2009 SENATE NATURAL RESOURCES

SB 2384

# 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2384

Senate Natural Resources Committee

☐ Check here for Conference Committee

Hearing Date: February 5, 2009

Recorder Job Number: 8777

| Committee Clerk Signature | Kat L |
|---|---|

Minutes:

**Senator Lyson** opened the hearing on SB 2384, relating to an oil extraction tax exemption for costs of enhanced production that increases production from an oil well to the extent the well loses stripper well status. All committee members were present.

**Senator Tracy Potter**, District 35, introduced the bill (see attached testimony #1).

**Senator Hogue** if they have to recertify a stripper well how does that provide them with an incentive or who is being incentive by that?

**Senator Potter**, the incentive is that they will continue to receive the exemption to the point of any enhancement that they make to the well to increase the production will be paid for through the tax break.

**Ron Ness**, President of the North Dakota Petroleum Council, spoke in opposition to the bill (see attachment #2).

**Senator Schneider** what kind of tax increase are we talking about? Senator Potter estimated that this would result in a $3.4 million increase in revenue for the state if this were to go through. Does that seem about right?

**Ron Ness** according to the note that I saw from the tax department it is a 130% tax increase. I am more concerned about moving forward. My concern is what are the costs going to be to the state's economy in terms of lost jobs and lost revenues.

**Senator Triplett** can you give us an overview of how many of these wells that an average producer owns?

**Ron Ness** I would assume it is all over the board. You have people who will buy small oil wells as they decline.

**Senator Erbele** what is the dollar impact or turnover rate of an oil dollar.

**Ron Ness** what does this mean for the average American. In 2006, for every one million dollars of marginal oil and gas produced created more than nine jobs. The exploration industry in North Dakota, from 2005 to 2007, has increased 234%. That is money that goes right into wages and businesses.

**Senator Triplett** what would be the costs of a stripper well that was abandoned plugged and then re-opened?

**Ron Ness** there was a bill in here last session where you raised the cap on the fund of the oil and gas division because of potential abandonments of wells. We haven't had to use that fund much because we try to keep them all running. There are significant costs once people abandon wells. Now if there was a bankruptcy it will fall back on that fund.

**Jim Cron**, Chief Petroleum Engineer for Ward Williston Oil Company, spoke in opposition to the bill (see attached handouts #3). Stripper wells in North Dakota as you can see in the 16 counties on the map are wide spread. They are the key to our business. Greater than 80% of the wells that Ward Williston takes care of are stripper wells. In response to one of the questions earlier about the economic impact on the oil fields if this bill was to pass. On a typical well that we produce, if we were to lose a tubing string that well would be uneconomic before tax. If I had to replace that tubing string now, it would take me about five years to make that well profitable again. The deeper the wells, the more expensive they become. One of the points brought up earlier that I think is a bit confusing to perhaps everyone was the use of EOR. Enhanced oil recovery is some means for water or CO2 flooding. These measures are very expensive to use. There are about 2400 wells that qualify as stripper wells that are marginally productive. On one had if you double the tax you will generate more tax dollars. At the same time, the industry will start plugging wells because it is no longer economic. On a shallow well it is around $30,000 to plug it in our area. Senator Triplett asked earlier what it would cost to go back into a well that had been plugged. In our area, it would cost $650,000 to $700,000 to re-drill a well. Once the reservoir pressure has depleted and it is a small structure there is no way to justify a water flood or drilling a new well. The production is gone and the tax revenue that the well was generating at 5% is now at 0. The pumper's job that was there is gone as well. The second handout is how I view the impact (see attached handout).

**Senator O'Connell** I used to work in the oil fields as a heavy equipment operator. Ward Williston employs over 100 people. When I was getting my oil changed on my vehicle this weekend everyone who walked in was related to the oil field. The business would shut down without them. An elderly couple from my area were able to afford a nice place in a retirement home in Minot because of the money they make having an oil well. They would have had to go on welfare without it.

**David Fischer**, Geologist in the oil field, spoke in opposition to the bill. Indeed stripper wells are economically very sensitive. We have many different considerations in dealing with stripper wells that they do not have down south. The weather is one and the basin has been developed from the bottom up. North Dakota has always been and expensive place to explore, drill and operate. The legislature decided to categorize stripper wells in North Dakota depending on depth. Please consider how sensitive stripper well economics are and how important they have been and will be in the future. A plugged stripper well is a plugged stripper well, it will never be re-opened.

**Jeb Oehlke**, represent North Dakota Chamber of Commerce, the voice of North Dakota Business, spoke in opposition to the bill (see attached testimony #4).

**Robert Harms**, President of the Northern Alliance of Independent Producers, Inc., spoke in opposition to the bill (see attached testimony #5).

**Bruce Hicks**, assistant Director of the Department of Mineral Resources, spoke in a neutral position to the bill (see attached testimony #6).

