

2009 HOUSE EDUCATION

HB 1139

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1139

House Education Committee

Check here for Conference Committee

Hearing Date: January 14, 2009

Recorder Job Number: 7001

Committee Clerk Signature

*Carmen Hart*

Minutes:

**Jeff Engleson, Deputy Commissioner for the Land Dept.**, appeared on behalf of Commissioner Gary Preszler. He presented the attached testimony. **(Attachment 1)**

**Vice Chair Lisa Meier:** How often do you have to report for coal?

**Jeff Engleson:** There is no real requirement as to how often. It just stated that we were to compile this list. The issue was that it wasn't signed off by the board at the official meeting that we can find.

**Rep. David Rust:** Did you say the state is no longer selling any of its school land?

**Jeff Engleson:** As a general rule, no we aren't. Even if we would sell some for special circumstances, we must retain the mineral rights—100%.

**Ed Murphy, ND State Geologist**, appeared in favor of HB 1139. He presented the attached testimony. **(Attachment 2 & 3)**

**Rep. Mike Schatz:** How do you go about testing for coal?

**Ed Murphy:** Most of the information we have is from the companies we permitted since 1975. They drill holes that are typically depths to 300 feet. For surface mining they don't generally go below 150 feet. The maximum is typically 175 feet.

**Rep. Mike Schatz:** Do you have to obtain permission from the landowners to go on that land? How does that work?

**Ed Murphy:** When we do drilling and that's a very small percentage, 95% of the information comes from the coal companies. The permits that we issue have to get permission from the landowners, and if we go on private property, we have to do the same.

There was no opposition to HB 1139 and the hearing was closed.

**Rep. Lyle Hanson:** I move a do pass.

**Rep. David Rust** seconded it.

**14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING. Rep. Mike Schatz will be the carrier of the bill.**

Date: 1-14-09  
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1139

House Education Committee

Check here for Conference Committee

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

Action Taken  Do Pass  Do Not Pass  Amended

Motion Made By Rep Hanson Seconded By Rep Rust

Representatives	Yes	No	Representatives	Yes	No
Chairman RaeAnn Kelsch	✓		Rep. Lyle Hanson	✓	
Vice Chairman Lisa Meier	✓		Rep. Bob Hunsakor	✓	
Rep. Brenda Heller	✓		Rep. Jerry Kelsh	✓	
Rep. Dennis Johnson	✓		Rep. Corey Mock	✓	
Rep. Karen Karls	✓		Rep. Phillip Mueller	✓	
Rep. Mike Schatz	✓		Rep. Lee Myxter	✓	
Rep. John D. Wall	✓				
Rep. David Rust	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep Schatz

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

**REPORT OF STANDING COMMITTEE**

**HB 1139: Education Committee (Rep. R. Kelsch, Chairman) recommends DO PASS**  
(14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1139 was placed on the  
Eleventh order on the calendar.

2009 SENATE NATURAL RESOURCES

HB 1139

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1139

Senate Natural Resources Committee

Check here for Conference Committee

Hearing Date: March 6, 2009

Recorder Job Number: 10397

Committee Clerk Signature



Minutes:

**Senator Lyson** opens the hearing on 1139, relating to the board of university and school lands requesting the state geologist to determine the existence of coal.

**Keith Bayley**, State Land Department, I have submitted testimony from the State Land

Commissioner (see attached testimony #1).

**Ed Murphy**, North Dakota State Geologist, spoke in favor of the bill (see attached testimony #2).

**Senator Lyson** closed the hearing on HB 1139.

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1139

Senate Natural Resources Committee

Check here for Conference Committee

Hearing Date: March 6, 2009

Recorder Job Number: 10398

Committee Clerk Signature

Minutes:

**Senator Lyson** opens the discussion on HB 1139.

**Senator Erbele** moves a do pass on HB 1139.

**Senator Schneider** seconds the motion.

Roll call was taken and the bill received a do pass on a vote of 6 to 0.



