

STATE OF MONTANA
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
MINUTES OF THE
BOARD OF OIL AND GAS CONSERVATION MEETING AND PUBLIC HEARING
February 14 & 15, 2018

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, February 14, 2018, 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, John Gizicki, Jim Halvorson, George Hudak, Ben Jones, Dave Popp, and Rob Stutz.

APPROVAL OF MINUTES

Mr. Trudell amended the December 13, 2017, business meeting minutes. There was an extra word, Welter, that needed to be removed on page 3, under Docket 64-2017.

A motion was made by Mr. Gatzemeier, seconded by Mr. Trudell and unanimously passed, to approve the minutes as revised by Mr. Trudell.

PUBLIC COMMENT ON AGENDA AND NON-AGENDA ITEMS

Katherine O'Brien, attorney for Earthjustice, reviewed a letter she submitted to the Board on February 9, 2018. In that letter, Ms. O'Brien had four recommendations for the hydraulic fracturing subcommittee. Below are the recommendations:

1. Amend ARM to require pre-fracturing disclosure of chemicals and chemical abstract service numbers.
2. Establish a minimum of 45 days pre-fracturing notice that is available online to the public.
3. Develop a form accompanied by guidelines for operators to use for trade secrets requests.
4. Set up a separate page on website for pre and post fracturing chemical disclosures.

Additionally, Ms. O'Brien requested that the Board provide as much notice as possible for the timing of the rulemaking process.

Mr. Halvorson noted that the Board established forms for trade secret requests after the passing of SB 299. As of date, no trade secret requests have been made. Also, there is a separate page on the website for chemical disclosures.

Ms. Susann Beug, member of Northern Plains Resource Council (NPRC) and Carbon County Resource Council, requested the hydraulic fracturing guidelines be revised. Days prior to the business meeting, NPRC submitted written comments to the Board regarding its meeting with Montana Petroleum Association.

Ms. Beug requested the Board proceed with rulemaking and for rulemaking to be completed before the start of the Legislative session.

RULEMAKING UPDATE

Mr. Gatzemeier provided the Board an update on the hydraulic fracturing subcommittee that met on February 6, 2018.

The subcommittee members, Mr. Gatzemeier, Mr. Trudell, and Mr. Welter, were each provided a stack of information on written comments, summaries of oral comments from the Billings and Sidney listening sessions and existing hydraulic fracturing rules, and comments received at the time of SB 299 adoption.

The subcommittee discussed its purpose, the rulemaking process, general review of old and new comments, current permitting procedures, existing regulatory framework, and identified specific changes required by SB 299.

The committee intends to take a deeper look at public comments and requested that the staff prepare a summary of other regulations associated with hydraulic fracturing and water for the next meeting, which will be scheduled once the requested materials are available.

FINANCIAL REPORT

Mrs. Breton discussed the financial statement, attached as Exhibit 1.

Mr. Halvorson stated the Board is still operating with reduced expenditures. Due to current oil prices, it is likely that a significant balance will exist in the special revenue account at the start of the Legislative session. If lower prices were to occur between now and the session, the impact on privilege and license tax receipts may not be evident due to the two quarter delay in revenue distributions.

PLUGGING AND RECLAMATION PROGRAM UPDATE

There are no new plugging and reclamation contracts. There are three outstanding contracts. Staff does not plan on plugging the wells during the winter due to the higher plugging costs.

BOND SUMMARY & INCIDENT REPORT

Mr. Halvorson presented the bond report and the incident report, attached as Exhibit 2 & 3.

DOCKET SUMMARY

Mr. Halvorson presented the docket summary, attached as Exhibit 4.

GAS FLARING EXCEPTIONS

Mr. Jones stated there are three wells flaring in excess of 100 MCFG/day with an approved year flaring exception request. There are no new exceptions at this time

Mr. Efta wondered about Oneok's gas pipeline that is planned to be built by Wibaux.

Mr. Halvorson thought the pipeline would only be for natural gas liquid and not natural gas.

