

**Montana Board of Oil and Gas Conservation  
Summary of Bond Activity**

7/25/2007 Through 9/5/2007

**Approved**

B.W.O.C., Inc. Bryan, TX	Other Surety Other Bond	Amount: Purpose: Effective	\$5,000.00 Single Well Bond 8/16/2007
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Targe Energy Exploration and Production, LLC Denver, CO	FIRST STATE BANK OF SHELBY Certificate of Deposit	Amount: Purpose: Effective	\$1,500.00 Single Well Bond 8/14/2007

**Released**

B.W.O.C., Inc. Bryan, TX	Wells Fargo Bank, NA Letter of Credit	Amount: Purpose: Effective	\$50,000.00 Multiple Well Bond 8/26/2007
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Goddard, Gary Reed Point, MT	CITIZENS 1ST NAT., WOLF POINT Letter of Credit	Amount: Purpose: Effective	\$5,000.00 Domestic Well Bond 8/28/2007

**Rider Approved**

Croft Petroleum Company Cut Bank, MT	1ST STATE BANK - SHELBY Letter of Credit	Amount: Purpose: Effective	\$60,000.00 UIC Limited Bond 7/26/2007
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G/S Producing, Inc. Chester, MT	U.S. Bank National Association Letter of Credit	Amount: Purpose: Effective	\$5,000.00 UIC Limited Bond 7/26/2007
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G/S Producing, Inc. Chester, MT	U.S. Bank National Association Letter of Credit	Amount: Purpose: Effective	\$25,000.00 Multiple Well Bond 8/15/2007

**NEGOTIATION SESSION: CONFEDERATED SALISH AND KOOTENAI  
TRIBES, UNITED STATES, AND MONTANA RESERVED  
WATER RIGHTS COMPACT COMMISSION  
FEBRUARY 7, 2002**

**RUBY'S INN AND CONVENTION CENTER  
4825 North Reserve Street, Missoula, Montana**

- I. 9:00 a.m. Introduction/Opening Remarks/Meeting Protocol
- II. 9:30 a.m. Discussion of process and procedure for negotiation, including the Memorandum of Understanding between the Parties and the need for facilitation.
- III. 11:00 a.m. Presentation of Proposal by Confederated Salish and Kootenai Tribes and response to the questions posed in the Commission's November 16, 2001 Letter.
- IV. 12:30 p.m. Lunch
- V. 1:45 p.m. Continue discussion of Proposal and questions.
- VI. 3:30 p.m. Break
- VII. 3:45 p.m. Next Steps and data sharing.
- VIII. 4:30 p.m. Public Comment
- IX. 5:15 p.m. Closing

FINANCIAL STATEMENT  
As of 8/1/07

OIL AND GAS DIVISION  
FY 2008 Budget vs. Expenditures

	2008 Regulatory			2008 UIC			2008 Educ & Outreach Budget*			2008 NAPE Budget*			2008 Pub Acc Data Budget			2008 Temp Relocate			TOTAL BUDGET	TOTAL EXPENSES	Expends % of Budget
	Budget	Expends	% of Budget	Budget	Expends	% of Budget	Budget	Expends	% of Budget	Budget*	Expends	% of Budget	Budget	Expends	% of Budget	Budget	Expends	% of Budget			
FTE Obj.	16.0			3.5															20.5	21.5	
1000 Pay Plan	-			-															-	-	
1100 Salaries	774,042	24,593	0.03	196,903	7,057	0.04							37,669	-	-				1,008,614	31,650	0.03
1300 Other Comp	6,890	-	0.00	1,510	-	-							-	-	-				8,400	-	0.00
1400 Benefits/Ins	230,789	8,283	0.04	55,798	-	-							-	-	-				286,587	8,283	0.03
1800 Vacancy Svgs	(37,910)	-	0.00	(9,287)	-	-							-	-	-				(47,197)	-	0.00
2100 Contracted Svcs	487,330	451	0.00	79,331	99	0.00	57,500	-	-				175,000	-	-	2,500			801,661	550	0.00
2200 Supplies	49,547	26	0.00	8,920	6	0.00							-	-	-				58,467	32	0.00
2300 Communications	45,607	530	0.01	8,148	71	0.01							-	-	-				53,755	601	0.01
2400 Travel	40,824	130	0.00	5,776	63	0.01			4,000	-	-		-	-	-				50,600	193	0.00
2500 Rent	28,908	781	0.03	3,137	171	0.05			1,000	-	-		-	-	-	30,000			63,045	953	0.02
2600 Utilities	12,841	-	0.00	2,838	-	-							-	-	-				15,679	-	0.00
2700 Repair/Maint	19,462	627	0.03	4,460	137	0.03							-	-	-				23,922	763	0.03
2800 Other Svcs	19,138	802	0.04	7,801	-	-			2,500	-	-		-	-	-				29,439	802	0.03
3000 Equipment	53,345	-	0.00	-	-	-							-	-	-				53,345	-	0.00
6000 Grants							5,000	-	-										5,000	-	0.00
<b>Total</b>	<b>1,730,813</b>	<b>36,223</b>	<b>0.02</b>	<b>365,335</b>	<b>7,604</b>	<b>0.02</b>	<b>62,500</b>	<b>-</b>	<b>-</b>	<b>7,500</b>	<b>-</b>	<b>-</b>	<b>212,669</b>	<b>-</b>	<b>-</b>	<b>32,500.0</b>			<b>2,411,317</b>	<b>43,827</b>	<b>0.02</b>
<b>FUNDING</b>																					
State Special	1,730,813	36,223		365,335	7,604		62,500	-	-	7,500	-	-	212,669	-	-	32,500			2,411,317	43,827	
Federal																					
<b>Total Funds</b>	<b>1,730,813</b>	<b>36,223</b>		<b>365,335</b>	<b>7,604</b>		<b>62,500</b>	<b>-</b>	<b>-</b>	<b>7,500</b>	<b>-</b>	<b>-</b>	<b>212,669</b>	<b>-</b>	<b>-</b>	<b>32,500</b>			<b>2,411,317</b>	<b>43,827</b>	

