

FEBRUARY 28, 2018 MEETING MINUTES
BEFORE THE BOARD OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
IN AND FOR THE STATE OF UTAH



A public meeting was held on Wednesday, February 28, 2018 in the auditorium of the Department of Natural Resources, 1594 West North Temple, Salt Lake City, Utah. The meeting was streamed live on the Department of Natural Resources YouTube channel. The link for the Briefing Session is <https://youtu.be/cVUDj34cPiQ>, and the link for the Board Hearing is <https://youtu.be/Q82mHV8QjhE>.

ATTENDEES:

Board Members:

Ruland J. Gill, Jr, Chairman
Chris D. Hansen, Vice Chairman
Richard K. Borden, Excused
Michael R. Brown, Excused
Susan S. Davis
Carl F. Kendell
Gordon L. Moon

Utah Attorney General's Office, Natural Resources Division:

Michael S. Johnson, AAG, representing the Board
Steven F. Alder, AAG, representing the Division
Meg Osswald, AAG, representing the Division
Emma Whitaker, AAG, representing the Division

Division of Oil, Gas and Mining:

John R. Baza, Division Director, Excused
John Rogers, Assoc. Director, Oil and Gas Program
Hollie Brown, Public Information Officer
Natasha Ballif, Administrative Assistant
Julie Ann Carter, Board Secretary
Dustin Doucet, Petroleum Engineer, Oil and Gas Program
Dayne Doucet, Petroleum Engineer, Oil and Gas Program
Tom Thompson, Senior GIS Analyst
Paul Baker, Mining Program Manager
Wayne Western, Mining Program, Environmental Engineer

Water Resources

Carmen McDonald, Engineering Tech

Department of Wildlife Resources

Michael Christensen, AV Specialist

Department of Natural Resources

Mike Styler, Executive Director

Advanced Reporting Solutions

Michelle Mallonee, RPR

Fox Rothschild LLP

Brent D. Chicken, Esq., attorneys for Crescent Point Energy U.S. Corporation

Crescent Point Energy U.S. Corporation

Mark Ballard, Senior Development Engineer

Philip LeMay, Senior Geologist

Andrew Stone, Landman

Bureau of Land Management

Kahindo Kamau

Idaho Department of Lands

Mick Thomas, Division administrator, Oil and Gas Program Manager

Mr. James Thumb, Oil and Gas Program Manager

BRIEFING SESSION:

The Chairman of the Board, Ruland J Gill, Jr., called the meeting to order at 9:00 a.m. Mr. John R. Baza, Director of the Division of Oil, Gas, and Mining, conducted the briefing session.

1. Legislative Update

Ms. Natasha Baliff, Administrative Assistant, updated the Board on bills before the Utah State Legislature this year. This is the last week of the Legislative Session which will adjourn next Thursday. Ms. Baliff gave a status report on Senate Bill 191, House Bill 267, and House Bill 419.

2. Update on Division's Draft Response to the Commission for Stewardship of Public Lands Request Re: State's Management of Federal Minerals

Mr. Steve Alder, AAG, gave an update on a request from the Commission for the Stewardship of Public Lands concerning the potential for State management of Federal minerals. The Commission's goal is to reduce the duplicative efforts required for operators to procure permits, and to maximize the State's access to mineral lease royalties.

3. Discussion of Environmental Excellence Award Event Planning

Ms. Hollie Brown reported that five nominations have been submitted, and more are expected. The Division has proposed elevating the event to higher level by holding the event the day before the board hearing in the late afternoon so that there would be time to visit with the award members. The Governor has been requested to come and talk to us, or another official of that level.

The Chairman requested that the Division make an effort to reserve the Gold Room at the Capital for the event.

Mr. Mike Styler commented on the award, expressing his appreciation for the Board and their thoughtfulness and foresight in creating this award.

4. Other

No other items were reported.

5. Next Month's Agenda and Division Calendar

- Uintah Basin Oil and Gas Collaborative meeting is on April 12, 2018.
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6. Opportunity for Public Comment

The Chairman opened the meeting for public comments. Seeing no-one coming forward the Chairman adjourned the Briefing Session at 9:47 a.m. The Formal Session will begin at 10:00 a.m.

