

STATE OF MONTANA
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
MINUTES OF THE
BOARD OF OIL AND GAS CONSERVATION MEETING AND PUBLIC HEARING
October 28 & 29, 2015

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 28, 2015, at its office at 2535 St. Johns Avenue in Billings, Montana. Board members present were Chairman Linda Nelson, Steven Durrett, Ronald S. Efta, Paul Gatzemeier, Peggy Ames Nerud, and Wayne Smith. Staff present was John Gizicki, Jim Halvorson, George Hudak, Ben Jones, Jennifer Rath, Erin Ricci, and Rob Stutz. Board member John Evans was absent.

APPROVAL OF MINUTES

A motion was made by Mr. Efta, seconded by Mr. Gatzemeier, and unanimously passed, to approve the minutes of the August 12, 2015, business meeting.

PUBLIC COMMENT

Edward Barta with the Northern Plain Resource Council (NPRC) requested an outline of the setback subcommittee's timeline and voiced his support for a clear setback rule that applies to all wells.

Susan (Elli) Elliot with NPRC requested the subcommittee meetings be public so NPRC members could sit in on the meetings.

SCOUT ENERGY MANAGEMENT LLC

Scout Energy Management LLC (Scout) is buying approximately 900 wells from the largest gas well operator in Montana, Fidelity Exploration & Production Co. The Board has previously requested that operators appear and introduce the company and its history to the Board when they are new to the state and involved in change of operator requests that include a large number of wells. A determination of the proper plugging and reclamation bond coverage can also be made.

Brett Bradford, Vice President of Operations, appeared on behalf of Scout. Scout is a company that has been around 4½ - 5 years with operations in Texas, Oklahoma, and Kansas. The wells Scout are purchasing are in the Bowdoin field and Baker field, with offices planned in Baker and Malta.

Scout will continue to sell gas to WBI Energy. Mr. Bradford told the Board Scout is only taking over the wells and not the gathering systems. Right now, 10% of the wells are shut-in. Scout plans to put the wells back on production.

Scout proposed a \$200,000 bond for its 900 fee gas wells. Mr. Halvorson recommended the Board accept Scout's bond proposal.

Motion: Mr. Efta made the motion to approve the recommendation. Mr. Gatzemeier seconded and the motion passed unanimously.

Mr. Gatzemeier asked whether the Board reviews company's financial records prior to bonding. The Board does not.

Motion: Mr. Gatzemeier made the motion to review the Board's bonding procedures in December and Ms. Ames-Nerud seconded. The motion passed unanimously.

DRILLING SETBACK SUBCOMMITTEE REPORT

The subcommittee met several times since the last meeting. The subcommittee is considering requiring notification to sites within a ¼ mile of the proposed well. This would be required prior to the approval of the drilling permit. There will be another subcommittee meeting next month to further consider a recommendation.

Mr. Halvorson pointed out the subcommittee's recommendation will be open to public comment, once a decision is reached.

ADOPTION OF PROPOSED 2016 HEARING SCHEDULE

Ms. Rath presented the proposed 2016 schedule, attached as Exhibit 1. The proposed dates for the 2016 public hearing schedule are:

February 10-11, 2016
April 6-7, 2016
June 15-16, 2016
August 10-11, 2016
October 26-27, 2016
December 14-15, 2016

Motion: Mr. Gatzemeier made the motion to approve the proposed 2016 hearing schedule and Mr. Durrett seconded. The motion passed unanimously.

FINANCIAL REPORT

Ms. Rath discussed the financial statement, attached as Exhibit 2.

BOND SUMMARY & INCIDENT REPORT

Mr. Halvorson presented the bond report and the incident report, attached as Exhibits 3 and 4.

CARBON SEQUESTRATION RULE ADOPTION

DNRC requested a motion from the Board for the adoption of the Carbon Sequestration Rule, attached as Exhibit 5. There was a hearing on September 10, 2015, regarding the adoption of the rule. No members of the public attended the hearing and the Board received no written comments. There were no changes to the rule.

