

Sixty-third
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1349

Introduced by

Representatives Damschen, Hunskor, Kempenich, Monson

Senators Andrist, O'Connell

1 A BILL for an Act to create and enact a new section to chapter 38-11.1 of the North Dakota
2 Century Code, relating to surface owner protection and reclamation.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** A new section to chapter 38-11.1 of the North Dakota Century Code is created
5 and enacted as follows:

6 **Reclamation and surface owner protection.**

7 1. Before construction of a well site, an operator shall reserve the top eight inches
8 [20.32 centimeters] of soil from all areas to be disturbed, including the well site,
9 fillslope, and backslope areas, and all other areas subject to topsoil and subsoil
10 mixing.

11 2. Before construction of a road to a well site, an operator shall reserve the top eight
12 inches [20.32 centimeters] of soil from all areas to be disturbed, including the road
13 bed, fillslope, and backslope areas, and all other areas subject to topsoil and subsoil
14 mixing.

15 3. The operator may not begin cut and fill operations before soil reservation.

16 4. The operator shall stockpile the reserved soil and seed to native perennial grass seed
17 mixture approved by the commission to minimize wind and water erosion. If the road
18 or well site will be permanent, all or a portion of the reserved soil must be respread as
19 needed to stabilize cut or fill areas and ditches.

20 5. Upon abandonment of a well site or a road to a well site that is not permanent, the
21 reserved soil must be salvaged from the well site, including backslopes and fillslopes
22 or road including road ditches, backslopes and fillslopes, the gravel and scoriae must
23 be removed, the roadbed and well site must be completely obliterated and
24 recontoured to conform to the adjacent natural terrain, and the reserved soil must be

1 evenly respread on the disturbed area. The operator shall revegetate all disturbed soil
2 surfaces resulting from construction, maintenance, or reclamation of a road or well site
3 with a mixture of native perennial grasses approved by the commission to prevent
4 accelerated erosion and to restore, as closely as possible, long-term productivity.

5 6. The operator shall construct, maintain, and remove the well site or road in a manner
6 that provides drainage adequate to maintain the existing natural flow of water and
7 structures including cross drains, culverts, dikes, and ditches where necessary to
8 maintain the natural flow and to stabilize erosion. If erosion occurs, the operator shall
9 repair the erosion damage and take action to correct the conditions that contributed to
10 the erosion.

11 7. In any agreement between a surface owner and operator, the following terms are part
12 of the agreement. The operator shall:

- 13 a. Contact the surface owner to arrange an onsite inspection, if determined
14 necessary by the surface owner, before siting and staking the well site or a
15 separate tank battery, road, pipeline, communication line, or electrical line, or to
16 reclaim the same with the approval of the surface owner.
- 17 b. Notify the surface owner of additional well bores proposed for the well site before
18 any site preparation or drilling and shall negotiate additional surface damage
19 payments.
- 20 c. Obtain the consent of a surface owner in a separate document to enlarge the well
21 site or change the size of a road from the specific dimensions that the operator
22 shall map in the initial agreement with the surface owner.
- 23 d. Submit an easement request to the surface owner if an approved access road is
24 to be used in any way to develop or support the development of minerals outside
25 the spacing unit.
- 26 e. Notify the surface owner of aggregate deposits exposed during construction of
27 the well site or access road.
- 28 f. Furnish a survey plat showing the dimensions and acreage necessary for the well
29 site and access road.
- 30 g. Obtain the consent of the surface owner to stack or store equipment on the site.
- 31 h. Control noxious weeds on the well site and access road and associated facilities.

- 1 i. Maintain existing natural water drainage and surface owner's access to existing
- 2 sources of livestock water.
- 3 j. Avoid unstable areas, areas of excessive cut and fill, stream channels, drainage
- 4 ways, and wooded areas in construction of the well site and access road, and
- 5 associated facilities.
- 6 k. Paint all buildings, tank structures, and fixtures associated with the well site and
- 7 access road in earth tone colors.
- 8 l. Immediately report all spills and fires to the surface owner.
- 9 m. Weather permitting, within one hundred eighty days of abandonment of the well,
- 10 dispose of all surface contaminated soil; remove equipment and debris; remove
- 11 the aboveground power source and pipelines; recontour the access road, well
- 12 site, and any associated facilities to conform to the original terrain; bury all rocks;
- 13 and evenly respread the reserved soil and reseed with a mixture of native
- 14 grasses. After seeding, the entire disturbed area must be fenced to exclude
- 15 livestock. Reclamation is not complete until erosion is controlled, the surface is
- 16 revegetated with a mixture of native grasses, and written approval of the surface
- 17 owner or commission is obtained.