

**UNITED STATES DISTRICT COURT
DISTRICT OF NORTH DAKOTA
NORTHWESTERN DIVISION**

GARY SORENSON AND MARTHA)	
SORENSON and HAZEL JORGENSEN,)	Case No.: 4:13-cv-00132-DLH-CSM
TRUSTEE OF THE JORGENSEN)	
FAMILY MINERAL TRUST,)	
individually and for all those similarly)	
situated,)	FIRST AMENDED COMPLAINT
)	AND DEMAND FOR JURY TRIAL
)	
Plaintiffs,)	
)	
v.)	
)	
BURLINGTON RESOURCES OIL &)	
GAS COMPANY, LP, a Delaware limited)	
partnership,)	
)	
Defendant.)	

PARTIES

1. Gary Sorenson and Martha Sorenson (“Sorenson Plaintiffs”) and Hazel Jorgenson, Trustee of the Jorgenson Family Mineral Trust (“Jorgenson Plaintiff”), bring this action for themselves and all those similarly situated. The Sorenson Plaintiffs are residents of Keene, McKenzie County, North Dakota. The Jorgenson Plaintiff is a resident of Watford City, McKenzie County, North Dakota.
2. Defendant Burlington Resources Oil & Gas Company, LP (“Defendant”) is a limited partnership incorporated under the laws of Delaware with its principal offices at 600 N. Dairy Ashford, Houston, Texas. Defendant can be served with process by serving its registered agent in the State of North Dakota, Corporation Service Company, 316 N. 5th Street, PO Box 1695, Bismarck, North Dakota 58502-1695.
3. Defendant is the operator of the following oil wells classified as a “horizontal” wells:

- A. The Sunline 34-12H well, located in the SW/4SE/4 of Section 12, Township 151 North, Range 96 West, McKenzie County, North Dakota having API number 33-053-02930-00-00 (“Sunline 34-12H Well”);
 - B. The Aiden 31-13H well, located in the NW/4NE/4 of Section 13, Township 148 North, Range 98 West, McKenzie County, North Dakota having API number 33-053-03181-00-00 (“Aiden 31-13H Well”);
 - C. The Amanda 21-14H well, located in the NE/4NW/4 of Section 14, Township 148 North, Range 98 West, McKenzie County, North Dakota having API number 33-053-03137-00-00 (“Amanda 21-14H Well”);
 - D. The Amanda 41-14MBH well, located in the NE/4NE/4 of Section 14, Township 148 North, Range 98 West, McKenzie County, North Dakota having API number 33-053-03841-00-00 (“Amanda 41-14MBH Well”);
 - E. The OLE BOE 24-11H well located in the SE/4SW/4 of Section 11, Township 148 North, Range 98 West, McKenzie County, North Dakota having API number 33-053-03341-00-00 (“OLE BOE 24-11H Well”);
 - F. The OLE BOE 41-14MBH well located in the NE/4NE/4 of Section 14, Township 148 North, Range 98 West, McKenzie County, North Dakota having API number 33-053-03884-00-00 (“OLE BOE 41-14MBH Well”).
4. Sorenson Plaintiffs own mineral interests from which oil and gas are being produced from the Sunline 34-12H Well and are entitled to royalties from production from the Sunline 34-12H Well. Jorgenson Plaintiff owns mineral interests from which oil and gas are being produced from the Aiden 31-13H Well, the Amanda 21-14H Well, the

Amanda 41-14MBH Well, the OLE BOE 24-11H Well and the OLE BOE 41-14MBH Well.

5. Sorenson Plaintiffs and Joregenson Plaintiff (collectively, "Plaintiffs") bring this action for themselves and all those similarly situated.

JURISDICTION AND VENUE

6. Sorenson Plaintiffs filed this case on October 16, 2013 in state court in North Dakota where the court had subject matter jurisdiction over the case and personal jurisdiction over Defendant. On November 15, 2013, Defendant removed the case to this Court under 28 U.S.C. Section 1332(d), the Class Action Fairness Act ("CAFA").
7. Venue is proper in this District because Plaintiffs' claims for relief arose in this District.

BACKGROUND

8. The Sunline 34-12H Well was spudded on December 31, 2008. It began to produce hydrocarbons in April of 2009. Defendant pays or should pay royalties to Sorenson Plaintiffs from the Sunline 34-12H Well.
9. The Aiden 31-13H Well was spudded on July 2, 2010. It began to produce hydrocarbons in October of 2010. Defendant pays or should pay royalties to the Jorgenson Plaintiff from the Aiden 31-13H.
10. The Amanda 21-14H Well was spudded on April 22, 2010. It began to produce hydrocarbons in August of 2010. Defendant pays or should pay royalties to the Jorgenson Plaintiff from the Amanda 21-14H Well.

11. The Amanda 41-14MBH Well was spudded on April 13, 2012. It began to produce hydrocarbons in August of 2012. Defendant pays or should pay royalties to the Jorgenson Plaintiff from the Amanda 41-14MBH Well.
12. The OLE BOE 24-11H Well was spudded on March 10, 2011. It began to produce hydrocarbons in August of 2011. Defendant pays or should pay royalties to the Jorgenson Plaintiff from the OLE BOE 24-11H Well.
13. The OLE BOE 41-14MBH Well was spudded on February 8, 2012. It began to produce hydrocarbons in July of 2012. Defendant pays or should pay royalties to the Jorgenson Plaintiff from the OLE BOE 41-14MBH Well.
14. The oil and gas production from the Sunline 34-12H Well is from the Clear Creek-Bakken Pool.
15. The oil and gas production from the Aiden 31-13H Well, the Amanda 21-14H Well, the Amanda 41-14MBH Well, the OLE BOE 24-11H Well and the OLE BOE 41-14MBH Well is from the Haystack Butte-Bakken Pool.
16. The Sunline 34-12H Well has produced oil and gas, and has flared gas since first production through at least November of 2013. For the months since first production, the Sunline 34-12H Well has produced and sold oil, and produced and flared gas in the following quantities as reported by Defendant to the North Dakota Industrial Commission, Department of Mineral Resources, Oil & Gas Division (the “Industrial Commission” or “NDIC”):

Date	Days	BBLs of Oil Produced	BBLs of Oil Sold	Mcfs of Gas Produced	Mcfs of Gas Sold	Mcfs of Gas Vented or Flared
Apr-09	26	11638	11415	17498	13028	4470
May-09	31	10866	10279	17313	16423	890

Jun-09	20	5833	6439	9181	8468	713
Jul-09	18	4849	4723	7720	6528	1192
Aug-09	10	2844	2999	4848	3543	1305
Sep-09	13	1879	1631	3051	2510	541
Oct-09	31	5450	5440	9082	8320	762
Nov-09	30	4333	4270	7690	7472	218
Dec-09	28	3822	3986	9296	8629	667
Jan-10	22	2797	2946	3923	1300	2623
Feb-10	28	3022	2912	4582	4298	284
Mar-10	31	2972	3015	4807	4602	206
Apr-10	30	2689	2535	4767	4604	14
May-10	29	2353	2138	3705	3705	0
Jun-10	5	727	928	924	541	383
Jul-10	3	1935	2214	2159	1804	355
Aug-10	28	3038	2775	4452	2119	2334
Sep-10	30	2409	2532	3479	3062	417
Oct-10	31	2644	2519	4222	3853	368
Nov-10	30	2375	2434	3386	1689	1696
Dec-10	31	2283	2336	3039	202	2836
Jan-11	31	2117	1941	3037	954	2083
Feb-11	28	1822	1973	2489	4	2485
Mar-11	31	1944	1717	3081	607	2474
Apr-11	30	1837	1853	2716	590	2126
May-11	30	1844	1865	3033	2868	166
Jun-11	29	1712	1866	2804	2558	245
Jul-11	30	1748	1440	2570	2186	383
Aug-11	30	1851	1972	2849	2029	820
Sep-11	17	1683	1784	2485	162	2324
Oct-11	11	1731	1598	2672	686	1958
Nov-11	30	1658	1556	2756	2355	326
Dec-11	31	1701	1745	3292	3061	155
Jan-12	12	582	931	1098	1003	65
Feb-12	0	0	0	0	0	0
Mar-12	0	0	0	0	0	0
Apr-12	9	431	194	778	520	236
May-12	31	3097	3258	4718	3747	894
Jun-12	30	2397	2572	3744	3089	581
Jul-12	29	2223	1651	5043	4257	714
Aug-12	11	1828	2309	4951	4899	25
Sep-12	15	844	944	2690	2491	163
Oct-12	0	0	0	0	0	0

Nov-12	1	158	0	258	0	255
Dec-12	31	3330	3048	5094	4511	506
Jan-13	31	1923	2040	3715	3599	39
Feb-13	28	1438	1573	2472	1903	500
Mar-13	31	1542	1400	2658	2191	390
Apr-13	30	1465	1662	2566	2252	239
May-13	31	1360	1185	2455	2225	153
Jun-13	27	1341	1390	2586	1689	830
Jul-13	31	1341	1333	2538	2361	101
Aug-13	31	1326	1383	2534	2332	125
Sep-13	30	1229	1161	2398	2084	239
Oct-13	30	1297	1391	2383	2086	222
Nov-13	9	349	475	699	677	0

17. The Aiden 31-13H Well has produced oil and gas, and has flared gas since first production through at least October of 2013. For the months since first production, the Aiden 31-13H Well has produced and sold oil, and produced and flared gas in the following quantities as reported by Defendant to the NDIC:

