

STATE OF MONTANA
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
MINUTES OF THE
BOARD OF OIL AND GAS CONSERVATION MEETING AND PUBLIC HEARING
April 12 & 13, 2023

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, April 12, 2023, at its office at 2535 St. Johns Avenue in Billings, Montana. Board members present were Chairman Roy Brown / Steven Durrett, Mac McDermott, John Tietz, Corey Welter, and Jeff Wivholm. Board member Paul Gatzemeier was absent. Staff present was Ben Jones, Ben Davis, Perry Fields, Liz Leman, Jennifer Breton, and John Gizicki.

BOARD & VICE CHAIRMAN APPOINTMENTS

Mr. Brown notified the Board that as a part of the Governors practice to rotate board chairs, Mr. Durrett has been appointed chairman by the Governor and that he will continue to serve as a board member.

Chairman Durrett welcomed new appointee W. John Tietz to the Board. Mr. Tietz took the oath of office.

The Board discussed the Board's vice chair appointment. Mr. McDermott nominated Mr. Welter.

Motion: Mr. McDermott made the motion to nominate Mr. Welter as vice chairman. Mr. Brown seconded and the motion passed unanimously.

PUBLIC COMMENT ON AGENDA AND NON-AGENDA ITEMS

Ms. Susann Bueg from Northern Plains Resource Council (NPRC) has oil and gas development on her property in Colorado. She is deeply concerned about Montana's current oil and gas bonding levels. Ms. Bueg handed out Exhibit 1 with NPRC's reasons for increasing bonding levels.

Mr. Edward Barta, also with NPRC, requested the Board evaluate the current bonding levels and discuss an increase in bonding at the June business meeting. He proposed that any bonding increase should not be retroactive. Mr. Barta cited several reasons to increase bonding with the main reason being inflation. NPRC wants Montana's bonding levels to address the actual costs of plugging and reclamation and to be in line with the neighboring states. NPRC is willing to work with the Board and 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. NPRC could work with the Legislature next session to take the strain off the Board.

The Board agreed to add a bonding discussion to the June business meeting agenda.

Motion: Mr. Welter made the motion to add bonding to the June agenda. Mr. Wivholm seconded and the motion passed unanimously.

Chairman Durrett requested that staff have comparative data for the discussion in June.

APPROVAL OF MINUTES

A motion was made by Mr. Welter, seconded by Mr. Brown and unanimously passed, to approve the minutes of the February 1, 2023, business meeting.

REVIEW OF EMPIRE NORTH DAKOTA LLC REDUCTION IN PLUGGING LIABILITY

Mr. Jones provided an update on Empire North Dakota LLC (Empire), attached as Exhibit 2.

Mr. Jones noted that today's discussion was only a staff update and that Empire will appear at the June 2023 public hearing for a formal update.

DELINQUENT ANNUAL UIC FEES

Mr. Perry Fields brought to the Board's attention Bootstrap Oil LLC (Bootstrap Oil) who is the remaining UIC operator who has not paid the 2023 annual injection fee of \$200 that was due on January 31, 2023. Mr. Fields reviewed Exhibit 3.

Mr. Fields recommended the Board assess Bootstrap Oil a \$100 late fee for its one injection well for failure to submit its injection well payment prior to the deadline. The total due in injection well fees and penalties is \$300.

Motion: Mr. Brown made the motion to approve the recommendation. Mr. McDermott seconded, and the motion passed unanimously. The Board issued Bootstrap Oil Administrative Order 2-A-2023, attached as Exhibit 4.

FINANCIAL REPORT

Mrs. Breton discussed the financial statement, attached as Exhibit 5.

BOND SUMMARY & INCIDENT REPORT

Mr. Jones presented the bond report and the incident report, attached as Exhibit 6 & 7.

DOCKET SUMMARY

Mr. Jones presented the docket summary, attached as Exhibit 8.

