STATE OF MONTANA
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
MINUTES OF THE
BOARD OF OIL AND GAS CONSERVATION MEETING AND PUBLIC HEARING
August 10 & 11, 2016

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, August 10, 2016, at its office at 2535 St. Johns Avenue in Billings, Montana. Board members present were Chairman Linda Nelson, Steven Durrett, Ronald S. Efta, Paul Gatzemeier, and Peggy Ames-Nerud. Staff present was John Gizicki, Jim Halvorson, George Hudak, Ben Jones, Gary Klotz, Jennifer Rath, and Rob Stutz. Board member Wayne Smith was absent.

APPROVAL OF MINUTES

A motion was made by Mr. Gatzemeier, seconded by Mr. Efta, and unanimously passed, to approve the minutes of the June 15, 2016, business meeting.

PUBLIC COMMENT

Mr. Alan Olson, Executive Director of Montana Petroleum Association, opposed the proposed notification rule. Mr. Olson's written comments are attached as Exhibit 1.

Mr. Olson expressed concern about a perceived lack of transparency during the rule drafting process. He believed the subcommittee meetings were closed door and not noticed to the public. Mr. Olson would like to see all affected parties at the table during rulemaking. This way public comment will not have to wait until a business meeting.

In response to Mr. Olson's comments, Mr. Jones noted the goal of the subcommittee was to start the discussion and research of the proposed rule and the subcommittee would then take their findings to the Board. Chairman Nelson also noted that the subcommittee was a fair representative of all parties.

Edward Barta, member of Stillwater Protective Association, thanked the Board for its hard work.

Ms. Susan Beug, member of Northern Plains Resource Council and Carbon County Resource Council, stated the proposed notification rule is needed to protect Montana and for Montana to become part of the movement where oil and gas is safe for everyone.

SCOUT ENERGY MANAGEMENT, LLC

Scout Energy Management LLC (Scout) bought approximately 900 gas wells within the last year from Fidelity Exploration & Production Co. These wells are on a $200,000 multiple well bond. Scout is involved in another large change of operator requests that involves 1,000 wells from Noble Energy, Inc. (Noble) in the Bowdoin area; 733 are federal wells and 313 are fee wells. Scout is also obtaining a few wells from Denbury Onshore, LLC (Denbury). Board staff recommended Scout appear before the Board to discuss an increase to the plugging and reclamation bond.

Kim Brand, senior regulatory specialist, appeared on behalf of Scout. Scout has over 6,000 wells in Oklahoma, Kansas, Texas, North Dakota, and Montana. The design and goal of the company is to clean up its assets by turning wells on and utilizing the well to its fullest potential. Of the 1,000 wells it bought last year, Scout has put 398 wells back on line and returned 70 wells to production.

Scout proposed an additional $50,000 bond to cover its wells it will be acquiring from Noble and Denbury.

Mr. Halvorson recommended the Board accept Scout's bond proposal and to approve its change of operator.

> **Motion:** Mr. Durrett made the motion to approve the recommendations. Mr. Efta seconded and the motion passed unanimously.

DRILLING NOTIFICATION DRAFT RULE

Mr. Jones reviewed statistics pertaining to the draft rule. Over the last six years there were 1,520 drilling permits issued; of those permits, only 79 were within ¼ mile of a house. Of those instances, 44 of the homes owners also owned the land surface where the well was located and already received notice a well would be drilled. That leaves only 35 cases that would be affected by a new drilling notification rule, or only 2.3% of permits during that six year period.

Attached, as Exhibit 2, is the formal draft. The only substantive change since the last hearing was to 2c. It clarified that owners can waive the 14-day protest period to speed up the permit process.

Mr. Stutz discussed the statutes that give the Board the authority to adopt a rule, and the statutes that give the Board the authority to implement a rule. These statutes are highlighted in the formal draft along with other items, such as dates and names that are subject to change.

If the Board decides to pursue rulemaking, the proposed rule needs to be adopted within six months of being published. The next filing deadline with the Secretary of State is August 22, 2016. The Board potentially could adopt the rulemaking at the next business meeting. Mr. Stutz recommended the Board make expected changes to the draft rule prior to initiating rulemaking rather than waiting until after the rule is proposed.

Mr. Durrett wanted to exclude schools and hospitals from the rule. After discussion, he wanted to change occupied structure to occupied dwelling that was defined in the first draft of the notification rule as a building used for human dwelling at least once per year.

