

STATE OF MONTANA
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
MINUTES OF THE
BOARD OF OIL AND GAS CONSERVATION MEETING AND PUBLIC HEARING
June 14 & 15, 2023

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 14, 2023, at its office at 2535 St. Johns Avenue in Billings, Montana. Board members present were Chairman Steven Durrett, Roy Brown, Paul Gatzemeier, Mac McDermott, John Tietz, Corey Welter, and Jeff Wivholm. Staff present was Ben Jones, Ben Davis, Perry Fields, Liz Leman, Jennifer Breton, and John Gizicki.

PUBLIC COMMENT ON AGENDA AND NON-AGENDA ITEMS

No comments were made.

APPROVAL OF MINUTES

A motion was made by Mr. Brown, seconded by Mr. Welter and unanimously passed, to approve the minutes of the April 12, 2023, business meeting.

PLUGGING AND RECLAMATION BOND REVIEW

Mr. Jones reviewed Exhibit 1 regarding an overview of plugging and reclamation bonding and the steps that the Board has taken to ensure adequate bonding is in place since 2019. Referrals from the Board's change of operator policy has resulted in \$1,161,500 of additional bonding over the standard bonding requirements. Also, the inactive well review has resulted in 89 wells being plugged, transferred, or re-activated.

IOGCC is actively working with states to gather information for discussions this fall regarding bonding and financial assurance for wells.

Mr. Edward Barta from Northern Plains Resource Council thanked the Board for the bonding discussion. Mr. Barta requested time to review Exhibit 1 and to return to the August meeting with further questions.

Mr. Gatzemeier requested that questions and comments be submitted to the Board in advance to the meeting. Mr. Barta agreed to do so.

Mr. Durrett commented that the diversity across the state with different well types and well abandonment costs make a one size fits all solution difficult.

Mr. Alan Olson, Executive Director of Montana Petroleum Association, commented that the Resource Indemnity Trust (RIT) goes to many different places that the fund was not intended for. The money was set aside for reclamation purposes.

Mr. Welter suggested that the Legislature increase the RIT account limit of \$100 million to a higher amount so funds are not distributed to agencies it was not intended for.

REVIEW OF MIDWAY ENERGY, LLC REDUCTION IN PLUGGING LIABILITY

Mr. Davis provided an update on Midway Energy, LLC (Midway), attached as Exhibit 2.

Scotti Gray, attorney, and Colin Moody, geologist and co-owner, appeared on behalf of Midway to provide an update, attached as Exhibit 3.

Motion: Mr. Gatzemeier made the motion that Midway must provide staff a detailed well plan with a timeline and benchmarks for reactivating, transferring, or plugging its inactive wells prior to July 26, 2023. Staff will provide the Board an update at the August 9, 2023, business meeting of Midway's report and its progress to reduce its plugging liability. Midway must appear at the December 7, 2023, public hearing to provide an update of its activities to reduce its plugging liability by either plugging wells or returning wells to production. Mr. Wivholm seconded, and the motion passed unanimously. The Board issued Midway Administrative Order 7-A-2023, attached as Exhibit 4.

DELINQUENT ANNUAL UIC FEES

Mr. Perry Fields informed the Board that Bootstrap Oil LLC paid the 2023 annual injection fee of \$200 and the \$100 late fee.

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

Mr. Jones discussed the gas flaring report, attached as Exhibit 9. There are three Petro-Hunt wells flaring in excess of 100 MCFG/day with an exception request. Due to no gas capturing infrastructure in the area,

it is not economical for these wells to be connected to a pipeline. Mr. Jones recommended a year exception for Petro-Hunt.

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

INACTIVE WELL REVIEW

Mr. Davis reviewed a list of inactive well operators and their current statuses, attached as Exhibit 10.

Interstate Explorations, LLC has three inactive wells that have not produced in two or more years and Yellowstone Petroleum, Inc. has 27 inactive wells. Certified letters will be mailed 6/19/2023 to these operators requesting a plan and schedule of abandonment for the inactive wells or justification with supporting documentation for leaving the inactive wells unplugged. This request was made in accordance with ARM 36.22.1307.

Mr. Davis recommended Interstate Explorations, LLC and Yellowstone Petroleum, Inc. show cause at the August 10, 2023, public hearing, as to why it should not immediately plug and abandon its inactive wells if no plans or timelines are received prior to the hearing deadline of July 6, 2023.

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

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 the orphan wells in the state at the time of the award. Well plugging has begun on four contracts. So far, 52 wells have been plugged and have all been witnessed by BOGC staff. The surface reclamation for these wells will follow. In addition to the wells plugged to date, 14 wells have been bonded by an operator or surface owner for domestic use and no longer require plugging. These wells will be removed from the respective plugging contracts.

