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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: 3293204
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 Case Style: Environmental Law and Policy Center, et al. vs. North Dakota Public Service Commission, et al.



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Roger O. and Patricia D. Ashley, 11720 30th Street SW, Dickinson, ND 58601

08-2018-CV-02937

January 25, 2018

Julie Fedorchak
Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480



Dear Commissioner Fedorchak,

Please find enclosed comments we made to the North Dakota Department of Health on Meridian Energy Group Inc.'s proposed Davis Refinery.

We feel a project such as this with its close proximity to Theodore Roosevelt National Park should have an overarching review such as can be provided by the Public Service Commission.

Thank you.

Sincerely,

Handwritten signature of Roger O. Ashley in black ink.

Roger O. Ashley

Handwritten signature of Patricia D. Ashley in black ink.

Patricia D. Ashley

January 23, 2018

Terry O'Clair, P.E., Director
North Dakota Department of Health
Division of Air Quality
918 E. Divide Ave., 2nd floor
Bismarck, ND 58501-1947

RE: Meridian Energy Group Inc.'s Davis Refinery Air Quality Application

Dear Mr. O'Clair,

We value clean air and open spaces and are blessed to have Theodore Roosevelt National Park with its Class I airshed designation. In today's built environment, places like the National Park should receive even more protection from development within and outside the park. In addition to Class I airshed designation the area is North Dakota's number one tourist attraction, drew 760,458 visitors in 2016, provided employment for 654 people within a 50-mile radius and generated \$47.8 million in economic activity.¹

Meridian is asking to establish the Davis Refinery, an industrial complex, on the doorstep of Theodore Roosevelt National Park that will dump tons of pollutants into the air we breathe, affecting our health as well as contributing to visibility issues. Refineries release toxins including benzene, hydrogen cyanide and lead which can cause cancer, birth defects, and chronic conditions such as asthma.² Billings and Stark Counties are currently high-risk counties, above the EPA level of concern for cancer risk, with a county-wide average cancer risk equal to or greater than 1 in 1 million. And Divide, Dunn, McKenzie, Mountrail and Williams counties have cancer risks over 1 in 250,000.³ This study was based on EPA's most recent National Air Toxics Assessment (NATA) analysis and only includes toxic air emissions from the oil and gas industry it does not include health impacts from particulate matter and ozone-related air emissions, nor does it include health impacts of water contamination cause by the oil and gas industry. Nor does it include the increased truck traffic and changes in land use. The North Dakota Department of Health should be protecting its citizens from unnecessary health risks posed by refineries.

¹ "Visitation at Theodore Roosevelt National Park last year sets attendance record," *Bismarck (North Dakota) Tribune*, 10 May 2017; electronic edition, *Bismarck Tribune* (http://bismarcktribune.com/news/state-and-regional/visitation-at-theodore-roosevelt-national-park-last-year-sets-attendance/article_c7991ad6-e060-552d-9401-34bbe2026a68.html) : verified 23 January 2018).

² Lesley Fleischman and Marcus Franklin, *Fumes Across the Fence-Line: The Health Impacts of Air Pollution from Oil & Gas Facilities on African American Communities* (n.p.: NAACP, 2017), 21; digital images, NAACP (<http://www.naacp.org/climate-justice-resources/fumes-across-fence-line/>) : accessed 9 January 2018).

³ Lesley Fleischman, *Fossil Fumes: A public health analysis of toxic air pollution from the oil and gas industry* (n.p.: Clean Air Task Force, 2016), 5; digital images, *Clean Air Task Force* (<http://www.catf.us/resources/publications/view/221>) : accessed 9 January 2018).

In addition to health risks associated with this type of development negative impact to air quality will create issues with smog. The mixing of ozone, NO_x, SO_x, particulate matter and volatile organic compounds will create a brown cloud and haze that will decrease visibility within the National Park and adjacent areas. We have experienced smog in western North Dakota particularly at the height of flaring. Even now with a reduction in flaring there are still some days when we see smog. The nearby Belfield gas plant located south of Belfield also contributes pollutants into the air but this is partially offset by a reduction in flaring and off gassing that was being done prior to the natural gas plant construction. The proposed Davis Refinery will increase the level of pollutants in the air without any reduction in air pollutants from oil wells in adjacent areas around the plant. Various sources big and small contribute to smog. The refinery is expected to generate at least 170 round trips per day for trucks hauling refined products.⁴ With the addition of the air pollutants from the proposed Davis Refinery to the Belfield gas plant, the oil-loading rail facility, traffic on I-94 and U.S. Highway 85, flaring from nearby oil wells, the soon to be constructed OIT thermal treatment facility, etc. the area will have a considerable amount of pollutants that will mix causing an increase in health and visibility issues. Why isn't the North Dakota Department of Health considering the entire load of pollutants in the air? No barrier can be built to keep pollutants from various sources separate. There are many areas within North Dakota that have roads, rails and pipelines that can host a refinery without being sited next to a Class I airshed, a National Park and North Dakota's number 1 tourist attraction.

