

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1182

2007 HOUSE NATURAL RESOURCES

HB 1182

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1182

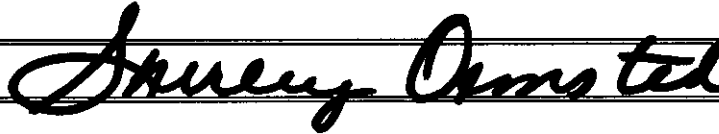
House Natural Resources Committee

☐ Check here for Conference Committee

Hearing Date: January 18, 2007

Recorder Job Number: 1345

Committee Clerk Signature



Minutes:

Chairman Porter opened the hearing on HB 1182.

Representative Drovdal came forward to present HB 1182 as the prime sponsor. See attached testimony marked Item #1. This bill is about notification. In the case of an organized committee, they just have to notify the governing body.

Representative Keiser asked that with the past experience with seismographs, do you have any idea what the cost is for to this industry to adhere to this regulation?

Representative Drovdal had talked to the seismographs and they had not shared any costs with him. Perhaps Mr. Helms could answer that question.

Representative Solberg asked if it included both seismographs and drilling oil wells.

Representative Drovdal said that they passed a bill last session to cover seismographic activity. This just covers oil wells.

Chairman Porter asked about the ½ mile. He asked if they had used that number because that is what they had used for seismographic activity.

Representative Drovdal said the half mile is easy because of section lines. The property line usually lies on the ¼ or ½ mile line.

Chairman Porter asked for testimony in support of HB 1182.

Mr. Thomas J. Irgens of Sprinkbrook, ND submitted testimony in favor of HB 1182. See attached testimony marked as Item #2.

Representative Meyers asked if when his water well was ruined, is there a set time that this has to take place. What is the time frame for having your well tested?

Mr. Irgens said just prior to drilling. As long as you know what the well situation was prior to drilling, there is recourse.

Ms. Cindy Kline, representing the Dakota Resource Council presented testimony in favor of HB 1182. See attached testimony marked as Item #3.

Representative Nottestad asked about the area of an urban setting. If there was a lot of noise involved, would you expect them to notify all the neighbors?

Ms. Kline indicated they would like to see that. The city of Dickinson has an energy policy board that is made up of people in the community. When they want to drill within a certain distance from the city, they have to go through a process to get permission from the city.

Representative Nottestad asked if this was working in the city of Dickinson.

Ms. Kline said she was not sure. There hasn't been a well drilled very close to the city for some time.

Representative Meyer asked if there was a penalty now if they fail to give someone the 20 day notice.

Ms. Kline said that is how she understood it.

Chairman Porter asked for further testimony in support of HB 1182. There was none. He asked for testimony in opposition to HB 1182.

Mr. Ron Ness came forward representing the North Dakota Petroleum Council. Even though the bill relating to the seismographs has worked, he does not feel that there is a correlation between the seismographs and well drillers. Oil Well drilling should not affect water wells. He

felt that this bill came before the committee as a result of one isolated incident. He does not want to isolate one industry. He also said that he did not know how you could trespass when you are on property that you have a right to be on. There have been wells drilled within the city limits of Williston and Dickinson. Houses are now being built around these wells.

Generally the surface owner and the oil company come to an agreement quickly. It should affect other industries as well and the bill should be amended to include these.

Representative Drovdal indicated that fortunately this does not happen very often. He did not think that it involved more than one issue in the past year. He also said that he didn't see anywhere in the bill where he addressed the testing of wells. It is not a part of this bill.

Mr. Ness said that he had said "in relation to other comments made this morning". He is not aware of any other situations except the one incident.

Representative Meyer said that the land owners are definitely notified when power lines come through.

Mr. Ness reminded her that they were talking about all surface owners within ½ mile. This will create a circle around the well site.

Representative Meyer asked about a penalty provision. If this is violated, how would you suggest dealing with that? Should you take the oil company to court?

Mr. Ness reminded her that this bill does not deal with notification to the surface owner. There is other legislation for that. This deals with all adjacent land owners within ½ mile of that project.

Mr. Robert Harms, President of Northern Alliance of Independent Producers came forward to testify in opposition of HB 1182. See attached testimony marked as Item #4.

Representative Meyer indicated that the main problem here is when a family comes home from a weekend and finds a well drilled outside their bedroom window. That is the problem

that is being addressed here. This can happen when your home is on a section line. Their home has become virtually worthless. This committee has to look at whose property is more important; the surface owner or the tenant living on the property.

Representative Keiser said this seems to be a reasonable policy on the surface as a good neighbor policy. If this bill passes, as they are notified, they still will have no recourse will they? This only requires informing them. Is that correct?

Mr. Harms said that was correct. It does not give the tenant a remedy. If you miss someone in the notification process, then the oil company becomes liable and they can come back and sue. You have to prove that you tried to find everyone. This is intended to be a good neighbor policy and can become a very troublesome issue for the oil companies.