**Senator Lyson** Closed the hearing on SB 2384.

# 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2384

Senate Natural Resources Committee

☐ Check here for Conference Committee

Hearing Date: February 5, 2009

Recorder Job Number: 8827

| Committee Clerk Signature |
|---|

Minutes:

**Senator Lyson** opened discussion on SB 2384, relating to an oil extraction tax exemption for costs of enhanced production that increases production from an oil well to the extent the well loses stripper well status. I received this email after the hearing and I thought it was well written so I brought it down.

**Senator Hogue** I move a Do Not Pass on SB 2384.

**Senator Erbele** seconds the motion

The bill received a Do Not Pass on a vote of 7 to 0.

# FISCAL NOTE

**Requested by Legislative Council**
01/27/2009

Bill/Resolution No.: SB 2384

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.*

| | 2007-2009 Biennium | | 2009-2011 Biennium | | 2011-2013 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.*

| 2007-2009 Biennium | | | 2009-2011 Biennium | | | 2011-2013 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).*

SB 2384 deals with annual certification of stripper wells and stripper properties.

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.*

Section 1 of SB 2384 requires annual certification of stripper wells. Under this provision, some currently classified stripper wells would not be recertified, lose their exemption and become subject to the oil extraction tax.

In the most recent year, 11.8 million barrels of oil was produced from stripper wells and stripper properties. This is equal to approximately 21% of total oil production.

We estimate that if these wells had to be recertified annually, production totaling 7.8 million barrels would potentially no longer qualify under the definition of stripper. Approx. 6.5 million of these barrels are from enhanced recovery units. Only 1.3 million barrels was produced in the past year from "stand alone" stripper wells that would no longer qualify if they needed to be recertified.

The provisions of Section 3 of SB 2384 would allow the 6.5 million barrels produced from enhanced recovery units to retain their stripper status until the value of the oil extraction tax exemption equaled the cost of the enhanced recovery project. We do not have enough information upon which to determine when this is likely to occur. The potential positive fiscal impact of SB 2384 cannot be determined.

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:** | Kathryn L. Strombeck | **Agency:** | Office of Tax Commissioner |
| **Phone Number:** | 328-3402 | **Date Prepared:** | 02/04/2009 |

Date: Feb 5 2009

Roll Call Vote #: 2384

# 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 Sen. Hogue Seconded By Sen. Erbele

| 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 | ✓ | | | | |
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Total (Yes) 7 No 0

Absent

Floor Assignment Sen. Hogue

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

## REPORT OF STANDING COMMITTEE

**SB 2384: Natural Resources Committee (Sen. Lyson, Chairman)** recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2384 was placed on the Eleventh order on the calendar.

2009 TESTIMONY

SB 2384

#1

## **Testimony of Sen. Tracy Potter, D-35, on SB 2384, Senate Natural Resources Committee, February 5, 2009**

Mr. Chairman, members of the Committee, SB 2384 is a new and improved version of a bill I introduced to this Committee in 2007. But it retains the major point - that to be given the stripper well tax exemption, a well should actually qualify for the exemption.

Stripper wells in North Dakota receive an exemption from the 6.5% Oil Extraction Tax. Stripper wells are well producing less than 10 barrels of oil per day at a depth of less than 6,000 feet. The well can pump between 10 and 15 barrels a day down to 10,000 feet and be a stripper. Deeper than 10,000 feet, a well can produce 30 barrels a day - more than 10,000 barrels a year.

In practice, stripper wells often gain designation as part of a property, where a group of wells is extracting production from a distinct reservoir. Section 2 of the bill treats each well's exemption individually. That information is already obtained - from the Red Book, page 48 (2006),

> Both the producer and the purchaser of the oil are required to submit reports to the Tax Commissioner on a monthly basis. The reports show the volume and taxable value of sales of the production from each well.

Currently, even when the production is higher than the barrel per day limits above, a stripper well maintains its exemption. It maintains it forever. In North Dakota, once a stripper, always a stripper. Section 1 changes that. It requires annual checks to see if the well still qualifies.

Section 3 sets very modest standards which will be required to qualify for continued exemption because of enhanced oil recovery. This is for stripper wells where production has gone up and the owner has invested in increasing production.

Section 4 sets the annual exemption period the same as the federal fiscal year, October 1 - September 30, because Section 2 has the average daily production of wells computed for the state fiscal year. This gives the agencies 3 months to determine which wells qualify for the exemption.

Section 5 establishes the Enhanced oil recovery fund, which will be available to future Sessions. The bill tells the Tax Department to do some math on how much revenue is coming from the change to annual stripper well classification minus the revenue foregone because of continuing exemptions for enhanced oil recovery.

The fiscal note gives us some idea of the scope of the situation. About 21% of our production came from stripper wells in a recent year, 11.8 million barrels. According to the estimate in the note, 70% of them (7.8 million) don't actually qualify. But most of those wells are producing more (6.5 million) because of investments in oil enhancement recovery and would continue to benefit from the tax break until their investment was 100% paid for. So while the note doesn't suggest any level of revenue from the bill, it does give a number we can use - 1.3 million barrels a year might start being taxed in the next biennium. At $40/barrel, the 6.5% would net $3.4 million per year.

