

**MONTANA BOARD OF OIL AND GAS CONSERVATION
FINANCIAL STATEMENT
As of 10/19/2016
Fiscal Year 2017: Percent of Year Elapsed - 30%**

		Budget	Expends	Remaining	%
Regulatory	Personal Services	1,312,453	265,002	1,047,451	20.2
UIC	Personal Services	<u>211,630</u>	<u>28,168</u>	<u>183,462</u>	13.3
	Total Expends	1,524,083	293,170	1,230,913	19.2
Regulatory	Equipment & Assets	39,477	-	39,477	0.0
UIC	Equipment & Assets	<u>17,073</u>	-	<u>17,073</u>	0.0
	Total Expends	56,550	-	56,550	0.0
Regulatory	Operating Expenses:				
	Contracted Services	175,279	28,591	146,688	16.3
	Supplies & Materials	48,500	8,924	39,576	18.4
	Communication	49,835	8,727	41,108	17.5
	Travel	38,000	3,304	34,696	8.7
	Rent	33,000	8,918	24,082	27.0
	Utilities	20,615	4,077	16,538	19.8
	Repair/Maintenance	21,234	3,135	18,099	14.8
	Other Expenses	<u>25,614</u>	<u>6,263</u>	<u>19,351</u>	24.5
	Total Operating Expenses	412,077	71,938	340,139	17.5
UIC	Operating Expenses:				
	Contracted Services	16,152	1,294	14,858	8.0
	Supplies & Materials	12,561	1,392	11,169	11.1
	Communication	8,350	1,170	7,180	14.0
	Travel	9,213	181	9,032	2.0
	Rent	4,175	233	3,942	5.6
	Utilities	7,000	481	6,519	6.9
	Repair/Maintenance	9,000	402	8,598	4.5
	Other Expenses	<u>15,052</u>	<u>1,233</u>	<u>13,819</u>	8.2
	Total Operating Expenses	81,503	6,386	75,117	7.8
	Total Expends	493,580	78,324	415,256	15.9

	Budget	Expends	Remaining	%
Carryforward FY15				
Personal Services	40,249	-	40,249	0.0
Operating Expenses	80,497	-	80,497	0.0
Equipment & Assets	80,497	-	80,497	0.0
Total	201,243	-	201,243	0.0

Funding Breakout	Regulatory Budget	Regulatory Expends	UIC Budget	UIC Expends	2017 Total Budget	2017 Total Expends	%
State Special	1,764,007	336,940	310,206	34,554	2,074,213	371,494	17.9
Federal 2016 UIC (10-1-2015 to 9-30-2016)			108,000	108,000	108,000	108,000	100.0
Federal 2017 UIC (10-1-2016 to 9-30-2017)			<u>105,676</u>		<u>105,676</u>	-	0.0
Total	1,764,007	336,940	523,882	142,554	2,287,889	479,494	21.0

REVENUE INTO STATE SPECIAL REVENUE ACCOUNT as of 10/19/16

	FY 17	FY 16
Oil & Gas Production Tax	\$ -	\$ 608,701
Oil Production Tax	-	563,672
Gas Production Tax	-	45,029
Drilling Permit Fees	4,575	15,025
UIC Permit Fees	-	239,600
Interest on Investments	2,028	10,513
Copies of Documents	106	1,407
Miscellaneous Reimbursements	-	37,500
TOTAL	\$ 6,709	\$ 912,746

REVENUE INTO DAMAGE MITIGATION ACCOUNT as of 10/19/16

	FY 17	FY 16
RIT Investment Earnings:	\$ 102,334	\$ 490,672
July	-	-
August	40,562	-
September	30,389	49,110
October	31,382	40,670
November	-	37,753
December	-	49,344
January	-	37,052
February	-	37,189
March	-	47,949
April	-	35,271
May	-	36,482
June	-	119,853
Bond Forfeitures:	-	234,904
Interest on Investments	1,219	2,016
TOTAL	\$ 103,553	\$ 1,218,264

INVESTMENT ACCOUNT BALANCES as of 10/19/16

Regulatory Account	\$ 1,609,717
Damage Mitigation Account	\$ 1,121,839

REVENUE INTO GENERAL FUND FROM FINES as of 10/19/16

		FY 17
STEALTH ENERGY INC	7/1/16	\$ 1,420
ENERGY QUEST II LLC	7/8/16	80
HOFLAND JAMES D	7/8/16	70
MONTANA LAND AND MINERAL COMPANY	7/8/16	60
UNIT PETROLEUM COMPANY	7/8/16	60
VECTA OIL AND GAS LTD	7/8/16	60
TNT OIL LLC	7/15/16	60
STATOIL & GAS LP	8/1/16	420
RINCON OIL AND GAS LLC	8/19/16	70
MONTANA LAND AND EXPLORATION INC	9/2/16	60
WHITING OIL AND GAS CORP	9/9/16	250
GRASSY BUTTE LLC	9/16/16	70
TEMPEL CONTRACTING INC	9/16/16	80
SOLOMON EXPLORATION/SOLOMON, TED/GAIL	9/23/16	60
RANCH OIL CO INC	9/30/16	60
YELLOWSTONE PETROLEUMS INC	10/6/16	50
BRAINSTORM ENERGY INC	10/7/16	60
BRAINSTORM ENERGY INC	10/7/16	60
YELLOWSTONE PETROLEUMS INC	10/7/16	70
MOUNTAIN VIEW ENERGY INC	10/11/16	120
SHADWELL RESOURCES GROUP LLC	10/11/16	1,000
HERCO EXPLORATION LLC	10/14/16	70
TOTAL		\$ 4,310

GRANT BALANCES - 10/19/16

<u>Name</u>	<u>Authorized Amt*</u>	<u>Expended</u>	<u>Balance</u>	<u>Expiration Date</u>
2011 Southern - Tank Battery2 RIT 12-8723	\$ 204,951	\$ 170,173	\$ 34,778	9/30/2016
2011 Northern/Eastern RIT 13-8753	332,642	218,223	114,419	9/30/2016
TOTAL	\$ 537,593	\$ 388,397	\$ 149,196	

* includes match requirement for grant

CONTRACT BALANCES - 10/19/16

<u>Name</u>	<u>Authorized Amt</u>	<u>Expended</u>	<u>Balance</u>	<u>Status</u>	<u>Expiration Date</u>
MT Tech - Elm Coulee EOR Study (MOU 127220)	\$ 863,905	\$ 556,477	\$ 307,428	Under Contract	12/31/2017
Central Avenue Mall FY '16 (9/1/15 - 8/31/16)	400	400	-	Completed	8/31/2016
Central Avenue Mall FY '17 (9/1/16 - 8/31/17)	400	400	-	Completed	8/31/2017
Agency Legal Services 2017	70,000	17,815	52,185	Under Contract	6/30/2017
COR Enterprises - Billings Janitorial	15,188	3,620	11,569	Under Contract	6/30/2017
Kelly #1 Well	19,360	12,744	6,616	Completed	7/31/2016
Big Wall Site	18,451	18,450	0	Completed	9/30/2016
Re-Enter, Re-Plug, and Reclaim Kopp #1 Well	263,930	249,937	13,993	Completed	11/1/2016
TOTAL	\$ 1,251,633	\$ 859,843	\$ 391,790		

**Agency Legal Services
Expenditures in FY17**

<u>Case</u>	<u>Amt Spent</u>
BOGC Duties	\$ 7,405
Hekkel	139
CCRC	604
Omimex	-
Ostby	-
Interstate	3,484
Malsam	2,600
Hydraulic	3,581
Total	\$ 17,815