FORMAL SESSION:

The Chairman, Ruland J. Gill, Jr., called the formal session of the Board of Oil Gas and Mining hearing to order at 10:00 a.m. The Board heard the following matters:

Please note: Transcripts of the formal items will be available for review at the Division offices approximately fifteen business days after the hearing date. Copies of individual transcripts may be purchased from Alpine Court Reporting, 243 East 400 South, Suite 101B, Salt Lake City, Utah 84111, ph.: 801-691-1000.

All documents pertaining to the matters listed below are on file at the Division of Oil, Gas and Mining and may be inspected at the Division's office, and inspected online at the Utah Board of Oil, Gas and Mining's website at <http://ogm.utah.gov/amr/boardtemp/redesign/books.html>.

1. Per Acre Bonding Costs for Small Mines and Exploration – The Division will present information about average costs per acre for reclamation, followed by an opportunity for public comment. The Board will be asked to approve a figure that will be used for bonding small mines and exploration operations.

Time: 10:07 a.m. to 10:25 a.m.

Board Members present: Ruland J Gill, Jr., Chairman, Susan S. Davis, Chris D. Hansen, Carl F. Kendell, and Gordon L. Moon. Richard K. Borden, and Michael R. Brown were excused.

Counsel for the Board: Michael S. Johnson, Assistant Attorney General, Utah Attorney General's Office, Natural Resources Division.

For the Division: Wayne Western.

Mr. Wayne Western reported to the Board on the Division's estimated Per Acre Bonding cost for small mines and exploration projects. Bond calculations are based on Average dollars per acre costs, and site-specific calculations. The Board establishes the average cost per acre, the public has opportunity to comment. Mr. Wayne Western asked the Board to approve the Division's calculated method for establishing bonding costs for 2018. The Chairman, Mr. Ruland J. Gill, Jr., led the Board members in a discussion of the bonding costs. The Chairman invited members of the public with an interest in this matter to come forward. Seeing no one, the Board granted approval for the Division's bonding costs for 2018 as proposed today.

Mr. Ruland J Gill, Jr., Chairman, Ms. Susan S. Davis, Mr. Chris D. Hansen, Mr. Carl F. Kendell, and Mr. Gordon L. Moon were present to participate at the hearing and vote on this matter. Richard K. Borden, and Michael R. Brown were excused.

2. Docket No. 2017-024 Cause No. 139-149 – In the matter of the Request for Agency Action of AXIA ENERGY II, LLC for an order modifying the Board's orders entered in Cause Nos. 13114, 139-42, 139-84 and 139-90 to establish 1,280 acre (or substantial equivalent) drilling units for the production of oil, gas and associated hydrocarbons from the Lower Green River Wasatch (Colton) Formations, comprised of Sections 14, 15, 16, 17, 18, 20, 21, 22 and 23 of Township 2 South, Range 2 West, USM, Duchesne County, Sections 18 and 19 of Township 2 South, Range 1 West, USM, Duchesne County, Sections 14 and 23 of Township 2 South, Range 1 West, USM, Uintah County and Section 13 of Township 2 South, Range 3 West, USM, Duchesne County, Utah.

(This matter was continued from the January 31st, 2018, Board Hearing.)

Time: 10:25 a.m. to 10:28 a.m.

Board Members present: Ruland J Gill, Jr., Chairman, Susan S. Davis, Chris D. Hansen, Carl F. Kendell, and Gordon L. Moon. Richard K. Borden, and Michael R. Brown were excused.

Counsel for the Board: Michael S. Johnson, Assistant Attorney General, Utah Attorney General's Office, Natural Resources Division.

Counsel for the Division: Steven F. Alder, Meg Osswald, and Emma Whitaker, Assistant Attorneys General, Utah Attorney General's Office, Natural Resources Division.

Counsel for Petitioner: David P. Bolda, Esq., Beatty & Wozniak, P.C., attorneys for Axia Energy II, LLC.

Counsel for Respondent: Brent D. Chicken, Esq., Fox Rothschild LLP., attorneys for EP Energy E&P Company, L.P.

This matter is continued to the regularly scheduled Board of Oil, Gas and Mining meeting on March 28, 2018.

