

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

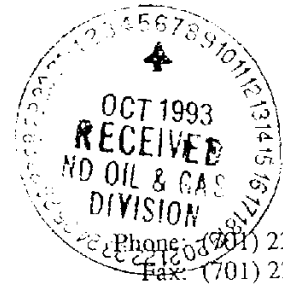
/s/ Heidi Heitkamp, Attorney General

/s/ Sarah Vogel, Commissioner of Agriculture



North Dakota
STATE LAND DEPARTMENT

918 East Divide Avenue, Suite 410
P.O. Box 5523
Bismarck, ND 58502-5523



Timothy L. Kingstad
COMMISSIONER

October 6, 1993

North Dakota Industrial Commission
Oil and Gas Division
1022 E. Divide Ave.
Bismarck, ND 58501

RE: Written Comments Concerning NDIC Case Numbers 5827, 5828, 5829 and 5830

Gentlemen:

We are in receipt of your notices for hearing for cases number 5827 through 5830. These hearings concern exempting owners of all present and future wells in Bottineau, McHenry, Renville and Ward counties from the obligation to pay taxes and royalties on gas flared pursuant to NDCC 38-08-06.4.

The Land Department understands the burden hearings concerning NDCC 38-08-06.4 have placed on the Industrial Commission and oil companies, when in most cases, it is clearly uneconomical to connect a well to a pipeline. We do not question the economics of connecting most, if not all, current wells in the above named counties. However, we do have concerns about the exemption of future production in these counties.

Until production occurs from a well, field or area, there is no way to know whether or not it will be economical to connect that production to a pipeline. The Wabek/Plaza area, part of which is in Ward County, is a perfect example of why we are concerned. The potential royalty and tax obligation imposed by NDCC 38-08-06.4, along with many other factors, helped create an incentive for Presido(Home Petroleum) to make a deal with Koch to build a pipeline to these fields. If this pipeline had not been built, millions of MCF would have been flared from these wells, resulting in the loss of hundreds of thousands of dollars in taxes and royalties to the state and fee owners.

Thus, we feel that future wells should not be exempted from NDCC 38-08-06.4 until they are drilled and the economics of connecting such wells is determined. The rule changes being proposed by the Industrial Commission, would allow the Director of Oil and Gas to exempt production from NDCC 38-08-06.4 administratively. We feel that as new wells are drilled and completed, it would not be difficult for the Director and his staff to assess the economics of those wells to determine whether or not they should be exempt from NDCC 38-08-06.4. In many, if not most cases, the decision could be made looking at the volume of gas alone, without requiring companies to submit detailed economic data.

We feel that the above proposed exemption process for wells drilled in the future would protect the rights of royalty owners and North Dakota taxpayers while at the same time substantially reducing the burden NDCC 38-08-06.4 has placed on the Industrial Commission and the oil and gas industry.

We request that these comments be entered into the record for each of the above named cases. If you have any questions concerning our position, please contact me at 224-2800.

Sincerely,

Jeff Engleson, CPA
Director, Audit and Accounting Division

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

AFFIDAVIT OF MAILING

I, Donna Bauer, being duly sworn upon oath, depose and say: That on the 19th day of November, 1993, I enclosed in separate envelopes true and correct copies of the attached Order No. 6743 of the North Dakota Industrial Commission, and deposited the same with the United States Postal Service in Bismarck, North Dakota, with postage thereon fully paid, directed to the following persons, all of whom appeared at the hearing of the Industrial Commission in Case No. 5827:

Fleck, Mather & Strutz Ltd.
400 E. Broadway
Suite 600
P. O. Box 2798
Bismarck, ND 58502

Mr. Lawrence Bender
Pearce & Durick
P. O. Box 400
Bismarck, ND 58502

Donna Bauer
Donna Bauer
Oil & Gas Division

On this 24th day of November, 1994, before me personally appeared Donna Bauer to me known as the person described in and who executed the foregoing instrument and acknowledged that she executed the same as her free act and deed.