HIGHLANDS MONTANA CORPORATION

In December, Board staff requested well recompletion data from Highlands Montana Corporation. Board staff received the required information prior to this meeting and no further action is needed.

STAFF REPORTS

Ben Jones

Interstate Exploration, LLC (Interstate) is the bonded operator of the Nelson 10-1 well located in the NW¼SE¼ of Section 6, T14N, R60E Wibaux County and the Nelson 2-1 well located in the NW¼NE¼ of Section 30, T14N, R60E Wibaux County, Montana. The Nelson 10-1 well was drilled on June 30, 2015 and the Nelson 2-1 well was drilled on November 12, 2014.

In September 2017, Board staff requested well completion data, required by ARM 36.22.1013. ARM 36.22.1013 requires an operator of a well to file completion reports, well logs, analyses, reports and surveys. Interstate responded to the letter by submitting the well completion data except for the geological reports. Board staff reached out to Interstate regarding the missing geological reports and Interstate stated that the geological reports could not be found.

Communication with Interstate by Board staff on December 6, 2017, and January 18, 2018, informed Interstate that it must write a letter to the Board explaining why it is unable to fully meet the requirements of ARM 36.22.1013, as only the Board can relieve an operator of the filing requirements. In the January email to Interstate, Board staff requested Interstate's letter be received by February 13, 2018, so it could be presented to the Board at the February 14, 2018, business meeting. No response was received.

Mr. Jones recommended a fine for failure to submit the required completion data and respond to board staff requests.

Motion: Mr. Welter made the motion to assessed Interstate a \$500 fine for failure to comply with Board's rules. Mr. Gatzemeier seconded and the motion passed unanimously.

Interstate must submit the fine and geological reports or a request for an exception to ARM 36.22.1013 prior to March 15, 2018, or Intestate will be docketed for the April 19, 2018, public hearing.

Rob Stutz

Mr. Stutz gave a litigation update. In the MEIC / Earthjustice lawsuit against the Board, the Board continues to provide status reports to the court.

Jim Halvorson

Mr. Halvorson reviewed the Butte Keg Coulee Tyler “C” Sand Unit, attached as Exhibit 5. The unit was created under Board Order 18-1969 and Kelly Oil and Gas was the most recent operator. All of the oil wells in the unit are orphaned and all of the injection wells are plugged and abandoned. The Bureau of Indian Affairs terminated the unit in a letter dated September 27, 2017.

Mr. Halvorson recommended staff to docket this request under the Board’s own motion to vacate Board Order 18-1969 at the April 19, 2018, public hearing.

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

Mr. Halvorson discussed White Rock Oil & Gas LLC (White Rock). White Rock has pending change of operator requests from Vanguard Operating LLC and from Oasis Petroleum North America LLC. If the requests are approved, White Rock’s current \$50,000 multiple well bond would cover 170 wells, including 108 producing and 62 shut-in wells.

Due to the high number of shut-in wells with the potential for significant future plugging liability, this issue was brought to the Board for discussion.

After a lengthy discussion, a motion was made.

Motion: Mr. McDermott made the motion for White Rock to appear at the April 19, 2018, public hearing for White Rock to introduce the company to the Board, address its plans for the shut-in wells and the Board’s concern about the high number of shut-in wells, and why its current \$50,000 multiple well bond is sufficient bond coverage. Mr. Durrett seconded the motion. It was then amended by Mr. Welter to require White Rock to bring exhibits to the Board to include a list of which wells are producing, not producing, location of wells, formations, etc. Further discussion took place and the motion and amendment were not voted on.

Mr. Stutz made the recommendation for Mr. McDermott’s motion to be withdrawn and for White Rock to be docketed at the April hearing under ARM 36.22.1308(3) and required White Rock to appear at the April 19, 2018, public hearing. At that time the Board will determine if White Rock’s current \$50,000 multiple well plugging and reclamation bond is adequate, if the bond amount should be doubled, or if the number of wells covered by the multiple well bond should be limited. This determination will be made prior to the approval of the change of operator requests.

Mr. Halvorson supported Mr. Stutz’s recommendation.

