

**MONTANA BOARD OF OIL AND GAS CONSERVATION
FINANCIAL STATEMENT
As of 6/30/21**

EXHIBIT 1

Fiscal Year 2021: Percent of Year Elapsed - 100%

		Budget	Expends	%	Remaining
Regulatory	Personal Services	1,283,483	1,057,370	82	226,113
UIC	Personal Services	281,739	277,751	99	3,988
	Total	1,565,222	1,335,121	85	230,101
Regulatory	Equipment & Assets	46,371	-	-	46,371
UIC	Equipment & Assets	10,179	-	-	10,179
	Total	56,550	-	-	56,550
Regulatory	Operating Expenses:				
	Contracted Services	135,897	68,239	50	67,659
	Supplies & Materials	54,903	32,478	59	22,425
	Communication	77,777	56,484	73	21,293
	Travel	34,276	8,164	24	26,112
	Rent	29,602	21,765	74	7,837
	Utilities	19,762	12,881	65	6,881
	Repair/Maintenance	33,292	18,345	55	14,947
	Other Expenses	25,092	17,542	70	7,550
	Total Operating Expenses	410,601	235,898	57	174,704
UIC	Operating Expenses:				
	Contracted Services	29,830	13,366	45	16,464
	Supplies & Materials	12,052	6,147	51	5,905
	Communication	17,114	11,953	70	5,161
	Travel	7,524	1,298	17	6,226
	Rent	6,498	4,778	74	1,720
	Utilities	4,338	2,828	65	1,510
	Repair/Maintenance	7,308	4,024	55	3,284
	Other Expenses	5,508	7,648	139	(2,140)
	Total Operating Expenses	90,172	52,041	58	38,131
	Total	500,773	287,939	57	212,834

	Budget	Expends	%	Remaining
Carryforward FY19				
Personal Services	20,180	-	0	20,180
Operating Expenses	60,540	-	0	60,540
Equipment & Assests	-	-	0	-
Total	80,720	-	0	80,720
Carryforward FY20				
Personal Services	72,764	-	0	72,764
Operating Expenses	72,764	-	0	72,764
Equipment & Assests	-	-	0	-
Total	145,528	-	0	145,528

Funding Breakout	2021 Total Budget	2021 Total Expends	%
State Special	2,122,545	1,623,060	76
Federal 2020 UIC (10-1-2019 to 9-30-2020)	107,000	107,000	100
Federal 2021 UIC (10-1-2020 to 9-30-2021)	107,000	-	0
Total	2,336,545	1,730,060	74

REVENUE INTO STATE SPECIAL REVENUE ACCOUNT

	FY 21	FY 20
Oil & Gas Production Tax	\$ 1,539,669	\$ 2,506,637
Oil Production Tax	1,391,120	2,379,643
Gas Production Tax	148,549	126,994
Drilling Permit Fees	19,025	12,200
UIC Permit Fees	237,700	240,900
Interest on Investments	6,251	44,502
Copies of Documents	536	1,034
Miscellaneous Reimbursements	-	8,788
TOTAL	\$ 1,803,181	\$ 2,814,061

REVENUE INTO DAMAGE MITIGATION ACCOUNT

	FY 21	FY 20
RIT Investment Earnings:	\$ -	\$ 377,997
July	-	-
August	-	61
September	-	34,760
October	-	63,320
November	-	35,618
December	-	28,735
January	-	30,921
February	-	33,319
March	-	28,212
April	-	35,433
May	-	32,824
June	-	54,793
Bond Forfeitures:	141,201	19,878
Interest on Investments	1,041	6,906
TOTAL	\$ 142,242	\$ 404,780

