

BEFORE THE INDUSTRIAL COMMISSION  
OF THE STATE OF NORTH DAKOTA

CASE NO. 16205  
ORDER NO. 18471

IN THE MATTER OF A HEARING CALLED ON A MOTION OF THE COMMISSION TO CONSIDER THE IN THE MATTER OF THE PETITION FOR A RISK PENALTY OF BAYTEX ENERGY USA LTD. REQUESTING AN ORDER AUTHORIZING THE RECOVERY OF A RISK PENALTY FROM CERTAIN NON-PARTICIPATING OWNERS, AS PROVIDED BY NDCC § 38-08-08 IN THE DRILLING AND COMPLETING OF THE COLBY 23-14-160-99H #1PB WELL LOCATED IN A SPACING UNIT DESCRIBED AS SECTIONS 14 AND 23, T.160N., R.99W., BURG-BAKKEN POOL, DIVIDE COUNTY, ND, PURSUANT TO NDAC § 43-02-03-88.1, AND SUCH OTHER RELIEF AS IS APPROPRIATE.

ORDER OF THE COMMISSION

THE COMMISSION FINDS:

- (1) This cause came on for hearing at 9:00 a.m. on the 17th day of November, 2011.
- (2) Baytex Energy USA Ltd. (Baytex) has filed a petition for a risk penalty before the North Dakota Industrial Commission (Commission) requesting an order authorizing the recovery of a risk penalty from certain non-participating owners, as provided by NDCC § 38-08-08 in the drilling and completing of the Colby 23-14-160-99H #1PB well located in a spacing unit described as Sections 14 and 23, Township 160 North, Range 99 West (Sections 14 and 23), Burg-Bakken Pool, Divide County, North Dakota, pursuant to North Dakota Administrative Code (NDAC) § 43-02-03-88.1, and such other relief as is appropriate.
- (3) Baytex is the owner of an interest in an oil and gas leasehold estate in a spacing unit for the Burg-Bakken Pool described as Sections 14 and 23.
- (4) The Commission makes no findings with regard to the specific acreage or percentage attributed to separately owned tracts or interests.
- (5) NDCC Section 38-08-08 provides that working interest owners in the spacing unit shall pay their share of the reasonable actual cost of drilling and operating the well plus a reasonable charge for supervision. In addition to such costs and charges, nonparticipating lessees may be required to pay a risk penalty of 200 percent and unleased mineral interest owners may be required to pay a risk penalty of 50 percent of their share of the reasonable actual cost of drilling and completing the well.

(6) Baytex requests an order of the Commission allowing the recovery of a risk penalty from the The Dublin Company (Dublin) interest.

(7) Dublin, a leasehold interest owner within the spacing unit, did not appear in this matter or object to the risk penalty being assessed against its leasehold interest.

(8) Pursuant to NDAC Section 43-02-03-16.3, Baytex sent an invitation to participate in the drilling and completion of the Colby 23-14-160-99H #1PB well. Baytex provided evidence that the invitation to participate was complete and properly served on Dublin.

(9) Pursuant to NDAC Section 43-02-03-16.3, Dublin had 30 days from the date of receiving the invitation to elect to participate in the Colby 23-14-160-99H #1PB well. Baytex provided evidence that Dublin failed to respond to Baytex's invitation within the 30-day deadline.

(10) The Commission concludes Baytex has complied with NDAC Section 43-02-03-16.3 and the risk penalty may be imposed against Dublin's leasehold interest.

(11) This application should be granted in order to prevent waste and protect correlative rights.

**IT IS THEREFORE ORDERED:**

(1) A risk penalty may be imposed on the The Dublin Company leasehold interest for the drilling and completion of the Colby 23-14-160-99H #1PB well on a spacing unit described as Sections 14 and 23, Township 160 North, Range 99 West, Burg-Bakken Pool, Divide County, North Dakota, pursuant to NDCC Section 38-08-08 and NDAC Section 43-02-03-16.3.

(2) This order shall not determine or establish the specific acreage to be attributed to separately owned tracts, or specific interests attributed to separately owned interests.

(3) This order shall be effective from the date of first operations, and shall remain in full force and effect until further order of the Commission.

Dated this 9th day of October, 2012.

**INDUSTRIAL COMMISSION  
STATE OF NORTH DAKOTA**

By the Director, on behalf of the Commission

/s/ Lynn D. Helms, Director