

BEFORE THE INDUSTRIAL COMMISSION  
OF THE STATE OF NORTH DAKOTA

CASE NO. 16433  
ORDER NO. 18699

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 POOLING  
ALL INTERESTS FOR WELLS DRILLED ON  
THE OVERLAPPING SPACING UNIT  
DESCRIBED AS SECTIONS 26 AND 35, T.162N.,  
R.99W., AMBROSE-BAKKEN POOL, DIVIDE  
COUNTY, ND, AS PROVIDED BY NDCC § 38-  
08-08 BUT NOT REALLOCATING  
PRODUCTION FOR WELLS PRODUCING ON  
OTHER SPACING UNITS 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) Pursuant to North Dakota Administrative Code (NDAC) Section 43-02-03-88.1, the Director is authorized to sign, on behalf of the Commission, orders relating to, inter alia, pooling under North Dakota Century Code (NDCC) Section 38-08-08.
- (3) The applicant is the owner of an interest in an oil and gas leasehold estate in a spacing unit described as all of Sections 26 and 35, Township 162 North, Range 99 West, Ambrose-Bakken Pool, Divide County, North Dakota, (Sections 26 and 35).
- (4) Baytex Energy USA Ltd. has applied for an order pursuant to NDAC Section 43-02-03-88.1 pooling all interests for wells drilled on the overlapping spacing unit described as Sections 26 and 35, Ambrose-Bakken Pool, but not reallocating production for wells producing on other spacing units and such other relief as is appropriate. The Commission notes the aforementioned 1280-acre spacing unit consisting of Sections 26 and 35 does not currently overlap any other spacing unit existing in the Ambrose-Bakken Pool.
- (5) Said spacing unit is created in accordance with an order of the Commission and there are separately owned tracts and/or separately owned interests in the spacing unit, and some of the

owners thereof have not voluntarily pooled their interests for the development and operation of said spacing unit.

(6) The Commission makes no findings with regard to the specific acreage or percentage attributed to separately owned tracts or interests.

(7) Counsel for applicant requests an order of the Commission pooling all interests in the spacing unit.

(8) There were no objections to this application.

(9) NDCC Section 38-08-08 requires the Commission to enter a pooling order upon application when two or more separately owned tracts are embraced within a spacing unit, or there are separately owned interests in all or a part of a spacing unit, in the absence of voluntary pooling. The section further provides that working interest owners in the spacing unit shall pay their share of the reasonable actual cost of drilling and operating the well plus a reasonable charge for supervision. In addition to such costs and charges, nonparticipating lessees may be required to pay a risk penalty of 200 percent and unleased mineral interest owners may be required to pay a risk penalty of 50 percent of their share of the reasonable actual cost of drilling and completing the well. This application is not a petition for a risk penalty, therefore the Commission makes no findings with regard to whether any particular owner with an interest in the spacing unit at issue in this application may impose a risk penalty against any other owner. The requirements for imposition of a risk penalty are set forth in NDCC Section 38-08-08 and NDAC Section 43-02-03-16.3.

(10) This application should be granted in order to prevent waste and protect correlative rights.

**IT IS THEREFORE ORDERED:**

(1) All oil and gas interests in a spacing unit described as all of Sections 26 and 35, Township 162 North, Range 99 West, Ambrose-Bakken Pool, Divide County, North Dakota, are hereby pooled for the development and operation of the spacing unit.

(2) This pooling shall not determine or establish the specific acreage to be attributed to separately owned tracts, or specific interests attributed to separately owned interests.

(3) The operator of the well(s) for the spacing unit shall conduct operations in a manner so as to protect correlative rights of all interested parties.

(4) All owners of interests shall recover or receive, without unnecessary expense, their just and equitable share of production from the spacing unit in the proportion as their interests may appear in the spacing unit.

(5) The working interest owners shall reimburse the operator for their proportionate share of the reasonable actual cost of drilling and operating said well(s), plus a reasonable charge for supervision.

(6) In the event of any dispute as to such costs the Commission shall determine the proper cost.

(7) In the event the size of the spacing unit pooled herein is modified by the Commission, this order shall terminate as of the date of such order.

(8) This order shall be effective from the date of first operations within the spacing unit, and shall remain in full force and effect until further order of the Commission.

Dated this 10th day of October, 2012.

INDUSTRIAL COMMISSION  
STATE OF NORTH DAKOTA

By the Director, on behalf of the Commission

/s/ Lynn D. Helms, Director