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To: [Hamre, John G.](#)
Subject: Filing Accepted for Case: 08-2018-CV-02937; Environmental Law and Policy Center, et al. vs. North Dakota Public Service Commission, et al.; Envelope Number: 3293195
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Filing Accepted

Envelope Number: 3293195
Case Number: 08-2018-CV-02937
Case Style: Environmental Law and Policy Center, et al. vs. North Dakota Public Service Commission, et al.



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Filing Details	
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Case Number	08-2018-CV-02937
Case Style	Environmental Law and Policy Center, et al. vs. North Dakota Public Service Commission, et al.
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08-2018-CV-02937

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Garland Erbele, P.E., State Engineer
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October 27, 2016

David Glatt, Chief of Environmental Health Section
918 E. Divide Ave
Bismarck, ND 58501-1947

Julie Fedorchak, Chair of ND Public Service Commission
PO Box 2422
Bismarck, ND 58502-2422

Carline Fine, Executive Director and Secretary of ND Industrial Commission
600 E. Boulevard Ave #14
Bismarck, ND 58505

Re: Meridian Refinery, Proposed for Freiburg ND,
North Dakota Water Conservation Commission Application 6858.
AKA the Davis Refinery Project in Billings County, just west of Belfield.

Dear Messers Erbele and Glatt & Madams Fedorchak and Fine,

On behalf of clients of mine who have formed an association of Concerned Citizens of Billings County, I ask that I be a *Designated Part*, or put onto a subscriber list, entitled to copies of all communications to and from your agencies regarding the Meridian Refinery no matter what its name. This letter is intended to arrive before the November 7th deadline which closes the comment period on Application 6858. This letter is an open record request,

I propose to address all of you simultaneously on the matter of the Davis Refinery water permit application as well as the application by Meridian Energy Group Inc. Permit Application for Air Contaminant Sources. This request to receive all copies should be read to apply to future applications to any of your agencies for the authority to manage and dispose of the refinery's hazardous wastes.

My effort to be efficient is appropriate because we believe you share Trust Responsibilities. We request you form an interagency task force and integrate your analysis of the risks presented. By use of the word risk, I refer to your duties to manage North Dakota's Public Trust Property, namely its water and the formations in which water exists.

As elected officials, I add that you have trust responsibilities that derive from the management of that water, so that its appropriation and contamination does not damage either the interests of

prior users or preempt future beneficial uses. Responsible management must anticipate that salt, water, and water contaminated by industrial chemicals imperils private property.

We anticipate that Davis Refinery will eventually require approximately 90% more water than it has currently applied for. To explain these insights, I provide nine pages of documents and reference you to the March 22nd letter from Meridian Energy Group Inc.'s Tom Williams, Executive Vice President, Planning & Permitting, and the September 2nd letter from Daniel N. Hedrington, Principal Client Service Manager/Sr. Project Manager for SEH, aka as Short Elliott Hendrickson, Meridian Engineering Group Inc.'s agent. It is sufficient to note that the explanations in these letters attempted to educate interested Billings County citizens about the Refinery Water Flow Chart and the quantities of water likely to be used to desalinate oil.

This we understand that item number 6858 is the fourth application assigned for review by hydrologist, Kimberly Fischer. Please clarify; does that number designate all the applications relevant to the Meridian Refinery?

We note that the Billings County Pioneer has published instructions that comments should be filed before the 7th of November. Did this notice relate to all the applications or the most recent iteration of their application? We wonder, whether we ought to comment on a series of applications or a final application?

North Dakota Constitution and Law impose a trust upon all waters of the state. The Public Trust Doctrine requires a comprehensive management of water by the entire set of state trustees including those elected, those appointed and staff members with unique expertise.

This view of the duties imposed on Public Trustees is apparent in the opinion written by Justice Peterson in the case entitled, United Plainsmen Ass'n v. North Dakota State Water Conservation Commission 247 N.W.2d 457 (N.D. 1976). Your agencies and the Attorney General have issued administrative decisions and opinions that have made these propositions even more clear.

All four of your agencies should anticipate future involvement with waters appropriated from the Dakota Formation and thereafter contaminated by the Meridian Refinery's operations. Draws from and disposal wells into the Dakota Formation are one of our groups concerns. Nearby wells may be at risk.

By North Dakota Constitution, statute, rule, and decisional law you share responsibilities to protect public and private property. We contend that responsible management can only occur if there be interagency collaboration. To my knowledge, there is no interagency task force or interagency exchange of information. We deem that a failure breach of trust responsibility.

