

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION



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December 21, 2017

Environmental Quality Council
Legislative Environmental Policy Office
State Capitol Building
1301 East 6th Avenue, Room 171
PO Box 201704
Helena, Montana 59620-1704

To the Environmental Quality Council:

In accordance with Section 75-1-314, MCA, the Department of Natural Resources and Conservation submits the attached Enforcement and Compliance Report for your review. The report contains information specific to each division in the department with enforcement and compliance responsibilities.

Should you have any questions or comments, please contact our department at (406) 444-2074.

Sincerely,

A handwritten signature in blue ink that reads "John C. Tubbs".

John Tubbs, Director
Department of Natural Resources and Conservation

Enclosures

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**Department of Natural Resources
and Conservation
Enforcement and Compliance Report
Section 75-1-314, MCA**

Trust Land Management Division Enforcement and Compliance Report 75-1-314, MCA

DIVISION OVERVIEW

The Trust Land Management Division of DNRC manages approximately 5.1 million surface acres and 6.2 million subsurface acres of state land for 12 trust beneficiaries. We pride ourselves on being good neighbors and good stewards. Our stated Mission is *to manage the State of Montana's trust land resources to produce revenue for the trust beneficiaries while considering environmental factors and protecting the future income-generating capacity of the land.*

The Trust Land Management Division (TLMD) is not a regulatory body, but rather enters into leases and contracts with entities that purchase the use of various natural resources such as forest and agricultural products through timber sales and agriculture/grazing leases, respectively. The Division is organized into four bureaus, each with a specific resource and revenue focus.

Forest Management Bureau

At any one time, the bureau has approximately 50 active timber sale contracts. The program sells approximately 56.9 million board feet (MMbf) of timber annually and approximately 90 to 95 percent of the Program's volume is under contract via timber sale contracts. Timber sale contracts represent agreements for volume over 100 thousand board feet (Mbf) green timber or 500 Mbf salvage timber while timber permits represent agreements under those volume amounts.

Non-compliances

Each timber sale, permit, and procurement contract is administered by Trust Lands staff members who regularly visit sites and completes comprehensive inspections of operator activities using inspection monitoring forms or other quality assurances provided for in the specified contract.

Similar to other land management agencies, Trust Land Forest Management Program activities must comply with regulations overseen by other regulatory agencies or divisions including Montana Department of Environmental Quality, Montana Fish Wildlife and Parks, and Montana DNRC Forestry Division. Forest Management Program Administrative Officers inspect compliance not only with Program stipulations and specifications, but also with regulations enforced by the above-mentioned regulatory agencies.

Over the past two years, two violations of the Streamside Management Zone (SMZ) Law enforced by the DNRC Forestry Division have been reported on forested state trust lands. One of the violations actually occurred in 2015, but was not discovered and reported until 2016. This violation involved equipment operation in the SMZ during timber sale skidding operations. The

other violation occurred when DNRC contractor inadvertently placed logs from road right-of-way clearing across a small stream that they were unaware of. The Program self-reported both violations to the Forestry Division. Forestry Division forest officers investigated and reported on the violation. Trust Land Management Division has committed to having a refresher SMZ class for all foresters.

Over the past two years, no timber sale contracts, timber permits, or forest management related procurement contracts have been terminated because of non-compliance with rules or regulations.

Enforcement Efforts

There are no instances of unresolved non-compliances.

Real Estate Management Bureau

Regulated Community

As noted in the introduction, the Real Estate Management Bureau does not have a regulated community per se, but rather manages a portfolio of leases, easements, and licenses for various uses such as residential and commercial. Other entities responsible for regulating these uses include local government, the Department of Environmental Quality, Department of Fish Wildlife and Parks, and any other agency responsible for the development of land uses and the resultant impacts.

Property Management Section

This Section oversees surface leasing on the 25,944 acres of trust land classified as “Other”, in addition to Land Use Licensing secondary uses on other land classifications. Land classified as “Other” is defined as all trust land that is not agricultural, grazing, or forest land. There are two leasing programs for activity on land classified as “Other”: the residential leasing program and the commercial leasing program.

I. Residential Leasing Program (Cabin Site and Home Site Leases)

Residential Leases are typically issued for 15 year terms. As of October 11, 2017, **there are currently 772 lots that are designated for residential leasing.** Of the 772 lots, 13 have never been leased, and 93 have previously been leased but have been cancelled for non-payment. The resulting vacancy rate is 12%.

*The Department is actively selling cabin sites through the Land Banking program in accordance with MCA 77-2-308. As cabin sites are sold, the number of lots in the leasing program is reduced, and the vacancy rate fluctuates. Because this is an ongoing program, these numbers often change from month to month.

Non-compliance – Lease Payment

If a Lease invoice is not paid after 30 days delinquency the Lease is cancelled. A Notice of Cancellation is mailed to the lessee via certified mail informing them that the Lease has been cancelled for non-payment. The Notice of Cancellation provides the lessee an opportunity to have a hearing, and the option to reinstate the Lease for a \$500.00 fee if paid within 30 days.

In **FY16**, 8 residential Leases were cancelled for non-payment. In **FY17**, 6 residential Leases were cancelled for nonpayment.

Non-compliance – Physical Review

All properties under residential Leases receive a physical inspection every 5 years to ensure Lease compliance. The inspections are done in person on the Lease site. A standard physical inspection form is completed by staff in the field and submitted to the Real Estate Management Bureau. Any management issues discovered during the physical inspection are addressed by field staff, typically through a letter to the lessee outlining violations and establishing time frames for correction. If a Lease is expiring that has had repeated violations, the Bureau may elect not to renew the Lease, or offer a renewal at a shorter term than the typical 15-year renewal. The shorter Lease term allows time for the lessee to correct violations and show improvement in the management of the Lease before cancellation. In **FY16**, no residential leases were cancelled for Lease violations. In **FY17**, one lease was cancelled for Lease violations.

Enforcement - Improvements Assumption

Improvements upon an active cabin site Lease are owned by the lessee. When a cabin Lease is cancelled, the former lessee retains ownership of the improvements under certain conditions. All cabin site Leases provide conditions for the improvements upon cancellation, which include retained ownership for a period of time for the former lessee to attempt to sell the improvements to an incoming lessee, after which the State assumes ownership of the improvements on behalf of the trust beneficiary of the underlying land. Leases issued prior to 2010 provide for a two-year period. All leases issued after 2010 provide for a three-year period.

In addition to lease language, Administrative Rules of Montana (ARM) for the cabin site leasing program provide that the former lessee has a limited right to remove the improvements or be compensated for the improvements by a new lessee. Improvements that are not removed or sold in accordance with the ARM result in trust assumption and ownership of all improvements. The ability to remove or seek compensation for improvements is only available if the former lessee has continued to pay all taxes and any other applicable assessments, and is limited to a time period of up to three years after the date of cancellation or abandonment. If after three years there is no new lessee and the improvements have not been removed, the department will provide written notice to the former lessee granting 60 days for removal of remaining improvements. After that time, the improvements will become the property of the trust.

Applicable former lessees were sent a notice of state assumption of improvements upon a cancelled state lease. This Notice provided the former lessee with 60 days to either remove any

remaining improvements; bid on the Lease; or sell any remaining improvements to a successful bidder on the Lease, at a price not to be more than the Department of Revenue value. The Notice also provided for an opportunity for a hearing.

In **FY17**, the Bureau sent 28 Notices of State Assumption to former lessees. Some of the Lease sites included cabin or home structures, while others included only outhouses or other outbuildings, and others had very limited improvements such as hand wells and electrical boxes. In many instances, the remaining improvements had been unattended and unmaintained for over three years.

Of the 28 former lessees that received the Notice of State Assumption:

- Two requested hearings. Both were settled prior to a scheduled hearing, and in both instances the former lessee successfully transferred their improvements to an incoming lessee.
- Four successfully transferred their improvements to a new lessee.

Any improvements remaining on the 22 other sites were assumed by the State and documentation was recorded with the applicable County. Since the assumption, three have been transferred to new incoming lessees in subsequent bidding periods. Only one of the three included a structure and the incoming lessee purchased the structure at the Department of Revenue value, and the revenue was distributed to the trust.

Legal Compliance Issues

Revisions to Administrative Rules of Montana (ARM) for the cabin site lease program were finalized in **FY16** to implement the terms of a settlement agreement executed in the fall of 2015. The settlement agreement resolved litigation on existing statute and ARM that had previously governed the cabin site leasing program.

