

BEFORE THE INDUSTRIAL COMMISSION
OF THE STATE OF NORTH DAKOTA

CASE NO. 20975
(CONTINUED)
ORDER NO. 23281

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 MURPHY 29-32-160-99H #1CN WELL LOCATED IN A SPACING UNIT DESCRIBED AS SECTIONS 29 AND 32, 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 originally came on for hearing at 9:00 a.m. on the 26th day of September, 2013. At that time, counsel for Baytex Energy USA LTD. (Baytex) requested this case be continued to the regularly scheduled hearing in October, 2013. There were no objections, the hearing officer granted the request, and this case was scheduled for hearing on October 24, 2013. At that time, counsel for Baytex requested this case be continued to the regularly scheduled hearing in November 2013. There were no objections, the hearing officer granted the request, and this case was scheduled for hearing on November 21, 2013. At that time, counsel for Baytex requested this case be continued to the regularly scheduled hearing in December, 2013. There were no objections, the hearing officer granted the request, and this case was scheduled for hearing on December 19, 2013. At that time, counsel for Baytex requested this case be continued to the regularly scheduled hearing in January 2014. There were no objections, the hearing officer granted the request, and this case was scheduled for hearing on January 16, 2014. At that time, counsel for Baytex requested this case be continued to the regularly scheduled hearing in February, 2014. There were no objections, the hearing officer granted the request, and this case was scheduled for hearing on February 26, 2014.

(2) Batyex 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 North Dakota Century Code (NDCC) Section 38-08-08 in the drilling and completing of the Murphy 29-32-160-99H #1CN well located in a spacing unit described as Sections 29 and 32, Township 160 North, Range 99 West, Divide County, North Dakota (Sections 29 and 32), Burg-Bakken Pool, pursuant to North Dakota Administrative Code (NDAC) Section 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 all of Sections 29 and 32.

(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 Asen 2 Corp. (Asen), the Continental Resources, Inc. (Continental), and the Thomas B. Reeck (Reeck) interests.

(7) Asen and Continental, leasehold interest owners within the spacing unit, did not appear in this matter or object to the risk penalty being assessed against their leasehold interest.

(8) Reeck, a mineral interest owner within the spacing unit, did not appear in this matter or object to the risk penalty being assessed against its mineral interest. Reeck supplemented the record stating he was no longer the owner of the mineral property in question and that the property was conveyed to Windy Hill, LLC on April 25, 2013. The conveyance of the property took place after Reeck elected not to participate in the well. Therefore, the mineral property is subject to the risk penalty.

(9) Pursuant to NDAC Section 43-02-03-16.3, Baytex sent invitations to participate in the drilling and completion of the Murphy 29-32-160-99H #1CN well. Baytex provided evidence that the invitations to participate were complete and properly served on Asen and Continental.

(10) Pursuant to NDAC Section 43-02-03-16.3, Baytex sent an invitation to participate in the drilling and completion of the Murphy 29-32-160-99H #1CN well. Baytex provided evidence that the invitation to participate was complete and properly served on Reeck and that Baytex made a good faith offer to lease said minerals.

(11) Pursuant to NDAC Section 43-02-03-16.3, Asen, Continental and Reeck had 30 days from the date of receiving the invitation to elect to participate in the Murphy 29-32-160-99H #1CN

well. Continental provided evidence that Asen and Continental failed to respond to Baytex's invitation within the 30-day deadline and that Reeck declined Baytex's invitation.

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

(13) 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 Asen 2 Corp.'s and Continental Resources, Inc.'s leasehold interest and Thomas B. Reeck's mineral interest for the drilling and completion of the Murphy 29-32-160-99H #1CN well on a spacing unit described as Sections 29 and 32, Township 160 North, Range 99 West, Divide County, North Dakota, Burg-Bakken Pool, 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 31st day of March, 2014.

INDUSTRIAL COMMISSION
STATE OF NORTH DAKOTA

By the Director, on behalf of the Commission

/s/ Lynn D. Helms, Director