

STATE OF MONTANA
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
MINUTES OF THE
BOARD OF OIL AND GAS CONSERVATION MEETING AND PUBLIC HEARING
April 18 & 19, 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, April 18, 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, Erin Ricci, and Rob Stutz.

APPROVAL OF MINUTES

Mr. Trudell amended the February 14, 2018, business meeting minutes. There was an error with the start time of the public hearing on page 6, it should have been 9:00 am instead of 8:00 am.

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

PUBLIC COMMENT ON AGENDA AND NON-AGENDA ITEMS

Edward Barta, member of Northern Plains Resource Council (NPRC) and Stillwater Protective Association, read a letter to the Board that requested the Board initiate rulemaking on hydraulic fracturing chemical disclosure and NPRC's desired changes to the rule, attached as Exhibit 1.

Derf Johnson with Montana Environmental Information Center wanted the Board to promptly begin the hydraulic fracturing rulemaking process. Mr. Johnson believes everyone has had enough time to bring their comments to the Board prior to the start of rulemaking. He requested a timeline for rulemaking that would include subcommittee meeting dates.

RULEMAKING UPDATE

Mr. Gatzemeier provided the Board an update on the hydraulic fracturing subcommittee meeting that took place on April 10, 2018.

The subcommittee members, Mr. Gatzemeier, Mr. Trudell, and Mr. Welter, reviewed forms, related rule changes, and a summary of the technical papers that were received.

During this meeting, the subcommittee members had a question and answer session with a water expert from the Montana Bureau of Mines and Geology.

The subcommittee plans to hold its final meeting in May. The subcommittee will then bring a

recommendation to the Board at the June business meeting.

Mr. Stutz commented that the Board cannot initiate rulemaking today, because the Board would have to vote on a rule proposal and the subcommittee does not have a proposal drafted.

FINANCIAL REPORT

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

Mr. Halvorson received a formal request from the interim Revenue and Transportation Committee to attend its next meeting in May to review the Board's budget and provide the committee a history of the privilege and license tax (P&L tax). Mr. Halvorson reviewed the exhibits he planned to present at the meeting, attached as Exhibit 3.

Prior to the October 2016 rate change, the P&L tax was collected at 0.26%. Of this 0.26%, 0.09% went to the Board, and 0.17% went to cities and counties. The Board raised the rate to the statutory maximum of 0.30%. Oil and gas producers pay the rate of 0.3% and cities and counties no longer receive a share of revenue. Cities and counties had been receiving P&L tax allocations since 2005.

With the two-quarter delay in revenue distributions, the impact on P&L tax receipts was not evident right away and the effect on the rate was not noticed until the second quarter of 2017.

The Board continues to reduce its expenditures by leaving two positions vacant, delayed or canceled equipment purchases, and reduced other optional expenditures that are equivalent to 15% to 20% reduction from the budget approved by the legislature.

The Board's decision to raise the rate was based on the low oil prices, the length of the rulemaking process, a 90-day notification requirement to Department of Revenue prior to the rule's effective date, and the Legislative expenditures/transfers from the Board's operations account to fund non-board related duties.

It is expected that future rulemaking will occur to reduce the P&L tax once product prices stabilize at a higher level and an adequate balance in the Board's special revenue account is achieved.

PLUGGING AND RECLAMATION PROGRAM UPDATE

There are three outstanding plugging and reclamation contracts. Well plugging will begin once the weather warms up.

BOND SUMMARY & INCIDENT REPORT

Mr. Halvorson presented the bond report and the incident report, attached as Exhibit 4 & 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 six wells flaring in excess of 100 MCFG/day and nine flaring exception requests at this time. Of the nine exception requests, one request is from Alta Vista Oil Corporation who is working on gas stream handling options and the other eight requests are from Whiting Oil & Gas and are due to insufficient pipeline capacity in the area. Mr. Jones recommended a six-month exception for these nine wells.

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

Mr. Halvorson followed up with an update from last meeting about Oneok's liquid gas pipeline that is planned to be built by Wibaux. The route is on state and fee lands, so sage grouse may slow down the construction of the pipeline.

BLACK GOLD ENERGY RESOURCE DEVELOPMENT, LLC

Mr. Gizicki provided the Board an update on Black Gold Energy Resource Development, LLC (Black Gold) and its progress to clean up the spill 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.

An inspector was out at the well site on Monday and no cleanup has taken place, although power has been restored.

Black Gold is scheduled to appear at the June hearing to provide the Board an update of its progress to come into compliance and must have the spill cleaned up prior to the July 1, 2018, deadline.

BENSUN ENERGY, LLC

Mr. Gizicki provided the Board an update on Bensun Energy, LLC (Bensun). Bensun remedied the field violations that were identified at the February 15, 2018, hearing, however, there were new field and reporting violations.