II. Commercial Leasing Program

Commercial Leases are issued for up to 99 years and are issued based on a Request for Proposal Process. **There are currently 141 active commercial Leases.** Lease terms are negotiated between field, Bureau, and legal staff to establish Lease fees that provide full market value to the trust beneficiaries. The Lease fee may not be less than the amount described in Section 77-1-905 of the Montana Code Annotated (MCA).

Non-compliance – Lease Payment

If Lease fees are not paid, the Lease is cancelled. A notice letter is mailed to the lessee, informing them that the Lease has been cancelled for non-payment, and offering the lessee an opportunity to have a hearing. This letter also offers an opportunity to reinstate the Lease for a \$500.00 fee, if paid within 30 days, unless the Lease itself provides for an alternative recourse for non-payment. In **FY14** and **FY15**, 0 commercial Lease were cancelled for non-payment.

Non-compliance – Physical Review

Unless the commercial Lease specifies a different physical review schedule, commercial Leases receive a physical inspection every 5 years to ensure Lease compliance. The inspections are done in person on the Lease site. A standard physical inspection form is completed by staff in the field, and submitted to the Real Estate Management Bureau. Any management issues discovered in the physical inspection are addressed by field staff, typically through a letter to the lessee outlining any violations and establishing time frames to correct such violations. Depending on the scale of the violations, the Real Estate Management Bureau may cancel the lease, or elect to renew the lease for a shorter-term, or not to renew the lease at all. The Lease itself may also provide for remedies for Lease violations. In **FY14** and **FY15**, 0 commercial Leases were cancelled for Lease violations.

RIGHTS OF WAY/ EASEMENTS

Upon approval by the State Board of Land Commissioners (the Land Board) the Department of Natural Resources and Conservation (DNRC) has authority to process, issue, and reciprocate easements across State trust lands for a variety of uses, pursuant to §77-1-130, MCA (Historic Rights of Way), §77-1-617, MCA (Reciprocal Access), and §77-2-101, MCA. Legal documents issued by DNRC contain special provisions and conditions for use, including but not limited to, reclamation after initial construction is completed, weed control, road maintenance, and compliance with any other permits that may be required by other State or federal agencies. Easements are also subject to a reversionary clause, under which they may be terminated if the legal easement holder has not utilized the easement for its granted use within a period of 5 years.

In **FY16** and **FY17**, the Land Board approved and DNRC **granted 679 easements** for a variety of uses, including but not limited to, public recreation trails, private access roads, county public roads, state highway projects, new utility installations, new water, oil, and gas pipelines, and existing (historic) private access roads and utility lines. Prior to receiving approval from the Land Board, DNRC staff inspected and prepared environmental analysis documents associated with new installations and construction. Existing (historic) structures are excluded from environmental analysis by statute.

Non-compliance – Physical Review

Easements located across State land are periodically inspected by local field office staff in conjunction with their surface lease management inspections or timber sale related activities. Easements are also reviewed based upon receipt of requests for assignment of rights associated with easements. Common examples of possible enforcement actions resulting from these inspections are reclamation and re-seeding of a buried utility facility and weed control measures on access roads.

Non-compliance – Enforcement

In **FY16** and **FY17**, no easement holders were found to be in violation of any conditions or provisions of their legal easement document; therefore no enforcement actions were undertaken.

Agriculture and Grazing Management Bureau

Regulated Community

As said in the introduction, we do not have a regulated community per se, but rather entities with which we have leases. The program is responsible for managing the agriculture and grazing resources on approximately 4.6 million acres of trust lands statewide. Currently there are 8,703 leases covering 4 million acres of grazing lands and 576,000 acres of agricultural lands, which includes cropland, hayland and lands enrolled into the Conservation Reserve Program (CRP). In addition, the program manages 204 grazing licenses on classified forest lands covering nearly 156,000 acres. Leases are typically issued for ten-year terms.

Non-compliance - Physical Review

As required by law (§77-6-101 and §77-6-201, MCA), leases are inspected once during the lease term, normally the year prior to expiration.

Non-compliance – Enforcement

Any management issues identified during the lease inspection are addressed through a shortened term for the new lease, special lease conditions or lease non-renewal. In **FY16**, 910 leases with 1,360 tracts covering 488,000 acres were inspected for lease renewal. Of those leases, 22 were renewed with 5 year terms and 67 had special lease conditions to address identified issues. The most common special lease conditions required development and implementation of either a cropland, grazing land, or weed management plan. In **FY17**, 873 leases with 1,431 tracts covering 514,000 acres were inspected for lease renewal. Of those leases, 19 were renewed with 5 year terms and 55 had special lease conditions to address identified issues. As with FY16 leases, the most common special lease conditions required development and implementation of cropland, grazing land, or a weed management plan.

Recreational Use Program

Recreational use on trust lands is permitted by purchasing either a conservation license or a state land general recreational use license. In FY16, nearly 496,000 conservation licenses and 7,700 general recreational use licenses were sold. In FY17, 496,707 conservation licenses and 7,438 general recreational use licenses. Additionally, outfitting is authorized under Special Recreational Use Licenses. Currently, there are 142 outfitting licenses containing 1,070 tracts on approximately 507,500 acres.

Enforcement of recreational use laws is conducted by Department of Fish, Wildlife & Parks Game Wardens. Criminal violations are handled directly by the warden through the county court system. Civil violations are sent to DNRC to process.

In **FY16**, 6 civil violations were issued and fines totaling \$1,200.00 were collected.

In **FY17**, 2 civil violations were issued and fines totaling \$110.00 were collected.

Minerals Management Bureau

The State School Trust owns 6.2 million acres of mineral estate lands. However, mineral production occurs on only a small fraction, currently 248,000 acres. These are managed through the issuance of mineral leases, primarily for oil, gas and coal. Producing leases currently total 666 for oil and gas, and 7 for coal. All operations on these leases are regulated by the Board of Oil and Gas Conservation (BOGC) and the Department of Environmental Quality (DEQ). They inspect and take enforcement actions on state-owned lands in the same manner as for private and/or federal lands that are under their regulatory jurisdiction. TLMD staff also inspect state trust lands with active operations, though our role is that of a “landowner” and not in a strict regulatory capacity. TLMD activity is summarized below.

Oil and Gas

New Wells

New activity encompasses both wells and related infrastructure. In fiscal 2016 and 2017, there were 2 and 3 new wells on state trust lands, respectively. All of these were inspected by both BOGC and TLMD field staff.

Existing Wells

As of March 2013, there were 258 oil and 400 gas wells producing on state trust lands. There were also 66 active water injection wells (12 disposal and 54 enhanced recovery). These wells are located within 7 TLMD field office management areas across central and eastern Montana. BOGC staff inspect wells as appropriate pursuant to their regulatory oversight authority. TLMD staff inspect these wells on a periodic basis, primarily in conjunction with their surface lease management inspections. The number inspected varies with their surface inspection schedule. Wells are also targeted for TLMD staff inspection based on information gathered during routine inspections and/or information provided by BOGC inspectors. Common examples of possible enforcement actions arising from TLMD inspections are weed control, reclamation status, or revegetation success.

Coal

New Operations – None

Existing Operations

Ongoing surface mining operations are being conducted on seven state leases. These operations are closely monitored by the DEQ Coal Bureau’s field staff. DEQ staff contacts TLMD whenever a change in operational status occurs. TLMD staff typically inspect operations as needed in conjunction with DEQ staff when operations on state lands advance into final reclamation activities. Because DEQ regulatory authority encompasses all lands disturbed by coal operations, no enforcement actions by TLMD staff are required.

Other Minerals

There are currently 46 gravel permits on state trust land. These operations are closely monitored by DEQ Opencut Bureau field staff. DEQ staff contacts TLMD if issues arise during operations and when site closure and reclamation is commenced. TLMD field staff visit all gravel permit areas prior to commencement of operations and during reclamation. Some gravel operations are longer term, and TLMD site visits during operations are conducted on a periodic basis as needed.

Current Plans

TLMD is has recently implemented a field well inspection application to aid field personnel in digitally filling out, submitting, and tracking oil and gas well inspections as part of the continually developing risk-based inspection program for oil and gas operations on state trust lands. This application has been successful in providing a framework for more efficient and effective site inspections by TLMD staff. TLMD looks to refine the risk-based criteria as the inspection program progresses.

