

STATE OF MONTANA
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
MINUTES OF THE
BOARD OF OIL AND GAS CONSERVATION MEETING AND PUBLIC HEARING
August 17 & 18, 2022

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 17, 2022, 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, Caitlin Buzzas, John Gizicki, and Ben Jones.

PUBLIC COMMENT ON AGENDA AND NON-AGENDA ITEMS

Ms. Susann Beug from Northern Plains Resource Council (NPRC) thanked the Board and its staff for its hard work in applying for federal funding to plug Montana's orphan wells through the Bipartisan Infrastructure Law.

NPRC wants to prevent companies without financial means from operating wells. The plugging and reclamation bonds do not cover the full amount to plug wells. Ms. Beug provided the Board a letter regarding a bonding level review request, attached as Exhibit 1. Ms. Beug requested the Board consider adding bonding levels to the next business meeting agenda to start the conversation. NPRC is willing to work with industry in this matter.

Mr. Welter suggested that the Legislature increase its funding from the Resource Indemnity Trust (RIT) account into the Damage Mitigation account.

Mr. Durrett stated the Board is reviewing inactive wells and change of operator requests with Board referrals which has led to increased bonding.

Mr. Jones noted that Ms. Beug had submitted the letter to him before the August hearing but did not add it to the agenda because he felt it needed Board approval.

Mr. Gatzemeier requested a shut-in well report.

The Board agreed to have it added to the October business meeting agenda.

APPROVAL OF MINUTES

A motion was made by Mr. Welter, seconded by Mr. Gatzemeier and unanimously passed, to approve the minutes of the June 15, 2022, business meeting.

PROPOSED ADOPTION OF AMENDMENT OF ARM 36.22.307 AND 36.22.1243 PERTAINING TO REPORTS FROM TRANSPORTERS, PURCHASERS, AND GASOLINE OR EXTRACTION PLANTS AND REMOVE THE REQUIREMENT FOR FILING FORMS NO. 9 AND NO. 10.

Mr. Jones reviewed the proposed rule adoption draft that would repeal Form 9 and 10, attached as Exhibit 2. These forms are no longer necessary and there are no public requests for the information provided on the forms.

Mr. Jones recommended that the Board proceed with the publication of the notice adoption regarding the elimination of Form 9 and 10.

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

FINANCIAL REPORT

Mrs. Breton discussed the financial statement, attached as Exhibit 3.

BOND SUMMARY & INCIDENT REPORT

Mr. Jones presented the bond report and the incident report, attached as Exhibit 4 & 5.

DOCKET SUMMARY

Mr. Jones presented the docket summary, attached as Exhibit 6.

GAS FLARING EXCEPTIONS

Mr. Jones discussed the gas flaring report, attached as Exhibit 7. There are three Kraken Operating, LLC (Kraken) wells flaring in excess of 100 MCFG/day with an exception request.

All of these wells are connected to a gas pipeline, but due to the high line pressure Kraken has had limited success selling the gas. Kraken has had success selling excessive gas to Crusoe Energy Systems, that uses the gas to generate power for running remote network systems that mine digital cryptocurrency. Still, Kraken is flaring over the limit.

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

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

INACTIVE WELL REVIEW

Mr. Gizicki provided the Board an update on four inactive well operators.

1. Big Snowy Resources LP is transferring a well to the landowner to be used as a water well. The landowner filed a water right, but the gate is locked so the field inspector cannot inspect the well and approve the transfer. The remaining seven wells will be either returned to production or plugged within the next 24 months.
2. Goldrock Minerals LLC is transferring its well to the landowner to be used as a water well. The landowner filed a water right. The landowner requested that the field inspection happen after the growing season.
3. Fulco planned to have the well plugged in June 2022. It's reviewing its plugging contractor options. Staff will continue to monitor the situation.
4. Herco Exploration LLC plans to plug its one inactive well and has a plugging contractor scheduled. Staff will continue to monitor the situation.

ORPHAN WELL AND FEDERAL GRANT UPDATE

Mr. Jones provided the Board an update of the Bipartisan Infrastructure Law Sec. 40601: Initial Grants. In May 2022, the Board applied for the large-scale grant (up to \$25 million) that will provide money for states to plug and abandon orphan wells under a federal grant program.

The Department of Interior (DOI) is expected to release the state's award amount on August 25, 2022. October 1st is supposed to start the 90-day contracting period. All funds must be contracted by December 30th.