INVESTMENT ACCOUNT BALANCES

Regulatory Account	\$ 4,864,191
Damage Mitigation Account	\$ 541,074

REVENUE INTO GENERAL FUND FROM FINES

	FY 21
BEARTOOTH ENERGY LLC	8/21/2020 \$ 80
R & A OIL INC	8/21/2020 260
PRESCO INC	8/21/2020 110
BBX OPERATING LLC	9/4/2020 160
MONTANA OIL AND GAS LLC	9/4/2020 290
APACHE CORPORATION	9/25/2020 220
UNITED STATES ENERGY CORP	10/14/2020 60
SLOHCIN INC	10/14/2020 70
D AND H ENERGY LLC	10/14/2020 670
HABETS GLEN	10/23/2020 80
HOFLAND JAMES D	10/23/2020 70
MILLER FRANK I	10/30/2020 60
DRAWINGS LLC	11/20/2020 1,220
RIOFAIR PARTNERS	12/4/2020 1,860
HAWLEY OIL LLP	12/4/2020 1,900
CITY OF BAKER	12/23/2020 80
RANCH OIL COMPANY INC	12/30/2020 80
MISC OIL CO	12/30/2020 80
BRANCH JILL	1/8/2021 60
KTS TRUCKING	1/15/2021 140
BLACK GOLD ENERGY RESOURCES DEVELOPMENT LLC	1/15/2021 80
MONTANA OIL AND GAS LLC	1/15/2021 210
DWAINE IVERSON CPA PC	1/15/2021 60
HAWLEY HYDROCARBONS LLP	1/19/2021 1,000
HAWLEY HYDROCARBONS LLP	1/19/2021 1,000
MBI OIL AND GAS LLC	1/29/2021 150
STALKING HORSE ENERGY LLC / P3	2/5/2021 160
LYON OIL	2/5/2021 120
HAWLEY MERRILL HAWLEY NORTHROP	2/19/2021 160
HAWLEY MERRILL / HAWLEY HYDROCARBONS	2/19/2021 420
GREAT PLAINS ENERGY INC	2/19/2021 60
HEAVY WATER HAULERS INC	2/19/2021 70
HIGHLANDS MONTANA CORPORATION	3/5/2021 70
SHADWELL RESOURCES GROUP LLC	3/5/2021 3,938
COWRY ENTERPRISES LTD	3/12/2021 60
RINCON OIL & GAS LLC	3/26/2021 60
BLACK GOLD ENERGY	4/2/2021 120
RINCON OIL & GAS LLC	4/2/2021 60
BLACK GOLD ENERGY RESOURCES DEVELOPMENT LLC	4/9/2021 2,938
COMMANCHE DRILLING CO	4/16/2021 70
HOFFLAND JAMES D	4/23/2021 90
BIG SKY ENERGY LLC	5/7/2021 880
KNAUP LUCILLE	5/7/2021 60
QUINQUE OIL	5/7/2021 80
R AND A OIL INC	6/30/2021 120
ROARK, DANIEL / DANIELSON, PATRICIA	6/25/2021 90
ALME, HENRY	6/25/2021 200
BLACK GOLD ENERGY	6/25/2021 60
HOFLAND JAMES D	6/4/2021 90
TOTAL	\$ 20,025

DAMAGE MITIGATION CONTRACTS

<u>Name</u>	<u>Authorized Amt</u>	<u>Expended</u>	<u>Balance</u>	<u>Status</u>	<u>Expiration Date</u>
Alturas Plug, Abandon, and Reclaim Wells	262,677	262,529	\$ 148	Completed	6/30/2021
TOTAL	\$ 262,677	\$ 262,529	\$ 148		

CONTRACTS

<u>Name</u>	<u>Authorized Amt</u>	<u>Expended</u>	<u>Balance</u>	<u>Status</u>	<u>Expiration Date</u>
Agency Legal Services 2021	\$ 70,000	\$ 16,674	\$ 53,326	Completed	6/30/2021
COR Enterprises - Billings Janitorial	46,680	38,342	8,338	Completed	6/30/2021
TOTAL	\$ 116,680	\$ 55,015	\$ 61,665		

