

BEFORE THE INDUSTRIAL COMMISSION
OF THE STATE OF NORTH DAKOTA

CASE NO. 6446
ORDER NO. 7476

IN THE MATTER OF A HEARING
CALLED ON A MOTION OF THE
COMMISSION TO CONSIDER THE
APPLICATION OF CONOCO INC. FOR AN
ORDER PURSUANT TO NORTH DAKOTA
ADMINISTRATIVE CODE § 43-02-03-88.1
POOLING ALL INTERESTS IN A
SPACING UNIT FOR THE
DICKINSON-LODGEPOLE POOL
DESCRIBED AS THE W/2 OF SECTION
36, T.140N., R.97W., STARK COUNTY,
NORTH DAKOTA; AUTHORIZING THE
RECOVERY FROM EACH
NONPARTICIPATING LESSEE A RISK
PENALTY AS PROVIDED BY N.D.C.C. §
38-08-08; AND SUCH OTHER AND
FURTHER RELIEF AS THE COMMISSION
DEEMS APPROPRIATE.

ORDER OF THE COMMISSION

BY THE COMMISSION:

Pursuant to legal notice this cause came on for hearing at 9:00 a.m. on the 6th day of June, 1996, in Bismarck, North Dakota, before an examiner appointed by the Industrial Commission of North Dakota, hereinafter referred to as the "Commission."

Now on this 19th day of June, 1996, the Director, on behalf of and as authorized by the Commission, having considered the testimony and the exhibits received at the hearing, and being fully advised in the premises,

FINDS:

(1) Due public notice having been given as required by law, the Commission has jurisdiction of this matter.

(2) The applicant is the owner of an interest in an oil and gas leasehold estate in a spacing unit for the Dickinson-Lodgepole Pool described as the W/2 of Section 36, Township 140 North, Range 97 West, Stark County, North Dakota.

(3) The spacing unit is created in accordance with an order of the Commission and there are separately owned tracts or separately owned

interests in the spacing unit, and some of the owners have not voluntarily pooled their interests for the development and operation of the spacing unit.

(4) The Commission makes no findings with regard to the specific acreage or percentage attributed to separately owned tracts or interests.

(5) Section 38-08-08 of the North Dakota Century Code 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.

(6) The applicant requests an order of the Commission pooling all interests in the spacing unit.

(7) The applicant withdrew the request for consideration of a risk penalty. Applicant stated that all the working interest in the spacing unit have agreed to participate in the drilling of a well.

(8) There were no objections to this application.

(9) In order to prevent waste and protect correlative rights this spacing unit should be pooled.

IT IS THEREFORE ORDERED:

(1) All oil and gas interests in a spacing unit for the Dickinson-Lodgepole Pool described as the W/2 of Section 36, Township 140 North, Range 97 West, Stark County, North Dakota, are hereby pooled for the development and operation of the spacing unit, and the well located thereon shall be the well for the spacing unit.

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

(3) The operator of the well 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 receive, without unnecessary expense, their just and equitable share of production from the spacing unit in the proportion as their interests may appear in the spacing unit.

(5) The working interest owners shall reimburse the operator for their proportionate share of the reasonable actual cost of drilling and operating the well, 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 is modified by the Commission, this order terminates on the date of such order.

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

Dated this 19th day of June, 1996.

INDUSTRIAL COMMISSION
STATE OF NORTH DAKOTA

By the Director, on behalf of the Commission.