Date	Days	BBLs of Oil Produced	BBLs of Oil Sold	Mcfs of Gas Produced	Mcfs of Gas Sold	Mcfs of Gas Vented or Flared
Oct-10	15	3773	3763	5471	0	5471
Nov-10	1	100	0	2	0	0
Dec-10	15	9053	8708	11975	8640	3297
Jan-11	31	13131	13087	13952	7694	6181
Feb-11	22	7101	7416	9829	6450	3324
Mar-11	9	7411	6539	6378	3440	2938
Apr-11	20	12781	13463	18561	18117	444
May-11	22	14716	14936	21967	20186	1782
Jun-11	29	10299	10323	18043	16282	1761
Jul-11	21	5353	4947	9029	8153	876
Aug-11	17	5400	5626	9392	9086	305
Sep-11	18	6312	6407	9515	8931	585
Oct-11	31	8423	8493	13632	13436	197
Nov-11	16	4626	4063	6929	2634	4255
Dec-11	26	904	1390	2893	872	1956
Jan-12	9	599	214	1187	869	295

Feb-12	27	2728	2821	4351	3304	980
Mar-12	29	4519	4465	6161	5193	969
Apr-12	5	6669	5956	9486	7945	1541
May-12	17	6667	7514	9800	7379	2421
Jun-12	22	4506	4596	7510	3538	3972
Jul-12	20	4175	3855	7465	6497	968
Aug-12	3	78	595	118	118	0
Sep-12	11	1964	1702	3561	2455	1105
Oct-12	10	1527	1672	170	0	170
Nov-12	30	4726	4594	7486	6454	1028
Dec-12	19	2848	2092	2202	0	2199
Jan-13	20	3444	3696	4543	2708	1832
Feb-13	28	4590	4455	1127	0	1123
Mar-13	30	1340	2102	2137	2133	0
Apr-13	30	3693	3028	5476	4351	1124
May-13	19	2398	2463	4063	3264	799
Jun-13	14	2300	2330	3998	1593	2405
Jul-13	21	4494	5116	498	0	498
Aug-13	28	4191	4006	7538	7163	374
Sep-13	0	0	0	0	0	0
Oct-13	1	35	0	27	0	27

18. The Amanda 21-14H Well has produced oil and gas, and has flared gas since first production through at least October of 2013. For the months since first production, the Amanda 21-14H has produced and sold oil, and produced and flared gas in the following quantities as reported by Defendant to the NDIC:

Date	Days	BBLs of Oil Produced	BBLs of Oil Sold	Mcfs of Gas Produced	Mcfs of Gas Sold	Mcfs of Gas Vented or Flared
Aug-10	13	3394	3117	4921	0	4921
Sep-10	20	2075	2161	4078	3085	994
Oct-10	27	17948	17999	23798	23364	434
Nov-10	27	15804	15482	18206	17166	973
Dec-10	31	8871	9229	7832	4629	3126
Jan-11	26	10530	10550	8306	6619	1622
Feb-11	14	8333	8001	7728	3440	4253
Mar-11	11	3773	3830	3380	312	3068

Apr-11	19	12729	13003	18609	18423	187
May-11	21	13949	13617	19754	18041	1713
Jun-11	30	12753	13054	24013	22609	1404
Jul-11	31	10615	10418	20888	20534	353
Aug-11	31	8731	8651	16375	14765	1610
Sep-11	30	7374	7507	13970	13225	745
Oct-11	31	7559	7370	14289	14242	47
Nov-11	20	2546	2568	5632	5442	141
Dec-11	31	4716	4646	6754	6677	0
Jan-12	8	1858	2273	3049	3029	0
Feb-12	1	0	0	4	1	0
Mar-12	19	1391	1287	1712	1578	135
Apr-12	2	1146	1148	1459	1459	0
May-12	11	3489	3572	3319	2915	404
Jun-12	8	6326	6043	5937	5741	196
Jul-12	2	3234	3390	4956	4238	717
Aug-12	8	2408	2293	4059	3951	108
Sep-12	15	3916	4142	6276	5924	351
Oct-12	1	33	0	343	310	33
Nov-12	28	4270	3850	6603	5576	957
Dec-12	25	4421	4556	6583	5735	786
Jan-13	21	2742	2546	3824	3184	589
Feb-13	5	1687	1952	2141	2046	83
Mar-13	1	12	0	375	375	0
Apr-13	24	2464	2260	1810	896	914
May-13	31	2551	2543	5097	2632	2465
Jun-13	30	6798	6851	11312	9077	2235
Jul-13	26	5568	5701	839	0	839
Aug-13	31	5388	5411	9859	9395	464
Sep-13	27	4512	4605	8555	8202	352
Oct-13	18	3462	3652	5843	5843	0

19. The Amanda 41-14MBH Well has produced oil and gas, and has flared gas since first production through at least October of 2013. For the months since first production, the Amanda 41-14MBH has produced and sold oil, and produced and flared gas in the following quantities as reported by Defendant to the NDIC:

Date	Days	BBLs of Oil Produced	BBLs of Oil Sold	Mcfs of Gas Produced	Mcfs of Gas Sold	Mcfs of Gas Vented or Flared
Aug-12	4	4653	4597	0	0	674
Sep-12	18	9333	8949	5468	0	12340
Oct-12	31	17638	17594	6201	0	17601
Nov-12	29	9993	10158	4264	0	10206
Dec-12	31	4135	3761	1661	0	3820
Jan-13	11	1301	1860	404	0	884
Feb-13	17	8949	8371	1334	10993	587
Mar-13	31	10064	10269	3907	15030	91
Apr-13	20	2838	2742	929	3726	410
May-13	24	3508	3637	1094	3900	417
Jun-13	27	5945	5932	1164	5084	2769
Jul-13	31	7884	7682	1506	2396	8439
Aug-13	7	1706	1865	635	291	2631
Sep-13	21	4209	4294	1688	5070	1294
Oct-13	18	3315	3232	1299	3314	1375

20. The OLE BOE 24-11H Well has produced oil and gas, and has flared gas since first production through at least October of 2013. For the months since first production, the OLE BOE 24-11H Well has produced and sold oil, and produced and flared gas in the following quantities as reported by Defendant to the NDIC:

Date	Days	BBLs of Oil Produced	BBLs of Oil Sold	Mcfs of Gas Produced	Mcfs of Gas Sold	Mcfs of Gas Vented or Flared
Aug-11	5	3792	3749	6290	0	6290
Sep-11	9	5269	4947	7932	7932	0
Oct-11	30	12727	12381	19978	18629	1349
Nov-11	23	8514	8572	12980	11424	1556
Dec-11	31	12366	12783	20763	20552	211
Jan-12	31	11936	11458	22192	21798	393
Feb-12	28	5126	5236	8377	7898	479
Mar-12	31	7168	7500	10948	9980	968
Apr-12	10	7208	6361	17598	16659	939
May-12	26	6079	6856	8931	7049	1882

Jun-12	30	4952	5075	9127	7179	1947
Jul-12	4	0	0	0	0	0
Aug-12	8	2717	2139	4609	4311	298
Sep-12	29	5934	6498	10741	8977	1764
Oct-12	31	3540	3317	7052	7003	49
Nov-12	30	1406	1582	2331	1496	830
Dec-12	22	2840	2511	4260	3436	821
Jan-13	24	3792	3109	6716	4517	2195
Feb-13	28	4398	5022	7276	6434	838
Mar-13	31	2238	2253	3653	3553	96
Apr-13	7	2041	1835	9338	8284	1054
May-13	24	2695	2976	5909	3640	2269
Jun-13	30	5081	4909	7741	2004	5738
Jul-13	31	4513	4704	8139	7043	1095
Aug-13	31	4447	4551	8483	7383	1100
Sep-13	30	3959	3583	7173	6890	282
Oct-13	29	2871	2906	4870	4416	454

21. The OLE BOE 41-14MBH Well has produced oil and gas, and has flared gas since first production through at least October of 2013. For the months since first production, the OLE BOE 41-14MBH Well has produced and sold oil, and produced and flared gas in the following quantities as reported by Defendant to the NDIC:

Date	Days	BBLs of Oil Produced	BBLs of Oil Sold	Mcfs of Gas Produced	Mcfs of Gas Sold	Mcfs of Gas Vented or Flared
Jul-12	17	4355	4277	6315	0	6315
Aug-12	31	0	79	0	0	0
Sep-12	30	9692	9427	12943	0	12943
Oct-12	31	15822	15586	18718	0	18718
Nov-12	28	7733	8097	6505	0	6501
Dec-12	31	4829	3934	4340	0	4336
Jan-13	21	2371	2588	2824	0	2821
Feb-13	28	8063	8276	12665	12223	438
Mar-13	8	4223	4535	7029	7028	0
Apr-13	8	3107	2777	4244	4013	231
May-13	23	4297	4449	5282	5235	47
Jun-13	27	5924	5924	8822	5820	3002

Jul-13	18	4139	4381	5214	2502	2712
Aug-13	0	0	0	0	0	0
Sep-13	23	4178	4013	5564	2911	2653
Oct-13	29	4767	4791	6901	4436	2465

22. Gas flared after one year from first production from wells such as the Sunline 34-12H Well, the Aiden 31-13H Well, the Amanda 21-14H Well, the Amanda 41-14MBH Well, the OLE BOE 24-11H Well and the OLE BOE 41-14MBH Well is governed by the provisions of subsection 2 of N.D.C.C. § 38-08-06.4, providing:

2. After the time period in subsection 1, flaring of gas from the well must cease and the well must be:
 - a. Capped;
 - b. Connected to a gas gathering line;
 - c. Equipped with an electrical generator that consumes at least seventy-five percent of the gas from the well;
 - d. Equipped with a system that intakes at least seventy-five percent of the gas and natural gas liquids volume from the well for beneficial consumption by means of compression to liquid for use as fuel, transport to a processing facility, production of petrochemicals or fertilizer, conversion to liquid fuels, separating and collecting over fifty percent of the propane and heavier hydrocarbons; or
 - e. Equipped with other value-added processes as approved by the industrial commission that reduce the volume or intensity of the flare by more than sixty percent.

