

Minutes of a Meeting of the Industrial Commission of North Dakota  
Held on December 9, 2014 beginning at 3:00 p.m.  
Pioneer Room, State Capitol, Bismarck, ND

Present: Governor Jack Dalrymple, Chairman  
Attorney General Wayne Stenehjem  
Agriculture Commissioner Doug Goehring

Also

Present: Lynn Helms, Department of Mineral Resources  
Members of the Public  
Members of the Press

Governor Dalrymple called the Industrial Commission meeting to order at 3:00 p.m. in the Pioneer Room at the State Capitol and the Commission took up Department of Mineral Resources business.

Mr. Lynn Helms, Department of Mineral Resources Director, presented revised Order 25417, for Case 23084 heard on September 23, 2014 with receipt of additional comments submitted prior to 5:00 p.m. on November 19, 2014, regarding provisions deemed appropriate to improve the transportation safety and marketability of crude oil. (A copy of Order 25417 is available in the Commission's files.) He stated that he would review with the Commission the changes that had been made to the order since it was originally proposed at the November 13, 2015 Commission meeting. He stated that the Order is still focused on safety, very focused on science and enforceability. We do not think we've backed any of that out of the order. The changes since November 13 start at the bottom of page two in findings paragraph six as follows:

- (6) The Commission reopened the record in this matter on November 13, 2014 to allow additional public comment until 5 p.m., Wednesday November 19, 2014, to specifically address technical corrections within the Commission's working draft order.

Subsequently the Commission received written comments from Brian Wold of WPX Energy Williston LLC, Brent Lohnes of Hess Corporation, Tony Lucero of Enerplus Resources USA Corporation, Matthew Gusdorf of XTO Energy Inc., Ron Ness of the North Dakota Petroleum Council, Nathan Savage of Savage Services Corporation, Christy Williamson of ONEOK Rockies Midstream, Terry Kovacevich of Marathon Oil Company, Robert Greco with the American Petroleum Institute, David Friedman with the American Fuel & Petrochemical Manufacturers, Taylor Reid of Oasis Petroleum North America LLC, Dennis Lindberg of SM Energy Company, Jon Ramer of Catalytic Resources LLC, Lawrence Bender representing EOG Resources Inc., Scott Skokos of the Dakota Resource Council, Jeff Hume of Continental Resources Inc., Dennis Sutton of PetroQual LLC, Brent Miller of Whiting Petroleum Corporation, Colin Nikiforuk of CRNG Energy Inc., and Bret Wolz of HyCap Energy LLC.

Nancy Casler, Paul Hanson, Randy Olson, Jeffrey Rodacker, and Gordon Schwallie also submitted written comments as concerned citizens.

Mr. Helms said they had twenty five different parties that sent comments in during that period; another 141 pages of comments with valuable input. The staff thought this had been a valuable exercise. The Commission received some good technical information that was needed to improve this order.

Mr. Helms said Paragraph 7 deals with the reason this is being done through field rules as an Industrial Commission order as opposed to the broad administrate rules process. Paragraph 7 now reads as follows:

(7) Some of the written comments indicated that this matter should be conducted under administrative rulemaking. The Commission finds that matters such as this one are intended to address field operating practices for a limited number of producing pools and should be handled as has been done previously with subject matter similar in nature, as in: (1) Commission Order No. 14496 which set requirements for 2560-acre drilling and spacing units; (2) Commission Order No. 14497 which established 1280-acre drilling units within the Bakken Pool; (3) Commission Order No. 14498 which established a 200-feet setback relative to the heel and toe of horizontal Bakken Pool wells; and (4) Commission Order No. 24665 which modified flaring regulations for Bakken, Bakken/Three Forks, and Three Forks Pools.