Erie Robinson
Notary Public
State of North Dakota County of Burleigh
My Commission expires 11-3-98



OFFICE OF ATTORNEY GENERAL
STATE OF NORTH DAKOTA

case # ~~5828~~
5828
5829
5830

Heidi Heitkamp
ATTORNEY GENERAL

MEMORANDUM

CAPITOL TOWER
State Capitol
600 East Boulevard
Bismarck, ND 58505-0040
701-224-2210
FAX 701-224-2226

Consumer Fraud
and Antitrust Section
701-224-3404 (V/TDD)
800-472-2600 (V/TDD)
Toll Free in North Dakota

Gaming Section
701-224-4848

Licensing Section
701-224-2210

Racing Commission
701-224-4290

CAPITOL COMPLEX
State Office Building
900 East Boulevard
Bismarck, ND 58505-0040
FAX 701-224-4300

Civil Litigation
701-224-3640

Natural Resources
701-224-3640

Child Sexual Abuse Team
701-224-2729

Bureau of Criminal
Investigation
P.O. Box 1054
Bismarck, ND 58502-1054
701-221-6180
800-472-2185
Toll Free in North Dakota
FAX 701-221-6158

Fire Marshal
1835 Bismarck Expressway
Bismarck, ND 58504-6708
701-221-5390
FAX 701-221-5363

TO: Wes Norton, Oil and Gas Division
FROM: Charles M. Carvell, Assistant Attorney General
RE: Area Wide Flaring Exemptions
DATE: June 21, 1993

We have talked about the best way to allow area wide exemptions for flaring from § 38-08-06.4. The alternatives are to authorize them by rule or by Commission order after notice and hearing. The preferable way is after notice and hearing. Not only will all interested persons have an opportunity to express their views, but the Commission can, if necessary, more readily end the exemption if it is initially granted by order rather than rule. Therefore, I suggest that at a future Industrial Commission meeting you discuss with the Commission the areas in the state you believe should receive flaring exemptions and ask its permission to put on the docket for hearing exemption cases for those areas.

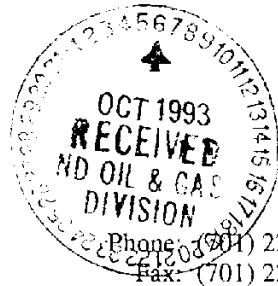
dfm

cc: Heidi Heitkamp
Karlene Fine



**North Dakota
STATE LAND DEPARTMENT**

918 East Divide Avenue, Suite 410
P.O. Box 5523
Bismarck, ND 58502-5523



Phone: (701) 224-2800
Fax: (701) 224-3650

Timothy L. Kingstad
COMMISSIONER

October 6, 1993

North Dakota Industrial Commission
Oil and Gas Division
1022 E. Divide Ave.
Bismarck, ND 58501

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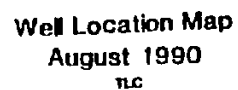
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Sincerely,