**Agency Legal Services
Expenditures in FY21**

<u>Case</u>	<u>Amt Spent</u>
BOGC Duties	\$ 12,783
TOI	3,880
Hydraulic Fracturing	11
Total	\$ 16,674

**Montana Board of Oil and Gas Conservation
Summary of Bond Activity**

EXHIBIT 2

6/8/2021 Through 8/10/2021

Approved

A. B. Energy LLC Chester MT	693 U2	Approved	6/21/2021
		Amount:	\$10,000.00
		Purpose:	UIC Limited Bond
Certificate of Deposit	\$10,000.00	FIRST BANK MONTANA, N. A.	ACT
Clay's Consulting, LLC Bridger MT	890 T1	Approved	8/9/2021
		Amount:	\$10,000.00
		Purpose:	UIC Single Well Bond
Surety Bond	\$10,000.00	Arch Insurance Company	ACT
Clay's Consulting, LLC Bridger MT	890 M1	Approved	8/9/2021
		Amount:	\$50,000.00
		Purpose:	Multiple Well Bond
Surety Bond	\$50,000.00	Arch Insurance Company	ACT
Montalban Oil & Gas Operations, Inc. Cut Bank MT	111 M3	Approved	6/18/2021
		Amount:	\$200,000.00
		Purpose:	Multiple Well Bond
Certificate of Deposit	\$200,000.00	Freedom Bank	ACT
Shuck Oil & Gas LLC Bozeman MT	866 G2	Approved	6/21/2021
		Amount:	\$1,500.00
		Purpose:	Single Well Bond
Certificate of Deposit	\$1,500.00	FIRST STATE BANK OF SHELBY	ACT
Thor Resources USA, LLC Calgary AB	732 G5	Approved	8/9/2021
		Amount:	\$10,000.00
		Purpose:	Single Well Bond
Certificate of Deposit	\$10,000.00	FIRST STATE BANK OF SHELBY	ACT

Canceled

Ballard Exploration Company, Inc. Houston TX	838 M1	Canceled	7/1/2021
		Amount:	\$50,000.00
		Purpose:	Multiple Well Bond
Croft Petroleum Co. Cut Bank MT	1720 L2	Canceled	6/28/2021
		Amount:	\$6,000.00
		Purpose:	Limited Bond
Iofina Natural Gas, Inc. Greenwood Village CO	572 M1	Canceled	6/8/2021
		Amount:	\$50,000.00
		Purpose:	Multiple Well Bond
Presco, Inc. The Woodlands TX	468 T1	Canceled	8/9/2021
		Amount:	\$10,000.00
		Purpose:	UIC Single Well Bond
Presco, Inc. The Woodlands TX	468 L1	Canceled	8/9/2021
		Amount:	\$30,000.00
		Purpose:	Limited Bond

Montana Board of Oil and Gas Conservation Summary of Bond Activity

6/8/2021 Through 8/10/2021

Canceled

Shadwell Resources Group, LLC Billings MT	687 T3	Canceled	6/15/2021
		Amount:	\$10,000.00
		Purpose:	UIC Single Well Bond

Rider Approved

Ovintiv USA Inc. The Woodlands TX	536 M1	Rider Approved	8/10/2021
		Amount:	\$50,000.00
		Purpose:	Multiple Well Bond
Surety Bond	\$50,000.00	RLI INSURANCE COMPANY	ACT

Incident Report

EXHIBIT 3

Company	Responsibility	Date	Incident	Oil Released	Water Released	Source	Contained	Latitude	Longitude	County	T-R-S
Continental Resources Inc	BOG	6/15/2021	Fire	21 Gallons		Flare Pit	No	47.76190	-104.54779	Richland	23N-56E-9 SWSW
Continental Resources Inc	BOG	6/17/2021	Fire			Flare Pit	No	47.83632	-104.78275	Richland	24N-54E-15 SWSW
Continental Resources Inc	BOG	7/5/2021	Fire			Other	No	47.76059	-104.76075	Richland	23N-54E-14 NWNW
Jake Oil, LLC	BOG	7/17/2021	Fire			Tank or Tank Battery	Yes	48.60128	-105.44001	Daniels	33N-48E-21 SWNE
Denbury Onshore, LLC	BOG	7/20/2021	Spill or Release		15 Barrels	Flow Line - Production	No	46.70115	-104.53094	Wibaux	11N-57E-15 SWSE
Denbury Onshore, LLC	OTR	8/1/2021	Fire			Other	No	46.43611	-104.27690	Fallon	8N-60E-19
Continental Resources Inc	BOG	8/1/2021	Fire			Other	No	47.78960	-104.67514	Richland	23N-55E-4 NWNW

