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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: 3293206
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Filing Accepted

Envelope Number: 3293206

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	
Court	Burleigh County - South Central District
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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Filed By	John Hamre
Filing Attorney	Illona Jeffcoat-Sacco

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Hamre, John G.

08-2018-CV-02937

From: Fedorchak, Julie L.
Sent: Wednesday, February 28, 2018 5:03 PM
To: Hamre, John G.
Subject: FW: BCA Comments to DOH re: proposed Meridian Refinery
Attachments: BCA Comments Draft DOH PtC.pdf

This should be added to the I-File on Davis/Meridian refinery. tHANKS!

-----Original Message-----

From: Jan Swenson [mailto:bcajan@bis.midco.net]
Sent: Thursday, January 25, 2018 8:07 PM
To: Fedorchak, Julie L.
Subject: BCA Comments to DOH re: proposed Meridian Refinery

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Commissioner Fedorchak,

Please find attached the comments Badlands Conservation Alliance submitted to the ND Department of Health-Air Quality Division as regards Meridian Energy's proposed refinery next to Theodore Roosevelt National Park. BCA thanks you and your fellow PSC Commissioners for the leadership you have shown on this issue and encourage your continued engagement.

For those of us that hold the Park and its integrity as key to our pride and love for our state of North Dakota, your actions and words have been greatly appreciated. Keep it up. Again, thank you.

Respectfully,
Jan

Jan Swenson
Badlands Conservation Alliance
701-255-4958
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BADLANDS CONSERVATION ALLIANCE

A VOICE FOR WILD NORTH DAKOTA PLACES

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North Dakota Department of Health
Air Quality Division
Terry L. O'Clair, PE, Director
1918 E Divide AVE
Bismarck, ND 585501-1947

January 23, 2018

Dear Mr. O'Clair:

Badlands Conservation Alliance (BCA) is a western North Dakota based non-profit organization focused on public lands and public natural resources in western North Dakota, particularly Theodore Roosevelt National Park and the Little Missouri National Grassland. Many of our members live in or originated in the small communities and rural landscapes surrounding these public lands. Members hold significant familiarity with these lands and value them for a host of ecological, heritage and personal reasons, frequently through multiple generations.

BCA members have participated in the public process for Meridian Energy's proposed Davis Refinery from the beginning. BCA members locally resident to the proposed site within 3 miles of Theodore Roosevelt National Park as well as those from across the state have attended all related meetings and hearings, commencing with Billings County Planning & Zoning and the three hearings held by the Billings County Commission. BCA has submitted formal comment at every public opportunity, as we did at last week's Department of Health hearing and as we do today.

Throughout this process we have watched Meridian change its numbers and development plan dependent on whom they are talking to and what best fits Meridian's own self-interest - be that government entities at local and state levels, potential investors, the local community or the general public. BCA finds it particularly egregious that Meridian is avoiding the ND Public Service Commission's (PSC) siting review by claiming a 49,500 BBL per day capacity while all other applications have clearly stated an intended 55,000 BBL per day.

BCA has consistently opposed the proposed location of a refinery at such near proximity to the state and nation's Theodore Roosevelt National Park and cannot help but wonder how a company could rationalize such a siting. To select such an obviously contentious site is beyond our understanding of good business practice and common sense. A refinery can be located elsewhere; the existing National Park cannot.

It is BCA's position that the ND DOH Air Quality Division has the authority, and should in good conscience deny the application for a Permit to Construct at this location. Such an action would save time, money, and angst for all involved and ultimately allow Meridian to apply its energy toward a more suitable location for an oil refinery.

ND Century Code 23-25-01.1 states: *It is hereby declared to be the public policy of this state and the legislative intent of this chapter to achieve and maintain the best air quality possible, consistent with the best available control technology, to protect human health, welfare, and property, to prevent injury to plant and animal life, to promote the economic and social development of this state, to foster the comfort and convenience of the people, and to facilitate the enjoyment of the natural attractions of this state.* This declaration of public policy clearly allows you the authority to deny this application.

Theodore Roosevelt National Park is the number one tourist destination in North Dakota with 753,880 visitors in 2016. That is 1500 short of the US Census Bureau's 2017 estimate of the entire population of our state. BCA members with cars bearing ND license plates often report being approached by Park visitors questioning our state's seemingly casual siting of industrial development visible within Park boundaries.

There are circumstances when this is inescapable. The proposed Meridian refinery is not one of them.

The *Cooling Tower Plume Visibility Analysis* cited by Meridian as to whether the proposed refinery will have visual impacts on the Park is less than adequate. Meridian's frequent reference to it as proof that the refinery will not be visible from the Park is misleading and simply wrong. The four locations chosen for analysis omit the most obvious eastern boundary area of the Park closest to the refinery. Many Park visitors do not limit themselves to the "public gathering places" representative of the four locations, but use the trail system that includes the east boundary Rim Trail clearly delineated on official South Unit maps. Furthermore, visitors are not limited to trails and many seek-off trail experience, BCA among them.

BCA members have firsthand, on the ground experience with that eastern portion of the Park and can readily claim that the proposed refinery site is visible to the naked eye from the Park. To say otherwise is a lie. Table 7 on page 5 of the *Cooling Tower Plume Visibility Analysis* charts the 15 top measurements for Visible Plumes Above the Buckhill Trail Horizon. If one were to transpose the height of the tallest plume (175.48 feet) to the eastern portion of the Park where the refinery site is clearly visible and add the fifty-foot tall cooling tower, total plume blight could reach 225.48 feet, or 16 feet short of the height of the ND Capitol Building. This is no small impact on the Park.

