

STATE OF MONTANA
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
MINUTES OF THE
BOARD OF OIL AND GAS CONSERVATION MEETING AND PUBLIC HEARING
August 11 & 12, 2021

CALL TO ORDER

The regular business meeting of the Montana Board of Oil and Gas Conservation was called to order by Chairman Roy Brown at 2:00 p.m., Wednesday, August 11, 2021, at its office at 2535 St. Johns Avenue in Billings, Montana. Board members present were Chairman Roy Brown, Steven Durrett, Paul Gatzemeier, Mac McDermott, Mike Weber, Corey Welter, and Jeff Wivholm. Staff present was Jennifer Breton, Drew Cziok, John Gizicki, Jim Halvorson, George Hudak, and Ben Jones.

ROLL CALL & INSTRUCTIONS

The Board returned to normal hearing procedures at the August hearing.

APPROVAL OF MINUTES

A motion was made by Mr. Gatzemeier, seconded by Mr. Welter and unanimously passed, to approve the minutes of the June 9, 2021, 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.

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 did not have any flaring exceptions to review.

INACTIVE WELL REVIEW

Mr. Halvorson discussed the inactive well review overview and spreadsheets, attached as Exhibit 5.

Mr. Halvorson reviewed a list of eighteen operators with all its fee wells that have been inactive for two or more years. Staff sent letters to these operators and so far, only four operators responded. The responses were from:

1. Habets Oil & Gas, LLC – the owner has medical problems
2. Foster, Charles P. And Smith, Loren E. – working on addressing the issue
3. Baldwin Lynch Energy Corp. – may plug its well
4. Petroleum Engineering & Management Corp.– filed a notice of intent to abandon its well

Mr. Halvorson reviewed the bonding and estimated well count for production and injection wells that have been inactive for more than 10 years and the estimate of wells that have been inactive throughout the modern reporting period.

The Board discussed the potential plugging liability of the inactive wells.

Mr. Durrett and Mr. Gatzemeier wants to see operators ranked based on well plugging liability.

Mr. Halvorson suggested a well depth factor could be added to the spreadsheet to help make the assumptions of the well plugging costs.

Mr. Welter recommended adding well type to the spreadsheet too.

Mr. Halvorson noted that the current draft of the federal infrastructure bill would provide money for states to plug and abandon orphan wells under a federal grant program.

Mr. Welter suggested that the legislature consider raising the RIT cap to \$3 million which could provide additional interest income to be applied to orphaned well abandonment and restoration.

ATTORNEY REPRESENTATION DISCUSSION

Mr. Cziok reviewed the memo regarding representation of corporation entities before the Board, attached as Exhibit 6.

Mr. Cziok's opinion, based on a review of the applicable law, is 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 to practice law as an attorney may not represent the interests of a third party without a law license. Officers in a company cannot appear on behalf of the company without an attorney present.

This applies to applicants and respondents specifically. Anyone with a personal interest in a docket,

regardless of corporate status, can speak to its personal concerns/interest and does not require an attorney.

If an applicant or respondent comes before the Board without an attorney, the Board can either continue the matter or issue a penalty for failure to appear. It will be the Board's discretion.

This policy has the potential to reduce the number of show cause dockets because attorney fees are more expensive for an operator than to just stay in compliance with Board rules.

Mr. Cziok recommended that the attorney requirement be enforced and proposed language be included in responses to applicants and be included in the hearing notice. Here is the proposed language: 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.

Motion: Mr. Weber made the motion to approve the recommendation. Mr. Durrett seconded, and the motion passed unanimously.

STAFF REPORTS

Drew Cziok

Bison Oil & Gas III, LLC filed three lawsuits against the Board in district court regarding its docket outcomes from the June hearing. The lawsuits will be ongoing.

Jim Halvorson

Geospatial Consultants, LLC is submitting a request to the Governor's office for ARPA funds that would be used to scan the well logs and make the logs available to the public. Mr. Halvorson requested the Board's approval for him to sign a letter of support.

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

There are numerous weed control violations in eastern Montana that need to be addressed. Weeds are seasonal and this violation is best addressed throughout the growing season rather than in the fall.

Currently, Mr. Halvorson is working with White Rock Oil & Gas, LLC to address weed issues.

Mr. Gizicki and Mr. Jones will be going into the field in the coming weeks to evaluate operators and staff will continue to work with the operators to resolve the issues.

OTHER BUSINESS

No other business discussed.

PUBLIC HEARING

The Board reconvened on Thursday, August 12, 2021, 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 65-2021 – The application of Empire North Dakota LLC was continued to the October 2021 hearing.

Docket 66-2021 – A motion was made by Mr. Weber, seconded by Mr. Welter and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 57-2021.

Docket 67-2021 – A motion was made by Mr. Weber, seconded by Mr. Welter and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 58-2021.

Docket 41-2021 – A motion was made by Mr. Durrett, seconded by Mr. Weber and unanimously passed, to approve the application of Lonewolf Operating, LLC as set forth in Board Order 59-2021.

Docket 42-2021 – A motion was made by Mr. Durrett, seconded by Mr. Weber and unanimously passed, to approve the application of Lonewolf Operating, LLC as set forth in Board Order 60-2021.