/s/ Wesley D. Norton, Director

STATE OF NORTH DAKOTA)
)
)
 COUNTY OF BURLEIGH)
)

AFFIDAVIT OF MAILING

I, Donna Bauer, being duly sworn upon oath, depose and say: That on the 28th day of June 1996, I enclosed in separate envelopes true and correct copies of the attached Order No. 7476 of the North Dakota Industrial Commission, and deposited the same with the United States Postal Service in Bismarck, North Dakota, with postage thereon fully paid, directed to the following persons by the Industrial Commission in Case No. 6446 :

Mr. John Morrison
 Fleck, Mather & Strutz Ltd.
 P. O. Box 2798
 Bismarck, ND 58502

Mr. Lawrence Bender
 Pearce & Durick
 P. O. Box 400
 Bismarck, ND 58502

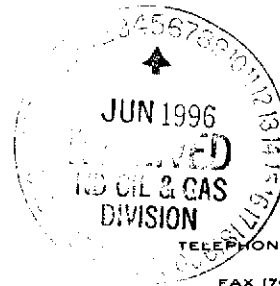
Donna Bauer
 Donna Bauer
 Oil & Gas Division

On this 28th day of June, 1996 before me personally appeared Donna Bauer to me known as the person described in and who executed the foregoing instrument and acknowledged that she executed the same as her free act and deed.

Margaret Rife
 Notary Public
 State of North Dakota County of Burleigh
 My Commission expires 9-21-99

PEARCE & DURICK
PROFESSIONAL LIMITED LIABILITY PARTNERSHIP
ATTORNEYS AT LAW
THIRD FLOOR
314 EAST THAYER AVENUE
P. O. BOX 400
BISMARCK, NORTH DAKOTA 58502

WILLIAM R. PEARCE 1910-1978
WILLIAM F. PEARCE
PATRICK W. DURICK
B. TIMOTHY DURICK
JOEL W. GILBERTSON
GARY R. THUNE
DAVID E. REICH
JEROME C. KETTLESON
LARRY L. BOSCHEE
LAWRENCE BENDER
STEPHEN D. EASTON



TELEPHONE (701) 223-2890

FAX (701) 223-7865

OF COUNSEL
HARRY J. PEARCE

June 5, 1996

Mr. Jack Wilborn
North Dakota Industrial Commission
Oil and Gas Division
600 E. Boulevard
Bismarck, ND 58505

HAND DELIVERED

**AFFIDAVIT OF P. JAMES TURNER
NDIC CASE NO. 6446**

Dear Jack:

Please find enclosed herewith to supplement the record, the original Affidavit of P. James Turner in regard to the above-captioned case.

Should you have any questions, please advise.

Sincerely,

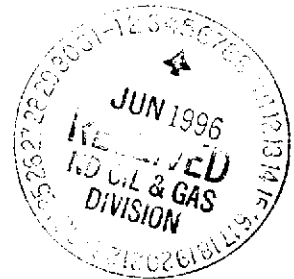
LAWRENCE BENDER

LB/leo

Enclosure

cc: Mr. Jim Turner - (w/o enc.)

**BEFORE THE INDUSTRIAL COMMISSION
OF THE STATE OF NORTH DAKOTA**



CASE NO. 6446

**IN THE MATTER OF THE APPLICATION OF
CONOCO INC. FOR AN ORDER OF THE
COMMISSION, PURSUANT TO N.D. ADMIN.
CODE § 43-02-03-88.1, POOLING ALL
INTERESTS IN A SPACING UNIT FOR THE
DICKINSON-LOGGEPOLE POOL DESCRIBED
AS THE W½ OF SECTION 36, TOWNSHIP 140
NORTH, RANGE 97 WEST, STARK COUNTY,
NORTH DAKOTA; AUTHORIZING THE
RECOVERY FROM EACH
NONPARTICIPATING LESSEE A RISK
PENALTY AS PROVIDED BY N.D.C.C. § 38-08-
08; AND SUCH OTHER AND FURTHER
RELIEF AS THE COMMISSION DEEMS
APPROPRIATE.**

AFFIDAVIT OF P. JAMES TURNER

STATE OF TEXAS)
) ss.
COUNTY OF MIDLAND)

P. James Turner, being first duly sworn, deposes and states:

1.

That he is employed as a Land Explorationist for Conoco Inc. and that his business address is 10 Desta Drive, Midland, Texas 79705;

2.

