
THE OIL AND GAS HEARING PROCESS

By Bruce Hicks

The North Dakota Legislature has directed the Oil and Gas Division of the Industrial Commission to foster, encourage, and promote the development and production of oil and gas in the State in such a manner that will prevent waste, protect correlative rights, and realize the greatest possible good for the landowners, royalty owners, producers, and the State of North Dakota.

Certain laws or statutes were enacted under North Dakota Century Code Chapter 38-08 to regulate the oil and gas industry. Since these laws were not all-encompassing, general rules were promulgated to further specify regulations needed to govern the industry under North Dakota Administrative Code Article 43-02.

Statutes are generally adopted and/or modified every other year and subsequent rules made the following year. In order to effectively regulate and promote the on-going development of oil and gas, it is very important that field rules and exceptions to existing rules are provided in a timely manner. The North Dakota Industrial Commission has the authority, after due notice and hearing, to establish such rules.

Currently, the Oil and Gas Division schedules at least one hearing day per month to review temporary and proper spacing rules, exceptions to existing rules, and other motions brought by the Commission, industry or other interested parties. Oil and Gas Division hearings are open to the general public and are held before a hearing examiner (generally an assistant Attorney General) and the technical staff of the Oil and Gas Division composed of petroleum engineers and geologists.

The applicant, usually an oil and gas company, will present engineering, geology, and land witnesses to testify on their behalf. After receiving the testimony, the technical staff will ask pertinent questions and any interested parties will have the opportunity to testify or cross-examine the witnesses.

Some applications are routine and do not require witnesses to appear in person, unless contested by an interested party. Most applications allow witnesses to testify via telephonic communication, although the examiner may disallow such communication by telephone and schedule an in-person hearing if an objection to such communication is received. In all cases, evidence and exhibits must be filed with the Commission.

Once all the facts are gathered and carefully considered into findings, an Order is issued and signed by the Industrial Commission (Governor, Attorney General and Agriculture Commissioner) or the Director of the Oil and Gas Division. The orders now become part of the rules and regulations for a specific field.

Most hearings are held at the Department of Mineral Resources lower level conference room located at 1016 E. Calgary Ave, in Bismarck. Monthly cases are posted on the Oil and Gas Division website in agenda form and also on the GIS Map Server (www.dmr.nd.gov/oilgas). Live streaming audio of the hearings is also provided via the web (www.oilgas.nd.gov/docketindex.asp). Industrial Commission orders and exhibits are available electronically and audio files of past hearings are presently being converted to electronic audio files (1984 to present are currently available).



Attorney John Morrison (far right foreground, back to camera), testifying on behalf of Petro Search, at a recent Oil and Gas hearing in the DMR conference room in Bismarck.