Docket 68-2021 – A motion was made by Mr. Gatzemeier, seconded by Mr. Wivholm and unanimously passed that staff may proceed with administrative review and approval of the Western Meadowlark Resources, LLC to Clay's Consulting, LLC change of operator request. This is set forth in Board Order 61-2021.

Docket 49-2021 – A motion was made by Mr. Welter, seconded by Mr. Gatzemeier and unanimously passed that staff may proceed with administrative review and approval of the Abraxas Petroleum Corporation to Digital Operating Company LLC change of operator request. This is set forth in Board Order 62-2021.

Docket 69-2021 – A motion was made by Mr. Gatzemeier, seconded by Mr. Durrett and unanimously passed that Brainstorm Energy, Inc.'s remaining \$220 fine is waived. This is set forth in Board Order 63-2021.

Docket 70-2021 – A motion was made by Mr. Durrett, seconded by Mr. Weber and unanimously passed that American Midwest Oil & Gas Corp. is fined \$1,000 for failure to appear at the August 12, 2021, public hearing. American Midwest Oil & Gas Corp. must show cause at the October 14, 2021, public hearing for why it should not immediately plug and abandon its non-producing wells in Toole County, Montana. The request to waive the \$220 fine is denied. This is set forth in Board Order 64-2021.

Docket 71-2021 – A motion was made by Mr. Welter, seconded by Mr. Gatzemeier and unanimously passed that Docket 71-2021, Lyon, John J., is dismissed. This is set forth in Board Order 65-2021. Mr. McDermott recused himself and took no part in this matter.

Docket 72-2021 – A motion was made by Mr. Gatzemeier, seconded by Mr. Weber and unanimously passed that Summit Gas Resources, Inc.’s seven injection permits for its wells in Big Horn County, Montana are revoked. This is set forth in Board Order 66-2021.

Docket 73-2021 – A motion was made by Mr. Welter, seconded by Mr. Durrett and unanimously passed that Highlands Montana Corporation must file the missing completion data for the Helios 5-52 16-32 well, submit plans for plugging the Helios 5-52 16-22 well and the restoration of the location of the Helios 5-52 16-21 well by October 14, 2021. Highlands is subject to a \$250 fine for each day after October 14, 2021, that the violations remain unaddressed. Highlands Montana Corporation is fined \$1,000 for failure to appear at the August 12, 2021, public hearing. Docket 73-2021 is continued until the October 14, 2021, public hearing. This is set forth in Board Order 67-2021.

Docket 74-2021 – A motion was made by Mr. Gatzemeier, seconded by Mr. Welter and unanimously passed that the plugging and reclamation bond for ANG Holding (USA) Corp. is forfeited. This is set forth in Board Order 68-2021.

Docket 75-2021 – A motion was made by Mr. Welter, seconded by Mr. Weber and unanimously passed that Pamect Oil, Keith E. Tyner DbA and Lowrance-Tyner Operating is fined \$1,000 for failure to appear at the August 12, 2021, public hearing. Docket 75-2021 is continued until the October 14, 2021, public hearing. This is set forth in Board Order 69-2021.

Docket 76-2021 – A motion was made by Mr. Durrett, seconded by Mr. Welter and unanimously passed that Kykuit Resources, LLC is fined \$1,000 for failure to appear at the August 12, 2021, public hearing. Kykuit Resources, LLC must show cause at the October 14, 2021, public hearing as to why it should not immediately plug and abandon its wells that are not capable of production. This is set forth in Board Order 70-2021.

Docket 52-2020 – A motion was made by Mr. Gatzemeier, seconded by Mr. Welter and unanimously passed that Zeiders Bros. Oil & Gas, LLC is fined \$1,000 for failure to appear at the August 12, 2021, public hearing. Docket 52-2020 is continued until the October 14, 2021, public hearing. This is set forth in Board Order 71-2021.

Docket 32-2021 – A motion was made by Mr. Weber, seconded by Mr. Gatzemeier and unanimously passed that Docket 32-202, Forward Energy, LLC is continued until the October 14, 2021, public hearing. This is set forth in Board Order 72-2021.

Docket 37-2021 – A motion was made by Mr. Weber, seconded by Mr. Gatzemeier and unanimously passed that Roland Oil and Gas must show cause at the October 14, 2021, public hearing for why it should not immediately plug and abandon its wells Glacier and Pondera Counties, Montana. This is set forth in Board Order 73-2021.

Docket 62-2021 – The show-cause hearing of Capstar Drilling, Inc., FKA Elenburg Exploration, Inc. was dismissed.

NEXT MEETINGS

The next business meeting of the Board will be Wednesday, October 13, 2021, 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, October 14, 2021, 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 October 14th public hearing is September 9, 2021.

BOARD OF OIL AND GAS CONSERVATION OF THE STATE OF MONTANA

Roy Brown, Chairman
Steven Durrett, Vice-Chairman
Paul Gatzemeier, Board Member
Mac McDermott, Board Member
Joseph Michael Weber, Board Member
Corey Welter, Board Member
Jeff Wivholm, Board Member

ATTEST:

Jennifer Breton, Program Specialist