Mr. Helms said the technical corrections show up on page four as follows:

- (b) Production facilities utilizing a gas-liquid separator and/or an emulsion heater-treater operating at a pressure of no more than 50 psi on the final stage of separation prior to the crude oil storage tanks must heat the produced fluids to a temperature of no less than 110 degrees Fahrenheit. Such temperature may be applied in the emulsion heater-treater or prior to the fluids entering the separator if no emulsion heater-treater is utilized; or
- (c) Production facilities utilizing a gas-liquid separator and/or an emulsion heater-treater operating at a pressure greater than 50 psi on the final stage of separation prior to the vapor recovery system or crude oil storage tanks must heat the produced fluids to a temperature of no less than 110 degrees Fahrenheit and shall also be required to install a vapor recovery system on or immediately upstream of the crude oil storage tanks; or

Mr. Helms said Paragraph 2 (b) used to require 115 degree temperature and 2(c) used to require 120 degree temperature. What was learned through the additional comments was that the temperature requirement above 115 degrees or above 120 degrees put the whole gas gathering system at risk. The thousands of gas gathering contracts and thousands of miles of high-density polyethylene pipe for gas gathering use a 120 degree maximum. That's the manufacturer's warranty, maximum temperature – that's in all of those contracts. We learned from those comments and from comments from the refineries that we could accomplish what we were after at 110 degrees Fahrenheit. Based on that information the changes were made that you see in 2(b) and 2(c). Also learned was that if we apply the vapor recovery system requirement above 50 psi and 110 degrees, that requirement could also be accomplished.

Mr. Helms said paragraph 2(d) allows conditioning to be done with vapor pressure testing. The key there was to tie it to ASTM standards and ANSI/API standards and to get the terminology

correct. Instead of re-vapor pressure which is a 1930's term, we are now using vapor pressure of crude oil and the current ANSI or ASTM standards references the latest version so if one changes, we will be able to update it easily-- the terms and standards are correctly stated. The Order still requires one psi below what APR and ANSI define as stable crude oil. The reason that is being proposed is that if you look at an extensive body of work that Sandia Laboratories did on the Strategic Petroleum Reserve, they have figured out that the whole sampling and measurement process of VPCR includes about a one psi reproducibility error – that means that based on how you take the samples, whether you have flowing crude oil or static crude oil introduces a one psi error into that measurement. We want people to know that we have gone one psi below the standards so crude oil in North Dakota will be conditioned using separators and heater-treaters – it all will be – and it will meet the stable crude oil standard,

- (d) Production facilities utilizing gas-liquid separator(s) and/or emulsion heater-treater(s) operating at pressures and temperatures other than those provided in (b) or (c) above shall be allowed only upon the operator demonstrating that the operating pressures and temperatures of the separator(s) and/or emulsion heater-treater(s) are producing crude oil with a Vapor Pressure of Crude Oil (VPCRx) no greater than 13.7 psi or 1 psi less than the vapor pressure of stabilized crude oil as defined in the latest version of ANSI/API RP3000 whichever is lower. Such test must be performed by a person sufficiently trained to perform the test. All VPCRx tests shall be performed in accordance with the latest version of ASTM D6377 and shall be conducted quarterly. Samples for testing must be collected in accordance with ASTM D3700 or ASTM D5842 at the point of custody transfer. A Sundry Notice (Form 4) shall be submitted to the Director within 15 days of the test date which includes a screen shot and/or printout of the VPCRx test conducted and details the operating capacities, pressures, and temperatures of all well site conditioning equipment at the time of the test; or

Mr. Helms said paragraph 2(e) incorporates the language that Governor Dalrymple suggested and is a much better way of wording the alternatives which have to be done through notice and hearing and those orders will come to the Industrial Commission for approval. The Commission asked that the order include commentary about Industrial Commission personnel inspecting these facilities and records to make sure there is compliance. The Oil and Gas Division staff did a test run on that requirement the last three weeks. The Division's field inspectors inspected 300 heater-treaters so we know it is possible to do and do rather quickly. Out of those 300 heater-treaters there were a little over 55 percent already in compliance with this proposed order – about 33 to 35 percent were using temperatures that will have to be raised and about 12.5 percent were applying no heat at all to the crude oil. What this is all designed to do is bring that 1 out of 8 up so everyone knows that all the crude oil is being conditioned.

- (e) Production facilities utilizing an alternative oil conditioning method other than a gas-liquid separator(s) and/or an emulsion heater-treater(s) will only be approved by the Commission after due notice and hearing, and must: (a) be capable of delivering crude oil with a VPCRx no greater than 13.7 psi at custody transfer; or

- (b) provide safe transportation of marketable crude oil to a crude oil conditioning or stabilization plant.