# BEHM ENERGY, INC.

OIL AND GAS EXPLORATION AND PRODUCTION

February 2, 2009

Stan Lyson
Chairman

My family and I own oil and gas Exploration Company based in Minot, ND. Our firm operates a number of stripper oil wells in ND.
It is our understanding that SB 2384 will be heard on Thursday February 5th, 2009. This bill will have a negative impact on operators who rely on production of stripper wells.
We ask that you please oppose SB 2384. The time you devote to reviewing this correspondence and our request is appreciated.

Regards,

Lenny Behm

Lenny Behm

Cc: Marsha Reimnitz, David Hogue, Robert Erbele, Layton Freborg, Jim Pomeroy, Mac Schneider, Connie Triplett, Stan Lyson

P.O. BOX 608 • MINOT, NORTH DAKOTA 58702 • TELEPHONE 701/838-0101 • FAX 701/852-9502

ROBERT POST JOHNSON
CONSULTING GEOLOGIST
HARRIS, BROWN, & KLEMER, INC
P. O. BOX 5006 • BISMARCK, ND 58502

TELEPHONE (701) 223-3588 ROBERT POST JOHNSON, PRESIDENT
E-mail: ndgeol.hrr@midconetwork.com

February 1, 2009

Stan Lyson, Chairman
Senate Natural Resources Committee
David Hogue, Vice Chairman
Robert Erbele
Layton Freborg
Jim Pomeroy
Mac Schneider
Connie Triplett

RE: Senate Bill 2384

Senator Lyson,

As a North Dakota consulting, petroleum geologist, I believe it would be a big mistake to change the current stripper well exemptions by requiring an annual review of a stripper well's status. The current rules on stripper well status in North Dakota has kept hundreds of wells pumping that would have ordinarily been plugged, simply by eliminating the 6.5% extraction tax. The elimination of the extraction tax for low volume wells is an incentive to spend additional monies to improve production, which would never be done if it were not for the stripper well exemptions.

Most of the Stripper wells in ND are operated by small, independent oil companies, not by BIG OIL. Many of these companies are headquartered in North Dakota and have hundreds of employees who keep these wells going. Currently, many of these wells are already at marginal, economic limits, with oil prices back down from the oil-price spike of late 2007 thru the middle of 2008. These are just a few of the reasons why we should not change the current stripper well exemption. Without being too wordy. Please recommend a DO NOT PASS RECOMMENDATION to the Senate prior to final voting on the measure.

Thank you for your public service,
Robert Post Johnson
Certified Professional Geologist
AIPG 4507

Inland Oil & Gas Corporation

Post Office Box 1313

Bismarck, North Dakota 58502

Area Code 701-255-1416

February 3, 2009

Re: SB 2384 Senate Natural Resource Committee

Dear Chairman Senator Stan Lyson and Committee Members,

It is unfortuanate and puzzling why marginal wells are being targeted for increased taxation and certification. The *survival* of marginal wells is continually a problem for the marginal well operator, usually a small independent producer. The time and cost considerations to engineer a mechanically feasible method of maintaining or extending the life of these low volume wells has a high capital risk. These wells carry the highest risk of becoming uneconomical and being plugged when prices collapse as we are now experiencing. We must encourage long range security in taxation on these old wells and give incentive to those operators that work with marginal economics attempting make a living on stripper wells management. These operators provide many jobs in our state keeping our large number of stripper wells producing.

Please oppose Senate Bill 2384.

Sincerely,

Lynn Moser, President

# WARD WILLISTON OIL COMPANY

February 4, 2009

Senator Stan Lyson
Chairman, Senate Natural Resources Committee
North Dakota State Legislature
State Capitol
600 East Boulevard
Bismarck, ND 58505-0360

Dear Senator Lyson:

I am writing to ask you and the other members of the Senate Natural Resources Committee to **oppose** SB-2384. This bill presents the danger of eliminating good paying jobs, wasting natural resources and negatively impacting North Dakota's ability to generate needed tax revenue.

As a native of Flaxton, North Dakota, and a graduate of UND, my life has been spent in the oil industry and after returning to North Dakota from Europe in 2006, I currently serve as Chief Engineer for a small oil company in Westhope, North Dakota. My employer has approximately 100 employees throughout central and western North Dakota. Over 80% of my employer's wells are stripper wells, which in these times of low oil prices, are barely profitable. Our analysis indicates that SB-2384 will affect most of our wells negatively and with the additional tax burden any sort of minimal capital investment will cause the wells to be plugged and our jobs to put at risk. SB-2384 will not only negatively impact my firm but other companies that produce the 2,000+ stripper oil wells (266 wells are in Williams County alone) in North Dakota.

At a cost of $700,000 to replace a plugged stripper well (even more in the deeper parts of the Williston Basin), plugged wells will not be replaced due to poor economics and thus the production (as well as jobs and revenue) will be permanently lost. I am sure you and the committee members can agree that is would be wasteful in practice.

I think that this is an important bill to stop "in its tracks" in order to preserve jobs, negate waste of natural resources and sustain needed tax revenue.

Thank you for your support.

