

BEFORE THE INDUSTRIAL COMMISSION
OF THE STATE OF NORTH DAKOTA

CASE NO. 1041
(REHEARING)
ORDER NO. 1129

IN THE MATTER OF A HEARING CALLED ON A
MOTION OF THE COMMISSION AND IN
ACCORDANCE WITH COMMISSION'S ORDER NO.
1082, TO CONSIDER THE QUESTION OF
DETERMINING WHETHER THE 320-ACRE
SPACING UNITS IN SECTION 15, TOWNSHIP 140
NORTH, RANGE 96 WEST, STARK COUNTY,
NORTH DAKOTA, SHOULD BE COMPOSED OF
THE N/2 AND S/2 OF THE SECTION OR THE E/2
AND THE W/2 OF THE SECTION.

ORDER OF THE COMMISSION

BY THE COMMISSION:

Pursuant to legal notice this cause came on for hearing at 9:30 a.m.
on the 11th day of June, 1971, at Bismarck, North Dakota, before the
Industrial Commission of the State of North Dakota, hereinafter referred to
as the "Commission."

NOW, on this 1st day of July, 1971, the Commission, a quorum being
present, having considered the testimony adduced and the exhibits received
at said hearing, and being fully advised in the premises,

FINDS:

(1) That due public notice having been given as required by law, the
Commission has jurisdiction of this cause and the subject matter thereof.

(2) That in Order 1082 the Commission directed that the question of
determining whether the 320-acre spacing unit in Section 15, Township 140
North, Range 96 West, Stark County, North Dakota, should be composed of
the N/2 and S/2 of the section or the E/2 and the W/2 of the section would
be determined by the Commission after a well in the NW/4 of the section had
been drilled; that should the well be drilled within six months from the
date of the order (September 8, 1970) the Commission would again consider
the matter upon application of either interested party; that should a well
not be drilled in the NW/4 of the section within six months from the date of
the order the Commission, on its own motion, would again consider the
matter at a hearing subsequent to the expiration of the said six month
period.

(3) That no well has been drilled in the NW/4 of Section 15, Township
140 North, Range 96 West, Stark County, North Dakota, although a permit
to drill same has been issued to Cardinal Petroleum Company.

(4) That Cardinal Petroleum Company and North American Royalties,
Inc., are owners of oil and gas interests in Section 15, Township 140 North,
Range 96 West, Stark County, North Dakota.

(5) That by previous order (Order #920) of the Commission this area
has been spaced at 320 acres for each well with the locations to be in the
SW/4 of the NW and SE quarters, that said order did not specify whether
the 320-acre spacing units would consist of the N/2 and S/2 or the E/2 and
W/2 of each section.

(6) That Cardinal Petroleum Company received a permit to drill a well and did drill a well in the SE/4 of Section 15, Township 140 North, Range 96 West, Stark County, North Dakota, in the prescribed location, that such well is a producing oil well; that the application for a permit to drill an oil well is required by statute and regulations of the Commission, that the application of Cardinal Petroleum Company to drill said well specified the 320-acre spacing unit to consist of the E/2 of Section 15, Township 140 North, Range 96 West, Stark County, North Dakota.

(7) That subsequent to the drilling and completion of said well North American Royalties, Inc., made application for pooling all interests in the S/2 of Section 15, Township 140 North, Range 96 West, as the spacing unit for the well in the SE/4 of said section; that North American Royalties, Inc., holds working interests and mineral interests in said section.

(8) That subsequent to the filing of the application by North American Royalties, Inc., in Case 1004, Cardinal Petroleum Company applied for an order pooling all interests in the E/2 of Section 15, Township 140 North, Range 96 West, Stark County, North Dakota, as the spacing unit for the well in the SE/4 of said section, that Cardinal Petroleum Company holds interests in said section.

(9) That North American Royalties, Inc., moved that the record of the testimony and exhibits introduced in Cases 1004 and 1005, resulting in Order No. 1082, be made a part of the record in Case 1041, and such motion was granted by the Commission.

(10) That Cardinal Petroleum Company, at the hearing, moved to dismiss the application of North American Royalties, Inc., on the following grounds:

(a) That North American's application for pooling does not state that it is an interested person in the lands it wishes the Commission to involuntarily pool, and, in fact, it is not an interested person within the meaning of North Dakota Century Code Section 38-08-08, which deals with the involuntary pooling.

(b) No spacing unit has been designated by the State Geologist or the Commission pursuant to the regulations of the Commission, and the above referred to statute allowing the Commission to enter an order for involuntary pooling specifically states that only lands and interests within a spacing unit can be involuntarily pooled.

(11) That North American Royalties, Inc., as a leasehold and royalty interest owner in the tracts in question is an interested party within the meaning of Section 38-08-08 of the North Dakota Century Code.

(12) That Order No. 920 of the Commission does not authorize the State Geologist to establish spacing units in this field.

(13) That by statute (Section 38-08-07, NDCC) the Commission has the authority to establish spacing units; that such authority is, according to the statute, predicated upon the protection of correlative rights, as well as the prevention of waste and the drilling of unnecessary wells.

