

BEFORE THE INDUSTRIAL COMMISSION  
OF THE STATE OF NORTH DAKOTA

CASE NO. 5858  
(CONTINUED)  
ORDER NO. 6797

IN THE MATTER OF A HEARING CALLED ON A  
MOTION OF THE COMMISSION TO CONSIDER THE  
APPLICATION OF CONOCO INC. FOR AN ORDER  
AUTHORIZING EMERGENCY AND/OR  
INTERMITTENT GAS FLARING FROM THE  
FOLLOWING WELLS AND/OR AT A CENTRAL  
FACILITY FOR SAID WELLS IN THE DICKINSON-  
LODGEPOLE POOL, STARK COUNTY, NORTH  
DAKOTA:  
CONOCO - DICKINSON STATE NO. 74 WELL, SW/4  
NW/4 OF SECTION 32, T.140N., R.96W.,  
CONOCO - KADRMAS NO. 75 WELL, NW/4 SE/4 OF  
SECTION 31, T.140N., R.96W.,  
CONOCO - FRENZEL NO. 79 WELL, NW/4 NE/4 OF  
SECTION 31, T.140N., R.96W.,  
CONOCO - DICKINSON STATE "A" NO.  
83 WELL, NW/4 NW/4 OF SECTION 5,  
T.139N., R.96W.,  
AS AN EXCEPTION TO THE PROVISIONS  
OF SECTION 38-08-06.4 OF THE NORTH  
DAKOTA CENTURY CODE OR SUCH FURTHER  
AND ADDITIONAL RELIEF AS THE COMMISSION  
MAY DEEM 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 26th day of January, 1994, in Bismarck, North Dakota, before an  
examiner appointed by the Industrial Commission of North Dakota, hereinafter  
referred to as the "Commission."

NOW, on this 23rd day of February, 1994, 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 the following wells in the Dickinson-Lodgepole Pool, Stark County, North Dakota:

File #	Well Name & Number	Location
13447	Dickinson State #74	SW NW 32-140-96
13514	Kadrmass #75	NW SE 31-140-96
13554	Frenzel #79	NW NE 31-140-96
13598	Dickinson State "A" #83	NW NW 05-139-96

(4) That the Dickinson-Lodgepole Pool is an oil reservoir, but gas is produced in association with crude oil at the wellhead as a by-product of oil production.

(5) That operations are currently ongoing to route the production from the wells in (3) above to a central facility. All the wells, except the Dickinson State "A" #83, are currently connected to a gas gathering pipeline and processing facility.

(6) That Conoco anticipates connecting their Dickinson State "A" #83 well to a gas gathering pipeline and processing facility in the near future.

(7) That Conoco is desirous of an order of the Commission authorizing emergency and/or intermittent gas flaring from said wells and/or at a central facility.

(8) That there are times when gas production must be flared if oil production is to continue due to mechanical failure or maintenance of the gas gathering pipeline or plant.

(9) That Conoco currently has a vapor recovery system installed on the tanks within the central facility. There may be times when tank vapors must be flared if oil production is to continue due to mechanical failure or maintenance of the vapor recovery system.

(10) That said flaring will be intermittent and only minimal amounts of gas will be flared.

(11) That if applicant's request 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 second gas pipeline at an economic loss which would also cause premature abandonment, or flaring must cease and the wells must be shut in, 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.

(12) That NDCC Section 38-08-06.4 does not provide for retroactive exemptions.

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

IT IS THEREFORE ORDERED:

(1) That the applicant, its assigns and successors, is hereby allowed to flare surplus casinghead gas produced with crude oil through the wells listed in paragraph (3) of the findings, as an exemption to the provisions of NDCC Section 38-08-06.4 when the gas gathering pipeline or processing plant is shut down due to mechanical failure or maintenance.

(2) That the applicant, its assigns and successors, is hereby allowed to flare tank vapors from the central facility serving the wells listed in paragraph (3) of the findings, as an exemption to the provisions of NDCC Section 38-08-06.4 when the tank vapor recovery system is shut down due to mechanical failure or maintenance.

(3) That should the applicant, its assigns and successors, ever flare gas under the authority of paragraphs (1) or (2) of this order, it shall immediately notify the Director of the Oil and Gas Division and shall file a written report within 24 hours after flaring ceases detailing the location of the flare site, the wells involved, the number of days gas was flared and the estimated amount of gas flared, along with any other information deemed necessary by the Director.

(4) That this order is prospective only.

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

Dated this 23rd day of February, 1994.

INDUSTRIAL COMMISSION  
STATE OF NORTH DAKOTA

/s/ Edward T. Schafer, Governor

/s/ Heidi Heitkamp, Attorney General

/s/ Sarah Vogel, Commissioner of Agriculture