Water Resources Division Enforcement and Compliance Report 75-1-314, MCA

DNRC Water Rights Enforcement Litigation under §85-2-114, -122, MCA

The Department has statewide jurisdiction for enforcement of the Water Use Act under §§85-2-114, -122, MCA including if a person is wasting water, using water unlawfully, and preventing water from moving to another person having a prior right to use the water. The Department strives to work with individuals to bring them voluntarily into compliance with the Water Use Act.

1. The Department investigates non-compliance upon receiving a complaint. The complaints are almost always filed by other water users who are adversely affected by the activity of the alleged violator.
2. Upon receipt of a complaint, the Department will investigate the water use and meet with the water user. The findings of the investigation are shared with both the person filing the complaint and with the alleged violator.
3. If the water user is not in compliance with the Water Use Act, the Department will suggest options to the water user to come into compliance. The vast majority of complaints are resolved informally without court action.
4. The Department has historically held in abeyance taking the alleged violator to district court for enforcement if the water user has filed an application for a permit for a new water use or change in existing water right, until such time as the Department issued a decision on the application.
5. The Department only considers court action (injunction or fines) if the violator refuses to come into compliance voluntarily, or is unsuccessful in obtaining a water right but continues to violate statute.

The Department has only taken three complaints to the district court out of the hundreds of complaints we have received over the last ten years. The Department has not taken any complaints to the district court since 2011.

The **Montana Water Measurement program** was created to identify chronically dewatered watercourses. The program provides water and snowpack data, water right information, and water measurement expertise to watershed groups and user groups to improve local management of water resources. The program seeks to reduce adverse impacts to beneficial uses, such as agriculture, municipal, fisheries and recreational uses, and reduce conflicts between competing uses.

The Musselshell River and Mill Creek, a tributary of the Yellowstone River, are the two watercourses formally regulated by the program. Compliance and enforcement efforts in the

Musselshell basin have improved with the creation of the “Musselshell River Distribution Project”, and involvement of the District Court. As a result, compliance is nearly 100 percent.

In Mill Creek, there is still some interest in measurement of diversions and stream flows. However, most attention here is dedicated to finding solutions to the actual dewatering of Mill Creek in the lower reaches during late summer. The program continues to work with FWP and local interests to operate a gaging station near the mouth of Mill Creek.

The program continues to work in the Wise River basin with the Big Hole Watershed Committee. Working with the DNRC stream gaging program, a real-time gage is now operating on Wise River near the mouth. Flow data is being collected for possible use in a Wise River Drought Management Plan.

The program continues to analyze and model Georgetown Lake water supply for the benefit of Granite County, Flint Creek Dam Advisory Committee, FWP, irrigator groups, and other interested parties. The program also continues to process occasional water measurement grant applications throughout the state.

BOARD OF WATER WELL CONTRACTORS

The **Board of Water Well Contractors program** is designed to reduce and minimize the waste and contamination of ground water resources within this state by reasonable regulation and licensing of drillers and constructors of water wells and monitoring of wells. Water well construction standards are set in the administrative rules and enforced to ensure compliance with water well and monitoring well construction.

The Board directs investigations of complaints of unlicensed drillers and violations of water well construction standards submitted by the public, regulatory agencies, and other drillers. The Board holds hearings on complaints and, as warranted, prescribes education, remedial action, bond forfeiture, license suspension, and license revocation to enforce state law and regulations. The program manager administers training, testing, licensing, and annual training and re-licensing of 230 Water Well Drillers, Monitoring Well Constructors, Water Well Contractors, and Inactive Licenses in Montana.

Complaints to the Board are analyzed and field investigated. There were 4 complaints of which 2 were filed formally in a written complaint and 2 were verbal complaint calls. Of those 2 formal complaints; 1 decision of the Board favored the complainant; 1 decision favored the driller. The 2 verbal complaints were resolved without the Board taking action. Typically, there is voluntary compliance or correction of a construction standard based on the finding of the field investigator. Complaints that result in some remedial action by the driller have occurred on less than 1% of all water wells drilled in a year.

DAM SAFETY REGULATORY PROGRAM

The **Dam Safety Regulatory Program (DSP)** is designed to ensure that dams in Montana are operated and maintained in a safe manner. Primary regulatory responsibilities include: issuing operation permits, construction permits, and conducting downstream dam hazard evaluations. Secondary regulatory responsibilities include: updating emergency action plans and responding to complaints on non-permitted dams. Permitted dam owners include irrigation districts, private irrigation companies, cities, counties, State of Montana, and private individuals. Federal dams are exempt from regulation. For more detailed information, please refer our web site at <http://dnrc.mt.gov/divisions/water/operations/dam-safety>

The DSP uses education and outreach to promote safe dams and compliance. The DSP works with the Montana Association of Dam and Canal Systems (MADCS) to host annual dam owner workshops targeted towards permitted dams. Key recent efforts to promote compliance include:

1. Publication of [Emergency Intervention Toolkit](#), an interactive document with resources to help dam owners prepare for an incident, and more importantly guide them on actions that can be taken to prevent the incident from leading to a dam failure.
2. Development of Emergency Action Planning (EAP) and Dam Owner Training Workshops. These workshops are targeted towards specific dams with a deficiency or operation challenge. Dam owners and county emergency managers are led through a mock dam incident. Discussions are focused on activities that should occur to respond to the incident and prevent the incident from becoming more serious.

Both efforts were funded by the National Dam Safety Program Assistance to States grant awarded to Montana annually.

The DSP also utilizes a compliance tracking program that keeps track of all permitting deadlines. Weekly automated reminders are sent to staff

Non-compliance with permitting requirements: Dam owners are required to complete an annual “owners” inspection. It is a constant challenge to get these completed, often requiring multiple reminders from dam safety staff. This problem has been amplified by the loss of the engineering positions that handle the southwestern part of the state.

To address this issue, the DSP will be implementing a quarterly dam owner bulletin. The bulletin will discuss owner inspections and other dam owner responsibilities and the need for dam owners to be proactive. Other key information such as upcoming training opportunities will be included in the bulletin. The DSP is hopeful that increased communication will help offset the loss of the engineering positions that historically worked with dam owners to meet their responsibilities.

Non-compliance with standards: There are six non-permitted privately owned small dams classified as high hazard and are thus subject to operation permit requirements. However, these dams have deficiencies that prevent the DSP from issuing an operation permit. When

the DSP issues an operation permit, it is an assurance to the public that the dam meets appropriate standards. While these dam owners work to secure the funding necessary to rehabilitate the dams, and/or initiate construction planning, the DSP asks the dam owners to conduct inspections, develop emergency action plans and take other actions to prevent dam failure.

Table 1. Summary of High Hazard dams requiring rehabilitation or additional engineering analysis

| Dam | County | Activities |
|--------------------------------------|--------------|---|
| Surprise Creek Dam | Judith Basin | The dam owner is working to secure funding to replace deteriorating outlet works. An engineer has been hired and plans to address in the summer of |
| Jordan Dam | Park | . A construction permit has been issued to repair the dam. Construction is planned for 2018. |
| Davis Dam | Powell | The dam owner has decided to remove the house downstream, which is the only hazard. |
| Kootenai Development Impoundment Dam | Lincoln | Alternative evaluation and data collection for removal/stabilization is underway. This dam is on a superfund site and under multiple agency review. |
| Beaver Dam | Madison | Reconstruction plans are in development. Construction will occur in 2018. |
| Blixit Creek Dam | Missoula | Repair plans are in development. Construction should occur in the fall of 2018. |
| Jackson Dam | Madison | A construction permit has been issued. Rehabilitation will occur in 2018. |

STATE FLOODPLAIN PROGRAM

The primary objective of the **Floodplain Mapping Program** is to develop and implement a comprehensive mapping plan of the state’s rivers, waterbodies, and drain ways for the delineation of designation of floodplains and floodways, as prescribed in MCA 76-5-201.

DNRC’s floodplain mapping section has been partnering with FEMA and interested stakeholders to accomplish its mission of identifying and mapping flood risk in order to alleviate flooding threats to life and health and reduce private and public economic losses. It is currently estimated that roughly 11,100 miles of the state’s 73,000 miles of rivers and streams have regulatory mapped floodplains. Twenty (20) counties and two (2) reservations have had their paper Flood Insurance Rate Maps (FIRM) converted to a modernized digital format. Modernizations for two (2) additional counties are underway along with several floodplain study updates.

