

STATE OF MONTANA  
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION  
MINUTES OF THE  
BOARD OF OIL AND GAS CONSERVATION MEETING AND PUBLIC HEARING  
April 5 & 6, 2017

**CALL TO ORDER**

The regular business meeting of the Montana Board of Oil and Gas Conservation was called to order by Chairman Ron Efta at 2:00 p.m., Wednesday, April 5, 2017, at its office at 2535 St. Johns Avenue in Billings, Montana. Board members present were Chairman Ron Efta, Steven Durrett, Paul Gatzemeier, Mac McDermott, Peggy Ames-Nerud, Dennis Trudell, and Corey Welter. Staff present was Brea Frickle, Jim Halvorson, George Hudak, Ben Jones, Jennifer Rath, Erin Ricci, and Rob Stutz.

**VICE CHAIRMAN APPOINTMENT**

Mr. Efta welcomed two new appointees to the Board, Mac McDermott and Dennis Trudell.

Traditionally, either the chairman or vice chairman of the Board is an industry member. Since Chairman Efta is not an industry member, he requested an industry member be appointed vice chairman. Board members eligible for the position were Steve Durrett, Mac McDermott, and Corey Welter.

**Motion:** Mr. Welter made the motion to nominate Mr. Durrett as Vice Chairman. Ms. Ames-Nerud seconded and the motion passed unanimously.

**APPROVAL OF MINUTES**

A motion was made by Mr. Gatzemeier, seconded by Mr. Welter and unanimously passed, to approve the minutes of the February 1, 2017, business meeting.

**PUBLIC COMMENT ON AGENDA AND NON-AGENDA ITEMS**

No members of the public made any comment.

**HYDRAULIC FRACTURING STATUS REPORT**

At the last business meeting, the Board decided to wait for the Legislature's February 23, 2017, bill draft deadline to see if any hydraulic fracturing bills are introduced. SB 299 was introduced.

At the same business meeting, Chairman Nelson requested the informational working group made up of Board members, Mr. Gatzemeier and Mr. Welter, and Board staff, Mr. Halvorson and Mr. Stutz, review the Board's rulemaking options prior to the April business meeting and present their recommendations at the April meeting. The group met on March 9, 2017, at 10:00 a.m. and came up with a recommendation for the Board to wait until after the Legislative session to take any action so that the Legislative impact will be known.

The Board agreed to take no action until after the session and plans to consider the matter at the June business meeting.

### **FINANCIAL REPORT**

Ms. Rath discussed the financial statement, attached as Exhibit 1.

Mr. Halvorson distributed a privilege and license tax update, attached as Exhibit 2. Due to reduced expenditures during the current biennium, the balance in the earmarked revenue account is expected to remain positive during the upcoming FY18-19 biennium under the current Legislative revenue forecast.

Mr. Halvorson noted a proposed \$1.9 million in Legislative expenditures/transfers from the Board's operations account is likely during the next biennium (FY18-19). Last biennium, \$3.3 million in transfers occurred.

### **PLUGGING AND RECLAMATION PROGRAM UPDATE**

Mr. Halvorson reviewed Mr. Popp's plugging project summary, attached as Exhibit 3.

### **BOND SUMMARY & INCIDENT REPORT**

Mr. Halvorson presented the bond report and the incident report, attached as Exhibits 4 and 5.

### **DOCKET SUMMARY**

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

### **GAS FLARING EXCEPTIONS**

Mr. Jones did not have any flaring exception requests at this time. Mr. Jones noted that during the peak in June 2015, there were 40 wells flaring over the 100 MCFG per day limit and now with the decrease in activity it is down to 11 wells flaring over the limit.

### **BLACK GOLD ENERGY RESOURCE DEVELOPMENT, LLC**

Mr. Hudak provided the Board with an update on Black Gold Energy Resource Development, LLC's (Black Gold) spill cleanup at the Indian Mound 1 SWD well located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 15, T23N, R55E, Richland County, Montana.

Black Gold was brought to the Board's attention at the August 10, 2016, business meeting, for an unreported significant spill that took place on or before June 26, 2016. Black Gold failed to file a spill report and failed to make any cleanup progress on the spill. In violation of ARM 36.22.1103, which requires an operator to give immediate notice by telephone to staff and file a written report within five working days of the spill, Black Gold was then docketed for the October 27, 2016, hearing to show cause why additional penalties should not be assessed for failure to clean up the spill. At that hearing, Chris

Blount appeared and stated compliance would be achieved prior to the deadline of December 1, 2016, after which a \$250 fine per day was to be instated until compliance was achieved for the well.

Black Gold did not achieve compliance prior to the deadline and the daily fine was instated. As of today, the total fine amounts to \$31,000.

Mr. Hudak requested the Board show cause Black Gold for the June hearing.

**Motion:** Mr. Gatzemeier made the motion to approve the recommendation made by staff. Mr. Welter seconded and the motion passed unanimously.

