

STATE OF MONTANA
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
MINUTES OF THE
BOARD OF OIL AND GAS CONSERVATION MEETING AND PUBLIC HEARING
June 12 & 13, 2019

CALL TO ORDER

The regular business meeting of the Montana Board of Oil and Gas Conservation was called to order by Chairman Steven Durrett at 2:00 p.m., Wednesday, June 12, 2019, at its office at 2535 St. Johns Avenue in Billings, Montana. Board members present were Chairman Steven Durrett, Paul Gatzemeier, Mac McDermott, Linda Nelson, Dennis Trudell, and Corey Welter. Staff present was Jennifer Breton, John Gizicki, Jim Halvorson, George Hudak, Ben Jones, Dave Popp, and Rob Stutz. Board member Mike Weber was absent.

APPROVAL OF MINUTES

A motion was made by Mr. Trudell, seconded by Mr. Welter and unanimously passed, to approve the minutes of the April 10, 2019, business meeting.

PUBLIC COMMENT ON AGENDA AND NON-AGENDA ITEMS

No comments were made.

FINANCIAL REPORT

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

PRIVILEGE & LICENSE TAX

Mr. Halvorson provided the Board a privilege and license (P&L) tax update, attached as Exhibit 2. In 2016, the Board raised the P&L tax rate to the statutory maximum of 0.30%. Oil and gas producers pay the rate of 0.30% and cities and counties no longer received a share of revenue. Cities and counties had been receiving P&L tax allocations since 2005.

During the Legislative Session, Cities and Counties proposed HB656, which allows Cities and Counties to receive up to 0.08% of the Board's P&L taxes collected. For the Cities and Counties to receive this distribution, rulemaking must occur.

Mr. Halvorson recommended initiating the rulemaking process to lower the P&L tax rate. This is based on higher oil prices and an adequate balance in the Board's special revenue account. During the rulemaking process, the Board can reinstate rulemaking with a different rate.

The Board is required to give the Department of Revenue a required 90-day notice prior to the rule's

effective date. The whole rulemaking process can take 6-12 months.

Mr. Stutz reminded the Board that it can modify the rate based on the Board's needs or public comment. If the Board proposed a new rate, the rulemaking process would have to start from the beginning.

Motion: Mr. Gatzemeier made the motion to approve the recommendation to initiate rulemaking to reduce the privilege and license tax rate from the current statutory maximum of 0.30% to 0.25%. Mr. Trudell seconded, and the motion passed unanimously.

PLUGGING AND RECLAMATION PROGRAM UPDATE

There are three damage mitigation contracts outstanding. The first contract is for the Beery 2 and the Beery 22-24 orphan wells that were plugged and now requires surface reclamation. The second contract is for the Dybvik KV 1 remediation that requires surface cleanup. The third contract is for the plugging of three orphan wells in Richland County that were formerly operated by Alturas Energy, LLC.

The work on these contracts are expected to be completed this summer.

The Board receives \$650,000 yearly into the Damage Mitigation account from the Resource Indemnity Trust (RIT) fund. There is a \$1.2 million cap on the Damage Mitigation account. This allows the Board to respond to emergencies and maintain a continuous plugging and reclamation program. These monthly deposits will start again with the new biennium on July 1, 2019.

BOND SUMMARY & INCIDENT REPORT

Mr. Halvorson presented the bond report and the incident report, attached as Exhibit 3 & 4.

DOCKET SUMMARY

Mr. Halvorson presented the docket summary, attached as Exhibit 5.

GAS FLARING EXCEPTIONS

Mr. Jones discussed the gas flaring report, attached as Exhibit 6. There are 18 wells flaring in excess of 100 MCFG/day and seven exception requests at this time.

Kraken Operating, LLC (Kraken) is asking for an exception request for one well that is connect to a gathering system, but due to the high line pressure Kraken has had limited success selling the gas. The other operator is Whiting Oil and Gas (Whiting). Whiting is asking for six exception requests for insufficient compression capacity on Oneok's system.

Mr. Jones recommended a six-month exception for Kraken and Whiting.

Motion: Mr. Gatzemeier made the motion to approve the recommendation. Mrs. Nelson seconded, and the motion passed unanimously.

INACTIVE WELL REVIEW

The next step for staff in the inactive well review is to review single well bonds covering wells that have not produced for a number of years.