The Floodplain Management **Community Assistance Program (CAP)** is tasked with reviewing and approving local proposed regulations to assure minimum state and federal standards are met and reviewing community administrative and enforcement procedures for continued compliance with local regulations. The National Flood Insurance Program (NFIP) provides funding for community oversight, outreach activities, training events, technical reviews and administrative assistance to 135 local governments. Approximately 95% of the local governments have adopted and are regulating building and construction in the Special Flood Hazard Area (SFHA) and/or the Regulated Flood Hazard Area (RFHA) as prescribed in local regulations.

Program staff conduct approximately 25 formal community audits annually to verify compliance with the NFIP and state minimum standards. Each participating community is also contacted annually to verify community information and needs. FEMA administers the NFIP and has the authority to put communities on probation or sanction for failure to implement and enforce local regulations. If a community is sanctioned, federally backed flood insurance is no longer available to residents within the community. Disaster and federally backed grant assistance may be significantly reduced or unavailable for sanctioned communities. Such action by FEMA would result in the inability of banks or other lending institutions to sell home mortgages on the secondary market.

The City of Thompson Falls and the Town of Grass Range were sanctioned by FEMA in the past ten years because of community failure to adopt local ordinances reflecting updated SFHAs.

Board of Oil and Gas Conservation Oil and Gas Conservation Division Enforcement and Compliance Report Section 75-1-314, MCA

PROGRAM DESCRIPTION

The Board of Oil and Gas Conservation (Board) is composed of seven members appointed by the Governor for four-year terms to act and enforce the Board's oil and gas conservation statutes (Title 82, Chapter 11, MCA) and when necessary, rule-making authority (Title 36, Chapter 22, ARM). The Board is attached to the Department of Natural Resources and Conservation (DNRC) for administrative purposes.

The Oil and Gas Conservation Division (Division) is the attachment to DNRC and serves as the staff for the Board. The Division is responsible for the prevention of resource waste through regulation of oil and gas exploration and production. It is made up of 20.0 FTE located across the state: at the headquarters in Billings; an administrative office in Helena; and field offices in Shelby, Plentywood, Sidney and Glendive.

PROMOTING COMPLIANCE, INFORMATION, EDUCATION, TECHNICAL ASSISTANCE

Members of the Board include industry members and land and mineral owners who participate in various organizations and societies, which provide opportunities for outreach activity to the regulated community. Industry members participate in professional societies such as the Society of Exploration Geophysicists, American Institute of Petroleum Geologists, Montana Petroleum Association, and the Northern Montana Oil & Gas Association. Land and mineral owner members typically participate in the two active land and mineral owner associations in the state: the Northeastern Montana Land & Mineral Owners Association and the Montana Land & Mineral Owners Association.

The Board's four professional staff members also participate in similar organizations and societies.

The entire field inspection process provides transparency to the oil and gas inspection program and a consistency in field inspections and enforcement processes.

The Board has 8.0 FTE (chief field inspector, compliance office, and six field inspectors) assigned to inspection and enforcement activities. These individuals participate in annual safety training.

Field inspectors perform routine visits to well sites, provide information and advice to operators about regulatory and/or compliance requirements, listen to and look at surface owner concerns, investigate complaints, witness mechanical integrity tests and the plugging of wells, supervise the plugging and abandonment of orphan wells, etc.

The compliance officer monitors all compliance activity, regardless of the source, through final resolution. This includes any necessary board action.

There has been an increase in show-cause hearings as a result of the implemented procedures currently in place.

REGULATED COMMUNITY

There are approximately 300 active oil and gas operators in Montana. They operate over 5,600 oil wells and 5,000 gas wells.

In **2015**, 19 operators had non-compliance issues brought before the Board.

In **2016**, 21 operators had non-compliance issues brought before the Board.

In the following tables, each order issued is the result of a hearing before the Board. Numerous orders issued for a particular operator indicates the Board and operator continued their attempt(s) to resolve the matter multiple times.

| 2015 | | | |
|---------------------|--------------------|--|---|
| Order Number | Operator | Summary | Outcome |
| 105-2015 | Alturas Energy LLC | Show Cause: why it should not provide a plan and timeline for plugging its wells, failure to meet compliance deadline for field violations. | <p>\$1,000 fine for not appearing at the April 30, 2015, public hearing and addressing the violations at its Degn 29-44, Bass Marker 20-33, and Scheetz 21-1 wells.</p> <p>Appear at the June 25, 2015, public hearing and show-cause, if any it has, why its plugging and reclamation bond should not be forfeited for failure to provide a plan and timeline for the plugging and abandonment of its wells.</p> |
| 131-2015 | Alturas Energy LLC | Show Cause: why its plugging and reclamation bond should not be forfeited for failure to provide a plan and timeline for the plugging its wells, and for failure to pay the fine assessed for not appearing at the Board's April 30, 2015 hearing. | <p>Come into full compliance with field violations by August 1, 2015.</p> <p>Appear at the August 13, 2015, public hearing to report its progress.</p> <p>Pay the outstanding fine of \$1,000 by July 1, 2015.</p> |
| 152-2015 | Alturas Energy LLC | Show Cause: why its plugging and reclamation bond should not be forfeited for failure to provide a plan and timeline for the plugging its wells, and for failure to pay the fine assessed for not appearing at the Board's April 30, 2015 hearing. | <p>Continue the docket until the October 2015, hearing.</p> <p>Needs to come into full compliance with field violations and submit Sundry Notices for proposed well work, including any proposed abandonments, prior to the Board's October hearing.</p> |

| Order Number | Operator | Summary | Outcome |
|--------------|---------------------------|---|--|
| 165-2015 | Alturas Energy LLC | Show Cause: why its plugging and reclamation bond should not be forfeited for failure to provide a plan and timeline for plugging its wells, and for failure to pay the fine assessed for not appearing at the Board's April 30, 2015 hearing. | Bond forfeited |
| 106-2015 | Augusta Exploration, LLC | Show Cause: why it shouldn't P&A Krone-Augusta 31-32 well - 18N-5W-32: 599 FNL, 2082 FEL. | Continue docket until the Board's June 25, 2015, hearing where they shall appear and show-cause, if any it has, why its plugging and reclamation bond should not be forfeited. Additional penalties will be considered if the respondent does not appear at the June 25, 2015, public hearing. |
| 132-2015 | Augusta Exploration, LLC | Show Cause: why plugging and reclamation bond should not be forfeited for failure to provide a plan and timeline of its Krone-Augusta 31-32 well, API # 25-049-21111, located in Section 32, T18N-R5W, Lewis and Clark County, Montana. | Continue docket until August 13, 2015, public hearing. |
| 166-2015 | Augusta Exploration, LLC | Show Cause: why plugging and reclamation bond should not be forfeited for failure to provide a plan and timeline of its Krone-Augusta 31-32 well, API # 25-049-21111, located in Section 32, T18N-R5W, Lewis and Clark County, Montana. | Immediately provide to the Board copies of available mud logs and electrical logs from its Krone-Augusta 31-32 well. Continue Docket until the December 10, 2015, public hearing. |
| 190-2015 | Augusta Exploration, LLC | Show Cause: why plugging and reclamation bond should not be forfeited for failure to provide a plan and timeline of its Krone-Augusta 31-32 well, API # 25-049-21111, located in Section 32, T18N-R5W, Lewis and Clark County, Montana. | Continue docket until further notice. |
| 33-2015 | Cavalier Petroleum | Show Cause: failure to file production reports and pay penalty for delinquent reporting. | \$1,000 fine for failure to appear. Continue the docket to the April 30, 2015, public hearing where they shall appear and show cause why it shouldn't be required to plug and abandon its wells. |
| 129-2015 | Cavalier Petroleum | Show Cause: why it should not provide a plan and timeline for plugging its wells, why additional penalties should not be assessed for failure to pay the administrative penalty for delinquent reporting, and the fine for not appearing at the February 26, 2015 public hearing. | Appear at the August 13, 2015, public hearing and show-cause, if any it has, why its plugging and reclamation bond should not be forfeited for failure to properly plug its wells or provide a timeline for the proper plugging and reclamation of its wells. |
| 155-2015 | Cavalier Petroleum | Show Cause: why its bond should not be forfeited for failure to plug its wells and why additional penalties should not be assessed for failure to pay the administrative penalty assessed for delinquent reporting and the fine assessed for not appearing at the Board's February 26, 2015 public hearing. | Bond forfeited |
| 126-2015 | Coastal Petroleum Company | Show Cause: why additional penalties should not be assessed for failure to properly reclaim the State 7-16 well site located in T36N, R36E, Section 16, Valley County, Montana. | Appear at the August 13, 2015, public hearing and show-cause, if any, why its plugging and reclamation bond should not be forfeited for failure to properly reclaim the location of the State 7-16 well. |