Motion: Mr. Durrett made the motion to approve the adoption of the Carbon Sequestration Rule and Mr. Gatzemeier seconded. The motion passed unanimously.

Mr. Stutz stated the Secretary of State would certify the rule by November 2, 2015, and publish the rule on November 12, 2015.

DOCKET SUMMARY

Mr. Halvorson discussed the docket summary, attached as Exhibit 6.

GAS FLARING REPORT

Mr. Jones mailed a notification letter to operators reminding operators of their responsibility to notify the Board of its flaring exceptions.

Mr. Jones suggested the Board implement a penalty process for delinquent exceptions, similar to delinquent production reporting. He suggested a \$250 fine for each delinquent flaring request. If a well is found flaring over the 100 MCFG per day limit without an exception, a fine letter will be mailed to the operator. The operator have 30 days to pay the fine and come into compliance or the matter will be placed on the next Board docket as a show cause hearing. This will emphasize it is the operators responsibility to file timely exceptions.

Motion: Ms. Ames-Nerud made the motion to approve the new gas flaring policy of a \$250 fine for each delinquent flaring request and Mr. Efta seconded. The motion passed unanimously.

The new policy will be effective once operators are notified of the change.

Mr. Jones discussed the gas flaring report, attached as Exhibit 7. The Board's rule allows up to 100 MCFG per day to be flared based upon a monthly average.

There are eleven flaring exception requests at this time. Of the eleven, four are due to pipeline/gas plant capacity issues, one has been unable to obtain a pipeline right-of-way agreement with the surface owner, and one is in the process of connecting to a pipeline. Mr. Jones recommended a six-month flaring exception for the eleven wells.

Motion: Mr. Gatzemeier made the motion to approve the recommendations. Mr. Efta seconded and the motion passed unanimously.

STAFF REPORTS

Jim Halvorson

The Governor issued an executive order on sage grouse to protect habitat. Habitat is divided into general and core areas, with greater restriction applied in core areas. Currently, there approximately 100 operators active in general habitat and 50-60 operators in core areas. Under the executive order all aspects of the sage grouse program will be effective January 1, 2016.

Maintenance and production from existing wells are not be affected under the order. New drilling permits and future permitted activities at existing sites will be subject to review under the Sage Grouse Program.

Mr. Durrett asked whether the lek locations would be made public. Mr. Halvorson responded that maps are available but that distribution appears to be restricted by Fish, Wildlife and Parks. He will find out what the availability might be in the future.

Marthea Johnson is a royalty owner in a Statoil well that has been producing for two years and she has never received a check. The Board does not have authority in this matter, but Statoil is required by statute to pay Ms. Johnson interest on her delinquent royalty checks. Another option would be to hire an attorney and pursue this matter.

Rob Stutz

Mr. Stutz gave a litigation update. In the Carbon County Resource Council (CCRC) case, the district court granted the Board's motion for summary judgment; CCRC appealed the decision to Montana Supreme Court. In the Hekkel case, the settlement reached in appellate mediation this spring has not yet been finalized in writing. In the Omimex Petroleum case, discovery is due in early December, but settlement activity in the case is ongoing between Omimex Petroleum and Oasis Petroleum. The Anne Ostby case is dormant.

There is a new lawsuit regarding the Malsam Family dispute with the J. Burns Brown Operating Company (JBB) and the Board's hearing on June 25, 2015. Although the suit was pending prior to the hearing, Malsam subsequently amended its complaint to address the Board's rationale, and JBB sued the Board over the \$400 fine it received.

Although Samson Resource Company's filed for bankruptcy, Mr. Stutz is working with attorneys at the Department of Revenue to protect the bond Samson provided to the Board because Samson's bond should not be subject to bankruptcy forfeiture due to the bond being a health and safety issue.