There were several Change of Operator requests to transfer wells to Chelin LLC (Chelin). Chelin was able to reduce its plugging liability by plugging wells and returning other wells to production prior to the June hearing. As a result of these status changes, the number of inactive wells covered by Chelin's multiple well bond did not exceed the shut-in well threshold set the Board's change of operator policy.

TOI OPERATING, MOERMAN 14-30 WELL ABANDONMENT

Mr. Gizicki discussed TOI Operating (TOI), attached as Exhibit 7. TOI is the operator the Moerman 14-30 well, API # 25-109-21053, located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 30, T18N-R59E, Wibaux County, Montana. It was brought to the Board's attention that the lease covering this well was terminated during 2014.

On December 17, 2018, a certified letter was sent to TOI requesting a plan and timeline for the plugging and abandonment of the well.

On January 9, 2019, Mr. Lenny Carver emailed staff that TOI would begin plugging of the well by May 15, 2019. Mr. Carver did not submit the required Sundry Notice for the proposed well abandonment work. Multiple certified letters were sent to TOI requesting the Sundry Notice. No Sundry Notice was received.

On May 6, 2019, Mr. Carver called and stated TOI does not have the funds to plug the well.

Mr. Gizicki recommended that TOI must begin the process of plugging the Moerman 14-30 well by the July 11, 2019, hearing application deadline. Failure to do so will result in TOI being ordered to show cause at the August 15, 2019, public hearing, for why they should not be required to immediately plug and abandon the well.

Motion: Mrs. Nelson made the motion to approve the recommendation. Mr. Trudell seconded, and the motion passed unanimously.

STAFF REPORTS

George Hudak

Mr. Hudak reviewed the following three operators who have failed to perform Mechanical Integrity Tests (MIT) on its injection wells. Mr. Hudak has made several attempts to contact the operators. These operators are in violation of ARM 36.22.1416, which requires injection wells to be retested for mechanical integrity

no less than once each five years until the well is plugged. The Mechanical Integrity Test (MIT) is performed to demonstrate mechanical integrity of the well. Wells that fail the MIT must be immediately shut-in until either repaired, reworked, or plugged for abandonment in accordance with ARM [36.22.1414](#). The wells must be successfully retested for mechanical integrity before being placed in injection service.

- 1) **Grassy Butte LLC** (Grassy Butte) is the operator of the following salt water disposal well:
 - Kesterson 5 salt water disposal well, API # 25-087-21488, located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 34, T10N-R33E, Rosebud County, Montana.
- 2) **Summit Gas Resources, Inc.** (Summit) is the operator of the following two salt water disposal wells:
 - Visborg 22-0841 11SA well, API # 25-003-22690, located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 22, T8S-R41E, Big Horn County, Montana.
 - DP 31-0842 05SA well, API # 25-003-22725, located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 31, T8S-R42E, Big Horn County, Montana.
- 3) **Cline Production Company** (Cline) is the operator of the following four enhanced oil recovery wells used for injection:
 - Kincheloe 3X-30 well, API # 25-087-21285, located in the NW $\frac{1}{4}$ of Section 30, T11N-R32E, Rosebud County, Montana.
 - Kincheloe 1-6 well, API # 25-087-21346, located in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 1, T10N-R31E, Rosebud County, Montana.
 - Kincheloe 10-19 well, API # 25-087-21239, located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 19, T11N-R32E, Rosebud County, Montana.
 - Kincheloe 1-12 well, API # 25-087-21354, located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 1, T10N-R31E, Rosebud County, Montana.

Mr. Hudak recommended that Grassy Butte, Summit, and Cline must return their wells to compliance prior to the July 11, 2019, hearing application deadline. Failure to come into compliance will result in the operators being ordered to show cause at the August 15, 2019, public hearing, as to why additional penalties should not be imposed.

Mr. Hudak also recommended that Board staff have authority to dismiss the docket if the operators achieves compliance prior to the August 15, 2019, public hearing.

Motion: Mrs. Nelson made the motion to approve the recommendation. Mr. Trudell seconded, and the motion passed unanimously.

John Gizicki

Mr. Gizicki discussed Samson Oil and Gas USA, Inc. (Samson), attached as Exhibit 8. Samson is the operator of 42 wells in Richland, Roosevelt, and Sheridan Counties. Listed below are multiple rule violations that Samson has and the wells associated with them.

