

BEFORE THE INDUSTRIAL COMMISSION

OF THE STATE OF NORTH DAKOTA

CASE NO. 5829  
ORDER NO. 6745

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  
RENVILLE 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 7th day of October, 1993, in Bismarck, 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 the North Dakota State Land Department ("Land") submitted written comments regarding the matter of this case.

(4) That Land recognized the merit of allowing an exemption on gas produced from existing oil wells in Renville County which is flared. However, it expressed concern about the wisdom of extending the exemption to gas produced from wells drilled in the future.

(5) That Land believes that future wells in Renville 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 Renville County, the Commission will have a hearing to determine whether or not it is economically feasible to save the gas produced with oil.

(6) That Industrial Commission files indicate there are 316 wells producing an average of 3 MCF per well per day.

(7) That the county-wide average GOR for Renville County is approximately 120 standard cubic feet per stock tank barrel of oil.

(8) That the nearest gas line is the Interenergy Sheffield Lignite Gas Plant located 24 miles to the west.

(9) 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.

(10) 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.

(11) 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.

(12) 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 Renville 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. 6745 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. 5829:

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, 1993, 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.

Eric Roberson  
 Notary Public  
 State of North Dakota County of Burleigh  
 My Commission expires 11-3-98



OFFICE OF ATTORNEY GENERAL  
STATE OF NORTH DAKOTA

Case # 5  
~~5827~~  
5828  
[Redacted]  
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

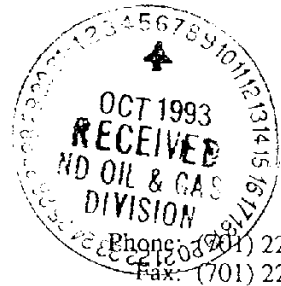
We have talked about the best way to allow area wide exemptions for flaring from § 38-08-06.4. The alternatives are to authorize them by rule or by Commission order after notice and hearing. The preferable way is after notice and hearing. Not only will all interested persons have an opportunity to express 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



Timothy L. Kingstad  
COMMISSIONER

October 6, 1993

North Dakota Industrial Commission  
Oil and Gas Division  
1022 E. Divide Ave.  
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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

# Affidavit of Publication

STATE OF NORTH DAKOTA  
County of Renville ss.

## 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 7, 1993, Renville County Courthouse, Mohall, 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. 5829: ON A MOTION OF THE COMMISSION TO CONSIDER ENTERING AN ORDER EXEMPTING THE OWNERS OF ALL PRESENT AND FUTURE WELLS IN RENVILLE COUNTY, NORTH DAKOTA, FROM THE OBLIGATION TO PAY TAXES AND ROYALTIES ON GAS PRODUCED FROM SUCH WELLS AND FLARED PURSUANT TO NDCC 38-08-06.4.

Signed by, 25  
Edward T. Schafer, Governor  
Chairman, ND Industrial Commission  
43c

*eh*  
Gloria Abrahamson, of said County and State, being first duly sworn on oath says: That THE RENVILLE COUNTY FARMER is a weekly newspaper of general circulation, printed and published in the City of Mohall, in said County and State, by Gloria Abrahamson, and has been such newspaper during the times hereinafter mentioned, and that I, Gloria Abrahamson the undersigned, Publisher of said newspaper, have charge of the advertising department thereof, and have personal knowledge of all the facts stated in this affidavit and that the advertisement headed

Notice of Publication

a printed copy of which is hereto attached, was printed and published in the said newspaper for One successive issues, as follows:

Straight Matter Lines	<u>47</u>	
First Time Line Rate	<u>.42</u>	<u>9-8-</u> 19 <u>93</u>
Subsequent Line Rates		<u>19</u>
Tabulated Lines		
First Time Line Rate		<u>19</u>
Subsequent Line Rates		<u>19</u>
Column Inches		
First Time Inch Rate		<u>19</u>
Subsequent Inch Rates		<u>19</u>

that the full amount of fees for publishing same, to-wit; the sum of \$ 19.74 insures solely to the benefit of the publisher of THE RENVILLE COUNTY FARMER; that no agreement or understanding for a division thereof has been made with any other persons, and that no part thereof has been agreed to be paid to any person whomsoever.

*Gloria Abrahamson*  
Subscribed and sworn before me this 9 day of September A.D. 19 93

*J. J. J. J.*  
Notary Public, North Dakota.

