

STATE OF MONTANA
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
MINUTES OF THE
BOARD OF OIL AND GAS CONSERVATION MEETING AND PUBLIC HEARING
December 9 & 10, 2015

CALL TO ORDER

The regular business meeting of the Montana Board of Oil and Gas Conservation was called to order by Chairman Linda Nelson at 2:00 p.m., Wednesday, December 9, 2015, at its office at 2535 St. Johns Avenue in Billings, Montana. Board members present were Chairman Linda Nelson, Steven Durrett, Ronald S. Efta, John Evans, Paul Gatzemeier, Peggy Ames-Nerud, and Wayne Smith. Staff present was John Brown, Jeff Doud, Jerry Fraser, John Gizicki, Jim Halvorson, George Hudak, Ben Jones, Gary Klotz, Dave Popp, Jennifer Rath, Erin Ricci, Bob Schmidt, and Rob Stutz.

APPROVAL OF MINUTES

A motion was made by Ms. Ames-Nerud, seconded by Mr. Gatzemeier, and unanimously passed, to approve the minutes of the October 28, 2015, business meeting.

PUBLIC COMMENT

Jack King, former Board member, advocated a pay raise for exempt Board staff.

Brian Lee, attorney of record for Cavalier Petroleum (Cavalier), stated Cavalier was unaware of the forfeiture proceeding ordered in Board Order 155-2015, which forfeited Cavalier's plugging and reclamation bond. This bond entailed a \$10,000 surety bond and a \$15,000 certificate of deposit. To date, the Board has received the \$15,000 certificate of deposit. Mr. Lee requested a delay in the forfeiture of the surety bond held by Western Surety Company to allow time for final disposition of the wells covered by the plugging and reclamation bond. Cavalier is reaching out to Somont and possibly A & G Inc. to take over the wells, attached as Exhibit 1.

Mr. Lee said Cavalier was involuntary dissolved with the Secretary of State (SOS) for failure to pay fees, but he is working to reinstated Cavalier with the SOS.

Mr. Halvorson stated it would be in the Board's best interest to get the issue resolved. He recommended the Board delay collection of the \$10,000 surety bond to the Board's April 7, 2016 hearing.

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

LONGEVITY & SERVICE AWARDS

Chairman Nelson presented longevity pins and certificates to the following employees for their years of service to the state:

Nancy Lausch, 25 years
Gary Klotz, 25 years
Robert Schmidt, 15 years
Erin Ricci, 10 years
Jerald Fraser, 5 years

DRILLING SETBACK SUBCOMMITTEE REPORT

The subcommittee made the recommendation to amend the permit process to require notification to owners of occupied residences within a ¼ mile of the proposed drilling location. Operators would be required to offer proof that notice was given to an occupied resident owner. This process would allow time to file a protest and appear at a hearing.

Mr. Efta noted this rule would be similar to neighboring states.

Mr. Stutz asked the setback committee the definition of an occupied resident.

Mr. Jones stated the draft rule brought before the Board at the next meeting would include a definition of an occupied residence. Next meeting, the Board will be able to review a draft rule and can vote whether or not to proceed with rule making.

REVIEW OF AND ACTION ON SETTLEMENT AGREEMENT FOR OMIMEX LITIGATION

Mr. Brian Lee, attorney for Omimex Canada, Ltd (Omimex), gave a status update for the Omimex case in district court. Omimex has a tentative agreement with Oasis Petroleum Inc., which the Board is not required to participate in. Mr. Lee hoped to have the case settled in January.

FINANCIAL REPORT

Ms. Rath discussed the financial statement, attached as Exhibit 2.

Mr. Halvorson gave an update of the privilege and license tax, attached as Exhibit 3.

BOND SUMMARY & INCIDENT REPORT

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

DOCKET SUMMARY

Mr. Halvorson discussed the docket summary, attached as Exhibit 6.

GAS FLARING EXCEPTIONS

Mr. Jones discussed the gas flaring report, attached as Exhibit 7.