| Order Number | Operator | Summary | Outcome |
|--------------|--------------------------------|---|--|
| 156-2015 | Coastal Petroleum Company | Show Cause: why its bond should not be forfeited for failure to finish surface reclamation on its State 7-16 well site located in T36N, R36E, Section 16, Valley County, Montana. | Bond forfeited |
| 125-2015 | Custom Carbon Processing, Inc. | Show Cause: why additional penalties should not be imposed for failure maintain the wellsites of the Wojahn A 5-2 well located in T13N, R60E, Section 2 and the Michels A 8-3 well located in Section 3, T13N, R60E, Wibaux County, Montana. | Remedy the violations on or before July 1, 2015. Additionally, Custom Carbon Processing, Inc. is subject to a \$250 fine for each day after July 1, 2015, that the violations remain unresolved. \$1,000 fine for failure to address the violations prior to the May 21, 2015, deadline. |
| 154-2015 | Custom Carbon Processing, Inc. | Show Cause: why additional penalties should not be imposed for failure to maintain the wellsites of the Wojahn A 5-2 well located in Section 2, T13N, R60E, and the Michels A 8-3 well located in Section 3, T13N, R60E, Wibaux County, Montana. | Appear at the October 29, 2015, public hearing and show-cause, if any it has, why its plugging and reclamation bonds covering the Wojahn A 5-2 and the Michels A 8-3 wells should not be forfeited. \$250 fine for each day after July 1, 2015, that the violations remain unresolved remains in effect until compliance is confirmed by inspection. Staff will determine the content of the unmarked bags on the Michels A 8-3 well location. |
| 163-2015 | Custom Carbon Processing, Inc. | Show Cause: why its plugging and reclamation bond should not be forfeited for failure to maintain the wellsites of the Wojahn A 5-2 well located in Section 2, T13N-R60E, and the Michels A 8-3 well located in Section 3, T13N-R60E, Wibaux County, Montana. | \$250 fine for each day after July 1, 2015, that the violations remain unresolved remain in effect for Custom Carbon Processing, Inc. until compliance is confirmed by inspection. The accumulation of the daily fine from July 1, 2015, through November 13, 2015, along with the \$1,000 fine assessed on June 25, 2015, were ordered to be paid on or before November 13, 2015. Continue docket to the December 10, 2015, hearing. |
| 192-2015 | Custom Carbon Processing, Inc. | Show Cause: why its plugging and reclamation bond should not be forfeited for failure to maintain the wellsites of the Wojahn A 5-2 well located in Section 2, T13N-R60E, and the Michels A 8-3 well located in Section 3, T13N-R60E, Wibaux County, Montana. | Bond forfeited |
| | Danielson, Patricia | Show Cause: failure to file production reports and pay administrative fees | Dismissed |
| 162-2015 | Hinto Energy, LLC | Show Cause: failure to file production reports and pay administrative fees | Appear at the December 10, 2015, 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 wells. \$1,000 fine for failure to appear at the October 29, 2015, public hearing. The total assessed penalties is 1,380. Hinto is required to submit the reports and pay the fines by November 15, 2015, or Hinto Energy, LLC will be required to cease operation of its wells. |

| Order Number | Operator | Summary | Outcome |
|--------------|------------------------|--|---|
| 187-2015 | Hinto Energy, LLC | Show Cause: why it should not provide a plan and timeline for plugging its wells and why additional penalties should not be assessed for failure to pay the administrative penalty assessed for delinquent reporting and the fine assessed for not appearing at the Board's October 29, 2015 public hearing. | Dismissed |
| 30-2015 | K2 America Corporation | Show Cause: why shouldn't P&A wells, failure to file production reports and pay penalty for delinquent reporting, failure to appear at December 4, 2014 hearing. | Continue docket to the April 30, 2015, public hearing Appear and show cause why its plugging and reclamation bond should not be forfeited for failure to plug and abandon its wells. |
| 127-2015 | K2 America Corporation | Show Cause: why its bond should not be forfeited for failure to provide a plan and timeline for plugging its wells, why additional penalties should not be assessed for failure to file production reports, failure to pay existing penalties, and failure to appear at February 26, 2015 hearing. | Continue docket until June 2016 or next public hearing thereafter. Reschedule docket immediately should K2 fail to comply with reporting or other regulatory requirements at any time prior to June 2016. |
| 104-2015 | Kelly Oil and Gas LLC | Show Cause: failure to pay the annual injection well fee, failure to pay the late fee, failure to pay fines, failure to maintain mechanical integrity on the State #1, State #2, and Shelhamer 1A injection wells, and failure to maintain the wellsites of the Stensvad 2x-25 and Dybvik KV-1 oil wells. | Continue docket to the June 25, 2015, hearing. Appear at the June 25, 2015, public hearing and show-cause, if any it has, why its plugging and reclamation bond covering the State E-2 well should not be forfeited for failure to repair or abandon the well and why it shouldn't be required to plug and abandon its remaining production and injection wells. \$1,000 fine for the failure to pay injection fee for the State 1, State E-2, and R. Shelhamer 1A injection wells. Total due in injection well fees and penalties \$2,400. \$1,000 fine for not appearing at the April 30, 2015, public hearing and addressing the violations. Remedy the violations prior to the May 21, 2015, hearing deadline or substantial progress made; otherwise, additional penalties will be considered at the June 25, 2015, hearing. |

| Order Number | Operator | Summary | Outcome |
|--------------|-----------------------|--|---|
| 130-2015 | Kelly Oil and Gas LLC | Show Cause: why it should not immediately plug and abandon its remaining production and injection wells and why additional penalties should not be imposed for failure to pay \$3,130.00 for the failure to pay the annual injection well fee, failure to pay the late fee, failure to pay fines, failure to maintain mechanical integrity on the State #1, State #2, and Shelhamer 1A injection wells, failure to initiate a remedy for the field violations prior to the May 21, 2015 hearing deadline for the Stensvad 2x-25 and Dybvik KV-1 oil wellsites, failure to respond to prior show-cause orders, and for failure to file production reports and to pay the administrative penalty assessed for delinquent reporting. | Appear at the August 13, 2015, public hearing. Remedy the violations at the Dybvik KV-1 and Stensvad 2X-25 wells. Submit a plan to repair or plug the State E-2 injection well by the August 13, 2015, public hearing. |
| 151-2015 | Kelly Oil and Gas LLC | Show Cause: why it should not immediately plug and abandon its remaining production and injection wells and why additional penalties should not be imposed for failure to pay \$3,120.00 for the failure to pay the annual injection well fee, failure to pay the late fee, failure to pay fines, failure to maintain mechanical integrity on the State #1, State E-2, and Shelhamer 1A injection wells, failure to initiate a remedy for the field violations prior to the May 21, 2015 hearing deadline for the Stensvad 2x-25 and Dybvik KV-1 oil wellsites, failure to respond to prior show-cause orders, and for failure to file production reports and to pay the administrative penalty assessed for delinquent reporting. | Appear at the October 29, 2015, public hearing and show-cause, if any it has, why its UIC bond should not be forfeited for failure to properly maintain mechanical integrity of the State E-2 injection well and pay the outstanding fine of \$1,900 by October 29, 2015. Remedy the field violations by October 29, 2015, and continue the outstanding non-UIC related fine of \$1,220 until the October 29, 2015, Board hearing. |
| 164-2015 | Kelly Oil and Gas LLC | Show Cause: why it should not immediately plug and abandon its remaining production and injection wells and why additional penalties should not be imposed for failure to pay \$3,120.00 for the failure to pay the annual injection well fee, failure to pay the late fee, failure to pay fines, failure to maintain mechanical integrity on the State #1, State E-2, and Shelhamer 1A injection wells, failure to initiate a remedy for the field violations prior to the May 21, 2015 hearing deadline for the Stensvad 2x-25 and Dybvik KV-1 oil wellsites, failure to respond to prior show-cause orders, and for failure to file production reports and to pay the administrative penalty assessed for delinquent reporting. | Abandon the State 1, State E-2, and R. Shelhamer 1A wells prior to the December 10, 2015, public hearing or show-cause, if any it has, why the plugging and reclamation bonds for its injection wells should not be forfeited. Appear at the December 10, 2015, 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 producing wells. |