Mr. Ruland J Gill, Jr., Chairman, Ms. Susan S. Davis, Mr. Chris D. Hansen, Mr. Carl F. Kendell, and Mr. Gordon L. Moon were present to participate at the hearing and vote on this matter. Richard K. Borden, and Michael R. Brown were excused.

3. Docket No. 2018-001 Cause No. 131-153 – In the matter of the Request for Agency Action of CRESCENT POINT ENERGY U.S. CORPORATION for an order vacating the Board’s Order in Docket No. 2017-014, Cause No. 131-151 as to Sections 7 and 18, Township 4 South, Range 3 East, U.S.M., Uintah County, Utah and establishing 40-acre, overlapping 640-acre, and an overlapping 1,002.83 acre drilling unit, for the production of oil, gas and associated hydrocarbons from the Lower Green River and Green River-Wasatch Formations in Sections 6-7 and 18, Township 4 South, Range 3 East, U.S.M., Uintah County, Utah.

Time: 10:28 a.m. to 12:22 p.m.

Board Members present: Ruland J Gill, Jr., Chairman, Susan S. Davis, Chris D. Hansen, Carl F. Kendell, and Gordon L. Moon. Richard K. Borden, and Michael R. Brown were excused.

Counsel for the Board: Michael S. Johnson, Assistant Attorney General, Utah Attorney General’s Office, Natural Resources Division.

Counsel for the Division: Steven F. Alder, Meg Osswald, and Emma Whitaker, Assistant Attorneys General, Utah Attorney General’s Office, Natural Resources Division.

On behalf of the Division: Dustin Doucet, Dayne Doucet, John Rogers.

Counsel for Petitioner: Brent D. Chicken, Esq., Fox Rothschild LLP., attorneys for Crescent Point Energy U.S. Corporation.

Witnesses: Andrew Stone, Philip LeMay, and Mark Ballard.

The Petitioner requested that the Board grant the petition as submitted and presented. The Division supports the request. The Board granted the petition as submitted by unanimous vote.

Mr. Ruland J Gill, Jr., Chairman, Ms. Susan S. Davis, Mr. Chris D. Hansen, Mr. Carl F. Kendell, and Mr. Gordon L. Moon were present to participate at the hearing and vote on this matter. Richard K. Borden, and Michael R. Brown were excused.

The Chairman adjourned the meeting at 12:22 p.m.

Utah Division of Oil Gas & Mining

2018 Legislative Session



Updated 02/24/2018

Bill #	Bill Title	Bill Sponsor	Bill Purpose	Bill Status
Energy / Mineral Bills				
SB	Energy User Fee Regulation	Sen. Fillmore		In Process
SB 191	State Regulation of Oil and Gas	Sen. Van Tassell	Expected to be a re-draft of the 2017 version of SB189. It is expected to clarify the line between state and local (city & municipality) jurisdiction for the regulation of oil and gas operations.	Senate/placed on 2nd reading calendar 2/21/2018
HB05S01	Natural Resources, Agriculture, and Environmental Quality Base	Rep. Barlow	This bill supplements or reduces appropriations previously provided for the support and operation of state government for the fiscal year beginning July 1, 2017 and ending June 30, 2018; and appropriates	Governor signed 2/21/2018
HB33	Energy Producer States' Agreement Amendments	Rep. Albrecht	This bill modifies provisions relating to the development of an agreement between energy producers states. This bill modifies a reporting requirement for legislators appointed to work with legislators from other states to develop an energy producer states' agreement; and extends the repeal date applicable to a provision relating to the development of an agreement between energy producer states. Appointed members shall present the report to the Natural Resources.	Draft of Enrolled Bill Prepared 2/19/2018