Docket Summary

65-2021	Empire North Dakota LLC	Pooling, permanent spacing unit, Duperow Formation, 24N-58E-13: S2NW, N2SW (Ullman No. 2). Non-consent penalties requested.	Continued	Continued to the October hearing, email received 8/10/21.	<input type="checkbox"/>
66-2021	Kraken Oil & Gas LLC	Designate overlapping temporary spacing unit, Bakken/Three Forks Formation, 27N-57E-3: all, 10: all, and 28N-57E-34: all, 200' heel/toe setbacks and 500' lateral setbacks. Apply for permanent spacing within 90 days of completion. Operations must commence within one year of date of order. Amend Board Order 39-2018 to clarify said order is limited to oil and associated natural gas produced from the Bakken/Three Forks Formation for the Doris 10-3 #1H well. The overlapping temporary spacing unit shall be limited to production from the proposed horizontal well.			<input type="checkbox"/>
67-2021	Kraken Oil & Gas LLC	Authorize the drilling of up to two additional horizontal wells, overlapping temporary spacing unit, Bakken/Three Forks Formation, 27N-57E-3: all, 10: all, and 28N-57E-34: all, 200' heel/toe setbacks and 500' lateral setbacks.			<input type="checkbox"/>
68-2021	Clay's Consulting, LLC	Change of Operator from Western Meadowlark Resources, LLC to Clay's Consulting, LLC.			<input type="checkbox"/>
41-2021	Lonewolf Operating, LLC	Temporary spacing unit, Sawtooth Formation test well, 35N-21E-32: E2NESW, W2NWSE, 330 setbacks.		Continued from June hearing date, email received 6/4/21.	<input type="checkbox"/>
42-2021	Lonewolf Operating, LLC	Temporary spacing unit, Sawtooth Formation test well, 35N-21E-31: SWSWSE, SESESW and 34N-21E-6: NWNWNE, NENENW, 330 setbacks.		Continued from June hearing date, email received 6/4/21.	<input type="checkbox"/>
49-2021	Digital Operating Company LLC	Change of Operator from Abraxas Petroleum Corporation to Digital Operating Company LLC.		Continued from June hearing date, email received 6/4/21.	<input type="checkbox"/>
69-2021	Brainstorm Energy, Inc.	Show Cause: failure to pay administrative fees assessed for delinquent reporting.			<input type="checkbox"/>
70-2021	American Midwest Oil & Gas Corp.	Show Cause: failure to file production reports and pay administrative fees.			<input type="checkbox"/>
71-2021	Lyon, John J.	Show Cause:			<input type="checkbox"/>
72-2021	Summit Gas Resources, Inc.	Show Cause:			<input type="checkbox"/>
73-2021	Highlands Montana Corporation	Show Cause:			<input type="checkbox"/>

