

# MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

1344

2005 HOUSE NATURAL RESOURCES

HB 1344

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1344

House Natural Resources Committee

Conference Committee

Hearing Date February 3, 2005

Tape Number	Side A	Side B	Meter #
1	x		22-End
Committee Clerk Signature <i>Karen Bonnet</i>			

Minutes:

**Chr. Nelson:** If there is additional testimony for the bills up this morning, either in writing or in person, we will leave the hearings open and continue to take testimony right away in the morning tomorrow. Roll call was taken, six were absent; quorum present. (Note: Pres. Bush was in Fargo today). Bill was read aloud.

**Rep. Shirley Meyer, Dist. 36:** I'm here today to testify in favor of HB 1344. In 1983, my dad, Jack Murphy, put this bill on the books. He designed the bill and I helped in the research with it. Now, I'm here today to say I might have made a few errors in the bill. Hopefully, we can correct some of them. In HB 1344, we're attempting to try to get the abandoned mineral acres back in the hands of the surface owners. One of the problems we're running into, some of these mineral acres have been unclaimed since the 1930's. In the 1930's, when many people were faced with drought, and found that they could not pay their land taxes. At that time, we had mineral brokers going around. Many of the surface owners, in order to pay their land taxes, sold minerals or a

portion of the minerals under their property. Many of these minerals have never been developed to this day. As every generation passed and estates were filed and split (several times), we have many acres of unclaimed mineral acres out there. It creates quite a problem for the abstract and for surface owners. In 1983, in the bill passed in the legislature, the mineral acres unused after 20 years would revert back to the surface owners. Since that time, we've had court cases and challenges to this law. One of the problems after doing the paperwork that we were encountering in District Court was, and you can see that on the first part of your bill, that on Line 8, "38-18.1-03, a mineral interest deemed to be used;" then down to Line 15, where it states, "The mineral interest on any tract is subject to a lease, mortgage, assignment." What we're trying to do is say that does not constitute use for abandoned minerals. Under the new language that would be added on page 2, monies placed in an interest-bearing account or a trust account, that doesn't deem that the minerals are *used* because under that statute, when a leasing company and cannot find abandoned mineral acre owners, or an oil company, they will pay these unknown, unnamed people and put them in an unnamed, interest-bearing trust account, in the absent mineral owners name. Under this, when the surface owners try to recoup those mineral acres, they were told through the courts that they *had* been used because they were in a trust account in the unnamed owners name. Section 2 of the bill has these sums that have been accrued, and there are accounts out there, some quite old, we would allow these mineral acres to revert back to the surface because it's a very expensive thing to notify these absent owners. You have to notify by mail to the last known address. It has to be published in the county paper, you must hire an abstractor and an attorney. It's an expensive, lengthy process. As I testified last week in support of the bill, we may have to compromise on this. I know the State School Lands have an interest

in these monies, also. I've got some handouts for the committee. It tells about the Unclaimed Property Division and kind of describes the process what happens. I feel like the minerals in many of these cases fall through the cracks. That is the basis of the bill and what we're trying to accomplish. I realize it is confusing between the mineral acres owners and the money that has accrued off these mineral acre leases.

**Chr. Nelson:** Any questions?

**Rep. Nottestad:** When the original mineral acres were sold, they did go to another party. Therefore, it depreciated the value of the land. It's been that way for generations where the money has been put into an account. I can see wanting to get the mineral acres back, but going so far as to say the money that has accrued also belongs to me, that stretches it that I have difficulty with it.

**Meyer:** Many of these mineral acre owners have *never* been found. These are monies that accrue in an account. When you try to retrieve these acres, it's extremely expensive. You have to hire an attorney, a abstractor, pay for notices in the paper, it's an extremely expensive process. You don't just go to the courthouse and ask for the mineral acres back.

**Nottestad:** I understand all that. But to me, if we pass a takings bill, and it would affect your land, I'm sure you would oppose it to the nth degree. Yet, this is a takings bill on someone *else's* property. That's my point.

**Meyer:** As an example, where I have surface and I have been dead for 50 years, and it's been subdivided (over and over), it would not happen with the surface because that is taxed. We cannot tax mineral acres so with that it's not an illegal taking. The law was put on the books

where these (mineral acres) create a great deal of problem, and I'm only talking the *abandoned mineral acres*.

**Nottestad:** I agree with this law would become the takings law as it's written now, in my estimation.

**Meyer:** These abandoned mineral acres are not being taken from anyone, because these owners cannot be found, and they haven't been found for over 50 years.

**Nottestad:** I don't have as much problem with the acres. My problem is with the funds that are there. If this passes, I can see someone looking around the country side, checking for big accounts on property. Do I buy the land so it gives me the right to that account?

**Meyer:** Anyone who tries to do that, you don't go into it, thinking it's extremely expensive.

In our case, we had a \$65,000 bill and we never got an acre back. The expense (is extreme). It does not just automatically, after 20 years, revert back to the surface owner. Many of these mineral acres aren't worth anything. They've never been developed. What the surface owners are trying to do, when we go in to update our abstracts, that it does not cost us so much money when that has to be done.

**Rep. Solberg:** What's the window of time from the time these labeled as abandoned until they revert to the Unclaimed Property Division.

**Meyer:** The mineral acres *never* go back to the Unclaimed Property Division. A mineral acre has to be deemed abandoned when there has been no use of an acres for 20 years. They have to have been deemed abandoned before you can ever do anything. The way the code reads now, after 20 years of being abandoned, the surface owner can start the process to have it revert back to the surface owner, but the mineral acres themselves never go to the Unclaimed Property

Division. The money that has accrued, the interest from holding these unnamed interest-bearing accounts, could, although I don't believe they do very often. I think we have people here who would certainly correct any mistakes I make.

**Chr. Nelson:** Any further questions for Rep. Meyer? Seeing none, thank you. Further testimony in support of HB 1344?

**Bobbi Kukla, Recorder & Clerk of Dist. Court, Dunn County: (Written testimony attached)**

**Chr. Nelson:** Are there questions of Ms. Kukla? Do you have any idea how much dollars exists in some of these trust accounts?

**Kukla:** I don't have any idea.

**Chr. Nelson:** Seeing no questions, thank you for your testimony. I will continue to take testimony in support of HB 1344 at this time.