HB182	Local Option Sand & Gravel Tax	Rep. M. Nelson	<p>Authorizes local municipality or entity to impose a tax of up to 10 cents per ton on certain sand and gravel extraction that is sold or transported; establishes a tax rate cap and administrative procedures for the tax.</p> <p>Only one local entity may impose a tax of up to 10 cents per ton. The tax revenue will be spent for the construction and maintenance of highways under the jurisdiction.</p>	House Comm- held 2/7/2018
HB267	Oil, Gas, and Mining Amendments	Rep. Chew	<p>This bill modifies definitions; states that an owner or operator may use surface land, consistent with allowing the surface land owner the greatest possible use of the surface land owner's property; states that an owner or operator shall compensate a surface land owner for loss of crops, loss of value, and permanent damage to the surface land; states that an owner or operator shall obtain location or spacing exceptions from the division or board, and utilize directional or horizontal drilling techniques that are technologically feasible, economically practicable, and reasonably available; modifies conditions under which mediation may be requested; makes technical changes.</p>	House/ to standing committee 2/2/2018
HB412	Enterprise Zone Tax Credit Amendments	Rep. Sagers	<p>This bill amends the enterprise zone income tax credits</p>	LFA fiscal note sent to sponsor 2/21/2018
HB419	Oil and Gas Amendments	Rep. Handy	<p>Expected to be an expansion & clarification of 2017's SB 191 relating to compulsory pooling matters.</p>	House to standing committee 2/22/2018
HCR1S02	CR on Global Warming and Climate Change	Rep. R. Ward	<p>Acknowledges that average global temperature and average Utah temperature have increased substantially over recent decades, and that scientific consensus is that a substantial cause for these increases is human-caused emissions and commits that the Legislature and Governor will base decisions regarding state energy policies on the best scientific evidence available and urges individuals and corporations to conserve energy.</p>	LFA/fiscal note publicly available 2/13/2018

Administrative Bills

HJR1	JR Urging Exemption from the Antiquities Act	Rep. Albrecht	<p>Discusses the history of the Antiquities Act, including exemptions from the Act granted to Wyoming and Alaska and encourages Utah's congressional delegation to pursue legislation exempting Utah from the Antiquities Act.</p> <p>Exemption does not mean to end monument designations in the state, but to prevent future unilateral designations by the executive branch.</p>	Senate to standing committee 2/21/2018
HJR2	JR Urging Congress to Relocate Federal Land Management Agency Headquarters	Rep. Albrecht	<p>Discusses the duties of the Department of the Interior and the U.S. Forest Service and encourages the federal government to consider moving the headquarters for the Department of the Interior and the U.S. Forest Service to Utah.</p> <p>Interior manages about 75% of federal public land, most of which is in the West; US Forest Service manages most of the remaining federal public land.</p>	Draft of enrolled bill prepared 2/22/2018
HJR11	Joint Rules Resolution on Base Budgeting Provisions	Rep. Fawson	Requires every appropriations subcommittee to create a zero based budget for a percentage of the subcommittee's items or programs each interim and modifies provisions governing appropriations subcommittee meetings.	House received fiscal note 2/7/2018
SB52	Sale of State Lands Act	Sen. Davis	Establishes a preference of leasing instead of selling state land; establishes approval requirements for the sale of state land.	House Comm-Favorable recommendation 2/21/2018

SB137S01	Amendments Relating To Government Records	Sen. Bramble	This bill modifies provisions relating to the protected status of records of closed meetings; provides a standard for the disclosure of certain protected records; modifies provisions relating to the posting of documents to the Utah Public Notice Website; modifies a provision relating to appeals of records requests; and makes related technical and conforming changes.	House to standing committee 2/22/2018
SB143S01	Employment Background Checks	Sen. Harper	This bill provides certain state agencies with the authority to require background checks for employees, contractors, volunteers	House to standing committee 2/22/2018
HB34	State Employee Leave Policy Amendments	Rep. Thurston	Allows state employees who are certified as disaster service volunteers to take paid leave to provide disaster relief services with any disaster relief organization, not just American Red Cross.	Draft of Enrolled Bill Prepared 2/5/2018
HB64	Distracted Driver Amendments	Rep. C. Moss	Prohibits the use of a handheld mobile device while operating a moving motor vehicle unless the person uses hands-free technology.	House Comm - Motion to Recommend Failed 2/9/2018
HB72S02	Communications of Governmental Entity Employees and Officers	Rep. Fawson	Modifies GRAMA provisions; provides that a personal communication, otherwise excluded from the definition of "record," is included in the definition if the personal communication relates to certain political activity: (i) conducted by an employee or officer of a governmental entity; and (ii) not within the scope of the employee or officer's employment with or work for the governmental entity.	Draft of Enrolled Bill prepared 2/19/2018
HB117	Hourly Wage Increase Amendments	Rep. King	This bill amends the Utah Minimum Wage Act	House Comm- Not Considered 2/16/2018

