

Minutes of a Meeting of the Industrial Commission of North Dakota
Held on September 3, 2020 beginning at 9:30 a.m.
Ft. Union Room - State Capitol

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

Also Present: Some attendees are listed on the attendance sheet available in the Commission files
This meeting was open through a call-in number so not all attendees are known
Members of the Press

Governor Burgum called the Industrial Commission meeting to order at approximately 9:30 a.m. and the Commission took up Department of Mineral Resources business.

DEPARTMENT OF MINERAL RESOURCES (DMR)

Mr. Lynn Helms, DMR Director, and Mr. Bruce Hicks, Oil and Gas Division Assistant Director, presented the following orders regarding the confiscation of production and/or injection related equipment, salable oil at certain (14) abandoned wells located in McKenzie and Renville Counties for consideration. He noted that these are individual well orders. There has been a significant number of reconsideration appeals, and actions taken today will make it easier to plug and reclaim these orphaned wells.

Case 28534, Order 31075 – Fram Operating, LLC

Case 28535, Order 31076 – Fram Operating, LLC

Case 28536, Order 31077 – Fram Operating, LLC

Mr. Helms noted that this company is in Chapter 7 liquidation. The \$100,000 bond has been forfeited and is in the Abandoned Well Fund. These are truly orphaned wells and meet all the criteria to be plugged and reclaimed.

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that effective September 3, 2020, the Industrial Commission approve the following orders confiscating all production and/or injection related equipment, and salable oil for the wells noted below operated by Fram Operating LLC. or any working interest owner:

Case 28534, Order 31075 – Schlak 2 well, Norma Field, Renville County

Case 28535, Order 31076 - Laura Funke 4 well, South Green Field, Renville County

Case 28536, Order 31077 – Schlak 3 well, Norma Field, Renville County

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

Case 28537, Order 31078 – Liberty Resources Management Co., LLC

Case 28538, Order 31079 – Liberty Resources Management Co., LLC

Case 28539, Order 31080 – Liberty Resources Management Co., LLC

Case 28540, Order 31081 – Liberty Resources Management Co., LLC

Case 28541, Order 31082 – Liberty Resources Management Co., LLC

Case 28542, Order 31083 – Liberty Resources Management Co., LLC

Case 28543, Order 31084 - Liberty Resources Management Co., LLC

These wells were placed on the docket at the operator's request. The operator filed the evidence necessary to show that bond is inadequate, and no resources are available to plug and reclaim the wells.

Mr. Helms clarified that the wells were drilled in the 1970s and 1980s and the higher cost is related to the age of the wells. Wells from the 1980s are running below the \$75,000 cost estimate and wells from 1950s and 1960s are running above the \$75,000 cost estimate.

Mr. Helms indicated that it is possible to repurpose the wells to water wells. Out of 187 wells, USFS has identified 45 wells that are on their land. Out of those 45 wells, the Medora Grazing Association has identified approximately 12 wells that would be prime opportunities for livestock and wildlife water wells because water wells in that area can cost over \$250,000. DMR could plug the well back to Fox Hills formation and convert the well to a water well and turn it back to the owner which would likely save over \$200,000. This would be a great opportunity to remove 45 wells from the landscape on USFS land and repurpose 12-15 wells to water for livestock and wildlife in an area where water is scarce.

A question was raised as to how many wells might be on state lands that could be converted to water well. Mr. Helms indicated that he will look into it.

The Commission asked that Mr. Helms pursue this further to determine if there are wells on private lands that surface owners would also want to utilize this opportunity to install a water well as it could enhance cattle production. Mr. Helms indicated that DMR currently provides landowners with a letter explaining rights and opportunities, but water wells are currently not included. This communication will be modified.

It was noted that all grazing associations need to be included and Ms. Julie Ellingson from the Stockmen's Association may be a good resource to make sure all ranchers are made aware of the opportunity.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that effective September 3, 2020, the Industrial Commission approve the following orders confiscating all production related equipment, and salable oil for the wells noted below operated by Liberty Resources Management Co., LLC or any working interest owner and finding that while the intent is to use CARES Act funds, it is not appropriate for the Commission to waive any available remedies:

- Case 28537, Order 31078 – M. L. Lassey 1 well, Glass Bluff-Madison Unit, McKenzie County
- Case 28538, Order 31079 – Lassey-Erickson A 1 well, Glass Bluff-Madison Unit, McKenzie County
- Case 28539, Order 31080 – Lindsley-Dobias State 1 well, Glass Bluff-Madison Unit, McKenzie County
- Case 28540, Order 31081 – Lassey-Myers A 1 well, Glass Bluff-Madison Unit, McKenzie County
- Case 28541, Order 31082 – Dobias State A 1 well, Glass Bluff-Madison Unit, McKenzie County
- Case 28542, Order 31083 – Dobias Monson Well 1 well, Glass Bluff-Madison Unit, McKenzie County
- Case 28543, Order 31084 – A.M. Lassey A 1 well, Glass Bluff-Madison Unit, McKenzie County