That in the course of his work he has ascertained and become familiar with the mineral ownership and leasehold ownership in the West Half (W½) of Section 36, Township 140 North, Range 97 West, Stark County, North Dakota ("Section 36");

3.

That there are separately owned tracts or interests in mineral estate and/or leasehold estate in Section 36;

4.

That in the course of his work he has also become familiar with the orders of the North Dakota Industrial Commission ("Commission") that govern spacing of wells for Section 36.

5.

That by virtue of Commission Order No. 6932 entered in Case No. 5964 dated October 17, 1995, the West Half (W½) of Section 36 constitutes a spacing unit for the Dickinson-Lodgepole Pool.

6.

That Conoco is the owner of a portion of the leasehold interests in the West Half (W½) of Section 36.

7.

That Phillips Petroleum Company is the owner of a portion of the leasehold interest in the West Half (W½) of Section 36.

8.

That Conoco proposes to drill a horizontal well in the West Half (W½) of Section 36 to be completed in the Dickinson-Lodgepole Pool.

9.

That on or about May 1, 1996, Conoco proposed the drilling of a horizontal well in the West Half (W½) of Section 36 to be competed in the Dickinson-Lodgepole Pool to Phillips Petroleum Company.

10.

That to date, Phillips Petroleum Company has not made an election to participate in Conoco's proposal to drill a horizontal well in the West Half (W½) of Section 36.

11.

That voluntary pooling of the interests within said spacing unit has not been accomplished.

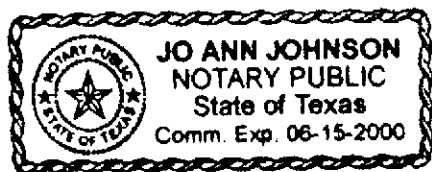
12.

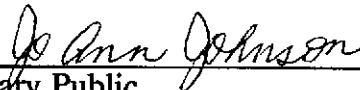
That Conoco requests that the Commission, pursuant to N.D.C.C. § 38-08-08, enter its order pooling all interests in the spacing unit for the Dickinson-Lodgepole Pool described as the West Half (W½) of Section 36, Township 140 North, Range 97 West, Stark County, North Dakota, and authorize Conoco to recover from Phillips Petroleum Company a risk penalty as provided by N.D.C.C. § 38-08-08.

DATED this 4 day of June, 1996.

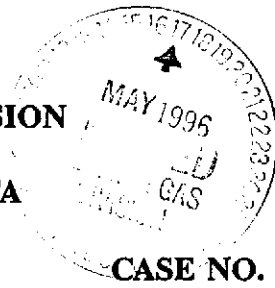

P JAMES TURNER

Subscribed and sworn to before me this 4 day of June, 1996.




Notary Public
County of Midland, State of Texas
My Commission Expires: _____

BEFORE THE INDUSTRIAL COMMISSION
OF THE STATE OF NORTH DAKOTA



IN THE MATTER OF THE APPLICATION OF CONOCO INC. FOR AN ORDER OF THE COMMISSION, PURSUANT TO N.D. ADMIN. CODE § 43-02-03-88.1, POOLING ALL INTERESTS IN A SPACING UNIT FOR THE DICKINSON-LODGEPOLE POOL DESCRIBED AS THE W½ OF SECTION 36, TOWNSHIP 140 NORTH, RANGE 97 WEST, STARK COUNTY, NORTH DAKOTA; AUTHORIZING THE RECOVERY FROM EACH NONPARTICIPATING LESSEE A RISK PENALTY AS PROVIDED BY N.D.C.C. § 38-08-08; AND SUCH OTHER AND FURTHER RELIEF AS THE COMMISSION DEEMS APPROPRIATE.

APPLICATION OF CONOCO INC.

COMES NOW the applicant, Conoco Inc., and respectfully shows the North Dakota Industrial Commission ("Commission") as follows:

1.