**Brian Kramer, ND Farm Bureau:** We support HB 1344. For a long time, our members have said those abandoned mineral rights should revert to the land owner, the surface owner. You don't know who they are, you can't find them, there ways of trying to access those folks, but once they're deemed abandoned, they should revert to the landowner. That's basically what this bill is doing. It defines what abandonment is.

**Chr. Nelson:** Would you have any concerns about Rep. Nottestad's question of Rep. Meyer about somebody searching abstracts for abandoned mineral owners and through a trust account, and gain an unfair advantage as far as determining land they would be interested in buying. Does that concern you or your organization?

**Kramer:** I'm not sure I understand your question. If those mineral interests are abandoned, nobody knows where the money should go or anything. Should it or should it not go back to the surface owner? Should it go into the General Fund of the state?

**Chr. Nelson:** The bigger questions is, are those trust accounts sizable enough that it would be beneficial to go through the exercise.

**Kramer:** I have no idea. I know that our landowners are very concerned that every time they get an abstract updated it costs them dearly. It's mostly because of these mineral acres that in half the cases they don't know who that owner is.

**Chr. Nelson:** Any further questions for Mr. Kramer? Seeing none, thank you. I will continue to take supporting testimony.

**Woody Barth, ND Farmers Union:** We, too, stand in support of HB 1344. We want the registration of severed mineral rights to revert back to the surface owner and we want surface owners to be reimbursed when there is surface activity of those mineral interests on that property. This bill addresses that and talks about giving back those mineral acres to the surface owner when they are not used. We support that wholeheartedly. Our members have long held that a bill is needed to get those mineral acres back to the surface owner. A lot of them are split up. I own a section of land in Morton County that lists about 40 different ways of ownership.

**Chr. Nelson:** Thank you for your testimony. Are there any questions of Mr. Barth? Is there further testimony in support of HB 1344?

**Alan Erickson, ND Township Officers' Association:** We just want to go on record that we support this bill. I think it's time we do something to help get these mineral rights back to the surface owner.



**Chr. Nelson:** Any questions of Mr. Erickson?

**Rep. Nottestad:** What about the funds that accumulated? Should they go back to the owner, to the state of North Dakota, or to the Common Schools Trust Fund?

**Erickson:** I have no real opinion on that. In the bill, doesn't it say that they go back to the surface owner?

**Nottestad:** That's exactly right.

**Chr. Nelson:** Any further questions?

**Rep. Clark:** Would you be for it if those funds went back to the State?

**Erickson:** Personally, yes.

**Chr. Nelson:** Any further questions for Mr. Erickson? Seeing none, thank you for your testimony. I would encourage members of the audience to sign the registration sheet.

**Don Berge, Fargo, Pres., Landowners Association of ND:** (Written testimony attached)

**Chr. Nelson:** Are there questions of Mr. Berge? Seeing none, thank you. Is there further testimony in favor of HB 1344?

**Dale Patten, banker, Watford City, ND:** I testify in favor of this bill. One of the impacts that we see out there with mineral leasing, presently most of the bonuses being paid right now on private minerals in \$50-100 an acre. The last lease that took place on January 25 on federal land where there is 100% ownership of minerals had a top lease of, I believe, of \$2,800 an acre. There is a significant difference, and part of that difference is attributed to the fact of the research that it takes to identify the mineral owners both in the leasing and in the production phase, all the division orders that have to be issued, and keeping track of all the revenue stream. It's a huge cost that contributes to this and I believe that any effort that we can do to try to consolidate

minerals in a larger group would be more beneficial both to our industry and our landowners and mineral owners themselves.

**Chr. Nelson:** Dale, are you familiar with Montana? Does Montana have a provision for unclaimed minerals?

**Patten:** I'm not familiar with that?

**Chr. Nelson:** Do you know of any states that have gone farther than what ND presently provides for.

**Patten:** I don't know.

**Chr. Nelson:** Any further questions for Mr. Patten?

**Rep. Nottestad:** A scenario, in your bank, you have safe deposit boxes. Would you be in favor of a bill that after twenty years, the property of that box would become the property of your bank?

**Patten:** No.

**Nottestad:** Isn't there a similarity here?

**Patten:** No, we're not paying real estate taxes on the safety deposit box.

**Nottestad:** There are no taxes on mineral rights, either.

**Patten:** The surface owner is paying the real estate taxes and they also carry the responsibility that if there is development taking place, they bear the brunt of the impact, the land is impacted, the roads are impacted, and the surface damages that are paid now are (unintelligible). There is an advantage, I believe, for the surface owner to acquire that mineral.

**Nottestad:** If we carry that further, the taxes you pay on the bank, you say there are no taxes on the deposit boxes.

**Patten:** There is no tax on the value of the deposit box.

**Chr. Nelson:** Any further questions? Seeing none, thank for your testimony. Is there further support of HB 1344? Seeing none, is there any opposition?

**Brian Bjella, Landman's Association of ND:** The landman's association is comprised of the men and women who have researched the mineral titles, leased to mineral owners, and helping to develop minerals. I'm also a member of the ND Petroleum Council, Mr. Ron Ness cannot be here today. He asked me to indicate on behalf of the NDPC their opposition to this bill. I think we need to start off with, we already have a mineral law which provides that after 20 years of non use, the surface owner can go through a process to reacquire these minerals. We also have an abandoned property statute which provides that if these proceeds are unused for three years, they will go the Abandoned Property Trust Division of the State Land Dept. We already have these laws in place. On behalf of land, we support those laws, we think they are working fine. We do have a problem with the way this amendment to the abandoned mineral law is written. It goes along the lines Rep. Nottestad said. We believe these laws are working. We have a real concern about government taking of money from one private person and automatically giving it to another private person. We believe there are serious due process constitutional issues with a law to do this. For that reason, we feel we have oppose this law because it's taking the money from person by government fiat, and giving it to another. We just don't think the government should be involved. We also believe there is probably serious due process constitutional problems with a law that would do that. It's one thing we have the Abandoned Property Laws which I mentioned which provides that these mineral proceeds if suspended after three years would go to the Abandoned Property Laws. There is a mechanism there where if this person should ever

show up and claim these proceeds. We also have a mineral law which allows the surface owner to reacquire the mineral rights. We think that law is fine and is working.