Mr. Durrett asked Mr. Jones about his analysis of the past six years, and whether there were any wells by a school or hospital? There was none.

Mr. Durrett was concerned on how to notice a school.

Mr. Stutz mentioned that the Board could clarify that owners of record of a school would be represented by its school district.

Ms. Ames-Nerud wants to leave schools and hospitals in the rule.

Motion: Mr. Durrett made the motion to go back to occupied dwelling instead of occupied structure. Mr. Gatzemeier seconded and the motion failed. Ms. Ames-Nerud and Mr. Gatzemeier voted nay.

A second motion was made to initiate rulemaking.

Motion: Mr. Gatzemeier made the motion to start rulemaking on the drilling notification. Ms. Ames-Nerud seconded and the motion passed. Mr. Durrett voted nay.

PROPOSED HEARING SCHEDULE FOR 2017

Ms. Rath presented the proposed 2017 schedule, attached as Exhibit 3. The proposed dates for the 2017 public hearing schedule are:

February 1-2, 2017
April 5-6, 2017
June 14-15, 2017
August 9-10, 2017
October 25-26, 2017
December 13-14, 2017

The Board agreed upon consensus to adopt the hearing schedule for 2017.

FINANCIAL REPORT

Ms. Rath discussed the financial statement, attached as Exhibit 4.

BOND SUMMARY & INCIDENT REPORT

Mr. Halvorson presented the bond report and the incident report, attached as Exhibit 5 and 6.

DOCKET SUMMARY

Due to the low number of dockets, no docket summary was presented.

GAS FLARING EXCEPTIONS

Mr. Jones discussed the gas flaring report, attached as Exhibit 7. There are thirteen wells flaring in excess of 100 mcf/day. Of these thirteen wells, there is one flaring exception request at this time. The exception request is for Continental Resources. It is uneconomical for Continental Recourses to connect this well to a pipeline. Mr. Jones recommended a six-month flaring exception for this well.

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

Whiting Oil and Gas Corporation (Whiting) has two wells flaring over the 100 MCFG per day limit without an exception. The Board implemented a $250 penalty for delinquent exceptions. Whiting will be the first company assessed the delinquent flaring penalty of $250.

STAFF REPORTS

Rob Stutz

Mr. Stutz did not have any updates to report on the Board's litigation cases.

On July 26, 2016, Earthjustice submitted a rulemaking petition regarding well stimulation fluids. The Board is required to take action within 60 days as to whether or not to initiate rulemaking. There will be a special meeting before the next business meeting to discuss this matter.

Mr. Halvorson stated Board staff needs ample time to review and analyze the data given.

The hearing must take place by September 22, 2016. This will allow Board staff to respond to the request after the hearing.

The Board set the special meeting date for September 22, 2016, at 1:00 p.m. Notice will go out to all oil and gas interested peoples list.

Chairman Nelson requested Board members attend this meeting in person.

Mr. Stutz stated that the Board would not be discussing the merits of the rule, just whether the Board should proceed with rulemaking.

Jim Halvorson

Mr. Halvorson gave an updated of the building damage done in the May 2016 hailstorm. State architects looked at the roof and determined a new roof is not required.

DEQ has had an ongoing discussion with Board staff regarding its interest in one or two disposal wells where waste processing was occurring along with disposal by injection. DEQ wants to require these wells to become licensed disposal sites.

John Gizicki.

Mr. Gizicki and Mr. Klotz provided the Board an update on Montana Oil Field Acquisition I, LLC (MOFA) spill cleanup on the following wells:

- Montana A 2 well – cleanup 90% complete
- Brownell 1 well – cleanup 70% complete
- Haugen 14-2 well – cleanup 30% complete

At the June 15, 2016, business meeting, Ms. Emmy Lambert, Vice President of MOFA, and the Board agreed 45 days was reasonable to accomplish compliance, after which a $250 fine per day was to be instated until compliance was achieved for all three wells.

MOFA did not achieve compliance within 45 days and the daily fine was instated.

Ms. Lambert again appeared on behalf of MOFA. She handed out a letter to the Board of its progress on the above mentioned wells, attached as Exhibit 8. MOFA has made efforts to resolve the issues to come into compliance. Due to the costly cleanup, Ms. Lambert would like some leniency on the fine.

Mr. Stutz recommended levying the fine until the end of clean up. At that time, the Board could decide whether to collect the full amount of the fine, reduce the fine, or waive the fine.

Ms. Lambert expects to complete cleanup in a month. The Board will evaluate MOFA's fine at the October 26, 2016, business meeting.