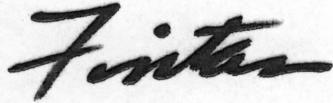
The familiar answer from the Water Commission staff is that we appropriate water if the application proposes a use which matches one of the constitutionally permitted uses. To that I respond, hydrogeology has come a long way from the 1890s, and merely appropriating water to an industrial use cannot be a responsible performance of your agencies' integrated trust duties.

Please confirm that this is true. Only the Water Conversation Commission has hydrologists on staff. Please tell how your agencies will evaluate the hydrological questions raised in our list of concerns. Will the Water Commission task its hydrologists to serve the Health Department, the Public Service Commission, or the North Dakota Industrial Commission?

I have attached a list of concerns which are intended to be an introduction to our concerns. We will add our other concerns later after the hearing is held.

I conclude with a request that all the hearings on Meridian Applications be held in Billings County, where prior appropriators may conveniently appear and pose questions to your hydrologists and engineers.

Sincerely,

A handwritten signature in black ink, appearing to read "Fritter". The signature is written in a cursive, slightly slanted style.

On behalf of the Concerned Citizens of Billings County

From the desk of Fintan Dooley
218 N. 4th St,
Bismarck, ND 58501

October 27th, 2016

Re: Meridian Refinery, Proposed for Freiburg ND,
North Dakota Water Conservation Commission Application 6858.
AKA the Davis Refinery Project in Billings County, just west of Belfield.

This list of concerns is intended to arrive before the November 7th deadline which closes the comment period on Application 6858.

1. There is no evidence of interagency cooperation. The agencies and staff specialists which ought to cooperate include:

ND Water Conversation Commission;
ND Health Department and its Environmental Health Section;
ND Public Service Commission; and
ND Industrial Commission.

2. The application for water appears to be the second, third, or perhaps fourth iteration.

At hearings in Medora and on webpages once posted by the refinery's promoters, documents were presented which disclosed a Refinery Water Flow Chart. See page three in the enclosed packet covered by a letter with the date March 22nd, 2016.

Other documents in the packet indicate that the actual requirement for desalinating the oil may require as much as ten times the quantity of water, 645.2 acre ft which was requested in the application dated August 18th, 2016. Of course we are not engineers, but we did read pages five, six, and seven of the attachment. The question arises whether or not a ratio of water and desalinated oil will be 1.5 gal/gal.

The Tesoro Refinery uses fresh water from the Missouri.

The Meridian Refinery will use salted water from the Dakota Formation.

Prompted by these concerns, we ask that the hearing be reset after these questions are answered. Answers ought to include how the Meridian Refinery will desalinate oil with salted water.

3. After conferences with Steve Tillotson , Manager of the Solid Waste Program, and his agency neighbors Curtis Erickson, Manager of Hazardous Waste Program, and Dale Patrick, Manager of Radon and Radiation Control Program, the following concerns appear:

- A. Meridian's plans to modify the Dakota Formation Water by an osmotic process will create either a more concentrated brine or a solid waste.
 - B. Even the Tesoro Refinery, which uses fresh water, generates solid wastes.
 - C. Bakken oil does contain salt and heavy metals.
4. Use of the Dakota Formation Water will release heat. We understand that the Dakota Formation Water is at or above the boiling point of water.
 5. Withdrawals from and disposal into the Dakota Formation are one of our group's concerns. Nearby wells may be at risk. Hydrogeological; question should be studied by an interagency task force.

Conclusion

As written in the cover letter to this list of concerns, we ask for the creation of an interagency task force to address our questions and identify concerns more apparent to your staff of experts.

America's energy independence, if properly accomplished, can provide jobs and wealth for North Dakota.

We compliment the Meridian Refinery proponents and hold them to their commitment to create a state of the art refinery that respects the class one air quality in which it is to be located. We find it difficult to believe, but are willing to be persuaded, that the refinery can be a minor source of air pollution. The proof obviously requires an evaluation of the complexities we have attempted to identify.



March 22, 2016

Ms. Stacey Swanson
Tax and Zoning Director
Billings County Planning and Zoning Department
Tax Equalization & Zoning Office
Billings County Courthouse
495 4th Street
Post Office Box 247
Medora, North Dakota 58645

Dear Ms. Swanson:

Meridian Energy Group, Inc. is pleased to submit the attached **Application for Building & Zoning Certificate** and the **Application for Conditional Use Permit** for the proposed Davis Refinery Project near Belfield, North Dakota. Meridian is seeking an Industrial Zoning Certificate and a Conditional Use Permit to construct the Davis Refinery, an approximately 55,000 barrel per day petroleum refinery. The Refinery will be constructed in two phases, with the initial design capacity of the Refinery being 27,500 bpd capacity.