ARM 36.22.1104 requires the owner or operator to promptly control and clean up any leak, spill, escape, or discharge, regardless of the amount of oil, produced water, water containing more than 15,000 ppm TDS. The following wells have this compliance issue:

- Picard 11-33H
- Picard 11-34H
- Picard 24-28H
- Picard Trust 31-32H
- Yellowstone 1-19A

ARM 36.22.1105 requires solid waste associated with oil and gas exploration or production activities to be disposed of according to all applicable local, state, and federal laws and regulations. The following wells have this compliance issue:

- Obergfell 1
- Picard 11-33H
- Picard 11-34H
- Picard 24-28H
- Salsbury 1-22A
- Salsbury 1-27
- Yellowstone 1-19A

ARM 36.22.1101 requires that any fire hazard be removed from the location. All locations need vegetation control, including the following wells:

- McGinnis 1-34
- State Pass 1

On May 6, 2019, a certified letter was sent to Samson detailing the above listed compliance issues.

On May 23, 2019, a certified letter was sent to Samson with a copy of the letter emailed to Samson's chief operating officer, Mr. Mark Ulmer, that detailed the compliance issues and stated the compliance issues would be brought up at the June 12, 2019, board business meeting.

On May 26, 2019, Mr. Ulmer responded by email that he received the letters. Mr. Ulmer was told by staff to notify the Board when compliance on all the locations were met. No response has been received.

Mr. Gizicki recommended that Samson must have the well locations in compliance by July 11, 2019, hearing application deadline. Failure to come into compliance by that date will result in Samson being ordered to show cause at the August 15, 2019, public hearing, as to why penalties should not be imposed for failure to remedy the field violations.

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

Rob Stutz

At the December 13, 2018, public hearing, the Board forfeited Pronghorn Petroleum Joint Venture, Inc.'s \$10,000 UIC single well bond. The funds have not yet been collected. First Interstate Bank's records show that the bond associated with Pronghorn's remaining well was released more than 7 years ago, but the bank does hold a separate certificate of deposit in the same amount. Mr. Stutz will continue to work with the bank.

OTHER BUSINESS

No other business discussed.

PUBLIC HEARING

The Board reconvened on Thursday, June 13, 2019, 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 39-2019 – A motion was made by Mr. Welter, seconded by Mrs. Nelson and unanimously passed, to approve Empire North Dakota LLC's pending change of operator request that is subject to administrative approval. Staff will schedule a review in June 2020 to evaluate Empire's actions taken to reduce its plugging liability. This is set forth in Board Order 28-2019.

Docket 40-2019 – A motion was made by Mrs. Nelson, seconded by Mr. Welter and unanimously passed, to approve Lonewolf Operating, LLC's pending change of operator request that is subject to administrative approval. This is set forth in Board Order 29-2019.

Docket 41-2019 – The application of Powder River Energy Management LLC was withdrawn.

Docket 42-2019 – A motion was made by Mrs. Nelson, seconded by Mr. Welter and unanimously passed, to approve the application of Denbury Onshore, LLC as set forth in Board Order 31-2019.

Docket 43-2019 – A motion was made by Mr. Trudell, seconded by Mr. Welter and unanimously passed, to approve the application of Denbury Onshore, LLC as set forth in Board Order 32-2019.

Docket 44-2019 – A motion was made by Mrs. Nelson, seconded by Mr. Welter and unanimously passed, to approve the application of Denbury Onshore, LLC as set forth in Board Order 33-2019.

Docket 45-2019 – A motion was made by Mr. Trudell, seconded by Mrs. Nelson and unanimously passed, to approve the application of Denbury Onshore, LLC as set forth in Board Order 34-2019.

Docket 46-2019 – A motion was made by Mr. Welter, seconded by Mr. Trudell and unanimously passed, to approve the application of Denbury Onshore, LLC as set forth in Board Order 35-2019.

Docket 47-2019 – A motion was made by Mrs. Nelson, seconded by Mr. Welter and unanimously passed, to approve the application of Poplar Resources, LLC as set forth in Board Order 39-2019.

Docket 48-2019 – A motion was made by Mr. Trudell, seconded by Mr. Welter and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 40-2019.

Docket 49-2019 – A motion was made by Mrs. Nelson, seconded by Mr. Trudell and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 41-2019.

Docket 50-2019 – A motion was made by Mr. McDermott, seconded by Mrs. Nelson to approve the application of Alta Vista Oil Corporation with 660’ lateral setbacks. The motion failed.