My Commission Expires

Renville County, North Dakota  
My Commission Expires

P.O. BOX 1498 BISMARCK, NORTH DAKOTA 58502-1498  
(701) 223-2500 IN STATE (800) 472-2273

##CR54

AV

# LEGAL PRIMER

**BILLING PERIOD**

**VENDOR NUMBER**

**SOLD-TO NUMBER**  
110418-5

**BILLING**  
09/08

DATE	DESCRIPTION	REFERENCE NUMBER	PROD. CODE	CLASS CODE	AD SIZE	TIMES	TOTAL UNITS	RATE	GROSS AMOUNT
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22, 1993.  
H DAKOTA TO:  
persons having any  
claim in the following  
public  
COUNTY COURT,  
NORTH DAKOTA,  
ON A MOTION OF THE  
ORDER ENTERING  
TO CONSIDER THE OWNERS  
PRESENT AND FUTURE WELLS  
RENVILLE COUNTY, NORTH DAKO-  
FROM THE OBLIGATION GAS PRO-  
XES AND ROYALTIES ON GAS PRO-  
DUCED FROM SUCH WELLS AND  
PURRED PURSUANT TO NDCC § 38-04-06.4.  
SHERATON INN RIVERSIDE,  
DAKOTA, CASE NO. 98-00-  
AN ORDER  
OF ALL  
S IN M

AFFIDAVIT OF PUBLICATION  
STATE OF NORTH DAKOTA } ss  
County of Burleigh  
BEFORE ME, A NOTARY PUBLIC FOR THE STATE OF NORTH DAKOTA, PERSONALLY APPEARED Cleta Martin,  
BEING DULY SWORN, DEPOSES AND SAYS THAT HE/SHE IS THE CLERK OF THE BISMARCK TRIBUNE COMPANY, AND  
THAT THE ABOVE PUBLICATIONS Notice of Pub WERE MADE THROUGH THE AFORESAID NEWSPAPER  
AT THE DATES SHOWN. 9/6 SIGNED Cleta Martin  
SWORN AND SUBSCRIBED TO BEFORE ME THIS 8 DAY OF Sept 19 93.

Patricia J. Nelson  
Notary Public in and for the State of North Dakota, Residing at Bismarck

**PATRICIA J. NELSON**  
Notary Public, STATE OF NORTH DAKOTA  
My Commission Expires NOV. 23, 1997

APPROVED FOR PUBLICATION  
STATE OF NORTH DAKOTA

STATE OF NORTH DAKOTA } ss  
County of Burleigh  
BEFORE ME, A NOTARY PUBLIC FOR THE STATE OF NORTH DAKOTA, PERSONALLY APPEARED Clara Martin who,  
BEING DULY SWORN, DEPOSES AND SAYS THAT HERSELF IS THE CLERK OF THE BISMARCK TRIBUNE COMPANY, AND  
THAT THE ABOVE PUBLICATIONS Notice of Prob WERE MADE THROUGH THE AFORESAID NEWSPAPER  
AT THE DATES SHOWN. 9th SIGNED Clara Martin 19 93  
SWORN AND SUBSCRIBED TO BEFORE ME THIS 3 DAY OF Sept  
Notary Public  
of Bismarck

Notary Public in and for the State of North Dakota, Residing at Bismarck

**PATRICIA J. NELSON**  
Notary Public, STATE OF NORTH DAKOTA  
My Commission Expires NOV. 23, 1997

**NOTICE OF PUBLICATION**  
NORTH DAKOTA  
INDUSTRIAL COMMISSION  
BISMARCK, NORTH DAKOTA  
The State of North Dakota by its Industrial Commission hereby gives notice pursuant to said statute and the rules and regulations of said commission promulgated thereunder of the following public hearings to be held at 10 a.m. on October 7, 1993, Renville County Courthouse, Mohall, North Dakota AND 1:30 p.m. on October 7, 1993, Sheraton Inn River-  
side, 2200 Burdick Expressway East, Minot, North Dakota. For the purpose of these hearings, the Commissioner, or any member thereof acting as Examiner, 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.

All named parties right, title, interest cases and notices to HOUSE, MOHALL, RENVILLE COUNTY COURT, AN ORDER EXEMPTING THE OWNERS OF ALL PRESENT AND FUTURE WELLS IN RENVILLE COUNTY, NORTH DAKOTA, FROM THE OBLIGATION TO PAY TAXES ON SUCH GAS PRO- DUCED PURSUANT TO NDCC § 38-08-06.4, MINOT, SHERATON INN RIVERSIDE, ON A MOTION OF THE COMMISSION TO CONSIDER ENTERING AN ORDER EXEMPTING THE OWNERS OF ALL PRESENT AND FUTURE WELLS IN RENVILLE COUNTY, NORTH DAKOTA, FROM THE OBLIGATION TO PAY TAXES AND ROYALTIES ON GAS PRODUCED FROM SUCH WELLS AND FLARED PURSUANT TO NDCC § 38-08-06.4.

Signed by,  
Edward T. Schafer, Governor  
Chairman, ND Industrial Commission  
916 - 3394

*Thank  
You!*

**AMOUNT  
DUE**

## PAYMENT TERMS

Due 10th of month following charges