23. Based on current reported production information, the Sunline 34-12H Well flared 30,213 Mcfs of gas after the one-year period from the date of first production from the well through October of 2013. The flared volumes occurred in the following volumes per month:

Production Month	Mcfs of Gas Vented or Flared
Apr-10	2.33
Jun-10	383.00

Jul-10	355.00
Aug-10	2334.00
Sep-10	417.00
Oct-10	368.00
Nov-10	1696.00
Dec-10	2836.00
Jan-11	2083.00
Feb-11	2485.00
Mar-11	2474.00
Apr-11	2126.00
May-11	166.00
Jun-11	245.00
Jul-11	383.00
Aug-11	820.00
Sep-11	2324.00
Oct-11	1958.00
Nov-11	326.00
Dec-11	155.00
Jan-12	65.00
Apr-12	236.00
May-12	894.00
Jun-12	581.00
Jul-12	714.00
Aug-12	25.00
Sep-12	163.00
Nov-12	255.00
Dec-12	506.00
Jan-13	39.00
Feb-13	500.00
Mar-13	390.00
Apr-13	239.00
May-13	153.00
Jun-13	830.00
Jul-13	101.00
Aug-13	125.00
Sep-13	239.00
Oct-13	222.00

24. Based on current reported production information, the Aiden 31-13H Well flared 30,142 Mcfs of gas after the one-year period from the date of first production from

the well through October of 2013. The flared volumes occurred in the following volumes per month:

Production Month	Mcfs of Gas
Oct-11	101.68
Nov-11	4255.00
Dec-11	1956.00
Jan-12	295.00
Feb-12	980.00
Mar-12	969.00
Apr-12	1541.00
May-12	2421.00
Jun-12	3972.00
Jul-12	968.00
Sep-12	1105.00
Oct-12	170.00
Nov-12	1028.00
Dec-12	2199.00
Jan-13	1832.00
Feb-13	1123.00
Apr-13	1124.00
May-13	799.00
Jun-13	2405.00
Jul-13	498.00
Aug-13	374.00
Oct-13	27.00

25. Based on current reported production information, the Amanda 21-14H Well flared 8,228 Mcfs of gas after the one-year period from the date of first production from the well through October of 2013. The flared volumes occurred in the following volumes per month:

Production Month	Mcfs of Gas
Aug-11	934.84
Sep-11	432.58
Oct-11	27.29

Nov-11	81.87
Mar-12	78.39
May-12	234.58
Jun-12	113.81
Jul-12	416.32
Aug-12	62.71
Sep-12	203.81
Oct-12	19.16
Nov-12	555.68
Dec-12	456.39
Jan-13	342.00
Feb-13	48.19
Apr-13	530.71
May-13	1431.29
Jun-13	1297.74
Jul-13	487.16
Aug-13	269.42
Sep-13	204.39

26. Based on current reported production information, the Amanda 41-14MHB Well flared 4,961 Mcfs of gas after the one-year period from the date of first production from the well through October of 2013. The flared volumes occurred in the following volumes per month:

Production Month	Mcfs of Gas
Aug-13	2292
Sep-13	1294
Oct-13	1375

27. Based on current reported production information, the OLE BOE 24-11H Well flared 18,835 Mcfs of gas after the one-year period from the date of first production from the well through October of 2013. The flared volumes occurred in the following volumes per month:

Production Month	Mcfs of Gas
Aug-12	250
Sep-12	1764
Oct-12	49
Nov-12	830
Dec-12	821
Jan-13	2195
Feb-13	838
Mar-13	96
Apr-13	1054
May-13	2269
Jun-13	5738
Jul-13	1095
Aug-13	1100
Sep-13	282
Oct-13	454

28. Based on current reported production information, the OLE BOE 41-14MBH Well flared 6,343 Mcfs of gas after the one-year period from the date of first production from the well through October of 2013. The flared volumes occurred in the following volumes per month:

Production Month	Mcfs of Gas
Jul-13	1225
Sep-13	2653
Oct-13	2465

29. Any flaring of gas not provided for in an exemption under Subsection 6 of N.D.C.C. § 38-08-06.4 from the Sunline 34-12H Well, the Aiden 31-13H Well, the Amanda 21-14H Well, the Amanda 41-14MBH Well, the OLE BOE 24-11H Well or the OLE BOE 41-14MBH Well was to cease after one year, and any gas flared from the well thereafter is in violation of subsection 2 of N.D.C.C. § 38-08-06.4.

30. Subsection 6 of N.D.C.C. § 38-08-06.4 exempts a producer from the requirements of subsections 1 and 2 of N.D.C.C. § 38-08-06.4 under certain conditions:

A producer may obtain an exemption from this section from the industrial commission upon application that shows to the satisfaction of the industrial commission that connection of the well to a natural gas gathering line is economically infeasible at the time of the application or in the foreseeable future or that a market for the gas is not available and that equipping the well with an electrical generator to produce electricity from gas or employing a collection system described in subdivision d of subsection 2 is economically infeasible.

31. Defendant has not applied for nor been granted an exemption under subsection 6 of N.D.C.C. § 38-08-06.4 for gas flared from the Sunline 34-12H Well, the Aiden 31-13H Well, the Amanda 21-14H Well, the Amanda 41-14MBH Well, the OLE BOE 24-11H Well or the OLE BOE 41-14MBH Well for the production months Plaintiffs allege violated subsection 2 of N.D.C.C. § 38-08-06.4 as set forth above.

2. Subsection 4 of N.D.C.C. § 38-08-06.4 allows royalty owners to recover royalties on the value of gas flared in violation of N.D.C.C. § 38-08-06.4:

For a well operated in violation of this section, the producer shall pay royalties to royalty owners upon the value of the flared gas and shall also pay gross production tax on the flared gas at the rate imposed under section 57-51-02.2.

32. The North Dakota Industrial Commission, in its discretion, may enforce the requirements of N.D.C.C. § 38-08-06.4 as provided in subsection 5:

The industrial commission may enforce this section and, for each well operator found to be in violation of this section, may determine the value of flared gas for purposes of payment of royalties under this section and its determination is final.

33. Defendant has not applied for nor obtained flaring exemptions pursuant to subsection 6 of N.D.C.C. § 38-08-06.4 for the Sunline 34-12H Well, the Aiden 31-13H Well, the Amanda 21-14H Well, the Amanda 41-14MBH Well, the OLE BOE 24-11H Well

and the OLE BOE 41-14MBH Well for the production months Plaintiffs allege violated subsection 2 of N.D.C.C. § 38-08-06.4 as set forth above. As a result, Defendant owes Plaintiffs royalties on the value of the gas flared in violation of Subsection 4 of N.D.C.C. § 38-08-06.4.

34. Plaintiffs are entitled to sue for and recover royalties under the provisions of N.D.C.C. § 38-08-06.4 for flared gas from the Sunline 34-12H Well, the Aiden 31-13H Well, the Amanda 21-14H Well, the Amanda 41-14MBH Well, the OLE BOE 24-11H Well and the OLE BOE 41-14MBH Well for the production months Plaintiffs allege violated subsection 2 as set forth above.

35. Defendant has not paid royalties gas produced and flared after the first year of production from the Sunline 34-12H Well in at least the amount of 30,213 Mcfs; 30,412 Mcfs of gas from the Aiden 31-13H Well; 8,228 Mcfs of gas from the Amanda 21-14H Well; 4,961 Mcfs of gas from the Amanda 41-14MBH Well; 18,835 Mcfs of gas from the OLE BOE 24-11H Well; and 6,343 Mcfs of gas from the OLE BOE 41-14MBH Well.

36. Defendant continues to produce oil and gas from the Sunline 34-12H Well, the Aiden 31-13H Well, the Amanda 21-14H Well, the Amanda 41-14MBH Well, the OLE BOE 24-11H Well and the OLE BOE 41-14MBH Well and will continue to flare gas from such wells in violation of the provisions of N.D.C.C. § 38-08-06.4.

37. Plaintiffs are entitled to royalties for future gas flared from the Sunline 34-12H Well, the Aiden 31-13H Well, the Amanda 21-14H Well, the Amanda 41-14MBH Well, the OLE BOE 24-11H Well and the OLE BOE 41-14MBH Well.

38. The provisions of N.D.C.C. § 38-08-06.4 were enacted in part to mitigate the adverse health and environmental effects on the air of North Dakota caused by the flaring of gas from oil wells in the State of North Dakota and to prevent the destruction of the gas, a valuable natural resource of the State of North Dakota.
39. Defendant's violation of N.D.C.C. § 38-08-06.4 injures the public by ignoring the State's effort to mitigate the adverse health and environmental effects of flaring gas.
40. Apart from the injury to the public in general, Plaintiffs' injuries include an impairment of Plaintiffs' mineral interest and results in the loss of the royalties that are to be paid to Plaintiffs pursuant to N.D.C.C. § 38-08-06.4. Plaintiffs are aggrieved as provided in N.D.C.C. § 32-40-03.
41. Plaintiffs have suffered the loss of royalties due for gas flared in violation of subsection 2 of N.D.C.C. § 38-08-06.4 from the Sunline 34-12H Well, the Aiden 31-13H Well, the Amanda 21-14H Well, the Amanda 41-14MBH Well, the OLE BOE 24-11H Well and the OLE BOE 41-14MBH Well as set forth above.
42. Plaintiffs will suffer the loss of royalties in the future for gas flared from the Sunline 34-12H Well, the Aiden 31-13H Well, the Amanda 21-14H Well, the Amanda 41-14MBH Well, the OLE BOE 24-11H Well and the OLE BOE 41-14MBH Well in violation of subsection 2 of N.D.C.C. § 38-08-06.4.
43. Gas produced from an oil well within the State of North Dakota is a use of the reservoir energy from the reservoir from which the gas is produced.
44. Gas from an oil well in North Dakota is improperly produced if produced in violation of the laws and regulations of the State of North Dakota, including the orders of the Industrial Commission.