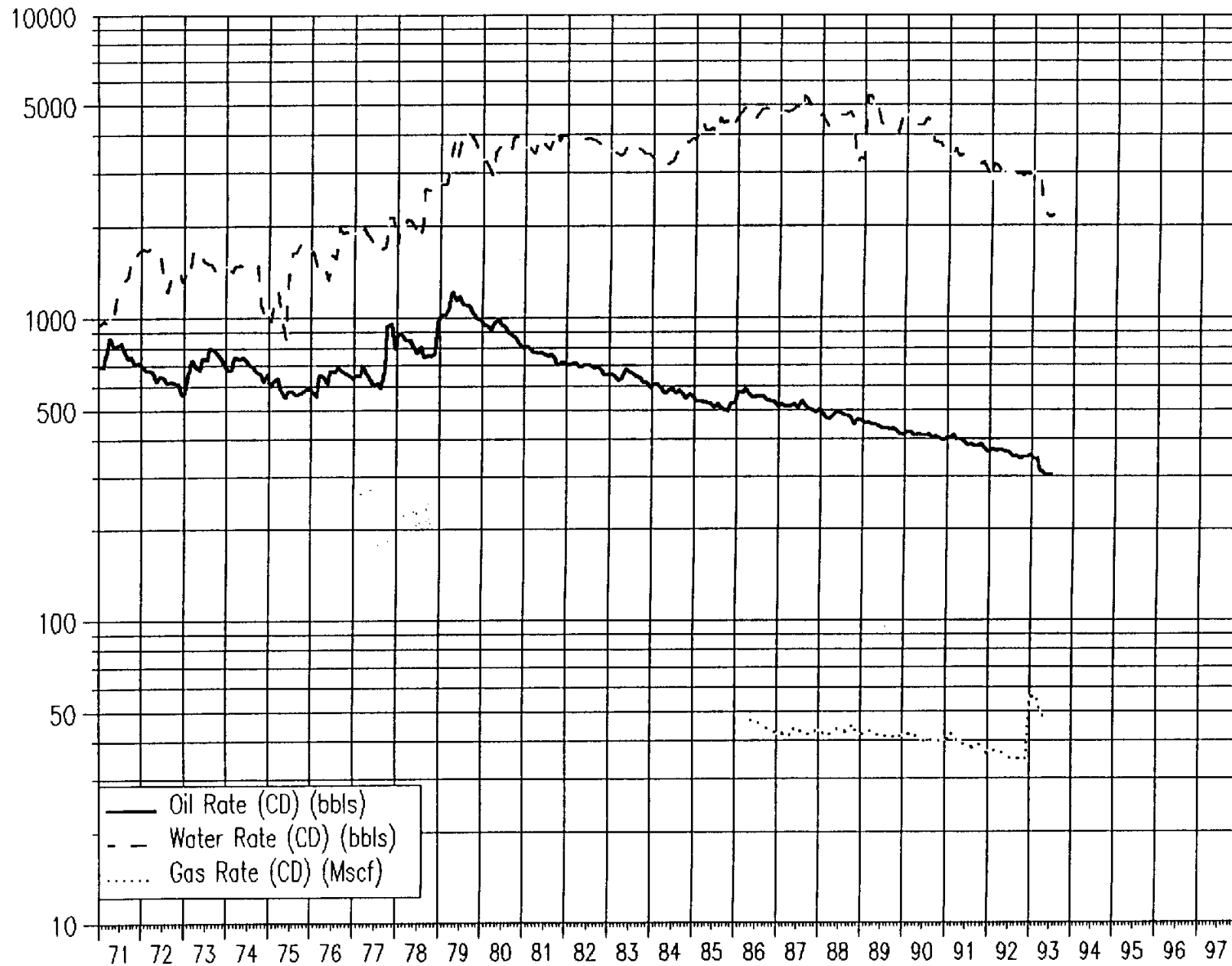
A handwritten signature in black ink, appearing to read "Jeff Engleson".

