

STATE OF MONTANA
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
MINUTES OF THE
BOARD OF OIL AND GAS CONSERVATION MEETING AND PUBLIC HEARING
October 4 & 5, 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, October 4, 2023, at its office at 2535 St. Johns Avenue in Billings, Montana. Board members present were Chairman Steven Durrett, Roy Brown, 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, Nancy Heinaman, and Jennifer Breton.

PUBLIC COMMENT ON AGENDA AND NON-AGENDA ITEMS

Ms. Susann Bueg, from Northern Plains Resource Council (NPRC) invited the Board and staff to a social gathering after the business meeting.

APPROVAL OF MINUTES

A motion was made by Mr. Welter seconded by Mr. Wivholm and unanimously passed, to approve the minutes of the August 9, 2023, business meeting.

REVIEW OF HB OIL'S REDUCTION IN PLUGGING LIABILITY

In July 2023, HB Oil, LLC (HB Oil) took over H&R Energy, LLC's (H&R) 16 wells in Toole County, Montana. No work has been done to the wells due to H&R's service rig being out of order. HB is the landowner. Mr. Jones recommended another update in 2024.

Motion: Mr. Welter made the motion for staff to provide an update at the August 2024, business meeting of HB Oil's progress to reduce its plugging liability. Mr. McDermott seconded and the motion passed unanimously.

LONGEVITY & SERVICE AWARDS

Chairman Durrett presented a certificate and longevity pin to Nancy Heinaman for her 10 years of service to the state.

PROPOSED HEARING SCHEDULE FOR 2024

The Board discussed and approved the 2024 meeting schedule, attached as Exhibit 1. Below are the 2024 business meeting and hearing dates:

February 14 & 15, 2024
April 10 & 11, 2024

June 12 & 13, 2024
August 14 & 15, 2024
October 9 & 10, 2024
December 4 & 5, 2024

Motion: Mr. Welter made the motion to 2024 hearing dates. Mr. Wivholm seconded and the motion passed unanimously.

PROPOSED AMENDMENT OF ARM 36.22.1242 REGARDING THE OIL AND GAS PRIVILEGE AND LICENSE TAX

Mr. Jones reviewed the proposed privilege and license tax (P&L tax) rule amendment, attached as Exhibit 2.

Lowering the P&L tax rate from 0.25% to 0.22% will allow cities and towns in oil and gas producing counties additional funding and cities and towns will be at the maximum funding allowed by statute of 0.08%.

The Board is required to give the Department of Revenue a required 90-day notice prior to the rule's effective date. There is no impact to industry and oil and gas producers will continue to pay 0.30%.

Motion: Mr. Welter made the motion to authorize staff to proceed with rulemaking to lower the P&L tax rate from 0.25% to 0.22% effective April 1, 2024. Mr. Brown 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

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 7.

Mr. Davis recommended Yellowstone Petroleum, Inc. show cause at the December 7, 2023, public hearing, as to why it should not immediately plug and abandon its wells in Carbon, Glacier, Pondera, and Toole Counties, Montana.

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

The Board issued Yellowstone Petroleum, Inc. Administrative Order 9-A-2023, attached as Exhibit 8.

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.

So far, 121 wells have been plugged and have all been witnessed by BOGC staff. The surface reclamation for these wells is ongoing. There are currently zero orphan wells on our list to be contracted.

DOI has released the formal guidance for the phase one of the formula grants authorized in the BIL. With zero orphan wells to be contracted to be plugged, staff does not plan to pursue this grant during the initial phase but will still have the option to pursue future phases. The grant has six phases annually through 2028, and Montana is eligible for \$5.1 million in federal funding. The formula grant has additional requirements compared to the current initial grant.

The EPA and Department of Energy has released a formal 70-page guidance for its marginal conventional grant. This grant requires states to work with active operators to plug ‘marginal wells’. A well is considered marginal if it produces 15 barrels of oil or less per day. In 2022, 25% of oil production came from ‘marginal’ wells, and under Board’s rules for preventing the waste of a resource, a well capable of economic production should not be plugged.

States were given approximately 40 days to submit an application. The application is due October 10, 2023, and Montana is eligible for approximately \$3.8 million to help active operators plug its producing wells.