Mr. Gizicki brought up another operator, McMinn Operating Company (McMinn). McMinn's Ryan Ranch LLC 1 well is located in the SE¼SE¼ of Section 30, T30N, R6W, Pondera County, Montana. This gas well has not been operational since its completion in October 2009.

Both the mineral and surface owners want this well to use as a domestic gas well.

Staff recommended the Board docket McMinn at the next hearing to show cause why the Ryan Ranch LLC 1 well should not be plugged and abandoned and location restored.

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

The last operator Mr. Gizicki brought to the Board's attention was Black Gold Energy Resource Development, LLC (Black Gold). Black Gold had an unreported significant spill that took place on or before June 26, 2016, attached as Exhibit 9. This is in violation of ARM 36.22.1103, which requires an operator to give immediate notice by telephone to staff and file a written report within five working days of the spill. The spill took place at the Indian Mound 1 SWD well located in the NE¼SW¼SW¼ of Section 15, T23N, R55E, Richland County, Montana.

Mr. Gizicki stated that Black Gold is aware of the issue, but no spill report has been filed or any cleanup commenced. Black Gold has a deadline for August 15, 2016, to get the well cleaned up.

Staff recommended the Board docket Black Gold at the next hearing to show cause why additional penalties should not be assessed for failure to clean up the spill.

> **Motion:** Mr. Efta made the motion to approve the recommendation made by staff. Mr. Gatzemeier seconded and the motion passed.

OTHER BUSINESS

No other business discussed.

PUBLIC HEARING

The Board reconvened on Thursday, August 11, 2016, 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. 31-2016 – A motion was made by Ms. Ames-Nerud, seconded by Mr. Efta and unanimously passed, to have Shadwell Resources Group, LLC complete or plug and abandon the Ft. Gilbert 3 SWD well located in the SW¼NE¼ of Section 32, T24N-R59E, Richland County, Montana prior to the October 27, 2016, public hearing. A $1,000 fine was assessed for failure to appear at the August 11, 2016, public hearing. This is set forth in Board Order 28-2016.

Docket No. 32-2016 –
A motion was made by Mr. Gatzemeier, seconded by Mr. Durrett and unanimously passed, to have Storm Cat Energy (USA) Operating Corporation appear at the October 27, 2016, public hearing and show-cause, if any it has, why it should not provide a plan and timeline for the plugging and abandonment or transfer of its three wells. Storm Cat Energy (USA) Operating Corporation is to pay the outstanding fine of $1,340 by October 27, 2016. This is set forth in Board Order 29-2016.

Docket No. 33-2016 –
A motion was made by Mr. Durrett, seconded by Mr. Gatzemeier and unanimously passed, to have Stratex Oil and Gas, Inc. appear at the October 27, 2016, public hearing and show-cause, if any it has, why it should not provide a plan and timeline for the plugging and abandonment of its well and why additional penalties should not be assessed for failure to file delinquent production reports, pay the outstanding fine, and appear at the August 11, 2016, public hearing. Board Order 27-2016 remain in effect, Stratex Oil and Gas, Inc. is to continue to cease operation of its well. Stratex Oil and Gas, Inc. is to pay the outstanding fine of $1,160 by October 27, 2016. This is set forth in Board Order 30-2016.

Docket No. 24-2016 – A motion was made by Mr. Gatzemeier, seconded by Mr. Efta and unanimously passed, to dismiss Docket 24-2016, Stealth Energy USA, Inc. This is set forth in Board Order 31-2016.

NEXT MEETINGS

The next special meeting of the Board will be Thursday, September 22, 2016, at 1:00 p.m. at the Board's hearing room at its office at 2535 St. Johns Avenue in Billings, Montana. The Board will discuss the petition of rulemaking on ARM 36.22.608 and 36.22.1015-36.22.1016 regarding the regulations governing disclosure of well stimulation fluids and proprietary chemicals and trade secrets.

The next business meeting of the Board will be Wednesday, October 26, 2016, 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, October 27, 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 October 27, 2016, public hearing is September 22, 2016.

BOARD OF OIL AND GAS CONSERVATION
OF THE STATE OF MONTANA

Linda Nelson

Linda Nelson, Chairman
Steven Durrett, Board Member
Ronald S. Efta, Board Member
Paul Gatzemeier, Board Member
Peggy Ames-Nerud, Board Member

ATTEST:

Jennifer Rath

Jennifer Rath, Program Specialist