Representative Keiser asked if there was any place in the bill to change the notification to a "best effort" to find the parties. It seems crazy that if you should miss one party, they can come back and sue.

Mr. Harms said he did not think that was a good solution to this. The oil companies will still have to argue whether they made a reasonable effort to find everyone.

Representative Nottestad asked that if "and tenants" was struck from this bill, how would this affect this bill.

Mr. Harms said that that would be about 1/3 of the way to fixing this. In the case of land owners, you are providing them a property record they don't otherwise have.

Representative Nottestad said that unless the well was located in the very corner of the property, there wouldn't be many to notify. If you were in the city location, you would just have to notify the governing body. From studies that he has done in western North Dakota, you don't have too many 20 and 40 acre surface owners.

Mr. Harms said he was thinking of areas by Medora, Dickinson and Williston. There are lots of what you would call "ranchettes" that are coming up. There are lots of 5 & 10 acre tracts coming up.

Representative Nottestad said that he thought the good neighbor policy should enter into this and that it may add some strength to the bill.

Representative Hofstad that he wondered if giving public notice would be an answer to this issue.

Mr. Harms said that it would be an improvement. This would be a lot better than the bill that is before them today.

Representative Clark asked if it was common knowledge to the general public when there is going to be a well drilled.

Mr. Harms said he was not sure how to answer that.

Mr. Greg Steiner, a superintendent for Eagle Operating which is a company currently operating near Kenmare, North Dakota. He too was in opposition to the bill. He said that there have not been a lot of problems with this and he feels that 99% of the time the oil companies have been good neighbors. He feels that is a pretty good record in itself. He is the person who helps permit these lands and help find the people. There are a lot of costs involved with finding the people. When you go to the county records, you will just find the name of the person who pays the taxes. If others are involved, they will be listed as "and others". This is a very expensive process. There is also the question of what is "reasonable". In injection wells, the range is $\frac{1}{4}$ mile. If you have a well in the corner of a quarter and you draw a $\frac{1}{2}$ mile circle around that, you will end up with 3 or 4 different surface tenants. Sometimes there is someone just renting a building and you would have to notify them as well. This is not as simple as it

looks. In his area, the land is intensively farmed. It includes a number of people for each piece of property.

Mr. Jeff Herman from Petro-Hunt, LLC, also opposed HB 1182. He supported the previous comments. He thought this would be very burdensome to identify these parties. It is becoming a bigger and bigger problem to be able to drill. He doesn't feel like there is that big a problem out there.

Representative Damschen asked about the current policy now for notifying people in the area.

Mr. Herman said the only requirement is to notify the owner of the drill site and not to any adjacent tenant surface owners.

Mr. Lynn Helms came forward to address the question of Representative Clark regarding the secrecy by the oil companies when they intend to drill. They are required to get a certified land survey and stake the well ahead of time before they permit with the Oil and Gas division. This is an indication that the well is going to be drilled. There will be survey crew out there. That can happen 21 days before the rig comes in. In the situation they are talking about, the original well drilling site was a mile to the east of this. It was staked and permitted and the company went out to the location and when they started digging the reserve pit, they found water. We told them they could not put a reserve pit there. They moved it a mile to the west, filed a permit with us, and as far as we were concerned, it was a legal permit. The oil company was not informed by the survey company that the home was that close nor did the dirt moving company inform the oil company. By the time all that happened, they had \$30,000.00 invested in this drilling location. It was legal they were able to proceed with this well. The people who owned that home were on vacation when all of that occurred.

Representative Meyer asked Mr. Helm if it had ever been reported to his office about an oil well ruining a water well.

Mr. Helm indicated that they had reports of that. He does not know if it has ever been proven that the oil well caused the damage to the water well. This would be handled in District Court. To prevail in District Court, you must have tested your water well within one year prior to that oil rig moving in.

Representative Charging asked how come the oil company was not notified about the home so close and why did they not get notification.

Mr. Helms said that because there home is located less than one hundred feet from the section line and an oil well site is on another's property, there is no notice required to them at all. The only notification is required to the owner of the property.

Representative Charging said that because of this, that home owner would have no opportunity to get their water well tested prior to the drilling.

Mr. Helms said that could happen. The people did go ahead and get the water well testing done on their own, but after they started drilling. In that situation, they did not allow the company to put the reserve pit there. They did several things to protect the ground water, but it was a legal site.

Representative Drovdal said this is a worst case scenario, but in the real world, is it because most of these wells are located out in the middle of nowhere, is this going to cause a burden to the oil companies?

Mr. Helms said many of these wells are being drilled where there are very few owners. It is becoming more prevalent where wells are being permitted closer to more people. There have been lots of purchases of 30-40 acres where people are building houses in the country. There have been 3 cases this year where this has occurred. This will increase the burden on the oil

companies. They do not have the personnel to do this. We permit about 500 oil well sites per year.

