Sixty-fifth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2331

Introduced by

Senators Wardner, Bekkedahl, Heckaman

Representatives Brandenburg, Kempenich, Mock

A BILL for an Act to amend and reenact section 38-11.1-06 of the North Dakota Century Code, relating to the protection of groundwater and other responsibilities of a mineral developer.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 38-11.1-06 of the North Dakota Century Code is amended and reenacted as follows:

38-11.1-06. Protection of surface and ground water - Other responsibilities of mineral developer.

1. If the domestic, livestock, or irrigation water supply of any person ~~who~~that owns an interest in real property within one-half mile [804.67 meters] of where geophysical or seismograph activities are or have been conducted or within one mile [1.61 kilometers] of an oil or gas well site has been disrupted, or diminished in quality or quantity by the drilling operations ~~and a certified water quality and quantity test has been performed by the person who owns an interest in real property within one year preceding the commencement of drilling operations,~~ the person ~~who~~that owns an interest in real property is entitled to recover the cost of ~~making such~~ repairs, alterations, or construction that will ensure the delivery to the surface owner of that quality and quantity of water available to the surface owner prior to the commencement of drilling operations. Any person ~~who~~that owns an interest in real property ~~who~~which obtains all or a part of that person's water supply for domestic, agricultural, industrial, or other beneficial use from an underground source has a claim for relief against a mineral developer to recover damages for disruption or diminution in quality or quantity of that person's water supply proximately caused from drilling operations conducted by the mineral developer.

2. Prima facie evidence of injury under this section may be established by a showing that the mineral developer's drilling operations penetrated or disrupted an aquifer in ~~such~~ a manner ~~as to cause a~~that causes diminution in water quality or quantity within the distance limits imposed by this section. An action brought under this section when not otherwise specifically provided by law must be brought within six years of the time the action has accrued. For purposes of this section, the claim for relief is deemed to have accrued at the time it is discovered or might have been discovered in the exercise of reasonable diligence.

3. A tract of land is not bound to receive water contaminated by drilling operations on another tract of land, and the owner of a tract has a claim for relief against a mineral developer to recover the damages proximately resulting from natural drainage of waters contaminated by drilling operations.

4. The mineral developer also is ~~also~~ responsible for ~~all~~ damages to person or property resulting from the lack of ordinary care by the mineral developer or resulting from a nuisance caused by drilling operations. This section does not create a cause of action if an appropriator of water can reasonably acquire the water under the changed conditions and if the changed conditions are a result of the legal appropriation of water by the mineral developer.

5. At least thirty days before commencement of drilling operations, the mineral developer shall obtain samples from the top twelve inches [30.48 centimeters] of topsoil from a proposed route or site for oil and gas drilling operations and have the samples analyzed for carbonate, bicarbonate, chloride, sulphate, sodium, calcium, magnesium, potassium, potential of hydrogen, electroconductivity, and sodium adsorption rate. For well sites and tank battery sites, the mineral developer shall take at least one sample per acre of land that will be disturbed. For access roads and pipeline rights of way, the mineral developer shall take at least one sample every three hundred feet [91.44 meters] and at both terminus. The written results of this sampling and analysis must be provided to the surface owner before the commencement of drilling operations.

6. The mineral developer shall conduct or have conducted an inventory of water wells located within one mile [1.61 kilometers] of a proposed route or site for oil and gas drilling operations. The mineral developer shall conduct or have conducted a certified

water quality and quantity test within one year before the commencement of drilling operations on each water well or water supply located on the involved real property and as identified by the surface owner of that real property.