Mr. Gatzemeier requested Board staff to send a letter to Black Gold and let Black Gold know that the fine will be around \$50,000 in June.

## **STAFF REPORTS**

### **Jim Halvorson**

Mr. Halvorson reviewed the three bills below that are in the Legislature and would affect the Board if passed, attached as Exhibit 7.

- 1) SB299 – a bill that would provide public disclosure of fracturing fluids and statutory protection of trade secrets.
- 2) SB93 – a drilling notification bill that specifies notification to owners of occupied dwellings within 990’ of a wellbore surface location.
- 3) HB648 – removes \$315,000 from the Damage Mitigation Account to fund the ground water assessment account, department of fish, wildlife, and parks, and a hazardous waste/CERLA special revenue account.

### **Rob Stutz**

Mr. Stutz gave a litigation update. In the Malsam case, Malsam is going to voluntarily dismiss its claim against the Board regarding J. Burns Brown Operating’s \$400 fine.

MEIC / Earthjustice lawsuit against the Board, regarding the Board’s decision to deny its petition on hydraulic fracturing, has a filing deadline on July 26, 2017, which is after the legislative session and six weeks after the June business meeting.

The Ostby case is dormant, due to inactivity, and will be closed, but could be reopened, if necessary.

## **OTHER BUSINESS**

No other business was discussed.

## **PUBLIC HEARING**

The Board reconvened on Thursday, April 6, 2017, 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 9-2017 – The application of Behm Energy, Inc. was withdrawn.

Docket 10-2017 – The application of Montana Land & Exploration, Inc. was withdrawn.

Docket 11-2017 – A motion was made by Mr. Gatzemeier, seconded by Mr. Durrett and unanimously passed, to approve the application of Montana Land & Exploration, Inc. as set forth in Board Order 9-2017.

Docket 12-2017 – A motion was made by Mr. Durrett, seconded by Mr. Gatzemeier and unanimously passed, to approve the application of Montana Land & Exploration, Inc. as set forth in Board Order 10-2017.

Docket 13-2017 – A motion was made by Mr. Welter, seconded by Mr. Gatzemeier and unanimously passed, to approve the application of Montana Land & Exploration, Inc. as set forth in Board Order 11-2017.

Docket 14-2017 – A motion was made by Mr. Welter, seconded by Mr. Durrett and unanimously passed, to approve the application of Montana Land & Exploration, Inc. as set forth in Board Order 12-2017.

Docket 15-2017 – A motion was made by Mr. Gatzemeier, seconded by Mr. Welter and unanimously passed, to have Montana Oil Field Acquisition I, LLC appear at the June 15, 2017, public hearing to show cause why its plugging and reclamation bond should not be forfeited for failure to plug its wells or to provide a plan for plugging its wells. This is set forth in Board Order 13-2017.

Docket 16-2017 – A motion was made by Mr. Welter, seconded by Ms. Ames-Nerud and unanimously passed, to have Mountain Pacific General Inc. appear at the June 15, 2017, public hearing to show cause why its plugging and reclamation bond should not be forfeited for failure to plug its wells or to provide a plan for plugging its wells. This is set forth in Board Order 14-2017.

Docket 17-2017 – A motion was made by Mr. Gatzemeier, seconded by Ms. Ames-Nerud and unanimously passed, to vacate Board Order 6-2017 that was issued to Kykuit Resources, LLC. This is set forth in Board Order 15-2017.

Docket 18-2017 – The show-cause hearing of Antelope Resources, Inc. was dismissed.

Docket 97-2015 – A motion was made by Mr. McDermott, seconded by Mr. Durrett and passed, to forfeit Augusta Exploration, LLC plugging and reclamation bond. Board staff has the authority to proceed with the plugging of the Krone-Augusta 31-32 well located in the NW<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub> of Section 32, T18N-R5W, Lewis and Clark County, Montana. This is set forth in Board Order 16-2017.

Docket 48-2016 – A motion was made by Mr. Durrett, seconded by Mr. Welter and unanimously passed, to dismiss Docket 48-2016, Shadwell Resources Group, LLC. This is set forth in Board Order 17-2017.

Docket 49-2016 – A motion was made by Mr. Trudell, seconded by Mr. Gatzemeier and unanimously passed, to continue Docket 49-2016, Storm Cat Energy (USA) Operating Corporation, until the June 15, 2017, public hearing. This is set forth in Board Order 18-2017.

#### NEXT MEETINGS

The next business meeting of the Board will be Wednesday, June 14, 2017, 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 15, 2017, 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 15, 2017, public hearing is May 11, 2017.

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

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Ronald S. Efta, Chairman  
Steven Durrett, Vice-Chairman  
Paul Gatzemeier, Board Member  
Mac McDermott, Board Member  
Peggy Ames-Nerud, Board Member  
Dennis Trudell, Board Member  
Corey Welter, Board Member

ATTEST:

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Jennifer Rath, Program Specialist