Representative Hunsker asked how many times this had occurred in the past.

Mr. Helms indicated that there are 40 drilling rigs in the state right now. This kind of activity is new. Two years ago there were none. Last year it came up three times. Prior to that, only twice that he knew of since the mid 80's.

Representative Keiser asked that if in his opinion, public notice in the newspaper of record was an alternative and would it have merit in this or not.

Mr. Helms indicated that he thought it would be an alternative and was one that should be explored. That is what happens in the state of Montana.

Representative Charging asked what it would cost to drill a water well.

Mr. Helms indicated that it could be thousands of dollars, perhaps even \$5,000.00. He said he could not give a precise number on that.

There were no further questions.

The hearing on HB 1182 was closed.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1182

House Natural Resources Committee

☐ Check here for Conference Committee

Hearing Date: January 19, 2007

Recorder Job Number: 1423

Committee Clerk Signature

Shirley Omssted

Minutes:

Chairman Porter opened the committee meeting with HB 1182.

Representative Drovdal said there had some very good comments and it is difficult to change the requirements for anyone. He still believes that notification is a good process. A good neighbor policy is a good thing. He does understand that it could be a problem with all surface owners and tenants. He would be willing to offer an amendment to take "and tenants" out of line 7 so that they would only have to notify the surface owners. He felt they could have people sitting at the courthouse for months trying to find these people. He does believe that notification is necessary. He said he did go to Montana to find out how they handle this. He read a section from Montana law indicating that notification was required in the newspapers of record. He felt that notification in the official county paper might save a lot of problems.

Representative Meyer said that with the newspaper notification they would still have to notify the land owner with the 20 days.

Representative Drovdal indicated that was correct and this would not interfere with the 20 days notification where the actual site is going.

Representative Meyer said that she would move the amendment that wherever the word "tenant" appears, that will be stricken. **Representative Kelsh** seconded that motion.

Chairman Porter asked for discussion. Seeing none, a voice vote was done on the amendment. The motion carried.

Representative Damschen asked that taking out the word "tenant" was all that was being done to this bill.

Chairman Porter indicated this on line 7, page 2, line 2, line 3, line 5, line 6, and line 8.

Representative Kelsh asked if we had also asked if they had amended the public notification clause.

Representative Drovdal said no because he would have to come up with the proper language on this.

There was a motion by **Representative Drovdal** for a do pass as amended with a second by **Representative Meyer**.

Representative Damschen said that he supported the basic idea of notifying the landowner, but he cannot support this particular bill in its present form.

Representative Hofstad said that he too supported the premise, but he is afraid that this is setting a precedent for other types of construction that we may enter into. It seems a little overburdened to him. As a land owner he certainly respects the right of that landowner to know what is going on, but it seems to be a little overburdening to him.

Representative Charging said that burden that we are hearing about in North Dakota is the burden to the landowners in western North Dakota. In the case of the water wells, to replace a water well or an artesian well, it can be a financial burden.

Representative Solberg said that we have seen so much improvement as far as notifications from these companies. He said that he was struggling with this as he feels that we are continuously discouraging exploration and production by all of these restrictions. He said he would have to vote against this.

Representative Hofstad said that being involved in a process of notification, this can be a long process. It is very difficult to find all of these landowners and tenants.

The clerk took roll. Let the record show that there were 6 yes, and 7 no with one absent. Do pass fails.

Representative Damschen was the discussion of public notice in the newspaper ever considered to this amendment?

Chairman Porter said that came out in hearings as an addition requirement.

Representative Damschen said that he was torn about this.

Chairman Porter suggested that they could take this up again in the morning after everyone had time to sleep on it.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1182

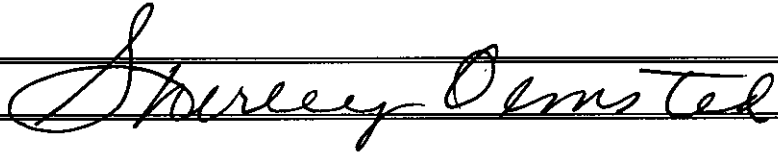
House Natural Resources Committee

☐ Check here for Conference Committee

Hearing Date: January 19, 2007

Recorder Job Number: 1427

Committee Clerk Signature



Minutes:

Chairman Porter opened the committee meeting with HB 1182.

Representative Drovdal said that he thought this was a good amendment that he passed out on HB 1182. It says on page 1, line 10 after "parties" insert or, notice may be given by publishing notice of the contemplated drilling operations in the drilling site's official county newspaper, which must be published at least twenty days before the commencement of the operations." He also said that on page 2, line, remove "or tenants". There were other changes with "or tenants" with owners. **Representative Drovdal** made a motion to accept these amendments. There was a second by **Representative DeKrey**.

Chairman Porter said that they are already working with an amended bill. Yesterday we did approve the "tenant" portion and the correct grammar accordingly. Really all we are dealing with is the notice portion of this motion. Is there any further discussion?