Sincerely,

James Cron
Chief Engineer

9926 Hwy 83, P.O. Box 172 • Westhope, North Dakota 58793
(701) 245-6479 • FAX: (701) 245-6416
www.wardwilliston.com
*"The Business of Oil Since 1952"*

#2

NORTH DAKOTA
PETROLEUM
COUNCIL

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

# Senate Bill 2384

## Senate Natural Resources Committee

## February 5, 2009

Chairman Lyson 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. I appear before you today in opposition to Senate Bill 2384.

**2007 INDUSTRY ECONOMIC IMPACT STUDY FACTS:**

- **Oil industry paid $519 million in taxes in 2007**
- **$8.2 Billion impact on North Dakota's economy in 2007**
- **Industry paid over $400 million in royalties in 2007**
- **Employed 7,719 direct employees and supported over 38,000 indirect jobs**

The budget projection for 2007–2009 indicates that the oil and gas industry will pay more than $800 million in oil and gas production taxes in this biennium. **Does SB 2384 help sustain this incredible economic activity, job growth, and wealth creation for our state by maintaining a positive business climate?** No. SB 2384 places an additional tax burden on a segment of the state's oil industry that is important to the stability of industry and helps provide jobs during the peaks and valleys that the oil industry experiences. Stripper properties, or marginal wells, are a foundation for the domestic oil industry. Marginal oil wells represent 18% of our nation's domestic oil production. These wells are generally owned by small independent operators who have purchased them from large operators after oil production declines. Generally, small North Dakota oil operators take ownership and assume the risk of trying to increase production of these wells. This risk has to have a financial incentive in order to keep these wells active and continue to invest in new technology or production techniques that increase their production. Oil industry investment is always driven by price and economics. North Dakota competes with the rest of the nation, and the world, to attract investment. In the last several years, the state's oil patch has become a hotbed in the United States for interest and investment and our economy is certainly seeing the benefits, but most of that interest has been focused on the Bakken Play. The wells we are referring to in this bill are typically older oil producing formations. Using new technology or engineering techniques on these wells, when successful, keeps the wells producing and the jobs associated with it. It also increases the value to the producer, mineral and royalty owner, and the state of North Dakota.

This bill does not encourage investment.

Reasons why stripper wells are taxed at fixed rates:

- Producers need certainty to justify maintaining production from stripper wells.
- Capital expenditures on low-rate wells are very risky. Decline rates for wells are very steep, so increase in rate is not long-lasting. To encourage operators to enhance production (via stimulation, workover, or re-entry), maintaining the 5% - 6.25% tax on strippers is beneficial to the state.
- There is a sound business case for the stripper wells. Production from these wells contributes greatly to North Dakota's tax surplus. Maintaining activity level is essential.
- It takes nearly as many employees to run a small well as a large well.
- There is a large paperwork burden involved for industry and the state with passage of this bill.
- Discouraging investment in aging oil wells makes no sense. This is a small business that you are encouraging to close rather than assume risk and grow.

Other states marginal well numbers dwarf North Dakota's.

| State | # of Marginal Wells | Annual Production | Average Daily Production |
|---|---|---|---|
| North Dakota | 1,416 | 2,309,795 barrels (bbls) | 4.34 barrels of oil per day (bopd) |
| Montana | 2,505 | 2,011,555 bbls | 2.2 (bopd) |
| Wyoming | 12,464 | 8,281,804 bbls | 1.84 (bopd) |
| Oklahoma | 46,026 | 39,381,486 bbls | 2.39 (bopd) |

2007 Marginal Oil Well Survey (Source: Interstate Oil and Gas Compact Commission)

Comments from a North Dakota producer:

> Stripper "units" status vs individual well stripper status
> "Horizontal drilling within a unit is a tremendous advantage for the state, the mineral owners, and oil companies. Units allow long laterals and optimum well placement. Drilling activity will occur in units where a predictable tax climate exists. If that happens to be in North Dakota, fine. If not, the drilling $$ go elsewhere."
>
> Stripper wells – re-qualifying yearly:
> "Wells do not **incline**, unless they are advantageously affected by a water flood, or improved by workover/re-entry drilling. All of these events involve the oil company risking money to try to improve production. If the production increase does happen, the state gets their 5% tax revenue on a higher volume. If the production increase doesn't happen, the oil company shoulders the burden for its investment efforts. The state should support that investment effort, because that equates to both jobs and tax revenues."

This bill is a step in the wrong direction. The oil and gas industry is paying more than its fair share in taxes to North Dakota. This bill represents a tax increase. We urge a Do Not Pass on SB 2384.

I would be happy to answer any questions.