HB128S01	Utah Retirement System Amendments	Rep. Fawson	Modifies the Utah State Retirement and Insurance Benefit Act by amending provisions relating to determining retirement eligibility.	Senate/ to standing committee 2/23/2018
HB133S01	Emploment Amendments	Rep. Hall	Expands nepotism provisions of Title 52, Chapter 3 Prohibiting Employment of Relatives, to include a household member.	Senate/ received from House 2/22/2018
HB146	Postretirement Reemployment Restrictions Act Amendments	Rep. Sagers	This bill modifies the Postretirement Reemployment Restrictions Act ameding provisions relating to the reemployment of an affiliated emergency services worker.	House/ signed by Speaker/sent for enrolling 2/23/2018
HB147S01	Retirement Forfeiture for Employment Related Offenses	Rep. Hall	Authorizes an attorney or state auditor to notify the Utah State Retirement Office and the employee's employer if an employee is charged with an offense that is or may be an employment related offense.	Senate/ passed 2nd reading 2/22/2018
HB156	Family Leave Amendments	Rep. Weight	This bill requires cetrain executive branch and higher education employers to offer and administer parental leave.	House Comm- Held 2/22/2018
HB179	State Training and Certification Requirements	Rep. Ivory	Enacts requirements related to certain training and certification required of public officials, employees, and volunteers.	Senate/ to standing committee 2/22/2018
HB185	Open and Public Meetings Amendments	Rep. Greene	Provides that a conversation between members of a three-member public body in the ordinary course of their duties does <u>not</u> constitute a meeting for purposes of the Open and Public Meetings Act under certain conditions.	House Comm - Held 1/26/2018

HB311	Retirement Amendments	Rep. Perry	Modifies the Postretirement Reemployment Restrictions Act by amending provisions relating to postretirement reemployment for certain members.	Senate/ 1st reading (introduced) 2/23/2018
HB 383S02	Work Environment and Grievance Proceudre	Rep. Christensen	This bill clarifies and amends grievance procedures for state employees in the executive branch.	House Comm-Favorable recommendation 2/22/2018
HB407	Assistance Animals Amendments	Rep. Dunnigan	Amends provisions related to animals that provide support for individuals with disabilities.	House/ 2nd reading 2/23/2018
Determined N/A to DOGM				
SCR5S01	CR to Change Utah's Designated Time Zone and Observance of Daylight Saving Time	Sen. Harper	Asking UDOT to submit application to USDOT to change Utah's designated time zone from MST to CST, saying CST would increase, for one hour, daylight in the evening hours. The extra hour of daylight will reduce household and commercial energy use, reduce traffic accidents, and increase commercial activity. Requests Utah be exempt from daylight saving time and allow the state to remain on CST year-round.	LFA/ fiscal note publicly available 2/6/2018
SB22	Mineral Lease Distribution Amendments	Sen. Van Tassel	Modifies the flow of Mineral Lease Act revenues, changes flow from UDOT to DOF.	Draft of enrolled bill prepared 2/15/2018
SB43S01	State Dinosaur Amendment	Sen. Bramble	Designates the Utahraptor as the state dinosaur	Draft of Enrolled Bill prepared 2/21/2018

SB152S01	Equal Compensation Study	Sen. Escamilla	This bill defines terms; requires the Legislative Management Committee to procure the creation of an equal compensation study to analyze gender-based wage disparity; establishes the content of the study; and requires state departments and agencies to provide relevant information and data to support the creation of the study.	Senate/received fiscal note from Fiscal Analyst 2/16/2018
SB166	Energy Facility Amendments	Sen. Adams	This bill defines terms; allows the governing body of a local entity to adopt a certain resolution to delegate to an officer of the entity the authority to: designate an energy assessment area, levy an energy assessment, approve certain terms of an energy assessment bond, and issue energy assessment bonds; makes technical changes.	Senate/circled 2/22/2018
HB32S03	Uniform Construction Code Amendments	Rep. Shultz	Imports a definition and restricts the use of injection wells. "An injection well that discharges to the subsurface by way of a floor drain, septic system, French drain, dry well, or similar system that receives or has received fluid from a facility engaged in vehicular repair or maintenance activities, including an auto body repair shop, automotive repair shop, new and used car dealership, specialty repair shop, or any other facility that does any vehicular repair work."	Draft of Enrolled Bill prepared 2/13/2018
HB101S02	Air Quality Emissions Testing Amendments	Rep. Arent	Restricts authority of a county to exempt a motor vehicle from emissions testing	House/ 2nd reading 2/13/2018
HB130	Resource Conservation Amendments	Rep. Sandall	Modifies provisions related to the Conservation Commission.	Draft of Enrolled Bill prepared 2/14/2018