Montana Board of Oil and Gas Conservation Summary of Bond Activity

8/12/2016 Through 10/26/2016

Approved

Drawings, LLC Albuquerque NM	810 G1	Approved Amount: Purpose:	9/12/2016 \$10,000.00 Single Well Bond
Surety Bond	\$10,000.00 Lexon Insurance Company		ACT
Drawings, LLC Albuquerque NM	810 T1	Approved Amount: Purpose:	10/24/2016 \$10,000.00 UIC Single Well Bond
Surety Bond	\$10,000.00 Lexon Insurance Company		ACT
Fort Worth Operating Company, LLC Fort Worth TX	619 G13	Approved Amount: Purpose:	10/4/2016 \$10,000.00 Single Well Bond
Certificate of Deposit	\$10,000.00 FIRST INTERSTATE BANK		ACT
Fort Worth Operating Company, LLC Fort Worth TX	619 G12	Approved Amount: Purpose:	10/4/2016 \$10,000.00 Single Well Bond
Certificate of Deposit	\$10,000.00 FIRST INTERSTATE BANK		ACT
Highlands Montana Corporation Denver CO	807 T1	Approved Amount: Purpose:	8/31/2016 \$10,000.00 UIC Single Well Bond
Certificate of Deposit	\$10,000.00 FIRST INTERSTATE BANK		ACT
Highlands Montana Corporation Denver CO	807 M1	Approved Amount: Purpose:	8/31/2016 \$50,000.00 Multiple Well Bond
Certificate of Deposit	\$50,000.00 FIRST INTERSTATE BANK		ACT
Olsen, R. Todd Lewistown MT	809 G1	Approved Amount: Purpose:	9/2/2016 \$1,500.00 Single Well Bond
Certificate of Deposit	\$1,500.00 FIRST BANK MONTANA, N. A.		ACT
Painted Pegasus Petroleum LLC dba P3 Petroleum LL Houston TX	808 G3	Approved Amount: Purpose:	8/31/2016 \$10,000.00 Single Well Bond
Certificate of Deposit	\$10,000.00 FIRST INTERSTATE BANK		ACT
Painted Pegasus Petroleum LLC dba P3 Petroleum LL Houston TX	808 G2	Approved Amount: Purpose:	8/16/2016 \$10,000.00 Single Well Bond
Certificate of Deposit	\$10,000.00 FIRST INTERSTATE BANK		ACT
Painted Pegasus Petroleum LLC dba P3 Petroleum LL Houston TX	808 G1	Approved Amount: Purpose:	8/31/2016 \$10,000.00 Single Well Bond
Certificate of Deposit	\$10,000.00 FIRST INTERSTATE BANK		ACT

Montana Board of Oil and Gas Conservation Summary of Bond Activity

8/12/2016 Through 10/26/2016

Canceled

Bluebonnet Energy Corporation Englewood CO	761 T1	Canceled Amount: Purpose:	8/12/2016 \$10,000.00 UIC Single Well Bond
Five-J.A.B. Inc. Tomball TX	777 G1	Canceled Amount: Purpose:	10/11/2016 \$10,000.00 Single Well Bond
Five-J.A.B. Inc. Tomball TX	777 T1	Canceled Amount: Purpose:	10/24/2016 \$10,000.00 UIC Single Well Bond
Five-J.A.B. Inc. Tomball TX	777 G2	Canceled Amount: Purpose:	10/11/2016 \$10,000.00 Single Well Bond
Grassy Butte LLC Williston ND	788 G1	Canceled Amount: Purpose:	9/13/2016 \$5,000.00 Single Well Bond
Grassy Butte LLC Williston ND	788 G2	Canceled Amount: Purpose:	9/13/2016 \$5,000.00 Single Well Bond
Grassy Butte LLC Williston ND	788 G3	Canceled Amount: Purpose:	9/13/2016 \$10,000.00 Single Well Bond
Great Northern Drilling Company Billings MT	3060 G2	Canceled Amount: Purpose:	10/21/2016 \$5,000.00 Single Well Bond
Great Northern Drilling Company Billings MT	3060 G4	Canceled Amount: Purpose:	10/21/2016 \$1,500.00 Single Well Bond
Great Northern Drilling Company Billings MT	3060 G5	Canceled Amount: Purpose:	10/21/2016 \$1,500.00 Single Well Bond
Great Northern Drilling Company Billings MT	3060 G6	Canceled Amount: Purpose:	10/21/2016 \$1,500.00 Single Well Bond
Great Northern Drilling Company Billings MT	3060 G7	Canceled Amount: Purpose:	10/21/2016 \$5,000.00 Single Well Bond
Great Northern Drilling Company Billings MT	3060 L1	Canceled Amount: Purpose:	10/21/2016 \$3,000.00 Limited Bond

Montana Board of Oil and Gas Conservation Summary of Bond Activity

8/12/2016 Through 10/26/2016

Canceled

Noble Energy, Inc. Houston TX	372 M1	Canceled Amount: Purpose:	10/11/2016 \$50,000.00 Multiple Well Bond
Simon and Associates Ignacio CA	526 G1	Canceled Amount: Purpose:	9/12/2016 \$5,000.00 Single Well Bond
Unit Petroleum Company Tulsa OK	374 G3	Canceled Amount: Purpose:	9/26/2016 \$10,000.00 Single Well Bond

Rider Approved

Scout Energy Management LLC Dallas TX	795 M1	Rider Approved Amount: Purpose:	9/19/2016 \$250,000.00 Multiple Well Bond
Surety Bond	\$250,000.00	U.S. Specialty Insurance Co.	ACT

Incident Report

EXHIBIT 3

Company	Responsibility	Date	Incident	Oil Released	Water Released	Source	Contained	Latitude	Longitud	County	T-R-S
Bad Water Disposal, LLP	BOG	1/3/2016	Spill or Release		1 Barrels	Tank or Tank Battery	Yes	47.67583	-104.05933	Richland	22N-60E-7 SESE
True Oil LLC	BOG	1/4/2016	Spill or Release	5 Barrels		Flow Line - Injection	Yes	47.69997	-104.22246	Richland	22N-58E-1 SENW
Vanguard Operating, LLC	BOG	1/4/2016	Spill or Release	30 Barrels		Treater	Yes	47.80845	-104.31887	Richland	24N-58E-30 SESE
Slawson Exploration Company Inc	BOG	1/5/2016	Spill or Release	25 Barrels		Well Head	Yes	47.60080	-104.16075	Richland	21N-59E-4 S2SW
Beren Corporation	BOG	1/6/2016	Spill or Release	10 Barrels		Tank or Tank Battery	Yes	48.89783	-112.33396	Glacier	36N-6W-12 NEN
Whiting Oil and Gas Corporation	BOG	1/13/2016	Spill or Release		70 Barrels	Trucking/Transportati	Yes	47.88042	-104.10357	Richland	25N-59E-33 NWN
Denbury Onshore, LLC	FED	1/15/2016	Spill or Release		30 Barrels	Flow Line - Production	No	46.42465	-104.31825	Fallon	8N-59E-26 NWN
Denbury Onshore, LLC	BOG	1/19/2016	Spill or Release	2 Barrels	6 Barrels	Flow Line - Production	No	46.64879	-104.47051	Fallon	10N-58E-6 SENW
Anadarko Minerals, Inc.	BOG	1/22/2016	Spill or Release		100 Barrels	Tank or Tank Battery	Yes	48.40199	-106.09383	Valley	31N-43E-35 SWN
Anadarko Minerals, Inc.	BOG	1/23/2016	Spill or Release	246 Barrels		Tank or Tank Battery	No	48.39135	-105.99121	Valley	30N-44E-3 NENW
Triangle USA Petroleum Corporation	BOG	1/24/2016	Spill or Release	21 Gallons		Treater	No	48.44814	-104.12378	Sheridan	31N-58E-12 SES
Slawson Exploration Company Inc	BOG	1/26/2016	Spill or Release		55 Barrels	Tank or Tank Battery	Yes	47.74773	-104.95982	Richland	23N-53E-18 SESE
Denbury Onshore, LLC	BOG	1/28/2016	Spill or Release		95 Barrels	Tank or Tank Battery	Yes	46.96400	104.77000	Dawson	14N-55E-17 SESE
XTO Energy Inc.	BOG	2/6/2016	Spill or Release	10 Barrels		Flare Pit	No	47.86640	-104.58588	Richland	24N-56E-6 NW
Montana Oil Field Acquisition I, LLC	BOG	2/9/2016	Spill or Release	25	100 Barrels	Tank or Tank Battery	No	48.13352	-112.19001	Pondera	28N-5W-36 SESW
Denbury Onshore, LLC	BOG	2/11/2016	Spill or Release		1 Barrels	Flow Line - Production	No	46.33495	-104.13515	Fallon	7N-61E-30 SWNW
Denbury Onshore, LLC	FED	2/12/2016	Spill or Release		20 Barrels	Flow Line - Production	Yes	46.73053	-104.56138	Wibaux	11N-57E-4 SWSW
Statoil Oil & Gas LP	BOG	2/12/2016	Spill or Release	5 Gallons		Flare Pit	No	48.01505	-104.14176	Richland	26N-59E-7 SESE
Denbury Onshore, LLC	BOG	2/17/2016	Spill or Release	2 Barrels		Well Head	Yes	45.13324	-105.06646	Powder River	8S-54E-23 NWNE
Anadarko Minerals, Inc.	BOG	2/17/2016	Spill or Release		50 Barrels	Tank or Tank Battery	Yes	48.35826	-105.87184	Valley	30N-45E-16 NENE
Denbury Onshore, LLC	BOG	2/18/2016	Spill or Release		5209 Barrels	Flow Line - Injection	No	46.62010	-104.45500	Fallon	10N-58E-17 NEN
Denbury Onshore, LLC	BOG	2/20/2016	Spill or Release		200 Barrels	Flow Line - Injection	No	46.72068	-104.52096	Wibaux	11N-57E-10 NESE
Denbury Onshore, LLC	BOG	2/22/2016	Spill or Release	5 Barrels	1 Barrels	Flow Line - Production	No	46.58160	-104.43094	Fallon	10N-58E-33 NEN
Abraxas Petroleum Corporation	BOG	2/23/2016	Spill or Release	10 Barrels		Treater	No	48.63004	-104.46446	Sheridan	33N-55E-12 SEN
Continental Resources Inc	BOG	2/28/2016	Fire			Flare Pit	No	47.93818	-104.67918	Richland	25N-54E-12 NENE
Denbury Onshore, LLC	BOG	2/29/2016	Spill or Release	3 Barrels	7 Barrels	Vessel/Container	Yes	46.39615	-104.25414	Fallon	8N-60E-32 SESW
Bayswater Exploration & Production, LLC	BOG	3/10/2016	Spill or Release		150 Barrels	Flow Line - Production	Yes	46.61965	-108.37834	Musselshell	10N-27E-19 NEN
Yellowstone Petroleums, Inc.	BOG	3/19/2016	Spill or Release	20 Barrels	100 Barrels	Tank or Tank Battery	No	48.75364	-112.02185	Toole	35N-3W-32 NWN
Montana Oil Field Acquisition I, LLC	BOG	3/28/2016	Fire	50 Barrels		Tank or Tank Battery	Yes	48.12988	-112.18730	Teton	27N-5W-1 NWNE
Denbury Onshore, LLC	BOG	4/8/2016	Spill or Release		100 Barrels	Flow Line - Injection	No	46.44315	-104.28404	Fallon	8N-59E-13 SE
Slawson Exploration Company Inc	BOG	4/11/2016	Spill or Release	70 Barrels		Tank or Tank Battery	No	47.83445	-104.87855	Richland	24N-53E-14 SWS
Denbury Onshore, LLC	BOG	4/12/2016	Spill or Release	5 Barrels	3 Barrels	Flow Line - Production	No	46.55239	-104.39942	Fallon	9N-58E-10 NENE
True Oil LLC	BOG	4/13/2016	Fire		1 Barrels	Tank or Tank Battery	Yes	47.95245	-104.22585	Richland	25N-58E-4 NENE
Vanguard Operating, LLC	BOG	4/15/2016	Fire			Treater	Yes	47.69387	-104.14448	Richland	22N-59E-4 NESE
Petro-Hunt, LLC	BOG	4/15/2016	Spill or Release		48 Barrels	Tank or Tank Battery	Yes	47.71549	-104.48523	Richland	23N-56E-36 NWN
Poor Boy Oil, LLP	BOG	4/20/2016	Spill or Release	1 Barrels	30 Barrels	Tank or Tank Battery	No	47.81771	-104.18282	Richland	24N-59E-29 NWN
Foundation Energy Management, LLC	BOG	4/23/2016	Spill or Release		100 Barrels	Well Head	Yes	48.29975	-104.51691	Roosevelt	29N-55E-1 NWN
Continental Resources Inc	BOG	5/2/2016	Fire			Flare Pit	Yes	47.89731	-104.41079	Richland	25N-57E-19 SES
Montana Oil Field Acquisition I, LLC	BOG	5/25/2016	Spill or Release	25 Barrels	100 Barrels	Tank or Tank Battery	No	48.81327	-111.96281	Toole	35N-3W-2 SESW
Somont Oil Company, Inc.	BOG	5/26/2016	Spill or Release	10 Barrels		Well Head	Yes	48.73232	-111.81937	Toole	34N-2W-2 NESE
Legacy Reserves Operating LP	BOG	6/2/2016	Fire			Treater	No	48.63085	-104.08340	Sheridan	33N-58E-11 SENE
Denbury Onshore, LLC	BOG	6/9/2016	Spill or Release	21 Gallons	10 Barrels	Flow Line - Production	No	46.62501	-104.45237	Fallon	10N-58E-17 NEN
Denbury Onshore, LLC	BOG	6/9/2016	Fire			Other	No	46.40367	-104.22031	Fallon	8N-60E-33 SENE