(14) That the motions of Cardinal Petroleum Company set forth in Section 10 hereof should be denied.

(15) That the evidence introduced by the parties hereto is in conflict as to the possibilities of production from a well drilled in the regular location in the NW/4 of Section 15, Township 140 North, Range 96 West, Stark County, North Dakota, in that North American Royalties does not believe such well would be productive of oil and gas in paying quantities and Cardinal Petroleum Company believes such well would be productive of oil and gas in paying quantities.

(16) That the evidence introduced by the parties hereto is in conflict as to the amount of oil underlying the N/2 of Section 15, Township 140 North, Range 96 West, Stark County, North Dakota, in that North American Royalties does not believe such tract contains substantial amounts of oil and gas and Cardinal Petroleum Company believes such tract is underlain with substantial amounts of oil and gas.

(17) That the working interest and royalty interest in the SW/4 and the NE/4 of Section 15, Township 140 North, Range 96 West, Stark County, North Dakota, are not similar and identical; if the NE/4 is combined with the SE/4 to form a 320-acre spacing unit, those persons who own interests in the SW/4 would not share in any of the production from the well in the SE/4; if the SW/4 is combined with the SE/4 to form a 320-acre spacing unit the persons who own interest in the NE/4 would share in the production from the well in the SE/4 by virtue of the common ownership in the NE/4 and the SE/4, but the interests of those in the NE/4 would be one half of the participation they would have if the NE/4 and the SE/4 were combined to form the 320-acre spacing unit.

(18) That Cardinal Petroleum Company contends those persons owning interests in the SW/4 of Section 15, Township 140 North, Range 96 West, Stark County, North Dakota, would share in the production from a well to be drilled in the NW/4 if the E/2 and W/2 of the section are formed into spacing units; North American Royalties, Inc., contends those persons in the N/2 would share in the production from a well in the NW/4 if, as Cardinal contends, the N/2 of the section is underlain by oil and the N/2 and the S/2 are formed into spacing units.

(19) That while the evidence was conflicting, the preponderance of evidence indicates that a well in the NW/4 of Section 15, Township 140 North, Range 96 West, will recover substantial amounts of oil and gas for the spacing unit composed of the W/2 of Section 15, Township 140 North, Range 96 West, thus protecting the correlative rights of the owners of oil and gas interests therein.

(20) That since Cardinal Petroleum drilled the well in the SE/4 of Section 15, Township 140 North, Range 96 West, and requested the E/2 of the section to be designated as the spacing unit for such well; that no formal objection was made to the State Geologist or the Commission at the time the permit was granted or the well was drilled; that while the evidence is in conflict the preponderance thereof indicates a well drilled in the NW/4 of Section 15, Township 140 North, Range 96 West, will be productive of oil and gas, thus protecting the rights of the owners of oil and gas interests in the W/2 of Section 15, Township 140 North, Range 96 West, the application of Cardinal Petroleum Company for an order designating the E/2 of Section 15, Township 140 North, Range 96 West, Stark County, North Dakota, as a spacing unit and pooling all interests therein should be granted and the application of North American Royalties, Inc., for an order pooling designating the S/2 of Section 15, Township 140 North, Range 96 West, Stark County, North Dakota, as a spacing unit and pooling all interests therein should be denied.

(21) That since Cardinal Petroleum Company drilled the well in the SE/4 of Section 15, Township 140 North, Range 96 West, with statutory participation but without joinder in the risk by North American Royalties, Inc., and since Cardinal Petroleum Company is presently operating the well, Cardinal Petroleum Company should be the operator of said well.

IT IS THEREFORE ORDERED:

(1) That the motions of Cardinal Petroleum Company to dismiss the application of North American Royalties, Inc., as set forth in finding 10 hereof, are denied.

(2) That the application of North American Royalties, Inc., for an order designating the S/2 of Section 15, Township 140 North, Range 96 West, Stark County, North Dakota, as a spacing unit and pooling all

interests therein is denied.

(3) That all interests in oil and gas in the E/2 of Section 15, Township 140 North, Range 96 West, Dickinson-Heath Pool, Stark County, North Dakota, be and the same are hereby pooled and communitized for the purpose of forming a spacing unit in said Dickinson-Heath Pool, and that the well drilled in the SE/4 of said section be the well for such spacing unit.

(4) That Cardinal Petroleum Company is designated as the operator of said spacing unit and the producing well thereon and shall conduct operations in such manner as to protect correlative rights of all interested parties.

(5) That all interested parties shall participate in the proceeds from this well in the same proportion as their interests may appear in the spacing unit and the proportionate share of the costs of drilling, completing and producing the well shall be assessed against such parties as are responsible therefore in the same proportion as their interests may appear in the spacing unit.

(6) That this order shall remain in full force and effect until further order of the Commission.

DONE, at Bismarck, North Dakota, this 1st day of July, 1971.

THE NORTH DAKOTA
INDUSTRIAL COMMISSION

/s/ William L. Guy
William L. Guy, Governor

/s/ Helgi Johanneson
Helgi Johanneson, Attorney General

/s/ Arne Dahl
Arne Dahl, Commissioner of Agriculture