

STATE OF MONTANA
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
MINUTES OF THE
BOARD OF OIL AND GAS CONSERVATION MEETING AND PUBLIC HEARING
June 14 & 15, 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, June 14, 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 Jennifer Breton, Jim Halvorson, John Gizicki, George Hudak, Ben Jones, and Rob Stutz.

APPROVAL OF MINUTES

A motion was made by Mr. Gatzemeier, seconded by Mr. Welter and unanimously passed, to approve the minutes of the April 5, 2017, business meeting.

PUBLIC COMMENT ON AGENDA AND NON-AGENDA ITEMS

No members of the public made any comment.

PROPOSED RULEMAKING

Mr. Halvorson reviewed the hydraulic fracturing bill, SB 299, that was passed by the legislature, attached as Exhibit 1. This bill provides public disclosure of fracturing fluids and statutory protection of trade secrets. With the passing of the bill, rulemaking is required by the Board to comply with the new statute. The chemical disclosure is like Wyoming's disclosure.

All of the Board's forms are adopted by rule and require rulemaking to make any changes. Since there will be a new form for the hydraulic rule, Mr. Halvorson recommended reviewing all forms. There are a few forms that should be updated so the information is up to date and comply with upcoming requirements (i.e. sage grouse requirements on permits and sundry notices). Mr. Halvorson recommended repealing Form 13 – Authorization to Transport; the form is no longer necessary, especially when an operator often uses multiple transporters or purchases.

Mr. Stutz reminded the Board that at the last business meeting, the Board decided to take no action on rulemaking until after the Legislative session so that the Legislative impact would be known. The Legislative impact is now known, the result being that the Board is required to take action. Mr. Stutz reached an agreement with Montana Environmental Information Center (MEIC) that the answer to the hydraulic fracturing lawsuit is not due until, July 26, 2017.

Mr. Stutz commented that the Board could hold a listening session with the public prior to initiating the rulemaking process or wait until the formal rulemaking process. The Board can also pursue rulemaking

that would be broader to address other issues that may come up.

Mr. Halvorson noted there is value in receiving public comments in a formal manner.

Mr. Durrett questioned whether MEIC's lawsuit was moot, since the Board declined to initiate the rulemaking process in February 2017, but now will pursue rulemaking.

Mr. Stutz stated the MEIC petition also included items other than trade secrets that were not addressed in SB299. If the Board considered a broader rulemaking scope and included other changes that were not included in SB299, but included in the petition, it could be possible the lawsuit would be dropped. Regardless of the lawsuit, now is a convenient time to look at all the Board's rules.

Mr. Halvorson clarified that it is not staff's intent to open all rules to rulemaking, only the rules that will be affected by the enactment of SB299. There are five rules specific to hydraulic fracturing, but only three rules that are affected by SB299.

Mr. Trudell stated it is important on how the rulemaking notice is worded, and the scope should be limited to hydraulic fracturing only.

Mr. Efta responded that the Board will take its time with the rule.

Mr. Halvorson recommended the motion should include the following:

- 1) If the Board wants to proceed with rulemaking.
- 2) If the scope should be limited or broad.

Mr. Stutz agreed the possible motion could be to initiate rulemaking as require by SB299 and to address the three separate rules or to keep the rulemaking as a broader scope.

Ms. Ames-Nerud suggested a narrower scope and later, if needed, revise to a broader scope.

Mr. Welter remarked that public comment should be during the formal rulemaking process and that with either a narrow or broad scope, there will still be a lawsuit.

Motion: Mr. Gatzemeier made the motion for the Montana Board of Oil and Gas Conservation to enter rulemaking regarding hydraulic fracturing which would include, but not necessarily be limited to, the rules enumerated in SB 299 and department forms as recommended by staff. Ms. Ames-Nerud seconded and the motion passed unanimously.

Prior to the Board's vote on the motion, there was an opportunity for public comment on the motion. No members of the public made any comment.

Board staff will proceed with creating the form that will be used for chemical disclosure and review forms that require updating.

Mr. Halvorson provided an update on the notice requirement bill, SB93 that was a drilling notification bill

that specifies notification to owners of occupied dwellings within 990' of a wellbore surface location. The bill was vetoed by the Governor, so the Board's notice rule that was adopted at the December 14, 2016, business meeting is in effect.

FINANCIAL REPORT

Mrs. Breton discussed the financial statement, attached as Exhibit 2.

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 discussed the gas flaring report, attached as Exhibit 7. There are eight wells flaring in excess of 100 mcf/day and eighteen flaring exception requests at this time. The exception requests are for Whiting Oil and Gas Corporation due to insufficient pipeline/plant compression. Mr. Jones recommended a six-month flaring exception for these eighteen wells.

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

STAFF REPORTS

John Gizicki

Mr. Gizicki brought to the Board's attention Pride Energy Company (Pride). Pride is the bonded operator of the Mable Wilson 1 well located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 33, T27N, R59E Roosevelt County, Montana. On August 21, 2015, the well was plugged, but no restoration work has taken place. Pride is in violation of ARM 36.22.1307, which requires "The owner of any well drilled in search of oil and gas or for injection purposes or the driller of a stratigraphic test or core hole, or seismographic shot hole shall, as soon as weather or ground conditions permit, upon the final abandonment and completion of the plugging of any well or after a seismographic shot hole has been utilized, restore the surface of the location to its previous grade and productive capability..."