10/25/2016

Company	Responsibility	Date	Incident	Oil Released	Water Released	Source	Contained	Latitude	Longitud	County	T-R-S
Continental Resources Inc	BOG	6/11/2016	Fire	11 Gallons		Flare Pit	Yes	47.73179	-104.59006	Richland	23N-56E-30 NWN
Slawson Exploration Company Inc	BOG	6/13/2016	Spill or Release	25 Barrels		Well Head	No	47.78180	-104.06409	Richland	23N-60E-6 NWSE
Denbury Onshore, LLC	BOG	6/19/2016	Spill or Release		100 Barrels	Other	No	46.42465	-104.31825	Fallon	8N-59E-26 NWN
Denbury Onshore, LLC	BOG	6/25/2016	Spill or Release		35 Barrels	Well Head	No	45.13645	-105.06646	Powder River	8S-54E-14 SWSE
Black Gold Energy Resource Development	BOG	6/26/2016	Spill or Release		1200 Barrels	Tank or Tank Battery	No	47.74891	-104.65243	Richland	23N-55E-15 SWS
Black Gold Energy Resource Development	BOG	6/26/2016	Spill or Release		1200 Barrels	Tank or Tank Battery	No	47.74891	-104.65243	Richland	23N-55E-15 SWS
Anadarko Minerals, Inc.	BOG	6/28/2016	Spill or Release		200 Barrels	Tank or Tank Battery	Yes	48.37679	-105.97464	Valley	30N-44E-11 NWN
Denbury Onshore, LLC	FED	7/6/2016	Fire	8 Gallons		Flare Pit	No	46.09157	-104.08413	Fallon	4N-61E-24 SESE
Continental Resources Inc	BOG	7/11/2016	Fire	1 Barrels		Flare Pit	Yes	47.74592	-104.55211	Richland	23N-56E-20 NENE
XTO Energy Inc.	BOG	7/29/2016	Spill or Release	40 Barrels	20 Barrels	Treater	Yes	47.67806	-104.04793	Richland	22N-60E-8 SESW
MCR, LLC	BOG	8/9/2016	Fire	1 Barrels		Tank or Tank Battery	Yes	48.96136	-111.17490	Liberty	37N-4E-14 NESW
Continental Resources Inc	BOG	8/9/2016	Fire			Flare Pit	No	47.74782	-104.57636	Richland	23N-56E-18 SESE
Continental Resources Inc	BOG	8/18/2016	Fire	21 Gallons		Treater	No	47.74592	-104.55192	Richland	23N-56E-20 NENE
Denbury Onshore, LLC	BOG	8/19/2016	Spill or Release		2 Barrels	Flow Line - Production	No	46.32548	-104.13504	Fallon	7N-61E-30 SWSW
True Oil LLC	BOG	8/23/2016	Fire	10 Barrels		Tank or Tank Battery	No	47.95245	-104.22585	Richland	25N-58E-4 NENE
XTO Energy Inc.	BOG	9/1/2016	Fire			Flare Pit	No	47.71672	-104.42247	Richland	23N-57E-32 NENE
Denbury Onshore, LLC	BOG	9/2/2016	Spill or Release	40 Gallons	1140 Barrels	Flow Line - Injection	No	45.10194	-105.12388	Powder River	8S-54E-32 SWSE
Unknown	OTR	9/13/2016	Orphan Well R				No	48.39474	-112.05487	Toole	31N-3W-31 SWS
SDOCO, LLC	BOG	9/13/2016	Spill or Release	5 Barrels	50 Barrels	Other	No	46.67977	-107.67427	Rosebud	11N-32E-27 SENE
Anadarko Minerals, Inc.	BOG	9/16/2016	Spill or Release	5 Barrels	70 Barrels	Flow Line - Injection	Yes	48.38003	-105.98634	Valley	30N-44E-3 SWSE
Anadarko Minerals, Inc.	BOG	9/16/2016	Spill or Release	5 Barrels	70 Barrels	Flow Line - Injection	Yes	48.38003	-105.98634	Valley	30N-44E-3 SWSE
SM Energy Company	BOG	9/21/2016	Spill or Release		255 Barrels	Tank or Tank Battery	Yes	47.68353	-104.33199	Richland	22N-58E-7 SWNW
SM Energy Company	BOG	9/22/2016	Spill or Release		255 Barrels	Tank or Tank Battery	Yes	47.68353	-104.33199	Richland	22N-58E-7 SWNW
Slawson Exploration Company Inc	BOG	9/23/2016	Fire			Treater	No	47.83548	-104.85761	Richland	24N-53E-13 SWS
Continental Resources Inc	BOG	9/28/2016	Fire	1 Barrels		Treater	Yes	47.77620	-104.81815	Richland	23N-54E-5 S2S2
Bayswater Exploration & Production, LLC	BOG	9/28/2016	Spill or Release		300 Barrels	Flow Line - Injection	No	46.71537	-107.71129	Rosebud	11N-32E-9 SESE
Rim Operating, Inc.	BOG	9/29/2016	Spill or Release	5 Barrels		Flow Line - Production	Yes	48.87767	-104.65426	Sheridan	36N-54E-16 SWN
Continental Resources Inc	BOG	10/4/2016	Fire		200 Barrels	Tank or Tank Battery	No	47.80411	-104.65643	Richland	24N-55E-34 NWN
Somont Oil Company, Inc.	BOG	10/6/2016	Spill or Release	200 Barrels		Treater	Yes	48.83512	-111.84455	Toole	36N-2W-34 SENE
Continental Resources Inc	BOG	10/6/2016	Fire	2 Barrels		Treater	No	47.77620	-104.81815	Richland	23N-54E-5 S2S2
Vanguard Operating, LLC	BOG	10/8/2016	Fire	2 Barrels		Treater	Yes	47.61470	-102.24960	Richland	21N-58E-2 NWN