Due to the short timeframe for an extensive application submittal and limited guidance, Mr. Jones does not recommend pursuing the grant.

Chairman Durrett and Mr. Welter agreed it is not in the Board’s interest to pursue this grant as there would be no way to fairly apply it to operators.

STAFF REPORTS

Ben Jones

The Plentywood field inspector resigned to go to work for a plugging contractor that was plugging orphan

wells in the area. The job has been posted, but there are no qualified candidates to date.

Next week, staff will participate in DNRC's award ceremony to honor Gary Klotz. Gary Klotz has been with the division for 35 years. He is an outstanding employee, and his experience and knowledge has been invaluable especially these last few months for the federal orphan well plugging grant.

In two weeks, Mr. Jones will attend the annual IOGCC conference in Utah. The proposed main topics of discussion will be the federal orphan well plugging grants, primacy of class VI UIC carbon sequestration, and operator's financial assurance options (bonding).

Ben Davis

Mr. Davis provided the Board an update on well activity, attached as Exhibit 9. Since the last business meeting, there have been seven APDs for vertical wells, four APDs for horizontal wells, six APD renewals, one permit that has expired, and eight completion reports filed. Additionally, there have been 40 well abandonments approved and three wells that were released to be used as water wells.

Perry Fields

Mr. Fields will be meeting with the EPA to review the quality assurance plan. Once the plan is accepted, the federal fiscal year 2024 UIC grant application will be filed with the EPA.

Mr. Fields attended the annual EPA region 8 meeting that included the states in the region: North Dakota, South Dakota, Utah, Wyoming, Colorado, and Montana. A topic of discussion was the primacy of class VI carbon sequestration. There is \$50 million in federal funds across the US to help states with the application process. Currently, Wyoming and North Dakota have primacy and it's taking a minimum of two years to get a primacy application approved through the EPA. There is currently one proposed project for carbon sequestration in southeastern Montana, but that operator may still have multiple years of data collecting before applying for a class VI permit with the EPA. Board primacy for a class VI UIC program may require a full-time dedicated staff member and applications could require years of data collecting and 3D modeling.

The Board has no authority to unitize pore space for carbon sequestration unless it has received class VI primacy through the EPA. The legislature could change statutes to allow the Board to unitize pore space without class VI primacy, but the EPA would still be the approving authority to grant class VI injection permits. This would be like the process in Wyoming where the Wyoming Oil and Gas Conservation Commission can unitize pore space for carbon sequestration, but the Wyoming DEQ issues the class VI injection permit.

OTHER BUSINESS

No other business discussed.

PUBLIC HEARING

The Board reconvened on Thursday, October 5, 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 106-2023 – A motion was made by Mr. Welter, seconded by Mr. Brown and unanimously passed, to approve the application of Texakoma Exploration & Production LLC as set forth in Board Order 89-2023.

Docket 107-2023 – A motion was made by Mr. Welter, seconded by Mr. Tietz and unanimously passed, to approve the application of Texakoma Exploration & Production LLC as set forth in Board Order 90-2023.

Docket 108-2023 – The application of Lonewolf Operating, LLC was continued to the December 2023 hearing.

Docket 109-2023 – The application of Lonewolf Operating, LLC was continued to the December 2023 hearing.

Docket 110-2023 – 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 91-2023.

Docket 111-2023 – 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 92-2023.

Docket 112-2023 – 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 93-2023.

Docket 113-2023 – 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 94-2023.

Docket 114-2023 / 1-2024 FED – 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 95-2023.

Docket 115-2023 – 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 97-2023.

Docket 116-2023 – 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 Hydra MT, LLC was approved as set forth in Board Order 102-2023.

Docket 117-2023 – 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 White Rock Oil & Gas, LLC was approved as set forth in Board Order 103-2023.

Docket 57-2023 – A motion was made by Mr. Welter, seconded by Mr. Brown and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 98-2023.

Docket 58-2023 – A motion was made by Mr. Welter, seconded by Mr. Brown and unanimously passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 99-2023.

Docket 81-2023 – The application of Grayson Mill Operating, LLC was continued to the December 2023 hearing.