The receiver in the North Dakota Developments bankruptcy case is sorting through and identifying the assets of Augusta Exploration and the other defendants. Mr. Stutz anticipates having updated information about the status at the December meeting.

PRIVILEGE AND LICENSE TAX FORECAST

Mr. Jones presented three graphs, attached as Exhibit 8. The graphs depicted historical and forecasted oil and gas production and the associated historical and forecasted revenue.

Mr. Halvorson reviewed the statutes regarding the Board's funding, attached as Exhibit 9.

Currently the total of the privilege and license tax and the tax for the oil and gas natural resource distribution account is collected at 0.26%. This is also the rate paid by industry. Of this 0.26%, 0.09% goes to the Board, and 0.17% goes to cities and counties. The Board has statutory authority to raise the rate to a maximum of 0.30%. As a result of low oil prices the current rate of .09% is not meeting the Board's funding requirements, as depicted in Exhibit 9. Any increase in the Board's portion of the tax collection will result in a direct reduction of funds going to the Cities and Counties.

Mr. Halvorson outlined a timeline of when the Board needs to raise the privilege and license tax rates. Based upon oil and gas price forecasts from the Energy Information Administration, the change of rate would have to be proposed before the third quarter of 2016 to accommodate the six-month lead for rulemaking. Due to the uncertainty in product prices and expenditures, it is difficult to pick a precise date that the increase would be necessary. However, under any reasonable forecast assumptions it is likely that the Board will have to consider rulemaking to increase the tax sometime during the 2016 calendar year. Updates to the forecast will be provided at future hearings.

Additionally, Mr. Halvorson recommended the Board not fund the Teachers Workshop this year due to the upcoming budget uncertainty.

OTHER BUSINESS

No other business discussed.

PUBLIC HEARING

The Board reconvened on Thursday, October 29, 2015, 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, technical data, and other evidence placed before the Board, the following action was taken in each matter.

Docket No. 147-2015 – The application of Oasis Petroleum, Inc. was continued to the December 2015 hearing.

Docket No. 148-2015 – The application of Oasis Petroleum, Inc. was continued to the December 2015 hearing.

Docket No. 149-2015 – The application of Oasis Petroleum, Inc. was continued to the December 2015 hearing.

Docket No. 150-2015 – The application of Oasis Petroleum, Inc. was continued to the December 2015 hearing.

Docket No. 151-2015 – The application of Oasis Petroleum, Inc. was continued to the December 2015 hearing.

Docket No. 152-2015 – The application of Oasis Petroleum, Inc. was continued to the December 2015 hearing.

Docket No. 153-2015 – A motion was made by Mr. Gatemeier, seconded by Ms. Ames Nerud and unanimously passed, to approve the application of Energy Corporation of America as set forth in Board Order 159-2015.

Docket No. 154-2015 – Board staff placed this application on the Default Docket for approval without hearing if no protests or requests for hearing were received by 9:00 a.m. on the day of the hearing. None were received. The application of Interstate Exploration, LLC was approved as set forth in Board Order 160-2015.

Docket No. 155-2015 – Board staff placed this application on the Default Docket for approval without hearing if no protests or requests for hearing were received by 9:00 a.m. on the day of the hearing. None were received. The application of Denbury Onshore, LLC was approved as set forth in Board Order 161-2015.

Docket No. 156-2015 – The application of Bensun Energy, LLC was continued to the December 2015 hearing.

Docket No. 300-2014 – The application of Anadarko E&P Onshore LLC was withdrawn.

Docket No. 2-2015 – The application of Interstate Exploration LLC was withdrawn.

Docket No. 3-2015 – The application of Interstate Exploration LLC was withdrawn.

Docket No. 78-2015 – The application of Oasis Petroleum, Inc. was continued to the December 2015 hearing.

Docket No. 136-2015 – The application of Horton B. Koessler & James H. Koessler was continued to the December 2015 hearing.

