

## NORTH DAKOTA INDUSTRIAL COMMISSION DRILLING PERMIT REVIEW POLICY

**NDIC-PP 1.01.** For all applications for a permit to drill under NDAC 43-02-02, 43-02-02.2, 43-02-02.3, 43-02-02.4, 43-02-03 and 43-02-05, regardless of location, the director shall consider the proximity of the proposed location to the following:

- a. A shallow glacial aquifer;
- b. A lake (with a water surface of 640 acres or more);
- c. Lake Sakakawea;
- d. A wellhead protection area;
- e. Near-surface coal, sand, or gravel deposit;
- f. Unstable soils or areas with a high potential for soil instability;
- g. A natural drainage;
- h. A 100-year (or less) floodplain;
- i. An occupied dwelling;
- j. A military facility;
- k. A plugged and/or abandoned well;
- l. A planned bypass route that has been proposed in an approved ten year, or less, county, state, or federal road master plan;
- m. 33 feet of any section line which has not been closed or within 200 feet of the centerline of a state or federal highway;
- n. A city's extra-territorial boundary;
- o. A county, state, or federally designated historic site; a public recreation area; or a wildlife management area;
- p. A public use airport listed in the Airport/Facility Directory, Alaska Supplement, or Pacific Chart Supplement of the U.S. Government Flight Information Publications; military airport under construction, or an airport under construction that will be available for public use; airport operated by a Federal agency or the DOD; airport or heliport with at least one FAA-approved instrument approach procedure; and
- q. Any other areas or geographical formations the director deems appropriate.

**NDIC-PP 1.02.** Because of the proximity of a surface location to any of items listed in NDIC-PP 1.01, the director may attach additional stipulations to the permit deemed necessary, such as:

- a. Closed mud system with no cuttings pit;
- b. Impermeable liner underlying the entire site;
- c. Casing cemented to ground level placed in the rat and mouse holes;
- d. Prohibiting the drilling pit from being constructed with porous materials, i.e., sand, coal, gravel, or scoria;
- e. Spill contingency plan and diking around the entire location;
- f. Hydrogen sulfide contingency plan;
- g. Fencing around the site;
- h. Additional casing strings;
- i. Additional precautions to avoid adverse effects to nearby well(s);
- j. Locating production equipment further from occupied dwellings than the well head;
- k. Requiring access from an off-spacing unit site;
- l. Planting of trees to minimize visual impact;

- m. Restrictions on access road location;
- n. Limiting flaring to completion or work over flow back periods;
- o. Restricting excavation during site construction;
- p. Timing limits on construction, drilling and fracture stimulating operations; or
- q. Any other provision deemed necessary.

**NDIC-PP 1.03.** If the proposed location is within 1/4 mile of a military installation, the director shall require documentation that the applicant has notified the applicable military service.

**NDIC-PP 1.04.** If the proposed location is within a wellhead protection area, the director shall require documentation that the applicant has notified the North Dakota Department of Health.

**NDIC-PP 1.05.** If the proposed location is within 33 feet of any section line which has not been closed or within 200 feet of the centerline of a state or federal highway, or is within any setback previously established by the governing body prior to the filing of the application, the director shall require documentation that the applicant has notified the applicable county or township.

**NDIC-PP 1.06.** If the proposed location is an off-spacing unit site, the applicant must provide an affidavit affirming that the surface owner of the pad location agrees to accept the underground burial of cuttings generated from drilling.

**NDIC-PP 1.07.** If the proposed location is within 2,640 feet of any runway end of an airport as defined in NDIC-PP 1.01(p), the director shall require documentation that the applicant has notified the appropriate city, airport, and federal officials in compliance with Title 14 CFR Part 77. Comments regarding the permit application regarding potential impacts of oil and gas operations that pose or create an undue risk or interference with the use and operation of the airport may be accepted by the Industrial Commission executive director's designee within 45 calendar days after the notice is provided. All comments shall be reviewed by the executive director's designee who shall summarize any comments received for the director. The director may consider, but is not bound to act upon, the comments. The director may attach conditions to any permit pursuant to NDCC 38-08 and 38-12, and NDAC 43-02-02, 43-02-02.2, 43-02-02.3, 43-02-02.4, 43-02-03 and 43-02-05 to mitigate potential impacts of oil and gas operations that pose or create an undue risk or interference with the use and operation of the airport to the maximum extent allowed by North Dakota law. This policy will not impact any other legal remedies available under NDCC chap 38-08.