Mr. Jones has been working on preparing contracts so they can be released for bid as soon as possible when the awarded amount is known.

There have been questions regarding the indirect rate that DNRC collects for managing the contracts. There is time to resolve this issue, and this should not hold up the award.

STAFF REPORTS

Ben Jones

Mr. Jones provided a staffing update. Since the last meeting, the Roundup field inspector has been hired. The Shelby field inspector position has been difficult to fill. It has been open for several months with no qualified candidates.

Mr. Jones provided an updated on D90 Energy, LLC (D90). At the June business meeting, the Board required D90 provide a plan regarding the reclamation of the four TAQA plugged wells, and the one plugged well that staff failed to receive paperwork on. Work is underway to restore the four well sites and the Helm well that D90 failed to submit paperwork on was not a Montana well. The update D90 provided to staff is attached as Exhibit 8.

At the June hearing, White Rock Oil & Gas, LLC (White Rock) was required to provide the Board an update on why the Dynneson 4-32H well and the Dynneson 2-31H had incorrect or no production reported

for over two years. There were several factors that contributed to this error: software issues and new personnel. The software has since been fixed and White Rock is currently filing timely reports on these wells. White Rock's letter is attached as Exhibit 9.

John Gizicki

Mr. Gizicki discussed Apex Energy LLC, Genesis ST Operating LLC, and Berexco LLC.

Mr. Gizicki recommended Apex Energy LLC to show cause at the October 13, 2022, public hearing why additional penalties should not be considered for failure to remedy the field violations and to provide an update of its activities it has taken to come into compliance.

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

Mr. Gizicki recommended Genesis ST Operating LLC to show cause at the October 13, 2022, public hearing why additional penalties should not be considered for failure to remedy the field violations and to provide an update of its activities it has taken to come into compliance.

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

Mr. Gizicki recommended Berexco LLC must have the Arthur 1 well location in compliance and must submit a subsequent report of abandonment prior to the September 8, 2022, hearing application deadline. If compliance is not achieved by that date, Berexco will be ordered to show cause at the October 13, 2022, public hearing why additional penalties should not be considered for failure to remedy the field violations and failure to provide the required report and to provide an update of its activities it has taken to come into compliance.

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

The Board issued three Administrative Orders regarding these operators, attached as Exhibit 10.

Caitlin Buzzas

Ms. Buzzas provided the Board a litigation update. There is a motion deadline on August 19, 2022 for the Phoenix Capital lawsuit. If it is accepted, there will be a bench trial.

OTHER BUSINESS

The Board closed the next portion of the meeting to discuss staffing in which individual privacy exceeds the merits of public disclosure.

PUBLIC HEARING

The Board reconvened on Thursday, August 18, 2022, 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 74-2022 – 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 63-2022.

Docket 75-2022 – 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 64-2022.

Docket 76-2022 – A motion was made by Mr. Weber, seconded by Mr. Durrett and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 65-2022.

Docket 77-2022 – A motion was made by Mr. Weber, seconded by Mr. Durrett and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 66-2022.

Docket 78-2022 – A motion was made by Mr. Weber, seconded by Mr. Wivholm and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 67-2022.

Docket 79-2022 – A motion was made by Mr. Weber, seconded by Mr. Wivholm and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 68-2022.

Docket 80-2022 – 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 69-2022.

Docket 81-2022 – 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 70-2022.

Docket 82-2022 – 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 71-2022.

Docket 83-2022 – A motion was made by Mr. Durrett, seconded by Mr. Welter and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 72-2022.

Docket 84-2022 – A motion was made by Mr. Durrett, seconded by Mr. Welter and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 73-2022.

Docket 85-2022 – The application of Bluebird Energy, LLC was continued to the October 2022 hearing.

Docket 86-2022 – The application of Bluebird Energy, LLC was continued to the October 2022 hearing.

Docket 87-2022 – A motion was made by Mr. Gatzemeier, seconded by Mr. Welter and unanimously passed, to approve the application of Denbury Onshore LLC as set forth in Board Order 81-2022.

Docket 88-2022 / 4-2022 FED – A motion was made by Mr. Gatzemeier, seconded by Mr. Welter and unanimously passed, to approve the application of Drawings, LLC as set forth in Board Order 82-2022.

Docket 89-2022 – 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 Petrox Petroleum Company was approved as set forth in Board Order 74-2022.

Docket 90-2022 – 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 Petrox Petroleum Company was approved as set forth in Board Order 75-2022.

Docket 91-2022 – 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 76-2022.