<http://le.utah.gov>

Utah State Legislature

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August 24, 2017

Utah Board of Oil, Gas and Mining
1594 West North Temple, Suite 1210
Salt Lake City, UT 84116

FILED

AUG 24 2017

**SECRETARY, BOARD OF
OIL, GAS & MINING**

Dear Board Members,

The Commission for the Stewardship of Public Lands (Commission) received a presentation on July 27, 2017, regarding recommendations from the Division of Oil, Gas and Mining (DOGM) in the event federally controlled land is transferred to the state. While the Commission fully supports such a transfer, until it occurs, we recognize an opportunity for the state to play a larger role in the management of lands within its borders, particularly regarding DOGM's mineral programs. We greatly appreciate the work of DOGM and believe it can assume greater responsibility in this regard.

With the goals of reducing duplicative efforts and maximizing the state's access to mineral lease royalties, we respectfully request that DOGM undertake research and prepare a report that addresses the following regarding its mineral programs:

- the current process under which mineral leasing money is administered;
- how policies, regulations, and laws, including the 1920 Mineral Leasing Act and the 1977 Surface Mining Control and Reclamation Act, have impacted jurisdiction and management over minerals; and
- the legal issues associated with, and resources that would be required for, DOGM assuming all federal responsibilities over mineral programs.

It would be our preference that DOGM completes this report before the 2018 Legislative Session, and we invite you to attend a future Commission meeting to present and discuss the findings. Please let us know if you have any questions regarding this request.

Sincerely,

David P. Hinkins, Senate Co-chair
Commission for the Stewardship of Public Lands

Keven J. Stratton, House Co-chair
Commission for the Stewardship of Public Lands

DRAFT

RESPONSE TO LEGISLATIVE REQUEST

CONCERNING

**THE POTENTIAL FOR STATE MANAGEMENT OF FEDERAL
MINERALS**

The Commission for the Stewardship of Public Lands, “recognizing an opportunity for the state to play a larger role in the management of lands within its borders . . . and “with the goals of reducing duplicative efforts and maximizing the state’s access to mineral lease royalties” has asked the Utah Division of Oil, Gas and Mining (Division) to research and prepare a report addressing the following three inquiries regarding potential management of federal mineral programs with the assumption that federal lands are not transferred to the state. The questions to be addressed are:

- (1) The current process under which mineral leasing money is administered ;
- (2) How policies, regulations, and laws, including the 1920 Mineral Leasing Act and the 1977 Surface Mining Control and Reclamation Act, have impacted jurisdiction and management over minerals; and
- (3) The legal issues associated with, and resources that would be required for DOGM assuming all federal responsibilities over mineral programs.¹

CONCLUSIONS

The Commission’s letter to the Board of Oil, Gas and Mining indicated that its request was with the “goal of reducing duplicative efforts and maximizing the state’s access to mineral lease royalties.”² This report looks and the broad legal and financial constraints and potential opportunities and concludes that the financial advantages are minimal, and the legal constraints are considerable and either preclude or substantially constrain most options. More research to examine specific options for state management of limited portions of the federal mineral program is necessary before the Commission can meaningfully pursue prospects for assuming portions of the federal mineral management duties.

¹ August 24, 2017 Letter from David P. Hinkins, Senate Co-chair and Kevin J. Stratton, House Co-chair, Commission for the Stewardship of Public Lands. Attached as Exhibit A.

² Ibid

The general conclusions of each section are as follows:

Section 1. The current process under which mineral leasing money is administered.