**REVENUE INTO STATE SPECIAL REVENUE ACCOUNT as of 8/1/07**

	FY 08	Total FY 07	Percentage FY08:FY07
Oil Production Tax	395,539	3,148,244	0.13
Gas Production Tax	138,973	976,842	0.14
Penalty & Interest		-	
Drilling Permit Fees	8,800	78,305	0.11
UIC Permit Fees		185,300	0.00
Enhanced Recovery Filing Fee		-	
Interest on Investments		522,666	0.00
Copies of Documents	360	13,030	0.03
Miscellaneous Reimbursemts		6,981	0.00
TOTALS	543,672	\$4,931,368	0.11

**REVENUE INTO DAMAGE MITIGATION ACCOUNT as of 8/1/07**

	FY07
Transfer in from RIT	0
Bond Forfeitures	0
Interest on Investments	0
TOTAL	0

**BOND FORFEITURES as of 8/1/07****REVENUE INTO GENERAL FUND FROM FINES as of 8/1/07**

	FY 08
Brandon Oil Company	100
TOTAL	100

**INVESTMENT ACCOUNT BALANCES as of 8/1/07**

Damage Mitigation	233,252
Regulatory	13,084,075

<b>GRANT BALANCES - 8/1/07</b>			
<u>Name</u>	<u>Authorized Amt</u>	<u>Expended</u>	<u>Balance</u>
EPA Exchange Network Grant	750,000	466,235	283,765
2005 Northern	300,000	162,546	137,455
2005 Eastern	<u>300,000</u>	<u>87,830</u>	<u>212,170</u>
TOTALS	\$1,350,000	\$716,611	\$633,389

<b>CONTRACT BALANCES - 8/1/07</b>			
<i>done</i> - HydroSolutions - Tongue River Info Project	150,000	120,678	29,322
<i>done</i> - HydroSolutions - Groundwater Vulnerability	49,924	48,635	1,289
HydroSolutions - Tongue River Exigency	30,000	-	30,000
Sylvan Petroleum LLC	36,750	26,427	10,323
GWPC - Mgmt - Exchange Node	131,450	53,803	77,647
ALL Consulting - IT - Exchange Node	577,825	386,651	191,174
DNRC Centralized Services Indirect - EPA	40,725	25,781	14,944
COR Enterprises - Janitorial	17,700	0	17,700
Agency Legal Services - Legal*	50,000	1,982	48,018
Harvey Ost Oilfield Services	15,000	0	15,000
Liquid Gold - 05 Northern	210,000	189,558	20,443
C-Brewer - 05 Eastern (og-cb-120)	110,000	0	110,000
C-Brewer - 05 Eastern (og-cb-119)	250,000	126,084	123,916
TOTALS	1,669,374	979,600	689,774

<b>Agency Legal Services Expenditures to Date in FY08</b>		
Case	Amt Spent	Last Svc Date
MEIC	109	7/07
BOGC Duties	1,873	7/07
Total	1,982	

**Reservation-wide Tribal water administration ordinance that will apply the seniority system and protect the unique federal attributes of Indian reserved and aboriginal rights.**

From ownership springs administration. Therefore, to a large extent, the case law cited above also supports this portion of the Framework For Negotiation. Accordingly, on the issue of Tribal administration of Reservation waters the Tribes refer the reader to the Treaty and to the case law addressed in annotations above.

**3. The negotiations will also include other issues pertaining to the Tribes' reserved and aboriginal water rights.**

A. The Tribes possess off-Reservation reserved and aboriginal consumptive and nonconsumptive water rights. Under Article III of the Hellgate Treaty the Tribes reserved the continuing right to hunt and fish and conduct grazing and gathering practices off of the Flathead Indian Reservation. Under the reserved rights doctrine, these aboriginal and Treaty-reserved rights would be a hollow promise if the United States failed as trustee to protect adequate water supplies to satisfy these purposes. See for example:

1) State of Montana v. Stasso, 172 Mont. 242, 563 P.2d 562 (1977), (the off-Reservation right to hunt under the Hellgate Treaty is a protectable, continuing right).

2) United States v. Washington, 506 F.Supp. 187 (W.D. Wash. 1980), vacated in part, aff'd in part, 759 F.2d 1353 (9<sup>th</sup> Cir. 1985), (an off-Reservation treaty right to take fish necessarily implies a right to protect the environment upon which that Treaty right depends).

3) Minnesota v. Mille Lacs Band of Chippewa Indians, 526 U.S. 172 (1998), (off-Reservation treaty rights survive statehood and are a protectable property interest).

4) Joint Board of Control v. United States and the Tribes, (cited above), (the U.S. has an affirmative duty to protect the aboriginal fishing rights of the Tribes and the water upon which such rights depend).

5) Montana v. ARCO, No 83-317-HLN-PGH (D. Mont.), ( Hellgate Treaty Article III off-Reservation hunting, fishing and gathering rights qualify Tribes as proper party to seek judicial protection of the Clark Fork River environment from industrial pollution).

B. The Criteria and Procedures for the Participation of the Federal Government in the Negotiations for the Settlement of Indian Water Rights Claims, Fed. Reg. Volume 55, No. 48 at 9223, provides for settlements to include "cost-sharing by all parties benefitting from the settlement." The State of Montana and the United States are parties to the proposed settlement and will be called upon, as in prior settlements, to contribute financially and otherwise to any settlement that finally resolves the aboriginal and reserved rights of the Tribes.