There is one flaring exception request at this time. The request is for the Dad Frye 2758 24-32B well, which is operated by Oasis Petroleum Inc. (Oasis). Oasis has been unable to connect to a Hiland gathering line and is working with Oneok to determine if they having sufficient capacity to gather the gas. Mr. Jones recommended a six-month flaring exception for the well.

Motion: Mr. Gatzemeier made the motion to approve the recommendations. Mr. Smith seconded and the motion passed unanimously.

STAFF REPORTS

George Hudak

Denbury Onshore, LLC (Denbury) failed to perform a mechanical integrity test and receive board approval prior to injection in the Federal 3302 (API #25-075-21099), BCCMU 34-08 (API #25-075-21299), and BCCMU 302 wells (API # 25-075-21451). Denbury acknowledged the error in response to Mr. Hudak's email, attached as Exhibit 8.

Kevin Anderson appeared on behalf of Denbury. He stated the violations were due to staff reduction and reorganization of the company, and that Denbury accepts full responsibility.

Mr. Hudak recommended a fine of \$1,000 per violation, totaling \$3,000.

Motion: Ms. Ames-Nerud made the motion to approve the recommendation. Mr. Efta seconded and the motion passed unanimously.

Rob Stutz

Mr. Stutz gave a litigation update. The Anne Ostby case is dormant. Nothing new has happened in the Hekkel case since the last Board hearing. In the Carbon County Resource Council (CCRC) case, CCRC filed an extension to file a brief with the Supreme Court and filed two exhibits, the audio of the Board's proceeding and Mr. Tom Richmond's deposition.

An update to the Augusta Exploration federal court proceedings was given at the December 10, 2015 Board hearing.

Mr. Stutz introduced Jeff Doud to the Board. Mr. Doud will assist Mr. Stutz on Board legal cases and serve as Mr. Stutz's backup. Mr. Doud, lead attorney in the Malsam case, updated the Board that J. Burns Brown Operating (JBB) filed a third party complaint that the \$400 fine was arbitrary.

Jim Halvorson

The sage grouse executive order issued by the Governor is effective January 1, 2016. The goal is to minimize habitat disturbances. Exhibit 9 includes a map of the areas affected by the order, a review of well activity, and a sample letter sent to operators that included a Notice to Operators, sage grouse habitat map, and a list of wells affected by the executive order.

Sage grouse restrictions and a timeline of operational exclusions was also discussed by Mr. Halvorson, attached in Exhibit 9.

Field Inspectors will enforce sage grouse field violations through condition of approval to permits and approved activities.

At the Board's request, Mr. Halvorson reviewed the statutes and rules regarding plugging and reclamation bonds, attached as Exhibit 10. Mr. Halvorson noted the Board can double an operator's bond and limit the number of wells on the bond if the situation warrants. In addition, the Board administrator can delay or deny a change of operator request if the transferor or transferee is not in compliance.

The oil and gas industry covers the cost of well plugging, not tax payers, through the Resource Indemnity Trust (RIT) fund. The RIT is a precious metals and oil and gas extraction tax that helps fund the offset damage caused by the extraction. With these funds, the Board has plugged over 419 wells and restored 34 surface locations. New operators assumed responsibility for 126 wells that were at one time orphaned. With the passing of HB226, the Board receives \$650,000 yearly into the Damage Mitigation account from the RIT fund. There is a \$1.2 million cap on the Damage Mitigation account. This will allow the Board to respond to emergencies and maintain a continuous plugging and reclamation program as it has in the past.

Also included in Exhibit 10 is a map of active oil and gas wells and charts of inactive oil and gas wells by area and by county.

No recommendations were made.

EXEMPT STAFF PERFORMANCE EVALUATIONS

Exempt staff performance evaluations were done in a closed session meeting. Upon completion, Chairman Nelson reopened the meeting to the public.

Motion: Mr. Efta made the motion and Ms. Ames-Nerud seconded to give the exempt staff a 3% pay raise. The motion passed unanimously.