74-2021	ANG Holding (USA) Corp.	Show Cause:		<input type="checkbox"/>
75-2021	Pamect Oil, Keith E. Tyner DbA & Lowrance-Tyner Operating	Show Cause:		<input type="checkbox"/>
76-2021	Kykuit Resources, LLC	Show Cause:		<input type="checkbox"/>
52-2020	Zeiders Bros. Oil & Gas Company, L.L.C.	Show Cause: why it should not immediately plug and abandon its Rudolph Haynie 1-5 well, API # 25-055-21207, located in the SE¼NE¼ of Section 5, T22N-R47E, McCone County, Montana before the October 1, 2020, public hearing and pay the outstanding fine in the amount of \$10,500, as required by Board Order 3-2020.		<input type="checkbox"/>
32-2021	Forward Energy, LLC	Show Cause: why it should not have to provide a plan and timeline for the plugging and abandonment of its wells.		<input type="checkbox"/>
37-2021	Roland Oil and Gas	Show Cause: why it should not have to provide a plan and timeline for the plugging and abandonment of its wells in Glacier and Pondera Counties, Montana.		<input type="checkbox"/>
62-2021	Capstar Drilling, Inc., FKA Elenburg Exploration, Inc.	Show Cause: why it should not immediately plug and abandon the Meissner 11-14, API # 25-051-21588, located in the SWNESW of Section 14, T29N-R6E in Liberty County, Montana. Staff has the authority to dismiss the docket if the well is plugged prior to the hearing.	Dismissed	<input type="checkbox"/>

Inactive Well Review

Page 1:

The first page is a list of operators with all fee wells inactive. Staff has sent letters, and at this time four have responded. Several entries on the list are expected to be unlocatable. Staff will monitor responses, and this mailing will likely lead to future board referrals.

Page 2:

On this page, bonding and well counts for all fee wells have been combined so the list includes both injection and production wells. A per-well bond amount has been calculated, and the analysis is based upon the estimated number of wells that have been inactive for 10 years or more. Ten years was used since that period includes nearly 2 years where Montana reported first-purchaser oil price exceeded \$80.00 per barrel.

Also estimated is the number of inactive wells that lie within enhanced recovery units and those not within units. Location within an approved enhanced recovery unit indicates that leases could still be active and there may be the potential for additional recovery.

Color coding has been added to break out operators whose bonds were increased some time ago (shaded in green), operators who have had recent acquisitions and bond review under board policy (yellow), and operators that have current activities including pending bond forfeitures, well transfers, or other board action (red).

Page 3:

Page 3 shows a combined estimate of producing wells that became inactive prior to 1986 and inactive injection wells based upon reports filed after the mid-1990's. One possible approach would be to consider these wells subject to ARM 36.22.1303 and request justification for the wells remaining unplugged.

ARM 36.22.1303 WELL PLUGGING REQUIREMENT

(1) The owner shall not permit any well drilled for oil, gas, saltwater disposal, or any other purpose to remain unplugged after such well is no longer useful for the purpose for which it was drilled or converted. When a well is no longer capable of production because the underlying reservoir or reservoirs are depleted and there is no possible future use for the well in supplemental recovery operations or for disposal facilities, the operator shall within one year plug and abandon the well as set forth in this subchapter, unless otherwise authorized by the petroleum engineer or his authorized agent.

All Fee Wells Shut-in, Letters Sent

CoName	SumOfWells	SumOfAmount	PerWell	Wells
Stewart, Lynn	13	\$25,000.00	\$1,923.08	13
Hesla Oil, LLC	9	\$13,500.00	\$1,500.00	9
Habets Oil & Gas, LLC	9	\$13,500.00	\$1,500.00	9
Big Snowy Resources LP	8	\$50,000.00	\$6,250.00	8
Janssen Gas	2	\$10,000.00	\$5,000.00	2
Powder River Gas, LLC	2	\$50,000.00	\$25,000.00	2
Butler Petroleum LLC	1	\$10,000.00	\$10,000.00	1
Cremer Energy Inc.	1	\$10,000.00	\$10,000.00	1
Foster, Charles P. And Smith, Loren E.	1	\$5,000.00	\$5,000.00	1
Fulco	1	\$2,100.00	\$2,100.00	1
Herco Exploration LLC	1	\$5,000.00	\$5,000.00	1
Powers Energy Inc.	1	\$5,000.00	\$5,000.00	1
Heavy Water Haulers Inc.	1	\$1,500.00	\$1,500.00	1
Baldwin Lynch Energy Corp.	1	\$10,000.00	\$10,000.00	1
Larslan Water Disposal	1	\$5,000.00	\$5,000.00	1
Lustre Salt Water Disp, Vernon R. Justice Db	1	\$5,000.00	\$5,000.00	1
Petroleum Engineering & Management Corp.	1	\$1,500.00	\$1,500.00	1
Goldrock Minerals LLC	1	\$1,500.00	\$1,500.00	1