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

Case 26265, Order 28682 – Alturas Energy LLC

Case 26267, Order 28684 – Alturas Energy LLC

Case 26269, Order 28686 – Alturas Energy LLC

Case 26270, Order 28687 - Alturas Energy LLC

Mr. Helms indicated that the bond is inadequate and there are no assets. The wells have been in non-compliant status since 2015. A consent agreement was attempted in 2017 but failed due to lack of assets. The wells have been on the list to be addressed for 22 years. BLM notified DMR that they are in an enforcement action, which will conclude next week. DMR notified BLM that the wells would be on the hearing docket and asked BLM if action should be delayed. BLM indicated that was not necessary and did

not appear at the hearing. Because of these issues it will take time to determine how the plugging and reclamation gets paid for, but initially CARES Act funds will be used.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that effective September 3, 2020, the Industrial Commission approve the following orders confiscating all production related equipment, and salable oil for the wells noted below operated by Alturas Energy LLC or any working interest owner:

Case 26265, Order 28682 – Federal 11-23 well, McKenzie County

Case 26267, Order 28684 – Federal 14-31 well, McKenzie County

Case 26269, Order 28686 – Federal 3-22 well, McKenzie County

Case 26270, Order 28687 – Federal 11-44 well, McKenzie County

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

Mr. Helms reviewed activity from the CARES Act project. To date: 187 wells have been confiscated, 159 are pending confiscation, and 65 are subject to consideration. Contracts have been issued to plug 136 wells, which has committed \$14 million. A total of 51 wells have been plugged, costing \$5.3 million. Current contracted reclamation activities total \$2.6 million. Out of \$66 million of CARES ACT funds and \$10 million of Abandoned Well funds, \$22.2 million has been committed.

In response to a question, Mr. Helms stated that approximately 700 people have been employed due to the plugging and reclamation activities. That number will increase to approximately 1,700 people next week.

PIPELINE AUTHORITY

Mr. Justin Kringstad, Pipeline Authority Director, provided an update on the Northern Border Pipeline FERC Tariff Order 171 ¶61,180, noting that there is an opportunity to provide comments until September 17th and he would like to know the Commission's wishes on potential action. The change being considered is substantial and currently there are no limitations on BTUs. This proposal would limit the BTUs to 1,100 BTUs. FERC's decision is expected November 1st at the latest. The issue is very polarizing when considering the parties both for and against the change.

The Northern Border Pipeline is the largest pipeline, and crosses North Dakota. North Dakota production wasn't accounted for when the pipeline was built. It serves the midcontinent markets, primarily Iowa and Chicago and has numerous interconnecting pipelines. Approximately 80% of the flow now comes from North Dakota. There has been a dramatic change occurring over the last 5 years that has altered the dynamics of flow and quality. As North Dakota's market share has increased, the overall BTU content at Glen Ullin, the last meter point exiting the Williston Basin, has also increased resulting in tension between downstream and upstream markets. Many interconnecting pipelines have BTU limitations.

Downstream marketers are concerned that the gas is getting too hot and marketability is driving the change. Upstream marketers are concerned about the value of North Dakota product if limitations are put into effect. The proposed change would have several steps if implemented. Ultimately, North Dakota would have to capture an additional 80,000 barrels per day of ethane by 2027. The cost for North Dakota's producers and royalty owners would be \$10.6 million in 2021 and over \$306 million by 2030. Mr. Kringstad clarified that ethane currently gets \$.10 per gallon. Processing to strip and transport would cost \$.30 to get to a \$.15 sale price.

Discussion was held regarding the issue. It was noted that if there was a market for ethane, that would change the assumptions. A lack of value-added opportunities for ethane is driving the cost equations. There

has been awareness of this issue for a number of years. Some marketers have invested in technology to address the issue and others have not.

The solution proposed is a pairing mechanism that would balance hot gas in North Dakota with dry gas in other locations. WBI Energy operates a pipeline and would be forced to manage how it gets implemented. Currently WBI Energy does not have a 1,100 limit and would need a new tariff.

Customers that buy North Dakota gas are in support of the change and producers from North Dakota are against it. Some potential solutions were discussed, including a regional NGL infrastructure approach and hydrogen solutions. Hydrogen does not need to be removed once added – it can be burned which is something that has been researched but isn't being used in North Dakota. This would reduce the BTUs. The only immediate solution is to send it down the line.

This is a market driven situation. Because of this, Mr. Kringstad recommended that the Commission remain neutral.

Mr. Helms concurred with Mr. Kringstad's analysis and emphasized the need to focus on getting value-added options to realize the full value of Bakken oil assets. Other formations, such as the Permian and Eagle Ford, do not have this issue and make the Bakken less competitive.

Discussion was held regarding potential research options with Oil & Gas Research Council, Lignite Research Council, and Renewable Energy Council noted as possibilities. The Commission indicated that they would like to hear a report about research opportunities for this issue at a future meeting.

The consensus of the Commission was to stay neutral at this point. If additional information comes forward before the 17th, Mr. Kringstad will notify Ms. Fine.