Docket Summary

9/6/2007 Hearing

EXHIBIT 3

292-2007	Stewart Geological, Inc.	Class II injection permit to convert the Luft 4-26 (API #085-21464) to a Dakota saltwater disposal well, 30N-57E-26: 660' FNL/990' FWL (NW/4NW/4). [Possible protest.]	Default
293-2007	Pinnacle Gas Resources, Inc.	Class II injection permit, DP 7SA-23-0841 (API #003-22123), Anderson coal water disposal well, 8S-41E-23: 2392' FNL/2251' FEL (SW/4NE/4).	Default
294-2007	Pinnacle Gas Resources, Inc.	Class II injection permit, DP 5SA-31-0842, Anderson coal water disposal well, 8S-42E-31: 1918' FNL/312' FWL (SW/4NW/4). (Permit to drill received 8-2-07)	Default
295-2007	Pinnacle Gas Resources, Inc.	Class II injection permit, Porter 13LCW-25-0841 (API #003-22158), Anderson coal water disposal well, 8S-41E-25: 1050' FSL/420' FWL (SW/4SW/4).	Default
296-2007	Headington Oil LP	Temporary spacing unit, Bakken Formation, 22N-59E-31: all and 32: all, 660' setback. Apply for permanent spacing within 90 days of successful completion. [Possible protest.]	Default
297-2007	Headington Oil LP	Permanent spacing unit, Bakken Formation, 22N-58E-16: all (Staffanson State 14X-16).	
298-2007	Headington Oil LP	Permanent spacing unit, Bakken Formation, 22N-58E-14: all and 23: all (Phillips 11X-23).	
299-2007	Headington Oil LP	Pool, Bakken Formation, 22N-59E-17: all and 20: all, non-consent penalties (Darlene 41X-20).	
300-2007	Headington Oil LP	Pool, Bakken Formation, 22N-58E-2: all and 11: all, non-consent penalties (Zadow 11X-28).	
301-2007	Noble Energy, Inc.	Enlargement, Bowdoin and Phillips Formations, add 31N-33E-35: all or create a 640 acre permanent spacing unit (Federal 3513-1).	
302-2007	Noble Energy, Inc.	Pool, Bowdoin and Phillips Formations, 31N-33E-35: all (Federal 3513-1).	
303-2007	Targe Energy Exploration and Production, LLC	Permanent spacing unit, Bow Island Formation, 34N-1E-18: Lots 3, 4, E/2SW/4, SE/4 (S/2), one well to be located 1600' FSL/2400' FEL. [Withdrawn by ltr rec'd 8/24/2007.]	Withdrawn
304-2007	Americana Exploration LLC	Temporary spacing unit, all formations to the base of the Madison Formation, 35N-1E-35: N/2, 660' setback.	Default

305-2007	Americana Exploration LLC	Temporary spacing unit, all formations to the base of the Madison Formation, 33N-3W-15: W/2 and 16: E/2, 990' setback. [SW Kevin Gas Field, 320-acre spacing units, 660 setback, two wells, Sunburst & Swift, all zones above the top of the Kootenai.] (Default requested - will hear; possibly a legal location under field rules + statewide for Madison oil test. Exhibits are for Dakota structure w/ "channel trend".) [Possible protest.]	
306-2007	Americana Exploration LLC	Temporary spacing unit, all formations to the base of the Madison Formation, 33N-3W-22: E/2 and 23: W/2, 990' setback. [SW Kevin Gas Field, 320-acre spacing units, 660 setback, two wells, Sunburst & Swift, all zones above the top of the Kootenai.] (Default requested - will hear; possibly a legal location under field rules + statewide for Madison oil test. Exhibits are for Dakota structure w/ "channel trend".) [Possible protest.]	
307-2007	Americana Exploration LLC	Temporary spacing unit, all formations to the base of the Madison Formation, 33N-3W-36: N/2, 660' setback. (Default requested - will hear; no definitive reason for 660 rather than 990 setback available under statewide; related to Docket 308-2007 as to spacing unit layout). [Possible protest.]	
308-2007	Americana Exploration LLC	Temporary spacing unit, all formations to the base of the Madison, 32N-2W-6: NW/4, 32N-3W-1: NE/4, 33N-2W-31: SW/4 and 33N-3W-36: SE/4, 990' setback. [Overlaps Old Shelby Field NW/4 Sec. 6 - Swift, Sunburst, Kootenai, Dakota, Bow Island gas, 2 wells per 320-acre spacing unit, 660' setback, 1320' interwell distance.] (Default requested - will hear; looks like a legal location is possible in Section 6 under existing field rules.) [Possible protest.]	
309-2007	Wyoming Resources Corporation	Enlargement of permanent spacing unit to 33N-58E-8: N/2 and include Madison, Nisku, Duperow and Red River, (Guenther 2-8) or authorization to commingle all zones. [Need to re-delineate field as well as enlarge spacing unit. Common ownership indicated.]	
310-2007	Nance Petroleum Corporation	Permanent spacing unit, Bakken Formation, 24N-58E-31: E/2 and 32: W/2 (Dyngneson 2-31H).	
311-2007	Nance Petroleum Corporation	Exception to drill additional Bakken Formation well in the permanent spacing unit comprised of 24N-58E-31: E/2 and 32: W/2, 660' setback.	
312-2007	Nance Petroleum Corporation	Pool, Bakken Formation, 24N-58E-31: E/2 and 32: W/2, non-joinder penalties (Dyngneson 2-31H).	
313-2007	Nance Petroleum Corporation	Exception to drill additional horizontal Gunton Formation well in the spacing unit comprised of 33N-58E-1: Lots 3, 4, 5, 6, 7, 8, S/2NW/4, 600' from the west boundary, 400' from the south boundary and 660' from the remaining boundaries of SU. [Withdrawn by ltr rec'd 8/24/2007.]	Withdrawn