DOI authorized the Board to use federal funds for the following projects if a contract is signed by 9/30/23.

- Surface reclamation of the MT AG Sta. 28-41 well. Mr. Jones estimates the contract to be around \$40,000 - \$50,000.
- Recently orphaned State 8-8 well (previously operated by James & Lorraine Seymour) and the Murray 1 (previously operated by Mystique Resources Company).
- Recently discovered leaking gas well that was drilled in the early 1920s. A request for bid has been made.

Staff is still waiting for the DOI to release the formal guidance for the formula grants authorized in the BIL.

STAFF REPORTS

Perry Fields

Mr. Fields is working on a quality assurance plan for the UIC program. The current plan is out of date. A new draft has been submitted to the EPA that will hopefully be approved by September.

The Anderson #1 well is still waiting for an aquifer exemption. It is in the Madison formation. EPA may require additional water samples.

Ben Davis

Mr. Davis had a field visit to Shelby and a visit to Black Gold's well locations in preparation for the hearing tomorrow.

Ben Jones

Interviews have been held for the administrative position that will take over the front office duties and special projects. There is a qualified candidate, and references are being reviewed.

During the legislative session, a tax incentive bill for operators who recomplete existing horizontal wells was passed. Board staff will have to certify the decline rate that the operators submit to determine the baseline production prior to the recompletion. The incremental production above the approved baseline will be taxed at a lower rate for 18 months. This is effective January 1, 2024.

The same rule as horizontal recompletions, rule 36-22-1704(4a), needs to be applied. The rule is vague as to whether the application needs to be heard at a business meeting or a hearing. Mr. Jones recommended the application be filed for a hearing and that the application be placed on the default docket. If there are no protests to the application, no presentation is required.

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

Mr. Jones recommended the Board review the privilege and license (P&L) tax rate at the next meeting. The P&L tax rate is currently set at 0.25% and the statutory maximum rate is 0.30%. If the rate is lowered through rulemaking, additional funding will go to cities and counties.

There is no impact to industry. Oil and gas producers will continue to pay 0.30%.

Liz Leman

Ms. Liz Leman provided the Board a litigation update. The Board had a favorable ruling in the Phoenix Capital Group Holdings, LLC case, but Phoenix Capital has since filed an appeal.

OTHER BUSINESS

At the last meeting, Mr. Welter was nominated as vice-chairman. Traditionally, either the chairman or the vice-chairman is from industry, not both. Mr. Welter wanted the board's thoughts since Mr. Durrett and himself are both from industry.

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

PUBLIC HEARING

The Board reconvened on Thursday, June 15, 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 52-2023 – The application of Heritage Energy Operating, LLC was continued to the August 2023 hearing.

Docket 53-2023 – A motion was made by Mr. Welter, seconded by Mr. Gatzemeier and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 44-2023.

Docket 54-2023 – A motion was made by Mr. Welter, seconded by Mr. Gatzemeier and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 45-2023.

Docket 55-2023 – A motion was made by Mr. Wivholm, seconded by Mr. Brown and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 46-2023.

Docket 56-2023 – A motion was made by Mr. Wivholm, seconded by Mr. Brown and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 47-2023.

Docket 57-2023 – The application of Kraken Oil & Gas LLC was continued to the August 2023 hearing.

Docket 58-2023 – The application of Kraken Oil & Gas LLC was continued to the August 2023 hearing.

Docket 59-2023 – A motion was made by Mr. Gatzemeier, seconded by Mr. Brown and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 48-2023.

Docket 60-2023 – 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 49-2023.

Docket 61-2023 – 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 50-2023.

Docket 62-2023 – A motion was made by Mr. Tietz, seconded by Mr. Brown and unanimously passed, to approve the application of Forza Operating, LLC as set forth in Board Order 51-2023.

Docket 63-2023 – A motion was made by Mr. Wivholm, seconded by Mr. Gatzemeier and unanimously passed, to approve the application of Forza Operating, LLC as set forth in Board Order 53-2023.

Docket 64-2023 – A motion was made by Mr. Brown, seconded by Mr. Gatzemeier and unanimously passed, to approve the application of Forza Operating, LLC as set forth in Board Order 55-2023.

Docket 65-2023 – A motion was made by Mr. Wivholm, seconded by Mr. McDermott and unanimously passed, to approve the application of Forza Operating, LLC as set forth in Board Order 56-2023.