Docket Summary

10/27/2016 Hearing

34-2016	Sinclair Oil & Gas Company	Permanent spacing unit, Bakken/Three Forks Formation, 32N-56E-3: all, 10: all (Chisholm #1-3H).		<i>Related applications: 34-2016, 35-2016</i> <i>TSU, Order 272-2011.</i>	<input type="checkbox"/>
35-2016	Sinclair Oil & Gas Company	Pooling, permanent spacing unit, Bakken/Three Forks Formation, 32N-56E-3: all, 10: all (Chisholm #1-3H). Non-consent penalties requested.		<i>Related applications: 34-2016, 35-2016</i>	<input type="checkbox"/>
36-2016	XTO Energy Inc.	Permanent spacing unit, Madison Formation, 22N-58E-26: SW, recompletion operations in the Hartland #14X-26.	Withdrawn	<i>Application withdrawn, fax received 10/5/16.</i>	<input type="checkbox"/>
37-2016	XTO Energy Inc.	Pooling, permanent spacing unit, Bakken/Three Forks Formation, 23N-59E-28: all, 33: all (P&Q Farms #21X-28D). Non-consent penalties requested.		<i>Order 186-2014: PSU - 23N-59E-28: all, 33: all</i> <i>Order: 386-2013: Additional wells</i> <i>Related Dockets 37-2016, 38-2016, 39-2016</i>	<input type="checkbox"/>
38-2016	XTO Energy Inc.	Pooling, permanent spacing unit, Bakken/Three Forks Formation, 23N-59E-28: all, 33: all (P&Q Farms #21X-28BXC). Non-consent penalties requested.		<i>Order 186-2014: PSU - 23N-59E-28: all, 33: all</i> <i>Order: 386-2013: Additional wells</i> <i>Related Dockets 37-2016, 38-2016, 39-2016</i>	<input type="checkbox"/>
39-2016	XTO Energy Inc.	Pooling, permanent spacing unit, Bakken/Three Forks Formation, 23N-59E-28: all, 29: all, 32: all, 33: all (Dige #41X-29DXA). Non-consent penalties requested.	Protested	<i>Order 342-2013: PSU - 23N-59E-28: all, 29: all, 32: all, 33: all</i> <i>Order 343-2016: Pooling without penalties</i> <i>Related Dockets 37-2016, 38-2016, 39-2016</i>	<input type="checkbox"/>
40-2016	Kraken Oil & Gas LLC	Amend Order 143-2015, (Temporary spacing unit, Bakken/Three Forks Formation, 27N-57E-35: all, 36: all, 200' heel/toe, 500' lateral setbacks. Apply for permanent spacing within 90 days of completion.) Amend that operations must commence within one year of 8/13/2017. Default Docket requested.		<i>Order 143-2015: TSU, authorization to drill expires 8/13/2016.</i> <i>Not renewing spacing unit to north of this one (sections 25 & 26)</i>	<input type="checkbox"/>
41-2016	Kraken Oil & Gas LLC	Amend Order 144-2015, (Temporary spacing unit, Bakken/Three Forks Formation, 27N-57E-27: all, 28: all, 200' heel/toe, 500' lateral setbacks. Apply for permanent spacing within 90 days of completion.) Amend that operations must commence within one year of 8/13/2017. Default Docket requested.		<i>Order 144-2015: TSU, authorization to drill expires 8/13/2016.</i>	<input type="checkbox"/>
42-2016	Kraken Oil & Gas LLC	Amend Order 145-2015, (Temporary spacing unit, Bakken/Three Forks Formation, 27N-57E-33: all, 34: all, 200' heel/toe, 500' lateral setbacks. Apply for permanent spacing within 90 days of completion.) Amend that operations must commence within one year of 8/13/2017. Default Docket requested.		<i>Order 145-2015: TSU, authorization to drill expires 8/13/2016.</i>	<input type="checkbox"/>
43-2016	Beren Corporation	Convert the Larmon #6, 36N-6W-12: 1980' FNL/ 1980' FWL (SE NW) (API # 035-06784) to Class II Injection well (SWD), Madison Formation. Aquifer exemption requested. Default Docket requested.	Default		<input type="checkbox"/>
44-2016	Synergy Offshore LLC	Convert the T502, 34N-6W-2: W2 W2 NE (API # 035-06239) to Class II Injection well, Madison Formation. Aquifer exemption requested. Default Docket requested.	Default		<input type="checkbox"/>

45-2016	Synergy Offshore LLC	Convert the P235, 35N-6W-35: NE SW SW (API # 035-06274) to Class II Injection well, Madison Formation. Aquifer exemption requested. Default Docket requested.	Default		<input type="checkbox"/>
46-2016	Legacy Reserves Operating LP	Convert the Guelff 41-35H, , 17N-53E-35: NE NE (API # 021-21126) to Class II Injection well, Dakota Formation. Aquifer exemption requested. Default Docket requested.	Continued	Application continued, email received 10/25/16.	<input type="checkbox"/>
47-2016	Highlands Montana Corporation	Convert the Helios Injector #1 (API #) to Class II Injection well, Dakota and Lakota Formation, 5N-52E-16: 580' FNL/ 1928' FWL (NE NW). Aquifer exemption requested. Default Docket requested.	Default		<input type="checkbox"/>
48-2016	Shadwell Resources Group, LLC	Show Cause: why it should not have to complete or plug and abandon the Ft. Gilbert 3 SWD well (API # 25-083-21074) located in the SW NE of Section 32, T24N-R59E, Richland County, Montana prior to the October 27, 2016, public hearing and why it should not pay the \$1,000 fine assessed for not appearing at the Board's August 11, 2016 public hearing.		\$1,000 fine received: 10/11/16	<input type="checkbox"/>
49-2016	Storm Cat Energy (USA) Operating Corporation	Show Cause: why it should not provide a plan and timeline for the plugging and abandonment or transfer of its three wells and why additional penalties should not be assessed for failure to pay the outstanding fine of \$1,340, and appear at the August 11, 2016 public hearing.			<input type="checkbox"/>
50-2016	Stratex Oil and Gas, Inc.	Show Cause: why it should not provide a plan and timeline for the plugging and abandonment of its Timinenko 4-19 well (API # 25-085-21275) located in the W2 NW SW of Section 19, T29N-R59E, Roosevelt County, Montana, and why additional penalties should not be assessed for failure to pay the outstanding fine of \$1,160, and appear at the August 11, 2016 public hearing.			<input type="checkbox"/>
51-2016	McMinn Operating Company	Show Cause: why it should not have to plug and abandon the Ryan Ranch LLC 1 well (API # 25-073-21836) located in the SE SE of Section 30, T30N-R6W, Pondera County, Montana.			<input type="checkbox"/>
52-2016	Black Gold Energy Resource Development, LLC	Show Cause: why penalties should not be imposed for failure to report and clean up a spill at the Indian Mound 1 well located in the SW SW of Section 15, T23N-R55E, Richland County, Montana.			<input type="checkbox"/>
53-2016	Brainstorm Energy, Inc.	Show Cause: failure to pay administrative fees assessed for delinquent reporting.	Dismissed	Reports and fine received: 10/3/16 & 10/7/16	<input type="checkbox"/>
54-2016	Yellowstone Petroleum, Inc.	Show Cause: failure to pay administrative fees assessed for delinquent reporting.	Dismissed	Reports received: 10/11/16 Fine received: 10/7/16	<input type="checkbox"/>
55-2016	Montana Oil Field Acquisition I, LLC	Show Cause: failure to file production reports and pay administrative fees.	Dismissed	Reports and fine received: 10/24/16	<input type="checkbox"/>
56-2016	Mountain View Energy, Inc.	Show Cause: failure to file production reports and pay administrative fees.	Dismissed	Reports and fine received: 10/11/16	<input type="checkbox"/>

97-2015 Augusta Exploration, LLC

Show Cause: why its plugging and reclamation bond should not be forfeited for failure to provide a plan and timeline of its Krone-Augusta 31-32 well, API # 25-049-21111, located in Section 32, T18N-R5W, Lewis and Clark County, Montana.