45. Flaring of gas from an oil well in North Dakota, if improperly produced, constitutes waste as provided in N.D.C.C. § 38-08-02.
46. The waste of gas being produced from an oil well in North Dakota is prohibited as provided in N.D.C.C. § 38-08-03.
47. Pursuant to N.D.C.C. § 38-08-06, the Industrial Commission determines the amount of oil and gas that may be produced within a given district without waste as defined in N.D.C.C. § 38-08-02 and such amount is designed not to exceed the reasonable market demand for such oil and gas.
48. Defendant is required, pursuant to N.D.C.C. § 38-08-06.3, to provide an information statement that will allow the royalty owner to clearly identify the amount of oil or gas sold and the amount and purpose of each deduction made from the gross amount.
49. Gas flared from wells within one year of first production such as the Sunline 34-12H Well, the Aiden 31-13H Well, the Amanda 21-14H Well, the Amanda 41-14MBH Well, the OLE BOE 24-11H Well and the OLE BOE 41-14MBH Well is governed by the provisions of subsection 1 of N.D.C.C. § 38-08-06.4, providing:

As permitted under rules of the industrial commission, gas produced with crude oil from an oil well may be flared during a one-year period from the date of first production from the well.

In other words, a producer *may* flare gas within the first year of production and avoid paying royalties on that gas *if* it fully complies with applicable rules and orders of the Industrial Commission concerning production of oil and gas. The corollary of that rule is that if a producer fails to comply with those rules and orders, it may not avoid paying royalties on the gas under the statute on those volumes of gas flared during the

first year of production out of compliance with applicable rules and orders of the Commission.

49. The Industrial Commission has provided the following rules concerning the flaring of gas in the Sunline 34-12H Well taken from the Clear Creek-Bakken Pool:

a. NDIC Order No. 12991 in Case No. 10846 dated April 20, 2009 (“Order 12991”) that dealt in part with the Sunline 34-12H Well.

b. As stated in Paragraph 28, page 8 of Order 12991, the Industrial Commission has ordered as follows:

All wells in the Clear Creek-Bakken Pool shall be allowed to produce at maximum efficient rate for a period of 60 days commencing on the first day oil is produced through well-head equipment into tanks from the ultimate producing interval after casing has been run; after that, oil production from such wells shall not exceed an average of 200 barrels per day for a period of 60 days; after that, oil production from such wells shall not exceed an average of 150 barrels per day for a period of 60 days, thereafter, oil production from such wells shall not exceed an average of 100 barrels of oil per day; if and when such wells are connected to a gas gathering and processing facility the foregoing restrictions shall be removed, and the wells shall be allowed to produce at a maximum efficient rate. The Director is authorized to issue an administrative order allowing unrestricted production at a maximum efficient rate for a period not to exceed 120 days, commencing on the first day oil is produced through wellhead equipment into tanks from the ultimate producing interval after casing has been run, if the necessity therefor can be demonstrated to his satisfaction.

c. NDIC Order No. 13504 in Case No. 11259 dated September 25, 2009 (“Order 11259”).

d. As stated in Paragraph 54, page 12 of Order 13504, the Industrial Commission has ordered as follows:

All wells in the Clear Creek-Bakken Pool shall be allowed to produce at maximum efficient rate for a period of 60 days

commencing on the first day oil is produced through well-head equipment into tanks from the ultimate producing interval after casing has been run; after that, oil production from such wells shall not exceed an average of 200 barrels per day for a period of 60 days; after that, oil production from such wells shall not exceed an average of 150 barrels per day for a period of 60 days, thereafter, oil production from such wells shall not exceed an average of 100 barrels of oil per day; if and when such wells are connected to a gas gathering and processing facility the foregoing restrictions shall be removed, and the wells shall be allowed to produce at a maximum efficient rate. The Director is authorized to issue an administrative order allowing unrestricted production at a maximum efficient rate for a period not to exceed 120 days, commencing on the first day oil is produced through wellhead equipment into tanks from the ultimate producing interval after casing has been run, if the necessity therefor can be demonstrated to his satisfaction.

- e. NDIC Order No. 13813 in Case No. 11668 dated December 4, 2009 (“Order 13813”).
- f. As stated in Paragraph 39, page 7 of Order 13813, the Industrial

Commission has ordered as follows:

All wells in the Clear Creek-Bakken Pool shall be allowed to produce at maximum efficient rate for a period of 60 days commencing on the first day oil is produced through well-head equipment into tanks from the ultimate producing interval after casing has been run; after that, oil production from such wells shall not exceed an average of 200 barrels per day for a period of 60 days; after that, oil production from such wells shall not exceed an average of 150 barrels per day for a period of 60 days, thereafter, oil production from such wells shall not exceed an average of 100 barrels of oil per day; if and when such wells are connected to a gas gathering and processing facility the foregoing restrictions shall be removed, and the wells shall be allowed to produce at a maximum efficient rate. The Director is authorized to issue an administrative order allowing unrestricted production at a maximum efficient rate for a period not to exceed 120 days, commencing on the first day oil is produced through wellhead equipment into tanks from the ultimate producing interval after casing has been run, if the necessity therefor can be demonstrated to his satisfaction.

g. NDIC Order No. 14185 in Case No. 11987 dated March 1, 2010 (“Order 14185”).

h. As stated in Paragraph 34, page 14 of Order 14185, the Industrial Commission has ordered as follows:

All wells in the Clear Creek-Bakken Pool shall be allowed to produce at maximum efficient rate for a period of 60 days commencing on the first day oil is produced through well-head equipment into tanks from the ultimate producing interval after casing has been run; after that, oil production from such wells shall not exceed an average of 200 barrels per day for a period of 60 days; after that, oil production from such wells shall not exceed an average of 150 barrels per day for a period of 60 days, thereafter, oil production from such wells shall not exceed an average of 100 barrels of oil per day; if and when such wells are connected to a gas gathering and processing facility the foregoing restrictions shall be removed, and the wells shall be allowed to produce at a maximum efficient rate. The Director is authorized to issue an administrative order allowing unrestricted production at a maximum efficient rate for a period not to exceed 120 days, commencing on the first day oil is produced through wellhead equipment into tanks from the ultimate producing interval after casing has been run, if the necessity therefor can be demonstrated to his satisfaction.

50. Under Order 12991, Order 13504, Order 13813 and Order 14185, the Sunline 34-12H

Well could be produced at the maximum efficient rate for the first 60 days of production. After that, the well could produce an average of 200 barrels of oil per day for 60 days; thereafter, an average of 150 barrels per day for the next 60 days; and thereafter at an average of 100 barrels per day unless the Industrial Commission entered administrative orders allowing unrestricted oil production for up to 120 days.

51. Upon information and belief, the Sunline 34-12H Well was connected to a gas gathering and processing facility as of April 2009 despite the fact that significant flaring of gas has continued during the first year of production in excess of the

average barrel per day limitations set forth in the Orders referenced in the preceeding paragraph.

52. The Industrial Commission has provided the following rules concerning the flaring of gas in the Aiden 31-13H Well, the Amanda 21-14H Well, the Amanda 41-14MBH Well, the OLE BOE 24-11H Well and the OLE BOE 41-14MBH Well taken from the Haystack Butte-Bakken Pool:

A. NDIC Order No. 12920 in Case No. 10919 dated March 25, 2009 (“Order 12920”).

B. As stated in Paragraph 23, page 6 of Order 12920, the Industrial Commission has ordered as follows:

All wells in the Haystack Butte-Bakken Pool shall be allowed to produce at a maximum efficient rate for a period of 60 days commencing on the first day oil is produced through well-head equipment into tanks from the ultimate producing interval after casing has been run; after that, oil production from such wells shall not exceed an average of 200 barrels per day for a period of 60 days; after that, oil production from such wells shall not exceed an average of 150 barrels per day for a period of 60 days, thereafter, oil production from such wells shall not exceed an average of 100 barrels of oil per day; if and when such wells are connected to a gas gathering and processing facility the foregoing restrictions shall be removed, and the wells shall be allowed to produce at a maximum efficient rate. The Director is authorized to issue an administrative order allowing unrestricted production at a maximum efficient rate for a period not to exceed 120 days, commencing on the first day oil is produced through well-head equipment into tanks from the ultimate producing interval after casing has been run, if the necessity therefor can be demonstrated to his satisfaction.

C. NDIC Order No. 13172 in Case No. 11111 dated June 22, 2009 (“Order 13172”).

- D. Order 13172 granted a flaring exemption for the Federal Jorgenseon #14-5H located in the SW/4SW/4 of Section 5, Township 148 North, Range 79 West.
- E. NDIC Order No. 13394 in Case No. 11295 dated August 26, 2009 (“Order 13394”).
- F. As stated in Paragraph 23, page 6 of Order 13394, the Industrial Commission has ordered as follows:

All wells in the Haystack Butte-Bakken Pool shall be allowed to produce at a maximum efficient rate for a period of 60 days commencing on the first day oil is produced through well-head equipment into tanks from the ultimate producing interval after casing has been run; after that, oil production from such wells shall not exceed an average of 200 barrels per day for a period of 60 days; after that, oil production from such wells shall not exceed an average of 150 barrels per day for a period of 60 days, thereafter, oil production from such wells shall not exceed an average of 100 barrels of oil per day; if and when such wells are connected to a gas gathering and processing facility the foregoing restrictions shall be removed, and the wells shall be allowed to produce at a maximum efficient rate. The Director is authorized to issue an administrative order allowing unrestricted production at a maximum efficient rate for a period not to exceed 120 days, commencing on the first day oil is produced through well-head equipment into tanks from the ultimate producing interval after casing has been run, if the necessity therefor can be demonstrated to his satisfaction.