Docket 66-2023 – A motion was made by Mr. Welter, seconded by Mr. Gatzemeier and unanimously passed, to approve the application of White Rock Oil & Gas, LLC as set forth in Board Order 57-2023.

Docket 67-2023 – A motion was made by Mr. Brown, seconded by Mr. Gatzemeier and unanimously passed, to approve the application of White Rock Oil & Gas, LLC as set forth in Board Order 58-2023.

Docket 68-2023 – A motion was made by Mr. Gatzemeier, seconded by Mr. Brown and unanimously passed, to approve the application of White Rock Oil & Gas, LLC as set forth in Board Order 59-2023.

Docket 69-2023 – A motion was made by Mr. Gatzemeier, seconded by Mr. Brown and unanimously passed, to approve the application of White Rock Oil & Gas, LLC as set forth in Board Order 60-2023.

Docket 70-2023 – A motion was made by Mr. Gatzemeier, seconded by Mr. Brown and unanimously passed, to approve the application of White Rock Oil & Gas, LLC as set forth in Board Order 61-2023.

Docket 71-2023 – A motion was made by Mr. Gatzemeier, seconded by Mr. Brown and unanimously passed, to approve the application of White Rock Oil & Gas, LLC as set forth in Board Order 62-2023.

Docket 72-2023 – The application of White Rock Oil & Gas, LLC was withdrawn.

Docket 73-2023 – A motion was made by Mr. Welter, seconded by Mr. Tietz and unanimously passed, to approve the application of White Rock Oil & Gas, LLC as set forth in Board Order 63-2023.

Docket 31-2023 – A motion was made by Mr. McDermott, seconded by Mr. Wivholm and passed, to approve the application of Forza Operating, LLC as set forth in Board Order 52-2023. Mr. Welter opposed the motion.

Docket 32-2023 – A motion was made by Mr. McDermott, seconded by Mr. Brown and unanimously passed, to approve the application of Forza Operating, LLC as set forth in Board Order 54-2023.

Docket 74-2023 – A motion was made by Mr. Wivholm, seconded by Mr. McDermott and unanimously passed, that staff may proceed with administrative review and approval of the change of operator request from H&R Energy, LLC to HB Oil, LLC. Staff will provide the Board an update at the October 4, 2023, business meeting of HB Oil's progress to reduce its plugging liability. This is set forth in Board Order 64-2023.

Docket 46-2023 – A motion was made by Mr. Tietz, seconded by Mr. Welter and unanimously passed, that Docket 46-2023, Black Gold Energy Sheridan Facility, Inc., is continued until the August 10, 2023, public hearing. This is set forth in Board Order 67-2023.

Docket 75-2023 – Empire North Dakota LLC provided the Board an update of its efforts to reduce its plugging liability. No board action took place.

Docket 76-2023 – The show-cause hearing of Brainstorm Energy, Inc. was dismissed.

Docket 77-2023 – The show-cause hearing of Colossus Operating, LLC was dismissed.

Docket 78-2023 – The show-cause hearing of Hesla Oil, LLC was dismissed.

Docket 79-2023 – The show-cause hearing of Reserve Operating Corp. was dismissed.

Docket 80-2023 – A motion was made by Mr. McDermott, seconded by Mr. Brown and unanimously passed, that Brandon Oil must begin to plug and abandon its Turner 13-22 well (API #101-22965) and Tordale 42-21 well (API #101-22755), located in Toole County, Montana, prior to the August 10, 2023, public hearing. Failure to begin to plug and abandon the wells 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 65-2023.

Docket 108-2021 – A motion was made by Mr. Welter, seconded by Mr. McDermott and unanimously passed, that subject to execution of the recommended written agreement between Black Gold and the Board, the fine is reduced from \$125,000 to \$105,000 (\$42,000 remaining to be paid), with payments suspended for the remainder of the 2023 calendar year. If the agreement is not finally executed at or before the August 9, 2023, business meeting, the total fine shall revert to \$125,000 (\$62,000 remaining to be paid) and monthly payments shall resume on September 1, 2023. If the Agreement is timely executed, monthly payments on the reduced fine shall resume on January 1, 2024, unless the Board in its discretion orders otherwise at the December 7, 2023, public hearing. Docket 108-2021 is continued until the December 7, 2023, public hearing at which time compliance will be reviewed and a determination will be made concerning the remainder of the fine. This is set forth in Board Order 66-2023.

NEXT MEETINGS

The next business meeting of the Board will be Wednesday, August 9, 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, August 10, 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 August 10th public hearing is July 6, 2023.

BOARD OF OIL AND GAS CONSERVATION OF THE STATE OF MONTANA

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

ATTEST:

Jennifer Breton, Program Specialist