Verify Rob has new information in the federal case



GAS FLARING

October 26, 2016

Company	Wells Flaring over 100	Wells Flaring over 100 w/o Exception	Current Exceptions (over 100)	Exception Requests	Wells over 100 Hooked to Pipeline
Continental	2	0	2	0	1
EOG Resources	0	0	0	0	0
Kraken	1	1	0	1	1
Oasis	0	0	0	0	0
Petro-Hunt	3	0	3	0	0
Whiting	18	21	0	21	2
XTO	0	0	0	0	0
Totals	24	22	5	22	4

Flaring Requests

Summary

There are 24 wells flaring over 100 MCFG per day based on current production numbers.

5 of the 24 wells have approved exceptions due to distance, pipeline capacity issues, or time to connection.

There are 22 exceptions requested at this time.

Kraken

Lysemose 33-34 #1H – API #25-083-23303, 26N-59E-32

1. Flaring 111 MCF/D. Second exception request expired 4/28/16.
2. Completed: 1/2015.
3. Estimated gas reserves: 400-500 MMCF.
4. Proximity to market: Connected to pipeline.
5. Flaring alternatives: None.
6. Amount of gas used in lease operations: 1 MCF/D.
7. Justification to flare: The well was tied into the ONEOK gas sales line on 10/27/15, however, Kraken has had very limited success selling gas into the line due to sales line pressure.

Whiting Oil & Gas

Prewitt 21-25-1H – API #25-083-23318, 25N-58E-25

1. Flaring 160 MCF/D. Second exception request expired 8/10/16.
2. Completed: 2/2015.
3. Estimated gas reserves: 323 MMCF.
4. Proximity to market: 500 ft to pipeline.
5. Estimated gas price at market: ~\$2.41/MCF.
6. Estimated cost of marketing the gas: ~\$200,000.
7. Flaring alternatives: None.
8. Amount of gas used in lease operations: 2 MCF/D.
9. Justification to flare: Insufficient compression capacity on Oneok's system in this area.

Prewitt 21-25-2H – API #25-083-23317, 25N-58E-25

1. Flaring 103 MCF/D. Second exception request expired 8/10/16.
2. Completed: 2/2015.
3. Estimated gas reserves: 492 MMCF.
4. Proximity to market: 500 ft to pipeline.
5. Estimated gas price at market: ~\$2.41/MCF.
6. Estimated cost of marketing the gas: ~\$200,000.
7. Flaring alternatives: None.
8. Amount of gas used in lease operations: 2 MCF/D.
9. Justification to flare: Insufficient compression capacity on Oneok's system in this area.

Buxbaum 21-5-1H – API #25-083-23256, 24N-60E-5

1. Flaring 132 MCF/D. Second exception request expired 8/10/16.
2. Completed: 2/2015.
3. Estimated gas reserves: 550 MMCF.
4. Proximity to market: 11,000 ft to pipeline.
5. Estimated gas price at market: ~\$2.41/MCF.
6. Estimated cost of marketing the gas: ~\$200,000.
7. Flaring alternatives: None.
8. Amount of gas used in lease operations: 2 MCF/D.
9. Justification to flare: Insufficient compression capacity on Oneok's system in this area.

Buxbaum 21-5-2H – API #25-083-23316, 24N-60E-5

1. Flaring 127 MCF/D. Second exception request expired 8/10/16.
2. Completed: 2/2015.
3. Estimated gas reserves: 783 MMCF.
4. Proximity to market: 11,000 ft to pipeline.
5. Estimated gas price at market: ~\$2.41/MCF.
6. Estimated cost of marketing the gas: ~\$200,000.
7. Flaring alternatives: None.
8. Amount of gas used in lease operations: 2 MCF/D.
9. Justification to flare: Insufficient compression capacity on Oneok's system in this area.

Buxbaum 21-5-3H – API #25-083-23315, 24N-60E-5

1. Flaring 115 MCF/D. Second exception request expired 8/10/16.
2. Completed: 2/2015.
3. Estimated gas reserves: 798 MMCF.
4. Proximity to market: 11,000 ft to pipeline.
5. Estimated gas price at market: ~\$2.41/MCF.
6. Estimated cost of marketing the gas: ~\$200,000.
7. Flaring alternatives: None.
8. Amount of gas used in lease operations: 2 MCF/D.
9. Justification to flare: Insufficient compression capacity on Oneok's system in this area.

Malsam 14-18-3H – API #25-083-23265, 24N-60E-18

1. Flaring 141 MCF/D. Second exception request expired 8/10/16.
2. Completed: 1/2015.
3. Estimated gas reserves: 410 MMCF.
4. Proximity to market: 1,500 ft to pipeline.
5. Estimated gas price at market: ~\$2.41/MCF.
6. Estimated cost of marketing the gas: ~\$200,000.
7. Flaring alternatives: None.
8. Amount of gas used in lease operations: 2 MCF/D.
9. Justification to flare: Insufficient compression capacity on Oneok's system in this area.

Malsam 14-18-4H – API #25-083-23266, 24N-60E-18

1. Flaring 203 MCF/D. Second exception request expired 8/10/16.

2. Completed: 1/2015.
3. Estimated gas reserves: 419 MMCF.
4. Proximity to market: 1,500 ft to pipeline.
5. Estimated gas price at market: ~\$2.41/MCF.
6. Estimated cost of marketing the gas: ~\$200,000.
7. Flaring alternatives: None.
8. Amount of gas used in lease operations: 2 MCF/D.
9. Justification to flare: Insufficient compression capacity on Oneok's system in this area.

Skov 31-27-1H – API #25-083-23293, 25N-59E-27

1. Flaring 94 MCF/D. Second exception request expired 8/10/16.
2. Completed: 1/2015.
3. Estimated gas reserves: 586 MMCF.
4. Proximity to market: 12,500 ft to pipeline.
5. Estimated gas price at market: ~\$2.41/MCF.
6. Estimated cost of marketing the gas: ~\$200,000.
7. Flaring alternatives: None.
8. Amount of gas used in lease operations: 2 MCF/D.
9. Justification to flare: Insufficient compression capacity on Oneok's system in this area.

Skov 31-27-2H – API #25-083-23294, 25N-59E-27

1. Flaring 85 MCF/D. Second exception request expired 8/10/16.
2. Completed: 1/2015.
3. Estimated gas reserves: 406 MMCF.
4. Proximity to market: 12,500 ft to pipeline.
5. Estimated gas price at market: ~\$2.41/MCF.
6. Estimated cost of marketing the gas: ~\$200,000.
7. Flaring alternatives: None.
8. Amount of gas used in lease operations: 2 MCF/D.
9. Justification to flare: Insufficient compression capacity on Oneok's system in this area.

Skov 31-27-3H – API #25-083-23295, 25N-59E-27

1. Flaring 117 MCF/D. Second exception request expired 8/10/16.
2. Completed: 1/2015.
3. Estimated gas reserves: 441 MMCF.
4. Proximity to market: 12,500 ft to pipeline.
5. Estimated gas price at market: ~\$2.41/MCF.
6. Estimated cost of marketing the gas: ~\$200,000.
7. Flaring alternatives: None.
8. Amount of gas used in lease operations: 2 MCF/D.
9. Justification to flare: Insufficient compression capacity on Oneok's system in this area.

Palmer 24-21-4H – API #25-083-23250, 26N-57E-21

1. Flaring 133 MCF/D. Fourth exception request expired 8/10/16.
2. Completed: 7/2014.
3. Estimated gas reserves: 574 MMCF.

4. Proximity to market: 16,400 ft to pipeline.
5. Estimated gas price at market: ~\$2.41/MCF.
6. Estimated cost of marketing the gas: ~\$200,000.
7. Flaring alternatives: None.
8. Amount of gas used in lease operations: 2 MCF/D.
9. Justification to flare: Insufficient compression capacity on Oneok's system in this area.