Federal law requires revenue from federal mineral lands to be disbursed to state and federal accounts with restrictions on their use: 49% of the revenue is paid to states to assist with mineral related impacts; 40% is paid to the U. S. Reclamation Fund which pays for water projects, 2% goes to the Office of Natural Resource Revenue to manage the accounting; and the remaining nine percent of the revenue is paid to the U. S. Treasury without restriction on its use. This amount is sufficient to pay the expenses of the Energy and Mineral Program but insufficient to cover the federal expenses of managing the lands. Thus, the federal lands are managed under existing programs under a deficit financing. Any revenue paid to the state to assume management of federal minerals would either increase the deficit or come at the expense of reducing other federal programs. There is no surplus of revenue available to pay the state for assuming management of the federal minerals.

Notwithstanding the overall deficit for BLM managed lands, there may be specific tasks among the federal government's duties in the management of its mineral estate that might be delegated to a state. A comparison of the amounts budgeted for such tasks by the federal government in with the amounts budgeted by the states, is difficult due to differences in agency duties and organization. However, a very gross examination demonstrates that the marginal difference in costs between the federal and state programs for certain tasks is relatively small and the potential for substantial savings are uncertain. The benefits of the State of Utah assuming management of some aspects of federal mineral programs may be less financial and more those benefits associated with increased local control.

As discussed in Section 3, without looking at the specific tasks and the governing regulations that control those tasks, it is uncertain to what extent federal duties can be delegated, if any, and if they can, to what degree federal regulations would preclude more efficient management.

Section 2: Federal Laws Impacting Jurisdiction and Management Over Minerals

Three major federal mining laws impact jurisdiction and management over federal minerals: the General Mining Law, the Mineral Leasing Act, and the Surface Mining Control and Reclamation Act. These laws were enacted pursuant to authority granted by the Property and Commerce Clauses of the United States Constitution. These laws,

as well as others and the thousands of regulations adopted to implement them, govern all mining activities on federal lands within the State of Utah. The State of Utah has no inherent police power or other authority to exercise jurisdiction over mining or oil and gas production on federal lands except as may be expressly delegated by federal law. Of the three major federal laws, only the Surface Mining Reclamation and Control Act expressly allows for the delegation of regulatory authority over federal minerals to the State of Utah. The State of Utah has assumed this jurisdiction to the maximum degree permitted by law, and there is no additional power that can be acquired over mining of federal coal. The possibility for the State to assume jurisdiction over the management or regulation of oil and gas operations and non-coal mining on federal lands is discussed in Section 3.

Section 3: The legal issues associated with, and resources that would be required for DOGM assuming all federal responsibilities over mineral programs.

Federal laws govern federal mineral management and the ability to delegate responsibilities to State agencies. Delegating federal responsibilities to the state under many, if not all, of these federal statutes may not be possible. It is well established that federal agencies cannot delegate management on federal lands to the states or other outside entities unless there is express statutory authority to do so. Statutes such as FLPMA, NEPA and the ESA require *federal agencies* to cooperate, consult, and coordinate with states in ways that stop short of full delegation to states. Through enactment of many of these statutes, Congress charged federal agencies with environmental review and solely the federal agencies. As of now, State authority to manage mineral development on federal lands without federal involvement does not exist.

MARCH AGENDA
BEFORE THE BOARD OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
IN AND FOR THE STATE OF UTAH



DRAFT

A public meeting will be held on Wednesday, March 28, 2018 in the auditorium of the Department of Natural Resources, 1594 West North Temple, Salt Lake City, Utah. The meeting will be streamed live on the Department of Natural Resources YouTube channel. The link for the Briefing Session is <https://youtu.be/6xsKseAJLL8>, and the link for the Board Hearing is <https://youtu.be/Xq298sqvdWY>.