# N. Dakota: Location and Depth of Stripper Wells

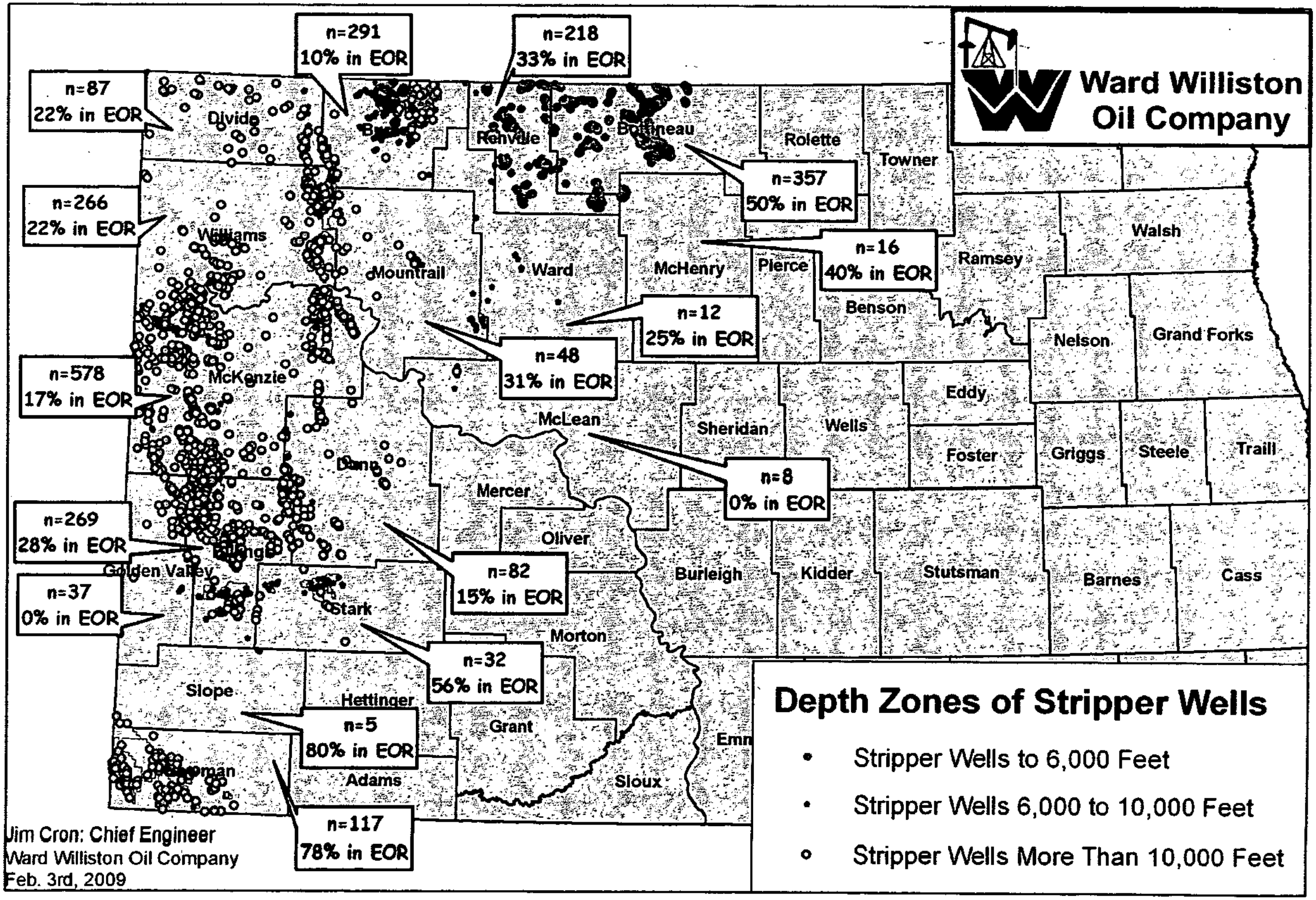
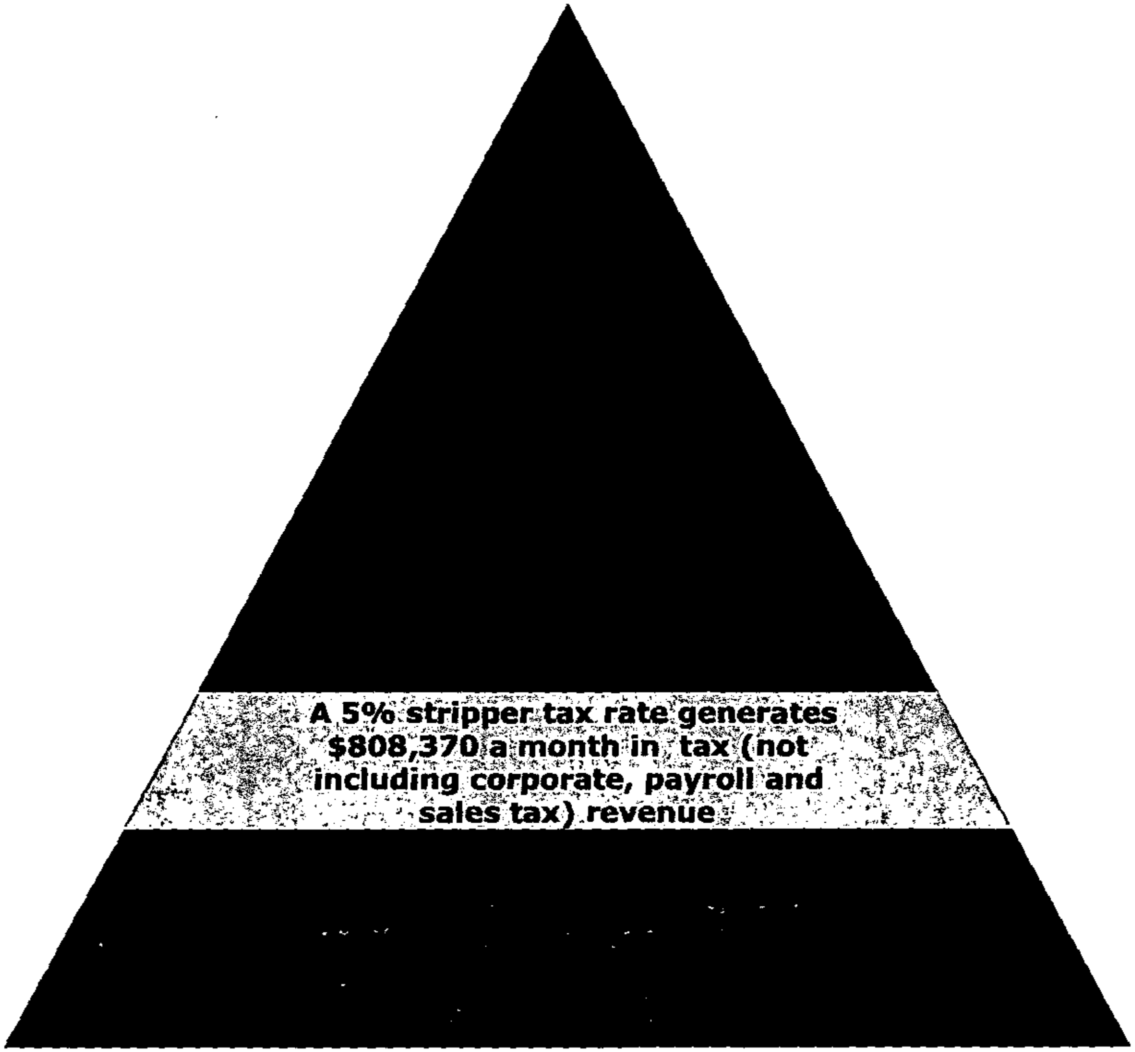