Docket 82-2023 – The application of Grayson Mill Operating, LLC was continued to the December 2023 hearing.

Docket 83-2023 – The application of Grayson Mill Operating, LLC was continued to the December 2023 hearing.

Docket 84-2023 – The application of Grayson Mill Operating, LLC was continued to the December 2023 hearing.

Docket 91-2023 – 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 96-2023.

Docket 118-2023 – A motion was made by Mr. Welter, seconded by Mr. Tietz and unanimously passed, that staff may proceed with administrative review and approval of the change of operator request from Okie Crude Company to Digital Operating Company and staff will provide the Board an update at the April 10, 2024, business meeting of Digital Operating's progress to reduce its plugging liability. This is set forth in Board Order 100-2023.

Docket 119-2023 – A motion was made by Mr. Wivholm, seconded by Mr. Brown and unanimously passed, that staff may proceed with administrative review and approval of the change of operator request from Darrah Oil Company, LLC to Vecta Oil & Gas, Ltd. This is set forth in Board Order 101-2023.

Docket 120-2023 – A motion was made by Mr. Brown, seconded by Mr. Wivholm and unanimously passed, that staff may proceed with administrative review and approval of the change of operator request from Samson Oil and Gas USA, Inc. to SpringLine Operating and staff will provide the Board an update at the August 14, 2024, business meeting of SpringLine Operating's progress to reduce its plugging liability. This is set forth in Board Order 104-2023.

Docket 121-2023 – A motion was made by Mr. Welter, seconded by Mr. Brown and unanimously passed, that staff may proceed with administrative review and approval of the change of operator request from Enneberg Oil & Gas to Brainstorm Energy, Inc. and staff will provide the Board an update at the June 12, 2024, business meeting of Brainstorm Energy’s progress to reduce its plugging liability and its compliance with production and injection reporting. This is set forth in Board Order 105-2023.

Docket 101-2023 – The application of Wildcat Fluid Solutions LLC was continued to the December 2023 hearing.

Docket 122-2023 – A motion was made by Mr. Welter, seconded by Mr. Wivholm and unanimously passed that A.B. Energy LLC’s \$50,000 multiple well bond is limited to 318 producing wells. This is set forth in Board Order 106-2023.

Docket 123-2023 – The show-cause hearing of Montana Energy Company, LLC was dismissed.

Docket 124-2023 – A motion was made by Mr. Welter, seconded by Mr. Wivholm and unanimously passed that Heavy Water Haulers Inc. must begin the process to plug and abandon its Tranel 25-77 well, API # 25-065-21854, located in the SE¼SE¼ of Section 25, T11N-R24E, Musselshell County, Montana by November 2, 2023, or it is subject to a \$1,000 fine. Docket 124-2023 is continued until the December 7, 2023, public hearing. Board staff has the authority to dismiss the docket if the Tranel 25-77 well has been plugged and abandoned prior to the December 7, 2023, public hearing and no fine has been issued for failure to begin plugging operations prior to November 2, 2023. This is set forth in Board Order 107-2023.

Docket 125-2023 – The show-cause hearing of Bad Water Disposal, LLC was dismissed.

Docket 126-2023 – The show-cause hearing of Big Sky Energy, LLC was dismissed.

Docket 127-2023 – The show-cause hearing of Cypress Energy Partners-Sheridan SWD, LLC was dismissed.

Docket 18-2023 – A motion was made by Mr. Welter, seconded by Mr. Tietz and unanimously passed that Docket 18-2023, Fairways Exploration & Production, LLC, is continued until the December 7, 2023, public hearing. Board staff has the authority to dismiss the docket if a horizontal drilling permit for this well is submitted and approved by staff prior to the December 7, 2023, public hearing. This is set forth in Board Order 108-2023.

NEXT MEETINGS

The next business meeting of the Board will be Wednesday, December 6, 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, December 7, 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 December 6th public hearing is November 2, 2023.

BOARD OF OIL AND GAS CONSERVATION OF THE STATE OF MONTANA

Steven Durrett, Chairman
Paul Gatzemeier, Vice-Chairman (absent)
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