North Dakota Department of Environmental Quality

Division of Air Quality

C/O Jim Semerad, Director

918 E Divide Avenue

Bismarck, ND 58501-1947

*Via Email* to: AirQuality@nd.gov

**Re: Comments of Northwest Landowners Association on Rulemaking Petition and Solicitation of Views on Administrative Rules Relating to Air Emissions from Oil and Gas Production Facilities**

Dear Mr. Semerad:

The Northwest Landowners Association (NWLA), which is an association of landowners in our state’s oil-producing counties, does not support Continental Resource’s petition to change N.D.A.C. § 33-15-07-2(1). We think the petition is not a reasonable request and should simply be denied.

In researching this issue, our understanding is that Continental appears to believe the rule is unclear and therefore needs to be revised. We also found that Continental has gone out of its way to try to get this rule changed. Continental filed a state court lawsuit to challenge this rule (which Continental lost). Then Continental appealed and lost the appeal too. Our state’s Supreme Court explained that “Continental wants the district court to read ambiguity into the Rule where it doesn’t otherwise exist.” In other words, Continental’s petition for rulemaking is a solution in search of a non-existent problem. The rule is perfectly fine as is. If Continental has concerns about the rule, our view is that Continental should simply comply with the rule as a good operator.

Further, the rule serves an important purpose. From our perspective, it protects landowners such as our members in North Dakota’s oil-producing counties from unreasonable air emissions from oil and gas facilities. It also protects landowners statewide from unreasonable emissions from all sources (not just oil and gas). Our reading of the rule is that it if a facility emits into the air organic compounds or vapors, then the facility must install a “flare” or “equally effective control device approved by [DEQ].” That’s it. In our experience, any reputable oil and gas operator should be doing this regardless of any rule. It’s common sense.

DEQ also requested feedback on NSPS Quad O and Quad Oa. We understand that DEQ is working on implementing these federal programs. We also understand, however, that these federal programs may significantly change over the next several months. Our main comment is that we believe Quad O and Quad Oa is a separate issue from N.D.A.C. § 33-15-07-2(1), and they should be treated separately. Trying to consider these rules together is confusing and needlessly complicated, especially because it’s unclear what may happen with Quad O and Quad Oa going forward. N.D.A.C. § 33-15-07-2(1) has been on the books for decades, and regardless of what happens with Quad O and Quad Oa, we believe that N.D.A.C. § 33-15-07-2(1) should remain on the books. It’s a simple, easy to understand, and effective regulation. We do not believe the rules are the same.

Regarding the timing issues with Quad O and Quad Oa, we suggest that DEQ wait, if possible, to implement Quad O and Quad Oa until the rules themselves are settled. Otherwise, DEQ may end up duplicating work by implementing these programs and then having to go through the process of re-implementing these programs.

Thank you for the opportunity to comment on this issue,

Northwest Landowners Association

Troy Coons, Chairman

