

BEFORE THE INDUSTRIAL COMMISSION  
OF THE STATE OF NORTH DAKOTA

CASE NO. 16428  
ORDER NO. 18694

IN THE MATTER OF A HEARING CALLED ON  
A MOTION OF THE COMMISSION TO  
CONSIDER THE APPLICATION OF BAYTEX  
ENERGY USA LTD. FOR AN ORDER  
PURSUANT TO NDAC § 43-02-03-88.1  
AUTHORIZING THE FLARING OF GAS FROM  
THE HANSEN #18-19-162-99H WELL, NENE OF  
SECTION 18, T.162N., R.99W., DIVIDE  
COUNTY, ND, AMBROSE-BAKKEN POOL, AS  
AN EXCEPTION TO THE PROVISIONS OF  
NDCC § 38-08-06.4 AND SUCH OTHER RELIEF  
AS IS APPROPRIATE.

ORDER OF THE COMMISSION

THE COMMISSION FINDS:

- (1) This cause came on for hearing at 9:00 a.m. on the 15th day of December, 2011.
- (2) Baytex Energy USA Ltd (Baytex), succeeded by SM Energy Company, provided exhibits and testimony in this matter by sworn affidavit.
- (3) Pursuant to NDAC Section 43-02-03-88.1, the Director is authorized to sign, on behalf of the Commission, orders relating to, inter alia, flaring exemptions under NDCC Section 38-08-06.4 and under NDAC Section 43-02-03-60.2.
- (4) At the time of this hearing, NDCC Section 38-08-06.4 stated:

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. Thereafter, flaring of gas from the well must cease and the well must be capped, connected to a gas gathering line, or equipped with an electrical generator that consumes at least seventy-five percent of the gas from the well. An electrical generator and its attachment units to produce electricity from gas must be considered to be personal property for all purposes. For a well operated in violation of this section, the producer shall pay royalties to royalty owners upon the

value of the flared gas and shall also pay gross production tax on the flared gas at the rate imposed under section 57-51-02.2. The industrial commission may enforce this section and, for each well operator found to be in violation of this section, may determine the value of flared gas for purposes of payment of 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 and that equipping the well with an electrical generator to produce electricity from gas is economically infeasible.

(5) Baytex is the owner or operator of the following well in the Ambrose-Bakken Pool, Divide County, North Dakota:

<u>File #</u>	<u>Well Name &amp; Number</u>	<u>Location</u>
19461	Hansen 18-19-162-99H	NENE Section 18-T162N-R99W

(6) The Hansen 18-19-162-99H well was completed in the Ambrose-Bakken Pool on or around January 22, 2011. Pursuant to NDCC Section 38-08-06.4, 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.

(7) The Ambrose-Bakken Pool is an oil reservoir, but gas is produced in association with the oil at the wellhead as a by-product of oil production.

(8) The well is not connected to a gas gathering facility and evidence presented to the Commission indicates that the well currently produces approximately 125 MCF per day of surplus gas.

(9) The well is located approximately 6.5 miles to the nearest gas gathering system with sufficient capacity to market the surplus gas.

(10) Baytex has submitted evidence that under current market conditions the surplus casinghead gas presently being produced by the well and the estimated recoverable reserves of surplus gas from the well is insufficient to recoup the costs of installing and operating a gas gathering facility.

(11) Baytex has investigated the possibility of equipping the well with an electrical generator. It is not economic to purchase, install, connect and operate an electric generator fueled by produced casinghead gas. The Commission concludes that equipping the well with an electrical generator to produce electricity from the gas is economically infeasible.

(12) If Baytex'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 well; or the well must be connected to a gas pipeline or an electrical generator at an economic loss which would also cause premature abandonment, or flaring must cease and the well 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 well and the State of North Dakota.

(13) Considering the amount of surplus gas being produced by the well, the amount of estimated recoverable reserves from the well, and the cost to connect the well to a gas pipeline, it is not economic at this time to connect the well to a gas gathering facility or an electrical generator.

(14) Baytex has entered into a contract with a gas gatherer that plans to install a new 270-mile gas gathering system in Divide County that should be operational in 2013. The Commission notes the well was connected to such gas gathering system in September 2013.

(15) In order to prevent waste, and protect correlative rights this application should be granted, although limited in duration.

IT IS THEREFORE ORDERED:

(1) Baytex Energy USA LTD, its assigns and successors, is hereby allowed to flare surplus casinghead gas produced with crude oil from the Ambrose-Bakken Pool through the well listed below under the exemption provided for under NDCC Section 38-08-06.4:

<u>File #</u>	<u>Well Name &amp; Number</u>	<u>Location</u>
19461	Hansen 18-19-162-99H	NENE Section 18-T162N-R99W

(2) This order is effective as of November 14, 2011 and shall remain in full force and effect until October 1, 2013.

Dated this 12th day of May, 2015.

INDUSTRIAL COMMISSION  
STATE OF NORTH DAKOTA

By the Director, on behalf of the Commission

/s/ Lynn D. Helms, Director