Figure 2

#3

# ND Stripper Oil Well Contributions




* IOGCC Estimate
**NDPC 2008 Facts and Figures (ND Job Service Report)

Ward Williston
Oil Company

Figure 5

#4.

NORTH DAKOTA
CHAMBER of COMMERCE

**Testimony of Jeb Oehlke**
**Senate Bill 2384**
**February 5, 2009**

Mr. Chairman and committee members my name is Jeb Oehlke. I represent the North Dakota Chamber of Commerce, the voice of North Dakota Business. Our organization is an economic and geographical cross section of North Dakota's private sector and also includes state associations, local chambers of commerce, development organizations, convention and visitors bureaus and public sector organizations. For purposes of this hearing we also represent fifteen local chambers with total membership over 6,500 members. A list of those associations is attached. As a group we stand in opposition to SB 2384 and urge a Do Not Pass recommendation from the committee.

One of the hallmark principles of business is: the greater the risk the greater the reward. This bill will greatly diminish the potential reward for the substantial risk of attempting to increase the production of an aging oil well.

The current tax structure creates a business climate that encourages further development, or re-development, of these stripper properties. Along with the development comes the directly and indirectly associated revenue to the state. There are the oil taxes, sales and use taxes, income taxes (both personal and corporate), fuel taxes, and other taxes and fees. Additionally, support businesses depend on these projects to stay in business. Trucking companies, wholesale suppliers, pipeline companies, businesses in the service industry, and others all benefit from the development of stripper properties. The consequences of creating an unfavorable business climate for the companies who own these properties are far reaching and could have a devastating effect on many businesses in this state.

North Dakota's business community believes this bill will result in a significant decrease in oil development in the state and asks the committee to recommend a Do Not Pass on SB 2384. I am happy to answer any questions.

NORTH DAKOTA
CHAMBER of COMMERCE

**The following chambers are members of a coalition that support our 2009 Legislative Policy Statements:**

Beulah Chamber of Commerce – 130 members

Bismarck-Mandan Chamber of Commerce – 1,200 members

Chamber of Commerce of Fargo Moorhead – 1,800 members

Devils Lake Area Chamber of Commerce

Grafton Area Chamber of Commerce

Greater Bottineau Area Chamber of Commerce – 155 members

Harvey Area Chamber of Commerce

Hettinger Area Chamber of Commerce – 145 members

Jamestown Area Chamber of Commerce – 360 members

Kenmare Association of Commerce

Minot Chamber of Commerce – 700 members

North Dakota Chamber of Commerce – 1100 members

Oakes Area Chamber of Commerce – 170 members

Wahpeton Breckenridge Chamber of Commerce – 290 members

Williston Chamber of Commerce – 450 members

Total Businesses Represented = 6,500 members

*The Voice of North Dakota Business*

PO Box 2639 Bismarck, ND 58502 Toll-Free: 800-382-1405 Local: 701-222-0929 Fax: 701-222-1611
www.ndchamber.com ndchamber@ndchamber.com

#5.

