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Jason R.S. Cassady

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Oil & Gas

North Dakota Adopts Law for Underground Storage of Oil and Gas

Legal Update

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Following a study by the University of North Dakota's Energy & Environmental Research Center, the North Dakota legislature recently adopted a new law for underground storage of produced oil or gas. While the North Dakota Industrial Commission has yet to issue regulations relating to the underground storage of produced oil or gas, many of the key principles were laid out in the legislation. The new law allows for storage of produced oil or gas in saline reservoirs or aquifers and allows the Industrial Commission to issue a permit following the consent of sixty percent of the owners of the storage reservoir's pore space. This is similar to the process required for underground carbon capture sequestration and it would be expected that the Industrial Commission's regulations to be similar thereto.

Additionally, the new law allows for underground storage of produced oil and or gas in an oil and gas reservoir. This is the more common reservoir for storage of oil or gas. In this reservoir, the new law allows the Industrial Commission to issue a permit following the consent of fifty-five percent of the reservoir's pore space owners, fifty-five percent of the oil and gas mineral owners, and fifty-five percent of the oil and gas lease owners.

Examples of the kinds of use for this type of underground storage include:

- a pipeline company storing production to moderate the flow in its line
- a refinery storing production that exceeds its refining capacity
- operators storing natural gas in or near a field to mitigate insufficient transportation options and avoid flaring
- storage for strategic national security purposes
- storage of refined product near petrochemical plants

With the value of natural gas remaining low and petrochemical plants generally located near major ports, it currently appears the economics are not feasible in North Dakota. However, in its testimony before the legislature, the Energy & Environmental Research Center reported that it was continuing to work with private industry to identify the economic feasibility of underground storage of oil or gas and the economic feasibility of using produced natural gas for enhanced recovery of oil.

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Fredrikson has extensive, relevant experience clients may need to obtain a permit for underground storage of oil or gas, both in our practice before the Industrial Commission and in performing the related title work. Please contact Lawrence Bender or Jason Cassady if you have questions regarding this new legislation, the forthcoming Industrial Commission regulations or wish to explore obtaining a permit for underground storage of oil or gas.