

BEFORE THE INDUSTRIAL COMMISSION
OF THE STATE OF NORTH DAKOTA

CASE NO. 18947
ORDER NO. 21248

IN THE MATTER OF A HEARING CALLED ON A MOTION OF THE COMMISSION TO CONSIDER THE APPLICATION OF CONTINENTAL RESOURCES, INC. FOR AN ORDER PURSUANT TO NDAC § 43-02-03-88.1 POOLING ALL INTERESTS FOR WELLS DRILLED ON THE OVERLAPPING SPACING UNIT DESCRIBED AS SECTIONS 14, 23, 26 AND 35, T.161N., R.95W., SADLER-BAKKEN POOL, DIVIDE COUNTY, ND, AS PROVIDED BY NDCC § 38-08-08 BUT NOT REALLOCATING PRODUCTION FOR WELLS PRODUCING ON OTHER SPACING UNITS 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 25th day of October, 2012.
- (2) Pursuant to North Dakota Administrative Code (NDAC) Section 43-02-03-88.1, the Director is authorized to sign, on behalf of the Commission, orders relating to, inter alia, pooling under North Dakota Century Code (NDCC) Section 38-08-08.
- (3) The applicant is the owner of an interest in an oil and gas leasehold estate in a spacing unit described as all of Sections 14, 23, 26, and 35, Township 161 North, Range 95 West, Sadler-Bakken Pool, Divide County, North Dakota.
- (4) Said spacing unit was created in accordance with an order of the Commission and there are separately owned tracts and/or separately owned interests in the spacing unit, and some of the owners thereof have not voluntarily pooled their interest for the development and operation of said spacing unit.
- (5) The Commission makes no findings with regard to the specific acreage or percentage attributed to separately owned tracts or interests.

(6) Counsel for applicant requests an order of the Commission pooling all interests in the spacing unit, as provided by NDCC Section 38-08-08, but not reallocating production for wells producing on other spacing units and such other relief as is appropriate.

(7) The Commission received emails on October 1, 7, and 11, 2012 from LeRoy Gilbertson, Trustee of the Gilbertson Partnership Trust (mineral interest owners within the spacing unit), indicating they are concerned that their correlative rights will be violated and it will also be to the monetary detriment of the Trust.

NDCC Section 38-08-08 states in part:

“When two or more separately owned tracts are embraced within a spacing unit, or when there are separately owned interests in all or a part of the spacing unit, then the owners and royalty owners thereof may pool their interests for the development and operation of the spacing unit. In the absence of voluntary pooling, the commission upon the application of any interested person shall enter an order pooling all interests in the spacing unit for the development and operations thereof.”

Said spacing unit was created in accordance with an order of the Commission and there are separately owned tracts and/or separately owned interests in the spacing unit, and some of the owners thereof have not voluntarily pooled their interests for the development and operation of said spacing unit.

It is mandatory under NDCC Section 38-08-08 that the Commission pool all oil and gas interests in said spacing unit for the development and operation of the spacing unit since it is not voluntarily pooled.

The concerns expressed by the Gilbertson Partnership Trust are not pertinent to the pooling matter in this case.

(8) As stated above, NDCC Section 38-08-08 requires the Commission to enter a pooling order upon application when two or more separately owned tracts are embraced within a spacing unit, or there are separately owned interests in all or a part of a spacing unit, in the absence of voluntary pooling. The section further 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% of their share of the reasonable actual cost of drilling and completing the well. This application is not a petition for a risk penalty, therefore the Commission makes no findings with regard to whether any particular owner with an interest in the spacing unit at issue in this application may impose a risk penalty against any other owner. The requirements for imposition of a risk penalty are set forth in NDCC Section 38-08-08 and NDAC Section 43-02-03-16.3.

(9) Order No. 20738 dated October 2, 2013, established the 2560-acre spacing unit which is the subject of this case.

(10) The sole purpose of this order is to pool the 2560-acre spacing unit established by Order No. 20738 for the development and operation of the spacing unit.

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

IT IS THEREFORE ORDERED:

(1) All oil and gas interests in a spacing unit described as all of Sections 14, 23, 26, and 35, Township 161 North, Range 95 West, Sadler-Bakken Pool, Divide County, North Dakota, are hereby pooled for the development and operation of the spacing unit.

(2) This pooling shall not determine or establish the specific acreage to be attributed to separately owned tracts, or specific interests attributed to separately owned interests in such tracts or stratigraphic intervals.

(3) The operator of the well(s) for the spacing unit shall conduct operations in a manner so as to protect correlative rights of all interested parties.

(4) All owners of interests shall recover or receive, without unnecessary expense, their just and equitable share of production from the spacing unit in the proportion as their interest may appear in the spacing unit.

(5) The working interest owner shall reimburse the operator for their proportionate share of the reasonable actual cost of drilling and operating said well(s), plus a reasonable charge for supervision.

(6) In the event of any dispute as to such costs the Commission shall determine the proper cost.

(7) In the event the size of the spacing unit pooled herein is modified by the Commission, this order shall terminate as of the date of such order.

(8) This order is limited to pooling the spacing unit described above for the development and operation of such spacing unit by the horizontal well(s) authorized for such spacing unit by order of the Commission. This order does not modify, amend or alter previous pooling orders for other spacing units or require the reallocation of production allocated to separately owned tracts within any spacing unit by any existing pooling orders or any pooling agreements.

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

Dated this 2nd day of October, 2013.

INDUSTRIAL COMMISSION
STATE OF NORTH DAKOTA

By the Director, on behalf of the Commission

/s/ Lynn D. Helms, Director