**Rep. Solberg:** Define dormant mineral rights.

**Bjella:** Under current law, a mineral interest if it is not used by production or leasing after 20 years, is deemed dormant or abandoned. Under existing law, the surface owner goes through a process of publication, notification and if there is no response by the severed mineral owner, then those mineral become the property of the surface owner.

**Solberg:** You're saying dormant and abandoned are one and the same?

**Bjella:** Yes.

**Solberg:** Rep. Meyers referred to this process to redeem these dormant or abandoned minerals and she cited an incident that was \$6-7000 in cost to go through this process. Is this the same process that Rep. Meyers was referring to?

**Bjella:** That is the same process. I'm not aware that it costs that much because I do a lot of mineral title work for oil companies and we see where surface owners have gone through that process and reclaimed minerals, but I am not personally aware of the cost.

**Chr. Nelson:** Rep. Hunskor.

**Rep. Hunskor:** Unless I am misunderstanding, you talked about money being transferred from one private person to another, in your opinion, why, after a period of 20 years, what's the problem with that?

**Bjella:** I think the constitution is the problem. There's no due process. It just says, automatically, without any court action, the way this bill is written as I read it, nothing has to happen. Just by passing this law, after 20 years, this money would automatically flow from the

mineral owner to the surface owner. There is no process that it's gone through to legitimize that and what we're saying is that the surface owner should at least have to go through the process.

Because once they go through the process, from that point forward the money will be theirs. But the monies up until that time goes to the Abandoned Properties Statute.

**Rep. Hunsakor:** After 20 years, though, is there a need for the process?

**Bjella:** The whole point of the process is to attempt to give some constitutional mandated notice to the mineral owner that this taking is about to occur. We feel it is very important to at least give some semblance of due process. These are property rights that were probably paid for 40-50 years ago. There has to be some minimum standards of due process.

**Chr. Nelson:** Any further questions? If not, thank you, Brian. Is there further opposition to HB 1344?

**Rick Larson, ND State Land Department:** (Written testimony attached)

**Chr. Nelson:** How much income does the Common Schools Trust Fund collect from unclaimed property?

**Larson:** I would have to ask that of another person.

**Chr. Nelson:** Would you please come to the podium and introduce yourself?

**Linda Fisher, State Unclaimed Property Administrator:** The records that we get are not always good in telling us exactly what money is for. From the best we could tell, and from what we looked at yesterday, we've collected close to \$900,000. Not all of that money is for ND, some of it goes to other states by way of reciprocity agreements of unclaimed property programs. We're holding close to \$490 million in the trust earning right now,

**Chr. Nelson:** Is there a steady stream, activity in that account? Is it on a regular basis those earnings increase in the principle, not the interest?

**Fisher:** We receive new properties every year during our reporting cycle, and we pay out properties everyday. We're processing claims everyday, not necessarily on royalty and mineral proceeds, but money moves in and out constantly.

**Chr. Nelson:** So there is activity and it's fairly consistent?

**Fisher:** It's hard for us to say. We don't know if all the property is being recorded as it should be. There may be property out there that needs to be reported, that is held too long by the producing company or oil company that should be coming to us. We can't say whether we have everything we're supposed to have or not. We do consistently receive reports from oil companies.

**Chr. Nelson:** Thank you.

**Rep. Nottestad:** Mr. Larson, you heard the testimony of Mr. Bjella pertaining to the question of constitutionality. Has your department through your attorneys discussed your opinion on the constitutionality of this bill?

**Larson:** No, we have not. We're concerned about the unclaimed property statutes part of this bill as it pertains to the money that's reported to us. It sounds like the earnings from that money would have to be accounted for and go back to the surface owner as this bill is written. We would have to be setting up individual trusts and accounts for each individual interest that comes in and know what land they pertained to.

**Nottestad:** That's a fair answer, I don't want to put you on the hook.

**Chr. Nelson:** Any further questions of Mr. Larson?

**Rep. Hunsakor:** The money in the Common Schools Trust Fund, tell me what happens to that.

Does some of that eventually go to schools, is there a cap on it?

**Larson:** Absolutely. That's the benefit the state receives that this money is collected under the Unclaimed Property Statutes and we try to find the owners of that property and advertise names, addresses and try to send that money back to the individuals. In the meantime, we invest that money. We earn interest income on that money which goes to the Common Schools Trust Fund for education, kindergarten through 12th grade in ND.

**Hunsakor:** How often is that money dispersed to schools?

**Larson:** Five times a year we make distributions to the Common Schools Trust Fund from the proceeds. This year, it's \$31 million that we're distributing to the Common Schools. Each year, we contribute to the schools.

**Chr. Nelson:** Mr. Hunsakor, that is the tuition apportionment payments. Any further questions of Mr. Larson? Seeing none, thank you for your testimony. Is there further opposition to HB 1344?

**Dennis Daniel:** I'm not necessarily opposed to it, but there is one thing I don't understand about it. What's to stop someone who has managed to reclaim these severed mineral rights from down the road, turning around and selling them again and adding to the problem and possibly starting the process all over. I don't see anything in this bill that would stop that. If we're going to take something that belongs to somebody else there should be some built in process that this never happens again.

**Chr. Nelson:** Any questions of Mr. Daniel? Seeing none, thank you. Is there further testimony in opposition to HB 1344?

**Al G. Golden, owner and operator of Golden Oil Co. and exploration company:** I've been active in the exploration business since 1953 with Mobil Oil Co. I was present when nearly all the oil legislation that is on the books was passed. This bill before us appears to be another step in a long litany to take away a constitutional right of real property ownership from an owner of a piece of real property. The bill appears to try to solve a problem that doesn't exist, or maybe creating a problem that doesn't exist. Oil exploration is not deterred by severed miners. Oil exploration has many avenues available to it to resolve the problem of mineral ownership that may not be located. The magic of the 20 years term is magic that I don't understand. Rights of real property ownership do not self extinguish. They exist forever. Let's talk about economic development for a moment. Many of these severed minerals were created by a willing buyer and a willing seller. That willing seller took money from the willing buyer in return for these minerals. He was happy to get it at the time. The succession in land ownership after that occurred, with full ownership of the minerals having been severed. That present landowner, had he read his abstract, would have been fully aware of this severance of mineral ownership. Not only severance of mineral ownership through the willing buyer/willing seller process, it occurs through heirship. These minerals are reserved by a once North Dakotan. (He) deserves the same constitutional protection as the land owner, the surface owner who is attempting to reacquire the minerals. The economic development created by mineral ownership is an infusion of direct cash into the economy. We try to promote that. Why turn around and take it away. Lost mineral owners are not really lost. If you set out to find a lost mineral owner, you can find him or the trail that leads to the present mineral owners. It is not impossible. If that surface wants those minerals back into his ownership, let him follow the same path that we do and let him do an



arms-length transaction so we have a willing buyer and a willing seller. I might add that a lost mineral owner is a nebulous definition. I have been here continuously for 50 years. I have been listed in every telephone book, every oil publication, every trade association membership and I have had people claim that cannot locate me. I say, you haven't tried very hard. I recommend a do not pass.