Mr. McDermott and Mr. Durrett withdrew their motion and the amendment to the motion.

Motion: Mr. McDermott made the motion to approve staff recommendation. Mr. Durrett seconded and the motion passed. Mr. Welter opposed the motion.

Board staff will mail a letter to White Rock addressing information it should provide to the Board. The information should include White Rock's principals and business structure, relevant industry experience, and financial information to demonstrate that sufficient bond coverage will exist to assure performance of the duty to plug each dry or abandoned well as required under § 82-11-123(5), MCA.

An overview of the transfer requests and Board's options regarding ARM 36.22.1308(3) are attached as Exhibit 6.

The Board plans to have a future discussion on the plugging and reclamation bonding requirements.

OTHER BUSINESS

No other business discussed.

PUBLIC HEARING

The Board reconvened on Thursday, February 15, 2018, at **9:00 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 1-2018 – A motion was made by Mr. Welter, seconded by Mr. Gatzemeier and unanimously passed, to approve the application of Denbury Onshore, LLC as set forth in Board Order 1-2018.

Docket 2-2018 – The application of Slawson Exploration Company Inc was continued to the April 2018 hearing.

Docket 3-2018 – A motion was made by Gatzemeier, seconded by Mr. Trudell and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 2-2018.

Docket 4-2018 – A motion was made by Mr. Trudell, seconded by Mr. Gatzemeier and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 3-2018.

Docket 5-2018 /1-2018 FED – 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 4-2018.

Docket 6-2018 – Board staff placed this application on the Default Docket for approval without hearing if no protests or requests for hearing were received by 10:00 a.m. on the day of the hearing. None were received. The application of Denbury Onshore, LLC was approved as set forth in Board Order 7-2018.

Docket 7-2018 – Board staff placed this application on the Default Docket for approval without hearing if no protests or requests for hearing were received by 10:00 a.m. on the day of the hearing. None were received. The application of Denbury Onshore, LLC was approved as set forth in Board Order 8-2018.

Docket 73-2017 – Board staff placed this application on the Default Docket for approval without hearing if no protests or requests for hearing were received by 10:00 a.m. on the day of the hearing. None were received. The application of Balko, Inc. was approved as set forth in Board Order 9-2018.

Docket 74-2017 – The application of Balko, Inc. was continued to the April 2018 hearing.

Docket 8-2018 – A motion was made by Mr. Gatzemeier, seconded by Mr. Trudell and unanimously passed, to forfeit Stealth Energy USA, Inc. plugging and reclamation bond. This is set forth in Board Order 5-2018.

Docket 9-2018 – The show-cause hearing of Highline Exploration, Inc. was dismissed.

Docket 60-2017 – A motion was made by Mr. Durrett, seconded by Mr. McDermott and unanimously passed, that Black Gold Energy Resource Development, LLC’s injection permit for commercial injection into the Indian Mound 1 SWD well located in the NE¼SW¼SW¼ of Section 15, T23N, R55E, Richland County, Montana be reinstated until the June 14, 2018, public hearing. Board staff will provide a progress report at the April 18, 2018, business meeting. Docket 60-2017 is continued until the June 14, 2018, public hearing. This is set forth in Board Order 6-2018.

Docket 76-2017 – A motion was made by Mr. McDermott, seconded by Mr. Gatzemeier and unanimously passed, to authorize Bensun Energy, LLC to resume production from wells that were subject to the shut-in order issued under Board Order 72-2017. Board staff will provide a progress report for the field violations at the April 18, 2018, business meeting. Docket 76-2017 was dismissed. This is set forth in Board Order 10-2018.

Docket 77-2017 – A motion was made by Mr. McDermott, seconded by Mr. Trudell and unanimously passed, to continue Docket 77-2017, Hinto Energy, LLC, until the April 19, 2018, public hearing. This is set forth in Board Order 11-2018.

NEXT MEETINGS

The next business meeting of the Board will be Wednesday, April 18, 2018, 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, April 19, 2018, beginning at 9:00 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 April 19th public hearing is March 15, 2018.

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