Representative Keiser asked if there was new language relative to the ½ mile. Notice in the newspaper should cover the region so why do we want all of this for the entire area and then specific notice for the 600 feet.

Representative Drovdal said he would have to refer that to the attorney. He does not know if they need an insert for the second part of this. He thought they could be contacted by letter or by the notice in the official paper.

Representative Keiser said he hoped that the officials were reading the newspaper.

Representative Damschen asked that if they chose not to use the newspaper, they would have to notify the rest of them. This makes it pretty broad in the newspaper.

Representative Keiser said that if you read the amendment it says "must be" published so that is not an option.

Representative Meyer said it says "or" so it is their option.

Representative Solberg said just to clarify this; if they choose not to send all the notices to all the landowners, then they may take the option of the newspaper. Is that correct?

Representative Drovdal said they would be able to do one or the other or both.

Chairman Porter asked about the case that was presented where the people were gone on vacation and came home to this in their backyard. How would this fix that situation?

Representative Drovdal said this was not intended to fix that. That was addressed in the distance bill. Even if there were there and they noticed this, they would not have the right to say that they had to move. They could only call the Health Department and express their concerns and then they would be able to say something.

Chairman Porter said so that would be more of a setback issue then because they don't own the property.

Representative Meyer said that if they had even seen it in the paper that never would have happened. They were not gone for an extended amount of time. It was only 4 days. Since they had no knowledge of this whatsoever. Everyone feels bad that this happened. It could have been avoided if someone would have known about it. They are facing a lawsuit now and

they don't want that either. It was a lot of miscommunication. If they knew it was going in, I don't believe it would have happened at all.

A voice vote was taken. The motion carried.

Representative Drovdal made a motion for a do pass as amended. **Representative Meyer** seconded the motion.

Representative DeKrey said that he was not exactly clear on the way the bill is going. What do they have to do for notification?

Representative Drovdal said that currently the only person they have to notify is the surface owner 20 days before they drill. They would still have to do that.

Representative DeKrey said so all this does is make them put an ad in the paper?

Representative Drovdal said this would give them the option of putting the ad in the paper or notifying the people within ½ mile radius. That would be the two options they would have.

Representative Keiser said they would still have to notify the city if it is within their boundary.

Representative Meyer said no to that. If you put it in the paper, you do not have to notify the city. It is an "or" on there. Lines 15 thru 24 say you do not have to do that.

Chairman Porter said he thought based on the new language below, they would have to do both.

Representative Keiser said that line 16 says "must be given".

Chairman Porter asked the clerk to take the roll for a do pass on HB 1182.

Let the record show that there were 8 yes, 6 no with all present.

Representative Drovdal said he would carry this to the floor.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1182

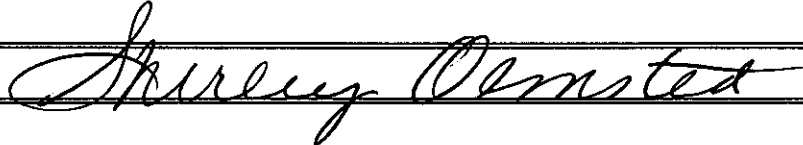
House Natural Resources Committee

☐ Check here for Conference Committee

Hearing Date: January 25, 2007

Recorder Job Number: 1427

Committee Clerk Signature



Minutes:

Chairman Porter opened discussion on HB 1182.

Representative Drovdal came forward saying a lot of the concern was that he was trying to get this through because we have done nothing with laws that deal with protection for the local landowners. He has another amendment that says on page 1, line 10. See attachment marked Item #1. They have a choice if they are trying to keep it secret, which at some times they try to do, they can notify these landowners. I don't really feel that should be a problem as when you look at a map of western North Dakota, there really aren't a lot of residents out there. The numbers of wells they are talking about are very little but this is a courtesy to the landowner. They need to put this in the official county paper one time twenty days before the commencement of operations to me is a nice courteous thing to do.

Representative Drovdal made a motion to accept the amendment and there was a second from Representative DeKrey.

Chairman Porter said for the information of the committee, they were already working with an amended bill. Yesterday we did approve the tenant portion and the correct grammar accordingly for a portion of this bill. Really all we are dealing with is notice portion of this amendment.

Representative Keiser asked how the new language related to lines 17 through 24.

Representative Drovdal said he would have to refer to the attorney for an answer to see if we would need to insert something in the second part of that. By putting that in, they are in fact representing the landowner as the official body and therefore that would cover them also.

They may be contacted by letter.

Representative Keiser said his argument would be that by putting it in the newspaper, hopefully they are reading the newspaper.

Representative Damschen said he see this that if they choose not to use the newspaper for the notification process, they would have to use those outlined below. This makes it pretty broad.

Representative Keiser said if you read the amendment, it says it "must" be published in the newspaper. There is no other option.

