

BEFORE THE INDUSTRIAL COMMISSION  
OF THE STATE OF NORTH DAKOTA

CASE NO. 29890  
ORDER NO. 32476

IN THE MATTER OF A HEARING CALLED ON A MOTION OF THE COMMISSION TO CONSIDER TO DETERMINE THE AMOUNT OF FINANCIAL RESPONSIBILITY FOR THE GEOLOGIC STORAGE OF CARBON DIOXIDE FROM THE BLUE FLINT ETHANOL FACILITY IN THE STORAGE FACILITY LOCATED IN SECTIONS 11, 12, 13, 14, AND 24, TOWNSHIP 145 NORTH, RANGE 83 WEST AND SECTIONS 6, 7, 8, 17, 18, AND 19, TOWNSHIP 145 NORTH, RANGE 82 WEST, MCLEAN COUNTY, NORTH DAKOTA, IN THE BROOM CREEK FORMATION, PURSUANT TO NORTH DAKOTA ADMINISTRATIVE CODE SECTION 43-05-01-09.1.

ORDER OF THE COMMISSION

THE COMMISSION FINDS:

- (1) This cause came on for hearing at 9:00 a.m. on the 21st day of March, 2023.
- (2) Case No. 29890 is a motion of the Commission to consider to determine the amount of financial responsibility to be required of Blue Flint Sequester Company, LLC (Blue Flint) for the geologic storage of carbon dioxide from the Blue Flint Ethanol (BFE) facility in the storage facility located in Sections 11, 12, 13, 14, and 24, Township 145 North, Range 83 West, and Sections 6, 7, 8, 17, 18, and 19, Township 145 North, Range 82 West, McLean County, North Dakota, in the Broom Creek Formation, pursuant to North Dakota Administrative Code (NDAC) Section 43-05-01-09.1, and such relief as is appropriate.
- (3) Case Nos. 29890, 29888, and 29889 were combined for purposes of hearing.
- (4) Case No. 29888, also on the March 21, 2023 docket, is an application by Blue Flint for an order requesting consideration for the geologic storage of carbon dioxide in the Broom Creek Formation from the BFE facility in the storage facility located in Sections 11, 12, 13, 14, and 24, Township 145 North, Range 83 West, and Sections 6, 7, 8, 17, 18, and 19, Township 145 North, Range 82 West, McLean County, North Dakota, pursuant to NDAC Chapter 43-05-01.

(5) Case No. 29889, also on the March 21, 2023 docket, is a motion of the Commission to consider the amalgamation of storage reservoir pore space, pursuant to a Storage Agreement by Blue Flint for use of pore space falling within portions of Sections 11, 12, 13, 14, and 24, Township 145 North, Range 83 West, and Sections 6, 7, 8, 17, 18, and 19, Township 145 North, Range 82 West, McLean County, North Dakota, in the Broom Creek Formation, and to determine it has been signed, ratified, or approved by owners of interest owning at least sixty percent of the pore space interest within said lands, pursuant to North Dakota Century Code (NDCC) Section 38-22-10.

(6) The record in these matters was left open to receive additional information from Blue Flint. Such information was received on May 1, 2023, and the record was closed.

(7) Order No. 32474 entered in Case No. 29888 created the Blue Flint Underwood Broom Creek Storage Facility #1; and Order No. 32474 entered in Case No. 29889 determined said storage facility will become effective June 1, 2023.

(8) Blue Flint outlined its proposed qualifying financial responsibility instruments to be utilized to demonstrate financial responsibility pursuant to NDAC Section 43-05-01-09.1.

(9) Pursuant to NDAC Section 43-05-01-09.1 the qualifying financial responsibility instruments must cover the cost of:

- (a) Corrective action that meets the requirements of NDAC Section 43-05-01-05.1.
- (b) Injection well plugging that meets the requirements of NDAC Section 43-05-01-11.5.
- (c) Postinjection site care and facility closure that meets the requirements of NDAC Section 43-05-01-19.
- (d) Emergency and remedial response that meets the requirements of NDAC Section 43-05-01-13.