Furthermore, Meridian has again provided mixed messages as to how frequently that maximum plume blight might occur, with no mention of frequency at lesser visible heights. At the December 19, 2017 PSC meeting with Meridian, William Prentice stated that there was potential for the maximum-rated plume to be visible from Buck Hill 30 days per year. In a January 14, 2018 Bismarck Tribune that number was an estimated 15 daylight hours per year as attributed to Meridian's Dan Hedrington. Do they actually know?

BCA questions whether we can trust any of Meridian's numbers and calculations, including those submitted in their application to the Health Department for a Permit to Construct. While Meridian appears ready to use advanced technologies, individual components have not been tested previously as an integrated system. DOH comments in phone conversations with staff suggest that operations will have to be "very stringent, of course...and expensive" and that

maintaining equipment to continue to meet requirements will be equally costly. BCA is not confident that Meridian has either the experience or the deep pockets necessary to meet those standards.

Beyond our lack of confidence in Meridian as a corporate neighbor, we hold great concern for the integrity of Theodore Roosevelt National Park and proliferating industrialization necking in on it. Our concern includes this specific project as well as the growing cumulative impacts that threaten the very reason the Park exists. BCA opposed construction of the Fryburg Rail Loading Facility when it came before the Billings County Commission on the grounds of proximity to the Park and its potential to encourage further industrialization in the area. The County approved that project completed in 2013 citing local jobs and increased income for county tax rolls, just as it has done here.

However, we must point out that one of the justifications at Billings County hearing in favor of this current Meridian proposal was slumping employment opportunity and decreasing tax income from the Fryburg Rail Facility. How short our memories, and with the potential for repetition here.

Meanwhile, we must also consider potential economic impacts to the Park itself, North Dakota's tourist mecca of Medora, and Park associated businesses and services.

BCA's concerns about cumulative impacts are not unsubstantiated. Again, at the December 2017 PSC meeting with Meridian, Mr. Prentice referenced refinery by-products as potential feedstock for additional area development and it is our understanding Meridian currently holds an option on up to 2000 acres. ND could be well on our way to facilitating an industrial zone as the gateway to our National Park. With Meridian's continued refusal to submit application to the broader PSC site review process, we can only speculate on the aggressiveness of any larger plans. This is unacceptable.

With the coming of the Bakken Boom, North Dakota saw opportunity. Immediate and legitimate concerns with out-migration and insufficient income to feed state budget needs created a political climate where state departments and entities holding conflict with the rate and scale of development were squelched.

No longer in boom times, state government should be exercising a degree of hard gained maturity. A new Governor and state administration needs to re-evaluate what we want for North Dakota's future - what values and key natural, cultural, historic and social treasures we want to hang on to, and which we are willing to sacrifice. We are making that choice right now on our National Park.

Departments and agencies within ND's state government have a wealth of scientific and institutional knowledge. To compartmentalize that expertise is a strategic error. It is coordinated opportunity missed and wise decision-making denied. Consultation and collaboration do not defy authority, they enhance it, as Public Service Commissioners continue to stress to both Meridian and the public.

Humans are biological beings. Advancing technologies and increasing urbanization have had a tendency to separate us from our roots. However, recent studies of human health issues are encouraging a reconnection with nature for the greater well being of both adults and children.

One cannot look at a discussion of modern day ills without the iteration of non-drug treatments that include exercise, mindfulness and sunlight, all of which are enhanced by our presence in nature.

Theodore Roosevelt National Park is not a sought destination merely for recreational pursuits. It is a source of physical, mental and spiritual well-being. It is a place to not only re-make connection with the environment that surrounds us, but with ourselves; and with our place in the larger community, world and universe.

With each infringement on that unique setting and landscape, the power of that place to heal both itself and us is diminished. ND Century Code 23-25-01.1 recognizes that interconnected relationship. BCA opposes the siting of a refinery that impinges on that power to heal. Meridian must seek an alternative location for their refinery. The ND DOH Air Quality Division has a responsibility to deny Meridian's application for a Permit to Construct at this location.

BCA copied and saved the Meridian statement below earlier in the DOH permitting process. It is the final item on their webpage titled Permits and is the only one in quotation marks, italics and highlighted in bold. In recently revisiting that page, BCA found that Meridian has made an edit adding a single word to their statement, a word that reflects the company's proclivity to say anything that will further their self-interest, even when it is not true.

The Environment

“Meridian Energy Group, Inc. is committed to building the cleanest refinery in the world, and has engineered Davis Refinery to the highest environmental standards, including the ability to meet the very strict Class 1 emissions standards which qualifies its proximity to Theodore Roosevelt National Park. Meridian has taken extensive measures to ensure that the Davis Refinery will not negatively impact the natural landscape of the surrounding terrain both during the day and at night, and has conclusively demonstrated that the Refinery will not be seen from the National Park.”

<https://www.meridianenergygroupinc.com/permits/>

BCA can conclusively say otherwise. Air quality will be cleaner in Theodore Roosevelt National Park without the proposed Davis Refinery than with it; even if it were to be “the cleanest refinery on the planet.” Deny the Permit to Construct.

Respectfully,



Jan Swenson, ED
Badlands Conservation Alliance

cc: Governor Doug Burgum
ND Public Service Commission