| Order Number | Operator | Summary | Outcome |
|--------------|--------------------------------------|---|--|
| 189-2015 | Kelly Oil and Gas LLC | Show Cause: why the plugging and reclamation bonds for its injection wells should not be forfeited for failure to plug the State #1, State E-2, and Shelhamer 1A injection wells and why it should not provide a plan and timeline for the plugging and abandon of its producing wells for failure to initiate a remedy for the field violations prior to the May 21, 2015 hearing deadline for the Stensvad 2x-25 and Dybvik KV-1 wellsites. | <p>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.</p> <p>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.</p> <p>\$1,000 fine was assessed for not appearing at the December 10, 2015, public hearing.</p> |
| 158-2015 | Kykuit Resources, LLC | Show Cause: failure to file production reports and pay administrative fees | <p>Appear at the October 29, 2015, public hearing and show-cause, if any it has, why it should not provide a plan and timeline for plugging its wells.</p> <p>\$1,000 fine for failure to appear at the August 13, 2015, public hearing.</p> |
| 191-2015 | Kykuit Resources, LLC | Show Cause: why it should not provide a plan and timeline for plugging its wells and why additional penalties should not be assessed for failure to pay the administrative penalty for delinquent reporting and the fine for not appearing at the Board's August 13, 2015 public hearing. | Continue docket until the February 11, 2016 public hearing. |
| 157-2015 | Miocene Oil Company | Show Cause: failure to file production reports and pay administrative fees | Continue docket to the October 2015, hearing. |
| 167-2015 | Miocene Oil Company | Show Cause: failure to file production reports and pay administrative fees | Appear at the December 10, 2015, public hearing and show-cause, if any it has, why it should not provide a plan and timeline for the plugging and abandonment of the Summer Night 21-1 well located in T33N-R48E, Section 21, Daniels County, Montana. |
| 188-2015 | Miocene Oil Company | Show Cause: why it should not provide a plan and timeline for plugging its Summer Night 21-1 well located in T33N-R48E, Section 21, Daniels County, Montana and why additional penalties should not be assessed for failure to pay the administrative penalty assessed for delinquent reporting. | <p>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.</p> <p>\$1,000 fine was assessed for not appearing at the December 10, 2015, public hearing.</p> |
| | Montana Oil Field Acquisition I, LLC | Show Cause: failure to file production reports and pay administrative fees | Dismissed |

| Order Number | Operator | Summary | Outcome |
|--------------|---------------------------------------|--|---|
| 31-2015 | P&P Industries LLC 1 | Show cause: bond forfeiture; failure to file production reports and pay administrative fees, failure to appear at the October & December hearings. | Bond forfeited |
| 124-2015 | Pride Energy Company | Show Cause: why it should not be required to immediately plug the Mable Wilson 1 well located in T27N, R59E, Section 33, Roosevelt County, Montana and restore the location. | Continue docket until the Board's August 13, 2015, hearing. |
| 153-2015 | Pride Energy Company | Show Cause: why it should not be required to immediately plug the Mable Wilson 1 well located in T36N, R36E, Section 16, Valley County, Montana and restore the location. | Continue docket to the October hearing. Docket will be dismissed upon the completion of the plugging and abandonment of the Mable Wilson 1 well. |
| | Seymour, James & Lorraine | Show Cause: failure to pay the administrative penalty assessed for delinquent reporting. | Dismissed |
| | Statoil Oil & Gas LP | Show Cause: failure to file injection reports and pay penalty for delinquent reporting. | Dismissed |
| | Statoil Oil & Gas LP | Show Cause: failure to file production reports and pay administrative fees | Dismissed |
| 186-2015 | Stealth Energy USA, Inc. | Show Cause: failure to file production reports and pay administrative fees | 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. \$1,000 fine was assessed for not appearing at the December 10, 2015, public hearing. |
| 32-2015 | Wexco Exploration, LLC | Show-cause: why shouldn't P&A Guenther 2-8 well, failure to file correct production reports, failure to appear at December 4, 2014 hearing. | Continue the docket to the April 30, 2015, public hearing where they shall appear and show cause plugging and reclamation bond should not be forfeited for failure to plug and abandon its Guenther 2-8 well. Staff has the authority to dismiss if all correct production reports assessed penalties and change of operator request are filed prior to the April 30, 2015, public hearing. |
| 128-2015 | Wexco Exploration, LLC | Show Cause: why shouldn't P&A Guenther 2-8 well, failure to file correct production reports, failure to appear at December 4, 2014 hearing. Order amended to consider bond forfeiture for failure to plug and reclaim. | Dismissed |
| | Windy Butte Reclamation Facility, LLC | Show Cause: failure to file production reports and pay administrative fees | Dismissed |

2016

| Order Number | Operator | Summary | Outcome |
|--------------|---|---|---|
| 46-2016 | Augusta Exploration, LLC | Show Cause: why its plugging and reclamation bond should not be forfeited for failure to provide a plan and timeline of its Krone-Augusta 31-32 well, API # 25-049-21111, located in Section 32, T18N-R5W, Lewis and Clark County, Montana. | Continue docket to the December 15, 2016, public hearing. |
| 45-2016 | Black Gold Energy Resource Development, LLC | Show Cause: why penalties should not be imposed for failure to report and clean up a spill at the Indian Mound 1 well located in the SW SW of Section 15, T23N-R55E, Richland County, Montana. | Remedy the violations on or before December 1, 2016. Subject to a \$250 fine for each day after December 1, 2016, that the violations remain unresolved. The fine will remain in effect until compliance is confirmed by inspection. |
| | Brainstorm Energy, Inc. | Show Cause: failure to pay administrative fees assessed for delinquent reporting. | Dismissed |
| | Custom Carbon Processing, Inc. | [Rehearing request] Show Cause: why its plugging and reclamation bond should not be forfeited for failure to maintain the wellsites of the Wojahn A 5-2 well located in Section 2, T13N-R60E, and the Michels A 8-3 well located in Section 3, T13N-R60E, Wibaux County, Montana. | Rehearing request denied. |
| | Hawley Oil Company | Show Cause: failure to pay administrative fees assessed for delinquent reporting. | Dismissed |
| 24-2016 | K2 America Corporation | Show Cause: why its bond should not be forfeited for failure to provide a plan and timeline for plugging its wells, why additional penalties should not be assessed for failure to file production reports, failure to pay existing penalties, and failure to appear at February 26, 2015, hearing. [Continued from 6/25/2015.] | Continue docket to the June 2017 or the next public hearing thereafter. |
| 2-2016 | Kelly Oil and Gas LLC | Show Cause: why its plugging and reclamation bond should not be forfeited for failure to begin to plug and abandon its producing wells. | Bond forfeited |
| | Kykuit Resources, LLC | Show Cause: failure to pay administrative fees assessed for delinquent reporting. | Dismissed |

| Order Number | Operator | Summary | Outcome |
|---------------------|--------------------------------------|--|---|
| 44-2016 | McMinn Operating Company | Show Cause: why it should not have to plug and abandon the Ryan Ranch LLC 1 well (API # 25-073-21836) located in the SE SE of Section 30, T30N-R6W, Pondera County, Montana. | Begin to plug and abandon the Ryan Ranch LLC 1 well located in Section 30, T30N-R6W, Pondera County, Montana prior to the December 15, 2016, public hearing. The 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. \$1,000 fine was assessed for not appearing at the October 27, 2016, public hearing. |
| 56-2016 | McMinn Operating Company | Show Cause: why its plugging and reclamation bond should not be forfeited for failure to begin to plug and abandon its Ryan Ranch LLC 1 well (API # 25-073-21836) located in the SE¼SE¼ of Section 30, T30N-R6W, Pondera County, Montana as required by Board Order 44-2016, in accordance with § 82-11-123(5), MCA. | Bond forfeited |
| 1-2016 | Miocene Oil Company | Show Cause: why its plugging and reclamation bond should not be forfeited for failure to begin to plug and abandon its Summer Night 21-1 well located in T33N-R48E, Section 21, Daniels County, Montana. | Bond forfeited |
| | Montana Oil Field Acquisition I, LLC | Show Cause: failure to file production reports and pay administrative fees. | Dismissed |
| 52-2016 | Mountain Pacific General Inc. | Show cause: why its \$50,000 plugging and reclamation bond should not be increased to \$250,000 as directed in Board Order 1-A-2010. | \$1,000 fine for not appearing at the December 15, 2016, public hearing. Immediately increase its plugging and reclamation bond to \$250,000 and pay the \$1,000 penalty for failure to appear at the December hearing. Appear at the February 2, 2017, public hearing. |
| | Mountain View Energy, Inc. | Show Cause: failure to file production reports and pay administrative fees. | Dismissed |
| 54-2016 | Seymour, James & Lorraine | Show Cause: failure to file production reports and pay administrative fees. | \$1,000 fine for failure to appear at the December 15, 2016, public hearing. Appear at the February 2, 2017, public hearing and show-cause, if any it has, why additional penalties should not be assessed for failure to pay the penalty assessed for delinquent reporting and to appear at the December 15, 2016, public hearing. |