- G. NDIC Order No. 13569 in Case No. 11448 dated September 25, 2009 (“Order 13569”).
- H. As stated in Paragraph 23, pages 6 and of Order 13569, the Industrial Commission has ordered as follows:

All wells in the Haystack Butte-Bakken Pool shall be allowed to produce at a maximum efficient rate for a period of 60 days commencing on the first day oil is produced through well-head equipment into tanks from the ultimate producing interval after casing has been run; after that, oil production from such wells shall not exceed an average of 200 barrels per day for a period of 60 days; after that, oil production from such wells shall not exceed an average of 150 barrels per day for a period of 60 days, thereafter, oil production from such wells

shall not exceed an average of 100 barrels of oil per day; if and when such wells are connected to a gas gathering and processing facility the foregoing restrictions shall be removed, and the wells shall be allowed to produce at a maximum efficient rate. The Director is authorized to issue an administrative order allowing unrestricted production at a maximum efficient rate for a period not to exceed 120 days, commencing on the first day oil is produced through well-head equipment into tanks from the ultimate producing interval after casing has been run, if the necessity therefor can be demonstrated to his satisfaction.

- I. NDIC Order No. 14434 in Case No. 12181 dated June 2, 2010 (“Order 14434”).
- J. As stated in Paragraph 27, pages 6 and 7 of Order 14434, the Industrial Commission has ordered as follows:

All wells in the Haystack Butte-Bakken Pool shall be allowed to produce at a maximum efficient rate for a period of 60 days commencing on the first day oil is produced through well-head equipment into tanks from the ultimate producing interval after casing has been run; after that, oil production from such wells shall not exceed an average of 200 barrels per day for a period of 60 days; after that, oil production from such wells shall not exceed an average of 150 barrels per day for a period of 60 days, thereafter, oil production from such wells shall not exceed an average of 100 barrels of oil per day; if and when such wells are connected to a gas gathering and processing facility the foregoing restrictions shall be removed, and the wells shall be allowed to produce at a maximum efficient rate. The Director is authorized to issue an administrative order allowing unrestricted production at a maximum efficient rate for a period not to exceed 120 days, commencing on the first day oil is produced through well-head equipment into tanks from the ultimate producing interval after casing has been run, if the necessity therefor can be demonstrated to his satisfaction.

- K. NDIC Orders No. 15456 in Case No. 13188 (“Order 15456”); No. 15519 in Case No. 13246 (“Order 15519”); and No. 15943 in Case No. 13665 (“Order 15943”); all dated February 15, 2011.

As stated in Paragraphs 32, page 8 of Order 15456; 32, page 8 of Order 15519 and 33, pages 7 and 8 of Order 15943, the Industrial Commission has ordered as follows:

All wells in the Haystack Butte-Bakken Pool shall be allowed to produce at a maximum efficient rate for a period of 60 days commencing on the first day oil is produced through well-head equipment into tanks from the ultimate producing interval after casing has been run; after that, oil production from such wells shall not exceed an average of 200 barrels per day for a period of 60 days; after that, oil production from such wells shall not exceed an average of 150 barrels per day for a period of 60 days, thereafter, oil production from such wells shall not exceed an average of 100 barrels of oil per day; if and when such wells are connected to a gas gathering and processing facility the foregoing restrictions shall be removed, and the wells shall be allowed to produce at a maximum efficient rate. The Director is authorized to issue an administrative order allowing unrestricted production at a maximum efficient rate for a period not to exceed 120 days, commencing on the first day oil is produced through well-head equipment into tanks from the ultimate producing interval after casing has been run, if the necessity therefor can be demonstrated to his satisfaction.

L. NDIC Order No. 16379 in Case No. 14104 dated December 1, 2011 (“Order 14104”).

M. As stated in Paragraph 32, page 8 of Order 14104, the Industrial Commission has ordered as follows:

All wells in the Haystack Butte-Bakken Pool shall be allowed to produce at a maximum efficient rate for a period of 60 days commencing on the first day oil is produced through well-head equipment into tanks from the ultimate producing interval after casing has been run; after that, oil production from such wells shall not exceed an average of 200 barrels per day for a period of 60 days; after that, oil production from such wells shall not exceed an average of 150 barrels per day for a period of 60 days, thereafter, oil production from such wells shall not exceed an average of 100 barrels of oil per day; if and when such wells are connected to a gas gathering and processing facility the foregoing restrictions shall be removed, and the wells shall be allowed to produce at a

maximum efficient rate. The Director is authorized to issue an administrative order allowing unrestricted production at a maximum efficient rate for a period not to exceed 120 days, commencing on the first day oil is produced through well-head equipment into tanks from the ultimate producing interval after casing has been run, if the necessity therefor can be demonstrated to his satisfaction.

- N. NDIC Orders No. 16703 in Case No. 14425 (“Order 16703”); No. 17365 in Case No. 15117 (“Order 17365”); No. 17778 in Case No. 15532 (“Order 17778”); and No. 18862 in Case No. 16593 (“Order 18862”); all dated February 29, 2012.
- O. As stated in Paragraphs 37, pages 8 and 9 of Order 16703; 37, page 8 of Order 17365; 37, page 8 of Order 17778; and 37, page 8 of Order 18862, the Industrial Commission has ordered as follows:

All wells in the Haystack Butte-Bakken Pool shall be allowed to produce at a maximum efficient rate for a period of 60 days commencing on the first day oil is produced through well-head equipment into tanks from the ultimate producing interval after casing has been run; after that, oil production from such wells shall not exceed an average of 200 barrels per day for a period of 60 days; after that, oil production from such wells shall not exceed an average of 150 barrels per day for a period of 60 days, thereafter, oil production from such wells shall not exceed an average of 100 barrels of oil per day; if and when such wells are connected to a gas gathering and processing facility the foregoing restrictions shall be removed, and the wells shall be allowed to produce at a maximum efficient rate. The Director is authorized to issue an administrative order allowing unrestricted production at a maximum efficient rate for a period not to exceed 120 days, commencing on the first day oil is produced through well-head equipment into tanks from the ultimate producing interval after casing has been run, if the necessity therefor can be demonstrated to his satisfaction.

- P. NDIC Orders No. 20427 in Case No. 18158 (“Order 20427”); No. 20681 in Case No. 18396 (“Order 20681”); No. 20745 in Case No. 18459 (“Order

20745”); No. 20820 in Case No. 18534 (“Order 20820”) and No. 22085 in Case No. 16593 (“Order 22085”); all dated June 6, 2013.

Q. As stated in Paragraphs 50, page 10 of Order 20427; 51, pages 9 and 10 of Order 20681; 50, pages 9 and 10 of Order 20745; 50, page 9 of Order 20820; and 50, page 10 of Order 22085, the Industrial Commission has ordered as follows:

All wells in the Haystack Butte-Bakken Pool shall be allowed to produce at a maximum efficient rate for a period of 60 days commencing on the first day oil is produced through well-head equipment into tanks from the ultimate producing interval after casing has been run; after that, oil production from such wells shall not exceed an average of 200 barrels per day for a period of 60 days; after that, oil production from such wells shall not exceed an average of 150 barrels per day for a period of 60 days, thereafter, oil production from such wells shall not exceed an average of 100 barrels of oil per day; if and when such wells are connected to a gas gathering and processing facility the foregoing restrictions shall be removed, and the wells shall be allowed to produce at a maximum efficient rate. The Director is authorized to issue an administrative order allowing unrestricted production at a maximum efficient rate for a period not to exceed 120 days, commencing on the first day oil is produced through well-head equipment into tanks from the ultimate producing interval after casing has been run, if the necessity therefor can be demonstrated to his satisfaction.

53. Under Orders 15456, 15519, 15943, 16379, 16703, 17365, 17778, 18862, 20427, 20681, 20795, 20820 and 22085, the Aiden 31-13H Well, the Amanda 21-14H Well, the Amanda 41-14MBH Well, the OLE BOE 24-11H Well and the OLE BOE 41-14MBH Well could be produced at the maximum efficient rate for the first 60 days of production. After that, the well could produce an average of 200 barrels of oil per day for 60 days; thereafter, an average of 150 barrels per day for the next 60 days; and

thereafter at an average of 100 barrels per day unless the Industrial Commission entered administrative orders allowing unrestricted oil production for up to 120 days.

54. Upon information and belief, the Aiden 31-13H Well was connected to a gas gathering and processing facility as of December 2010 despite the fact that significant flaring of gas has continued during the first year of production in excess of the average barrel per day limitations set forth in the Orders referenced in the preceding paragraph.

55. Upon information and belief, the Amanda 21-14H Well was connected to a gas gathering and processing facility as of September 2010 despite the fact that significant flaring of gas has continued during the first year of production in excess of the average barrel per day limitations set forth in the Orders referenced in the preceding paragraph.

3. Upon information and belief, the Amanda 41-14MBH Well was connected to a gas gathering and processing facility in February of 2013. In October and November of 2012, before the 41-14MBH Well was connected to a gas gathering and processing facility, the monthly production exceeded 200 barrels of oil per day in violation of the limitation set in the Order applicable at that time. The production in excess of the ordered limitation resulted in approximately 25,535 Mcfs of gas being flared in violation of such Order. Although the Amanda 41-14MBH Well was connected to a gas gathering and processing facility in February of 2013, significant flaring of gas has continued during the first year of production after that date in excess of the average barrel per day limitations set forth in the Orders referenced in the preceding paragraph.

