

Regulatory Update

By Brad McCamy

April 15, 2021

Fredrikson
 & BYRON, P.A.

Objectives

- Review 2020 NDIC Rule Changes
- Other North Dakota Updates
- Federal Updates

North Dakota Industrial Commission (“NDIC”)

NDIC Rule Changes for 2020

- Order No. 30278, Case No. 27828
- Effective April 1, 2020

- Available at: <https://www.dmr.nd.gov/oilgas/or30278.pdf>

NDIC's Authority to Cooperate With Other Agencies

- N.D.A.C. § 43-02-03-10
- “Tribal authorities” added to the list of agencies

Royalty Statements: Royalty Owner Information Statement

- N.D.A.C. § 43-02-06-01
- Info provided in check stub revised

Royalty Statements: Ownership Interest Information Statement

- N.D.A.C. § 43-02-06-01.1
- Operator must also provide ownership interest statement for change in “decimal interest of a mineral owner”

Oil and Gas Metering Systems

- N.D.A.C. § 43-02-03-14.2
- 6(b) New paragraph concerning oil custody transfer meter factors
- 6(e) Test report requirements modified
- 6(g) Failed meter test reports must also be filed

Drilling:

Bond and Transfer of Wells

- N.D.A.C. § 43-02-03-15
- (1) bond to be submitted prior to construction
- (2) Bond increase to \$100K for commercial injection operations

Drilling:

Application for Permit to Drill & Recomplete

- N.D.A.C. § 43-02-03-16
- Approval from director required prior to well-site preparation

Drilling: Recovery of a Risk Penalty

- N.D.A.C. § 43-02-03-16.3
- 1(d) An election to participate is also binding upon an owner that elects not to participate in the well

Drilling:

Casing, Tubing, & Cementing Requirements

- N.D.A.C. § 43-02-03-21
- cement blends must include additives at a formation temperature at or in excess of 230° F
- casing string must be pressure tested immediately after cementing

Drilling: Blowout Prevention

- N.D.A.C. § 43-02-03-23
- Workover operations require use of a blowout preventer and high pressure fittings

Drilling: Blowout Prevention

- Pressure testing required on wellhead connections when integrity of pressure seal is broken (when moving from one wellhead to another within the thirty days)

Drilling: Hydraulic Fracture Stimulation

- N.D.A.C. § 43-02-03-27.1
- Requirements apply “prior to performing” hydraulic fracture stimulation
- Also applies to re-fracs

Drilling: Safety Regulation

- N.D.A.C. § 43-02-03-28
- Notice increased by 3x days
- Also applies to operators of wells in adjacent pools
- Notice to include emergency contact information

Drilling: Crude Oil & Produced Water Underground Gathering Pipelines

- N.D.A.C. § 43-02-03-29.1
- Extensive changes

Drilling: Notification of Fires, Leaks, Spills, Or Blowouts

- N.D.A.C. § 43-02-03-30
- Persons operating associated above ground equipment to pipelines must comply with notice requirements

Plugging of Wells: Reclamation of Surface

- N.D.A.C. § 43-02-03-34.1
- Applies to all pipelines
- Need to be purged and abandoned

Plugging of Wells: Preservation of Cores and Samples

- N.D.A.C. § 43-02-03-38.1
- Operators shall have a well site geologist on location for at least the first well drilled on a multi-well pad

Oil Production Operating Practices: Oil Production Equipment, Dikes, and Seals

- N.D.A.C. § 43-02-03-49
- Berm must be constructed and
maintained
- Must obtain director's approval to
remove perimeter berm

Oil Production Operating Practices: Treating Plant Permit Requirements

- N.D.A.C. § 43-02-03-51.1
- Additional information requirements on permit application
- Permit oversight by director, not commission

Oil Production Operating Practices: Saltwater Handling Facility Requirements

- N.D.A.C. § 43-02-03-53.1
- site or access road construction also may not commence until permit approved by director
- Permit application to include review of the surficial aquifers within 1 mile

Oil Production Operating Practices: Abandonment of Wells, Treating Plants, or Saltwater Handling Facilities – Suspension of Drilling

- N.D.A.C. § 43-02-03-55
- “Good Cause” required for director to waive 1 year requirement to plug and reclaim abandoned well
- Well must be used for production within 7 years

Underground Injection Control: Mechanical Integrity

- N.D.A.C. § 43-02-05-07
- operator must demonstrate the mechanical integrity of the well following remedial work.

Underground Injection Control: Mechanical Integrity (cont.)