A second motion was made by Mr. Welter, seconded by Mr. Trudell and passed, to designate two spacing units, one comprised of the east half of each section and the other including the west half of each section, with 660’ lateral and 330’ toe and heel setbacks. This is set forth in Board Order 46-2019. Mr. McDermott opposed the motion.

Docket 51-2019 – A motion was made by Mr. Welter, seconded by Mr. Trudell and passed, to designate two spacing units, one comprised of the east half of each section and the other including the west half of each section, with 660’ lateral and 330’ toe and heel setbacks for the application of Alta Vista Oil Corporation. This is set forth in Board Order 47-2019. Mr. McDermott opposed the motion.

Docket 52-2019 – A motion was made by Mr. Welter, seconded by Mr. Trudell and passed, to designate two spacing units, one comprised of the east half of each section and the other including the west half of each section, with 660’ lateral and 330’ toe and heel setbacks for the application of Alta Vista Oil Corporation. This is set forth in Board Order 48-2019. Mr. McDermott opposed the motion.

Docket 53-2019 – A motion was made by Mr. Welter, seconded by Mr. Trudell and passed, to designate two spacing units, one comprised of the east half of each section and the other including the west half of each section, with 660’ lateral and 330’ toe and heel setbacks for the application of Alta Vista Oil Corporation. This is set forth in Board Order 49-2019. Mr. McDermott opposed the motion.

Docket 54-2019 – A motion was made by Mr. McDermott, seconded by Mr. Welter and unanimously passed, to approve the application of Alta Vista Oil Corporation with 660’ lateral and 330’ toe and heel setbacks as set forth in Board Order 50-2019.

Docket 55-2019 – A motion was made by Mr. McDermott, seconded by Mr. Welter and unanimously passed, to approve the application of Rudy S. Cicon And John M. Cicon as set forth in Board Order 45-2019.

Docket 56-2019 – 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 36-2019.

Docket 57-2019 – 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 37-2019.

Docket 58-2019 – 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 Big Sky Energy, LLC was approved as set forth in Board Order 38-2019.

Docket 1-2019 – A motion was made by Mr. Trudell, seconded by Mrs. Nelson and unanimously passed, to approve the application of Lonewolf Operating, LLC as set forth in Board Order 30-2019.

Docket 2-2019 – The application of Lonewolf Operating, LLC was withdrawn.

Docket 3-2019 – The application of Lonewolf Operating, LLC was withdrawn.

Docket 4-2019 – The application of Lonewolf Operating, LLC was withdrawn.

Docket 5-2019 – The application of Lonewolf Operating, LLC was withdrawn.

Docket 17-2019 – A motion was made by Mrs. Nelson, seconded by Mr. Trudell and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 42-2019.

Docket 18-2019 – A motion was made by Mrs. Nelson, seconded by Mr. Trudell and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 43-2019.

Docket 19-2019 – A motion was made by Mrs. Nelson, seconded by Mr. Trudell and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 44-2019.

Docket 59-2019 – A motion was made by Mr. Trudell, seconded by Mrs. Nelson and unanimously passed, that Drawings, LLC was fined \$1,000 for failure to appear at the June 13, 2019, public hearing. Drawings is to appear at the August 15, 2019, public hearing and show-cause, if any it has, why additional penalties, including respondent's production being declared illegal under ARM 36.22.1245, should not be applied for failure to file delinquent production reports, failure to pay the penalty assessed for delinquent reporting, and failure to appear at the June 13, 2019, public hearing. This is set forth in Board Order 51-2019.

Docket 60-2019 – A motion was made by Mrs. Nelson, seconded by Mr. Trudell and unanimously passed, that PARMT LLC was fined \$1,000 for failure to appear at the June 13, 2019, public hearing. PARMT is to appear at the August 15, 2019, public hearing and show-cause, if any it has, why additional penalties should not be assessed for failure to file delinquent production reports, failure to pay the penalty assessed for delinquent reporting, and failure to appear at the June 13, 2019, public hearing. This is set forth in Board Order 52-2019.

Docket 61-2019 – The show-cause hearing of Shadwell Resources Group, LLC was dismissed.

Docket 62-2019 – The show-cause hearing of Topaz Oil & Gas Inc. was dismissed.