Jeff Engleson, CPA
Director, Audit and Accounting Division

R - 81W



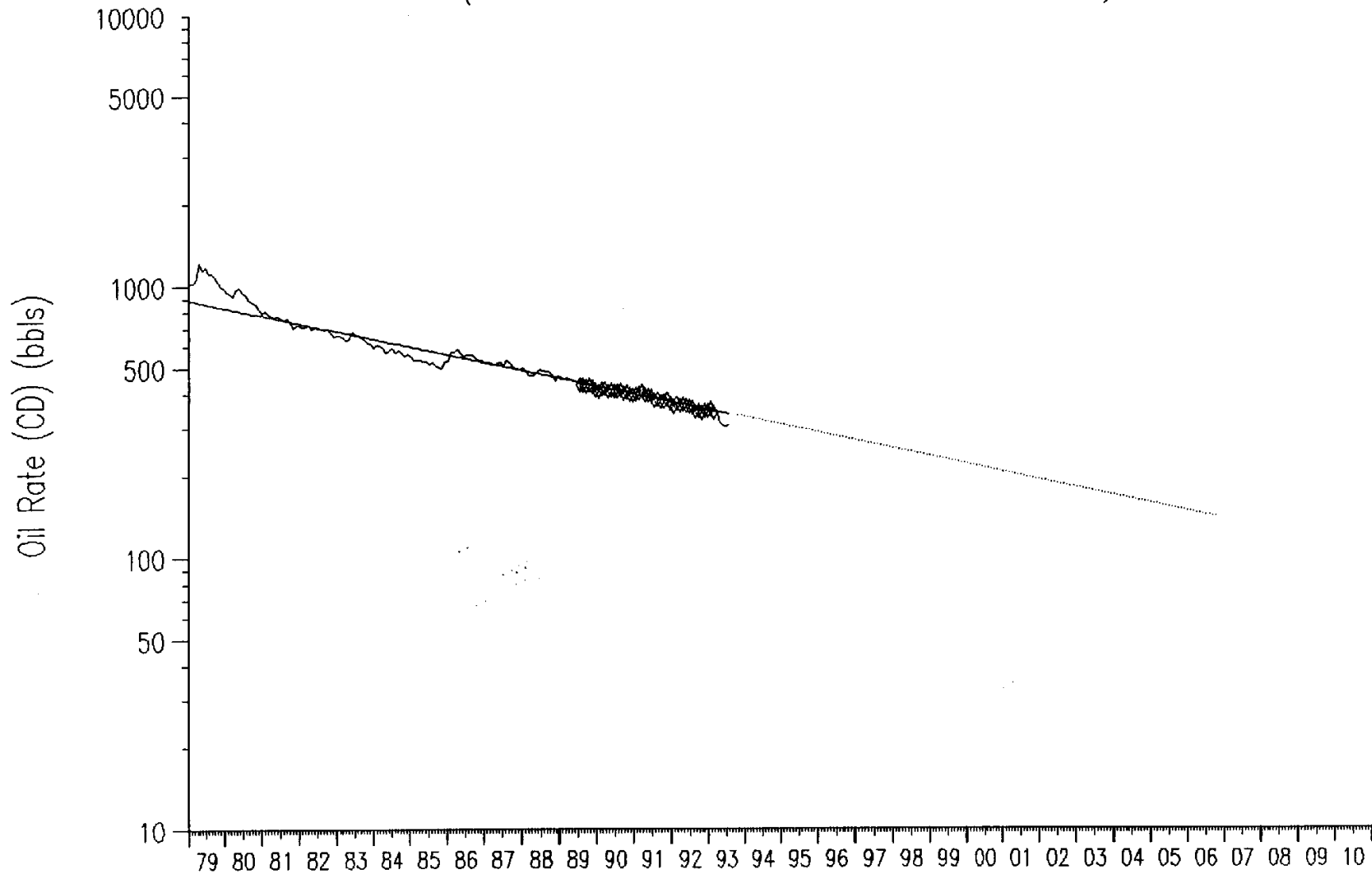
WILEY FIELD
(42 PRODUCERS - 12 INACTIVE - 4 SERVICE)



CONOCO INC.
CASE NO. 5827
EXHIBIT NO. 3

WILEY FIELD
(42 PRODUCERS - 12 INACTIVE - 4 SERVICE)

CONOCO INC.
CASE NO. 5827
EXHIBIT NO. 4



Decline Rate (frac) Nominal: 0.005593 Effective: 0.005577 Annual: 0.064911

Current Oil rate: 335.0 bbls/d

Economic Limit: 140.0 bbls/d

Cumulative Oil Produced: 6533.2 Mbbls

Remaining Reserves: 1064.8 Mbbls

Total Reserves: 7597.9 Mbbls - At the Economic Limit

WILEY FIELD

GAS FLARING VARIANCE INFORMATION

I. Background Data

Field Location: Portions of Sections 19, 28, 29, 30, 31, 32, 33, T161N, R81W
Portions of Sections 14, 23, 24, 25, 26, T161N, R82W
(6,320 acres \pm)
Bottineau County, North Dakota

Production Horizon: Madison (4,100' - 4,200')

Current Production (7/93): 335 BOPD/54 MCFD (GOR \approx 161 SCF/Bbl)

Well Status (9/93): 42 active producers
12 shut-in wells
4 under servicing
Total: 58 wells

