BEFORE THE INDUSTRIAL COMMISSION

OF THE STATE OF NORTH DAKOTA

CASE NO. 5827
ORDER NO. 6743

IN THE MATTER OF A HEARING CALLED ON A MOTION OF THE COMMISSION TO CONSIDER ENTERING AN ORDER EXEMPTING THE OWNERS OF ALL PRESENT AND FUTURE WELLS IN BOTTINEAU COUNTY, NORTH DAKOTA, FROM THE OBLIGATION TO PAY TAXES AND ROYALTIES ON GAS PRODUCED FROM SUCH WELLS AND FLARED PURSUANT TO NDCC SECTION 38-08-06.4.

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 October, 1993, in Bottineau, North Dakota, before an examiner appointed by the Industrial Commission of North Dakota, hereinafter referred to as the "Commission."

NOW, on this 21st day of October, 1993, 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 Section 38-08-06.4 of the North Dakota Century Code ("NDCC") states:

> As permitted under rules of the industrial commission, gas produced with crude oil from an oil well may be flared during a one-year period from the date of first production from the well, or until June 30, 1986, for wells in production prior to July 1, 1985. Thereafter, flaring of gas from the well must cease and the well must either be capped or connected to a gas gathering line. For a well operated in violation of this section, the producer shall pay royalties to royalty owners and gross production tax imposed under section 57-51-02 upon the value of the flared gas. The industrial commission shall enforce this section and, for each well operator found to be in violation of this section, shall determine the value of flared gas for purposes of payment of gross production tax and royalties under this section and its determination is final. A producer may obtain an exemption from this section from the industrial commission upon application and a showing that connection of the well to a natural gas gathering line is economically infeasible at the time of the application or in the foreseeable future or that a market for the gas is not available.

(3) That Conoco Inc. ("Conoco") is the owner or operator of wells located in the Wiley-Madison Pool, Bottineau County, North Dakota.

(4) That Conoco presented evidence indicating that its wells in the Wiley-Madison Pool currently produce approximately 54 MCF per day of which 15 MCF per day is used for lease operations and the remaining 39 MCF per day is flared.

(5) That the Wiley-Madison Pool is located approximately 30 miles from a Williston Basin Interstate Pipeline Company ("WBIPC") processed gas line.

(6) That Conoco estimates that the installation of a pipeline to connect wells in the Wiley Field to the WBIPC line is approximately $602,000 excluding compression, metering and processing.

(7) That Conoco presented evidence indicating estimated recoverable gas reserves of 171,500 MCF gas.

(8) That Conoco has estimated the value of the gas to be $.75 MCF, based upon the value of gas being sold in the Williston Basin which has a similar composition and BTU content.

(9) That the total value of the Wiley-Madison Pool gas reserves is $128,250, therefore, since the total project cost is more than $602,000, Conoco feels there are insufficient reserves of surplus gas to recoup the cost of installing and operating a gas gathering facility.

(10) That the North Dakota State Land Department ("Land") submitted written comments regarding the matter of this case.

(11) That Land recognized the merit of allowing an exemption on gas produced from existing oil wells in Bottineau County which is flared. However, it expressed concern about the wisdom of extending the exemption to gas produced from wells drilled in the future.

(12) That Land believes that future wells in Bottineau County may discover, produce and flare billions of cubic feet of gas resulting in a loss to the state and royalty owners of hundreds of thousands of dollars.

Land's concerns are unfounded. At the Commission's election, it's orders may be amended or rescinded. Moreover, it is the Commission's duty to prevent the flaring of gas, if such flaring causes waste. When and if significant reserves of oil and gas are found in Bottineau County, the Commission will have a hearing to determine whether or not it is economically feasible to save the gas produced with oil.

(13) That Industrial Commission files indicate there are 550 producing wells located within Bottineau County that produce an average of 2 MCF per day per well.

(14) That the county-wide average GOR for Bottineau County is approximately 175 standard cubic feet of gas per stock tank barrel of oil.

(15) That the nearest gas processing facility is the Interenergy Sheffield Lignite Gas Plant located 55 miles to the west.

(16) That testimony brought forth at this hearing indicates that under current market conditions the surplus casinghead gas presently being produced by the wells and the estimated recoverable reserves of surplus gas from the wells are insufficient to recoup the costs of installing and operating a gas gathering facility.

(17) That if the Commission's motion is not granted, taxes and royalties must be paid on flared gas which will increase operating costs, raise the economic limit and cause premature abandonment of the wells; or the wells must be connected to a gas pipeline at an economic loss which would also cause premature abandonment, or flaring must cease and the wells

must be "capped," resulting in the loss of oil production and the loss of the benefits of that production by all owners of interest in the wells and the state of North Dakota.

(18) That considering the amount of estimated recoverable reserves in existing wells, plus reserves which may be found by future wells, and the cost to connect the wells to a gas pipeline, it is economically infeasible at this time, or in the foreseeable future, to connect such wells to a gas gathering facility.

(19) That in order to prevent waste, and protect correlative rights this application should be granted.

IT IS THEREFORE ORDERED:

(1) That the owners, their assigns and successors are hereby allowed to flare surplus casinghead gas produced with crude oil from all present and future wells located in Bottineau County, North Dakota, as an exemption from the obligation to pay taxes and royalties on gas produced from such wells and flared pursuant to NDCC 38-08-06.4.

(2) That the Commission, on its own motion, may conduct a hearing to determine whether or not this exemption should be continued or in anyway be amended.

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

Dated this 21st day of October, 1993.

INDUSTRIAL COMMISSION
STATE OF NORTH DAKOTA

/s/ Edward T. Schafer, Governor

/s/ Heidi Heitkamp, Attorney General

/s/ Sarah Vogel, Commissioner of Agriculture