Representative Meyer said it says "or". That makes it there option.

Representative Solberg said so if they choose not to send notices to all of the involved landowners, then they may take the option of the newspaper. Is that correct?

Representative Drovdal said they could do one or the other, or both.

Chairman Porter said in the case that was presented about the people being gone on vacation or gone for an extended period of time, how would this fix that?

Representative Drovdal said this is really not intended to fix that. That was addressed on the distance bill. Even if they were there, they still would not have the right to tell them they couldn't drill there. They could only call the Health Department.

Chairman Porter said so that would be more of a setback issue because they didn't own the property.

Representative Meyer said if they had even seen it in the paper that never would have happened as they were only gone for 4 days. I think the oil companies feel bad, and everyone does. This is a simple case that it would have been avoided if they had known. They are facing a lawsuit right now and they don't want to do that either. It was just a lot of miscommunication.

Chairman Porter took a voice vote and the motion prevailed.

Representative Drovdal made a motion for a do pass as amended.

Representative Meyer made a second to that motion.

Representative Damschen said he thought the landowners have made a real effort in this amendment.

Representative DeKrey asked for a clarification on what they need to do.

Representative Drovdal said the only person they have to notify is the surface owner twenty days before they drill. That is still in law.

Representative DeKrey said so this only makes them put an ad in the newspaper.

Representative Drovdal said yes this will give them the option of the newspaper or the ½ mile radius. That is the two options they would have.

Representative Keiser said they would still have to notify the city if it was within their limits.

Representative Meyer said that if it is in the newspaper you do not have to notify the city. It is an "or" in there.

Chairman Porter said they would have to do both per the new language down below.

Chairman Porter asked the clerk to call the roll on a do pass as amended on HB 1182.

Let the record show 8 yes, 6 no with 0 absent. **Representative Drovdal** will carry the bill.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1182

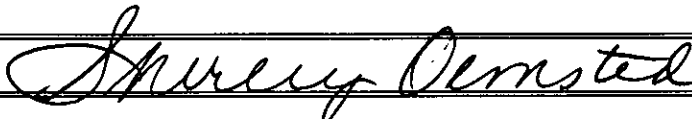
House Natural Resources Committee

☐ Check here for Conference Committee

Hearing Date: January 25, 2007

Recorder Job Number: 1981 (beginning at 11:09 on tape)

Committee Clerk Signature



Minutes:

Chairman Porter opened the committee for discussion on HB 1182.

Representative Drovdal asked for a motion for reconsider action on HB 1182.

Representative Keiser seconded the motion.

Chairman Porter took a voice vote and the motion prevailed.

Representative Drovdal said he hated to admit that he doesn't want to get whipped too bad but he does believe in what the bill is attempting to do. HB 1229 takes care of the major concern that he had for those in the oil fields of western North Dakota. He said he would not object for a do not pass on HB 1182.

Chairman Porter asked for a motion.

Representative DeKrey made a motion for a do not pass.

Representative Keiser seconded the motion.

Chairman Porter asked for discussion.

The clerk called the roll on HB 1182. Let the record show that there were 9 yes, 4 no and 1 absent. **Do not pass** prevails. **Representative DeKrey** will carry the bill on the floor.

Date: 1-18-07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1182

House Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken to amend "tenant" out of Bill

Motion Made By Meyer Seconded By DeKrey

Representatives	Yes	No	Representatives	Yes	No
Chairman - Rep. Porter			Rep. Hanson		
Vice-Chairman - Rep Damschen			Rep. Hunskor		
Rep. Charging			Rep. Kelsh		
Rep. Clark			Rep. Meyer		
Rep. DeKrey			Rep. Solberg		
Rep. Drovdal					
Rep. Hofstad					
Rep. Keiser					
Rep. Nottestad					

Total Yes 14 No 0

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 1-18-07
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1182

House Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as amended

Motion Made By Drovdal Seconded By Meyer

Representatives	Yes	No	Representatives	Yes	No
Chairman - Rep. Porter		✓	Rep. Hanson	✓	
Vice-Chairman - Rep Damschen		✓	Rep. Hunsakor	✓	
Rep. Charging	✓		Rep. Kelsh	✓	
Rep. Clark		✓	Rep. Meyer	✓	
Rep. DeKrey		✓	Rep. Solberg		✓
Rep. Drovdal	✓				
Rep. Hofstad		✓			
Rep. Keiser					
Rep. Nottestad		✓			

Total Yes 6 No 7

Absent 1

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Do pass fails

*Subcommittee of
Drovdal
Meyer
Hofstad*

January 19, 2007

**House Amendments to HB 1182 (70246.0101) - Natural Resources Committee
01/19/2007**

Page 1, line 7, remove "and tenants"

Page 1, line 10, after "parties" insert "; or, notice may be given by publishing notice of the contemplated drilling operations in the drilling site's official county newspaper, which must be published at least twenty days before the commencement of the operations"