56. Upon information and belief, the OLE BOE 24-11H Well was connected to a gas gathering and processing facility as of September 2011 despite the fact that significant flaring of gas has continued during the first year of production in excess of the average barrel per day limitations set forth in the Orders referenced in the preceding paragraph.
57. Upon information and belief, the OLE BOE 41-14MBH Well was connected to a gas gathering and processing facility in February of 2013. From September of 2012 through January of 2013, before the 41-14MBH Well was connected to a gas gathering and processing facility, the monthly production exceeded average barrels of oil per day limitation set forth in the Order applicable at that time. The production in excess of the ordered limitation resulted in approximately 37,804 Mcfs of gas being flared in violation of such Order. Although OLE BOE 41-14MBH Well was connected to a gas gathering and processing facility in February of 2013, significant flaring of gas has continued during the first year of production after that date in excess of the average barrel per day limitations set forth in the Orders referenced in the preceding paragraph.
58. Defendant operates at least 335 oil wells from which gas is produced in North Dakota in counties including McKenzie County and Bowman County. Some or all of those wells are or were operated with gas being flared in violation of N.D.C.C. § 38-08-06.4 or the Industrial Commission's orders on flaring within one year of first production.
59. On information and belief, Defendant does not pay royalties for all or a portion of the gas flared from the oil wells it operates.

60. The number of royalty owners, and royalty owners who are not paid royalties for gas flared in oil wells operated by Defendant in violation of N.D.C.C. § 38-08-06.4 and the Industrial Commission's orders on flaring within one year of first production exceeds one hundred.
61. Plaintiffs bring this Complaint on their own behalf and as representatives of all similarly situated persons against Defendant for its failure to pay royalties on gas flared from oil wells operated by Defendant as further alleged in this Complaint. Plaintiffs seek for themselves and as representatives of all similarly situated persons declaratory relief as well as money damages as further alleged in this Complaint.
62. For purposes of this case, the term "Flared Gas" means the following: Natural gas and associated natural gas liquids in such natural gas flared during the past six (6) years from each oil well in North Dakota operated by Defendant classified by the Industrial Division as a "Horizontal" or "Horizontal Re-entry" wellbore, for which at least one of the following conditions applies:
- A. gas flared from a well one year after first production not covered by a flaring exemption applied for and obtained from the Commission under subsection 6 of N.D.C.C. § 38-08-06.4 (the "North Dakota Anti-Flaring Statute"); or
 - B. gas flared from a well within the first year of production either (i) before the NDIC issued rules permitting flaring or (ii) after the NDIC issued rules limiting the maximum barrels of oil to be produced per day until the well is connected to a gathering system and processing plant, and despite those rules, Defendant reported to the NDIC that it exceeded that maximum oil production allowable during at least part of the first year..

63. Plaintiffs seek to certify the following Class: All persons, including individuals, estates, trusts, corporations, partnerships, and other business entities owning royalty interests in North Dakota:

- A. From which there has been Flared Gas; and
- B. Defendant has not paid royalties for the Flared Gas.

The Class definition excludes:

- i. Defendant; its officers, directors and employees; any entity in which Defendant has a controlling interest; and any affiliate, legal representative, heir or assign of Defendant;
- ii. any federal, state, or municipal governmental entity, and any agencies or subdivisions thereof;
- iii. Indian tribes;
- iv. any person who has given a valid release concerning the claims asserted in this suit;
- v. individuals or entities that are indicated to be working interest owners by Defendant's business records; and
- vi. the district judge assigned to this case, his current spouse, and all persons (and their current spouses) within the third degree of relationship to such district court judge and his spouse.

64. The requirements of Rule 23(a) of the Federal Rules of Civil Procedure are met.

65. Class members are so numerous that their individual joinder is impracticable. The precise number of Class members is unknown to Plaintiffs, but it is clear that the number greatly exceeds the number to make joinder possible or practicable.

66. Common questions of law and fact exist such that a resolution of those questions will drive a common remedy for the common injury suffered by the Class. These common questions of law and fact also predominate over the questions affecting only individual class members. Some of the common legal and factual questions include:

- A. Whether Defendant flared natural gas in violation of the North Dakota Anti-Flaring Statute;
- B. Whether Defendant must pay the Class royalties on Flared Gas;
- C. Whether the Class is entitled to declaratory relief adjudicating that Defendant is required to pay royalties on the value of Flared Gas and future Flared Gas;
- D. Whether Defendant is guilty of conversion of Flared Gas;
- E. Whether Defendant has committed waste of North Dakota's valuable natural resources; and
- F. Whether Defendant should cease flaring gas flared in violation of North Dakota law.

67. The class members have been damaged by Defendant's misconduct. The class members are within the class of persons entitled to be paid royalties for violations of subsections 1 and 2 of N.D.C.C. § 38-08-06.4, and they are entitled to recover royalties on the value of the Flared Gas.

68. Plaintiffs' claims are typical of the claims of the other class members. Plaintiffs are royalty owners in wells with Flared Gas operated by Defendant, and Plaintiffs have not been paid royalties on that Flared Gas despite Defendant's obligation to pay such royalties.

69. Plaintiffs will fairly and adequately protect the interests of the class. Plaintiffs are familiar with the basic facts underlying the class members' claims. Plaintiffs' interests do not conflict with the interests of the other class members that they seek to

represent. Plaintiffs have retained counsel competent and experienced in class action litigation and intend to and will prosecute this action vigorously.

70. The class action device is superior to other available means for the fair and efficient adjudication of the claims of Plaintiffs and the class members. Individual litigation of the legal and factual issues raised by the conduct of Defendant would increase delay and expense to all parties and to the court system. The class action device presents far fewer management difficulties and provides the benefits of a single, uniform adjudication, economies of scale and comprehensive supervision by a single court.

71. Defendant has acted or refused to act on grounds that apply generally to the class, so that final declaratory relief is appropriate respecting the class as a whole. Specifically, Plaintiffs seek an order declaring Defendant's creation of Flared Gas attributable to Class's interests without payment of royalties to be a violation of the North Dakota Anti-Flaring Statute; declaring that Defendant may not create future Flared Gas attributable to Class's interests without payment of royalties and affirmatively hereafter requiring Defendant to pay royalties for Flared Gas attributable to Class's interests.

**FIRST CAUSE OF ACTION: ACTION FOR ROYALTIES ATTRIBUTABLE
TO FLARED GAS
IN VIOLATION OF N.D.C.C. § 38-08-06.4.**

72. For their First Cause of Action, Plaintiffs repeat and reallege each and every prior allegation of this Complaint.

73. Defendant operated the Sunline 34-12H Well so that at least 30,213 Mcfs of gas was flared after the one-year period from the date of first production from the well through October 2013.

74. Defendant operated the Aiden 31-13H Well so that at least 30,412 Mcfs of gas was flared after the one-year period from the date of first production from the well through October 2013.
75. Defendant operated the Amanda 21-14H Well so that at least 8,228 Mcfs of gas was flared after the one-year period from the date of first production from the well through October 2013.
76. Defendant operated the Amanda 41-14MBH Well so that at least 4,961 Mcfs of gas was flared after the one-year period from the date of first production from the well through October 2013.
77. Defendant operated the OLE BOE 24-11H Well so that at least 18,835 Mcfs of gas was flared after the one-year period from the date of first production from the well through October 2013.
78. Defendant operated the OLE BOE 41-14MBH Well so that at least 6,343 Mcfs of gas was flared after the one-year period from the date of first production from the well through October 2013.
79. Defendant owes Plaintiffs for royalties attributable to gas flared from the Sunline 34-12H Well, the Aiden 31-13H Well, the Amanda 21-14H Well, the Amanda 41-14MBH Well, the OLE BOE 24-11H Well and the OLE BOE 41-14MBH Well for those periods following one year after the day of first production from each well.
80. Defendant operated the Amanda 41-14MBH Well and the OLE BOE 41-14MBH Well within one year of first production so that gas was flared during the time periods alleged above in violation of N.D.C.C. § 38-08-06.4 and the Orders cited above.

81. Defendant owes the Jorgenson Plaintiff for royalties attributable to gas flared from the Amanda 41-14MBH Well and the OLE BOE 41-14MBH Well during the first year of production.

**SECOND CAUSE OF ACTION: DECLARATORY RELIEF AGAINST
DEFENDANT FOR PAST AND FUTURE FLARED GAS**

82. For their Second Cause of Action, Plaintiffs repeat and reallege each and every prior allegation of this Complaint.

83. The Plaintiffs believe and therefore allege that Defendant has flared gas and likely will continue to flare gas from the Sunline 34-12H Well, the Aiden 31-13H Well, the Amanda 21-14H Well, the Amanda 41-14MBH Well, the OLE BOE 24-11H Well and the OLE BOE 41-14MBH Well without paying required royalties on the value of the Flared Gas, as required under subsection 4 of N.D.C.C. § 38-08-06.4.

84. Plaintiffs are entitled to declaratory relief adjudicating that Defendant is obligated to pay royalties on the value of all Flared Gas and future Flared Gas from the Sunline 34-12H Well, the Aiden 31-13H Well, the Amanda 21-14H Well, the Amanda 41-14MBH Well, the OLE BOE 24-11H Well and the OLE BOE 41-14MBH Well flared in violation of section 4 of N.D.C.C. § 38-08-06.4.