314-2007	Nance Petroleum Corporation	Permanent spacing unit, Nisku Formation, 28N-58E-2: SW/4 and 3: SE/4 (Crusch 3-3, 1055 FSL, 2065 FEL). [Ltrs of protest, Panasuk [2 letters], Bidegaray, LaCounte.]	
315-2007	Nance Petroleum Corporation	Commingle, Nisku and Red River Formations, permanent spacing unit 28N-58E-14: NW/4 and 15: NE/4 (Granley Unit 1-15). Allocation based on semi-annual fingerprint analysis. (Default requested) [Ltr of protest, Berwick Resources.]	Continued
316-2007	Continental Resources Inc	Permanent spacing unit, Bakken Formation, 26N-54E-34: all (Sonja 1-34H).	
317-2007	Continental Resources Inc	Temporary spacing unit, Red River Formation, 26N-55E-20: E/2, one well to be located 2430' FSL/370' FEL, 75' topographic tolerance. (Default requested) [Stipulated 75' would not be taken to the east; publication error - no temporary spacing unit designation requested - exception to statewide only.]	Default <i>continued</i>
318-2007	Flying J Oil and Gas, Inc.	Temporary spacing unit, Nisku Formation, 36N-53E-17: S/2, 660' setback. Amend Order 19A-1959 to exclude the Nisku formation from the SW/4 of Sec. 17. [Spacing rules out application of statewide TSU rule for horizontal well.]	
319-2007	Flying J Oil and Gas, Inc.	Permanent spacing unit, Nisku Formation, 36N-52E-13: W/2, S/2SE/4, Sec. 24: N/2 (Ruegsegger 4N-24H). [TSU by Order 324-2006.] [Ltrs of support, Daniel, Hoyt, Nash.]	
320-2007	MCR, LLC	Class II injection permit to convert the Dull 22-24 (API #051-21639) to a Madison saltwater disposal well, 37N-4E-24: 2310' FNL/2310 FWL (SE/4NW/4).	
321-2007	Enerplus Resources USA Corporation	Permanent spacing unit, Bakken Formation, 24N-57E-3: all and 10: all (Brutus East-Lewis 3-4H).	
322-2007	Enerplus Resources USA Corporation	Exception to drill additional Bakken Formation well in the permanent spacing unit comprised of 25N-54E-25: all, 660' setback.	Default
323-2007	Enerplus Resources USA Corporation	Exception to drill additional Bakken Formation well in the permanent spacing unit comprised of 23N-57E-10: all, 660' setback.	Default
324-2007	Enerplus Resources USA Corporation	Exception to drill additional Bakken Formation well in the permanent spacing unit comprised of 24N-56E-25: all, 660' setback.	Default
325-2007	Enerplus Resources USA Corporation	Exception to drill additional Bakken Formation well in the permanent spacing unit comprised of 23N-56E-1: all and 12: all, 660' setback.	Default
326-2007	Enerplus Resources USA Corporation	Exception to drill additional Bakken Formation well in the permanent spacing unit comprised of 24N-55E-23: all and 26: all, 660' setback (Buffalo-TBD S26-3-HID4).	Default

327-2007	Enerplus Resources USA Corporation	Exception to drill additional Bakken Formation well in the permanent spacing unit comprised of 24N-55E-23: all and 26: all, 660' setback (Buffalo-TBD N26-3-HID3).	Default
328-2007	Enerplus Resources USA Corporation	Exception to drill additional Bakken Formation well in the permanent spacing unit comprised of 24N-54E-12: all and 13: all, 660' setback (Snydley-TBD N13-3-HID3).	Default
329-2007	Enerplus Resources USA Corporation	Exception to drill additional Bakken Formation well in the permanent spacing unit comprised of 24N-54E-12: all and 13: all, 660' setback (Snydley-TBD S13-3-HID4).	Default
330-2007	Klabzuba Oil & Gas, Inc.	Permanent spacing unit, Niobrara Formation, 33N-14E-5: N/2 and 34N-14E-32: S/2 (Higgins-Federal 5-5-33-14B).	
331-2007	Samson Resources Company	Exception to produce and commingle, Ratcliffe and Mission Canyon Formations, 26N-59E-27: NE/4 (recomplete the Rasmussen 2-27 Bakken producer). [Continued to October hearing by ltr rec'd 8/16/2007.]	Continued
332-2007	Forest Oil Corporation	Temporary spacing unit, Madison Group, 31N-58E-35: W/2NE/4, E/2NW/4, one well located 2045' FNL/ 2350' FEL (Ostby 6-35). Apply for permanent spacing within 90 days of successful completion. (Default requested.) [Ostbys to appear.] (Protest possible.)	
333-2007 8-2007 F	Forest Oil Corporation	Temporary spacing unit, Madison Group, 31N-58E-35: W/2SE/4, E/2SW/4, one well located 1980' FSL/ 2540' FEL (Ostby 5-35). Apply for permanent spacing within 90 days of successful completion. (Default requested) [W2/SW4 orphan?] [Ostbys to appear.] (Protest possible.)	
334-2007	Petro-Hunt, LLC	Exception to produce, Red River Formation, permanent spacing unit of 24N-54E-33: E/2, CP 33D-3-1 which did not honor the 660' setback requirement (1134 FSL, 2141' FEL, Sec. 33 - 500' west of SU boundary). [continue to October, email rec'd 8/29/2007.]	Continued
335-2007	Enclave Operating LLC	Class II injection permit to convert the McManus 23N (API #101-23267) to a Madison disposal well, 35N-2W-21: 650' FSL/ 1670' FWL (SE/4SW/4). [No location in hearing notice.] [Withdrawn by email 8/30/2007.]	Withdrawn
336-2007	Devon Energy Production Co., LP	Permanent spacing unit, Eagle Formation, 32N-17E-16: S/2SW/4, 17: S/2SE/4, 20: N/2NE/4, 21: N/2NW/4 (Hanson-DIR 16-13-32-17). [TSU by 313-2006.]	
337-2007	Devon Energy Production Co., LP	Pool, Eagle Formation, permanent spacing unit, 32N-17E-16: S/2SW/4, 17: S/2SE/4, 20: N/2NE/4, 21: N/2NW/4, non-consent penalties (Hanson-DIR 16-13-32-17).	
338-2007	Devon Energy Production Co., LP	Permanent spacing unit, Eagle Formation, 27N-19E-21: SE/4NE/4, NE/4SE/4, 22: SW/4NW/4, NW/4SW/4 (State 21-09-27-19). [TSU, Order 100-2007 - W2 Sec. 22 and E2 Sec. 21.]	