Young 31-1-1H – API # 25-083-23261, 24N-59E-1

1. Flaring 154 MCF/D. First exception request expired 8/25/15.
2. Completed: 11/2014.
3. Estimated gas reserves: 198 MMCF EUR.
4. Proximity to market: 6-7 miles to Hilands; 1.5-2 miles to Oneok system.
5. Flaring alternatives: Doing cost evaluation on gas recapture unit for pad.
6. Justification to flare: Insufficient compression capacity on Oneok's system in this area.

Young 31-1-2H – API # 25-083-23282, 24N-59E-1

1. Flaring 141 MCF/D. First exception request expired 8/25/15.
2. Completed: 11/2014.
3. Estimated gas reserves: 198 MMCF EUR
4. Proximity to market: 6-7 miles to Hilands; 1.5-2 miles to Oneok system.
5. Flaring alternatives: Doing cost evaluation on gas recapture unit for pad.
6. Justification to flare: Insufficient compression capacity on Oneok's system in this area.

Young 31-1-3H – API # 25-083-23272, 24N-59E-1

1. Flaring 113 MCF/D. First exception request expired 8/25/15.
2. Completed: 11/2014.
3. Estimated gas reserves: 198 MMCF EUR.
4. Proximity to market: 6-7 miles to Hilands; 1.5-2 miles to Oneok system.
5. Flaring alternatives: Doing cost evaluation on gas recapture unit for pad.
6. Justification to flare: Insufficient compression capacity on Oneok's system in this area.

Young 31-1-4H – API # 25-083-23273, 24N-59E-1

1. Flaring 141 MCF/D. First exception request expired 8/25/15.
2. Completed: 11/2014.
3. Estimated gas reserves: 198 MMCF EUR.
4. Proximity to market: 6-7 miles to Hilands; 1.5-2 miles to Oneok system.
5. Flaring alternatives: Doing cost evaluation on gas recapture unit for pad.
6. Justification to flare: Insufficient compression capacity on Oneok's system in this area.

Hunter 21-26-2H – API #25-083-23274, 25N-58E-26

1. Flaring 117 MCF/D. Second exception request expired 10/6/16.
2. Completed: 11/2014.
3. Estimated gas reserves: 404 MMCF.
4. Proximity to market: 500 ft to pipeline.
5. Estimated gas price at market: ~\$2.41/MCF.
6. Flaring alternatives: None.

7. Amount of gas used in lease operations: 2 MCF/D.
8. Justification to flare: Insufficient compression capacity on Oneok's system in this area.

Hunter 21-26-4H -API #25-083-23276, 25N-58E-26

1. Flaring 160 MCF/D. Second exception request expired 10/6/16.
2. Completed: 12/2014.
3. Estimated gas reserves: 368 MMCF.
4. Proximity to market: 500 ft to pipeline.
5. Estimated gas price at market: -\$2.41/MCF.
6. Flaring alternatives: None.
7. Amount of gas used in lease operations: 2 MCF/D.
8. Justification to flare: Insufficient compression capacity on Oneok's system in this area.

Sundheim 21-27-2H -API # 25-083-23214, 25N-58E-27

1. Flaring 209 MCF/D. Second exception request expired 8/25/15.
2. Completed: 7/2014.
3. Connected to gathering system 7/18/2014.
4. Estimated gas reserves: 198 MMCF EUR.
5. Flaring alternatives: None.
6. Justification to flare: Current issues revolve around line pressure due to plant capacity and various re-routes of lines for compression.

Christiansen 34-12-2H -API #25-083-23223, 25N-58E-12

1. Flaring 75 MCF/D. Second exception request expired 10/6/16.
2. Completed: 8/2014.
3. Estimated gas reserves: 309 MMCF.
4. Proximity to market: 5280 ft to pipeline.
5. Estimated gas price at market: -\$2.41/MCF.
6. Flaring alternatives: None.
7. Amount of gas used in lease operations: 2 MCF/D.
8. Justification to flare: Insufficient compression capacity on Oneok's system in this area.

Christiansen 34-12-4H -API #25-083-23225, 25N-58E-12

1. Flaring 132 MCF/D. First exception request expired 6/3/15.
2. Completed: 8/2014.
3. Estimated gas reserves: 435 MMCF.
4. Proximity to market: 5280 ft to pipeline.
5. Estimated gas price at market: -\$2.41/MCF.
6. Flaring alternatives: None.
7. Amount of gas used in lease operations: 2 MCF/D.
8. Justification to flare: Insufficient compression capacity on Oneok's system in this area.

Sundheim 21-3-2H -API # 25-083-23211, 25N-58E-3

1. Flaring 108 MCF/0. Second exception request expired 6/3/15.
2. Completed: 6/2014.
3. Connected to gathering system 6/9/2014.

4. Flaring alternatives: None.
 5. Justification to flare: Current issues revolve around line pressure due to plant capacity and various re-routes of lines for compression.
-

RECEIVED

EXHIBIT 6

SEP 26 2016

**MONTANA BOARD OF OIL &
GAS CONSERVATION • BILLINGS**



09/27/2016

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: DA 15-0613

DA 15-0613

IN THE SUPREME COURT OF THE STATE OF MONTANA

2016 MT 240

CARBON COUNTY RESOURCE COUNCIL,
a Montana Non-profit public benefit corporation,
and NORTHERN PLAINS RESOURCE COUNCIL,
Montana Non-profit, public benefit corporation,

Plaintiffs and Appellants,

v.

MONTANA BOARD OF OIL AND GAS CONSERVATION,

Defendant and Appellee.

APPEAL FROM: District Court of the Thirteenth Judicial District,
In and For the County of Yellowstone, Cause No. DV 14-0027
Honorable Mary Jane Knisely, Presiding Judge

COUNSEL OF RECORD:

For Appellants:

Jack R. Tuholske, Tuholske Law Office, P.C., Missoula, Montana

Amanda R. Knuteson, Knuteson Law Office PLLC, Bozeman, Montana

For Appellee:

Robert Stutz, James M. Scheier, Assistant Attorneys General, Helena,
Montana

For Amicus Curiae Montana Petroleum Association:

Colby L. Branch, Jeffery J. Oven, Shalise C. Zobell, Crowley Fleck PLLP,
Billings, Montana

Submitted on Briefs: June 15, 2016

Decided: September 27, 2016

Filed:

A handwritten signature in cursive script, appearing to read "J. L. Smith".

Clerk

Justice Beth Baker delivered the Opinion of the Court.

¶1 Carbon County Resource Council and Northern Plains Resource Council (collectively Resource Councils) oppose hydraulic fracturing at the Hunt Creek 1-H well, an exploratory gas well in Carbon County, Montana. Resource Councils challenged the Montana Board of Oil and Gas Conservation’s (the Board) approval of well stimulation activities at the site, claiming that they were denied a meaningful opportunity to participate in the process. The Thirteenth Judicial District Court held that Resource Councils’ concerns were speculative and therefore not ripe for judgment. We disagree and hold that Resource Councils’ claims are ripe for judicial review. We conclude that the Board did not violate their right to participate in its consideration of the permit issued in this case. We thus find it unnecessary to decide whether the Board’s “48-hour notice” rule may be unconstitutional in other circumstances.

PROCEDURAL AND FACTUAL BACKGROUND

¶2 The Montana Constitution guarantees citizens a “reasonable opportunity” to participate in government operations. Mont. Const. art. II, § 8. In executing this constitutional mandate, agencies are obligated to “develop procedures for permitting and encouraging the public to participate in agency decisions that are of significant interest to the public.” Section 2-3-103, MCA. As a quasi-judicial state agency administratively attached to the Department of Natural Resources and Conservation, the Board is required to ensure public participation in its decision-making procedural processes. Sections 2-3-103, 2-4-201, 2-15-3303, MCA.

¶3 The Board’s procedural rules require oil and gas well operators to file an application for a permit to drill with the Board. Admin. R. M. 36.22.601(1). If the proposed well is outside of an existing oil and gas field delineated by the Board, the operator must publish notice of its intent to drill and file proof of publication with the Board. Admin. R. M. 36.22.601(1). The application for a permit to drill must be set for notice and public hearing if an interested person demands an opportunity to be heard pursuant to the procedures provided for under the relevant Administrative Rules. Admin. R. M. 36.22.601(4). Following a hearing, the Board may either grant or deny the permit. Admin. R. M. 36.22.601(5). If the Board grants the permit, it may impose “such conditions” as it finds “proper and necessary.” Admin. R. M. 36.22.601(5)(a).