**House Amendments to HB 1182 (70246.0101) - Natural Resources Committee
01/19/2007**

Page 2, line 2, remove "or tenants"

Page 2, line 3, overstrike "owner's" and replace "or tenant's" with "owners"

Page 2, line 5, remove "and tenants", overstrike "surface owner's", and remove the second "and"

Page 2, line 6, remove "tenant's"

Page 2, line 8, remove "or tenant"

Renumber accordingly

Date: 1-19-07
Roll Call Vote #: 3

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1182

House Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken TO Amend

Motion Made By Drovdal Seconded By DeKrey

Representatives	Yes	No	Representatives	Yes	No
Chairman – Rep. Porter			Rep. Hanson		
Vice-Chairman – Rep Damschen			Rep. Hunskor		
Rep. Charging			Rep. Kelsh		
Rep. Clark			Rep. Meyer		
Rep. DeKrey			Rep. Solberg		
Rep. Drovdal					
Rep. Hofstad					
Rep. Keiser					
Rep. Nottestad					

Total Yes 14 No 0

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 1-19-07
Roll Call Vote #: 4

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1182

House Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as amended

Motion Made By Drovdal Seconded By Meyer

Representatives	Yes	No	Representatives	Yes	No
Chairman – Rep. Porter		✓	Rep. Hanson	✓	
Vice-Chairman – Rep Damschen	✓		Rep. Hunskor	✓	
Rep. Charging	✓		Rep. Kelsh	✓	
Rep. Clark		✓	Rep. Meyer	✓	
Rep. DeKrey	✓		Rep. Solberg		✓
Rep. Drovdal	✓				
Rep. Hofstad		✓			
Rep. Keiser		✓			
Rep. Nottestad		✓			

Total Yes 8 No 6

Absent 0

Floor Assignment Drovdal

If the vote is on an amendment, briefly indicate intent:

Motion Prevails

REPORT OF STANDING COMMITTEE

HB 1182: Natural Resources Committee (Rep. Porter, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (8 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). HB 1182 was placed on the Sixth order on the calendar.

Page 1, line 7, remove "and tenants"

Page 1, line 10, after "parties" insert "; or, notice may be given by publishing notice of the contemplated drilling operations in the drilling site's official county newspaper, which must be published at least twenty days before the commencement of the operations"

Page 2, line 2, remove "or tenants"

Page 2, line 3, overstrike "owner's" and replace "or tenant's" with "owners"

Page 2, line 5, remove "and tenants", overstrike "surface owner's", and remove the second "and"

Page 2, line 6, remove "tenant's"

Page 2, line 8, remove "or tenant"

Renumber accordingly

Roll Call Vote #:

BILL/RESOLUTION NO.House Natural Resources

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Reconsider HB 1182

Motion Made By Drousal Seconded By Keiser

Representatives	Yes	No	Representatives	Yes	No
Chairman – Rep. Porter			Rep. Hanson		
Vice-Chairman – Rep Damschen			Rep. Hunsakor		
Rep. Charging			Rep. Kelsh		
Rep. Clark			Rep. Meyer		
Rep. DeKrey			Rep. Solberg		
Rep. Drovdal					
Rep. Hofstad					
Rep. Kelser					
Rep. Nottestad					

Vote vote

Total Yes _____ No _____

Absent

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Date: 1-25-07
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. NR 1182

House Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do not pass

Motion Made By DeKrey Seconded By Kelser

Representatives	Yes	No	Representatives	Yes	No
Chairman - Rep. Porter	✓		Rep. Hanson	✓	
Vice-Chairman - Rep Damschen	✓		Rep. Hunsakor	✓	
Rep. Charging		✓	Rep. Kelsh	✓	
Rep. Clark	✓		Rep. Meyer		✓
Rep. DeKrey	✓		Rep. Solberg		
Rep. Drovdal		✓			
Rep. Hofstad	✓				
Rep. Kelser	✓				
Rep. Nottestad		✓			

Total Yes 9 No 4

Absent 1

Floor Assignment DeKrey

If the vote is on an amendment, briefly indicate intent:

Date: 1-25-07
Roll Call Vote #: _____

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1182

House Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as amended

Motion Made By Drovdal Seconded By Meyer

Representatives	Yes	No	Representatives	Yes	No
Chairman - Rep. Porter		✓	Rep. Hanson	✓	
Vice-Chairman - Rep Damschen	✓		Rep. Hunskor	✓	
Rep. Charging	✓		Rep. Kelsh	✓	
Rep. Clark		✓	Rep. Meyer	✓	
Rep. DeKrey	✓		Rep. Solberg		✓
Rep. Drovdal	✓				
Rep. Hofstad		✓			
Rep. Keiser		✓			
Rep. Nottestad		✓			

Total Yes 8 No 6

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Motion Prevails

House Bill - 11th Order

Mr. Speaker and members of the assembly,

House Bill # 1182

House Concurrent Resolution (HCR) # _____

Introduced by:

Rep Dravdal

Senator Bowman

Kempnich

Lysor

Thoreson

or

Committee Name _____

- 1 A BILL for an Act to amend and reenact section 38-11.1-05 of the North Dakota Century Code,
- 2 relating to notice of oil and gas drilling operations.