The Division of Oil, Gas and Mining will conduct a Briefing Session at 9:00 a.m.:

- 1.
 - 2.
 3. Other
 4. Next Month's Agenda and Division Calendar
 5. Opportunity for Public Comment
-

The Board will hear the following Matters at 10:00 a.m.:

1. Docket No. 2018-002 Cause No. 210-06 – In the matter of the Request for Agency Action of STATE OF UTAH SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION for an order of the Board requiring ENDURING RESOURCES, LLC, ENDURING RESOURCES II, LLC, and WESTSTAR EXPLORATION COMPANY to: (1) within 30 days file with the Division of Oil, Gas and Mining for wells located on School and Institutional Trust Lands all production and disposition reports for the months from October 2016 through December 2017; (2) within 30 days pay to the School and Institutional Trust Lands Administration all royalty proceeds for the sale of oil and/or gas from October 2016 through December 2017 derived from wells located on School and Institutional Trust Lands located in Section 36, Township 9 South, Range 23 East, Section 16, Township 9 South, Range 24 East, Section 36, Township 10 South, Range 22 East, Section 32 Township 10 South, Range 23 East, Sections 2, 36, Township 11 South, Range 22 East, Sections 2, 32, 36, Township 11 South, Range 23 East, Section 32, Township 11 South, Range 24 East, all in SLB&M; and (3) immediately shut in any wells located on the foregoing lands absent compliance with (1) and (2).

2. Docket No. 2018-003 Cause No. 139-153 – In the matter of the Request for Agency Action of AXIA ENERGY II, LLC for an order modifying the Board's orders entered in Cause Nos. 131-14, 139-42, 139-84 and 139-90 to establish twenty overlapping 1,280 acre (or substantial equivalent) drilling units for the production of oil, gas and associated hydrocarbons from the Lower Green River-Wasatch (Colton) Formations, Comprised of Sections 4-9, 13, 18, 19 and 24 of Township 2 South, Range 2 West, USM, and Sections 1-24, and 29-32 of Township 2 South, Range 3 West, USM, all in Duchesne County, Utah.

Copies of the agenda are available at www.ogm.utah.gov and at the administrative offices. Pursuant to the Americans with Disabilities Act, persons requiring auxiliary communicative aids and services to enable them to participate in this hearing should call Julie Ann Carter at (801) 538-5277, at least three working days prior to the hearing. One or more members of the Board may participate electronically pursuant to R641-100-600. The specified meeting location would serve as the anchor location for participation by the public.

February 2018

January '18							March '18							April '18							
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7	8	9	10	11	12	13	4	5	6	7	8	9	10	8	9	10	11	12	13	14	
14	15	16	17	18	19	20	11	12	13	14	15	16	17	15	16	17	18	19	20	21	
21	22	23	24	25	26	27	18	19	20	21	22	23	24	22	23	24	25	26	27	28	
28	29	30	31				25	26	27	28	29	30	31	29	30						

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2 Groundhog Day	3
4	5	6	7	8	9	10
11	12 Filing Day	13	14 Valentine's Day	15	16	17
18	19 Presidents' Day	20	21	22	23	24
25	26 Exhibits Due	27	28 Board Hearing			

Notes

March 2018

February '18							April '18							May '18						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
				1	2	3	1	2	3	4	5	6	7			1	2	3	4	5
4	5	6	7	8	9	10	8	9	10	11	12	13	14	6	7	8	9	10	11	12
11	12	13	14	15	16	17	15	16	17	18	19	20	21	13	14	15	16	17	18	19
18	19	20	21	22	23	24	22	23	24	25	26	27	28	20	21	22	23	24	25	26
25	26	27	28				29	30						27	28	29	30	31		

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2	3
4	5	6	7	8	9	10
11 Daylight Saving	12 Filing Day	13	14	15	16	17 St. Patrick's Day
18	19	20	21	22	23	24
25	26 Exhibits Due	27	28 Board Hearing	29	30	31

Notes

April 2018

March '18							May '18							June '18							
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	
				1	2	3			1	2	3	4	5							1	2
4	5	6	7	8	9	10	6	7	8	9	10	11	12	3	4	5	6	7	8	9	
11	12	13	14	15	16	17	13	14	15	16	17	18	19	10	11	12	13	14	15	16	
18	19	20	21	22	23	24	20	21	22	23	24	25	26	17	18	19	20	21	22	23	
25	26	27	28	29	30	31	27	28	29	30	31	24	25	26	27	28	29	30			

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1 April Fool's Day Easter	2	3	4	5	6	7
8	9	10 Filing Day	11	12 Uintah Basin Oil and Gas Collaborative Group Mtg - Duchesne, Utah	13	14
15	16	17 Taxes Due	18	19	20	21
22 Earth Day	23 Exhibits Due	24	25 Board Hearing	26	27	28
29	30					

Notes