**Chr. Nelson:** Are there any questions of Mr. Golden? Seeing none, thank you. Is there further testimony in opposition to HB 1344? Seeing none, I will close the hearing on HB 1344.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1344**

House Natural Resources Committee

Conference Committee

Hearing Date **February 11, 2005**

Tape Number	Side A	Side B	Meter #
Committee Clerk Signature <i>Karen Bonnet</i>			

Minutes:

**Chr. Jon O. Nelson:** We will take up HB 1344. Rep. Drovdal, you've worked on this, would you bring the committee up to date?

**Rep. David Drovdal:** HB 1344 deals with abandoned minerals and the trusts that have already been established in the past by oil companies. The oil companies, in order to account for the money, have started the trust and put any royalties or leases into that trust. This was brought in to do two things. One, is to put a direction as to where that money is to go. The amendment that you have before you, after three years steers that interest trust account or escrow account to the Abandoned Property division of the state. It will then fall under their rules as to how to find the property owners and what happens to the money. What it does is take out all reference on Pg. 2, starting on Line 6, so anybody who might claim those abandoned minerals in the future would not have any resource to collect any of the monies that those royalties have earned. The monies would go to the state of ND and end up in the Common Schools Trust Fund. This is minerals

which in most cases are a very small percentage of minerals on a producing well. It's been a problem. The oil companies go out of their way trying to find the owners because they don't like to set up these accounts. They are administrative and just sits there. They have been looking for answers for it. I talked to Mr. Ness and he agrees with these amendments. I've also given them to the attorney general to have him look to make sure he has no problem with them. I haven't gotten an answer back, yet. The other part of what this bill deals with is that we in ND have a way that the surface owners, and only surface owners, can claim abandoned minerals. There are a number of hoops that they have to jump through, one of which is 20 years. It says that these escrow accounts that have been established have nothing to do with that 20 year waiting period in the particular century code that deals with abandoned minerals. They still have to go through all the procedures and requirements. In researching other states' abandoned minerals, some try to copy ours. Ours isn't the best, but it's an effort to try to do something to find some owners of these properties who have disappeared over the years. Some go back since statehood, they were severed, or willed out, or there was no will, or they just got lost somewhere. **I would move the amendments.**

**Rep. Dorvan Solberg: Second.**

**Chr. Nelson:** The amendments by Rep. Drovdal have been moved, and seconded by Rep. Solberg. Is there any committee discussion?

**Rep. George J. Keiser:** Is this how it works: If you had \$300 that was owed to you, it goes in (to the abandoned account), any interest earned on the \$300 goes into the trust fund, but the \$300 is still your property. If you claim it, you get the \$300 back. Now, in this situation, you set up a trust, there is an asset value for your share in the trust. That value gets transferred to the

Unclaimed Properties fund. The earnings on whatever was transferred would not be recoverable, but the initial transfer amount would be recoverable. What happens if that trust is receiving \$50 a month payments from royalties that go to your share? Does the trust periodically transfer those \$50 in your name, not the interest, does that stay in your name or does Unclaimed Properties keep the royalties?

**Rep. Drovdal:** The trust with all the earnings would be transferred to the Unclaimed Property. Then Unclaimed Property would handle it the way they handle other abandoned property under their rules and regulations.

**Rep. Keiser:** They would continue to apply the royalty payments to the value of your unclaimed property. As long as that's the case, then there is no issue. It's the earnings on that are a different issue.

**Rep. Drovdal:** To be totally honest, after 20 years of inactivity, and the surface owner went through the hoops of putting it in the paper, notifying the last recorded owner by certified mail, and some other things, they could, at the end of that, claim those abandoned minerals. At that point they could claim any additional earnings.

**Chr. Nelson:** Further questions on the proposed amendment?

**Rep. Keiser:** Have other Unclaimed Property entities signed up on this? Because they're going to be doing a different kind of management on this than on any others. They're not use to handling an estate trust. They are use to getting a one-time transfer. Now, you're telling me they are going to set up a trust account, and transfers that are coming in monthly have to be accredited to that account. That's a different procedure.

**Rep. Drovdal:** I did not visit with the land department, but I have to believe that they are getting abandoned trusts out of banks and such. It's happening because people have disappeared or died and trusts have been set and turned over to them.

**Rep. Keiser:** It's upsetting.

**Chr. Nelson:** Any further discussion on the proposed amendment? Seeing none, I'll call for a voice vote on the proposed amendment. All those in favor signify by saying aye. Opposed, same sign. Motion carried. What's the committee's wishes?

**Rep. Keiser: I move a do pass as amended.**

**Rep. Solberg: Second.**

**Chr. Nelson:** Motion by Keiser, second by Solberg, do pass as amended. Committee discussion? Seeing none, I'll ask the clerk to call the roll.

**Do pass as amended, Vote:**

**11-Ayes; 1-Nay; 2-Absent; CARRIER: Drovdal**

VR  
2/11/05

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1344

Page 1, line 1, remove "create and enact a new subsection to section 47-30.1-16.1 of the North"

Page 1, remove line 2

Page 1, line 3, remove "Act; and to"

Page 2, line 6, replace "If the person for whom the account is" with "A name or unnamed interest-bearing account, trust account, escrow account, or any similar type of account that has been in existence for three years is deemed to be abandoned property and must be treated as abandoned property under chapter 47-30.1."