That Conoco Inc. is the owner of an interest in the oil and gas leasehold estate in portions of the West Half (W½) of Section 36, Township 140 North, Range 97 West, Stark County, North Dakota ("Section 36").

2.

That pursuant to Commission Order No. 6932 entered in Case No. 5964, dated October 17, 1994, the West Half (W½) of Section 36 constitutes a spacing unit for the Dickinson-Lodgepole Pool.

3.

That there are separately owned tracts or interests in mineral estate and/or leasehold estate in the West Half (W½) of Section 36.

4.

That a voluntary pooling of the West Half (W½) of Section 36 has not been accomplished.

5.

That certain lessees owning leasehold interests in and under Section 36 have elected not to participate in the drilling of a well to the Dickinson-Lodgepole Pool in the West Half (W½) of Section 36.

6.

That N.D.C.C. §38-08-08(1) provides, in part, that "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 a spacing unit, . . . and in the absence of a 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."

7.

That N.D.C.C. § 38-08-08(3) provides, in part, as follows:

In addition to any costs and charges recoverable under subsections 1 and 2, if a lessee owning an interest in a spacing unit elects not to participate in the risk and cost of drilling a well thereon, the owner paying for the nonparticipating lessee's share of the drilling and operation of a well may recover from the nonparticipating lessee a risk penalty for the risk involved in drilling the well. The risk penalty is one hundred percent of the nonparticipating lessee's share of the reasonable actual costs

of drilling and completing the well and may be recovered out of, and only out of, production from the pooled spacing unit, as provided by section 38-08-10, exclusive of any royalty or overriding royalty.

8.

That Conoco Inc. therefore requests that the Commission enter its order pooling all interests in a spacing unit for the Dickinson-Lodgepole Pool described as the West Half (W½) of Section 36, Township 140 North, Range 97 West, Stark County, North Dakota and authorize the recovery from each nonparticipating lessee a risk penalty as provided by N.D.C.C. § 38-08-08.

WHEREFORE, applicant requests that the matter be set for hearing pursuant to N.D. Admin. Code § 43-02-03-88.1 and that thereafter the Commission issue its Order granting the relief requested and such other and further relief as the Commission may deem appropriate.

DATED this 17th day of May, 1996.

PEARCE & PERICK
Professional Limited Liability Partnership

By 

LAWRENCE BENDER

Attorneys for Applicant

Conoco Inc.

314 East Thayer Ave.

P. O. Box 400

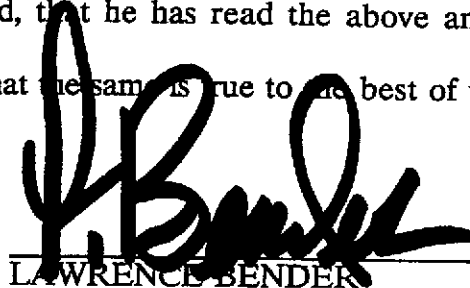
Bismarck, ND 58502

STATE OF NORTH DAKOTA

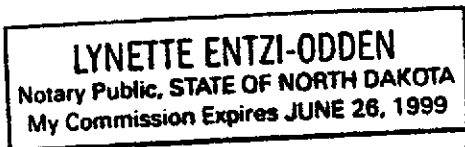
COUNTY OF BURLEIGH

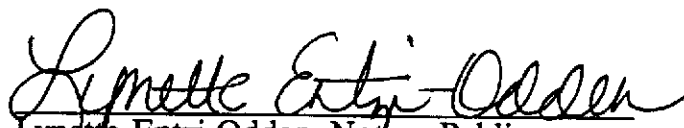
)
) ss.
)

LAWRENCE BENDER being first duly sworn on oath, deposes and says that he is the attorney for the applicant herein named, that he has read the above and foregoing application, knows the contents thereof, and that the same is true to the best of this affiant's knowledge and belief.


