

STATE OF MONTANA
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
MINUTES OF THE
BOARD OF OIL AND GAS CONSERVATION MEETING AND PUBLIC HEARING
April 6 & 7, 2016

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, April 6, 2016, 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, Dave Popp, Jennifer Rath, Erin Ricci, and Rob Stutz. Board member John Evans was absent.

APPROVAL OF MINUTES

A motion was made by Mr. Gatzemeier, seconded by Mr. Smith, and unanimously passed, to approve the minutes of the February 10, 2016, business meeting and minutes from the proposed notice of amendment of the privilege and license tax meeting.

PUBLIC COMMENT

Carrie La Seur, attorney for the Giacometto family, is concerned about the land surrounding Denbury Resources' (Denbury) Minnelusa 4 well located in the NWNE of Section 15, T8S, R54E, Powder River County, Montana. Denbury has constructed the well in a steep, wooded area. With the construction of the well, Denbury removed numerous trees. This is causing runoff to go downhill thru anti-erosion fences into the Giacometto's reservoir. This is silting up the downhill reservoir that is needed for livestock.

This is an UIC well planned for water injection, but it has not been operational since its completion in February 2015. A field inspector has verified the runoff issue, but it is not a board violation. DEQ is also looking into the runoff issue.

Ms. La Seur has asked Denbury to reclaim the lands, but has received no response. Ms. La Seur requested the Board direct Denbury to reseed and reslope the area to reduce runoff. Attached as Exhibit 1 is a report Ms. Le Seur prepared.

Mr. Stutz stated that the surface owner damage and disruption compensation statutes gave the Board very limited authority for matters involving surface damages but that staff could review the original permit application to determine if Board rules may have been violated.

Mr. Halvorson recommended that staff review the drilling permit, follow up with a letter to Denbury notifying them of the complaint, and ask what Denbury was doing to address the issues.

Motion: Ms. Ames Nerud made the motion to approve the recommendations made by staff. Mr. Efta seconded and the motion passed unanimously.

DRILLING NOTIFICATION DRAFT RULE

PUBLIC COMMENT

Mr. Alan Olson, Executive Director of Montana Petroleum Association, requested a year to educate its members and oil and gas operators in the state using Community Engagement Guidelines, attached as Exhibit 2. This guidebook promotes safe and responsible development of oil and gas resources by engaging and respecting communities.

Mr. Dennis Trudell, member of the Northeast Montana Land and Mineral Owners Association, was in favor of the drilling notice. From personal past experience, he knows a well close to a residence can create chaos, for his parent's home was 400 feet from an oil well that had an explosion. Mr. Trudell was unaware of the power he had with the oil company to change the well location prior to drilling.

Ms. Susann Beug, member of Carbon County Resource Council, would like to see occupied dwelling changed in the rule to include hospitals, schools, or any place where a large number of people congregate.

Currently, the draft rule, attached as Exhibit 3, addresses only occupied dwellings. The Board decided schools and hospitals should be added to the rule. The setback subcommittee will review the redraft to include these revisions prior to the June meeting.

Under the new notice rule, the Board decided a notarized certificate of ownership needs to accompany a protest. Mr. Stutz noted that any falsification is subject to perjury.

Mr. Stutz recommended we follow DNRC policy and have a more final draft before proceeding. Mr. Halvorson recommended the Board review a new draft at the June business meeting.

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

PROPOSED AMENDMENT OF 36.22.1242 “REPORTS BY PRODUCERS – TAX REPORT – TAX RATE”

Mr. Halvorson reviewed the privilege and license tax amendment, attached as Exhibit 4. DNRC requested the Board vote on the amendment draft. The next hearing regarding the tax rate will be held in conjunction with the board's June business meeting.

A small business impact analysis was conducted and there was no significant impact to small businesses. A small business is defined as a business that employs less than fifty people. In fact, the top ten oil-producing companies pay the majority of the privilege and license tax.

During the rulemaking process, the Board can lower the rate if the low oil prices increase.

Mr. Stutz recommended staff have the authority to make non- substantive changes to the rule.

The Board recommended approval.