Date: March 6, 2009

Roll Call Vote #: HB 1139

### 2009 SENATE STANDING COMMITTEE ROLL CALL VOTES

Senate \_\_\_\_\_ Natural Resources \_\_\_\_\_ Committee

Check here for Conference Committee

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

Action Taken  Do Pass  Do Not Pass  Amended  Amendment

Motion Made By Senator Erbele Seconded By Senator Schneider

Senators	Yes	No	Senators	Yes	No
Senator Stanley W. Lyson, Chairman	/		Senator Jim Pomeroy	/	
Senator David Hogue, Vice Chairman			Senator Mac Schneider	/	
Senator Robert S. Erbele	/		Senator Constance Triplett	/	
Senator Layton W. Freborg	/				

Total (Yes) 6 No 0

Absent Senator Hogue

Floor Assignment Senator Erbele

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

**REPORT OF STANDING COMMITTEE (410)**  
March 6, 2009 11:50 a.m.

**Module No: SR-41-4197**  
**Carrier: Erbele**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1139: Natural Resources Committee (Sen. Lyson, Chairman) recommends DO PASS**  
(6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1139 was placed on the  
Fourteenth order on the calendar.

2009 TESTIMONY

HB 1139

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Gary D. Preszler, Commissioner

**TESTIMONY OF GARY D. PRESZLER  
STATE LAND COMMISSIONER  
North Dakota State Land Department**

**IN SUPPORT OF HOUSE BILL NO. 1139**

**HOUSE EDUCATION COMMITTEE  
January 14, 2009**

Chairman Kelsch members of the Education Committee, I am Jeff Engleson, Deputy Commissioner for the Land Department. I'm testifying today on behalf of Commissioner Preszler.

This Bill removes the mandate that the Board of University and School Lands, with the assistance of the State Geologist, ascertain and compile a schedule of all lands under its control where coal exists. The Board's compliance with this section of law has been an issue in two previous outside audit reports.

Such a determination and list was actually completed in 1918. The first issue with compliance with the law was due to the fact the State Engineer, and not the State Geologist, compiled the list. A second issue identified was that there is no record that the Board ever actually adopted the list.

The requirement was enacted in 1903. At that time the state was being settled and the Board was actively selling land. The Constitution, however, precluded the Board from selling any "coal lands". A logical analysis of the intent of the law is that at that time, coal was known as a valuable resource and its value needed to be preserved for the trusts. In 1960 a Constitutional Amendment required that the Board reserve 100 percent (except for foreclosed properties) of all minerals in any land sale transactions. That Constitutional Amendment then effectively mooted the need to identify "coal lands".

There are still reasons why the Board may want to request the assistance of the State Geologist to identify and quantify coal resources. However, the reasons today are different than 100 years ago. For example, it is important to know the mining potential for coal before wind turbines are sited.

The Board works with various state and federal agencies to better manage the land and mineral assets entrusted to it and will continue to do so in the future.

The essence of the Bill is to change "shall" to "may". This change resolves the question of compliance that has come up in recent outside audits. It also saves the Board the expense of correcting a violation of North Dakota law from 90-years ago, when that violation is not causing any problems.

I ask the committee to grant favorable consideration and give HB1139 a "do pass" recommendation.