Fiscal Note prepared by _____ on _____
(Who prepared the Fiscal Note) (Date)

shows _____

Your Natural Resources Committee recommends
(Committee Name)

Do Pass

Do Not Pass

On House Bill # 1182
(Bill Number)

By a vote of 9 Yeas, 4 Nays, and 1 Absent and
not voting

Mr Speaker

REPORT OF STANDING COMMITTEE

HB 1182: Natural Resources Committee (Rep. Porter, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO NOT PASS (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HB 1182 was placed on the Sixth order on the calendar.

Page 1, line 7, remove "and tenants"

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Page 2, line 5, remove "and tenants", overstrike "surface owner's", and remove the second "and"

Page 2, line 6, remove "tenant's"

Page 2, line 8, remove "or tenant"

Renumber accordingly

2007 TESTIMONY

HB 1182

Item #1

NORTH DAKOTA LEGISLATIVE ASSEMBLY

HB 1182

Jan 15, 2007

Chairman Porter and members of the House Natural Resource Committee. For the record my name is David Drovdal and I represent District 39 which includes 6 counties in Western North Dakota. I am the prime sponsor of HB 1182 which requires notification to landowners within ½ mile of any proposed oil and gas drilling operations. If a cities boundaries lie within that ½ mile the notice would go to the governing board only.

HB 1182 is patterned off a seismic notification bill that was passed last session and has helped relieve some of the conflict that has occurred when activity is happening within a person's community. With the mineral ownership and surface ownership are often different parties the first time a surface owner knows of a location close to his property is when he sees stakes or sees equipment leveling land. This does not allow him to have any input into the location for himself or his family's safety. It maybe on his neighbors land or even his own land. I feel that this is just a good public relation for developers and 95% are already doing this but as always we pass bills for those 5% who don't seem to respect the good well of others. After all we are the policy makers of North Dakota and we are responsible to set boundaries. I admit this is a small burden on developers but I feel it is one that can be complied with little cost especially compared to the challenge of locating all mineral owners. This bill does not give surface owners the right to stop development. If I were to redo this bill I would ask that the notification be at the same time the developer applied for the site permit so the landowner could have some input into that decision. The decision can affect the quality of life, the way they do business and even the value of the property.

When development does happen there is always a risk, even small, that one persons water well could become contaminated or could even dry up. There is also a risk of H2S gas or smelly odors from the site. To protect ones self you must have your well tested with one year of the drilling. This bill would serve as notification to the landowner that he should probable protect himself and his water source.

Thank you for your consideration of HB 1182 and I hope you will give it your favorable recommendation. I would be glad to answer any questions.

Rep. David Drovdal

Item #1

Proposed Amendments to House Bill 1182

Prepared for Representative Drovdal

Page 1, line 10, after "parties" insert "or, notice may be given by reporting in the drilling site's official county newspaper, which must be published at least twenty days before the commencement of the operations"

Entire Document, remove all occurrences of "tenant" and correct grammar accordingly

Renumber Accordingly

Item #2

HOUSE BILL 1182
TESTIMONY BY THOMAS J. IRGENS, SPRINGBROOK, ND

Chairman Porter and members of the House Natural Resources Committee, thank you for the opportunity to submit testimony on House Bill 1182.

My name is Tom Irgens and I am a farmer who, for many years, has been directly impacted by oil and gas development. I am also a member of Dakota Resource Council and on its oil and gas task force. Today, I am here to talk about impacts of oil and gas development on surface owners.

I want to thank Representative Drovdal and the other sponsors of this bill for understanding that oil and gas development affects surface owners and tenants. It is usually the positive impacts that are openly discussed publicly. The public does not often hear about the negative impacts to surface owners and tenants. This bill will correct some of those problems. I am here today in support of House Bill 1182 but, would like to ask this committee to consider the following items:

Notification to ALL parties in the area of intent to drill is extremely important. In North Dakota Century Code 38-11.1-06 the area that addresses protection of water wells and other water resources is one-half mile for geophysical activity. But, for drilling operations, that distance is one-mile. I respectfully request that House Bill 1182 be amended to require that the notification area be expanded to a ONE MILE radius of a proposed drilling site.

One reason for such a change is so that ALL surface owners and tenants have the opportunity to have their water sources tested for quality and quantity prior to commencement of drilling. WITHOUT such a test, there is no recourse should a water supply in that area become damaged or contaminated by drilling operations. Without a certified water quality and quantity test, there can be no recourse.

Lines 13 and 14 on page one only include the record surface owner. We respectfully ask that all surface owners and tenants are included, as they are in the rest of the bill.