Motion – Mr. Efta made the motion to approve the recommendations and Mr. Smith seconded. The motion passed unanimously.

FINANCIAL REPORT

Ms. Rath discussed the financial statement, attached as Exhibit 5.

BOND SUMMARY & INCIDENT REPORT

Mr. Halvorson presented the bond report and the incident report, attached as Exhibit 6 and 7.

DOCKET SUMMARY

Due to the low number of dockets, no docket summary was presented.

GAS FLARING EXCEPTIONS

Mr. Jones discussed the gas flaring report, attached as Exhibit 8.

There are fourteen wells flaring in excess of 100 mcf/day. Of these fourteen wells, there are ten flaring exception requests at this time. Whiting has six exceptions due to pipeline/gas plant capacity issues and EOG Resource has an exception due to it being unable to obtain a pipeline right-of-way agreement with the surface owner. Mr. Jones recommended a six-month flaring exception for these seven wells.

The other three exceptions are for Petro-Hunt. Due to no gas capture infrastructure in the area, it is not economical for these wells to connect to a pipeline. The situation is not likely to change. This will be the third year of exceptions for these wells. Petro-Hunt was requesting a permanent flaring exception for the wells. Mr. Jones was hesitant to grant a permanent exception and wanted the Board's input for an approval period.

Mr. Efta recommended we continue with yearly exceptions for the three wells.

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

STAFF REPORTS

Jim Halvorson

Mr. Halvorson stated Brea Frickle has been hired to fill the license permit technician position.

The Conservation Districts have requested that the words "310 permit" be substituted for the current words "Stream crossing permit" on the well permit form. The current and revised permit application language are attached as Exhibit 9. Mr. Halvorson has no issue with the revision and recommended that the change requested by the Conservation Districts be made.

All forms are adopted by rule, but since this is a non-substantive change, it will be ok to modify the form. Mr. Stutz recommended removing all the forms from the rules, which would again require rulemaking.

Motion: Ms. Ames-Nerud made the motion to approve the recommendations and to allow non-substantive changes to the form. Mr. Gatzemeier seconded and the motion passed unanimously.

Rob Stutz

Mr. Stutz gave a litigation update. In the Carbon County Resource Council (CCRC) case, CCRC filed an extension to file a reply brief with the Supreme Court, attached as Exhibit 10. The Omimex case has been settled (Exhibit 11). In the Malsam case, J. Burns Brown Operating is moving forward with the lawsuit regarding the \$400 fine (Exhibit 12). The Anne Ostby case is dormant.

The Board has not received permission from the receiver in the Augusta Exploration federal court case to forfeit Augusta's bond.

OTHER BUSINESS

Attached, as Exhibit 13, is Mr. Dave Popp's plugging project summary.

PUBLIC HEARING

The Board reconvened on Thursday, April 7, 2016, 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. 4-2016 – A motion was made by Mr. Smith, seconded by Mr. Efta and unanimously passed, to proceed with the collection of Cavalier Petroleum's \$10,000 surety bond as directed by Board Order 155-2015 as set forth in Board Order 4-2016.

Docket No. 5-2016 – A motion was made by Mr. Gatzemeier, seconded by Mr. Durrett and unanimously passed, to approve the application of Sinclair Oil & Gas Company as set forth in Board Order 5-2016.

Docket No. 6-2016 – A motion was made by Mr. Durrett, seconded by Mr. Gatzemeier and unanimously passed, to approve the application of Sinclair Oil & Gas Company as set forth in Board Order 6-2016.

Docket No. 7-2016 – A motion was made by Mr. Efta, seconded by Ms. Ames Nerud and unanimously passed, to have Stealth Energy USA, Inc. begin to plug and abandon its producing wells prior to the June 16, 2016 public hearing. The failure to begin to plug and abandon the wells as required by this order may result in forfeiture of the plugging and reclamation bond in its entirety, as permitted by § 82-11-123(5), MCA. This is set forth in Board Order 7-2016.

NEXT MEETING

The next business meeting of the Board will be Wednesday, June 15, 2016, 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, June 16, 2016, 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 June 16, 2016, public hearing is May 12, 2016.

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