Page 2, remove lines 7 through 16

Renumber accordingly

Date: 2/11/05  
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1344

House NATURAL RESOURCES Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_ :

Action Taken : No Pass as Amended

Motion Made By : Keiser Seconded By : Solberg

Representatives	Yes	No	Representatives	Yes	No
Chairman - Rep. Jon O. Nelson	✓		Rep. Lyle Hanson	✓	
Vice Chairman - Todd Porter	✓		Rep. Bob Hunsakor	✓	
Rep. Dawn Marie Charging	✓		Rep. Scot Kelsh	Absent	
Rep. Donald L. Clark	✓		Rep. Dorvan Solberg	✓	
Rep. Duane DeKrey	✓				
Rep. David Drovdal	✓				
Rep. Dennis Johnson	✓				
Rep. George J. Keiser	✓				
Rep. Mike Norland	Absent				
Rep. Darrell D. Nottestad		✓			

Total (Yes) 11 No 1

Absent 2

Floor Assignment Drovdal

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

**REPORT OF STANDING COMMITTEE**

**HB 1344: Natural Resources Committee (Rep. Nelson, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). HB 1344 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "create and enact a new subsection to section 47-30.1-16.1 of the North"

Page 1, remove line 2

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Page 2, remove lines 7 through 16

Renumber accordingly



2005 SENATE FINANCE AND TAXATION

HB 1344

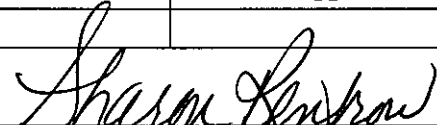
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1344**

Senate Finance and Taxation Committee

Conference Committee

Hearing Date **March 7, 2005**

Tape Number	Side A	Side B	Meter #
#1	X		53.3 - 61.6
		X	0.0 - 21.9
Committee Clerk Signature 			

Minutes:

**CHAIRMAN URLACHER** CALLED THE COMMITTEE TO ORDER AND OPENED THE HEARING ON HB 1344.

**REP SHIRLEY MEYER:** appeared as prime sponsor and presented a handout to the committee stating this bill simply wants the court to acknowledge and the people that own these unnamed interest bearing accounts, but that does not mean that mineral acres are used, they are still abandoned and that's all this bill does is clarify that. Just because that these mineral acres have been placed in these unnamed interest bearing accounts, those mineral acres are not deemed used, therefore they are abandoned and can revert to the surface owners after that procedure is in place.

**SEN. WARDNER:** these accounts, where are they located in the county? County Auditor, County Treasurer, the Court.

**ANSWER:** No, they are in banks, they can be in any kind of private entity like that and a person will appear as a trustee on these accounts and often times they haven't been, and this is

one of the problems they are finding now in the oil activity is coming back, but they come in and say we are a trustee and really as a county recorder, they have no means for proving that they are a trustee or not and these accounts are being opened at a bank. One of the questions brought up or asked of the banker was why don't they ever become abandoned, well as long as a bank mails out a notice to the trustee and that notice doesn't come back, they are never deemed abandoned, because that's how the bank determines if something is abandoned. With this we are just trying to clear up some of these abstracts. This bill just clarifies exactly what it means when minerals are deemed used when their interest bearing accounts.

**SEN. BERCIER:** how much time transpires before this is deemed abandoned?

**ANSWER;** 20 years and many of these tracts have been abandoned now for 60 years.

**SEN. URLACHER:** its a serious problem because brokers have sold off tracts of 5 acres, 2 acres and they are also found overseas, so its very difficult for oil companies and very expensive to land owners or mineral owners. Its a serious problem.

**BRIAN KRAMER:** ND Farm Bureau appeared in support of the idea of tat they abandoned mineral interests be considered that, abandoned minerals. Activity through a trust even though if there is some activity maybe on those acres but just as an example, 80% of this 160 acres, 80% of those minerals are owned by people that are known, there's 20% that are unclaimed, unknown. Should this trust be developed and that 20% goes into that but the actual owner is still unknown and those minerals are unclaimed and what were saying is that because that trust is put together, there's 20% that are still unclaimed, unknown, those should be able to go back to the surface owner under the 20 year time frame. I think that's the whole crutch on this bill and that's why we

support it because we like to see those mineral interests back in the hands of the surface owner if no one will claim it.

**SEN. URLACHER:** and the costs of abstracts and whatever

**ANSWER:** the costs of abstracts and that sort of thing are really an irritant to the surface owner.

**SEN. BERCIER:** I can understand it could be irritating but somebody owned this at one time and that's where I'm having a difficult time here. You call it abandoned and all of a sudden someone else will be able to clear up the abstract. An abstract in my understanding, limited understanding should go all the way back to statehood. How is it you cannot find the owner?

**ANSWER:** I don't understand that either, but there are those instances where nobody can be found. The bill is saying just because it goes into a trust, that doesn't mean that there's activity by that individual or its still considered unclaimed.

**SEN. URLACHER:** after going through 4 or 5 generations of split, its pretty hard to find the other guy down on the other end of ownership.

**WOODY BARTH:** ND Farmers union appeared in support stating this is one step in that process to make that clearer to all those surface owners to get their abandoned mineral acres on that tract or back with the surface owners of the land.

**RON NESS:** ND Petroleum Council appeared neutral and suggests an amendment on page 2 after line 7, we would suggest insert a lease given by a trustee does not allow the land owner to void that lease". Thereby meaning if there was a lease taken when the minerals went into trust that that lease is in effect throughout the abandoned property process of the state.

**SEN. URLACHER:** Your neutral, wouldn't this benefit you as well?

**ANSWER:** on this bill I'm going to have people on both sides.

**SEN. EVERY;** does the amendment move you from neutral to the for category?

**ANSWER:** I think we would need the amendment in order to move forward.

**AL GOLDEN:** Golden Oil Company from Bismarck appeared in opposition stating there is a lot of confusion with abandoned property and what amounts to abandoned property that would revert to the surface owner escheatment to the State of ND. I have to agree with Ron Ness, there are people in my industry who are on both sides of this issue. There are people on the side of the mineral owner and people on the side of the operator and try to make it easier for the operator and try to make it easier for the mineral owner. In my particular case, I happen to be on both sides of the issue, I'm an operator and a mineral owner, I don't want anybody coming along and telling me that I can't own these things just simply because I happen to be looking at the wrong side of sod. I don't want anybody telling me on the other hand that I can't drill a well because I can't find this guy and we have mechanisms in place that need to be tweaked and fine tuned to handle both sides of the issue.