Page 1, lines 15-24 substitute notice to a governing body in situations where clusters of property are affected. We request that this substitution be modified to require notice to a governing body IN ADDITION to notice to surface owners and tenants. Every person with a property right (owner or tenant) is entitled to actual notice by the operator. As written, the bill merely shifts responsibility from the operator onto the governing body, possibly eliminating the surface owner or tenant's recourse against the operator. Again, without proper notification, a surface owner or tenant cannot properly test their water wells or other water sources as necessary in 38-11.1-06.

Another suggested amendment could be addressed on page two, lines 7-10. If a developer fails to give the required notice and enters on the private property, this should be considered trespassing. As you can see by the current language, it is not considered

trespassing. It is left up to the surface owner or tenant to seek relief in court. Why should an operator who fails to follow the law be exempt from trespassing laws? We respectfully ask that this be address in this legislation.

With the suggested amendments, we respectfully ask for a DO PASS recommendation.

Thank you for you time.

Tom Irgens, Springbrook

Item #3



"Watchdogs of the Prairie"
Organizing North Dakotans Since 1978

Dakota Resource Council • PO Box 1095 • Dickinson, ND 58602
Phone: 1-701-483-2851 • Fax: 1-701-483-2854

HB 1182

Chairman Porter and members of the House Natural Resources Committee, thank you for the opportunity to submit testimony on House Bill 1182.

My name is Cindy Klein and I am a community organizer for Dakota Resource Council. Created in 1978, *Dakota Resource Council forms citizen groups dedicated to protecting North Dakota's families and its air, water, land and natural resources.*

We would like to thank the sponsor of this bill, Representative Drovdal for recognizing the problems that surface owners and tenants face in oil and gas country. We support this bill, however, there are a couple of items we would like to bring to the attention of this committee.

We agree with the comments made by Mr. Irgens and request that this bill be amended to include a one-mile area of notification. As Mr. Irgens stated, in order to have recourse if a water source is damaged, a water-well must have a certified quality and quantity test prior to the commencement of drilling operations. The statute states that if a water well within one mile is damaged and such a test has been conducted, the owner of the water source has recourse. It is only common sense that those protected by this statute should also have notification of intent to drill.

We also agree with Mr. Irgens that giving substitute notice to a governing body should be *in addition* to a notice to surface owners and tenants. Every person with a property right, whether they are an owner or a tenant, is entitled to actual notice by the operator. If this bill is passed as written, the responsibility is shifted from the operator to the governing body. This may affect any claim that a surface owner or tenant may have against an operator. Without proper notification, a surface owner or tenant cannot properly test their water wells or other water sources as outlined in 38-11.1-06.

We think that there should be a penalty for failure to follow the law and failure to give proper notice is outlined in our Century Code. It is not right that if an operator fails to

give the proper notice that the only action that a surface owner or tenant is allowed is to seek relief in court. This is an under protection of property rights and failure to give notice of intent and entering private property is trespassing and should be treated as such.

Thank you for the opportunity to be heard today. We respectfully ask that the requested amendments be considered and ask for a DO PASS recommendation from this committee.

Respectfully submitted,

Cindy Klein
DRC Staff

Item # 4

Northern Alliance *of* **INDEPENDENT PRODUCERS**

PO Box 2422 • Bismarck, North Dakota 58502-2422 • Phone 701-224-5037 • Fax 701-224-5038 • email NProducers@aol.com

Natural Resources Committee
North Dakota House of Representatives
January 18, 2007

HB 1182 (Notice of drilling to owners and tenants)

Robert W. Harms, President of Northern Alliance of Independent Producers
40+ producers operating in Williston Basin
45% of wells drilled in North Dakota in 2006 (\$900 million investment)

Oppose HB 1182

1. Bill is not necessary. What problem is being corrected? Current law requires notice to “the surface owner” 20 days prior to drilling operations. Bill adds “tenant and surface owners within one-half mile of well site” to notice requirements.

- current law protects owners of surface being affected.

2. One-half mile notice is cumbersome to implement.

- tenants are often not of record.

- does tenant include ranching, farming, hunting, or dwelling?

- how to apply ½ mile requirement (if adjacent corner is within ½ mile is notice required, as opposed to a dwelling from site; if so, what is the benefit in such a case)?

- record of owner’s addresses often is not clear (so, practical limitations)

3. Extends protections to neighboring surface owners (and tenants) where none previously existed. For example:

- Surface of drill site is owned by owner A.

- Mineral estate of drill site is owned by owner B.

- Surface ½ mile from site is owned by owner C and rented by tenant D (both of whom have NO interest in mineral or surface estate being affected, but can impede property rights and development of their neighbors and may seek "appropriate relief" including actual and punitive damages if notice is not given).

4. In short, not clear of problem being resolved. But, the unintended consequence may impede legitimate property rights and mineral development in our state because of what appears to be an innocent, but potentially damaging bill like HB 1182.