| Order Number | Operator | Summary | Outcome |
|--------------|-------------------------------|--|---|
| 53-2016 | Seymour, James G. | Show Cause: failure to file production reports and pay administrative fees. | \$1,000 fine for failure to appear at the December 15, 2016, public hearing. Appear at the February 2, 2017, public hearing and show-cause, if any it has, why additional penalties should not be assessed for failure to pay the penalty assessed for delinquent reporting and to appear at the December 15, 2016, public hearing. |
| | Shadwell Resources Group, LLC | Show Cause: failure to pay administrative fees assessed for delinquent reporting. | Dismissed |
| 28-2016 | Shadwell Resources Group, LLC | Show Cause: why penalties should not be imposed for failure to complete the Ft. Gilbert 3 SWD located in the SW¼NE¼ of Section 32, T24N-R59E, Richland County, Montana (Fort Gilbert Field). | 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. \$1,000 fine was assessed for failure to appear at the August 11, 2016, public hearing. |
| 41-2016 | Shadwell Resources Group, LLC | Show Cause: why it should not have to complete or plug and abandon the Ft. Gilbert 3 SWD well (API # 25-083-21074) located in the SW NE of Section 32, T24N-R59E, Richland County, Montana prior to the October 27, 2016, public hearing and why it should not pay the \$1,000 fine assessed for not appearing at the Board's August 11, 2016, public hearing. | Continue docket to the December 15, 2016 public hearing. Board staff has authority to dismiss the docket if the Ft. Gilbert 3 SWD located in the SW¼NE¼ of Section 32, T24N-R59E, Richland County, Montana is plugged prior to the December 15, 2016, public hearing. |
| 57-2016 | Shadwell Resources Group, LLC | Show Cause: why it should not have to complete or plug and abandon the Ft. Gilbert 3 SWD well (API # 25-083-21074) located in the SW NE of Section 32, T24N-R59E, Richland County, Montana prior to the December 15, 2016. | Continue docket until the April 6, 2017, public hearing. \$2,000 fine for failure to plug the Ft. Gilbert 3 SWD located in the SW¼NE¼ of Section 32, T24N-R59E, Richland County, Montana, prior to the October 27, 2016, public hearing. Shadwell Resources Group, LLC needs to plug the Ft. Gilbert 3 SWD prior to the April 6, 2017, public hearing. |
| 3-2016 | Stealth Energy USA, Inc. | Show Cause: why additional penalties should not be imposed for failure to pay the administrative penalty assessed for delinquent reporting, for failure to file reports, and for failure to pay the \$1,000 fine assessed for not appearing at the Board's December 10th, 2015 public hearing. | Appear at the April 7, 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 wells. |

| Order Number | Operator | Summary | Outcome |
|---------------------|--|---|--|
| 7-2016 | Stealth Energy USA, Inc. | Show cause: why it should not provide a plan and timeline for plugging its wells and why additional penalties should not be assessed for failure to pay the administrative penalty assessed for delinquent reporting and the fine assessed for not appearing at the Board's December 10, 2015 public hearing. | Begin to plug and abandon its producing wells prior to the June 16, 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. |
| 25-2016 | Stealth Energy USA, Inc. | Show Cause: why its plugging and reclamation bond should not be forfeited for failure to begin to plug and abandon its producing wells. | Continue docket to the August 11, 2016, public hearing. |
| 31-2016 | Stealth Energy USA, Inc. | Show Cause: why its plugging and reclamation bond should not be forfeited for failure to begin to plug and abandon its producing wells. | Dismissed |
| 26-2016 | Storm Cat Energy (USA) Operating Corporation | Show Cause: failure to file production reports and pay administrative fees. | Appear at the August 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 June 16, 2016, public hearing. \$1,000 fine was assessed for not appearing at the June 16, 2016, public hearing. |
| 29-2016 | Storm Cat Energy (USA) Operating Corporation | Show Cause: why additional penalties should not be imposed for failure to pay the administrative penalty assessed for delinquent reporting, for failure to file reports, and for failure to pay the \$1,000 fine assessed for not appearing at the Board's June 16, 2016, public hearing. | 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. Pay the outstanding fine of \$1,340 by October 27, 2016. |
| 42-2016 | Storm Cat Energy (USA) Operating Corporation | Show Cause: why it should not provide a plan and timeline for the plugging and abandonment or transfer of its three wells and why additional penalties should not be assessed for failure to pay the outstanding fine of \$1,340, and appear at the August 11, 2016, public hearing. | Continue docket to the December 15, 2016, public hearing. |
| 58-2016 | Storm Cat Energy (USA) Operating Corporation | Show Cause: why it should not provide a plan and timeline for the plugging and abandonment or transfer of its three wells and why additional penalties should not be assessed for failure to pay the outstanding fine of \$1,340, and appear at the August 11, 2016, public hearing. | Continue docket until the February 2, 2017, public hearing. |

| Order Number | Operator | Summary | Outcome |
|--------------|-------------------------------|--|--|
| 27-2016 | Stratex Oil and Gas, Inc. | Show Cause: failure to file production reports and pay administrative fees. | <p>Appear at the August 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 June 16, 2016, public hearing.</p> <p>\$1,000 fine was assessed for not appearing at the June 16, 2016, public hearing.</p> <p>Immediately cease operation of its wells.</p> |
| 30-2016 | Stratex Oil and Gas, Inc. | Show Cause: why additional penalties should not be imposed for failure to pay the administrative penalty assessed for delinquent reporting, for failure to file reports, and for failure to pay the \$1,000 fine assessed for not appearing at the Board's June 16, 2016, public hearing. | 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. Pay the outstanding fine of \$1,160 by October 27, 2016. |
| 43-2016 | Stratex Oil and Gas, Inc. | Show Cause: why it should not provide a plan and timeline for the plugging and abandonment of its Tininenko 4-19 well (API # 25-085-21275) located in the W2 NW SW of Section 19, T29N-R59E, Roosevelt County, Montana, and why additional penalties should not be assessed for failure to pay the outstanding fine of \$1,160, and appear at the August 11, 2016, public hearing. | Begin to plug and abandon the Tininenko 4-19 well located in Section 19, T29N-R59E, Roosevelt County, Montana prior to the December 15, 2016, public hearing. The 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. |
| 55-2016 | Stratex Oil and Gas, Inc. | Show Cause: why its plugging and reclamation bond should not be forfeited for failure to begin to plug and abandon its Tininenko 4-19 well (API # 25-085-21275) located in the W½NW¼SW¼ of Section 19, T29N-R59E, Roosevelt County, Montana as required by Board Order 43-2016, in accordance with § 82-11-123(5), MCA. | Bond forfeited |
| | Tyler Rockies Exploration Ltd | Show Cause: failure to pay administrative fees assessed for delinquent reporting. | Dismissed |
| | Yellowstone Petroleums, Inc. | Show Cause: failure to pay administrative fees assessed for delinquent reporting. | Dismissed |

ENFORCEMENT EFFORTS

Field non-compliance issues are generally initiated by inspectors at the location with the operator or the operator's agent. Most non-compliance issues are resolved there. If not, the compliance officer becomes involved and makes further attempts to achieve compliance by contacting operator representatives and setting final deadlines. When all attempts have been deemed unsuccessful, the matter is considered a significant non-compliance issue. At this time, the matter is taken to the Board and docketed as a "Show-Cause" hearing.

Production and injection reporting non-compliance is identified by administrative staff and multiple attempts to resolve the matter are made prior to docketing the operator for a Show-Cause hearing before the Board. Compliance prior to the hearing will get the docket dismissed.

The Board is the final authority for enforcement actions. Decisions made by the Board may be appealed to District Court.