Docket 92-2022 – 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 77-2022.

Docket 93-2022 – 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 78-2022.

Docket 26-2022 – A motion was made by Mr. Weber, seconded by Mr. Gatzemeier and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 79-2022.

Docket 27-2022 – A motion was made by Mr. Weber, seconded by Mr. Gatzemeier and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 80-2022.

Docket 94-2022 – The application of Montalban Oil & Gas Operations, Inc. was continued to the October 2022 hearing.

Docket 95-2022 – A motion was made by Mr. Weber, seconded by Mr. Gatzemeier and unanimously passed that staff may proceed with administrative review and approval of the change of operator request from Ovintiv USA Inc. to EMEP Operating, LLC. This is set forth in Board Order 83-2022.

Docket 96-2022 – A motion was made by Mr. Wivholm, seconded by Mr. McDermott and unanimously passed that New Horizon Resources LLC must appear at the August 2023, public hearing to provide an

update of its activities including any reduction in abandonment liability by either plugging wells or returning wells to production. This is set forth in Board Order 84-2022.

Docket 97-2022 - A motion was made by Mr. Durrett, seconded by Mr. Weber and unanimously passed that Seymour, James & Lorraine must show cause at the October 13, 2022, public hearing for why it should not immediately plug and abandon its State 8-8 well, API # 25-101-22239, located in the W $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 8, T37N-R4W, Toole County, Montana. This is set forth in Board Order 85-2022.

Docket 98-2022 – A motion was made by Mr. Gatzemeier, seconded by Mr. McDermott and unanimously passed that Docket 98-2022, Black Gold Energy Resource Development, LLC, is dismissed. This is set forth in Board Order 86-2022.

Docket 99-2022 – A motion was made by Mr. Gatzemeier, seconded by Mr. McDermott and unanimously passed that Docket 99-2022, Black Gold Energy Richland Facility, Inc., is dismissed. This is set forth in Board Order 87-2022.

Docket 100-2022 – The show-cause hearing of R & A Oil, Inc. was dismissed.

Docket 108-2021 – A motion was made by Mr. Gatzemeier, seconded by Mr. Durrett and unanimously passed that Black Gold Energy Resource Development, LLC must cease operations at the Indian Mound 1 well and that no additional fluids be transported to the location until violations are remedied and compliance is confirmed by field inspection. Black Gold was fined \$10,000 in conjunction with Docket 109-2021 for failure to be in full compliance with Board rules by August 1, 2022, as required by Board Order 60-2022. All violations must be addressed by September 15, 2022. Black Gold is subject to a \$10,000 fine in conjunction with Docket 109-2021 for each day after the deadline that the violations remain unaddressed. The fine will remain in effect until compliance is achieved for both Docket 108-2021 and Docket 109-2021. The Board may pursue legal action if compliance is not met. The \$250 daily fine was stopped as of August 18, 2022. This is set forth in Board Order 88-2022.

Docket 109-2021 – A motion was made by Mr. Gatzemeier, seconded by Mr. Durrett and unanimously passed that Black Gold Energy Richland Facility, Inc. must cease operations at the Velma SWD 1-10 well and that no additional fluids be transported to the location until violations are remedied and compliance is confirmed by field inspection. Black Gold was fined \$10,000 in conjunction with Docket 108-2021 for failure to be in full compliance with Board rules by August 1, 2022, as required by Board Order 61-2022. All violations must be addressed by September 15, 2022. Black Gold is subject to a \$10,000 fine in conjunction with Docket 108-2021 for each day after the deadline that the violations remain unaddressed. The fine will remain in effect until compliance is achieved for both Docket 108-2021 and Docket 109-2021. The Board may pursue legal action if compliance is not met. This is set forth in Board Order 89-2022.

Docket 43-2022 – A motion was made by Mr. Gatzemeier, seconded by Mr. Welter and unanimously passed that Butler Petroleum LLC must begin to plug and abandon or transfer its EPU 120 well, API # 25-085-21820, located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 29, T29N-R51E, Roosevelt County, Montana, prior to the October 13, 2022, public hearing. Failure to begin to plug and abandon or transfer the well may result in

additional penalties or the forfeiture of the plugging and reclamation bond in its entirety, as permitted by § 82-11-123(5), MCA. This is set forth in Board Order 90-2022.

NEXT MEETINGS

The next business meeting of the Board will be Wednesday, October 12, 2022, 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 13, 2022, 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 13th public hearing is September 8, 2022.

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