Combined State-Bonded Wells (Production and Injection) and SI 10 Years

CoName	Bonded_Wells	SumOfAmount	PerWell	SI_10Yr	% SI_10	SI_10Yr_Unit	Non-Unit
Synergy Offshore LLC	912	\$439,375.00	\$481.77	493	54%	277	216
Denbury Onshore, LLC	1234	\$2,580,000.00	\$2,090.76	225	18%	149	76
Somont Oil Company, Inc.	755	\$83,500.00	\$110.60	218	29%		218
NorthWestern Corporation	1335	\$56,500.00	\$42.32	179	13%	33	146
MCR, LLC	503	\$205,000.00	\$407.55	152	30%	24	128
D90 Energy, LLC	198	\$469,750.00	\$2,372.47	66	33%	57	9
Brown, J. Burns Operating Company	112	\$50,000.00	\$446.43	60	54%		60
Citation Oil & Gas Corp.	136	\$260,000.00	\$1,911.76	58	43%	50	8
Summit Gas Resources, Inc.	175	\$59,000.00	\$337.14	50	29%		50
ANG Holding (USA) Corp.	80	\$50,000.00	\$625.00	44	55%		44
Keesun Corporation	195	\$55,001.00	\$282.06	44	23%		44
H&R Energy, LLC	185	\$50,000.00	\$270.27	40	22%		40
Hawley Oil Company	77	\$43,000.00	\$558.44	39	51%		39
King-Sherwood Oil	76	\$20,000.00	\$263.16	30	39%		30
Poplar Resources LLC	59	\$50,000.00	\$847.46	29	49%	22	7
Scout Energy Management LLC	1296	\$250,000.00	\$192.90	28	2%	4	24
Ranck Oil Company, Inc.	143	\$50,000.00	\$349.65	27	19%	5	22
Omimex Canada, Ltd.	23	\$50,000.00	\$2,173.91	22	96%		22
Western Natural Gas Company	94	\$50,000.00	\$531.91	21	22%		21
Montana Energy Company, LLC	86	\$210,000.00	\$2,441.86	21	24%	5	16
Balko, Inc.	165	\$95,000.00	\$575.76	20	12%		20
Sands Oil Company	51	\$70,000.00	\$1,372.55	20	39%		20
Lonewolf Operating, LLC	72	\$50,000.00	\$694.44	19	26%		19
Fulton Fuel Company	19	\$50,000.00	\$2,631.58	18	95%		18
Montalban Oil & Gas Operations, Inc.	304	\$305,000.00	\$1,003.29	18	6%		18
Phoenix Energy, Inc.	50	\$25,000.00	\$500.00	18	36%		18
Three Forks Resources, LLC	105	\$95,000.00	\$904.76	17	16%	7	10
Cardinal Oil, LLC	40	\$60,000.00	\$1,500.00	17	43%		17
FX Drilling Company, Inc.	49	\$50,000.00	\$1,020.41	17	35%	4	13
A. B. Energy LLC	299	\$80,000.00	\$267.56	15	5%		15
Croft Petroleum Co.	78	\$120,000.00	\$1,538.46	15	19%		15
Beartooth Oil & Gas Company	32	\$125,000.00	\$3,906.25	14	44%	7	7
Cat Creek Holdings LLC	35	\$68,500.00	\$1,957.14	14	40%	6	8
Western Meadowlark Resources LLC	59	\$120,000.00	\$2,033.90	14	24%		14
Enneberg Oil & Gas	21	\$50,000.00	\$2,380.95	13	62%		13
Stewart, Lynn	13	\$25,000.00	\$1,923.08	13	100%		13
Yellowstone Petroleums, Inc.	38	\$38,000.00	\$1,000.00	12	32%		12
Pamect Oil, Keith E. Tyner Db	33	\$28,500.00	\$863.64	11	33%		11
D & M Welding LLC	24	\$50,000.00	\$2,083.33	11	46%		11
Prior Bond Increases							
Recent Board Review							
Current Activity							