GAS FLARING EXCEPTIONS

There were no flaring exceptions to review.

INACTIVE WELL REVIEW

Mr. Davis reviewed a list of inactive well operators and their current statuses, attached as Exhibit 9.

Mr. Davis discussed Midway Energy, LLC and Brandon Oil Company, attached as Exhibit 10.

Mr. Davis recommended Midway Energy, LLC to appear at the Board's June 14, 2023, business meeting to provide an update of its actions taken to reduce its plugging liability.

Motion: Mr. Brown made the motion to approve the recommendation. Mr. Welter seconded, and the motion passed unanimously. The Board issued Midway Energy, LLC Administrative Order 3-A-2023.

Mr. Davis recommended Brandon Oil Company to show cause at the June 15, 2023, public hearing, as to why it should not immediately plug and abandon its wells in Toole County, Montana.

Motion: Mr. Brown made the motion to approve the recommendation. Mr. Welter seconded, and the motion passed unanimously. The Board issued Brandon Oil Company Administrative Order 4-A-2023.

The two administrative orders issued by the Board are attached as Exhibit 11.

Mr. Davis discussed Rimrock Oil Company (Rimrock). Rimrock is the bonded operator of the Fee 1 well, API 25-101-23087, but Lyon John J. (Lyon) had been filing the production reports on the well. Lyon was scheduled for show cause at the February 2023 hearing for delinquent reporting. Currently, all the reporting has been caught up. This well has been part of a lawsuit between the two companies and after a review it seems a court action dismissed the lawsuit.

Mr. Davis has been in contact with Rimrock and it's their plan to either plug the well or sell the well this year. Mr. Davis 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 (BIL). The Department of Interior (DOI) awarded Montana \$25 million to plug and abandon orphan wells under a federal grant program.

There were 13 contracts awarded in the amount of approximately \$12.9 million to cover the plugging and abandonment of 237 wells, which was all orphan wells in the state at the time of the award. Well plugging has begun on two contracts. So far, 19 wells have been plugged with surface reclamation to follow as

weather allows. In addition to the wells plugged to date, 12 wells have been bonded by an operator and no longer require plugging. At this rate, Mr. Jones is hopeful that half of the wells will be plugged and reclaimed by this fall.

Since the contracts have been signed, there have been 12 wells bonded and taken over by A.B. Energy and one domestic well has been bonded by the surface owner for domestic use. These wells will be removed from the respective plugging contracts.

The DOI has recently released the draft guidance for the formula grants authorized in the BIL which may have more stringent requirements that will be costly to implement. A notice of intent was submitted at the end of 2021 for the formula grant, and Montana is currently eligible for up to approximately \$5.1 million through that grant. Staff will participate in multiple webinars and roundtables with DOI and IOGCC in the coming weeks to get further clarification on formula grant requirements.

No decision is needed at this time from the Board. This will be reviewed at the June business meeting.

STAFF REPORTS

Ben Jones

Mr. Jones introduced the new UIC coordinator, Perry Fields, to the Board. He started work on March 13th.

Mr. Jones informed the Board that Kris Goll, draftsman, retired at the end of March after 43 years of service to the state. With his departure, Mr. Jones wants to hire the front office position to take on some of the workload. He noted that the Governor recently signed HB 13 that offers a pay increase for state employees that may help attract good candidates.

In February 2021, the Board approved the plugging and abandonment of the MT AG Sta. 28-41 well. The well was plugged in December 2022. Additional surface reclamation is needed that goes beyond the agreed scope of work in the original contract. Board staff met with the surface owner, the Eastern Montana Agricultural Research Center, to determine exactly what work remained on the surface location.

Mr. Jones recommended a new contract for the remaining surface reclamation using damage mitigation account funding. He estimates the contract to be around \$40,000 - \$50,000. Mr. Jones requested the Board's authorization to spend damage mitigation funds for the surface reclamation of the MT AG Sta. 28-41 well.

