



When Working Interest is 50/50: First to Permit Gets to Drill in North Dakota

By: [Dante Tomassoni](#)

On April 20, 2011, the North Dakota Industrial Commission (Commission) issued Order No. 16670 on Case No. 14392 finding that both Zavanna, LLC (Zavanna) and Newfield Production Company (Newfield) were equally capable operators with substantial experience in North Dakota. As such, with equal working interest ownership in the subject drilling unit, Zavanna, as the first in time to file and receive a permit to drill, was granted the right to operate the unit. Zavanna may not renew its permit without further order of the Commission.

The Commission's ruling came after Newfield's application to the Commission for an order suspending, and after hearing, revoking a permit issued to Zavanna for the drilling of the SS #20-17-1H well (File No. 20370) on a 1280-acre drilling unit consisting of Sections 17 and 20, Township 156 North, Range 100 West, Williams County, North Dakota (Sections 17 and 20), and such other relief as is appropriate.

Zavanna received a permit to drill the SS #20-17-1H well on January 28, 2011. The permit allowed a horizontal well to be drilled, from a surface location in SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20, across the 1280-acre drilling unit described as Sections 17 and 20. No operations had commenced on the SS #20-17-1H well when the Commission received Newfield's application to suspend the permit.

Pursuant to NDAC § 43-02-03-16.2, in deciding whether to revoke or limit a permit, if the amount of the interest owned by the permit holder and its partners is a majority of the ownership, the Commission will presume that the permit should be retained. Evidence presented to the Commission indicated that Newfield and Zavanna each owned approximately 50 percent of the working interest in the spacing unit.

NDAC Section 43-02-03-16.2 provides that, when deciding whether to revoke or limit the duration of a permit, the Commission may consider other factors such as the technical ability to drill and complete the well, experience in drilling and completing similar wells, the number of wells operated in the area, whether drainage of the spacing or drilling unit has occurred or is likely to occur in the immediate future and whether the permit holder has committed to drill a well in a timely fashion, and contractual obligations such as an expiring lease.

At the March 24, 2011 Commission hearing, Newfield and Zavanna both presented why they should be the operator of the 1280 acre drilling unit. Newfield planned to develop the 1280 from four existing well pads in Section 8 just north of the Section 17. Newfield planned to drill four-1280 acre lateral Bakken formation wells and potentially four-1280 acre lateral Three Forks formation wells from the existing well pads.

Newfield argued it sought to save costs thereby improving the economic prospects of the drilling unit through centralized facilities and reduced costs involved in drilling-rig transfer, while reducing the overall surface footprint and effects on the environment.

Zavanna countered that Newfield's plans were not "set in stone." Zavanna then argued it is a more efficient operator with better advances in recovery techniques and technology that would increase production and recover more oil.

After hearing testimony from both Newfield and Zavanna, the Commission found Newfield and Zavanna each operate numerous horizontal Bakken wells and have extensive experience in drilling and completing such wells. Also, no drainage or contractual obligation issues were found. The Commission found it evident that both Newfield and Zavanna have the technical ability and the experience to drill horizontal wells in the area.

NDAC Section 43-02-03-16.2(3) provides that the Commission, upon a decision to decline to revoke a permit, has the authority to restrict the permit holder's ability to renew the permit or acquire another within the same spacing or drilling unit.

The Commission denied Newfield's application, "[b]ecause the factors for deciding whether to revoke or limit the duration of a permit do not favor either Newfield or Zavanna, the Commission concludes that Zavanna's permit for the SS #20-17-1H well should be reinstated to drill a horizontal lateral

within the Bakken Pool on a drilling unit described as all of Sections 17 and 20." Nevertheless, Zavanna will not be allowed to renew its permit for the SS #20-17-1H well, which is set to expire on January 31, 2012, "unless the well is drilling or has been drilled below surface casing" without further order of the Commission.

For more information, please contact [Heidi Hande](#) or [Dante Tomassoni](#).

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