Estimated # of Wells Inactive Throughout Modern Reporting Period

CoName	Fee_Bonded_Wells	Total Bonding	PerWell	Inactive Before 1986 or Never Non-Zero*	Unit	Non-Unit
Synergy Offshore LLC	912	\$439,375.00	\$481.77	268	152	116
NorthWestern Corporation	1335	\$56,500.00	\$42.32	78	14	64
MCR, LLC	503	\$205,000.00	\$407.55	70	10	60
Somont Oil Company, Inc.	755	\$83,500.00	\$110.60	59		59
Brown, J. Burns Operating Company	112	\$50,000.00	\$446.43	43		43
Denbury Onshore, LLC	1234	\$2,580,000.00	\$2,090.76	102	64	38
ANG Holding (USA) Corp.	80	\$50,000.00	\$625.00	33		33
Keesun Corporation	195	\$55,001.00	\$282.06	21		21
Omimex Canada, Ltd.	23	\$50,000.00	\$2,173.91	21		21
Summit Gas Resources, Inc.	175	\$59,000.00	\$337.14	21		21
Cardinal Oil, LLC	40	\$60,000.00	\$1,500.00	13		13
H&R Energy, LLC	185	\$50,000.00	\$270.27	12		12
Fulton Fuel Company	19	\$50,000.00	\$2,631.58	10		10
Lonewolf Operating, LLC	72	\$50,000.00	\$694.44	10		10
Western Meadowlark Resources LLC	59	\$120,000.00	\$2,033.90	10		10
Cat Creek Holdings LLC	35	\$68,500.00	\$1,957.14	9	1	8
				780	241	539
* First digital production data was gathered in 1986. Electronic Injection well reports were first collected during the 1990's.						

STATE OF MONTANA
DEPARTMENT OF JUSTICE
AGENCY LEGAL SERVICES BUREAU

EXHIBIT 6

Austin Knudsen
Attorney General



1712 Ninth Avenue
P.O. Box 201440
Helena, MT 59620-1440

August 11, 2021

To: Montana Board of Oil and Gas Conservation
2535 St. Johns Avenue
Billings, MT 59102

Fr: Andrew Cziok, Assistant Attorney General tasked as counsel to the Board

Re: Representation of Corporate Entities before the Board

Historically, it has been the practice of the Board of Oil and Gas Conservation that, when a legal entity like a corporation has been asked to appear before it, individuals appearing before the Board have not been allowed to represent the entity itself, but they have been permitted to give factual testimony to the Board. The Board has then issued an appropriate order following the testimony. In the past, the Board has taken the position that non-lawyers cannot represent the corporate entities before it, but they may be sworn in and give factual testimony. This is somewhat of a legal fiction, since, in most instances, this has meant that the person appearing, usually an owner/operator of the business entity, has made statements and representations about what they, and the business they control, will do. Relying on these representations, the Board has issued orders meant to bind these corporate entities.

