

BEFORE THE INDUSTRIAL COMMISSION
OF THE STATE OF NORTH DAKOTA

CASE NO. 19726
ORDER NO. 22032

IN THE MATTER OF A HEARING CALLED ON
A MOTION OF THE COMMISSION TO
CONSIDER THE IN THE MATTER OF THE
PETITION FOR A RISK PENALTY OF FIDELITY
EXPLORATION & PRODUCTION CO.
REQUESTING AN ORDER AUTHORIZING THE
RECOVERY OF A RISK PENALTY FROM
CERTAIN NON-PARTICIPATING OWNERS, AS
PROVIDED BY NDCC § 38-08-08 IN THE
DRILLING AND COMPLETING OF THE
PEACEFUL VALLEY #13-24H WELL LOCATED
IN A SPACING UNIT DESCRIBED AS
SECTIONS 13 AND 24, T.140N., R.97W.,
DICKINSON-BAKKEN POOL, STARK
COUNTY, ND, PURSUANT TO NDAC § 43-02-
03-88.1, 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 28th day of February, 2013.
- (2) Fidelity Exploration & Production Co. (Fidelity) has filed a petition for a risk penalty before the North Dakota Industrial Commission (Commission) requesting an order authorizing the recovery of a risk penalty from certain non-participating owners, as provided by North Dakota Century Code (NDCC) Section 38-08-08 in the drilling and completing of the Peaceful Valley #13-24H well located in a spacing unit described as Sections 13 and 24, Township 140 North, Range 97 West (Sections 13 and 24), Dickinson-Bakken Pool, Stark County, North Dakota, pursuant to North Dakota Administrative Code (NDAC) Section 43-02-03-88.1, and such other relief as is appropriate.
- (3) Fidelity is the owner of an interest in an oil and gas leasehold estate in a spacing unit for the Dickinson-Bakken Pool described as Sections 13 and 24.
- (4) The Commission makes no findings with regard to the specific acreage or percentage attributed to separately owned tracts or interests.

(5) NDCC Section 38-08-08 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.

(6) Fidelity requests an order of the Commission allowing the recovery of a risk penalty from the Chesapeake Exploration, LLC (Chesapeake) interest.

(7) Chesapeake, a leasehold interest owner within the spacing unit, did not appear in this matter or object to the risk penalty being assessed against its leasehold interest.

(8) Pursuant to NDAC Section 43-02-03-16.3, Fidelity sent an invitation to participate in the drilling and completion of the Peaceful Valley #13-24H well. Fidelity provided evidence that the invitation to participate was complete and properly served on Chesapeake.

(9) Pursuant to NDAC Section 43-02-03-16.3, Chesapeake had 30 days from the date of receiving the invitation to elect to participate in the Peaceful Valley #13-24H well. Fidelity provided evidence that Chesapeake declined Fidelity's invitation.

(10) The Commission concludes Fidelity has complied with NDAC Section 43-02-03-16.3 and the risk penalty may be imposed against Chesapeake's leasehold interest.

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

IT IS THEREFORE ORDERED:

(1) A risk penalty may be imposed on Chesapeake Exploration, LLC's leasehold interest for the drilling and completion of the Peaceful Valley #13-24H well on a spacing unit described as Sections 13 and 24, Township 140 North, Range 97 West, Dickinson-Bakken Pool, Stark County, North Dakota, pursuant to NDCC Section 38-08-08 and NDAC Section 43-02-03-16.3.

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

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

Dated this 10th day of February, 2014.

INDUSTRIAL COMMISSION
STATE OF NORTH DAKOTA

By the Director, on behalf of the Commission

/s/ Lynn D. Helms, Director