**SEN. URLACHER:** so you preference is that minerals revert back to the State rather than to the

**ANSWER;** minerals should never revert from the ownership from the record title, they should remain in the record title.

**SEN. URLACHER:** even though the mineral owner has cleared the abstract at his cost?

**ANSWER:** even though, yes sir.

**SEN. WARDNER:** so you really don't agree with the 20 year statute where the minerals have been abandoned for 20 years then the land owner can take steps to bring it into his ownership.

**ANSWER;** I accept that, I don't necessarily agree with it but I accept it as a legal procedure in which to bring these things back into the bundle of sticks. But to limit these ownership's by

saying that the right has been extinguished even though they have been used even though it was used through a trustee, its not a proper way to do it. Given my choice of things I would say, yes, I'm opposed to the statute of reversion, but it is in place and it is accepted and the industry understands it and if that recipe is met then I'm not going to stand up in opposition to it.

**SEN. TOLLEFSON:** how extensive is the search to find those mineral owners before they are declared abandoned? What do they do? Search all records, make all publications, so they thoroughly, thoroughly search for that person that may own a portion of those minerals?

**ANSWER:** the question is, how thorough is thorough? And thorough is in the eye of the beholder, if it happens to be in the surface owner its one thing and if it happens to be in the eye of the mineral holder its another thing. Can get very extensive and expensive.

**SEN. TOLLEFSON:** is there a search standard dictated either by State or philosophy or whatever, do others have to do equal?

**ANSWER:** that standard has not been prescribed. It says something to the affect that you must provide proof that you have made a true and diligent search, now true and diligent is one thing in one mans eye, beauty is in the eye of the beholder.

Closed the hearing.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1344**

Senate Finance and Taxation Committee

Conference Committee

Hearing Date **March 9, 2005**

Tape Number	Side A	Side B	Meter #
#2	X		34.6 - 40.1
Committee Clerk Signature <i>Sharon Renfrow</i>			

Minutes:

**COMMITTEE WORK**

**SEN. WARDNER:** there was an amendment on line 7, it was a lease given by trustee remain valid. They felt it should be in there and I believe it was Rep. Meier that asked for that, no Ron Ness.

**SEN. COOK:** Protect existing lease.

Discussion on amendment and wording with the intern.

Page 2, line 7, after the period, insert A lease given by a trustee remains valid.

**SEN. COOK:** made a **MOTION TO MOVE THE AMENDMENTS BY RON NESS**, seconded by Sen. Wardner

**VOICE VOTE:** 6-0-0                      **MOTION PASSES**

**SEN. TOLLEFSON:** made a **MOTION FOR DO PASS AS AMENDED**, seconded by Sen. Every.

**ROLL CALL VOTE:** 6-0-0                      Sen. Tollefson will carry the bill.

Date: 3-9-05  
Roll Call Vote #: 1

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB 1344**

Senate Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Adopt Amendments by Unanimous

Motion Made By Cook Seconded By Wardner

Senators	Yes	No	Senators	Yes	No
Sen. Urlacher	✓		Sen. Bercier	✓	
Sen. Wardner	✓		Sen. Every	✓	
Sen. Cook	✓				
Sen. Tollefson	✓				

*voice vote*

Total (Yes) 6 No 0

Absent 0

Floor Assignment \_\_\_\_\_

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



Date: 3-9-05  
Roll Call Vote #: 2

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB 1344**

Senate Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass As Amended

Motion Made By Tollefson Seconded By Every

Senators	Yes	No	Senators	Yes	No
Sen. Urlacher	✓		Sen. Bercier	✓	
Sen. Wardner	✓		Sen. Every	✓	
Sen. Cook	✓				
Sen. Tollefson	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Tollefson

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

REPORT OF STANDING COMMITTEE (410)  
March 10, 2005 8:54 a.m.

Module No: SR-44-4593  
Carrier: Tollefson  
Insert LC: 50545.0105 Title: .0300

**REPORT OF STANDING COMMITTEE**

HB 1344, as engrossed: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1344 was placed on the Sixth order on the calendar.

Page 2, line 7, after the underscored period insert "A lease given by a trustee remains valid."

Renumber accordingly

2005 TESTIMONY

HB 1344

after becoming payable or distributable is presumed abandoned. However, unclaimed intangible property held for the owner by a public employee pension program in this state is not subject to abandonment under this chapter.

**47-30.1-14. Credit memos.**

1. A credit memo issued in the ordinary course of an issuer's business which remains unclaimed by the owner for more than three years after becoming payable or distributable is presumed abandoned.
2. In the case of a credit memo, the amount presumed abandoned is the amount credited to the recipient of the memo.

**47-30.1-15. Wages.** Unpaid wages, including wages represented by unrepresented payroll checks, owing in the ordinary course of the holder's business which remain unclaimed by the owner for more than two years after becoming payable are presumed abandoned.

**47-30.1-16. Contents of safe deposit box or other safekeeping repository.** All tangible and intangible property held in a safe deposit box or any other safekeeping repository in this state in the ordinary course of the holder's business and proceeds resulting from the sale of the property permitted by other law, which remain unclaimed by the owner for more than three years after the lease or rental period on the box or other repository has expired, are presumed abandoned.

**47-30.1-16.1. Mineral proceeds.**

1. Any sum payable as mineral proceeds that has remained unclaimed by the owner for more than three years after it became payable or distributable and the owner's underlying right to receive those mineral proceeds are deemed abandoned.
2. At the time an owner's underlying right to receive mineral proceeds is deemed abandoned, any mineral proceeds then owing to the owner and any proceeds accruing after that time are deemed abandoned. The sum deemed abandoned is subject to the custody of the state as unclaimed property if:
  - a. The last known address, as shown on the records of the holder, of the apparent owner is in this state;
  - b. The records of the holder do not reflect the last known address and it is established that the last known address of the apparent owner is in this state;
  - c. The records of the holder do not reflect the last known address, and the holder is domiciled in or is a government or governmental subdivision or agency of this state; or
  - d. The mineral interest is located in this state and:
    - (1) The last known address of the apparent owner, as shown on the records of the holder, is in a state that does not provide by law for the escheat or custodial taking of the property or is in a state in which that state's escheat or unclaimed property law is not applicable to the property; or
    - (2) The last known address of the apparent owner is unknown and the holder is a domiciliary of a state that does not provide by law for the escheat or custodial taking of the property or a state in which the state escheat or unclaimed property law is not applicable to the property.
3. A holder may not deduct from mineral proceeds any charge due to dormancy unless:

- a. There is an enforceable written contract between the holder and the owner of the mineral proceeds under which the holder may impose a charge;
  - b. For mineral proceeds in excess of five dollars, the holder, no more than three months before the initial imposition of those charges, has mailed written notice to the owner of the amount of those charges at the last known address of the owner stating that those charges will be imposed, provided the notice required in this subdivision need not be given with respect to charges imposed before August 1, 1995; and
  - c. The holder regularly imposes such charges and in no instance reverses or otherwise cancels them.
4. Charges authorized under subsection 3 may be made and collected monthly, quarterly, or annually. However, beginning August 1, 1995, the cumulative amount of charges may not exceed twelve dollars per year and may only be charged for a maximum of three calendar years.