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

Mr. Jones brought to the Board's attention White Rock Oil & Gas, LLC (White Rock) who is in violation of ARM 36.22.1010 for failure to have approval prior to hydraulically fracturing the Putnam 24X-20 well, API # 25-083-22047. The sundry notice is attached at Exhibit 12.

Motion: Mr. Brown made the motion to fine White Rock \$5,000 for the violation. Mr. Welter seconded, and the motion passed unanimously. The Board issued White Rock Administrative Order 5-A-2023, attached as Exhibit 13.

Mr. Jones provided an update on Forza Operating, LLC (Forza). At the last business meeting, Forza was fined \$1,500 for violating the Sundry Notice conditions of approval requirements for three wells that stated no flowback fluid from the wellbore were to be released into the fresh water frac pits. Forza stated that the fluids from the pits will be removed once weather allows and properly disposed of and anticipated completing the cleanup by the April 12, 2023, business meeting.

Currently, the three pits are still frozen. Staff will continue to monitor Forza's cleanup progress.

Mr. Jones provided a legislative update and discussed four oil and gas related bills:

1. A bill proposes a tax incentive for operators who restimulate existing horizontal wells. Board staff will have to certify the decline rate that the operators submit to determine the baseline production prior to the restimulation. The incremental production above the approved baseline will be taxed at a lower rate for 18 months.
2. A bill proposes revising tax rates for certain stripper wells.
3. A bill that clarifies the Board's jurisdiction over waters produced from oil and gas operations.
4. A bill proposes to modify the presumption of failure to pay costs in the pooling statute, §82-11-202, MCA.

Ben Davis

Mr. Davis discussed Robert Hawkins, Inc. and recommended that Robert Hawkins, Inc. must have the Brownell 4-2 well location in compliance prior to the May 11, 2023, hearing application deadline. If compliance is not achieved by that date, Robert Hawkins, Inc. will be ordered to show cause at the June 15, 2023, 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. The inspection reports that were issued to Robert Hawkins, Inc are attached as Exhibit 14.

Motion: Mr. Wivholm made the motion to approve the recommendation. Mr. McDermott seconded, and the motion passed unanimously. The Board issued Robert Hawkins, Inc. Administrative Order 6-A-2023, attached as Exhibit 15.

Mr. Davis provided the Board an update on well activity. Since the last business meeting, there have been seven APDs for horizontal wells and seven APD renewals.

Liz Leman

Ms. Liz Leman addressed the outstanding Powers Energy Inc. (Powers) bond. At the April 14, 2022, public hearing, the Board forfeited Powers' \$5,000 single well bond. First Interstate Bank (bank) believes the certificate of deposit was paid out years ago and since the retention period has elapsed the bank no longer

has record of the certificate of deposit. Ms. Leman wanted to know if the Board wants to pursue legal action against the bank to collect the certificate of deposit. Ms. Leman did not think it was economical to pursue legal action over \$5,000.

Motion: Mr. Welter made the motion to approve the recommendation to not pursue legal action. McDermott seconded, and the motion passed unanimously.

OTHER BUSINESS

No other business discussed.

PUBLIC HEARING

The Board reconvened on Thursday, April 13, 2023, 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 30-2023 – A motion was made by Mr. McDermott, seconded by Mr. Welter and unanimously passed, to approve the application of Forza Operating, LLC as set forth in Board Order 25-2023.

Docket 31-2023 – The application of Forza Operating, LLC was continued to the June 2023 hearing.

Docket 32-2023 – The application of Forza Operating, LLC was continued to the June 2023 hearing.

Docket 33-2023 – A motion was made by Mr. McDermott, seconded by Mr. Brown and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 27-2023.

Docket 34-2023 – A motion was made by Mr. Welter, seconded by Mr. Tietz and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 28-2023.

Docket 35-2023 – A motion was made by Mr. Welter, seconded by Mr. McDermott and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 29-2023.