85. Plaintiffs are entitled to the declaratory relief as permitted under N.D.C.C. ch. 32-23-01.

**THIRD CAUSE OF ACTION: CONVERSION OF GAS FLARED WITHOUT
PAYMENT OF ROYALTIES.**

86. For their Third Cause of Action, Plaintiffs repeat and reallege each and every prior allegation of this Complaint.

87. Plaintiffs are entitled to royalties for gas flared from the Amanda 41-14MBH Well and the OLE BOE 41-14MBH Well during the first year of production as alleged above, and royalties for gas flared after the first year of production through the present for the Sunline 34-12H Well, the Aiden 31-13H Well, the Amanda 21-14H Well, the Amanda 41-14MBH Well, the OLE BOE 24-11H Well and the OLE BOE 41-14MBH Well.
88. Defendant has not paid and refuses to pay royalties to Plaintiffs for gas flared from the Amanda 41-14MBH Well and the OLE BOE 41-14MBH Well during the first year of production and royalties for gas flared after the first year of production through the present for the Sunline 34-12H Well, the Aiden 31-13H Well, the Amanda 21-14H Well, the Amanda 41-14MBH Well, the OLE BOE 24-11H Well and the OLE BOE 41-14MBH Well.
89. Defendant's actions constitute a tortious detention of personal property due to the Plaintiffs in defiance of the rights of Plaintiffs.
90. Plaintiffs are entitled to the highest value of the gas flared for the time during which royalties were not paid as well as fair compensation for the time and money Plaintiffs have expended and will expend to obtain the compensation due to Plaintiffs.

**FOURTH CAUSE OF ACTION: COMMON LAW WASTE OF GAS FLARED
WITHOUT PAYMENT OF ROYALTIES.**

91. For their Fourth Cause of Action, Plaintiffs repeat and reallege each and every prior allegation of this Complaint.
92. The flaring of gas from for gas flared after the first year of production through the present for the Sunline 34-12H Well, the Aiden 31-13H Well, the Amanda 21-14H Well, the Amanda 41-14MBH Well, the OLE BOE 24-11H Well and the OLE BOE

41-14MBH Well as described in the allegations of the *Background* of the Complaint constitutes an unreasonable or improper use, abuse, mismanagement, or omission of duty by Defendant touching Plaintiffs' rights in the mineral estate from which production from the the Sunline 34-12H Well, the Aiden 31-13H Well, the Amanda 21-14H Well, the Amanda 41-14MBH Well, the OLE BOE 24-11H Well and the OLE BOE 41-14MBH Well is taken ("Common Law Waste").

93. The laws of North Dakota require Defendant to use and manage production of gas from oil wells in North Dakota in compliance with North Dakota laws and the Industrial Commission's orders, including those set forth in the allegations of the *Background* of the Complaint.

94. Defendant's flaring of gas after the first year of production through the present for the Sunline 34-12H Well, the Aiden 31-13H Well, the Amanda 21-14H Well, the Amanda 41-14MBH Well, the OLE BOE 24-11H Well and the OLE BOE 41-14MBH Well as previously alleged in this Complaint constitutes Common Law Waste for which Plaintiffs is entitled to compensation, including that provided in N.D.C.C. § 32-17-22.

FIFTH CAUSE OF ACTION: ACTION UNDER N.D.C.C. § 32-40-06
TO ENFORCE PAYMENT OF ROYALTIES
ATTRIBUTABLE TO GAS FLARED IN VIOLATION OF
N.D.C.C § 38-08-06.4 AND N.D.A.C. § 43-02-03-60.2

95. For their Fifth Cause of Action, Plaintiffs repeat and reallege each and every prior allegation of this Complaint.

96. Plaintiffs are aggrieved persons under the provision of the *North Dakota Environmental Law Enforcement Act of 1975* found at N.D.C.C. § 32-40-01 et seq.

This statute provides for and reaffirms a private right of action to enforce the environmental anti-flaring provisions under N.D.C.C. § 38-08-06.4. N.D.C.C. § 32-40-06 states:

...[a]ny person ... aggrieved by the violation of any environmental statute, rule, or regulation of this state may bring an action in the appropriate district court, either to enforce such statute, rule, or regulation, or to recover any damages that have occurred as a result of the violation, or for both such enforcement and damages.

97. By flaring in violation of N.D.C.C. § 38-08-06.4, Defendant has violated an environmental statute, rule or regulation for the protection of natural resources including minerals under the provisions of N.D.C.C. § 38-08-06.4 and N.D.A.C. § 43-02-03-60.2.

98. Plaintiffs are entitled under N.D.C.C § 32-40-06 to sue to enforce the provisions of N.D.C.C. § 38-08-06.4 and to recover damages suffered from Defendant as a result of the Defendant's violation of N.D.C.C. § 38-08-06.4 and N.D.A.C. § 43-02-03-60.2.

99. Original Plaintiffs, pursuant to N.D.C.C. § 32-40-06, gave timely notice by certified mail of Plaintiffs' intent to file suit and the violation of N.D.C.C. § 38-08-06.4 as generally set forth in this Complaint to the following:

- A. Defendant;
- B. The North Dakota Industrial Commission;
- C. The State's Attorney for McKenzie County; and
- D. The Attorney General of the State of North Dakota

100. Defendant's flaring of gas from the the Sunline 34-12H Well, the Aiden 31-13H Well, the Amanda 21-14H Well, the Amanda 41-14MBH Well, the OLE BOE 24-11H Well and the OLE BOE 41-14MBH Well as previously alleged in this Complaint

constitutes a violation of N.D.C.C. § 38-08-06.4 from which Plaintiffs are entitled to recovery of unpaid royalties as permitted under N.D.C.C. § 43-02-03-60.2.

SIXTH CAUSE OF ACTION: CLASS CLAIMS FOR ROYALTIES
ATTRIBUTABLE TO FLARED GAS
IN VIOLATION OF N.D.C.C. § 38-08-06.4.

101. For their Sixth Cause of Action, Plaintiffs repeat and reallege each and every prior allegation of this Complaint.

102. Plaintiffs seek certification of the Proposed Class pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure for the purposes of seeking remedies for the Proposed Class under this Sixth Cause of Action.

103. Defendant has operated or is operating oil wells in which Flared Gas occurs.

104. Defendant owes Proposed Class for royalties attributable to Flared Gas.

105. Plaintiffs seek certification of the Proposed Class pursuant to Rule 23(b) for this Sixth Cause of Action as (a) the requirements of Rule 23(a) are satisfied; (b) a class action will fairly and efficiently provide for the adjudication of the Proposed Class's claims under this Sixth Cause of Action; and (c) Plaintiffs will fairly and adequately protect the interests of the Proposed Class.

106. The adjudication of the Proposed Class's claims under this Sixth Cause of Action will be fairly and efficiently accomplished as:

- A. the members of the Proposed Class have a common interest in obtaining royalties for Flared Gas;
- B. the prosecution of separate actions by individual members of the Proposed Class would create a risk of inconsistent or varying adjudications with respect

to those individual members, which would establish incompatible standards of conduct for Defendant.

- C. separate adjudication by an individual member of the Proposed Class as a practical matter would be dispositive of the interests of other members of the Proposed Class not parties to the adjudication or substantially impair or impede their ability to protect their interests;
- D. the common questions of law or fact predominate over any questions affecting only individual members;
- E. other means of adjudicating the claims and defenses are impracticable or inefficient;
- F. the claims under this Sixth Cause of Action are not known to be subject of a class action, a government action, or other proceeding;
- G. the management of a class action would not pose unusual difficulties; and
- H. no conflict of laws issues are involved, as such issues are matters of North Dakota law or are governed by North Dakota law.

SEVENTH CAUSE OF ACTION: CLASS CLAIMS FOR DECLARATORY RELIEF AGAINST DEFENDANT FOR PAST AND FUTURE FLARED GAS.

107. For their Seventh Cause of Action, Plaintiffs repeat and reallege each and every prior allegation of this Complaint.

108. Plaintiffs seek certification of the Proposed Class pursuant to Rule 23(b)(2) for the purposes of seeking declaratory relief for the Proposed Class under this Seventh Cause of Action.

109. Plaintiffs believe and therefore allege that Defendant has flared and likely will continue to flare gas from some or all of the oil wells it operates in North Dakota, resulting in further Flared Gas (“Future Flared Gas”) and damage to the Class.

110. Plaintiffs seek and are entitled to declaratory relief adjudicating that Defendant is obligated to pay the Class royalties for past Flared Gas and Future Flared Gas if Future Flared Gas is produced.

111. Plaintiffs seek certification of the Proposed Class pursuant to Rule 23(b) for this Seventh Cause of Action as (a) the requirements of Rule 23(a) are satisfied; (b) a class action will fairly and efficiently provide for the adjudication of the Proposed Class’s claims for declaratory relief under this Seventh Cause of Action; and (c) Plaintiffs will fairly and adequately protect the interests of the Proposed Class.

112. The adjudication of the Proposed Class’s claims under this Seventh Cause of Action will be fairly and efficiently accomplished as:

- A. the members of the Proposed Class have a common interest in requiring Defendant to pay royalties for the Future Flared Gas;
- B. the prosecution of separate actions by individual members of the Proposed Class would create a risk of inconsistent or varying adjudications with respect to those individual members, which would establish incompatible standards of conduct for Defendant;
- C. separate adjudication by an individual member of the Proposed Class as a practical matter would be dispositive of the interests of other members of the Proposed Class not parties to the adjudication or substantially impair or impede their ability to protect their interests;

- D. other means of adjudicating the claims and defenses are impracticable or inefficient;
- E. the claims under this Seventh Cause of Action are not known to be subject of a class action, a government action, or other proceeding;
- F. the management of class action would not pose unusual difficulties; and
- G. no conflict of laws issues are involved, as such issues are matters of North Dakota law or are governed by North Dakota law.

**EIGHTH CAUSE OF ACTION: CLASS CLAIMS
FOR CONVERSION OF FLARED GAS.**

113. For their Eighth Cause of Action, Plaintiffs repeat and reallege each and every prior allegation of this Complaint.

114. Plaintiffs seek certification of the Proposed Class pursuant to Rule 23(b)(2) for the purposes of its claim for money damages for the Proposed Class under this Eighth Cause of Action.