**47-30.1-17. Report and delivery of abandoned property.**

1. A person holding property, tangible or intangible, presumed abandoned and subject to custody as unclaimed property under this chapter shall report and deliver the property to the administrator as provided in this section.
2. The report must be verified and include:
  - a. Except with respect to traveler's checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of property of the value of fifty dollars or more presumed abandoned under this chapter.
  - b. In the case of unclaimed funds of fifty dollars or more held or owing under any life or endowment insurance policy or annuity contract, the full name and last known address of the insured or annuitant and of the beneficiary according to the records of the insurance company holding or owing the funds.
  - c. In the case of the contents of a safe deposit box or other safekeeping repository, a description of the property; the place where it is held; where it may be inspected by the administrator; and any amounts owing to the holder.
  - d. The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, but items of value under fifty dollars each may be reported in the aggregate.
  - e. The date the property became payable, demandable, or returnable, and the date of the last transaction with the apparent owner with respect to the property.
  - f. Other information the administrator prescribes by rule as necessary for the administration of this chapter.
3. If the person holding property presumed abandoned and subject to custody as unclaimed property is a successor to other persons who previously held the property for the apparent owner or the holder has changed the holder's name while holding the property, the report must include all known names and addresses of each previous holder of the property.
4. The report and property must be delivered by November first of each year for property deemed abandoned as of the preceding June thirtieth. The report and property of any life insurance company must be delivered by May first of each year

Testimony Prepared For the  
Natural Resources Committee  
February 3, 2005  
By Bobbi Kukla

RE: HB 1344

My name is Bobbi Kukla, and I would like to submit my testimony in support of this bill. While I come on a personal level, representing myself, this issue also affects me professionally. I am the Recorder and Clerk of District Court of Dunn County. I record all legal documents for our county. Some documents deal with surface ownership, mortgages on land, many liens on personal property, all criminal documents, but the bulk of the documents that are recorded in my office are dealing with mineral ownership.

On a daily basis, we receive documents from oil and gas companies, law firms and private citizens attempting to convey ownership or interest in what lies beneath-----oil, gas, coal, methane, etc..... It is amazing to me how many mineral owners can be on one acre of land. Great, Great Grandpa gave cousin Henry 1/18<sup>th</sup> ownership of his minerals under 40 acres of land, and now documents are coming in, showing 1/100<sup>th</sup> ownership in those minerals 75 years later, as an example.

This practice is very confusing, and has muddied up many an abstract in my experience. There is becoming "lost minerals" as a result of good intentions! Every week we have mineral owners seeking out documents stored in our vaults, assuming that they have full ownership of the minerals when in fact, according to the chain of title done by land men, they own only a fraction of those mineral rights. We also have people coming in that are checking for inactivity on mineral rights. If there has been none, they sometimes file a Statement of Claim on those minerals assuming they will then be the rightful owners. As a result, adding more confusion.

In an attempt to properly lease, monies are being deposited into trust accounts so oil activity can take place. The confusion on who owns what and where to contact these people, as you can imagine, is mind boggling. What is happening to these entrusted funds? Will they ever be claimed? Who will be the true beneficiaries of these funds? Will we ever know? Will there someday be an heir that can sufficiently prove their ownership to the trust? I feel this leaves an open door for fraudulent claims and compensation going to an unworthy recipient.

I am in support of the passage of this bill because the burden of activity truly does affect the surface owner. It is the farmers and ranchers that are trying to continue to run their operations while drilling or seismic activity take place. They are left to contend with disruption of farm and pasture land on the surface when many of them do not own the minerals and will only be compensated for nothing more than surface damage. I have heard many a horror story of what our agricultural industry must endure to allow oil and gas activity to proceed. If accurate proof of ownership is established, and these people cannot be found, no one benefits, except those that are using these funds in the trusts as collateral. North Dakota proudly boasts of it's strong agricultural base. Let's come together and pass this bill so the surface owner can continue their agricultural practices and reap the benefits.

**LANDOWNERS ASSOCIATION OF NORTH DAKOTA**  
**P. O. Box 38, Bismarck, ND 58502-0038**

Fifty-ninth  
Legislative Assembly of ND  
Natural Resources Committee  
Bismarck, ND

Don Berge, President  
Landowners Association of ND  
Box 38  
Bismarck, ND

re: HB 1344

Mr. Chairman and committee members:

I'm Don Berge of Fargo, President of the Landowners Association of ND (LAND), representing LAND as an organization. LAND is dedicated to the preservation of private property rights. LAND recognizes that harmony in the transfer of property will be enhanced if this legislation is enacted.

As a landowner and in the occupation of farming, I've been involved in both the sale and purchase of real estate. Undivided shares of any kind have proved to be problematic in normal business transactions. Purchase interest was hampered when these shares are in place.

Likewise, unclaimed mineral rights and the lack of identification of owners will pose an unjust obstacle for the surface owner. We all recognize that the surface owner has been providing the payment of property taxes since its acquisition. All responsibilities relating to normal surface and subsurface activities have been born by the surface owner. A 20 year search provided by today's information resources is more than adequate to identify surviving heirs if any exist. Better use of resources would be the result.

LAND asks for a Do Pass on HB 1344.