Based on a review of the applicable law, it is my opinion that business entities that are not natural persons must appear before the Board through an attorney licensed to practice law in Montana. The Montana Supreme Court has long held that an individual who is not licensed as an attorney may not represent the interests of a third party without a law license. *Lucas v. Stevenson*, 2013 MT 15, ¶ 1 n.1, 368 Mont. 269, 270, 294 P.3d 377, 379. This extends to parties that are not natural persons, such as a corporation. A corporation “cannot appear on its own behalf through an agent other than an attorney.” *H & H Dev., LLC v. Ramlow*, 2012 MT 51, ¶ 18, 364 Mont. 283, 288, 272 P.3d 657, 661. In fact, “[n]on-lawyers who attempt to represent corporations or partnerships in court are guilty of contempt of court.” *Id.* (citing *Zempel v. Liberty*, 2006 MT 220, ¶ 18, 333 Mont. 417, 143 P.3d 123 and § 37-61-210, MCA). This applies “with equal force to partnerships, limited liability companies, and similar entities.” *Id.*

While these cases describe the rule that corporations may not appear before *courts* except through an attorney, there is no reason to believe this would not apply with equal force to the Board of Oil and Gas Conservation. First, the Montana Administrative Procedure Act notes that agencies “shall be bound by common law and statutory rules of evidence” in contested cases. M.C.A. § 2-4-612. Further, when the case law discussed above was first being developed, the Montana Supreme Court addressed the legal basis for requiring a corporation to appear through a licensed attorney. *Continental Realty v. Gerry*, 251 Mont. 150, 152, 822 P.2d 1083, 1084 (1991). It looked, in part,

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to an American Legal Reports (legal encyclopedia) entry that summarized case law in this area. *Id.* That section contained (and still does) case law showing that a minority of jurisdictions recognize an exception for, among other things, administrative tribunals. *See Propriety and effect of corporation's appearance pro se through agent who is not attorney*, 8 A.L.R. 5th 653 (2001). At that time, the Montana Supreme Court knew of these minority rule exceptions but did not seek to apply any of them. Nor has it announced any such exception in any cases dealing with this issue since then. *See generally supra.* In light of this, there is no reason to believe the rules described above apply with any less force in administrative proceedings before the Board.

In light of the above, the conclusion follows: **if a corporation may only appear before an administrative tribunal through a licensed attorney, and no licensed attorney appears before a tribunal, the corporation has failed to appear before that tribunal.**

By issuing orders that the Board intends to be binding on a corporation without that corporation's legal appearance, the Board risks inviting arguments that a corporation does not need to follow an order from a hearing for which it was not present, or that it is not bound by representations made by non-attorney representatives as that hearing. While there may be exceptions that would allow the Board to enforce its orders notwithstanding the corporation's failure to appear through a legal representative, it invites unnecessary scrutiny and uncertainty.

Instead, a corporation that receives notice of a hearing but fails to appear through a licensed attorney should be considered a failure to appear at the hearing. The Board may issue orders it deems appropriate to address and remedy an entity's failure to appear. M.C.A. § 82-11-147.

In light of these considerations, I propose the Board direct its staff to add the following language to hearing notices issued to non-corporeal entities:

Please take note that corporations, partnerships, limited-liability companies (LLCs), or any other legal entity that is not a natural person cannot appear before the Board of Oil and Gas Conservation except through an attorney licensed to practice law in the State of Montana. Failure of a designated and duly licensed legal representative to appear at the time and place identified in this hearing notice may result in imposition of sanctions for failure to appear before the Board.

One final note—Board staff have expressed concern that applying the rule described above could adversely affect individuals who seek to appear before the Board in protest of a pending permit application or other matter in which they may do business as a legal entity. Such a situation could conceivably come up in an objection from a landowner with a family farm that operates as a corporation, for instance. However, in such situations, the Board is not issuing an order with binding effect on that business, and may consider the impact on the business generally by testimony of someone who is familiar with its operations. In other words, the Board would not be considering the testimony or objection of the corporation, but testimony of the actual individuals that would be affected, even if it is only the effect of injury to their business. This is the key distinction; the fact that an individual chooses to operate their business using a corporate form should not be a barrier to their presenting testimony to the Board if the facts may be useful in the

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Board's making a legal determination within its power. However, in the case of an entity actually ordered before the Board on an official matter, the *entity* itself is the party subject to the order. In such cases, actual appearance through a representative must be required in compliance with existing law on corporate representation.