On September 26, 2016, Pride submitted a sundry notice stating reclamation would be completed by October 16, 2016. No work was completed by that date. Every few months Pride requested additional time

to complete restoration work, due to a sale of tanks on location that needed to take place. Mr. Gizicki recommended that Pride must complete substantial reclamation work on the Mable Wilson 1 well prior to the deadline of September 14, 2017, and that Pride is subject to a \$250 fine for each day after September 14, 2017, that the violation remains unresolved. The daily penalty will remain in effect and continue to accrue until compliance is confirmed by inspection.

Motion: Mr. Trudell made the motion to approve the recommendation. Ms. Ames-Nerud seconded and the motion passed unanimously.

Rob Stutz

Mr. Stutz attended the IOGCC meeting as Montana's Board of Oil and Gas Conservation representative.

Mr. Stutz gave a litigation update. In the Malsam case, the Board is no longer involved as a party in the lawsuit, but a Board employee is required to testify as a witness.

In the MEIC / Earthjustice lawsuit against the Board, the Board has a response deadline on July 26, 2017.

Jim Halvorson

Public notices are available online at <http://www.montanapublicnotices.com/mna/legals/>, also attached as Exhibit 8. This website is a good reference and provides searchable legal notices.

The Legislature imposed a bill where the goal is to maintain a reserve operating balance in the general fund and budget reductions if the actual revenue is below forecast. The first possible budget cut will take place on July 1, 2017.

In October, Sage Grouse will have a policy in place regarding off-site.

OTHER BUSINESS

Mr. Trudell brought up a landowner's complaint. An oil company had an unmarked pipeline and a waterline company wanted to cross the unmarked pipeline. Is there a rule where oil companies are required to mark its pipeline?

Mr. Halvorson said the Board has no authority in this matter.

Mr. Alan Olson, Executive Director of Montana Petroleum Association, recommended the landowner reach out to 811 to get pointed in the right direction.

PUBLIC HEARING

The Board reconvened on Thursday, June 15, 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 19-2017 – The application of Enerplus Resources USA Corporation was continued to the August 2017 hearing.

Docket 20-2017 – A motion was made by Mr. Welter, seconded by Mr. Trudell and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 19-2017.

Docket 21-2017 – A motion was made by Mr. Durrett, seconded by Mr. Trudell and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 20-2017.

Docket 22-2017 – A motion was made by Mr. Durrett, seconded by Mr. Trudell and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 21-2017.

Docket 23-2017 – A motion was made by Mr. Durrett, seconded by Mr. Trudell and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 22-2017.

Docket 24-2017 – A motion was made by Mr. Durrett, seconded by Mr. Trudell and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 23-2017.

Docket 25-2017 – A motion was made by Mr. Durrett, seconded by Mr. Trudell and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 24-2017.

Docket 26-2017 – A motion was made by Mr. Durrett, seconded by Mr. Trudell and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 25-2017.

Docket 27-2017 – A motion was made by Mr. Durrett, seconded by Mr. Trudell and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 26-2017.

Docket 28-2017 – A motion was made by Mr. Durrett, seconded by Mr. Trudell and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 27-2017.

Docket 29-2017 – A motion was made by Mr. Durrett, seconded by Mr. Trudell and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 28-2017.

Docket 58-2016 – Board staff placed this application on the Default Docket for approval without hearing if no protests or requests for hearing were received by 8:30 a.m. on the day of the hearing. None were received. The application of Azure Sky, LLC was approved as set forth in Board Order 29-2017.

Docket 30-2017 – A motion was made by Mr. Durrett, seconded by Mr. Welter and unanimously passed to forfeit Montana Oil Field Acquisition I, LLC plugging and reclamation bond. This is set forth in Board Order 30-2017.

Docket 31-2017 – A motion was made by Mr. Gatzemeier, seconded by Mr. Trudell and unanimously passed to forfeit Mountain Pacific General Inc. plugging and reclamation bond. This is set forth in Board Order 31-2017.

Docket 32-2017 – A motion was made by Mr. Durrett, seconded by Mr. Welter and unanimously passed to suspend Black Gold Energy Resource Development, LLC's injection permit for the Indian Mound 1 well until further order of the Board and that no additional waste or materials be transported to or stored at the wellsite. Black Gold Energy Resource Development, LLC must submit a written plan of its action to remedy the violation within 15 days of the June 15, 2017, order and must remedy the violations on or before August 10, 2017, public hearing. The \$250 fine for each day after December 1, 2016, that the violations remain unresolved will remain in effect until compliance is confirmed by inspection. This is set forth in Board Order 32-2017.

Docket 338-2014 – A motion was made by Mr. Durrett, seconded by Mr. Gatzemeier and unanimously passed, to continue Docket 338-2014, K2 America Corporation, until the August 10, 2017, public hearing. K2 America Corporation must submit a satisfactory plan of its intent to plug and abandon or transfer its wells and must submit the minutes from its Board of Director's meeting that discussed its plan for its wells prior to the August 10, 2017, public hearing. This matter will be reviewed at the August 10, 2017, public hearing. This is set forth in Board Order 33-2017.

Docket 49-2016 – A motion was made by Mr. Durrett, seconded by Mr. Gatzemeier and unanimously passed, to continue Docket 49-2016, Storm Cat Energy (USA) Operating Corporation, until the August 10, 2017, public hearing. This is set forth in Board Order 34-2017.

NEXT MEETINGS

The next business meeting of the Board will be Wednesday, August 9, 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, August 10, 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 August 10, public hearing is July 6, 2017.

BOARD OF OIL AND GAS CONSERVATION OF THE STATE OF MONTANA

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:

Jennifer Breton, Program Specialist