2/3/2005

1707 North 9th Street  
PO Box 5523  
Bismarck, ND 58506-5523  
Phone: (701) 328-2800  
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By: Rick Larson



[www.land.state.nd.us](http://www.land.state.nd.us)  
[www.discovernd.com](http://www.discovernd.com)

Gary D. Prezler, Commissioner

**TESTIMONY OF RICK D. LARSON  
Director, Minerals Management  
North Dakota State Land Department**

**IN OPPOSITION TO HOUSE BILL NO. 1344**

**House Natural Resources Committee  
February 3, 2005**

The North Dakota State Land Department administers the Unclaimed Property Act (UPA) statutes provided in NDCC 47-30.1. The Act provides that proceeds from minerals are to be reported as unclaimed property after three years of dormancy. The funds collected are invested and the earnings benefit the common schools trust fund. The holder (oil company) is to report the name, last known address, and amount of money they hold for that individual. The owner can claim the money by providing enough information to satisfy us that they are entitled to the property. The individual or heirs have the ability to claim the property forever.

Section 2 of the bill will apparently require the Unclaimed Property Administrator to account for the land and/or well from which the "mineral proceeds" are derived to allow for the surface owner to be a potential claimant. Well location information is currently not reported, nor does the department have the ability to track that information. It would be extremely difficult to be assured that the proceeds are going to the correct individual.

The Department opposes HB1344 for two reasons. First, section 1 of the bill conflicts with the Unclaimed Property Act, as the payment of interest earned for at least 20 years is to be credited to an account, while the Unclaimed Property Act requires the royalty payments to be reported after three years and would be non-interest bearing from that point. Second, paying a claim to a surface owner, as provided for in this bill, would require a legal title opinion to prove surface ownership and a court order to prove clear title to the severed minerals. The bill is unworkable in its current form.



38-18.1-01. Mineral interest defined.

Statute text

In this chapter, unless context or subject matter otherwise requires, "mineral interest" includes any interest in oil, gas, coal, clay, gravel, uranium, and all other minerals of any kind and nature, whether created by grant, assignment, reservation, or otherwise owned by a person other than the owner of the surface estate.

History

Source: S.L. 1983, ch. 413, § 1.

38-18.1-02. Statement of claims - Recording - Reversion.

Statute text

Any mineral interest is, if unused for a period of twenty years immediately preceding the first publication of the notice required by section 38-18.1-06, deemed to be abandoned, unless a statement of claim is recorded in accordance with section 38-18.1-04. Title to the abandoned mineral interest vests in the owner or owners of the surface estate in the land in or under which the mineral interest is located on the date of abandonment.

History

Source: S.L. 1983, ch. 413, § 2; 1989, ch. 441, § 1.

38-18.1-03. When mineral interest deemed to be used.

Statute text

A mineral interest is deemed to be used when:

1. There are any minerals produced under that interest.
2. Operations are being conducted thereon for injection, withdrawal, storage, or disposal of water, gas, or other fluid substances.
3. In the case of solid minerals, there is production from a common vein or seam by the owners of such mineral interest.
4. The mineral interest on any tract is subject to a lease, mortgage, assignment, or conveyance of the mineral interest recorded in the office of the recorder in the county in which the mineral interest is located.
5. The mineral interest on any tract is subject to an order or an agreement to pool or unitize, recorded in the office of the recorder in the county in which the mineral interest is located.
6. Taxes are paid on the mineral interest by the owner or the owner's agent.
7. A proper statement of claim is recorded as provided by section 38-18.1-04.
8. The owner or lessee utilizes the mineral interest in a manner pursuant to, or authorized by, the instrument creating the mineral interest.

History

Source: S.L. 1983, ch. 413, § 3; 1989, ch. 441, § 2; 2001, ch. 120, § 1.

38-18.1-04. Statement of claim - Recording - Time.

Statute text

The statement of claim provided for in section 38-18.1-02 must:

1. Be recorded by the owner of the mineral interest or the owner's representative prior to the end of the twenty-year period set forth in section 38-18.1-02, or within two years after July 1, 1983, whichever is later. A joint tenant, but not a tenant in common, may record a claim on behalf of oneself and other joint tenants.

*Rep. S. Meyer*

2. Contain the name and address of the owner of the mineral interest, and a legal description of the land on, or under which, the mineral interest is located as well as the type of mineral interest involved.

3. Be recorded in the office of the recorder in the county in which the mineral interest is located.

The mineral interest is deemed to be in use at the date of recording, if the recording is made within the time provided by this section.

#### History

Source: S.L. 1983, ch. 413, § 4; 2001, ch. 120, § 1.

38-18.1-05. Failure to record the statement of claim.

#### Statute text

Failure to record the statement of claim within the time period provided in section 38-18.1-04 will not cause a mineral interest to be extinguished if the owner of the mineral interest meets all of the following requirements:

1. Owns one or more mineral interests in the county in which the mineral interest in question is located at the time of the expiration of the time period provided in section 38-18.1-04.
2. Has failed to preserve the mineral interest in question.
3. Within sixty days after first publication of the notice provided for in section 38-18.1-06, recorded a statement of claim.

#### History

Source: S.L. 1983, ch. 413, § 5; 1989, ch. 441, § 3.

38-18.1-06. Notice of lapse of mineral interest - Method.

#### Statute text

1. Any person intending to succeed to the ownership of a mineral interest upon its lapse shall give notice of the lapse of the mineral interest by publication.
2. The publication provided for in subsection 1 must be made once each week for three weeks in the official county newspaper of the county in which the mineral interest is located; however, if the address of the mineral interest owner is shown of record or can be determined upon reasonable inquiry, notice must also be made by mailing a copy of the notice to the owner of the mineral interest within ten days after the last publication is made.
3. The notice must state:
  - a. The name of the record owner of the mineral interests;
  - b. A description of the land on which the mineral interest involved is located; and
  - c. The name of the person giving the notice.
4. A copy of the notice and an affidavit of service of the notice must be recorded in the office of the recorder of the county in which the mineral interest is located and constitutes prima facie evidence in any legal proceedings that such notice has been given.

#### History

Source: S.L. 1983, ch. 413, § 6; 1989, ch. 441, § 4; 2001, ch. 120, § 1.

#### Annotations

"Reasonable Inquiry".

Whether property owner had made a reasonable inquiry to ascertain the addresses of mineral interest owners was a question of fact and inappropriate for summary judgment. *Spring Creek Ranch, LLC v. Svenberg*, 1999 ND 113, 595 N.W.2d 323 (1999).