# Northern Alliance
## of INDEPENDENT PRODUCERS

January 5, 2009

Chairman Lyson, and Members of the Senate Natural Resources Committee

The Northern Alliance of Independent Producers, urges a DO NOT PASS on SB 2384 for the following reasons:

1. The bill contemplates an annual recertification of any stripper well for tax incentive purposes, and imposes time frames within which the operator, the Tax Commissioner, the North Dakota Industrial Commission (and undoubtedly the Department of Mineral Resources) to review the production from each well, and see if it qualifies for the tax exemption.
2. The bill introduces new terminology "during days of normal recovery operations" as part of the methodology in doing the annual recertification. The terminology is vague and is likely to invite further questions and administrative interpretations.
3. The bill also creates another new special fund from oil and gas taxes called the "enhanced oil recovery fund" the purpose for which is unclear.
4. The timing for creating more challenges, administrative headaches, and disincentives to invest in our state could not be worse in view of recent layoffs, capital expenditure reductions, rigs being shut down and price declines. (Plains Marketing posted price from yesterday for North Dakota oil was $26.83 for sweet and $23.93 sour crude).
5. But, finally and most importantly, the bill creates an enormous disincentive for buying, reworking and maintaining stripper wells that has worked well for North Dakota. Stripper well tax treatment is an important function of investment decisions---whether to buy the well(s), or to re-invest in the wells---and yes our 11.5% tax rate is a factor when companies make those investment decisions. Avoiding part of the 11.5% tax load on gross revenues IS a legitimate factor in making those investment decisions. Stripper wells are a significant part of our state and our national domestic production. The wells are high maintenance, low productivity, often operated by small "mom and pop" producers in state and represent a regular source of maintenance activity in the service sector of the oil industry. Increasing the tax and the administrative burdens for such wells is likely to discourage further investment and eventually plugging and abandoning that production.

We urge a DO NOT PASS recommendation from this Committee to the North Dakota Senate.

Robert W. Harms

President

Northern Alliance of Independent Producers, Inc.

Bismarck, North Dakota

+16

# Oil and Gas Division

Lynn D. Helms - Director Bruce E. Hicks - Assistant Director

**Department of Mineral Resources**

Lynn D. Helms - Director

**North Dakota Industrial Commission**

www.dmr.nd.gov/oilgas

Senate Bill No. 2384
Senate Natural Resources Committee – Fort Lincoln Room

Testimony by
Bruce E. Hicks
Assistant Director
Oil and Gas Division
Department of Mineral Resources
North Dakota Industrial Commission

Chairman Lyson and members of the Senate Natural Resources Committee, my name is Bruce Hicks. I am the Assistant Director of the Oil and Gas Division of the North Dakota Industrial Commission.

The Industrial Commission has not taken a position for or against this bill, although we offer the following:

1. Section 1 of SB2384 amends North Dakota Century Code Section 38-08-04:

   (a) gives the Commission authority to <u>annually</u> certify to the Tax Commissioner which wells are stripper wells
   - currently only the initial certification to the Tax Commissioner is required since the stripper status does not expire

   (b) gives the Commission authority to certify to the Tax Commissioner which wells involve enhanced recovery operations under Section 3 of this Act
   - creates new certification requirements for enhanced recovery projects

2. Section 2 of SB2384 amends North Dakota Century Code Section 57-51.1-01 by striking the definition of "stripper well property" and redefining it as "stripper well"

   (a) "stripper well <u>property</u>" still appears in Section 57-51.1-03
   - Section 2 appears to attempt to remove the <u>property</u> determination certification, although might not since Section 57-51.1-03 exempts oil from a stripper well property

   (b) Section 1 gives the Commission authority to classify and determine the status and depth of wells that are "stripper well property" as defined by subsection 10, but Section 2 amends subsection 10 so it is no longer defined



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(c) definition includes the phrase "during days of normal recovery operations"
  - "normal recovery operations" is used in enhanced recovery language to define operations prior to unitization—is confusing language when defining the average daily production for a non-unitized well
  - North Dakota Administrative Code Section 43-02-08-03 currently requires the well to be produced at its maximum efficient rate

(d) definition sets the 12-month calculation period to end June 30th
  - this will require certification to occur annually
  - one-time certification currently—"once a stripper, always a stripper"
  - currently any consecutive 12-month period can be used
  - 2238 wells stripper wells currently—52% of current producing wells

3. Section 3 of SB2384 creates new criteria for <u>recertifying</u> stripper wells in an enhanced recovery project:

   (a) if the well has had stripper status one calendar year prior to implementation of the enhanced recovery project and has lost status due to increased production from the project, can remain exempt until cost of the project is recouped
     - enhanced recovery project must exceed $25,000 or see production increase 10% during first 6 months after commencing project
       - all projects will cost > $25,000
       - most projects will not "see" production increase during first 6 months
       - could postpone or cancel enhanced recovery projects
     - Industrial Commission shall review cost information provided by the operator and determine the proper limit for the well and when recouped
       - will be time-intensive and require one additional full time employee on Industrial Commission staff
       - review may require expertise of a petroleum engineer ($125,000/biennium) instead of an engineering technician ($115,000/biennium)