WESTERN AREA WATER SUPPLY

Ms. Karlene Fine, Industrial Commission Executive Director, presented a capital improvement expenditure for consideration. WAWS management has submitted a request to expend \$20,500 from the Capital Reserve Account for the installation of a concrete meter vault and meter. This project was included in the Capital Improvements budget the Commission approved earlier this year but at the lower amount of \$10,000.

The installation of this vault and meter will allow WAWS to provide maintenance water to an oil drilling site and the company has signed a contract with WAWS and agreed to share in a portion of the cost of this installation. Based on this, the project qualifies as a capital improvement of the WAWS supply system and is eligible for costs being paid from industrial sales.

Ms. Fine stated that there are sufficient funds in the Capital Reserve Account to make this payment and Bank of North Dakota staff has indicated that this is an appropriate use of the funding in the Capital Reserve Account.

It was moved by Attorney General Stenehjem and seconded by Governor Burgum that the Industrial Commission accept the recommendation of the Industrial Commission Executive Director/Secretary and approve the request from the Western Area Water Supply Authority for payment from the Western Area Water Supply Authority industrial Capital Reserve Account of capital improvement costs for an industrial concrete meter vault/meter maintenance water connection in the amount of

\$20,500. On a roll call vote, Governor Burgum and Attorney General Stenehjem voted aye with Commissioner Goehring absent and not voting. The motion carried.

HOUSING FINANCE AGENCY (HFA)

Ms. Karlene Fine presented an updated Government National Mortgage Association (Ginnie Mae) Resolution certifying Authorized Signatures for consideration. This resolution is required by Ginnie Mae for the Housing Finance Agency to be able to securitize loans into Mortgage Backed Securities for sale to investors.

The resolution needs to be updated to reflect Mr. Flohr's new title (removing Interim) and to name two additional HFA staff members with authority to conduct business with Ginnie Mae on behalf of the Agency.

It was moved by Attorney General Stenehjem and seconded by Governor Burgum that the Industrial Commission approves the following resolution:

**Resolution of Board of Directors
And Certificate of Authorized Signatures
North Dakota Housing Finance Agency**

Resolved First, that David A. Flohr, Executive Director, Patrick Nagel, Chief Financial Officer, Frank Kraft, System Admin, and Mark Weninger, System Admin, of this corporation, or any one or more of them, be and each of them is hereby authorized and empowered in the name of and on behalf of this corporation and under its corporate seal, from time to time while these resolutions are in effect, to execute and deliver to the Government National Mortgage Association, in the form prescribed by said Association, with respect to the issue(s) by this corporation, under Section 306(g) of the National Housing Act and the Regulations pertaining thereto, of mortgage-backed securities to be guaranteed by the Association, any documents required to: (a) make applications to Ginnie Mae in the name of and on behalf of this corporation for approval to become an issuer and for Ginnie Mae commitments to guarantee such mortgage-backed securities issued by this corporation; (b) enter into contracts with Ginnie Mae for the latter's guaranty of mortgage-backed securities issued in accordance with the terms and conditions of commitments to guarantee, issued by the Association to this corporation; (c) merge mortgage notes, deeds of trust and bonds now owned or hereafter acquired by this corporation into pools or loan packages, against which this corporation may issue mortgage-backed securities; (d) enter into any agreements, execute any documents or papers, and furnish any information required or deemed necessary or proper by the Association in connection with any of the foregoing, and (e) abide by all the terms and conditions set forth in the Ginnie Mae Mortgage-Backed Securities Guide.

Resolved Second, that the above named officers, be and they are hereby authorized and empowered in their discretion and as occasion may arise to receive and endorse the name of this corporation on any checks or drafts representing the proceeds from collections made by servicers of mortgages pertaining to pools or loan packages, and to issue and sign any checks or drafts issued to pay to the security holders their pro rata shares in these proceeds, and to do and perform any and all acts and to execute any and all additional instruments or agreements, from time to time, in the name of and on behalf of this corporation under the corporate seal or otherwise, deemed necessary or proper by the Association in connection with the formation of mortgage pools or loan packages, the issuance of mortgage-backed securities, the guaranty of mortgage-backed securities by the Association and the discharge of the duties and obligations of this corporation, as issuer, until the proceeds of the last maturing mortgage in any pool or loan package is remitted to registered security holders.

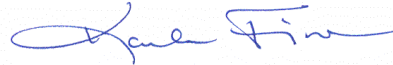
Resolved Third, that any contracts or agreements heretofore made with said Association on behalf of this corporation, and all acts of officers or agents of this corporation in connection with any contracts to be entered into for the guaranty by the Association of mortgage-backed securities to be issued by this corporation are hereby ratified and confirmed.

Resolved Fourth, that Ginnie Mae is authorized to rely upon the aforesaid resolution until receipt by it of written notice thirty days in advance of any proposed change therein.

On a roll call vote, Governor Burgum and Attorney General Stenehjem voted aye with Commissioner Goehring absent and not voting. The motion carried.

With no further Industrial Commission business, Governor Burgum adjourned the meeting at 10:18 a.m.

North Dakota Industrial Commission



Karlene Fine, Executive Director and Secretary