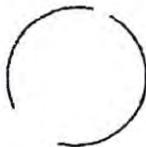
339-2007	Devon Energy Production Co., LP	Pool, Eagle Formation, permanent spacing unit, 27N-19E-21: SE/4NE/4, NE/4SE/4, 22: SW/4NW/4, NW/4SW/4, non-consent penalties (State 21-09-27-19).	
340-2007	Devon Energy Production Co., LP	Permanent spacing unit, Eagle Formation, 27N-17E-32: SE/4, 33: SW/4, 26N-17E-4: NW/4, 5: NE/4 (Olson 33-13-27-17). [TSU by Order 369-2007.]	
341-2007	Devon Energy Production Co., LP	Permanent spacing unit, Judith River Formation, 30N-15E-34: NW/4, authorize commingling of Judith River with Eagle (Boyce 34-4-30-15, 543' FNL, 1077' FWL). [Formation not included in notice.]	
342-2007	Devon Energy Production Co., LP	Pool, Eagle Formation, permanent spacing unit, 27N-19E-21: all, non-consent penalties (State 21-16-27-19).	
343-2007	Devon Energy Production Co., LP	Exception to drill additional Eagle Formation well in the permanent spacing unit comprised of 30N-16E-19: SW/4 at a location 400' FSL/1980' FWL, 50' tolerance except south. [Notice omission - no spacing unit.]	
344-2007	Devon Energy Production Co., LP	Exception to setback to produce Judith River Formation gas in State 16-05-27-17 located 1863' FNL/ 955' FWL. (Statewide temporary spacing unit of 27N-17E-16: all.)	Continued
345-2007	Devon Energy Production Co., LP	Exception to produce, Judith River Formation in State 16-11-27-17 located 2576' FSL/ 2566' FWL. (Statewide temporary spacing unit of 27N-17E-16: all.)	Continued
346-2007	Presco, Inc.	Class II injection permit to convert the Daryle Syme 5-2 (aka NESTE Syme 5-2; API #091-21627) from a Lakota disposal well to a Muddy saltwater disposal well, 37N-55E-5: 1380' FSL/ 1980' FEL (NW/4NE/4).	Continued
347-2007 9-2007 F	URSA Major (Crow OG) LLC, dba Great Bear Consulting	Exception to drill three gas test wells in 2S-34E-26: SW/4SE/4 (Dunmore 7-26), 35: NW/4SW/4 (Dunmore 5-35) and 31: SW/4SW/4 (Dunmore 5-31). Apply for permanent spacing within 90 days of successful completion. [Withdrawn by ltr rec'd 8/26/2007.]	Withdrawn
41-2007	Burlington Resources Oil & Gas Company LP	Permanent spacing unit, Bakken Formation, 25N-52E-17: all and 20: all (BR 44-17H 52). [Continued by email rec'd 2/8/2007.] [Continued to June by FAX rec' 3/20/2007.] [Continued to July hearing, telephone call rec'd 6/5.] [Continued to September, fax rec'd 7/23/2007.]	
42-2007	Burlington Resources Oil & Gas Company LP	Exception to drill additional Bakken Formation well in the permanent spacing unit comprised of 25N-52E-17: all and 20: all, 660' setback. [Continued by email rec'd 2/8/2007.] [Continued to June by FAX rec' 3/20/2007.] [Continued to July hearing, telephone call rec'd 6/5.] [Continued, fax rec'd 7/23/2007.] [Request for dismissal, email rec'd 9/5/2007.]	Withdrawn

48-2007	PT Energy, LLC	Permanent spacing unit, all oil zones, 31N-3E-1: S/2 NW/4 NW/4 and N/2 SW/4 NW/4. One well to be drilled approximately 1235' FNL/ 442' FWL (NW/4NW/4). [Continued by ltr rec'd 4/2/2007.] [Continued to September, ltr rec'd 7/26/2007.] [Cont to December, Fax rec'd 9/4/2007.]	Continued
132-2007	Burlington Resources Oil & Gas Company LP	Exception to produce, Bakken Formation, bottomhole located 25N-52E-27: 663' FNL/ 646' FWL (BR 24-27H 52). [Continued to July hearing, telephone call rec'd 6/5.] [Continued to September, fax rec'd 7/23/2007.]	
133-2007	Burlington Resources Oil & Gas Company LP	Permanent spacing unit, Bakken Formation, 25N-52E-9: all (BR 41-9H 52). [Continued to July hearing, telephone call rec'd 6/5.] [Continued to September, fax rec'd 7/23/2007.]	
134-2007	Burlington Resources Oil & Gas Company LP	Permanent spacing unit, Bakken Formation, 25N-52E-29: all and 32: all (BR 41-32H 52). [Continued to July hearing, telephone call rec'd 6/5.] [Continued to September, fax rec'd 7/23/2007.]	
135-2007	Burlington Resources Oil & Gas Company LP	Permanent spacing unit, Bakken Formation, 24N-52E-2: all and 11: all (BR 44-2H 42). [Continued to July hearing, telephone call rec'd 6/5.] [Continued to September, fax rec'd 7/23/2007.]	
136-2007	Burlington Resources Oil & Gas Company LP	Permanent spacing unit, Bakken Formation, 24N-52E-13: all (BR 44-13H 42). [Continued to July hearing, telephone call rec'd 6/5.] [Continued to September, fax rec'd 7/23/2007.]	
137-2007	Burlington Resources Oil & Gas Company LP	Permanent spacing unit, Bakken Formation, 24N-53E-6: all and 7: all (BR 41-6H 43). [Continued to July hearing, telephone call rec'd 6/5.] [Continued to September, fax rec'd 7/23/2007.]	
138-2007	Burlington Resources Oil & Gas Company LP	Permanent spacing unit, Bakken Formation, 24N-53E-17: all (BR 41-17H 43). [Continued to July hearing, telephone call rec'd 6/5.] [Continued to September, fax rec'd 7/23/2007.]	
139-2007	Burlington Resources Oil & Gas Company LP	Permanent spacing unit, Bakken Formation, 24N-53E-21: all (BR 31-21H 43). [Continued to July hearing, telephone call rec'd 6/5.] [Continued to September, fax rec'd 7/23/2007.]	
140-2007	Burlington Resources Oil & Gas Company LP	Permanent spacing unit, Bakken Formation, 24N-53E-27: all (BR 11-27H 43). [Continued to July hearing, telephone call rec'd 6/5.] [Continued to September, fax rec'd 7/23/2007.]	
141-2007	Burlington Resources Oil & Gas Company LP	Permanent spacing unit, Bakken Formation, 24N-53E-29: all (BR 14-29H 43). [Continued to July hearing, telephone call rec'd 6/5.] [Continued to September, fax rec'd 7/23/2007.]	
142-2007	Burlington Resources Oil & Gas Company LP	Permanent spacing unit, Bakken Formation, 24N-53E-33: all (BR 41-33H 43). [Continued to July hearing, telephone call rec'd 6/5.] [Continued to September, fax rec'd 7/23/2007.]	
143-2007	Burlington Resources Oil & Gas Company LP	Permanent spacing unit, Bakken Formation, 23N-53E-1: all (BR 11-1H 33). [Continued to July hearing, telephone call rec'd 6/5.] [Continued to September, fax rec'd 7/23/2007.]	

144-2007	Burlington Resources Oil & Gas Company LP	Permanent spacing unit, Bakken Formation, 26N-54E-35: all (BR 44-35H 64). [Continued to July hearing, telephone call rec'd 6/5.] [Continued to September, fax rec'd 7/23/2007.]	
145-2007	Burlington Resources Oil & Gas Company LP	Permanent spacing unit, Bakken Formation, 23N-55E-21: all (BR 11-21H 35). [Continued to July hearing, telephone call rec'd 6/5.] [Continued to September, fax rec'd 7/23/2007.]	
146-2007	Burlington Resources Oil & Gas Company LP	Permanent spacing unit, Bakken Formation, 22N-58E-17: all (BR 11-17H 28). [Continued to July hearing, telephone call rec'd 6/5.] [Continued to September, fax rec'd 7/23/2007.]	
147-2007	Burlington Resources Oil & Gas Company LP	Exception to drill additional Bakken Formation well in the permanent spacing unit comprised of 25N-52E-29: all and 32: all, 660' setback. [Continued to July hearing, telephone call rec'd 6/5.] [Continued to September, fax rec'd 7/23/2007.] [Request for dismissal, email rec'd 9/5/2007.]	Withdrawn
148-2007	Burlington Resources Oil & Gas Company LP	Pool, Bakken Formation, 24N-53E-17: all, non-consent penalties (BR 41-17H 43). [Continued to July hearing, telephone call rec'd 6/5.] [Continued to September, fax rec'd 7/23/2007.]	
171-2007	Stone Energy Corporation	Temporary spacing unit, Duperow Formation, 24N-58E-24: NE/4 and 24N-59E-19: NW/4. Commingle requested, Duperow, Interlake, Stonewall and/or Red River Formations (Dore 4-19). [Continued to July by FAX rec'd 6/2/2007.] [Continued to September by fax rec'd 7/16/2007.] [Withdrawn by ltr rec'd 8/20/2007.]	Withdrawn
192-2007	McMinn Operating Company	Permanent spacing unit, surface through Kootenai, 29N-5W-19: SE/4 (JV #2). [Continued to September hearing by ltr rec'd 7/26/2007.]	
248-2007	Stone Energy Corporation	Vacate Board Order 59-2007 which established a temporary spacing unit for the Bakken Formation comprised of 21N-60E-7: all and 8: all. [Possible protest by BLM.] [Continued to September, fax rec'd 7/12.]	Default
250-2007	Stone Energy Corporation	Exception to drill additional Bakken Formation well in the temporary spacing unit comprised of 23N-58E-35: all and 36: all, 660' setback. [Continued to September, fax rec'd 7/12.] [Continued to October, ltr rec'd 8/18/2007.]	Continued
261-2007	Continental Resources Inc	Aquifer exemption, Dakota Formation, Johnson 1-33 SWD (API #083-22449), 25N-55E-33: 1120' FSL/ 330' FEL (SE/4SE/4). [Continued to September.]	Default
269-2007	Chesapeake Operating Inc.	Permanent spacing unit, Ratcliffe/Mission Canyon Formation, 26N-59E-18: SE/4 (Hardy 1-18). [Continued to September by fax rec'd 7/10/2007] [Continued to October, ltr rec'd 8/10/2007.]	Continued
270-2007	Chesapeake Operating Inc.	Pool, Ratcliffe/Mission Canyon Formation, 26N-59E-18: SE/4, non-consent penalties (Hardy 1-18). [Continued to September by fax rec'd 7/10/2007] [Continued to October, ltr rec'd 8/10/2007.]	Continued

284-2007 North American Technical Trading  
Company, Inc.

Vacate Order 146-2006, return to statewide spacing units, 34N-47E-  
24: SE/4 (Fugere 5-24) and 34N-47E-25: NE/4 (Fugere 2-25) [Ltr of  
protest, Deanne Johnson.] Protested



**FLYING J OIL & GAS INC.**

333 WEST CENTER STREET • NORTH SALT LAKE, UTAH 84054  
PHONE (801) 296-7700 • FAX (801) 296-7888

September 4, 2007

VIA FACSIMILE 406-655-6015  
ORIGINAL TO FOLLOW VIA U.S. MAIL

Montana Board of Oil & Gas Conservation  
2535 St Johns Ave  
Billings MT 59102

Re: Application To Exceed the Associated Gas Flaring Limitation as per  
36.22.1220, Ruegsegger 4N-24H, Sec. 24, T36N, R52E, Sheridan Co,  
MT, Nisku Fm.