¶4 Well completion activities such as “hydraulic fracturing, acidizing, or other chemical stimulation . . . are considered permitted activities under the drilling permit for that well only if the processes, anticipated volumes, and types of materials planned for use are expressly described in the permit application for that well.” Admin. R. M. 36.22.608(1).¹ Admin. R. M. 36.22.608(2) (the Rule) provides that for exploratory wells—like the well at issue here—the well operator must notify the Board of its “intent to stimulate or chemically treat a well . . . prior to commencing such activities.” The well operator must describe the “fracturing, acidizing, or other chemical treatment” in the

¹ “Hydraulic fracturing” or “fracturing,” also known as “fracking,” “fracing,” or “hydro-fracking,” is an oil and gas extraction technique. The Administrative Rules of Montana define “fracturing” as “the introduction of fluid that may or may not carry in suspension a propping agent under pressure into a formation containing oil or gas for the purpose of creating cracks in said formation to serve as channels for fluids to move to or from the well bore.” Admin. R. M. 36.22.302(28).

notice, and the operator must give the Board notice “at least 48 hours before commencement of well stimulation activities.” Admin. R. M. 36.22.608(2)(a). A well operator is required to disclose the amount and type of materials used in its well stimulation activities, Admin. R. M. 36.22.1015, and comply with safety and well control requirements if it engages in hydraulic fracturing, Admin. R. M. 36.22.1106.

¶5 In October 2013, Energy Corporation of America (Energy Corp.) announced that it planned to develop oil and gas leases in the Beartooth Mountains. Energy Corp. then filed an application with the Board for a permit to drill an exploratory oil and gas well in Carbon County known as the Hunt Creek 1-H well (Hunt Creek Well). Energy Corp.’s application did not describe any well completion activities pursuant to Admin. R. M. 36.22.608(1). Resource Councils, which are affiliated grassroots conservation and agriculture groups, objected to the permit. Despite procedural problems with Resource Councils’ objection, the Board held a hearing on Energy Corp.’s drilling permit application in February 2014. Nine local residents and an expert testified on behalf of Resource Councils. The residents presented their concerns with the permit application, the environmental assessment’s adequacy, and the potential environmental impacts of hydraulic fracturing at the Hunt Creek Well. The expert, an environmental geologist, testified and submitted a report highlighting the risks associated with the proposed drilling plan as well as risks associated with hydraulic fracturing at the site.

¶6 During the hearing, the Board noted that Energy Corp. proposed drilling an exploratory well to evaluate the site’s potential for development. The Board emphasized

that Energy Corp.'s application did not propose hydraulic fracturing and that there was no indication from the application that hydraulic fracturing was planned in the future. At the close of the hearing, the Board approved the permit with the condition that Energy Corp. comply with certain water standards should it propose hydraulic fracturing at the Hunt Creek Well in the future. The Board's order approving the permit reiterated that Energy Corp. did not propose hydraulic fracturing at the Hunt Creek Well.

¶7 On July 7, 2014, Energy Corp. submitted a sundry notice to the Board pursuant to the Rule. In its notice, Energy Corp. indicated that it intended to "stimulate" or "chemically treat" the Hunt Creek Well and "perform a diagnostic fracture injection test" (diagnostic test) on the well. The notice provided a detailed description of the planned work and stated that the well would be shut in once "25-30 barrels [had] been pumped into the formation." Pursuant to the Rule, the Board approved Energy Corp.'s notice and allowed it to perform the diagnostic test without engaging in any additional review or public process.

¶8 After the hearing, but prior to Energy Corp.'s submitting notice pursuant to the Rule, Resource Councils challenged the Board's permitting process for the Hunt Creek Well. Resource Councils claimed, in part, that the Board's application of the Rule violated their constitutional right to meaningfully participate in government decisions. On the parties' cross-motions for summary judgment, the District Court held that because

hydraulic fracturing had not occurred at the Hunt Creek Well, Resource Councils' constitutional challenge was not ripe for judgment.² Resource Councils appeal.

STANDARDS OF REVIEW

¶9 We review summary judgment rulings de novo. *Reichert v. State*, 2012 MT 111, ¶ 18, 365 Mont. 92, 278 P.3d 455. Issues of justiciability—such as standing, mootness, ripeness, and political question—are questions of law that we also review de novo. *Reichert*, ¶ 20. Our review of constitutional questions is plenary. *Williams v. Bd. of Cnty. Comm'rs*, 2013 MT 243, ¶ 23, 371 Mont. 356, 308 P.3d 88.

DISCUSSION

¶10 1. *Whether the District Court erred in concluding that Resource Councils' challenge was not ripe.*

¶11 Relying on *Reichert*, the District Court first concluded that Resource Councils' right to participate claim would be ripe only if Energy Corp. had expanded its drilling permit to include hydraulic fracturing without public input. The court found that Energy Corp.'s diagnostic test did not meet the definition of hydraulic fracturing under Admin. R. M. 36.22.302(28). Thus, the court concluded that Resource Councils' assertion that hydraulic fracturing had occurred at the Hunt Creek Well was "speculation unsupported by any specific facts." The District Court concluded therefore that Resource Councils' right to participate claim was unripe for judgment.

² Resource Councils also claimed that the Board acted arbitrarily and capriciously in approving the permit. The District Court granted the Board summary judgment on the issue. Resource Councils do not appeal that holding.

¶12 It is well-established that “the judicial power of Montana’s courts is limited to ‘justiciable controversies.’” *Reichert*, ¶ 53 (quoting *Plan Helena, Inc. v. Helena Reg’l Airport Auth. Bd.*, 2010 MT 26, ¶ 6, 355 Mont. 142, 226 P.3d 567). A justiciable controversy is, in general terms, “one that is definite and concrete . . . as distinguished from an opinion advising what the law would be upon a hypothetical state of facts, or upon an abstract proposition.” *Reichert*, ¶ 53 (citations and internal quotations omitted). Ripeness—which is a specific justiciability doctrine—“is concerned with whether the case presents an ‘actual, present’ controversy.” *Reichert*, ¶ 54 (quoting *Mont. Power Co. v. Mont. Pub. Serv. Comm’n*, 2001 MT 102, ¶ 32, 305 Mont. 260, 26 P.3d 91). As such, “cases are unripe when the parties point only to hypothetical, speculative, or illusory disputes as opposed to actual, concrete conflicts.” *Reichert*, ¶ 54 (citations omitted).

¶13 In their amended complaint, Resource Councils asserted that the Rule

allows a company to proceed with hydro-fracking upon providing the Board’s staff certain specified information 48 hours in advance of commencing hydro-fracking. The Board staff is under no obligation to take further action, inform the Board or the public of the fact that hydro-fracking will occur at the [Energy Corp.] well.

They asserted further that no additional “environmental review, public participation or Board deliberation is required under the terms of [the Rule].” Resource Councils argued that the Rule, as applied here, consequently violated their “fundamental right to meaningfully participate in government decisions.” Therefore, contrary to the District Court’s conclusion, Resource Councils’ right to participate claim does not hinge on whether Energy Corp. engaged in hydraulic fracturing at the Hunt Creek Well. Rather,

their claim centers on whether they had the opportunity to participate in the permitting process.

¶14 It is undisputed that Energy Corp. filed a sundry notice pursuant to the Rule's procedures, which the Board approved. Therefore, the controversy—whether Resource Councils had the opportunity to participate in the process—was not a “hypothetical, speculative, or illusory dispute[].” *Reichert*, ¶ 54. On the contrary, Resource Councils' claim that the Board violated their right to participate in applying the Rule raised “an actual, present controversy” because the Board applied the Rule. *Reichert*, ¶ 54 (citation and internal quotations omitted).

¶15 The District Court erred in concluding that Resource Councils' right to participate claim was unripe. We proceed to consider the claim and its merits.

¶16 2. *Whether the Board violated Resource Councils' right to participate.*

¶17 Resource Councils assert that the Board expanded the original well permit's scope when it approved Energy Corp.'s sundry notice pursuant to the Rule because the notice, not the original application for a permit to drill, “is where the operator discloses a desire to chemically stimulate a well and provides specific information about the proposed activities.” As such, Resource Councils assert that the “Board failed to provide adequate notice or meaningful opportunity for public participation in the decision making process” that led to the Board's approving chemical stimulation activities under the Rule. Resource Councils argue that the Board therefore violated their fundamental right to

participate under both the Public Participation in Governmental Operations Act, §§ 2-3-101 to 2-3-301, MCA, and Article II, Section 8, of the Montana Constitution.

¶18 Resource Councils acknowledge that the Board provided them an opportunity to participate during the February 2014 hearing on Energy Corp.'s application for a permit to drill the exploratory Hunt Creek Well. They contend, however, that that "hearing cannot suffice as a meaningful opportunity to participate in a decision to chemically stimulate the [Energy Corp.] well" because the Board made clear during the hearing that it was considering only an exploratory well, the permit's environmental assessment did not address hydraulic fracturing, and the Board's decision to approve the exploratory well "did not implicate the concerns of the public" regarding hydraulic fracturing. Moreover, Resource Councils allege, the Board "stated it lacked authority or jurisdiction to consider specific concerns regarding" hydraulic fracturing during the hearing. Finally, Resource Councils contend that hydraulic fracturing at the Hunt Creek Well is a matter of significant public interest and therefore the Board was required to adopt procedures to ensure adequate notice and public participation in the Rule's procedural process, which it failed to do.