Docket 63-2019 – A motion was made by Mr. Welter, seconded by Mr. Trudell and unanimously passed, that A & G Oil & Gas is to appear at the August 15, 2019, public hearing and show cause, if any it has, why its plugging and reclamation bond should not be forfeited for failure to begin to plug and abandon the following wells as required by Board Order 22-2019, in accordance with § 82-11-123(5), MCA.

- Normont 1 well, located in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 2, T34N-R2W, Toole County, Montana
- Rossmiller 3 well, in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 11, T34N-R2W, Toole County, Montana
- Mullady 11-30 well, located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 30, T35N-R3W, Toole County, Montana

This is set forth in Board Order 53-2019.

Docket 64-2019 – A motion was made by Mr. Welter, seconded by Mr. Trudell and unanimously passed, that Compass Energy, Inc. is to appear at the August 15, 2019, public hearing and show cause, if any it has, why its plugging and reclamation bond should not be forfeited for failure to begin to plug and abandon its Robert Aiken 6-24 well, located in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 24, T30N-R4W, Pondera County, Montana as required by Board Order 23-2019, in accordance with § 82-11-123(5), MCA. This is set forth in Board Order 54-2019.

Docket 65-2019 – A motion was made by Mr. Welter, seconded by Mr. Trudell and unanimously passed, that Molen Drilling Co., Inc. is to appear at the August 15, 2019, public hearing and show cause, if any it has, why its plugging and reclamation bond should not be forfeited for failure to begin to plug and abandon its Cremer 1-23 well, located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 22, T2N-R15E, Sweetgrass County, Montana as required by Board Order 24-2019, in accordance with § 82-11-123(5), MCA. This is set forth in Board Order 55-2019.

Docket 66-2019 – A motion was made by Mr. Welter, seconded by Mr. Trudell and unanimously passed, that TDW Gas Processing, LLC is to appear at the August 15, 2019, public hearing and show cause, if any it has, why its plugging and reclamation bond should not be forfeited for failure to begin to plug and abandon its Adams 3 well, located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 20, T34N-R1W, Toole County, Montana as required by Board Order 25-2019, in accordance with § 82-11-123(5), MCA. This is set forth in Board Order 56-2019.

Docket 67-2019 – A motion was made by Mr. Welter, seconded by Mr. Trudell and unanimously passed, that UnionTown Energy Montana LLC is to appear at the August 15, 2019, public hearing and show cause, if any it has, why its plugging and reclamation bond should not be forfeited for failure to begin to plug and abandon its Little Montana 1 well, located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 35, T10N-R28E, Musselshell County, Montana as required by Board Order 26-2019, in accordance with § 82-11-123(5), MCA. This is set forth in Board Order 57-2019.

Docket 60-2017 – A motion was made by Mr. Welter, seconded by Mrs. Nelson and unanimously passed, that Black Gold Energy Resource Development, LLC pay 10% of the outstanding fine of \$125,000 before the close of business on June 13, 2019. The Indian Mound SWD well remains shut in until the emergency shutoff equipment is installed and authorization to commence injection is granted by the Board's staff. If another spill violation occurs at the well, the remainder of the outstanding fine will be reviewed at the next available public hearing. This is set forth in Board Order 58-2019.

Docket 81-2018 – A motion was made by Mr. Welter, seconded by Mrs. Nelson and unanimously passed, that the \$5,000 payment proposed by Steven Erdahl on behalf of Bensun Energy, LLC be accepted and that payment is required before the close of business on June 14, 2019. Should no payment be received and the sale of its wells not be finalized within 30 days, Bensun must begin the process to plug and abandon its wells that have no possible future use. The status of the proposed well transfer or the requirement for well abandonment will be discussed at the Board's August 14, 2019, business meeting. This is set forth in Board Order 59-2019.

Docket 37-2019 – The show-cause hearing of Kykuit Resources, LLC was dismissed.

NEXT MEETINGS

The next business meeting of the Board will be Wednesday, August 14, 2019, 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 15, 2019, beginning at 9:00 a.m. at the Board's hearing room at its office at 2535 St. Johns Avenue in Billings, Montana. The filing deadline for the August 15th public hearing is July 11, 2019.

BOARD OF OIL AND GAS CONSERVATION OF THE STATE OF MONTANA

Steven Durrett, Chairman
Paul Gatzemeier, Vice-Chairman
Mac McDermott, Board Member
Linda Nelson, Board Member
Dennis Trudell, Board Member
Corey Welter, Board Member

ATTEST:

Jennifer Breton, Program Specialist