LAWRENCE BENDER

Subscribed and sworn to before me this 17th day of May, 1996.




Lynette Entzi-Odden, Notary Public
Burleigh County, North Dakota
My Commission Expires: 6-26-99

**NOTICE OF PUBLICATION
NORTH DAKOTA INDUSTRIAL COMMISSION
BISMARCK, NORTH DAKOTA**

The State of North Dakota by its Industrial Commission hereby gives notice pursuant to law and the rules and regulations of said Commission promulgated thereunder of the following public hearing to be held at 9:00 a.m. on June 6, 1996, North Dakota Oil and Gas Division Office, 1022 East Divide Avenue, Bismarck, North Dakota. For the purpose of this hearing, the Commission, any member thereof acting as Examiner, or an Examiner appointed by the Commission will receive testimony and exhibits.

ATTENTION PERSONS WITH DISABILITIES: If you plan to attend the hearing and will need special facilities or assistance relating to a disability, please contact the North Dakota Industrial Commission at 701-328-3722 by May 28, 1996.

STATE OF NORTH DAKOTA TO:

All named parties and persons having any right, title, interest, or claim in the following cases and notices to the public. **CASE NO. 6446:** ON A MOTION OF THE COMMISSION TO CONSIDER THE APPLICATION OF CONOCO INC. FOR AN ORDER PURSUANT TO NORTH DAKOTA ADMINISTRATIVE CODE § 43-02-03-88.1 POOLING ALL INTERESTS IN A SPACING UNIT FOR THE DICKINSON-LODGEPOLE POOL DESCRIBED AS THE W/2 OF SECTION 36, T.140N., R.97W., STARK COUNTY, NORTH DAKOTA; AUTHORIZING THE RECOVERY FROM EACH NONPARTICIPATING LESSEE A RISK PENALTY AS PROVIDED BY N.D.C.C. § 38-08-08; AND SUCH OTHER AND FURTHER RELIEF AS THE COMMISSION DEEMS APPROPRIATE. **CASE NO. 6447:** ON A MOTION OF THE COMMISSION TO CONSIDER THE APPLICATION OF CONOCO INC. FOR AN ORDER PURSUANT TO NORTH DAKOTA ADMINISTRATIVE CODE § 43-02-03-88.1 POOLING ALL INTERESTS IN A SPACING UNIT FOR THE DICKINSON-LODGEPOLE POOL DESCRIBED AS THE S/2 OF SECTION 5, T.139N., R.96W., STARK COUNTY, NORTH DAKOTA; AUTHORIZING THE RECOVERY FROM EACH NONPARTICIPATING LESSEE A RISK PENALTY AS PROVIDED BY N.D.C.C. § 38-08-08; AND SUCH OTHER AND FURTHER RELIEF AS THE COMMISSION DEEMS APPROPRIATE.

Signed by,
Edward T. Schafer, Governor
Chairman, ND Industrial Commission
(Published May 22, 1996)

**CERTIFICATE OF PUBLICATION
THE DICKINSON PRESS
Dickinson, North Dakota**

OK
STATE OF NORTH DAKOTA, }

County of Stark.

Belle L. Krank, of said state and county, being first duly

sworn, on oath says: That she is the bookkeeper of the Dickinson Press, Inc., publisher of **THE DICKINSON PRESS**, a daily newspaper of general circulation, printed and published at Dickinson, in said county and state, and has been such during the time hereinafter mentioned; and that advertisement headed

Legal--Notice Of Publication Case No. 6446, Case No. 6447

\$29.15

a printed copy of which is hereunto annexed, was printed and published in **The Dickinson Press**, and in the regular and entire issue of each and

every number 1 consecutive weeks, commencing on the 22

day of May A.D. 19 96, and ending on the 22

day of May A.D. 19 96, both inclusive.