# North Dakota Geological Survey

Edward C. Murphy - State Geologist  
Department of Mineral Resources

Lynn D. Helms - Director

North Dakota Industrial Commission

<https://www.dmr.nd.gov/ndgs/>

*Attachment  
2*



## House Bill No. 1139

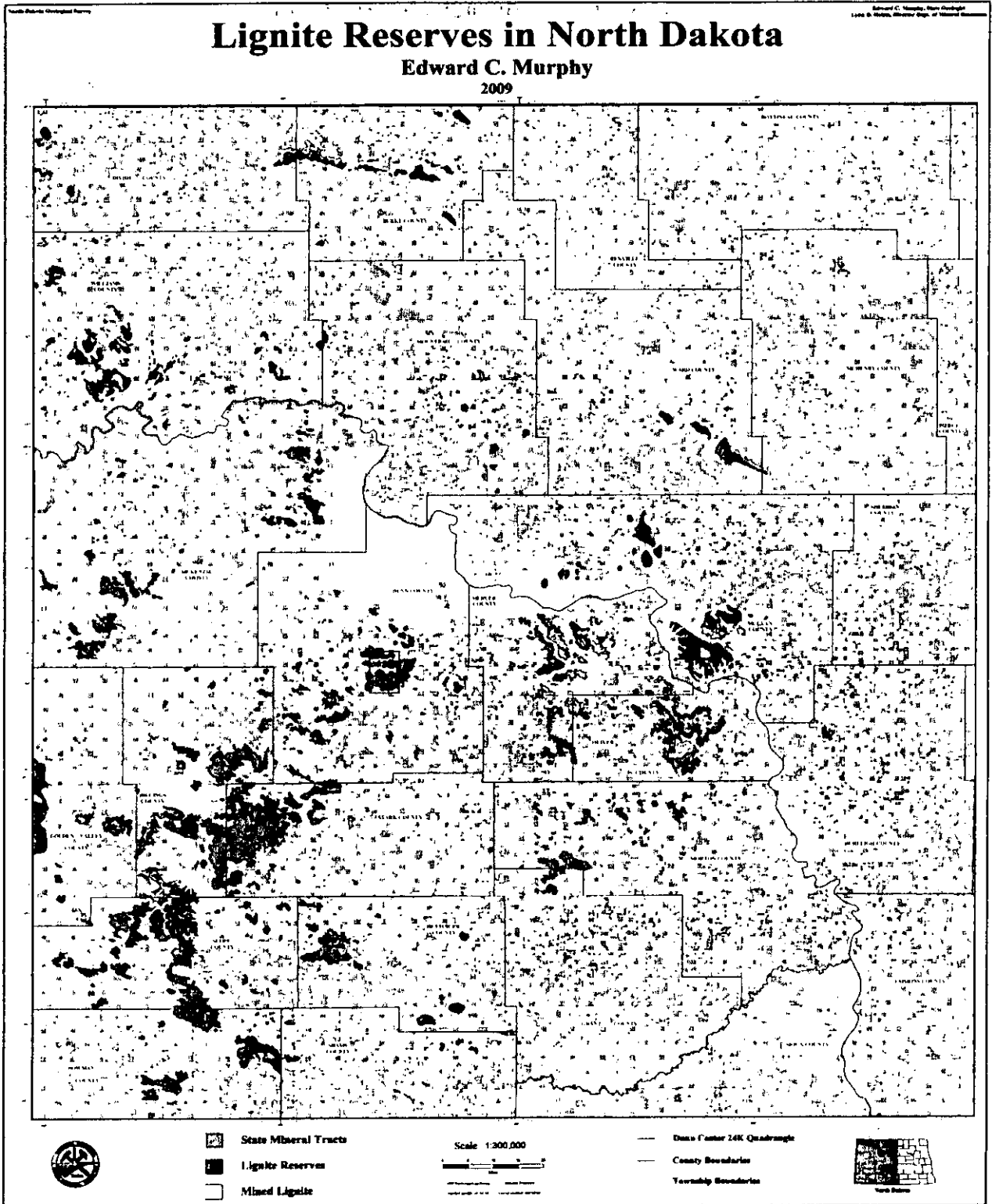
### TESTIMONY BEFORE THE HOUSE EDUCATION COMMITTEE

**Ed Murphy**  
**January 14, 2009**

Good Morning Madam Chairman and members of the House Education Committee, my name is Ed Murphy. I am the North Dakota State Geologist. I appear before you to testify in favor of House Bill 1139. Commissioner Preszler provided me with an early draft of this bill and I was comfortable with the proposed language changes.

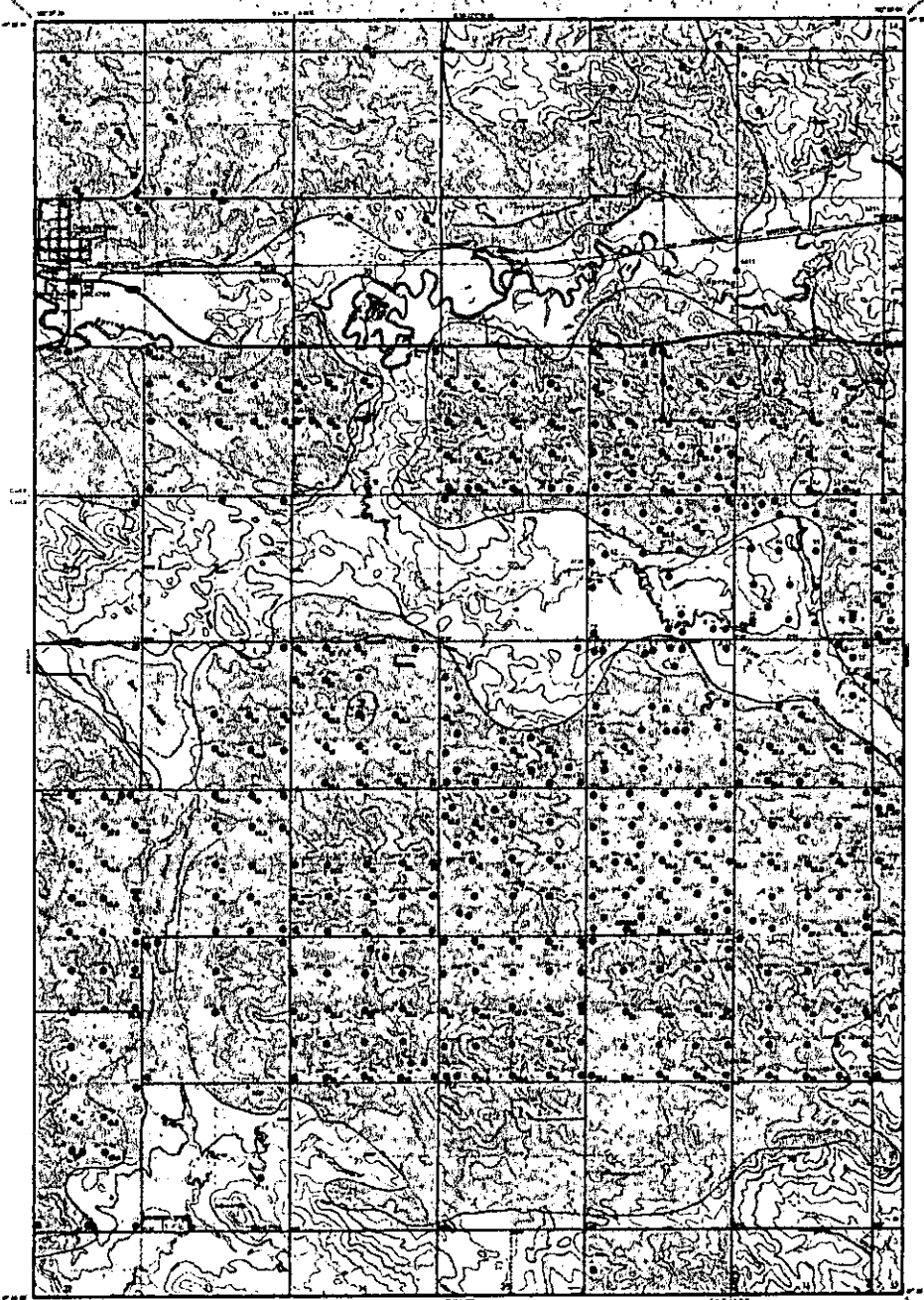
As background information for this bill, the North Dakota Geological Survey has identified the coal beds that can be economically mined in North Dakota. These economically mineable beds (or lignite reserves) are shown on the map of the western half of North Dakota on page 1 of the attachment. On that map, state mineral tracts are in blue, lignite reserves in brown, and mined areas in yellow. There are approximately 600 (1:24,000 scale) topographic maps within this area. One of those topographic maps, the Dunn Center Quadrangle, is outlined in red and presented on page 2. On the Dunn Center map, state mineral tracts are once again in blue and lignite reserves in brown. The black dots are coal exploration drill holes and the adjacent numbers in bold are mineable coal thicknesses.

Attachment 3



# Lignite Reserves Dunn Center Quadrangle, North Dakota

Edward C. Murphy  
2004



The Dunn Center coal deposit underlies approximately 25,000 acres in central Dunn County. In addition to the Dunn Center quad, the deposits extend into Dunn Center NW, Dunn Center NE, Laska No, and Warner. The Dunn Center bed is 19 to 21 feet thick in this area. A five to ten foot coal is generally present 20 to 30 feet above the Dunn Center bed. Coal thicknesses presented on this map are where cumulative thicknesses of three or more accessible beds. The Dunn Center deposit contains approximately 900 million tons of accessible coal. Glacial meltwater flowed through this area tens of thousands of years ago removing these coals and creating valleys now occupied by Spring and Slow creeks as well as Blue and Miller sloughs.

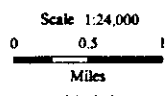
In 1975, the Natural Gas Pipeline Company of America (NGPCA) drilled over 1,200 test holes in and around the Dunn Center deposit to determine the feasibility of establishing a gasification plant in the area. NGPCA abandoned the project when gas prices failed to rise to projected levels in the early 1980s. The N Dakota Company took over the project and still holds some coal leases in the area.

### UNIT DESCRIPTIONS

- Geologic Informational
- Economic Coal Deposits  
Economic coal deposits are those that meet the minimum criteria established by coal companies operating surface mines in North Dakota. These economic criteria include a minimum cumulative coal thickness of ten feet typically occurring in less than two beds, a minimum individual bed thickness of at least 2.5 feet, a minimum of one foot of overburden, and a maximum depth to coal of approximately 150 feet.
- State Mineral Fronts

- ### Geologic Symbols
- Boundaries of Local Lignite Reserves
  - Data Points  
Includes Coal Properties (WPA, UTM, etc.), Subsurface Mineral Data, etc. (see also 400, 401, and 402).
  - Drill Hole Numbers
  - Thickness in Feet of Mineable Lignite  
Coal thicknesses were determined by interpretation of electric log data and/or drill logs. Cores and electric logs were typically available for coal exposures below bed, and wells were also marked to a greater log run through surface casing.

- ### Other Features
- State Highway
  - Paved Road
  - Unpaved Road



This material was prepared in part by the U.S. Geological Survey, Department of Interior, under contract number D-223, modified and D-223-2, D-223-3.

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Gary D. Preszler, Commissioner

**TESTIMONY OF GARY D. PRESZLER  
STATE LAND COMMISSIONER  
North Dakota State Land Department**

**IN SUPPORT OF HOUSE BILL NO. 1139**

**SENATE NATURAL RESOURCES COMMITTEE**

**March 6, 2009**

Chairman Lyson members of the Natural Resources Committee, I am Gary D. Preszler, Commissioner for the Land Department and Secretary for the Board of University and School Lands.

This Bill removes the mandate that the Board of University and School Lands, with the assistance of the State Geologist, ascertain and compile a schedule of all lands under its control where coal exists. The Board's compliance with this section of law has been an issue in two previous outside audit reports.

Such a determination and list was actually completed in 1918. The first issue with compliance with the law was due to the fact the State Engineer, and not the State Geologist, compiled the list. A second issue identified was that there is no record that the Board ever actually adopted the list.

The requirement was enacted in 1903. At that time the state was being settled and the Board was actively selling land. The Constitution, however, precluded the Board from selling any "coal lands". A logical analysis of the intent of the law is that at that time, coal was known as a valuable resource and its value needed to be preserved for the trusts. In 1960 a Constitutional Amendment required that the Board reserve 100 percent (except for foreclosed properties) of all minerals in any land sale transactions. That Constitutional Amendment then effectively mooted the need to identify "coal lands".

There are still reasons why the Board may want to request the assistance of the State Geologist to identify and quantify coal resources. However, the reasons today are different than 100 years ago. For example, it is important to know the mining potential for coal before wind turbines are sited.

The Board works with various state and federal agencies to better manage the land and mineral assets entrusted to it and will continue to do so in the future.

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*Attachment 2*  
*HB 1139*

# North Dakota Geological Survey

Edward C. Murphy - State Geologist  
Department of Mineral Resources

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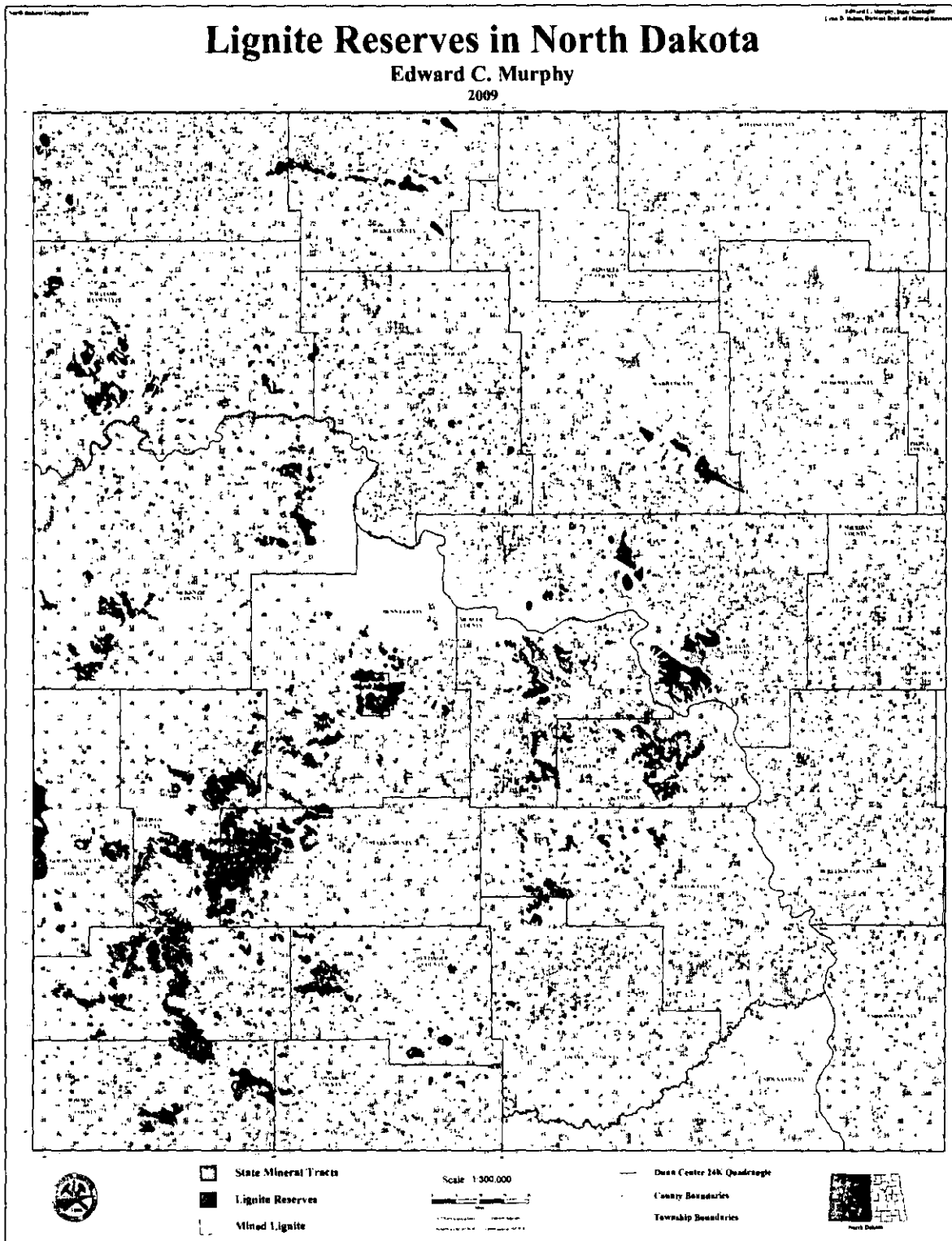
## House Bill No. 1139