Meridian has touted the proposed Davis Refinery will use technology that has never been integrated as it is in this proposed project. This technology is unproven as a whole system, yet they have arrived at an estimated tons of pollutants generated. In Vepica, USA, Inc's Emissions Inventory Document dated 03/17/17, Sheet 19 of 35 the company states in Section 5.2 Emission Estimation – Basis and Assumptions in the first bulleted paragraph, ***Since this is a new refinery, and site-specific measurement or test data are not available, default emission factors (Methodology Ranks 5, or 4, as applicable) were used to estimate criteria pollutant and HAPs emissions, unless noted otherwise. For new industrial sources with no actual monitoring or direct measurements, the methodology ranks above mentioned were used since they are based on typical refinery average stream concentrations and statistical default process compositions. Also, when available, actual engineering/licensor data or vendor guarantees were used as preferred emissions factors.***

In several sections of Meridian's application Meridian has stated that they will use "fuel gas" in processes that require heaters. A letter dated March 22, 2017 from Born Inc., Tulsa, 5410 S 49th W Avenue, Tulsa, Oklahoma 74107, Subject: Emissions From Born Heaters supporting the Meridian application, was used as one of the guarantee or manufacturers specifications. This

⁴ Vepica USA, Inc., "Emissions Inventory," A.9.1 Paved Roads Dust, Section 9: Fugitive Dust, sheet A-31 of A-34.

guarantee of specification has five footnotes. The 5th footnote reads, ***Above emissions are valid for clean natural gas firing only. If available fuel is not natural gas, detailed composition is required to analyze and provide emission values.*** If the modelers for this project used vendor or manufacturer guarantee/specification where did the detailed composition of the fuel gas come from that was used in generating the mean values published in the application? Apparently Born Inc., Tulsa has some reservations using other fuel gases to specify natural gas in their equipment performance data. Vendor guarantees and engineering/licensor data are very specific. Variations can significantly impact performance of equipment.

Estimated values generated by models is dependent upon assumptions and data used. Table 4c: Davis Refinery – Summary of Applicable Air Pollution Control Technologies by Source Category Stationary Sources (Process Heaters and Boilers) on page 12 of Controls Technology Review indicates a rating of 79% for SCR w/Low NOx burners. We are not sure how the value 79% was arrived at given the values shown in the Born Inc., Tulsa specifications/guarantee. Values such as 79% tend to impart the idea that the value generated is more precise than what it really is. Considering that the NO₂ rate reported as “result” (the author must have meant estimated) is only 4% less than the one-hour SIL set by the North Dakota Department of Health for Class II air, there is no room for error.⁵

Assumptions, guarantees and data used to generate the estimated levels of pollutants emitted into the air should be scrutinized by independent experts hired by the state. Considering the air quality application of 55,000 bpd exceeds the Public Service Commission review limit of 50,000 bpd the North Dakota Department of Health should withhold the permit to construct until Meridian submits and passes a review by the Public Service Commission. Meridian’s application states that they will first build to 27,500 bpd and then in two to three years build the proposed refinery to 55,000 bpd. Even if it takes them 10 years to build up to 55,000 bpd it is still the same project. William Prentice, CEO for Meridian, told investors in a webinar in early 2017 “We fully expect that the finalized refinery will be well above 55,000 barrels per day in capacity.”⁶

For a state agency to participate in helping a company circumvent a part of the regulatory process is unethical. Since Meridian is telling one agency one thing and turning around and telling the Public Service Commission something else, should the North Dakota Department of Health believe the application Meridian submitted?

⁵ Miguel A. Martinez and Edward H. Martinez, “Table 7A. Summary of Modeled Highest Values Compared to NDDoH SILS (ug/m³) Primary Operating Scenario Davis Refinery Project, Billings, County, ND,” in “Summary Report of Air Dispersion Modeling Results in support of an application for air contaminate discharge permit Meridian Energy Group Inc., Davis Refinery, Billings County, North Dakota,” April 2017, p. 12.

⁶ Amy Dalrymple and Jessica Holdman, “Regulators get ‘mixed message’ from refinery developer,” *Bismarck (North Dakota) Tribune*, 2 July 2017, p. 1.

Meridian describes itself as a “development state firm that has no operating history.”⁷ Why should they be trusted to build and operate a refinery next to a National Park? This is unproven technology and the place to test it is not next door to a National Park that was named for, and honors, this country’s greatest conservationist.

We have lived in large cities and major metropolitan areas but over 20 years ago we chose to live in western North Dakota because of its clean air and open spaces. We are concerned about the addition of the proposed Davis Refinery’s HAP, VOCs, O₃, NO_x, SO_x and particular matter to an already impacted air quality by industrial development, primarily the result of oil and gas development, that will affect our health and the enjoyment of the National Park and the National Grasslands. If NDDoH issues this permit as proposed we believe that through this exposure we are likely to experience long term respiratory problems and/or cancer from air pollutants emitted by Davis Refinery.

We urge you to deny this permit, but if you must approve it please put a condition on it that Meridian will have to obtain a siting permit from the Public Service Commission. Thank you.

Sincerely,

Roger O. Ashley

Patricia D. Ashley

cc: Governor Doug Burgum
Julie Fedorchak, Public Service Commissioner

⁷ Meridian Energy Group, Inc., “Confidential Private Placement Offering Memorandum,” January 27, 2017; digital images, ([http://gatekeeper.itexange.com/proadmin/docs/1a-\\$5-meriidan-ppm-rev-01.27.2017-1486491882.pdf](http://gatekeeper.itexange.com/proadmin/docs/1a-$5-meriidan-ppm-rev-01.27.2017-1486491882.pdf) : accessed 10 January 2018).