II. Conoco Production History

Field Take-over: October, 1988

Production (10/88 - 7/93): 702,000 Bbls oil
70,900 MCF gas

Remaining Reserves: 1,065,000 Bbls oil
171,500 MCF gas

III. Construction Economics

Distance to Hook-up (WBI line): 30 miles

Installation Costs (4" Poly): \$3.80/ft (\$20,064/mile)

Total Installation Cost: \$601,900

IV. Gas Sales Line Economics

Gas Price: \$0.75/MCF

Flared Gas Value (Historic): \$53,175
(Future): \$128,250

V. CONCLUSION: The value of the remaining gas reserves is less than the gathering system installation costs. Therefore, it is uneconomic to install a gas sales line.

CONOCO INC.
CASE NO. 5827
EXHIBIT NO. 5

due 5580
cc 2100
2440
17.50
36.60
1929

Affidavit of Publication

**NOTICE OF PUBLICATION
NORTH DAKOTA,
INDUSTRIAL COMMISSION
BISMARCK, NORTH DAKOTA**

The State of North Dakota by its Industrial Commission hereby gives notice pursuant to law and the rules and regulations of said Commission promulgated thereunder of the following public hearing to be held at 9:00 a.m. on October 6, 1993, Norway House, Highway 5 East, Bottineau, North Dakota. For the purpose of this hearing, the Commission, any member thereof acting as Examiner, or an Examiner appointed by the Commission will receive testimony and exhibits.

ATTENTION PERSONS WITH DISABILITIES: If you plan to attend the hearing and will need special facilities or assistance relating to a disability, please contact the North Dakota Industrial Commission at (701) 224-3722 by September 22, 1993.

STATE OF NORTH DAKOTA TO:

All named parties and persons having any right, title, interest, or claim in the following cases and notices to the public, CASE NO. 5827: 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 AND 38-08-06.4.

Signed by,

Edward T. Schafer, Governor
Chairman, ND Industrial Commission

9-7

STATE OF NORTH DAKOTA)
County of Bottineau) ss

I, Wanda Hrauseth being first duly sworn, on my oath, say that I am the bookkeeper of The Bottineau Courant, a weekly newspaper of general circulation, published in the city of Bottineau, in said county and state, and that the advertisement headed:

Notice of Publication

a printed copy of which is here annexed, was published in the regular and entire issue of said newspaper during the period and time of publication, and that the notice was published in the newspaper proper, and not in a supplement,

for one consecutive week 9-7-93 to wit:

Straight Matter Lines 35 19

First Time Line Rate 50 \$17.50 9-2 19 93

Subsequent Line Rates 19

Tabulated Lines 19

First Time Line Rate 19

Subsequent Line Rates 19

Column Inches 19

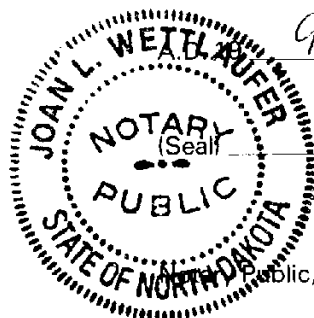
First Time Inch Rate 19

Subsequent Inch Rates 19

Notary Fee Total Cost of Legal, \$ 17.50

Wanda Hrauseth

Subscribed and sworn to me before this 10th day of Sept



Joan Wettlaufer

Notary Public, State of North Dakota
JOAN L. WETTLAUFER
Notary Public, STATE OF NORTH DAKOTA
My Commission Expires JUNE 25, 1997

My Commission expires _____, 19____

THE BISMARCK TRIBUNEP.O. BOX 1498 BISMARCK, NORTH DAKOTA 58502-1498
(701) 223-2500 IN STATE (800) 472-2273**LEGAL PUBLICATIONS**