(10) Blue Flint demonstrated that corrective action pursuant to NDAC Section 43-05-01-05.1 is not necessary within the delineated area of review. The Commission agrees with Blue Flint's demonstration.

(11) Blue Flint estimates the injection well plugging cost pursuant to NDAC Section 43-05-01-11.5 to be \$100,000 total for one well. The Commission accepts this as a conservative estimate.

(12) The Blue Flint Underwood Broom Creek Storage Facility #1 will have one injection well, the MAG #1 well (File No. 37833), located 295 feet from the north line and 740 feet from the west line of Section 18, Township 145 North, Range 82 West, McLean County, North Dakota. Blue Flint proposes covering the plugging of the injection well by filing one \$100,000 single-well

bond to meet the injection well plugging financial responsibility requirements. Bonds are a qualifying financial responsibility instrument under NDAC Section 43-05-01-09.1.

(13) Blue Flint estimates the postinjection site care and facility closure financial responsibility pursuant to NDAC Section 43-05-01-19 is \$2,467,550, and is proposed to be covered by a third-party insurance policy. The insurance policy is a qualifying financial responsibility instrument under NDAC Section 43-05-01-09.1.

(14) The postinjection site care and facility closure financial responsibility is proposed to cover the costs associated with monitoring during the postinjection phase, the surface reclamation and plugging of one reservoir monitoring well, the proposed MAG #2 well, the surface reclamation of one injection well, the MAG #1 well, the proper abandonment of the MAG #1 well flow line, the plugging and surface reclamation of the Fox Hills monitoring well, and the plugging and surface reclamation of two soil gas stations as shown in Section 12.3.3 of the application.

(15) Blue Flint estimates the emergency and remedial response costs pursuant to NDAC Section 43-05-01-13, by considering a conservative scenario where carbon dioxide migration to the surface combined with groundwater interferences. Technical manuscripts by Bielicki and others (2014) and Trabucchi and others (2012) were used to identify and estimate the costs of mitigation and remediation technologies to address undesired migration of carbon dioxide from a geological storage reservoir. Blue Flint testified this dollar amount was calculated by scaling a high cost well blowout failure scenario down to a project proposing to inject a relatively low volume of approximately 200,000 metric tons of carbon dioxide a year. Blue Flint's estimate for emergency and remedial response actions is \$9,000,000 and is proposed to be covered by a third-party insurance policy, that is deemed a qualifying financial responsibility instrument under NDAC Section 43-05-01-09.1.

(16) The Commission should set minimum amounts of qualifying financial responsibility for injection well plugging, postinjection site care and facility closure, and emergency and remedial response.

IT IS THEREFORE ORDERED:

(1) Blue Flint Sequester Company, LLC, its assigns and successors, is hereby required to maintain financial responsibility with qualifying instruments in the minimum amounts specified in paragraph (2) below, pursuant to NDAC Section 43-05-01-09.1, covering the Blue Flint Underwood Broom Creek Storage Facility #1 in McLean County, North Dakota.

(2) The minimum amount for injection well plugging that meets the requirements of NDAC Section 43-05-01-11.5 is a \$100,000 for one injection well.

The minimum amount for postinjection site care and facility closure that meets the requirements of NDAC Section 43-05-01-19 is \$2,467,550.

The minimum amount for emergency and remedial response that meets the requirements of NDAC Section 43-05-01-13 is \$9,000,000.

- (3) This order shall be reviewed when a review of Order No. 32474 is conducted.
- (4) This order shall remain in full force and effect until further order of the Commission.

Dated this 25th day of May, 2023.

INDUSTRIAL COMMISSION  
STATE OF NORTH DAKOTA

/s/ Doug Burgum, Governor

/s/ Drew H. Wrigley, Attorney General

/s/ Doug Goehring, Agriculture Commissioner