4. Section 4 of SB2384 requires the Industrial Commission to submit an annual certification of all stripper wells by September 30:

   (a) one-time certification currently—"once a stripper, always a stripper"
   (b) not sure if will be able to meet deadline until actually implement the procedure
   (c) amended reports routinely submitted and will require recalculations
   (d) some wells not currently certified will be automatically certified under this bill

5. Section 5 of SB2384 concerns the Tax Department and not our agency.

Passed out in discussion

## Lyson, Stanley W.

**From:** Eric_Dille@eogresources.com
**Sent:** Thursday, February 05, 2009 6:56 AM
**To:** Lyson, Stanley W.
**Subject:** Re: Please Oppose SB-2384

Thank you, Mr. Chairman!

----- Original Message -----
From: "Lyson, Stanley W." [slyson@nd.gov]
Sent: 02/05/2009 06:45 AM CST
To: Eric Dille
Subject: RE: Please Oppose SB-2384

Thanks for writing. I plan to vote no. Stan

-----Original Message-----
From: Eric_Dille@eogresources.com [mailto:Eric_Dille@eogresources.com]
Sent: Tuesday, February 03, 2009 12:51 PM
To: Lyson, Stanley W.; Hogue, David J.; Erbele, Robert S.; Freborg, Layton W.; Pomeroy, Jim R.; macscheider@nd.gov; Triplett, Constance T.
Cc: Eric Dille
Subject: Please Oppose SB-2384

Dear Mr. Chairman and Committee Members,

On behalf of EOG Resources I am writing you today to ask that you vote against SB-2384, the Stripper Well Tax increase bill.

You should oppose this bill for the following reasons:

-Capital expenditures on low volume wells represents considerable business risk for operators. There is no guarantee of return on investment.

-Policy that encourages operators to make the investment to enhance stripper well production is necessary. Therefore, maintaining the existing 5% tax on stripper wells is beneficial to the State over the life of a well.

-Stripper wells currently provide 18% of US oil production and creates 10 jobs for every $1 million of revenue generated. Stripper wells contribute greatly to the State's tax surplus. Policy that sustains stripper well production is vital.

-The oil industry in North Dakota paid over $800 million in taxes between 2007-2009. Increasing taxes on stripper wells is not good, sustainable tax policy.

lease vote against SB-2384!

k You,

INTERSTATE
Oil & Gas
COMPACT COMMISSION

P.O. Box 53127 Oklahoma City, Oklahoma 73152-3127

900 N.E. 23rd Street Oklahoma City, Oklahoma 73105

Phone: 405.525.3556 Fax: 405.525.3592 Web: www.iogcc.state.ok.us

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Nevada
New Mexico
New York
North Dakota
Ohio
Oklahoma
Pennsylvania
South Dakota
Texas
Utah
Virginia
West Virginia
Wyoming

October 5, 2007

Mr. Robert W. Harms
President
Northern Alliance of Independent Producers
815 Mandan Street
Bismarck, ND 58501

Dear Mr. Harms,

I urge you to take a look at the enclosed report "Marginal Wells: Fuel for Economic Growth," which highlights a very important segment of the oil and gas industry that supplies quality jobs and valuable tax revenue to this country.

Marginal oil and natural gas wells, defined as those producing less than 10 barrels of oil or 60 Mcf of natural gas per day, provide vital energy and economic security to states and the nation every day. The Interstate Oil and Gas Compact Commission, an organization that represents 37 oil and gas producing states, has recognized the significance of marginal wells and has documented their production for more than 65 years.

This year's numbers again tell an encouraging story of tiny wells, small companies and individual entrepreneurs. In 2006 these wells contributed nearly 18 percent of oil and 9 percent of natural gas produced in this country.

Marginal oil and gas wells also fuel economic growth for states and the nation. In 2006, states collected more than $1.2 billion in severance taxes from producing marginal wells. On a national level every $1 million of marginal oil and gas produced creates 9 jobs.

However, the small "mom and pop" operators who typically run these wells many times find them expensive to maintain. An economic analysis of 11 survey states conducted by Dan Olds of Ryder Scott Petroleum estimated marginal wells that were plugged and abandoned in those states resulted in a loss of $1.77 billion in economic output, $369.2 million in earnings reductions and 8,223 jobs.

I hope the information within this report explains the important role marginal wells continue to play in providing for our energy future. For additional information about the IOGCC or to request more copies of this study, log on to www.iogcc.state.ok.us or call 405-525-3556, ext. 101.

Sincerely,

Erica Carr

Erica Carr
Communications Manager
Interstate Oil and Gas Compact Commission

Enclosure: "Marginal Wells: Fuel for Economic Growth"

COLLECTIVELY REPRESENTING THE STATES

SB 2384

INTERSTATE
Oil & Gas
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Find this online as noted in letter to Robert Harms or contact Mr Harms —

# MARGINAL WELLS:

## 2007 Report

FUEL

FOR

ECONOMIC

GROWTH