Sworn to and subscribed to before me this 22nd day of

May A.D. 19 96

Belle L. Krank
Marilyn Wanner

MARILYN WANNER
Notary Public, STARK COUNTY, N. DAK.
My Commission Expires APRIL 28, 2000

THE BISMARCK TRIBUNE

P.O. BOX 1498
BISMARCK, NORTH DAKOTA 58502-1498
(701) 223-2500
IN STATE (800) 472-2273
FAX (701) 223-4240

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BILLING DATE		BILLED ACCOUNT NAME AND ADDRESS		REMITTANCE ADDRESS	
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The State of North Dakota by its Industrial Commission hereby gives notice pursuant to law and the rules and regulations of said Commission promulgated thereunder of the following public hearing to be held at 9:00 a.m. on June 6, 1996, North Dakota Oil and Gas Division Office, 1022 East Divide Avenue, Bismarck, North Dakota. For the purpose of this hearing, the Commission, any member thereof acting as Examiner, or an Examiner appointed by the Commission will receive testimony and exhibits.

ATTENTION PERSONS WITH DISABILITIES: If you plan to attend the hearing and will need special facilities or assistance relating to a disability, please contact the North Dakota Industrial Commission at 701-328-3722 by May 29, 1996.

STATE OF NORTH DAKOTA TO:
All named parties and persons having any right, title, interest, or claim in the following cases and notices to the public, CASE NO. 440: ON A MOTION OF THE COMMISSION TO CONSIDER THE APPLICATION OF TOP OPERATING COMPANY FOR AN ORDER ALLOWING THE DRILLING OF A WELL APPROXIMATELY 1100 FEET FROM THE SOUTH LINE AND 150 FEET FROM THE WEST LINE OF SECTION 3, T.143N., R.15W., BENVILLE COUNTY, NORTH DAKOTA, AS AN EXCEPTION TO THE SPACING REQUIREMENTS OF THE SHERWOOD-MADISON POOL, AND
ON A MOTION OF THE COMMISSION TO CONSIDER THE APPLICATION OF CONOCO INC. FOR AN ORDER PURSUANT TO NORTH DAKOTA ADMINISTRATIVE CODE 14-02-03-88.1 POOLING ALL INTERESTS IN A SPACING UNIT FOR THE DICKINSON-LODGEPOLE POOL DESCRIBED AS THE W/2 OF SECTION 36, T.140N., R.97W., STARK COUNTY, NORTH DAKOTA; AUTHORIZING THE RECOVERY FROM EACH NONPARTICIPATING LESSEE A RISK PENALTY AS PROVIDED BY N.D.C.C. 138-08-08; AND SUCH OTHER AND FURTHER RELIEF AS THE COMMISSION DEEMS APPROPRIATE. CASE NO. 440: ON A MOTION OF THE COMMISSION TO CONSIDER THE APPLICATION OF CONOCO INC. FOR AN ORDER PURSUANT TO NORTH DAKOTA ADMINISTRATIVE CODE 14-02-03-88.1 POOLING ALL INTERESTS IN A SPACING UNIT FOR THE DICKINSON-LODGEPOLE POOL

AFFIDAVIT OF PUBLICATION

STATE OF NORTH DAKOTA

I, Clara Martin, who, being duly sworn, depose and say that I am a member of the Bismarck Tribune Company, and that the above publications were made through the aforesaid newspaper at the rates charged 51.20 per copy, and were subscribed to by me for the sum of 31 DAY OF May 1996.

Notary Public in and for the State of North Dakota, Residing at Bismarck

TOTAL DUE AMOUNTS

60 DAYS	OVER 60 DAYS	UNPAID AMOUNT	23 TOTAL AMOUNT DUE
			37.63

TH P.O. BOX 1498
BISMARCK, ND 58502-1498
IN STATE (800) 472-2273
FAX (701) 223-4240
Signed,
Edward T. Schafer, Governor
Chairman, ND Industrial Commission
520 - 20918

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