Mr. Helms stated that Paragraph 3 is a clarification that those things named in 3(b) are natural gas liquids.

(3) The following practices are hereby prohibited:

- (a) Blending crude oil produced from the Bakken Petroleum System with liquids recovered from gas pipelines prior to custody transfer; and
- (b) Blending crude oil produced from the Bakken Petroleum System with natural gas liquids (i.e. condensate, pentanes, butanes, or propane) prior to custody transfer.

He stated that Paragraph 4 addresses the relationship between the Industrial Commission, PHMSA and the Federal Railroad Administration. Basically it says that Commission needs some type of notice if there is a violation of federal standards at a rail facility so that we can try to identify the source and get it corrected.

- (4) The operator of any transload rail facility shall notify the Director of discovering that any crude oil received from the Bakken Petroleum System violates federal crude oil safety standards. The notice shall indicate: (a) the federal standard violated and the date; (b) the probable source of such crude oil, if known; and (c) an outline on the final disposition of such crude oil and the process subsequently utilized to provide the safe transportation of such crude oil.

He said a little more time is needed in order to make this a quarterly requirement and get the equipment purchased and adjusted so there is an April 1, 2015 deadline.

- (6) This order is hereby effective April 1, 2015, shall cover all wells completed in the Bakken Petroleum System, and shall continue in full force and effect until further order of the Commission.

In response to a question regarding 120 degree temperature accomplishing what we want but recognizing the problem with the 120 degrees on their pipelines, Mr. Helms said yes. The operators raised the significant issue that we were potentially going to create a problem with contracts and warranty on gas gathering pipelines. The staff went back and after looking at it again and looking at the data we had from the refiners and the comments we had from the Mandan Tesoro Refinery, we were satisfied that 110 degrees below 50 psi and 110 degrees with a vapor recovery system above 50 actually gets us below that 13.7 vapor pressure. We are very comfortable that the revised number not only protects the gas gathering system but conditions the crude oil so that we have the equivalent or better of the 13.7 vapor pressure.

**Case 23084: It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Order 25417 issued in Case 22084, be approved this 9<sup>th</sup> day of December, 2014.**

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It was specifically noted that this order states that all Bakken/Three Forks crude oil will be conditioned. Also the prohibition that there not be any blending back of gas is significant.

Mr. Helms restated that when you read through Paragraph 2 (a) - (e) there will be no exception. There will be a conditioning process applied to every barrel of Bakken/Three Forks crude oil. It may differ from well site to well site based on temperature pressure or some new technology that comes to the Commission for approval but it will happen.

In response to a question regarding if the field testing could be done with the current level of staffing, Mr. Helms said the budget the Governor submitted to the Legislature includes 22 additional staff members for the Department of Mineral Resources and 13 of those are field inspection staff. It was part of the design of the staffing increase. Probably because of this order, the Department may seek emergency approval on some of those FTEs so that they could be hired right away but that would be the only change. The Department's budget request and the Governor's recommendation include the people to make this happen.

In response to a question regarding how much he could do now with the staff he has, Mr. Helms said he asked the Department staff to give him some idea about numbers of facilities that are going to be subject to this order. There are about 960 facilities that are going to be governed by this order which is significant. However, when he looked at it, the majority or 60 percent of those facilities have eight or nine wells already connected to them. The Department will not have to build a staff that is going to inspect 12,000 Bakken facilities, it is more like 1,000. The staff did a test run over a three-week period and they were able to gather the data on 300 facilities. This is not a significant burden on the staff. It will demand more time and more time to approve the vapor pressure tests but the staff can make it work. It will get easier when the Department gets the additional 22 staff; the Department will make it a priority.

Governor Dalrymple said if Mr. Helms decides any of the staff positions are needed before the end of the biennium, whether it is for this purpose or anything else, he should not hesitate to go in and ask for an emergency clause on the positions. It is definitely in order and the legislators would want to hear that.

**On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Being no further Department of Mineral Resources business, Governor Dalrymple adjourned the meeting at 3:18 p.m. and the Commission held a news conference.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary