

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

104/88

2007 HOUSE NATURAL RESOURCES

HB 1048

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1048

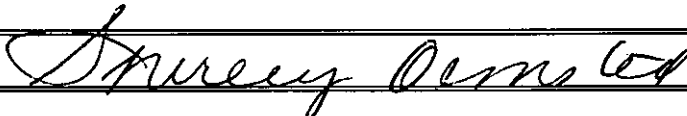
House Natural Resources Committee

Check here for Conference Committee

Hearing Date: January 12, 2007

Recorder Job Number: 989 (Beginning at 10:40 on tape)

Committee Clerk Signature



Minutes:

Chairman Porter opened the hearing on HB 1048.

Representative Drovdal presented testimony on HB 1048 as the primary sponsor. See attached testimony labeled Item #1.

Representative Meyer asked what happens to the minerals when they have been abandoned for 20 years. Do they revert back to the surface on a split estate?

Representative Drovdal when someone claims this, they pay a fee showing they are claiming these minerals and the next section says it will come back to them. Once they file, you can assume it is theirs unless someone proves otherwise.

Representative Meyer asked that when this reverts back to the surface owners, do they get the monies held in the trust, a portion of the monies, or do they just get the minerals from then on?

Representative Drovdal said that he thought they could only claim back 3 years. They can get the minerals and the money for the last three years, but the money sits in the trust for so many years and then goes to the abandoned property fund.

Representative Charging asked about the meaning of "diligent" on line 14.

Representative Drovdal said he would refer that to the attorneys.

Ron Ness, President of the North Dakota Petroleum Council also presented testimony in favor of HB 1048. See attached testimony labeled Item #2. He said he tried to get the attorneys for the NDPC here today, but was unable to. He would attempt to address the question for Representative Charging regarding the word "diligent". He said that the attorney that brings this to the Judge must provide proof that there was a diligent effort to find these mineral interest owners. It will be the judges own interpretation on this. He didn't feel that this bill would change any other statute currently on file. He said that he had two experts, Mr. Jeff Herman and Jack Paris in the crowd to answer any questions that they might have.

Representative Meyer asked Mr. Ness about lines 9 thru 11. She indicated that there was going to be conflict between these two laws. Are we putting our surface owners in a position that they cannot claim the trust until the abandoned mineral owners are found? I think this is in conflict.

Mr. Ness said that he thought the language on line 15 would address lines 9 thru 11. It may be necessary to have the Legislative Council look at referencing those lines. The oil and gas industries agree that it would be better to have an owner to these minerals. After 20 years, the surface owner can claim these as deemed by the judge. There is going to be money transferred to the trust fund at the end of each three years. That is what the statute from last session says.

Representative Drovdal said he thought there were two different answers to the questions. If it is a new surface owner and he claims the abandoned minerals as of today, there would not be a claim for the past years. If it is a lost mineral owner who comes in to claim this, he would have a claim and be able to go back so far.

Mr. Ness said that he thought they were on the right track, but did not have the legal answer to verify that.

Representative Keiser he thought you would have to look at the length of the transaction. If you have a mineral owner and can't find that owner, the money stays in the trust and we have done that through a statute. In case that owner comes forward, he can make the claim. There comes a point of which that title is actually transferred back to the surface owner. The surface owner does not get to go back and claim that money. It stays in the common school trust, but it is going to be there in the future if the mineral owner comes forward to make that claim. At what point does it become abandoned? What would happen if in 3 to 4 years after the surface owner makes his claim, the heirs come back?

Mr. Ness indicated that it was his understanding that if the owner of those minerals has not gone into the courthouse and made a claim of ownership, then the surface owner may proceed with an attempt to get those minerals. After 20 years and there has been no activity, and no production on these minerals, they are deemed abandon.

Representative Keiser asked that after the first year and they are not able to find the owner, is this money or royalty sent to the trust fund?

Mr. Ness said he said that the checks will be sent to the County Treasurer. These will be deposited by the County Treasurer, minus expenses by the county to handle the trust.

Representative Meyer said that technically the minerals in order to be abandoned do not have to have been produced or anything for 20 years. It is common in the past that these minerals have been split many times and it becomes impossible to find the owners. There is a great deal of interest now because of the oil production in the western part of the state.

Mr. Jeff Herman, representing Petro-Hunt, LLC, regional land manager, came to the podium. He wanted to answer a few questions. The purpose of this bill is to cover the minerals that fall into the gap between what they qualify as abandon minerals. In those cases, you always try to get them back to the owners. These are the mineral owners that we have not been able to locate and that have not been unused for 20 years. In regard to your questions, after the 20 years, the surface owners should be able to come in and make a claim. I would agree with the concept that they would get everything from there forward. We are trying to handle those that have not been abandoned for 20 years.

Representative Nottestad said that he was saying that the money that had accumulated for the first 20 years would remain in the county trust fund.

Mr. Herman said they would stay there so that if the owner of record would show up, they could claim those.

Representative Keiser asked that if the courts transfers these abandoned minerals to the surface owner and five years later, the heir comes forward, can this be taken out of the trust?

Mr. Herman indicated they could come and take it out of the trust.

Representative Meyer said that there have been problems where these minerals have been split and split and split because of deaths of original owners. They do not have to be produced, or leased, or anything to be abandoned. There is a great deal of interest now because of the oil production.

Mr. Herman said that the use is defined as either being leased, a notice put of record, or produced, so I think that if they are a produced mineral, they do not think that they qualify for the abandoned mineral act.

Representative Meyer asked if they changed that classification last year.

Mr. Herman said that he thought if they were being produced it is considered a use and that they did not qualify. He also wanted to address the issue of "diligence". With the internet they have many resources to try to find people, but it still very difficult when it has been divided so many times. It is hard to track the heir down as there are no names of the heirs listed. If they are living, you can normally find them. But if they have died and not filed anything in North Dakota, it is very difficult to find them.

Representative Keiser asked about future rights?

Mr. Herman indicated that 1045 kind of takes care of that and puts some closer to that.

Mr. Richard Larson of the North Dakota State Land Department and indicated that he wanted it to be understood that the unclaimed minerals have nothing to do with the unclaimed property and how that is distributed. When these royalties get to the unclaimed property department, after three years it is supposed to be sent to the unclaimed property department of the state land department. They try to find the people that this money is do to by advertising and posting on the internet. In the mean time these proceeds benefit the common schools trust fund but it doesn't belong to the common schools trust fund. This money will always be available to this mineral owner or heir of this mineral owner should they file a claim.

Representative Solberg asked that if a surface owner wanted to find out if there were any unclaimed mineral acres on his property, who should he call?

Mr. Larson said his department has no idea of how many mineral acres are out there that are unclaimed. That record should be recorded at the County Recorder's Office.

Representative Drovdal indicated that the County Recorder from McKenzie County was present at the hearing. He was sure that that question could be answered if necessary.

Representative Meyer asked that if after a 3 year period and the surface owner have received the abandoned minerals, after that 3 year period or in the middle of this three year period, the royalties should start accruing to their name. Is that correct?

Mr. Larson said that at the point that the court says the surface owner owns that, that would be the cutoff date. There were no further questions for Mr. Larson.

Mr. Robert Harms, president of the Northern Alliance of Independent Producers came forward to testify in favor of HB 1048. See attached testimony marked as Item #3. He said that he would agree that after 20 years, the surface owner would be able to start claiming those minerals. There were no questions for Mr. Harms.

Mr. Terry Traynor from the North Dakota Association of Counties wanted to confirm that the county treasurers were happy to assume the role as indicated in HB 1048.

Vice Chairman Damschen asked if there was any further support of HB 1048. There was none. He asked for opposition to HB 1048. There was none.

Seeing none, the hearing on HB 1048 was closed.

Chairman Porter asked **Representative Drovdal** to get someone from Legislative Council to come down and answer some of the questions for Representative Meyer. Representative Drovdal agreed to get someone to come down next Thursday to answer those questions.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1048

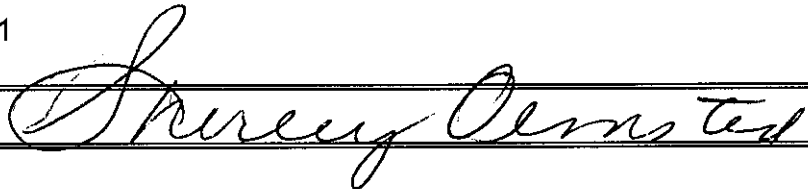
House Natural Resources Committee

Check here for Conference Committee

Hearing Date: January 18, 2007

Recorder Job Number: 1391

Committee Clerk Signature



Minutes:

Chairman Porter opened the discussion on HB 1048.

Mr. Jeff Nelson came forward to answer some questions. He indicated that anything he might say did not indicate his support or his opposition to HB 1048.

Representative Drovdal asked Mr. Nelson to walk them through what is currently happening and what will happen with this bill.

Mr. Nelson said that he had just called Mr. Rick Nelson from the Land Department to address this question. He felt that he would be the best person to answer this question. He said that he can tell them what the bill says, but he is not familiar with the day to day operations.

Representative Drovdal asked that when a trust is established today, how many years before it goes back to the mineral claim.

Mr. Nelson said that he would assume that the Land Department uses the section that relates to the unclaimed property tax. That section addresses minerals and provides that any sum payable as the mineral precedes that remains unclaimed by the owner for more than 3 years, these are then deemed abandoned.

Representative Drovdal asked that if this bill passes how will does this treat that money coming in.

Mr. Nelson referenced page 2, line 9 of the bill draft and read that to the committee. He thinks that there may be a conflict with the way this bill and the termination of minerals statute reads.

Representative Drovdal said his intention was to keep the time frame the same.

Representative Meyer said that this was taken right out of Montana code. There is no provision in Montana code for the surface owner to claim the unclaimed minerals. We have that provision in the code in North Dakota. It is becoming very pertinent now. Lines 9 thru 13 will not allow you as a surface owner to go back and claim these monies or the minerals in the trust.

Chairman Porter suggested that a sub-committee be set up that would include Representative Drovdal, Representative Meyer, Representative Hofstad and Mr. Jeff Nelson from the Legislative Council. That sub-committee met at 8:00 am on January 19, 2007, with all members of the subcommittee present. Mr. Ron Ness of the North Dakota Petroleum Council was also present. They recessed at 8:22 am.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1048

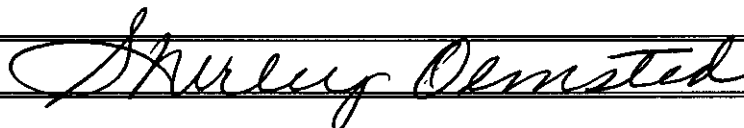
House Natural Resources Committee

Check here for Conference Committee

Hearing Date: January 25, 2007

Recorder Job Number: 1981

Committee Clerk Signature



Minutes:

Chairman Porter asked the committee to take out HB 1048.

Representative Drovdal reported on the subcommittee. He handed out amendments to this bill .0302. The subcommittee had made these amendments. See attached minutes from the subcommittee marked as Item #1. These amendments were approved by the subcommittee of Drovdal, Meyer and Hofstad. They changed the wording from clerk of court to county treasurer. See copy of amendments marked as Item #2. He made an amendment to approve this amendment. There was a second by Representative Keiser.

Chairman Porter took a voice vote and the motion carried.

Representative Keiser made a motion for a **do pass as amended**. It was second by

Representative DeKrey.

The clerk called the roll and let the record show 13 yes, 0 no with 1 absent. **Representative Meyer** will carry this bill to the floor.

FISCAL NOTE

Requested by Legislative Council

01/30/2007

Amendment to: HB 1048

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill, as amended, appoints the county Treasurer as trustee of certain unlocatable mineral, leasehold or royalty interest owners when those persons cannot be found.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

This bill as amended has no fiscal impact on the court system.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Susan Sisk	Agency:	ND Supreme Court
Phone Number:	328-3509	Date Prepared:	01/30/2007

FISCAL NOTE

Requested by Legislative Council
12/26/2006

Bill/Resolution No.: HB 1048

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill appoints the clerk of court as trustee of certain unlocatable mineral, leasehold or royalty interest owners when those persons cannot be found.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The clerk must comply with the appropriate provisions regulating trusts contained in title 59, and distribute all moneys held in the trust upon the order of the court.

The clerk, as trustee, must invest the funds in a prudent manner. Fifty percent of the moneys paid to the trustee, including interest earned, must be credited to the general fund of the county in which the mineral interest is located to defray the costs of administration.

It is not known what the fiscal impact of this bill is, as there is no way of knowing how many potential trusts there could be. Also, this bill credits the county with 50% of the money to defray the costs of administration, when in fact the costs of the clerk of court are paid by the state.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Susan Sisk	Agency:	ND Supreme Court
Phone Number:	328-3509	Date Prepared:	01/03/2007

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1048

Page 1, line 18, replace the first "clerk of court" with "county treasurer" and replace the second "clerk of court" with "county treasurer"

Page 1, line 20, after the underscored period insert "A trust in existence on the effective date of this Act may be transferred to the county treasurer of the county in which the mineral, leasehold, or royalty interest is located."

Page 2, line 16, replace "Upon the payment of a five dollar fee, a" with "A"

Page 2, line 18, replace "file" with "record"

Page 2, line 20, replace "Filing" with "Recording"

Page 2, line 21, remove "The recorder shall forward a"

Page 2, remove line 22

Renumber accordingly

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1048

Page 1, line 18, replace the first "clerk of court" with "county treasurer" and replace the second "clerk of court" with "county treasurer"

Page 1, line 20, after the underscored period insert "A trust in existence on the effective date of this Act may be transferred to the county treasurer of the county in which the mineral, leasehold, or royalty interest is located."

Success owner
Page 2, line 11, after the underscored period insert "The creation of a trust in favor of unlocatable owners does not affect the right of a person who succeeds to ownership of a mineral interest upon its lapse under chapter 38-18.1. A person who succeeds to ownership under chapter 38-18.1 owns the mineral interest and the proceeds from the mineral interest from the date of succession."

Page 2, line 12, replace "Fifty" with "Upon receipt, fifty" and remove ", including interest earned"

Page 2, line 16, replace "Upon the payment of a five dollar fee, a" with "A"

Page 2, line 18, replace "file" with "record"

Page 2, line 20, replace "Filing" with "Recording"

Page 2, line 21, remove "The recorder shall forward a"

Page 2, remove line 22

Renumber accordingly

January 25, 2007

VR
1/26/07

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1048

Page 1, line 18, replace the first "clerk of court" with "county treasurer" and replace the second "clerk of court" with "county treasurer"

Page 1, line 20, after the underscored period insert "A trust in existence on the effective date of this Act may be transferred to the county treasurer of the county in which the mineral, leasehold, or royalty interest is located."

Page 2, line 11, after the underscored period insert "The creation of a trust in favor of unlocatable owners does not affect the right of a surface owner who succeeds to ownership of a mineral interest upon its lapse under chapter 38-18.1. A person who succeeds to ownership under chapter 38-18.1 owns the mineral interest and the proceeds from the mineral interest from the date of succession."

Page 2, line 12, replace "Fifty" with "Upon receipt, fifty" and remove ", including interest earned."

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Page 2, line 21, remove "The recorder shall forward a"

Page 2, remove line 22

Renumber accordingly

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

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB-1048

House Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number amendment by sub committee

Action Taken _____

Motion Made By Drovdal 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. Keiser					
Rep. Nottestad					

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. HB 1048

House Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do, Pass as amended

Motion Made By Keiser Seconded By DeKrey

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 13 No 0

Absent 1

Floor Assignment Meyer

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

REPORT OF STANDING COMMITTEE

HB 1048: Natural Resources Committee (Rep. Porter, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1048 was placed on the Sixth order on the calendar.

Page 1, line 18, replace the first "clerk of court" with "county treasurer" and replace the second "clerk of court" with "county treasurer"

Page 1, line 20, after the underscored period insert "A trust in existence on the effective date of this Act may be transferred to the county treasurer of the county in which the mineral, leasehold, or royalty interest is located."

Page 2, line 11, after the underscored period insert "The creation of a trust in favor of unlocatable owners does not affect the right of a surface owner who succeeds to ownership of a mineral interest upon its lapse under chapter 38-18.1. A person who succeeds to ownership under chapter 38-18.1 owns the mineral interest and the proceeds from the mineral interest from the date of succession."

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Page 2, line 21, remove "The recorder shall forward a"

Page 2, remove line 22

Renumber accordingly

2007 SENATE JUDICIARY

HB 1048

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1048

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: February 13, 2007

Recorder Job Number: 3440

Committee Clerk Signature *Mona L Solby*

Minutes: Relating to trusts for unlocatable mineral, leasehold, and royalty interest owners.

Senator David Nething, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following testimony:

Testimony in Favor of the Bill:

Rep. David Drovdal, Dist. #39 Introduced the bill (meter 0:05) gave testimony – Att. #1.

Sen. Nething questioned the process for clarification (meter 3:09) discussion the expense and the abandoned property trust fund. Spoke of the County Treasurer handling the trust fund discussion of acreage that has been claimed by no one.

Brian Bjella, Attorney and Landman's Assoc. of ND (LAND) gave testimony (meter 5:22) – Att. #2

Sen. Fiebiger asked how much activity will this create for the county treasure? (meter 7:13)

They spoke of the bill being modeled after Montana law. He thought it would be infrequent 3-4 times a year. They discussed the counties and did they have a treasure in every one? Yes, sometimes it is combined with another position.

Sen. Lyson thought that the 50% is a lot to go to a county for this type of work? Most interests are very small, he went into detail (meter 8:57)

Sen. Fiebiger questioned in Montana they used the clerk of court and not the treasurer. Why are we doing it this way? When the bill was original put together the clerk of courts did not want the responsibility of it and the treasurers were receptive to handle it. The clerk of courts are either county or state employees. County treasurers handle other trust funds.

Ron Ness, ND Petroleum Assoc. (meter 10:00)

Sen. Lyson questioned how in Williams Co. we have Indian trust land, in some cases might have 200 owners of a 1 acre parcel. How would this be effected by the bill. They discussed "caps" and the banks involvement in the past.

Jeff Herman, Petro-Hunt, LLC (meter 17:10) this bill will be very infrequently used.

Computers have made the finding of people very easy. He spoke of how Montana uses this legislation. Richland County reference is the most active county in the US.

Terry Traynor, Assoc. of Counties are in support of the bill along with the Treasurers. They are in support for the hang-ups this has caused in rural development and have seen areas sit. With this they may now be developed. He spoke of the role the Treasurer does and funds they already handle. Every county has someone who has the duties but it may be a combined position i.e. Auditor/Treasurer.

Testimony Against the bill:

None

Testimony Neutral to the bill:

None

Senator David Nething, Chairman closed the hearing.

Sen. Lyson made the motion to Do Pass and **Sen. Olafson** seconded the motion. All members were in favor and the motion passes.

Carrier: **Sen. Lyson**

Senator David Nething, Chairman closed the hearing.

REPORT OF STANDING COMMITTEE (410)
February 13, 2007 12:47 p.m.

Module No: SR-30-3056
Carrier: Lyson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1048, as engrossed: Judiciary Committee (Sen. Nething, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1048 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

HB 1048



REPRESENTATIVE
DAVID DROVDAL
District 39
2802 131st Avenue NW
Arnegard, ND 58835-9127
ddrovdal@nd.gov

HOUSE OF REPRESENTATIVES
NORTH DAKOTA
LEGISLATIVE ASSEMBLY

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360

Item #1



COMMITTEES:
Finance and Taxation,
Vice Chairman
Natural Resources

Testimony

HB 1048

Jan 12, 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 primary sponsor of HB 1048 and it deals with abandoned mineral, from the perspective of the developers.

HB 1048 should be a clean bill but it isn't. I am going to address the bill as if the amendments are adopted and they include: Substituting County Treasurer for County Recorder, deleting file and replacing it with record, list additional reference to the century code and deleting the dollar amount for filing so the counties can use the established fees.

As a developer establishes a field they must account for all mineral acres under that field. When abandoned mineral acres are included they must establish a trust and find a trustee. Since some trust can be for as little as a % of an acre it is time consuming, expensive and confusing for any party that thinks they may have a claim to those minerals. HB 1048 establishes a simplified and uniform system to handle abandoned mineral trusts. It does not relieve the developer of the responsibility to locate all owners. It states that the County Treasurer of the county the field is located in will be the trustee for all trust and notice must be recorded so interested parties can more easily find the trust. That is the heart of this bill.

There will be additional testimony from experts that deal with this issue so if there aren't any questions I thank you for your time and ask for your help in improving this part of the oil development procedure.

Rep. David Drovdal

Item # 2



Ron Ness
President

Marsha Reimnitz
Office Manager

120 N. 3rd Street • Suite 225 • P.O. Box 1395 • Bismarck, ND 58502-1395
Phone: 701-223-6380 • Fax: 701-222-0006 • Email: ndpc@ndoil.org

House Bill 1048
House Natural Resources Committee
January 12, 2007

Chairman Porter and Members of the Committee. My name is Ron Ness. I am President of the North Dakota Petroleum Council. The North Dakota Petroleum Council represents 130 companies involved in all aspects of the oil and gas industry including oil and gas production, refining, pipeline, transportation, mineral leasing, consulting, legal work, and oil field service activities in North Dakota, South Dakota, and the Rocky Mountain Region. Petroleum Council members produced 80% of the nearly 36 million barrels of oil produced in North Dakota in 2006. I appear before you today in support of House Bill 1048 and the amendment offered by Representative Drovdal. In addition, the North Dakota Landman's Association has also voted to support this bill.

House Bill 1048 is designed to establish an efficient mechanism in which unlocatable mineral interests can be put into a trust in the county in which they are located. This will ensure that a small mineral interest owner that cannot be located does not delay an oil and gas project. This bill was attempted in the 2005 session but it was determined the process of establishing a trust under the state land department didn't work and it was decided in the Senate that the bill should be brought back with a better solution in 2007. Historically, banks or individuals were willing to serve as trustees; however, the generally minor amount of funds and revenues in the trusts and problems with terminating a trust or trying to move it to another party have made it virtually impossible to find anyone willing to serve

as a trustee. This bill, as amended, authorizes existing trusts to be transferred, which will alleviate some of those problems. Through our research, it appears Montana has an excellent process in place for trusts. HB 1048 is essentially the Montana law with some changes to meet North Dakota statutes and practices.

I have spoken with the Clerk of Court in Richland County, Montana. She indicated that this process has worked well in her county, which has been one of the most active oil and gas counties in the United States over the past five years. She indicated the duties related to the function are minimal and once the judge directs her as the Trustee, she merely receives the checks each month and has them deposited into an interest-bearing account. She did indicate that a few of the mineral owners have been located after a trust was established. In the past five years, the following number of active trusts were established in Richland County, Montana:

2002 – 3	2003 – 4	2004 – 1	2005 – 1	2006 – 1
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We do not expect this law to be used often; however, it becomes important to have an entity to serve as a trust in order to proceed with oil and gas projects. Companies would prefer not to have unleased entities in a project and therefore will likely use this as a last resort and usually only for very small mineral interests and dollar amounts. Once a well is drilled, additional royalties will be paid to the trust on a regular basis.

Section 1-01 – Authorizes a person to request the court to establish the County Treasurer as a trustee in the county in which the mineral acre(s) is located, if diligent but unsuccessful efforts to locate the absent owner have been made. It authorizes the trustee (County Treasurer) to execute leases and other related documents.

Section 02 – Provides liability protection for the trustee after creation of the trust.

Section 03 – Provides that the administration of the trust must follow the regulations for trusts as defined in title 59. It also directs the trustee to distribute the moneys in the trust to the person

entitled if ordered by the court. It also orders the trustee to invest the funds in a prudent manner. (I understand that counties have established guidelines for investing county funds.) The bill directs the trustee to pay the county 50% of the funds paid to the trust plus interest to the county for expenses in administering the trust. The funds held in the trust will be subject to the laws governing unclaimed property under chapter 47-30.1. In general, this chapter -- which is administered by the state land Department -- requires that a person holding property that is unclaimed by its owner must, after holding it for three years, turn it over to the land department. The land department then has the duty of trying to find the owner and get the money back to him. It is the intent of this bill that when County Treasurers transfer money to the land department that the department, in managing the money, is solely subject to the requirements of chapter 47-30.1.

Section 04 – Allows a person to claim the minerals and requires the payment of recording fees.

We think this bill provides a good solution to a minor, but important, part of the leasing process and ultimately the drilling of oil and gas wells. We thank the County Treasurers for their willingness to serve as trustees.

We urge a Do Pass on HB 1048. Thank you for your consideration on this bill. I would be happy to answer any questions.

Item #3

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

House Natural Resources Committee
January 12, 2007
HB 1048

My name is Robert Harms. I am president of the Northern Alliance of Independent Producers, which is an oil and gas trade association of independent oil producers operating in the Williston Basin. Today, the Alliance represents over 40 companies doing business in the Williston Basin and who are responsible for 45% of the wells drilled in 2006 (230 of 505 wells). At an average cost of \$4 million per well. (Bakken wells are closer to \$5-6 million) that represents a capital outlay of \$900 MILLION annually.

Oil revenues and the industry are important to our economy. Just production taxes alone for the coming biennium are projected to be \$238 million. This does not include corporate income tax, personal income tax (wage earners, bonus or royalty payments to people across the state), sales taxes, royalties to ND Land Department, lease sale (bonus) income, new jobs and other sources of revenue generated by the oil and gas industry.

The reason I mention these numbers is to help demonstrate how important the industry and oil is to our state and our financial well being, so we need to make sound public policy steps that help sustain continued presence and investment.

The voice of independent oil and gas producers in northern states



HB 1048 addresses one issue that has dogged the industry for years and has impeded development in areas when owners of minerals cannot be located. This also impedes the development of minerals owned by other North Dakota citizens, because of the difficulty in assembling sufficient mineral ownership to make a project profitable. For example, the Bakken play in North Dakota (which you will hear a lot about during the session) struggles to find financial success, at present our records show that only 15% of the wells drilled in the Bakken are economic, meaning they will not reach pay out (return of capital) much less a profit for the company. (That may seem odd in view of \$50-60 oil prices, but these wells are 2-3 times more expensive to develop than more traditional exploration, so even though oil may be found, it may cost more to drill, develop and operate the well than the oil will pay for---even at today's prices.)

So, HB 1048 helps in a small way to help make oil and gas projects profitable by placing in trust, those minerals whose owners cannot be located, further stimulating oil and gas development in North Dakota. We support HB 1048.

Item # 1

1/25/07

HB 1048

Rep Droudel, Meyers, Hofstad

Motion by Rep. Hofstad to Amend HB 1048 w/ .0302
Seconded by Rep. Meyer, all in favor

David Droudel

HH #1
2-13-07

NORTH DAKOTA LEGISLATIVE ASSEMBLY

Testimony for David O. Drovdal

Jan 12, 2007

Chairman Nething and members of the Senate Judiciary 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 primary sponsor of HB 1048 and it deals with abandoned mineral from the perspective of the developers.

As a developer establishes a field they must account for all mineral acres under that field. When abandoned mineral acres are included they must establish a trust and find a trustee. Since some trust can be for as little as a % of an acre it is time consuming, expensive and confusing for any party that thinks they may have a claim to those minerals. HB 1048 establishes a simplified and uniform system to handle abandoned mineral trusts. It does not relieve the developer of the responsibility to locate all owners. It states that the county treasurer of the county the development is located in will be the trustee for all trust and notice must be recorded so interested parties can more easily find the trust. This is the heart of this bill.

There will be additional testimony from experts that deal with this issue so if there aren't any questions I thank you for your time and ask for your help in improving this part of the oil development procedure.

Rep. David Drovdal

Att # 2
2-13-07

Brian Bjella
Representing Landman's Association of North Dakota (LAND)

- LAND has approximately 175 members
- members work for oil and coal companies operating in North Dakota
- their job is to research titles in courthouses and obtain oil or coal leases so wells can be drilled and mines operated

-LAND supports HB 1048

- becoming more common that mineral owners of small interests (few acres or less) who acquired the mineral interest many years ago cannot be located
- often they are deceased and their heirs can't be located
- unleased minerals can impede development of mineral properties

- this bill would very helpful by allowing these minerals to be leased through a trust to be established with the approval of the district court
- the county Treasurer would then be appointed trustee
- once approved as trustee, the Treasurer can then execute a mineral lease to allow development of those minerals

LAND urges a do-pass on HB 1048



Ron Ness
President
Marsha Reimnitz
Office Manager

120 N. 3rd Street • Suite 225 • P.O. Box 1395 • Bismarck, ND 58502-1395
Phone: 701-223-6380 • Fax: 701-222-0006 • Email: ndpc@ndoil.org

AH #3
2-13-07

House Bill 1048
Senate Judiciary Committee
February 13, 2007

Chairman Nething and Members of the Judiciary Committee. My name is Ron Ness. I am President of the North Dakota Petroleum Council. The North Dakota Petroleum Council represents 130 companies involved in all aspects of the oil and gas industry including oil and gas production, refining, pipeline, transportation, mineral leasing, consulting, legal work, and oil field service activities in North Dakota, South Dakota, and the Rocky Mountain Region. Petroleum Council members produced 80% of the nearly 36 million barrels of oil produced in North Dakota in 2006. I appear before you today in support of the engrossed House Bill 1048. In addition, the North Dakota Landman's Association has also voted to support this bill. The engrossed version of the bill clarifies the process used to establish the trust and deal with the trust once established. The House Natural Resources Committee did a substantial amount of work to improve this bill.

House Bill 1048 is designed to establish an efficient mechanism in which unlocatable mineral interests can be put into a trust in the county in which they are located. This will ensure that when a small mineral interest owner cannot be located, the oil and gas project will not be delayed. This bill was attempted in the 2005 session but it was determined the process of establishing a trust under the State Land Department wasn't feasible. The Senate then decided that the bill should be brought back in 2007 with a better solution. Historically, banks or individuals were willing to serve as trustees;

however, the generally minor amount of funds and revenues in the trusts and problems with terminating a trust or trying to move it to another party have made it virtually impossible to find anyone willing to serve as a trustee. This bill, as amended, authorizes existing trusts to be transferred, which will alleviate some of those problems. Through our research, it appears Montana has an excellent process in place for trusts. HB 1048 is essentially the Montana law with some changes to meet North Dakota statutes and practices.

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Section 1-01 - Authorizes a person to request the court to establish the County Treasurer as a trustee in the county in which the mineral acre(s) are located, if diligent but unsuccessful efforts to locate the absent owner have been made. It authorizes the trustee (County Treasurer) to execute leases and other related documents. Section 1 allows existing trusts to be transferred to the County Treasurer, if desired.

Section 02 – Provides liability protection for the trustee after creation of the trust.

Section 03 – Provides that the administration of the trust must follow the regulations for trusts as defined in title 59. It also directs the trustee to distribute the moneys in the trust to the person entitled, if ordered by the court. It also orders the trustee to invest the funds in a prudent manner. (I understand that counties have established guidelines for investing county funds.) The bill directs the trustee to pay the county 50% of the funds paid to the trust to the county for expenses in administering the trust. The funds held in the trust will be subject to the laws governing unclaimed property under chapter 47-30.1. In general, this chapter -- which is administered by the State Land Department -- requires that a person holding property that is unclaimed by its owner must, after holding it for three years, turn it over to the Land Department. The Land Department then has the responsibility of trying to find the owner and get the money back to him. It is the intent of this bill that when County Treasurers transfer money to the Land Department that the Department, in managing the money, is solely subject to the requirements of chapter 47-30.1.

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