TREND INFORMATION

As oil and gas prices decrease, the number of operators that are not in compliance with the Board's rules and regulations increase.

Forestry Division
Forestry Assistance Program
Enforcement and Compliance Report
Section 75-1-314, MCA

Montana DNRC'S forest practices regulatory programs promote information, education, and technical assistance, and ensure compliance with applicable laws to protect Montana's water quality, reduce fire risk, and promote sustainable forest management and stewardship on state and private lands in Montana.

Executive Summary

Montana's Forest Practices regulations exist to protect the state's forest, soil, and water resources.

The Montana DNRC administers several laws as they pertain to Forest Practices: the Streamside Management Zone Law & Rules, the Control of Timber Slash and Debris Law & Rules, and the Montana Forestry Water Best Management Practices Program. These regulations are essential in aiding the DNRC with fire hazard reduction, protecting riparian areas, minimizing non-point source water pollution from forest practices, and the overall promotion of effective, sustainable forest management and resource protection. The DNRC is required to prepare a compliance report pursuant to House Bill 132, passed by the Montana Legislature in 1997, which requires Montana agencies with natural resource and environmental programs to biennially report to the Environmental Quality Council (EQC) on the status of compliance with and enforcement of Montana's natural resource and environmental laws and programs.

Key findings with this year's compliance report are:

- **The DNRC has seen a slight decrease in the number of open Hazard Reduction Agreements (HRAs), but there is more harvest activity associated with them. The HRA is designed to ensure that the fire hazard created through timber harvest – primarily forest residues (slash) left on-site – is mitigated per the guidelines of Montana's Timber Slash and Debris Law & Rules. Incidents of non-compliance – where DNRC has taken over an agreement and, thus, the responsibility for hazard mitigation, are down roughly 28% from FY14 to FY15.**
- **Over the past 17 years, violations of the Streamside Management Zone Law occurred on less than 1% of logging operations on private land. There were 3 such violations in 2017.**
- **Montana's voluntary Best Management Practices program continues to show compliance rates approaching 100% for both application and effectiveness, due largely to self-regulating by forest owners and operators as well as extensive training and outreach by DNRC and its partners.**

I. REGULATED PROGRAMS

- a. **Control of Timber Slash and Debris Law (HRA)** (76-13-401 through 415 MCA) requires a Hazard Reduction Agreement (HRA) to be in place to ensure the slash generated from any commercial timber harvest operation is treated to minimize the resulting fire hazard. Landowners, loggers, and/or other forest operators are subject to this law and must enter into a Hazard Reduction Agreement with DNRC. The HRA requires a performance bond be held by the Department until a certificate of clearance is issued.
- b. **Forestry Best Management Practices (BMP)** (76-13-101 (2) & 76-13-420 through 76-13-424 MCA) is a non-regulatory program that uses education and monitoring to minimize soil and water effects from timber harvest and associated forest management operations. This program provides operators and landowners practical guidelines and technical assistance to protect soil and water resources while they conduct forest management operations, and enables biennial field reviews to monitor and report compliance.

- c. **Streamside Management Zone Law (SMZ)** (77-5-301 through 307 MCA) protects streams and adjacent lands during timber harvest activities. The SMZ law establishes buffers along streams where activity is regulated, yet limited timber harvesting is permitted.



II. PROMOTING COMPLIANCE, INFORMATION, EDUCATION, TECHNICAL ASSISTANCE

*a. **BMP Audits (Field Reviews):** The DNRC Forestry Division coordinates field reviews every other year on Forestry Water Quality Best Management Practices in Montana. The field reviews evaluate how well BMPs are at protecting soil and water resources. The results also represent how effective DNRC’s educational efforts are. The 2016 Field Reviews were at a 99% for effectively implementing BMPs and 98% for effectively implementing the SMZ Law and Rules compliance level.

*b. **Other workshops/training:** Every year DNRC partners with the Montana Logging Association (MLA) to train logging professionals, forest landowners, and others about BMPs and SMZs. Attendance continues to be high. Completion of this class is a requirement to maintain Accredited Logging Professional (ALP) status.

| BMP/SMZ | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 |
|----------------|------|------|------|------|------|------|------|
| # Workshops | 5 | 5 | 4 | 4 | 4 | 4 | 4 |
| # Participants | 182 | 158 | 184 | 160 | 108 | 198 | 140 |

- c. **Alternative Practices:** The SMZ law allows for activities that are prohibited by the SMZ law, but meet the intent of the law. Requests for Alternative Practices ("Alternative" to management standards stated in 77-5-303(1) MCA) are given site visits, technical review, and MEPA review. If a request is granted, the Alternative Practice contains required mitigation measures to protect the SMZ.

| | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 |
|--------------------------------|------|------|------|------|------|------|------|------|
| Alternative Practices Approved | 9 | 23 | 40 | 22 | 25 | 21 | 30 | 19 |

III. THE REGULATED COMMUNITY – COMPLIANCE

a. The regulated community under the **Control of Slash and Debris (HRA) Law**

- i. The regulated community under the Hazard Reduction Act includes anyone clearing rights of way (except temporary logging roads), cutting forest products, building haul roads, and/or carrying out timber stand improvement activities on private lands. Purchasers of such forest products are also part of the regulated community in that they must ensure the entities they are purchasing forest products from have complied with hazard reduction regulations.



ii. HRA Agreement Summary

Active Fire Hazard Reduction Agreements

| | FY 06 | FY 07 | FY 08 | FY 09 | FY 10 | FY 11 | FY 12 | FY 13 | FY 14 | FY 15 | FY 16 | FY 17 |
|-----------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| Open HRAs | 3429 | 3134 | 2696 | 2324 | 1896 | 1638 | 1407 | 1441 | 1,568 | 1,615 | 2,104 | 2,020 |

Purchasers Listed on HRAs

| | FY06 | FY07 | FY08 | FY09 | FY10 | FY11 | F12 | FY13 | FY14 | FY15 | FY16 | FY17 |
|----------------------|------|------|------|------|------|------|-----|------|------|------|------|------|
| # of Mills Reporting | 49 | 78 | 62 | 60 | 50 | 43 | 42 | 48 | 42 | 43 | 51 | 44 |

IV. THE REGULATED COMMUNITY – NON-COMPLIANCE

a. **HRA:** The measure of hazard reduction non-compliance is the number of agreements the Department must take over because the responsible party has not complied with the terms of the HRA.

i. Number and description of non-compliance:

I. Individual HRAs:

| | FY 06 | FY 07 | FY 08 | FY 09 | FY 10 | FY 11 | FY12 | FY13 | FY14 | FY15 | FY16 | FY17 |
|-----------------|--------|--------|--------|--------|--------|--------|--------|--------|------|------|------|------|
| HRAs taken over | 5 1 | 1 9 | 3 1 | 3 0 | 2 5 | 1 4 | 1 4 | 1 0 | 0 | 4 | 7 | 6 |

II. Mills: No formal mill audits were conducted during FY 2016 or 2017.

b. **BMP:** Forestry BMP compliance is monitored every 2 years by conducting field reviews on 45 sites across Federal, State, Industrial and Non-industrial private lands. Forest practices are rated for the Application and Effectiveness of BMPs. Results over 10 cycles show progressive improvement to consistently high scores. Field Reviews were conducted again in 2012.

Comparison of BMP Audit Results

| Category | 1992 | 1994 | 1996 | 1998 | 2000 | 2002 | 2004 | 2006 | 2008 | 2010 | 2012 | 2014 | 2016 |
|---------------|------|------|------|------|------|------|------|------|------|------|------|------|------|
| Application | 87% | 91% | 92% | 94% | 96% | 96% | 97% | 96% | 97% | 97% | 98% | 97% | 98% |
| Effectiveness | 90% | 93% | 94% | 96% | 98% | 97% | 99% | 97% | 97% | 98% | 99% | 98% | 99% |

c. **SMZ:** Non-compliance is enforced with either a Warning or a Repair Order, depending on the severity of the violation.

Number of SMZ Violations

| FY | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 |
|---------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|
| Warning | 2 | 10 | 15 | 9 | 8 | 6 | 2 | 4 | 2 | 3 | 6 | 3 | 6 | 4 | 3 | 2 |
| Orders | 1 | 0 | 2 | 3 | 3 | 5 | 2 | 1 | 4 | 1 | 4 | 0 | 1 | 2 | 0 | 1 |

Over the past 14 years, the number of SMZ violations/warnings has averaged less than 1% of all logging operations covered by an HRA agreement.