

July 26, 2018

Darrell Nitschke
Executive Secretary
North Dakota Public Service Commission
State Capitol
Bismarck, ND 58505



Re: *Environmental Law & Policy Center and Dakota Resource Council v. Meridian Energy Group, Inc.*, Case No. PU-18-223

Dear Executive Secretary Nitschke:

The Environmental Law & Policy Center (“ELPC”) and the Dakota Resource Council (“DRC”) would like to bring recent developments with respect to the above case to the attention of the Public Service Commission (“PSC”). Specifically, Meridian has begun construction of the oil refinery without a certificate of site compatibility from the PSC.

In their Complaint against Meridian, filed June 29, 2018, ELPC and DRC alleged current or imminent violation of N.D.C.C. § 49-22.1-04, which provides that a company must obtain a certificate of site compatibility from the PSC prior to construction of an oil refinery with a capacity of 50,000 bpd or more. ELPC and DRC explained in their complaint that Meridian plans to construct a 55,000 bpd oil refinery, known as the Davis Refinery, in Billings County, North Dakota, approximately 3 miles from the South Unit of the Theodore Roosevelt National Park. Meridian has taken the position that it can avoid siting review by the PSC by developing the refinery in two stages, the first of which would be under the 50,000 bpd threshold that triggers the requirement of a certificate of site compatibility. Meridian then plans to construct a second “phase” of the refinery—expanding beyond the statutory threshold.

Despite Meridian’s representations to the PSC that it only currently has plans to build a refinery with a 27,500 bpd capacity, Meridian has made statements to the public, to investors, and to three separate government entities in official permit applications that it plans to build a 55,000 bpd refinery.

Meridian has now begun construction of the Davis Refinery. Meridian issued a press release on July 17, 2018 titled, “Meridian Energy Group, Inc. Begins Civil Construction of the Davis Refinery.” Meridian, *Meridian Energy Group, Inc. Begins Civil Construction of*

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the Davis Refinery, <https://www.meridianenergygroupinc.com/meridian-energy-group-inc-begins-civil-construction-of-the-davis-refinery/> (July 17, 2018). An article in the Bismarck Tribune published July 17, 2018, further stated that a Meridian spokesman said that construction work at the site began on Monday, July 16, 2018, and that “[i]nitial construction activities will include installing erosion control devices, stormwater pond development and other site grading.” Amy Dalrymple, *Construction Begins on Davis Refinery Site*, *Bismarck Tribune*, https://bismarcktribune.com/bakken/construction-begins-on-davis-refinerysite/article_cb91a11a-83ab-5987-acf3-3cc6431944b3.html (July 17, 2018). See also Steve Kirch, *Groups Play Game of Chess Over Davis Refinery*, *Dickinson News*, <https://www.myndnow.com/news/dickinson-news/groups-play-game-of-chess-over-davis-refinery/1315307760> (July 21, 2018).

Meridian’s construction of the Davis Refinery violates North Dakota law and undermines the PSC’s authority to make determinations on site compatibility for large oil refineries, as well as its authority to determine when it has jurisdiction over a proposed project. By beginning construction now, Meridian is trying to establish “facts on the ground” to lock-in their site selection, whether or not that site is consistent with the public interest. That is something the PSC should not allow.

We look forward to further PSC proceedings on this issue. Thank you for your attention to this matter.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing document was on the 26th day of July, 2018, served by e-mailing the same to the following:

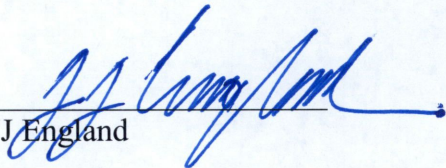
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An original and ten copies of the foregoing document were also mail by USPS mail to the North Dakota Public Service Commission on said date.


JJ England