### TESTIMONY BEFORE THE SENATE NATURAL RESOURCES COMMITTEE

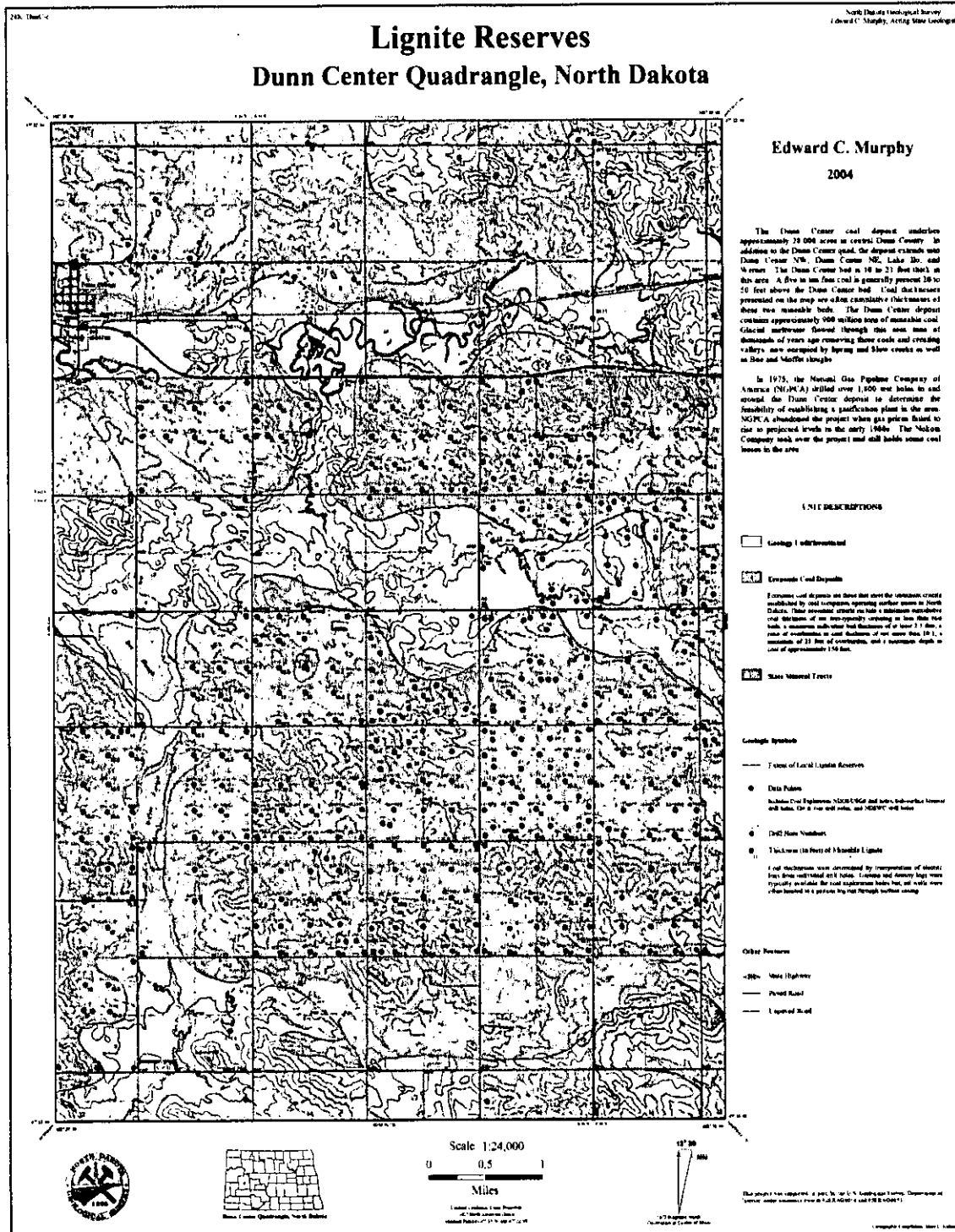
**Ed Murphy**  
**March 6, 2009**

Good Morning Chairman Lyson and members of the Senate Natural Resources Committee, my name is Ed Murphy. I am the North Dakota State Geologist. I appear before you to testify in favor of House Bill 1139. Commissioner Preszler provided me with an early draft of this bill and I was comfortable with the proposed language changes.