The Applications have been prepared in accordance with the information requirements outlined within the Billings County Comprehensive Plan, Section B, paragraph ii – The Energy Industry, and Section C – Future Growth in Billings County, and Billings County Zoning Ordinance Article V: Zoning District Regulations, Section 5.5 Industrial District Purpose, and Section 5.5.2 - Conditionally Permitted Uses, Subsection e), and Article VII: Administration and Enforcement, Section 7.3 – Conditional Use Permits. In this regard, the attached Survey, Site and Location Maps were prepared by SEH Engineers Inc., Bismarck, North Dakota, (www.sehinc.com) and the Site Plan and General Plot Plan were prepared by the Houston offices of Vepica USA, Inc. (www.vepica.com/home/en), on behalf of Meridian.

Using state-of-the-art operating and controls technology, the proposed Davis Refinery will refine, once fully installed, approximately 55,000 barrels per day of a variety of locally produced crude oils brought to the facility by pipeline, truck and rail. Refined products include gasoline, diesel, jet fuel, heating oil, as well as lesser-known products such as lubricants, asphalt base, ethane for plastics, waxes and other specialty chemicals. The initial phase of the Refinery will focus on the production of jet fuel, diesel fuel and other distillate products, primarily for local markets.

The Applications' attachments in Exhibit J include environmental review reports from SEH Engineers (1) to assess the suitability of the Project site from a soils, geologic hazards, and flooding perspective, (2) to assess the impact on biological resources in the vicinity of the Project site, including potential environmental impacts from constructing and operating the refinery, (3) to assess cultural and

MERIDIAN ENERGY GROUP, INC.

Thomas Williams – Executive Vice President, Planning and Permitting

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paleontological resources and wetlands, and (4) visual impact mitigation attainment. These reviews will be used in the design phase of the refinery to minimize environmental impacts, including noise, light, and so forth. Exhibit J also includes a Memorandum from SEH that addresses the manner in which Meridian will mitigate construction period impacts.

The Refinery will employ up to 500 people at the peak of the construction period, and full-time permanent employment is expected to be approximately 150 – 200 people. A refinery job creation report from the state of Washington is attached as Exhibit K which concludes refinery employment creates total permanent employment, including indirect and induced jobs, equal to over twelve for each direct refinery employee. Pursuant to the Billings County Comprehensive Plan, "maintaining the energy industry in Billings County is of utmost importance to the citizens of the County and the County itself."

State-of-the-art refinery safety equipment and technology will be utilized during construction and operation of the refinery. During construction, all local, state and federal construction site requirements will be met, such as, but not limited to, storm-water runoff control, erosion and sediment control, wash water control (concrete, tools, equipment), wastewater control (portable toilets) and dust and weed control, and site safety and security.

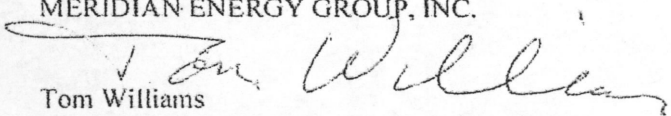
Meridian is requesting that Billings County provide, as part of its approval of the permits and approvals requested herein, the ability of Meridian to begin limited site work on the Project so that the Project does not lose this coming summer as part of the construction schedule for the Project. The work that would be initiated this summer would include grading and earthwork, work on rail sidings and switches, and construction of the agricultural visual buffer that Meridian will be designing with help from a local University. We have learned from Craig Thorstenson, Environmental Engineer for the North Dakota Department of Health, Division of Air Quality that all sources requiring an air quality permit can begin grading and site construction prior to receiving the air quality permit.

Meridian has entered into an agreement with BASIC Equipment, Inc. (www.basic-equipment.com), a Houston based turnkey engineering, procurement and construction firm to serve as its contractor for the refinery, and Vepica USA will continue as the Project's engineer

Meridian would like to arrange to meet with you in the near future to discuss the Project in greater detail and address any questions concerning the Project that you may have based upon your review of the Applications. Please call me if you have any questions or comments in the interim.

Sincerely,

MERIDIAN ENERGY GROUP, INC.


Tom Williams
Executive Vice President, Planning & Permitting