- if mechanical failure indicates fluids may be migrating into an underground source of drinking water, well must be shut-in

Underground Injection Control: Area Permits

- N.D.A.C. § 43-02-05-14
- area permit application requires additional info

Other North Dakota Developments

NDIC: Updated Well Waiver Guidance

- N.D.C.C. § 38-08-04(1)(a)(12)
requires wells not producing in paying quantities for 1 year to be placed in abandoned-well status

Updated Well Waiver Guidance (cont.)

- However, guidelines allow operators to apply for waivers granting inactive well status or suspension of drilling
- Avoid costly process of shutting down a well or completing uneconomic well

NDIC: Confiscation of Abandoned Wells

- Utilize federal CARES Act funds to reclaim abandoned oil wells

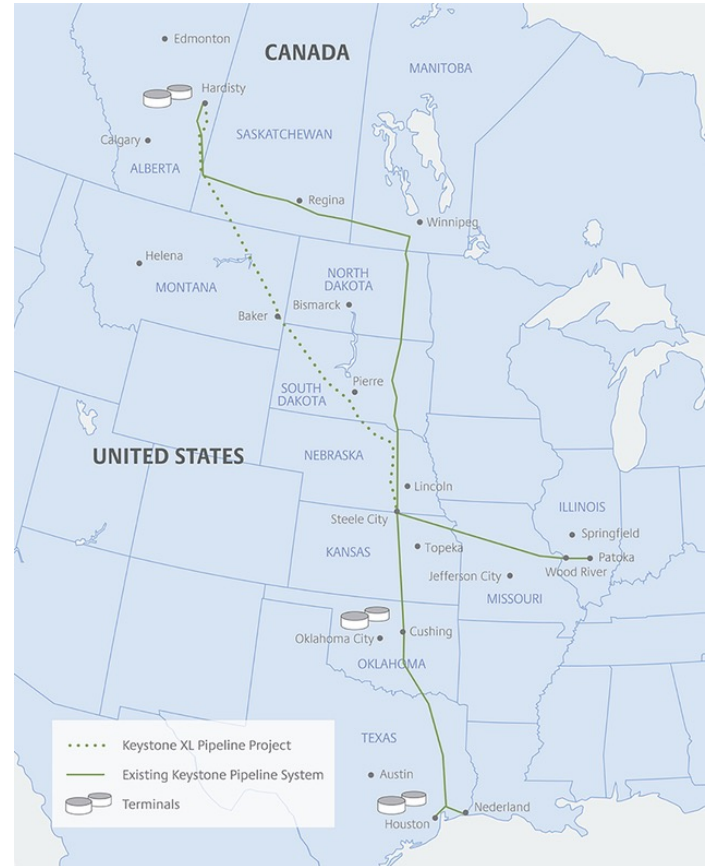
Board of University & School Lands: Repayment of Unpaid Gas Royalties

- February 11, 2020: Letter advised all entities deducting post production costs from royalty payments made on State leases that they have been underpaying royalties, contrary to the terms of the Board's lease
- Compliance extended to April 30, 2021

Federal Update

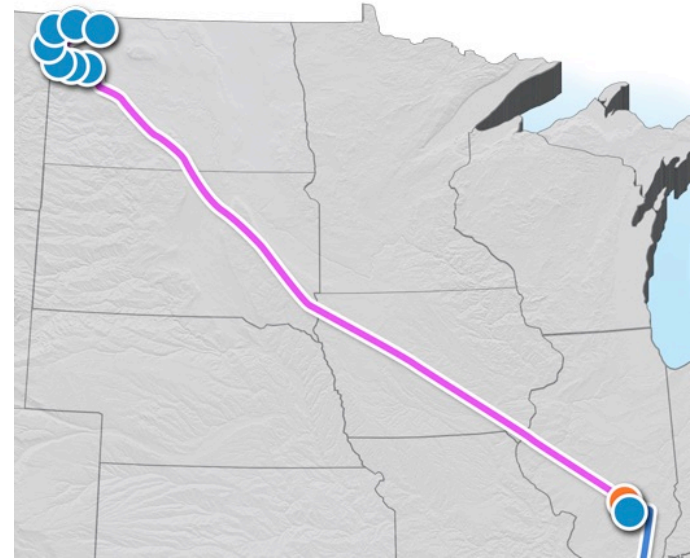
Keystone XL

- 3/29/'19: Permit Granted
- 1/20/'21: Permit Revoked



Dakota Access Pipeline (DAPL)

- April 2017:
Completion
- Subject to
Environmental
Review



Federal Leasing

- “Pause” on new oil and gas leasing on federal lands
- 60 day suspension

Contact:



Brad McCamy

Fredrikson & Byron, P.A.
1133 College Drive, Suite 1000
Bismarck, ND 58501
bmccamy@fredlaw.com
(701) 221-8700