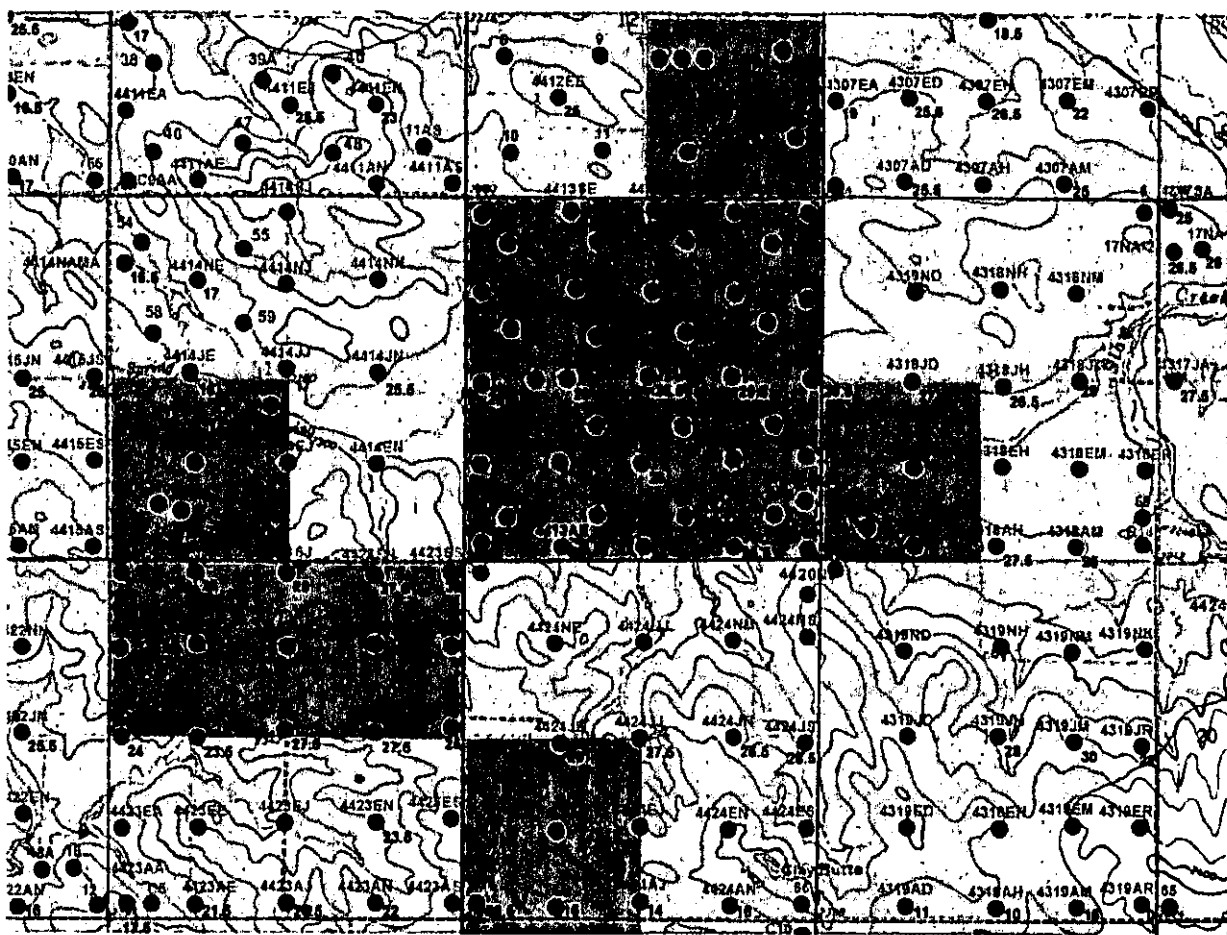
As background information for this bill, the North Dakota Geological Survey has identified the coal beds that can be economically mined by surface methods in North Dakota. These economically mineable beds (or lignite reserves) are shown on the map of the western half of North Dakota on page 2. There are approximately 600 (1:24,000 scale) topographic maps in western North Dakota. The Geological Survey has published the 286 quadrangles that contain mineable coal deposits. One of those published topographic maps, the Dunn Center Quadrangle, is outlined in red on page 2 and presented on page 3. The southern portion of the Dunn Center Quadrangle is shown on page 4.



The mineable (by surface methods) lignite deposits in North Dakota (in brown). State mineral tracts are in blue and mined areas in yellow. The Dunn Center Quadrangle map is outlined in red.



The mineable coal areas are shown in brown and the State mineral tracts in blue. This quadrangle contains approximately 600 million tons of mineable coal. The Dunn Center deposit underlies approximately 28,000 acres of central Dunn County and contains 900 million tons of coal.



Part of the southern portion of the Dunn Center quadrangle. The black dots are coal exploration drillholes, the numbers in bold are mineable coal thicknesses, and the numbers in half tone are hole identification numbers. The maximum mineable coal thickness in this area is 30 feet. In 1975, the Natural Gas Pipeline Company of America drilled over 1,800 test holes in and around the Dunn Center deposit to determine the feasibility of establishing a gasification plant in the area.