On March 12, 2018, a field inspector discovered a saltwater spill at the Loucks 33-27 well located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 27, T36N, R52E, Sheridan County, Montana. The spill was contained in a dike and was estimated to be about 60-70 barrels of saltwater. Staff notified Bensun of the spill upon discovery.

In accordance with ARM 36.22.1103, a written report of the spill and plan for clean-up is required within five working days of the spill. The report was received five days after Bensun was notified of the spill by Board staff.

On April 11, 2018, Bensun submitted production reports. It was found that some reports were not filed and others contained errors. On April 13, 2018, staff contacted Bensun and requested that the errors be corrected and that the remaining delinquent reports be submitted. Bensun indicated that corrected reports would be submitted the following week. No reports were received.

On April 16, 2018, the field inspector returned to the Loucks 33-27 well site and no cleanup had taken place.

Mr. Halvorson recommended staff to have the authority to schedule Bensun to show cause for any violations that remain outstanding by the June hearing deadline of May 10, 2018. Additional penalties may be considered at the June hearing, including an order directing cessation of well operations until all violations are remedied.

Motion: Mr. Welter made the motion to approve the recommendations. Mr. Durrett seconded and the motion passed unanimously.

STAFF REPORTS

George Hudak

Mr. Hudak brought to the Board's attention the remaining UIC operator, Pronghorn Petroleum Joint Venture (Pronghorn), who has not paid the annual injection fee of \$200 that was due January 31, 2018. This fee is to cover the Halmans-Federal 1-26, which is a salt water disposal well located in Fallon County, Montana. Several attempts have been made to contact the operator.

Mr. Hudak recommended the Board assess Pronghorn a \$100 late fee for failure to submit its injection well payment prior to the deadline.

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

Ben Jones

Mr. Jones provided the Board an update on Interstate Exploration, LLC (Interstate). At the last meeting, the Board required Interstate to turn in the missing geological reports for its Nelson 2-1 well and Nelson 10-1 well, as required by ARM 36.22.10103, and the Board assessed Interstate a \$500 fine for failure to comply with Board's rules. Interstate was unable to produce the reports and wrote a letter to the Board explaining why it was unable to fully meet the requirements of ARM 36.22.1013 and paid the \$500 fine. No further action is needed.

OTHER BUSINESS

No other business discussed.

PUBLIC HEARING

The Board reconvened on Thursday, April 19, 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 10-2018 – A motion was made by Mr. McDermott, seconded by Mr. Trudell and unanimously passed, to approve the application of Briscoe Petroleum, LLC as set forth in Board Order 12-2018.

Docket 11-2018 – A motion was made by Mr. Welter, seconded by Mr. Trudell and unanimously passed, to approve the application of XTO Energy Inc. as set forth in Board Order 13-2018.

Docket 12-2018 – A motion was made by Mr. McDermott, seconded by Mr. Durrett and unanimously passed, that White Rock must immediately increase its plugging and reclamation bond to \$100,000. The pending change of operator requests will be approved once the additional bonding amount of \$50,000 is received. White Rock must appear at the October 2019, public hearing to provide the Board a progress update of its efforts to reduce its plugging liability. This is set forth in Board Order 15-2018.

Docket 13-2018 – A motion was made by Mr. McDermott, seconded by Mr. Trudell and unanimously passed, to approve Montana Board of Oil and Gas Conservation's request to vacate Board Order 18-1969 as set forth in Board Order 18-2018.

Docket 14-2018 – A motion was made by Mr. Welter, seconded by Mr. Trudell and unanimously passed, to approve the application of XTO Energy Inc. as set forth in Board Order 14-2018.

Docket 15-2018 – 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 Hydra MT LLC was approved as set forth in Board Order 16-2018.

Docket 74-2017 – 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 17-2018.

Docket 2-2018 – A motion was made by Mr. Trudell, seconded by Ms. Ames-Nerud and unanimously passed, to approve the application of Slawson Exploration Company Inc. as set forth in Board Order 19-2018.

Docket 16-2018 – The show-cause hearing of Alta Vista Oil Corporation was dismissed.

Docket 17-2018 – The show-cause hearing of Phoenix Energy, Inc. was dismissed.

Docket 18-2018 – The show-cause hearing of Provident Energy of Montana, LLC was dismissed.

Docket 19-2018 – A motion was made by Mr. McDermott, seconded by Mr. Gatzemeier and unanimously passed, to continue Docket 19-2018, Roland Oil and Gas, until the June 14, 2018, public hearing. Docket 19-2018 will be dismissed upon the receipt of the delinquent production reports. This is set forth in Board Order 20-2018.

Docket 77-2017 – A motion was made by Mr. Durrett, seconded by Mr. Trudell and unanimously passed, to continue Docket 77-2017, Hinto Energy, LLC, until the June 14, 2018, public hearing. This is set forth in Board Order 21-2018.

NEXT MEETINGS

The next business meeting of the Board will be Wednesday, June 13, 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, June 14, 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 June 14th public hearing is May 10, 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