Members of the Board:

Flying J Oil & Gas Inc. was granted approval of Application To Exceed the  
Associated Gas Flaring Limitation as per 36.22.1220 on the Ruegsegger 4N-24H  
at the July Montana Board of Oil & Gas Conservation business meeting.

Flying J is currently attempting to negotiate the construction of a low pressure six  
inch gas pipeline to connect to Bear Paw Energy's gas gathering system. We  
received the first draft of a contract on August 22, 2007. Flying J and its partners  
are currently reviewing the contract.

The estimated current production is 138 bopd and 145 mcf/d. No other  
parameters have changed since application was made in July 2007.

Thank you for your consideration of this matter.

Sincerely,

James W. Wilson  
Vice President Operations  
Flying J Oil & Gas Inc.

Tribes, 137 F.3d 1135 (9<sup>th</sup> Cir. 1998), cert. denied, 525 U.S. 921 (1998).

In a dispute between Montana and the Tribes over Tribal jurisdiction over certain water quality issues on the Flathead Indian Reservation, the Court affirmed the district court holding that Montana had no regulatory authority on the Reservation (p. 1142). The Court quoted the Walton language cited in the above annotation (“water is a unitary resource.”) as authority for its holding that the Tribal government, not Montana, was the proper government to establish surface water quality standards for all waters of the Reservation, regardless of the status of the land owner.

L. United States v. Cappaert, 508 F.2d 313 (9<sup>th</sup> Cir. 1974).

“Although the Supreme Court cases involved only surface water rights, the reservation of water rights doctrine is not so limited.” (p. 317).

“In our view, the United States may reserve not only surface water, but also underground water.” (p. 317).

M. United States v. Cappaert, 426 U.S. 128 (1976).

The Supreme Court affirmed the Circuit Court Cappaert decision and relied upon Winters to confirm that the United States may reserve and protect water to satisfy the purposes of a federal reservation, whether the source is “surface or groundwater.” (p. 143).

N. Tweedy v. Texas Company, 286 F.Supp. 383 (D. Mont. 1968).

In a dispute over the use of groundwater on a tract of nonIndian land on the Blackfeet Indian Reservation, the Montana Federal District Court relied upon Winters and McIntire to conclude that Indian reserved rights apply to waters “found on the surface of the land or under it.” (p. 385). This is so because “When the Blackfeet Indian Reservation was created, the waters of the reservation were reserved for the benefit of the reservation lands.” (p. 385).

O. In Re the General Adjudication of All Rights to Use Water In The Gila River System and Source, 989 P.2d 739 (Az. S.Ct. 1999), cert. denied, 530 U.S. 1250 (2000).

The Arizona Supreme Court decision addressing Indian reserved water rights relied upon Winters and Cappaert to strongly condemn the “artifice” of treating surface and ground water as separate resources, noting that “Conforming their law to hydrologic reality, most prior appropriation jurisdictions by now have abandoned the bifurcated treatment of ground and surface waters and undertaken unitary management of water supplies.” (p. 744). The Court went on to “hold that the trial court correctly determined that the federal reserved rights doctrine applies not only to surface water but to groundwater.” (p. 748).

**2. The negotiation process will focus on the development of a comprehensive**

DEPARTMENT OF NATURAL RESOURCES  
AND CONSERVATION



BRIAN SCHWEITZER, GOVERNOR

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STATE OF MONTANA

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PO BOX 201601  
HELENA, MONTANA 59620-1601

Memorandum

To: Mary Sexton, Director  
From: Tim D. Hall, Chief Legal Counsel **TDH**  
Date: September 4, 2007  
Re: DNRC oversight of commissions attached for administrative purposes only

**Issue:** The DNRC has several commissions (or other entities) attached for administrative purposes only. The issue of the extent of oversight by the DNRC has come up several times, and the purpose of this memo is to better delineate the respective responsibilities of the DNRC and commissions attached for administrative purposes.

**Short Answer:** Commissions attached for administrative purposes exercise their policymaking functions independent of the DNRC without approval or control by the DNRC.<sup>1</sup> The DNRC, however, does have oversight over their budgeting and recordkeeping. Commissions attached for administrative purposes are charged with following state law.

Commissions attached for administrative purposes cannot hire their own personnel unless otherwise specifically provided for by statute. Where commissions are allowed to hire their own personnel, State of Montana hiring procedures must be followed.

In regard to contracts, the DNRC takes the position state contracting procedures must also be followed since that comes under the DNRC's budgeting and recordkeeping oversight. The Department will inform commissions of standard contract requirements, and their contracts need to be submitted to the DNRC for recordkeeping and tracking by the DNRC.

The DNRC also takes the position that DNRC staff should not chair administratively attached commissions as it presents a conflict, or potentially presents a conflict, inappropriately placing a DNRC employee into a situation where the commission and the agency may differ over policy or the appropriate

<sup>1</sup> Positions on legislation is another matter, however, and the Governor's Office made clear through memos during the 2007 session that commissions are agencies of the executive branch and must seek pre-approval before taking positions on legislation. And both commissions and advisory councils, before they can take positions, must give proper public notice and allow opportunity for public participation.

way to proceed on certain matters. Also to prevent conflicts, the DNRC has taken the position that commissions not hire one of their own members to be the secretary of a commission.

Finally, commissions, because they need to follow state law, should either adopt DNRC policies and follow those or adopt their own.

If commissions attached for administrative purposes only have other specific questions that come up, they can contact the DNRC legal staff and the Centralized Services Division for further clarification as needed.

**Background and rationale:** Commissions or committees attached by statute to the DNRC for administrative purposes are as follows:

The Board of Oil and Gas Conservation, Mont. Code Ann. § 2-15-3303.

("(3) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121. However, the board may hire its own personnel, and 2-15-121(2)(d) does not apply. The board may also prescribe the duties and annual salary of four professional staff positions.