¶19 The Board counters that its approval of well stimulation activities pursuant to the Rule was not an expansion of the original drilling permit's scope because well stimulation is allowed under a drilling permit. As such, the Board contends, its rules and procedures ensuring notice and public participation during the permitting process include the well stimulation activities allowed under a drilling permit. The Board contends that

the record demonstrates that Resource Councils always knew that well stimulation activities could occur under a drilling permit. The Board and Amicus Montana Petroleum Association also maintain that the diagnostic test did not constitute hydraulic fracturing because the test's purpose was to temporarily test the well's reservoir pressure and did not involve well stimulation.

¶20 The Board argues that Resource Councils had the opportunity to participate in—and did participate in—the Board's decision to approve the drilling permit, which included consideration of the potential for hydraulic fracturing at the Hunt Creek Well. As evidence that Resource Councils “meaningfully participated in the Board's decision,” the Board points to the considerable testimony Resource Councils' members and their expert provided during the hearing as well as the fact that the Board approved the permit with the condition that Energy Corp. comply with certain water standards should it engage in hydraulic fracturing. Because Resource Councils participated in the permit approval process—which the Board claims included consideration of well stimulation activities—the Board asserts that providing Resource Councils with an additional opportunity to participate was not required.

¶21 “The essential elements” required to meet Montana's constitutional and statutory guarantees of public participation are “notice and an opportunity to be heard.” *Bitterroot River Protective Ass'n v. Bitterroot Conservation Dist.*, 2008 MT 377, ¶ 21, 346 Mont. 507, 198 P.3d 219 (citing § 2-3-103(1)(a), MCA). Public participation procedures “must

include a method of affording interested persons reasonable opportunity to submit data, views, or arguments.” Section 2-3-111(1), MCA.

¶22 The record demonstrates that Resource Councils had notice not only of the application for a permit to drill, but also of the potential for well stimulation activities at the Hunt Creek Well pursuant to the Rule. Affidavits of Resource Councils’ members state explicitly that they received notice of Energy Corp.’s application for a permit to drill. Based on this notice, Resource Councils sent the Board a letter on October 23, 2013, requesting a hearing to discuss their concerns with the proposed permit. The testimony of Resource Councils’ members at the hearing focused on the potential negative impacts of hydraulic fracturing at the site. Furthermore, Resource Councils’ expert submitted a report that focused, in part, on the risks associated with hydraulic fracturing “[g]iven the likelihood that hydraulic fracturing will take place at the proposed well.”

¶23 The record demonstrates further that Resource Councils were given an opportunity to be heard on their concerns about well stimulation activities under the Rule. Although the Board could have declined to hold a hearing due to Resource Councils’ procedural problems in objecting to the permit, Admin R. M. 36.22.601(4), the Board held a full hearing on the permit application due, in part, to the “extensive media coverage and public comments received during the public comment period.” Resource Councils’ members and their expert testified for nearly an hour and a half during the hearing. Their testimony focused on the potential negative environmental impacts associated with

hydraulic fracturing at the Hunt Creek Well. The recorded hearing testimony demonstrates that the Board clearly afforded Resource Councils an opportunity “to submit data, views, or arguments” related to well stimulation at the site. Section 2-3-111(1), MCA. Moreover, the Board made clear during the hearing that it retained “the full authority to grant, deny, or grant conditionally the application for a drilling permit.” That the Board approved the permit with the condition that Energy Corp. comply with certain water standards should it propose hydraulic fracturing at the Hunt Creek Well in the future demonstrates that Resource Councils were heard on the issue.

¶24 The District Court additionally observed “that the record clearly reflects that the Board has continually guaranteed to [Resource Councils] that [they] will be given the opportunity to weigh in on any [hydraulic fracturing] ventures that might someday be brought forth.” During the hearing, the Board’s administrator noted that “wastewater and hydraulic fracturing are regulated under the rules [the Board] adopted a couple of years ago. If hydraulic fracturing isn’t approved with the drilling permit then there’s another process that has to be followed to approve it.” The administrator emphasized that “hydraulic fracturing has not been proposed in the permit. The environmental assessment assesses what was proposed, which was a potential horizontal well, but does not propose hydraulic fracturing.” In its briefing on appeal, the Board emphatically asserts that hydraulic fracturing has not occurred at the Hunt Creek Well. It does not take issue with the District Court’s statement that the Board guaranteed that Resource Councils will be

given the opportunity to participate should hydraulic fracturing be proposed at the Hunt Creek Well in the future.

¶25 It is unclear from the record, the Board's briefing, and our review of the pertinent Administrative Rules what process the Board anticipates should Energy Corp. propose hydraulic fracturing at the Hunt Creek Well. The Board's representations, however, demonstrate that it will further consider the matter should Energy Corp. make that proposal, and that it will afford additional process at that time. On this record, we conclude that Resource Councils had notice and an opportunity to participate in the Board's consideration of the permit and to present evidence about their concerns for well stimulation activities at the site. Accordingly—under the facts presented here—the Board did not violate Resource Councils' right to participate.

CONCLUSION

¶26 We reverse the District Court's holding that Resource Councils' right to participate challenge was unripe; however, we conclude that the Board did not violate Resource Councils' right to participate in applying the Rule to the permit it issued for the Hunt Creek Well.

/S/ BETH BAKER

We concur:

/S/ MIKE McGRATH

/S/ MICHAEL E WHEAT

/S/ JAMES JEREMIAH SHEA

/S/ JIM RICE

Chief Justice Mike McGrath, concurring.

¶27 Because of the unique procedural nature of this case, CCRC is left without a resolution on the merits of its constitutional and statutory challenge to the sundry notice and forty-eight-hour provisions of Admin. R. M. 36.22.608.

¶28 The District Court determined that the challenge was not ripe because hydraulic fracturing had not occurred. The majority Opinion, which I have signed, reverses the District Court on ripeness. We conclude that the February 2014 hearing was sufficient to satisfy the right to participate challenges brought regarding the Board's grant of the initial permit to drill, but specifically determine it is unnecessary to decide whether the Board's forty-eight-hour notice rule may be unconstitutional in other circumstances.

¶29 The District Court specifically noted:

[T]his Court anticipates a claim regarding the constitutionality of Administrative Rules of Montana § 36.22.608(2) may become ripe for adjudication in the future if it is used to expand an APD to include fracking. The Court notes that 48 hours is a short notification period in this developing industry and recognizes that other states have expanded this time frame.

The District Court's anticipation was strongly anchored in the record. Both the administrator and the Board made it clear they were considering a vertical wildcat well and that fracking was not proposed. As the majority notes, the Board does not challenge the District Court's assumption and has continually guaranteed that the plaintiffs will have the opportunity to participate should any "[hydraulic] fracking ventures . . . someday be brought forth."

¶30 The Board asserts in its brief to this Court that hydraulic fracturing has not occurred at, or been proposed for, this well. It is with this understanding that I have signed the majority Opinion. If hydraulic fracturing is proposed for this well, the Board will implement procedure to ensure that the public's right to a meaningful opportunity to participate is protected.

¶31 I concur.

/S/ MIKE McGRATH

Justices James Jeremiah Shea and Michael E Wheat join the concurring Opinion of Chief Justice Mike McGrath.

/S/ MICHAEL E WHEAT
/S/ JAMES JEREMIAH SHEA

PLUGGING PROJECTS & FIELD INSPECTOR SUMMARY

October 26, 2016

Orphaned Well Kopp #1:

Operations on the Kopp #1 began July 27th with the mobilization of equipment to the wellsite. The re-entry and re-plugging went as planned and concluded August 30th. The project took 19 days to complete from start to finish. The project was completed \$13,992.00 under the contracted amount of \$263,928.00.

Orphaned Well Flack #1:

Contract is in place with an ending date of December 31, 2016. Weather has delayed the start of the project as a large amount of precipitation has been received in the area. Work will commence as soon conditions allow.

Big Wall Tank Battery:

The site was fertilized and seeded the last week of September 2016. Application was completed just prior to a large amount precipitation. The results are very promising. This project is now complete, no further work is anticipated.

Orphaned Wells Kendrick #3, State E-2, Sprinkle #1

The wells in this project were combined into a 3 well package. A bid of \$177,504.00 was accepted. A contract has been drawn up and is currently out for approval and signatures. It is our hope to have this project completed by the end of the year.