

September 18, 2015

Governor Jack Dalrymple  
State Capitol  
600 East Boulevard Avenue  
Bismarck, ND 58505-0100

RE: ND Gas Flaring Policy

Dear Governor Dalrymple:

As a member of The North Dakota Industrial Commission (NDIC) your efforts over the past two years to adopt and implement a policy to reduce the amount of gas flared in western North Dakota have been much appreciated. Dacotah Chapter of Sierra Club, Dakota Resource Council, and Environmental Law and Policy Center have been actively involved in North Dakota's efforts to reduce the amount of natural gas flaring in the Bakken oil fields for the past four years. As you recall, the final policy to end this wasteful practice came after numerous news articles, a public hearing, a public comment period, and much debate from both sides of the issue. At the time Ron Ness, President of the North Dakota Petroleum Council said, "I'm confident that flaring goals are going to be met by industry, nobody wants gas flaring captured more than the operator." However, a recent proposal by the North Dakota Petroleum Council, just one year after the adoption of the policy, threatens to unilaterally undo the progress we've made and severely weaken the Gas Flaring Policy long-term.

The Petroleum Council's request for a two-year delay in reaching the Gas Flaring Policy's 85% benchmark goal is unacceptable. North Dakota is already embarrassingly behind other states in capturing natural gas associated with oil drilling. A lot of gas will be needlessly wasted in that two year timeframe. Meanwhile, oil production has remained steady and new drilling permits are still being issued.

The NDIC's Gas Flaring policy adopted in July of 2014 clearly states: *"If an operator is unable to attain the Commission's gas capture goals at maximum efficient rate, well(s) will be restricted to 200 barrels of oil per day if at least 60% of the monthly volume of associated gas produced from the well is captured, otherwise oil production from such wells shall not exceed 100 barrels of oil per day."*

Yet, to date, no operator has been required to cut production. In fact, four oil companies have come before the NDIC and asked for an exemption from their gas capture requirements and all four have been granted.

According to the North Dakota Department of Mineral Resources' own data, 3,258 wells are required to have gas capture plans under the NDIC's Gas Flaring Policy. 1,705 of those wells are on Confidential Status and so information as to the amount of flaring from those wells is publicly unavailable. Information is available to the public for the remaining 1,553 of the 3,258 wells required to have gas capture plans. 463 (29.8%) of those wells are without the required gas

capture plans and are non-compliant. To date, no action has been taken under the Gas Flaring Policy to bring these 463 wells into compliance.

Before taking the drastic step of prematurely changing the Gas Flaring Policy before it has had a chance to work, it seems reasonable to enforce the mechanisms within the policy meant to ensure the policy's success!

A poll commissioned by Sierra Club and Dakota Resource Council and conducted February 18 thru March 6 of this year by UND's College of Business and Public Administration clearly shows that North Dakotans want oil companies held accountable for blatantly wasting a valuable energy source.

According to the poll, 64% of respondents think oil companies are flaring off more gas than they should and 58% support withholding drilling permits until the oil company has in place the means to capture the gas.

The phrase a "New Normal" is being used as an excuse to delay fully implementing the Gas Flaring Policy. Actually, the New Normal for North Dakota should be less than 1% of gas flared, matching the national average. The New Normal should be gas capture plans being filed for every well permitted, as recommended by the industry task force from the beginning. The New Normal should be consequences and strictly enforced penalties for wells without gas capture plans.

The state's Gas Flaring Policy was adopted from a recommendation submitted by a task force which consisted entirely of members of the North Dakota Petroleum Council. A policy written by the state's conservation community would look much different. Regardless, we are on an agreed upon path to reduce gas flaring to 10% by the year 2020. North Dakotans overwhelmingly support getting tough with industry. They are counting on the NDIC to fix this problem! Any backsliding will be seen as a betrayal of the trust they have put in you, as an elected decision maker, to end this wasteful, embarrassing flaring practice.

We the undersigned, respectively request that you do not allow the two-year delay in achieving the 85% capture target as proposed by the North Dakota Petroleum Council. We also do not support the request for administrative exemptions for wells on Federal lands. Waste and pollution from flaring is no different on federal, state, or private land and we should be reducing flaring from all sources within North Dakota.

Thank you for the opportunity to comment on this proposal.

Sincerely,

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