IND COMM-OIL & GAS DIV

**CR54

600 E BOULEVARD
BISMARCK ND 58505

AV

ek

1686

BILL-TO NUMBER

110399-9

BILLING PERIOD

VENDOR NUMBER

D=Distribution

I=Inches

L=Lines

SOLD-TO NUMBER

110399-9

BILLING DATE

09/08/93

PAGE

1

DATES	DESCRIPTION	REFERENCE NUMBER	PROD. CODE	CLASS CODE	AD SIZE	TIMES	TOTAL UNITS	RATE	GROSS AMOUNT	NET AMOUNT
09-06 09-06	NOTICE OF PUBLICATION 27	01103999	BT	0001		1	55L	.50	27.50	27.50
<p>NOTICE OF PUBLICATION NORTH DAKOTA INDUSTRIAL COMMISSION BISMARCK, NORTH DAKOTA State of North Dakota by its Industrial Commission hereby gives notice pursuant to the rules and regulations of said Commission promulgated thereunder of the following public hearings to be held at 10 a.m. on October 6, 1993, Norway House, Highway 5 East, Bottineau, North Dakota ND 58501. October 6, 1993, McHenry County Memorial Building, Main Street, Bismarck, North Dakota. For the purpose of these hearings, the Commission, any mem- ber thereof acting as Examiner, or an Examiner appointed by the Commission will receive testimony and exhibits. ATTENTION PERSONS WITH DISABILITIES: If you plan to attend the hearings and will need special facilities or assistance relating to a disability, please contact the North Dakota Industrial Commission at 701- 224-3722 by September 22, 1993.</p> <p>STATE OF NORTH DAKOTA TO: All named parties and persons having any right, title, interest, or claim in the following cases and notices to the public: 9:00 A.M., NORWAY HOUSE, HIGHWAY 5 EAST, BOTTINEAU, NORTH DAKOTA, CASE NO. 3822: ON A MOTION OF THE COMMISSION TO CONSIDER ENTERING AN ORDER EXEMPTING THE OWNERS OF ALL PRESENT AND FUTURE WELLS IN BOTTINEAU COUNTY, NORTH DAKO- TA, FROM THE OBLIGATION TO PAY TAXES AND ROYALTIES ON GAS PRO- DUCED PURSUANT TO NDCC § 38-08-06.4. 1:30 P.M., MCHENRY COUNTY MEMORI- AL BUILDING, MAIN STREET, TOWNER, NORTH DAKOTA, CASE NO. 3828: ON A MOTION OF THE COMMISSION TO CON- SIDER ENTERING AN ORDER EXEMPT- ING THE OWNERS OF ALL PRESENT AND FUTURE WELLS IN MCHENRY COUNTY, NORTH DAKOTA, FROM ROY- ALTY OBLIGATION TO PAY TAXES AND ROY- ALTIES ON GAS PRODUCED FROM SUCH WELLS AND FLARED PURSUANT TO NDCC § 38-08-06.4.</p> <p>Signed by, Edward T. Schafer, Governor Chairman, ND Industrial Commission 9/6 - 3393</p>										
<p>AFFIDAVIT OF PUBLICATION STATE OF NORTH DAKOTA } ss County of Burleigh } BEFORE ME, A NOTARY PUBLIC FOR THE STATE OF NORTH DAKOTA, PERSONALLY APPEARED <u>Clota Martin</u> WHO, BEING DULY SWORN, DEPOSES AND SAYS THAT HE IS THE CLERK OF THE BISMARCK TRIBUNE COMPANY, AND THAT THE ABOVE PUBLICATIONS <u>Notice of Pub</u> WERE MADE THROUGH THE AFORESAID NEWSPAPER AT THE DATES SHOWN <u>9/6</u> SIGNED <u>Clota Martin</u> SWORN AND SUBSCRIBED TO BEFORE ME THIS <u>8</u> DAY OF <u>Sept</u> 19 <u>93</u> <u>Patricia J. Nelson</u> Notary Public in and for the State of North Dakota, Residing at Bismarck</p>										
<p>PATRICIA J. NELSON Notary Public, STATE OF NORTH DAKOTA My Commission Expires NOV. 23, 1997</p>										

5513
Dec 31 1993
2440
2443
9-14-93
78.50

PAYMENT TERMS

Due 10th of month following charges

Thank
You!AMOUNT
DUE

27.50