PUBLIC HEARING

The Board reconvened on Thursday, December 10, 2015, at 8:00 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 No. 161-2015 – 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 SM Energy Company was approved as set forth in Board Order 181-2015.

Docket No. 162-2015 – A motion was made by Mr. Smith, seconded by Mr. Durrett and unanimously passed, to approve the application of Oasis Petroleum, Inc. as set forth in Board Order 168-2015.

Docket No. 163-2015 – A motion was made by Mr. Evans, seconded by Mr. Efta and unanimously passed, to approve the application of Oasis Petroleum, Inc. as set forth in Board Order 172-2015.

Docket No. 164-2015 – A motion was made by Mr. Durrett, seconded by Ms. Ames Nerud and unanimously passed, to approve the application of Oasis Petroleum, Inc. as set forth in Board Order 170-2015.

Docket No. 165-2015 – A motion was made by Ms. Ames Nerud, seconded by Mr. Smith and unanimously passed, to approve the application of Oasis Petroleum, Inc. as set forth in Board Order 174-2015.

Docket No. 166-2015 – A motion was made by Mr. Durrett, seconded by Mr. Evans and unanimously passed, to approve the application of Oasis Petroleum, Inc. as set forth in Board Order 175-2015.

Docket No. 167-2015 – 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 182-2015.

Docket No. 168-2015 – 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 183-2015.

Docket No. 169-2015 – 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 184-2015.

Docket No. 170-2015 – 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 Montana Board of Oil and Gas Conservation was approved as set forth in Board Order 185-2015

Docket No. 78-2015 – A motion was made by Mr. Durrett, seconded by Mr. Efta and unanimously passed, to approve the application of Oasis Petroleum, Inc. as set forth in Board Order 179-2015.

Docket No. 136-2015 – The application of Horton B. Koessler & James H. Koessler was withdrawn.

Docket No. 137-2015 – The application of Horton B. Koessler & James H. Koessler was withdrawn.

Docket No. 138-2015 – The application of Horton B. Koessler & James H. Koessler was withdrawn.

Docket No. 147-2015 – A motion was made by Mr. Durrett, seconded by Ms. Ames Nerud and unanimously passed, to approve the application of Oasis Petroleum, Inc. as set forth in Board Order 171-2015.

Docket No. 148-2015 – A motion was made by Mr. Smith, seconded by Mr. Durrett and unanimously passed, to approve the application of Oasis Petroleum, Inc. as set forth in Board Order 169-2015.

Docket No. 149-2015 – A motion was made by Mr. Evans, seconded by Mr. Efta and unanimously passed, to approve the application of Oasis Petroleum, Inc. as set forth in Board Order 173-2015.

Docket No. 150-2015 – A motion was made by Mr. Efta, seconded by Mr. Evans and unanimously passed, to approve the application of Oasis Petroleum, Inc. as set forth in Board Order 176-2015.

Docket No. 151-2015 – A motion was made by Mr. Smith, seconded by Mr. Evans and unanimously passed, to approve the application of Oasis Petroleum, Inc. as set forth in Board Order 177-2015.

Docket No. 152-2015 – A motion was made by Mr. Smith, seconded by Mr. Durrett and unanimously passed, to approve the application of Oasis Petroleum, Inc. as set forth in Board Order 178-2015.

Docket No. 156-2015 – A motion was made by Mr. Efta to approve the staff recommendation to raise Bensun Energy, LLC (Bensun) plugging and reclamation bond by \$20,000 per Statoil Oil & Gas LP well, totaling \$60,000. The motion failed.

A second motion was made by Mr. Smith to approve the change of operator transfer then increase the bond \$20,000 within a certain timeframe. Mr. Smith rescinded the motion.