Docket No. 137-2015 – The application of Horton B. Koessler & James H. Koessler was continued to the December 2015 hearing.

Docket No. 138-2015 – The application of Horton B. Koessler & James H. Koessler was continued to the December 2015 hearing.

Docket No. 157-2015 – A motion was made by Mr. Smith, seconded by Mr. Durrett and unanimously passed, to have Hinto Energy, LLC appear at the December 10, 2015, public hearing and show-cause, if any it has, why it should not provide a plan and timeline for the plugging and abandonment of its wells. Hinto was fined \$1,000.00 for failure to appear at the October 29, 2015, public hearing, bringing the total of assessed penalties to \$1,380.00. Hinto is required to submit the reports and pay the fines by November 15, 2015, or Hinto Energy, LLC will be required to cease operation of its wells. This is set forth in Board Order 162-2015.

Docket No. 158-2015 – The show-cause hearing of Windy Butte Reclamation Facility, LLC was dismissed.

Docket No. 159-2015 – The show-cause hearing of Kykuit Resource, LLC was continued.

Docket No. 160-2015 – A motion was made by Mr. Smith, seconded by Mr. Gatzemeier and unanimously passed, for the \$250.00 fine for each day after July 1, 2015, that the violations remain unresolved remain in effect for Custom Carbon Processing, Inc. until compliance is confirmed by inspection. The accumulation of the daily fine from July 1, 2015, through November 13, 2015, along with the \$1,000 fine assessed on June 25, 2015, were ordered to be paid on or before November 13, 2015. Docket 160-2015 was continued to the Board's December 10, 2015, hearing. This is set forth in Board Order 163-2015.

Docket No. 95-2015 – A motion was made by Mr. Gatzemeier, seconded by Ms. Ames Nerud and unanimously passed, to have Kelly Oil and Gas, LLC abandon the State 1, State E-2, and R. Shelhamer 1A wells prior to the December 10, 2015, public hearing or show-cause, if any it has, why the plugging and reclamation bonds for its injection wells should not be forfeited.

A second motion was made by Mr. Gatzemeier, seconded by Mr. Smith and unanimously passed, to have Kelly Oil and Gas, LLC appear at the December 10, 2015, public hearing and show-cause, if any it has, why it should not provide a plan and timeline for the plugging and abandonment of its producing wells. This is set forth in Board Order 164-2015.

Docket No. 96-2015 – A motion was made by Ms. Ames Nerud, seconded by Mr. Durrett and unanimously passed, to forfeit Alturas Energy LLC plugging and reclamation bond. This is set forth in Board Order 165-2015.

Docket No. 97-2015 – A motion was made by Mr. Smith, seconded by Mr. Efta and unanimously passed, to have Augusta Exploration, LLC immediately provide to the Board copies of available mud logs and electrical logs from its Krone-Augusta 31-32 well and continue Docket 97-2015 until the December 10, 2015, public hearing. This is set forth in Board Order 166-2015.

Docket No. 143-2015 – A motion was made by Mr. Gatzemeier, seconded by Mr. Smith and unanimously passed, to have Miocene Oil Company appear at the December 10, 2015, public hearing and show-cause, if any it has, why it should not provide a plan and timeline for the plugging and abandonment of the Summer Night 21-1 well located in T33N-R48E, Section 21, Daniels County, Montana. This is set forth in Board Order 167-2015.

NEXT MEETING

The next business meeting of the Board will be Wednesday, December 9, 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, December 10, 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 December 10, 2015, public hearing is November 12, 2015.

BOARD OF OIL AND GAS CONSERVATION OF THE STATE OF MONTANA

Linda Nelson, Chairman
Wayne Smith, Vice Chairman
Steven Durrett, Board Member
Ronald S. Efta, Board Member
Paul Gatzemeier, Board Member
Peggy Ames-Nerud, Board Member

ATTEST:

Jennifer Rath, Program Specialist