. Evans and unanimously passed, to approve the application of Continental Resources, Inc. as set forth in Board Order 349-2014.

Docket No. 359-2014– The application of Continental Resources, Inc. was continued to the February 2015 hearing.

Docket No. 360-2014– The application of Continental Resources, Inc. was continued to the February 2015 hearing.

Docket No. 361-2014 & 3-2015 FED – A motion was made by Mr. Smith, seconded by Ms. Ames-Nerud and passed, to continue the application of Omimex Petroleum, Inc. as set forth in Board Order 346-2014. Mr. King voted against the motion. Mr. Evans recused himself.

Docket No. 257-2014– The application of Kraken Oil & Gas LLC was continued to the February 2015 hearing.

Docket No. 300-2014– The application of Anadarko E&P Onshore LLC was continued to the February 2015 hearing.

Docket No. 302-2014– The application of Cline Production Company was continued to the February 2015 hearing.

Docket No. 316-2014– A motion was made by Mr. Evans to approve the application of SM Energy Company. The motion failed for a second. Mr. King, made a motion to continue the application of SM Energy Company. The motion failed for a second. No other motions were made the docket dies.

Docket No. 322-2014 – A motion was made by Ms. Ames-Nerud, seconded by Mr. Smith and unanimously passed, to approve the application of Continental Resources, Inc. as set forth in Board Order 350-2014. Mr. King recused himself.

Docket No. 323-2014 – A motion was made by Ms. Ames-Nerud, seconded by Mr. Smith and unanimously passed, to approve the application of Continental Resources, Inc. as set forth in Board Order 351-2014. Mr. King recused himself.

Docket No. 324-2014 – A motion was made by Mr. Smith, seconded by Mr. Efta and unanimously passed, to approve the application of Continental Resources, Inc. as set forth in Board Order 352-2014. Mr. King recused himself.

Docket No. 325-2014 – A motion was made by Mr. Smith, seconded by Mr. Efta and unanimously passed, to approve the application of Continental Resources, Inc. as set forth in Board Order 353-2014. Mr. King recused himself.

Docket No. 326-2014 – A motion was made by Mr. Smith, seconded by Mr. Efta and unanimously passed, to approve the application of Continental Resources, Inc. as set forth in Board Order 354-2014.

Docket No. 327-2014 – A motion was made by Mr. Evans, seconded by Ms. Ames-Nerud and unanimously passed, to approve the application of Continental Resources, Inc. as set forth in Board Order 355-2014. Mr. King recused himself.

Docket No. 328-2014 – A motion was made by Mr. Efta, seconded by Ms. Ames-Nerud and unanimously passed, to approve the application of Continental Resources, Inc. as set forth in Board Order 356-2014.

Docket No. 322-2014 – A motion was made by Ms. Ames-Nerud, seconded by Mr. Smith and unanimously passed, to approve the application of Continental Resources, Inc. as set forth in Board Order 350-2014. Mr. King recused himself.

Docket No. 362-2014 – A motion was made by Ms. Ames-Nerud, seconded by Mr. King and unanimously passed, to assess a \$1,000 fine for failure to appear and to continue the Show-Cause Hearing for Wexco Exploration, LLC until the Board's February 26<sup>th</sup>, 2015, public hearing where they shall appear and show cause why it shouldn't be required to plug and abandon the Guenther 2-8 well. This is set forth in Board Order 361-2014.

Docket No. 363-2014 – The application of Poor Boy Oil Company was continued to the February 2015 hearing.

Docket No. 338-2014 – A motion was made by Ms. Ames-Nerud, seconded by Mr. Evans and unanimously passed, to assess a \$1,000 fine for failure to appear and to continue the Show-Cause Hearing for K2 America Corporation until the Board's February 26<sup>th</sup>, 2015, public hearing where it shall appear and show cause, why it shouldn't immediately plug and abandon their wells. This is set forth in Board Order 362-2014.

Docket No. 339-2014 – A motion was made by Mr. Smith, seconded by Mr. Evans and unanimously passed, to continue the Show-Cause Hearing for P&P Industries LLC until the Board's February 26<sup>th</sup>, 2015, public hearing where P&P Industries LLC 1 shall appear and show cause why its plugging and reclamation bond should not be forfeited for failure to plug and abandon the Indian Mound 1 well. This is set forth in board Order 363-2014.

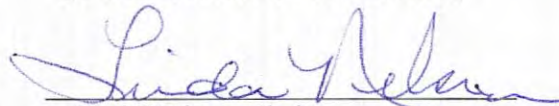
Docket No. 340-2014 – A motion was made by Mr. Smith, seconded by Mr. Evans and unanimously passed, to dismiss all fines of the Show-Cause Hearing for Robinson Oil Company, LLC. This is set forth in Board Order 364-2014.

Docket No. 341-2014 – A motion was made by Ms. Ames-Nerud, seconded by Mr. Smith and passed, to reduce the fine of the Show-Cause Hearing for Hawley Hydrocarbons to \$2,500.00. This is set forth in Board Order 365-2014.

#### NEXT MEETING

The next business meeting of the Board will be Wednesday, February 25<sup>th</sup>, 2015, at 2:00 p.m. at the Board's hearing room at its office at 2535 St. Johns Avenue in Billings, Montana. The next regular public hearing will be Thursday, February 26<sup>th</sup>, 2015, beginning at 8:00 a.m. at the Board's hearing room at its office at the 2535 St. Johns Avenue in Billings, Montana. The filing deadline for the February 26<sup>th</sup>, 2015, public hearing is January 22<sup>nd</sup>, 2015.

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



Linda Nelson, Chairman  
Wayne Smith, Vice-Chairman  
Ronald S. Efta  
John Evans  
Jack King  
Peggy Ames-Nerud

ATTEST:

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Erin Ricci, Administrative Assistant