Docket 36-2023 – A motion was made by Mr. Tietz, seconded by Mr. McDermott and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 30-2023.

Docket 37-2023 – A motion was made by Mr. McDermott, seconded by Mr. Wivholm and passed, to approve the application of Prima Exploration, Inc. as set forth in Board Order 33-2023. Mr. Welter recused himself and took no part in this matter.

Docket 38-2023 – A motion was made by Mr. McDermott, seconded by Mr. Wivholm and passed, to approve the application of Prima Exploration, Inc. as set forth in Board Order 34-2023. Mr. Welter recused himself and took no part in this matter.

Docket 39-2023 – A motion was made by Mr. McDermott, seconded by Mr. Welter and unanimously passed, to approve the application of Balko, Inc. and A.B. Energy LLC as set forth in Board Order 35-2023.

Docket 40-2023 – A motion was made by Mr. Brown, seconded by Mr. Welter and unanimously passed, to approve the application of Grayson Mill Operating, LLC as set forth in Board Order 36-2023.

Docket 41-2023 – A motion was made by Mr. Brown, seconded by Mr. Welter and unanimously passed, to approve the application of Grayson Mill Operating, LLC as set forth in Board Order 37-2023.

Docket 42-2023 – A motion was made by Mr. Tietz, seconded by Mr. Welter and unanimously passed, to approve the application of Grayson Mill Operating, LLC as set forth in Board Order 38-2023.

Docket 43-2023 – A motion was made by Mr. Tietz, seconded by Mr. Welter and unanimously passed, to approve the application of Grayson Mill Operating, LLC as set forth in Board Order 39-2023.

Docket 44-2023 – 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 True Oil LLC was approved as set forth in Board Order 26-2023.

Docket 9-2023 – A motion was made by Mr. Brown, seconded by Mr. Wivholm and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 31-2023.

Docket 10-2023 – A motion was made by Mr. Brown, seconded by Mr. Wivholm and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 32-2023.

Docket 45-2023 – The application of Continental Resources, Inc. was withdrawn.

Docket 46-2023 – A motion was made by Mr. Welter, seconded by Mr. Brown and unanimously passed that Docket 46-2023, Black Gold Energy Sheridan Facility, Inc., was continued until the June 15, 2023, public hearing. This is set forth in Board Order 40-2023.

Docket 47-2023 – The show-cause hearing of Diamond Halo Group LLC was dismissed.

Docket 48-2023 – A motion was made by Mr. McDermott, seconded by Mr. Welter and unanimously passed that McOil Montana One LLC's \$1,000 fine is waived and Docket 48-2022 is dismissed. This is set forth in Board Order 41-2023.

Docket 49-2023 – A motion was made by Mr. Welter, seconded by Mr. Tietz and unanimously passed to forfeit Mystique Resources Company's plugging and reclamation bond. This is set forth in Board Order 42-2023.

Docket 50-2023 – A motion was made by Mr. Welter, seconded by Mr. Brown and unanimously passed that Docket 50-2023, Landtech Enterprises, LLC, was dismissed. This is set forth in Board Order 43-2023.

Docket 51-2023 – The show-cause hearing of Western Meadowlark Resources LLC was dismissed.

Docket 22-2023 – The show-cause hearing of Big Sky Energy, LLC was dismissed.

NEXT MEETINGS

The next business meeting of the Board will be Wednesday, June 14, 2023, 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 15, 2023, 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 June 15th public hearing is May 11, 2023.

BOARD OF OIL AND GAS CONSERVATION OF THE STATE OF MONTANA

Steven Durrett, Chairman
Corey Welter, Vice-Chairman
Roy Brown, Board Member
Paul Gatzemeier, Board Member (absent)
Mac McDermott, Board Member
W. John Tietz, Board Member
Jeff Wivholm, Board Member

ATTEST:

Jennifer Breton, Program Specialist