115. The Proposed Class is entitled to compensation for Defendant's conversion of the Proposed Class's Flared Gas.

116. Defendant has not paid and refuses to pay royalties to the Proposed Class for Flared Gas.

117. Defendant's actions towards the Proposed Class constitute a tortious detention of personal property due to the Proposed Class in defiance of the rights of the Proposed Class.

118. The Proposed Class is entitled to the highest value of the Flared Gas as well as fair compensation for the time and money Plaintiffs have expended and will expend to obtain the compensation due to the Proposed Class.

119. Defendant should compensate Proposed Class for Defendant's conversion of the Flared Gas.

120. Plaintiffs seek certification of the Proposed Class pursuant to Rule 23(b) for this Eighth Cause of Action as (a) the requirements of Rule 23(a) are satisfied; (b) a class action will fairly and efficiently provide for the adjudication of the Proposed Class's claims under this Eighth Cause of Action; and (c) Plaintiffs will fairly and adequately protect the interests of the Proposed Class.

121. The adjudication of the Proposed Class's claims under this Eighth Cause of Action will be fairly and efficiently accomplished as:

- A. the members of the Proposed Class have a common interest in obtaining compensation for Defendant's conversion of the Flared Gas;
- B. the prosecution of separate actions by individual members of the Proposed Class would create a risk of inconsistent or varying adjudications with respect to those individual members, which would establish incompatible standards of conduct for Defendant;
- C. separate adjudication by an individual member of the Proposed Class as a practical matter would be dispositive of the interests of other members of the Proposed Class not parties to the adjudication or substantially impair or impede their ability to protect their interests;
- D. the common questions of law or fact predominate over any questions affecting only individual members;
- E. other means of adjudicating the claims and defenses are impracticable or inefficient;

- F. the claims under this Eighth Cause of Action are not known to be subject of a class action, a government action, or other proceeding;
- G. the management of a class action would not pose unusual difficulties; and
- H. no conflict of laws issues are involved, as such issues are matters of North Dakota law or are governed by North Dakota law.

**NINTH CAUSE OF ACTION: CLASS CLAIMS
FOR COMMON LAW WASTE OF FLARED GAS.**

122. For their Ninth Cause of Action, Plaintiffs repeat and reallege each and every prior allegation of this Complaint.
123. Plaintiffs seek certification of the Proposed Class pursuant to Rule 23(b)(2) for the purposes of their claim for money damages for the Proposed Class under this Ninth Cause of Action.
124. The Proposed Class is entitled to compensation for Defendant's Common Law Waste of the Proposed Class's Flared Gas.
125. The flaring of Flared Gas constitutes an unreasonable or improper use, abuse, mismanagement, or omission of duty by Defendant touching the Proposed Class's rights in the mineral estate from which production of the Flared Gas occurs.
126. The laws of North Dakota require Defendant to use and manage production of gas from oil wells in North Dakota in compliance with North Dakota laws and the Industrial Commission's orders, including those set forth in the allegations of the Background of the Complaint.
127. Defendant's flaring of the Flared Gas constitutes Common Law Waste for which the Proposed Class is entitled to compensation, including that provided in N.D.C.C. § 32-17-22.

128. Plaintiffs seek certification of the Proposed Class pursuant to Rule 23(b) for this Ninth Cause of Action as (a) the requirements of Rule 23(a) are satisfied; (b) a class action will fairly and efficiently provide for the adjudication of the Proposed Class's claims under this Ninth Cause of Action; and (c) Plaintiffs will fairly and adequately protect the interests of the Proposed Class.

129. The adjudication of the Proposed Class's claims under this Ninth Cause of Action will be fairly and efficiently accomplished as:

- A. the members of the Proposed Class have a common interest in obtaining compensation for Defendant's Common Law Waste of the Flared Gas;
- B. the prosecution of separate actions by individual members of the Proposed Class would create a risk of inconsistent or varying adjudications with respect to those individual members, which would establish incompatible standards of conduct for Defendant;
- C. separate adjudication by an individual member of the Proposed Class as a practical matter would be dispositive of the interests of other members of the Proposed Class not parties to the adjudication or substantially impair or impede their ability to protect their interests;
- D. the common questions of law or fact predominate over any questions affecting only individual members;
- E. other means of adjudicating the claims and defenses are impracticable or inefficient;
- F. the claims under this Ninth Cause of Action are not known to be subject of a class action, a government action, or other proceeding;

- G. the management of a class action would not pose unusual difficulties; and
- H. no conflict of laws issues are involved, as such issues are matters of North Dakota law or are governed by North Dakota law.

**TENTH CAUSE OF ACTION: CLASS CLAIMS FOR ACTION UNDER
N.D.C.C. § 32-40-06 TO ENFORCE PAYMENT OF ROYALTIES
ATTRIBUTABLE TO GAS FLARED IN VIOLATION OF
N.D.C.C § 38-08-06.4 AND N.D.A.C. § 43-02-03-60.2**

130. For their Tenth Cause of Action, Plaintiffs repeat and reallege each and every prior allegation of this Complaint.
131. The proposed class is made up of aggrieved persons under the provision of the *North Dakota Environmental Law Enforcement Act of 1975* found at N.D.C.C. §§ 32-40-01 et seq. This statute reaffirms a private right of action to enforce the environmental anti-flaring provisions under N.D.C.C. § 38-08-06.4.
132. By flaring in violation of N.D.C.C. § 38-08-06.4, Defendant has violated an environmental statute, rule or regulation for the protection of natural resources including minerals under the provisions of N.D.C.C. § 38-08-06.4 and N.D.A.C. § 43-02-03-60.2.
133. Apart from the injury to the public in general, injuries to the Proposed Class include an impairment of the Proposed Class's mineral interest and results in the loss of the royalties that are to be paid to members of the Proposed Class pursuant to N.D.C.C. § 38-08-06.4. Plaintiffs are aggrieved as provided in N.D.C.C. § 32-40-03.
134. The Proposed Class is entitled under N.D.C.C § 32-40-06 to sue to enforce the provisions of N.D.C.C. § 38-08-06.4 and N.D.A.C. § 43-02-03-60.2 and to recover damages suffered from Defendant as a result of the Defendant's violation of N.D.C.C. § 38-08-06.4 and N.D.A.C. § 43-02-03-60.2.

135. Original Plaintiffs, pursuant to N.D.C.C. § 32-40-06, gave timely notice by certified mail of Plaintiffs' intent to file suit and the violation of N.D.C.C. § 38-08-06.4 as generally set forth in this Complaint to the following:

- A. Defendant;
- B. The North Dakota Industrial Commission;
- C. The State's Attorney for McKenzie County; and
- D. The Attorney General of the State of North Dakota.

136. Plaintiffs seek certification of the Proposed Class pursuant to Rule 23(b)(2) for the purposes of seeking enforcing the provisions of N.D.C.C. § 38-08-06.4 and N.D.A.C. § 43-02-03-60.2 and to recover damages by the Proposed Class suffered as a result of the Defendant's violation of N.D.C.C. § 38-08-06.4 and N.D.A.C. § 43-02-03-60.2.

137. Plaintiffs seek certification of the Proposed Class pursuant to Rule 23(b) for this Tenth Cause of Action as (a) the requirements of Rule 23(a) are satisfied; (b) a class action will fairly and efficiently provide for the adjudication of the Proposed Class's claims for declaratory relief under this Seventh Cause of Action; and (c) Plaintiffs will fairly and adequately protect the interests of the Proposed Class.

138. The adjudication of the Proposed Class's claims under this Tenth Cause of Action will be fairly and efficiently accomplished as:

- a. the members of the Proposed Class have a common interest in requiring Defendant to pay royalties for the Flared Gas and Future Flared Gas;
- b. the prosecution of separate actions by individual members of the Proposed Class would create a risk of inconsistent or varying adjudications with respect

to those individual members, which would establish incompatible standards of conduct for Defendant;

- c. separate adjudication by an individual member of the Proposed Class as a practical matter would be dispositive of the interests of other members of the Proposed Class not parties to the adjudication or substantially impair or impede their ability to protect their interests;
- d. other means of adjudicating the claims and defenses are impracticable or inefficient;
- e. the claims under this Tenth Cause of Action are not known to be subject of a class action, a government action, or other proceeding;
- f. the management of class action would not pose unusual difficulties; and
- g. no conflict of laws issues are involved, as such issues are matters of North Dakota law or are governed by North Dakota law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court enter an order:

- A. Ordering Defendant to pay damages to Plaintiffs in an amount to be proven at trial; and,
- B. Declaring that Defendant's production and flaring of gas and future production and flaring of gas violates North Dakota law unless Defendant pays royalties to Plaintiffs for the value of such Flared Gas, or otherwise complies with N.D.C.C. § 38-08-06.4;

- C. Ordering Defendant to pay Plaintiffs' reasonable attorneys' fees as allowed by law, and Plaintiffs' costs and disbursements; and,
- D. Ordering certification of the Proposed Class pursuant to Rule 23(b) of the Federal Rules of Civil Procedure with reasonable notice to the Class;
- E. Ordering Defendant to pay damages to the Proposed Class in an amount to be proven at trial; and,
- F. Declaring that Defendant's production and flaring of gas and future production and flaring of gas violates North Dakota law unless Defendant pays royalties to the Proposed Class for the value of such Flared Gas, or otherwise complies with N.D.C.C. § 38-08-06.4; and,
- G. Ordering Defendant to pay reasonable attorneys' fees as allowed by law, as well as costs and disbursements in bringing the Proposed Class's Claims; and,
- H. For such other relief that the Court deems appropriate.

Dated this 2nd day of January, 2014.

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ATTORNEYS FOR PLAINTIFFS

DEMAND FOR JURY TRIAL

Plaintiffs previously and timely demanded a jury trial on all issues triable by a jury and hereby renew said demand.

Dated this 2nd day of January, 2014.

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