A third motion was made by Mr. Durrett, seconded by Ms. Ames Nerud and passed, that the plugging and reclamation bond be increased from a \$50,000 multiple well bond to a \$70,000 bond and be limited to seven wells. Staff is authorized to approve the Change of Operator request for the Richardson 25-1, Richardson 30-1, and Friedrich Trust 31-1 wells upon the receipt of the \$20,000 bond increase. This is set forth in Board Order 180-2015. Mr. Efta voted no.

Docket No. 171-2015 – A motion was made by Ms. Ames Nerud, seconded by Mr. Smith and unanimously passed to have Stealth Energy USA, Inc. appear at the February 11, 2016 public hearing and show-cause, if any it has, why additional penalties should not be assessed for failure to file delinquent production reports and appear at the December 10, 2015 public hearing. A \$1,000 fine was assessed for not appearing at the December 10, 2015, public hearing. This is set forth in Board Order 186-2015.

Docket No. 172-2015 – A motion was made by Mr. Durrett, seconded by Mr. Evans and unanimously passed, to dismiss Docket 172-2015, Hinto Energy, LLC. This is set forth in Board Order 187-2015.

Docket No. 173-2015 – A motion was made by Mr. Smith, seconded by Ms. Ames Nerud and unanimously passed, to have Miocene Oil Company begin to plug and abandon the Summer Night 21-1 well located in Section 21, T33N-R48E, Daniels County, Montana prior to the February 11, 2016 public hearing. Failure to begin to plug and abandon the well as required by this order may result in forfeiture of the plugging and reclamation bond in its entirety, as permitted by § 82-11-123(5), MCA. A \$1,000 fine was assessed for not appearing at the December 10, 2015, public hearing. This is set forth in Board Order 188-2015.

Docket No. 174-2015 – A motion was made by Mr. Durrett, seconded by Mr. Evans and unanimously passed, to forfeit Kelly Oil and Gas, LLC plugging and reclamation bonds for the State 1 (API 25-065-05443), State E-2 (API 25-065-05288), and R. Shelhamer 1A (25-065-05478) injection wells. Kelly Oil and Gas, LLC needs to begin to plug and abandon its producing wells prior to the February 11, 2016 public hearing. Failure to begin to plug and abandon the wells as required by this order may result in forfeiture of the plugging and reclamation bond in its entirety, as permitted by § 82-11-123(5), MCA. A \$1,000 fine was assessed for not appearing at the December 10, 2015, public hearing. This is set forth in Board Order 189-2015.

Docket No. 97-2015 – A motion was made by Mr. Evans, seconded by Ms. Ames Nerud and unanimously passed, to continue Docket 97-2015, Augusta Exploration, LLC, until the further notice. This is set forth in Board Order 190-2015.

Docket No. 159-2015 – A motion was made by Mr. Smith, seconded by Mr. Efta and unanimously passed, to continue Docket 159-2015, Kykuit Resources, LLC, until the February 11, 2016 public hearing. Board staff has authority to dismiss the docket if the fine is paid prior to the February 11, 2016 hearing. This is set forth in Board Order 191-2015.

Docket No. 160-2015 – A motion was made by Ms. Ames Nerud, seconded by Mr. Durrett and passed, to forfeit Custom Carbon Processing, Inc. plugging and reclamation bond. This is set forth in Board Order 192-2015. Mr. Efta recused himself and took no part in this matter.

NEXT MEETING

The next business meeting of the Board will be Wednesday, February 10, 2016, at **1:00 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, February 11, 2016, beginning at 8:00 a.m. at the Board's hearing room at its office at the 2535 St. Johns Avenue in Billings, Montana. The filing deadline for the February 11, 2016, public hearing is January 7, 2016.

BOARD OF OIL AND GAS CONSERVATION OF THE STATE OF MONTANA

Linda Nelson, Chairman
Wayne Smith, Vice Chairman
Steven Durrett, Board Member
Ronald S. Efta, Board Member
John Evans, Board Member
Paul Gatzemeier, Board Member
Peggy Ames-Nerud, Board Member

ATTEST:

Jennifer Rath, Program Specialist