(4) The board is designated as a quasi-judicial board for purposes of 2-15-124.")

Rangeland resources committee. Mont. Code Ann. § 2-15-3305. ("(5) The committee is allocated to the department for administrative purposes only as prescribed in 2-15-121.")

Board of water well contractors. Mont. Code Ann. § 2-15-3307.

("(6) The board is allocated to the department of natural resources and conservation for administrative purposes only as prescribed in 2-15-121.")

Flathead Basin Commission. Mont. Code Ann. § 2-15-3330. ("(4) The commission is attached to the department of natural resources and conservation for administrative purposes only.") Also see, Mont. Code Ann. § 2-15-3332 ("(1) The commission may hire staff for the purpose of carrying out its duties. (2) An office for the commission may be established at a community located in the basin.")

Reserved Water Rights Compact Commission. Mont. Code Ann. § 2-15-212. ("(4) The commission is attached to the department of natural resources and conservation for administrative purposes only, as prescribed in 2-15-121, unless inconsistent with the provisions of Title 85, chapter 2, part 7. A sufficient and appropriate staff must be assigned to serve the commission within the budget established by the legislature. The commission staff is a principal unit within the department, and the commission shall direct and assign the staff.")

Montana Grass Conservation Commission. Mont. Code Ann. § 76-16-112. ("(6) The commission is allocated to the department for

administrative purposes only as provided in 2-15-121. The commission shall, if it determines that personnel services are required, hire its own personnel, and 2-15-121(2)(d) does not apply. The secretary must be employed at the discretion of the commission.”)

Other entities are associated with the DNRC, although they are not specifically attached for administrative purposes, and they are beyond the purview of this memo. Some with specific statutory language regarding duties are as follows:

State coordinator for the rangeland resources act. Mont. Code Ann. § 2-15-3304. (The department shall maintain and staff the office of state coordinator for the rangeland resources act.”)

Drought advisory committee. Mont. Code Ann. § 2-15-3308. (“(1) There is a drought advisory committee in the department of natural resources and conservation.” Under (3) (f) the committee shall “request state agency staff to provide technical assistance to local drought advisory committees.”)

Other groups or organizations, such as watershed groups, may have an association with, or receive grants or loans from the DNRC, and this memo, addressed to administratively attached commissions, does not pertain to such groups. Other oversight may exist pursuant to grant or loan requirements.

Pursuant to Mont. Code Ann. § 2-15-121, entities attached to the DNRC for administrative purposes:

- exercise their quasi-judicial, quasi-legislative, licensing, and policymaking functions independently of the department and without approval or control of the department. However, they must:
  - submit their budgetary requests through the department
  - submit reports required of them by law or by the governor through the department

Also pursuant to Mont. Code Ann. § 2-15-121, the DNRC shall:

- direct and supervise the budgeting, recordkeeping, reporting, and related administrative and clerical functions of the agency
- include the agency's budgetary requests in the departmental budget
- collect all revenues for the agency and deposit them in the proper fund or account. Except as provided in 37-1-101, the department may not use or divert the revenues from the fund or account for purposes other than provided by law
- provide staff for the agency. Unless otherwise indicated in this chapter, the agency [commission] may not hire its own personnel

- through the agency head represent the agency in communications with the governor
- through the agency head allocate office space to the agency as necessary, subject to the approval of the department of administration<sup>2</sup>

One Montana Supreme Court case and two Attorney General Opinions exist on attachment for administrative purposes only:

*Bowen v. Super Valu Stores, Inc.*, 229 Mont. 84, 745 P.2d 330 (1987)(an agency [commission] allocated to a department for administrative purposes is completely independent of the department in the exercise of its quasijudicial functions. Rules adopted by the department have no application to *proceedings* before the agency [commission] unless adopted by the agency [commission]).

37 A.G. Op. 123 (1978)(the Merit System Council (now repealed) may enter into an agreement with the Department of Administration to allow the Department to perform staff functions for the Council provided the Council continues to retain its identity and exercise independent quasi-judicial, quasi-legislative, licensing, and policymaking functions as provided by law).

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<sup>2</sup> The full text of Mont. Code Ann. § 2-15-121 reads: (1) An agency allocated to a department for administrative purposes only in this chapter shall:

(a) exercise its quasi-judicial, quasi-legislative, licensing, and policymaking functions independently of the department and without approval or control of the department;

(b) submit its budgetary requests through the department;

(c) submit reports required of it by law or by the governor through the department.

(2) The department to which an agency is allocated for administrative purposes only in this title shall:

(a) direct and supervise the budgeting, recordkeeping, reporting, and related administrative and clerical functions of the agency;

(b) include the agency's budgetary requests in the departmental budget;

(c) collect all revenues for the agency and deposit them in the proper fund or account.

Except as provided in 37-1-101, the department may not use or divert the revenues from the fund or account for purposes other than provided by law.

(d) provide staff for the agency. Unless otherwise indicated in this chapter, the agency may not hire its own personnel.

(e) print and disseminate for the agency any required notices, rules, or orders adopted, amended, or repealed by the agency.

(3) The department head of a department to which any agency is allocated for administrative purposes only in this chapter shall:

(a) represent the agency in communications with the governor;

(b) allocate office space to the agency as necessary, subject to the approval of the department of administration.

39 A.G. Op. 3 (1981)(the Legislature may appropriate wheat research and marketing funds, which are funds derived from a special tax on the growers of wheat and barley, to the Centralized Services Division of the Department of Agriculture in order to pay for administrative services used by the Wheat Research and Marketing Committee because the Committee is required by law to use the services of the Division and that requirement implies a duty to pay for the services. Because the money appropriated is taxed to the grower for a specific purpose, the amount appropriated to the Centralized Services Division must be for a purpose substantially related to the purposes of the tax).

If commissions attached for administrative purposes only have other specific questions that come up, they can contact the DNRC legal staff and the Centralized Services Division for further clarification as needed, and specific authorizing legislation can be reviewed.