If the proposed location is within 10,000 feet of any runway end of an airport as defined in NDIC-PP 1.01(p), the director shall require documentation that the applicant has notified the appropriate officials in compliance with Title 14 CFR Part 77. The director may attach conditions to any permit pursuant to NDCC 38-08 and 38-12, and NDAC 43-02-02, 43-02-02.2, 43-02-02.3, 43-02-02.4, 43-02-03 and 43-02-05 to mitigate potential impacts of oil and gas operations that pose or create an undue risk or interference with the use and operation of the airport to the maximum extent allowed by North Dakota law. This policy will not impact any other legal remedies available under NDCC chap 38-08.

**NDIC-PP 2.01.** After May 1, 2014, any application for a permit within the following areas of interest that relates to public lands, shall comply with NDIC-PP 2.2 through NDIC-PP 2.04.

1. Black Butte - two miles from the maximum elevation of the butte.
2. Bullion Butte - two miles from the maximum elevation of the butte.
3. Camel's Hump Butte - two miles from the maximum elevation of the butte.
4. Columnar Junipers (Limber Pines) and Burning Coal Vein - one mile from the exterior boundary of the former Dakota National Forest.
5. Confluence of the Yellowstone and Missouri Rivers - two miles from the intersection of the centerline of the riverbeds.
6. Elkhorn Ranch - two miles from the exterior boundary of the National Park and State Park sites.
7. Killdeer Mountain Battlefield State Historic Site - one mile from the exterior boundary of each site.
8. Lake Sakakawea - one half mile from the shoreline at 1850' msl elevation (i.e., the spillway elevation).
9. Little Missouri River - one mile from the centerline of the riverbed as it is determined at the time of the application.
10. Little Missouri River National Grasslands that are designated by the United States Forest Service as backcountry recreation areas;
11. Little Missouri State Park as of 1/1/2014 - one mile from the park's exterior boundary.
12. Pretty Butte - two miles from the maximum elevation of the butte.
13. Sentinel Butte - two miles from the maximum elevation of the butte.
14. Theodore Roosevelt National Park - two miles from the park's exterior boundaries.
15. Tracy Mountain - two miles from the maximum elevation of the mountain.
16. West Twin Butte - two miles from the maximum elevation of the butte.
17. White Butte in Slope County - two miles from the maximum elevation of the butte.
18. Wildlife Management Area not located within any other area of interest - one mile from the exterior boundary.

The director shall maintain a database with the GPS coordinates or legal description of these areas of interest and post a list of the datasets utilized on the Department of Mineral Resources website.

**NDIC-PP 2.02.** The director shall, within five calendar days after receiving an application to drill a well on public land within an area of interest identified under NDIC-PP 2.01:

- A. Post on the daily activity reports section of the Department of Mineral Resources website a notice including all non-confidential

permit application information. The posted notice shall include all supporting information or records provided by the applicant which are not confidential. Public comments about public lands within the areas of interest regarding such issues as access road and well location, reclamation plans and timing, noise, traffic, and visual impact mitigation, will be accepted by the Industrial Commission executive director's designee for 10 calendar days after the notice is posted.

- B. Forward the portions of the application that are not confidential to the Director of North Dakota Game and Fish Department, the State Historical Preservation Officer, the Director of North Dakota Parks and Recreation Department, the Director of North Dakota Department of Transportation, the Commissioner of North Dakota Department of Trust Lands, the State Engineer of the North Dakota Water Commission, the State Director of the Bureau of Land Management, the Park Superintendent of Theodore Roosevelt National Park, the Supervisor of Dakota Prairie Grasslands, the Field Supervisor of United States Fish and Wildlife Service North Dakota Field Office and the county auditor of the affected county. Any comments regarding the permit application may be accepted by the Industrial Commission executive director's designee within 10 calendar days after the information is sent.

**NDIC-PP 2.03.** All comments shall be reviewed by the Industrial Commission executive director's designee who shall summarize any comments received for the director of the Division of Mineral Resources. However, the Mineral Resources director is not bound to act upon any comments.

**NDIC-PP 2.04.** The director may consider the comment summaries for the purposes of attaching conditions to any permit pursuant to NDAC 43-02-02, 43-02-02.2, 43-02-02.3, 43-02-02.4, 43-02-03 and 43-02-05 to mitigate potential impacts to the sites listed in NDIC-PP 2.01.

*NDIC – PP 2.01 – PP 2.04 - Adopted March 3, 2014*