

2011 HOUSE AGRICULTURE

HB 1232

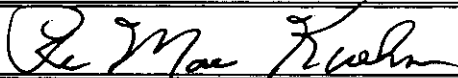
2011 HOUSE STANDING COMMITTEE MINUTES

House Agriculture Committee
Peace Garden Room, State Capitol

HB 1232
January 21, 2011
Job #13199

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Obstructions on section line roads.

Minutes:

Rep. Monson, Co-Sponsor: (Attached testimony #1)

Representative Boe: How are we going to track down who left obstructions in the road in the case of mud?

Rep. Monson: In some cases it might be difficult. In most cases the Township officers can track back where the mud came out of the field. They know who owns what or can find out.

Representative Belter: My concern would be from the liability perspective. I know that when harvesting sugar beets and you are always dragging mud on the road, most growers remove mud as quickly as possible. But sometimes it takes a while to get a tractor over there to remove it. Will this language increase liability to the farm operator.

Rep. Monson: I don't believe so because nothing has changed. If you as a farmer make a hazard on the road and somebody hits it and has an accident, the liability is the same. This just gives the right if no one removes it. The township can remove it and then send the bill to whoever left it there. Mr. Walstad in Legislative Council thought this would be cleaner and safer way to do it.

Representative Mueller: I applaud the clean-up of the language. We could go one step farther. Take a look at p. 2, line 15. The law currently says the adjacent landowner is responsible. It is not my problem if the neighbor put it on there. May be that should say "or the party responsible for creating the obstruction."

Rep. Monson: If you feel that makes it better I don't have a problem.

Representative Rust: The words "as soon as practical." Is that in the eye of the beholder? That can mean different things to different people.

Rep. Monson: We did struggle with it a bit. This is the language Mr. Walstad, the township officers, and I came up with. I also wondered about that. Thirty days is too long to let it set there. They still have to notify that farmer. Once they have notified them and the farmer says I don't have time to do it, then the township officer can say, "then we'll do it." If you have something better . . .

Kenneth Yantes, Executive Secretary of ND Township Officers Association:
(Attached testimony #2)

Reads email from **Chuck Thacker, Past President of Township Officers Assn. from Pembina Co.:** In our township we have problems due to sugar beet farmers during wet conditions. In the past year we've had two people hit the ditch due to slippery mud on the road. I would like to see this bill become law.

Representative Headland: In a case where township officers put up a road closed sign on the side of the ditch, it stays there all summer long. It is time for the property owner to mow his ditches. He drives around it because he doesn't feel it is his responsibility to move. Now there is tall grass for winter. Who is responsible?

Kenneth Yantes: To leave a sign that long, the officers should have taken care of that.

Representative Boe: We are leaving this up to the township for a reasonable amount of time for notification or removal. Are they taking on additional liability if someone would get injured because of the obstruction? Can they come back to the township?

Kenneth Yantes: Liability is difficult to point out. My opinion doesn't go too far.

Chairman Johnson: It originally is in law to notify adjacent owner. You come out of a section line and are going down road. The mud doesn't start flying until a quarter mile down the road by adjacent property? It wasn't coming from their land. How do you deal with that?

Kenneth Yantes: That is a problem. But what else do we do? That is what the law has been in the past. If you can figure out how to make it better, we would support it

Chairman Johnson: The mud, with reasonable time of notification, what if you have an accident five hours later?

Larry Syverson, Chairman of the Board of Township Supervisors of Roseville Township of Traill Co. and President of ND Township Officers Assn.: (Attached testimony #3 and nine pictures from township in Grand Forks County)
Pictures with a 17 in the lower right were taken on December 17 and the ones with a 20 on the lower right were taken January 20.

Representative Headland: I understand the problem. It is currently illegal. If we pass this bill, do you believe that any of that is going to change or is this a means to bill it back on the taxes?

Larry Syverson: Some counties have approached this matter. We can't find in state law that it is forbidden. Our fear is that we could be reversed in court like Fargo and have to pay back some money.

Representative Holman: With a declining number of farmers, we have people who want to live in the country. People want that beautiful place but don't have snow removal. Is this an incentive that if you want to live in the country, you have to take care of things?

Larry Syverson: This is a request to have a tool so the roads are safe for all the public.

Representative Wrangham: What about when the county cleans the road? Are they allowed to leave a bank on the right of way? Will the townships be expecting the county to remove that snow?

Larry Syverson: That is not our intention. We try to get the blade operators to wing it off so it levels off. Some need education. That is not our intent.

Representative Rust: As I drive up Highway 83, I will be going by intersection snow piles higher than your pictures. A pickup can't see over them. Does this bill affect roads like that?

Larry Syverson: This bill does not include state highways. Those situations are unavoidable. What we are addressing here is on the pictures taken December 17. There wasn't that much snow otherwise and all at once there was a huge pile of snow. That is an unusual occurrence along that roadway.

Representative Headland: The counties are somewhat behind on snow removal. The township road where I live, I have had to use my equipment for myself and others. I probably don't have the proper equipment. When snow is 2 or 3 ft. deep, you are stopped because of the amount of snow in front of you. The only alternative is to push it to the side of the road the best that you can. How would you respond to that?

Larry Syverson: That is an interesting dilemma. This law is not perfect. We are trying to deal with as many situations that we can.

Representative Trottier: I am heading to a funeral caused by a snow pile on a state highway. A lot goes back to common sense of township officers.

Doug Schonert, Burleigh Co. Commissioner: As far as mud on a road, it is a minor problem in this area. But snow is a problem. We have had a problem for many years. We have 46 townships in our county. Forty are organized and have their own township officers. Six are unorganized so we handle the township duties for them. We maintain the roads in all 46 townships. All of the township roads, we subcontract to the townships to do their maintenance and snow removal. They identify the roads and we take care of it. Pushing snow from private properties is a problem. I have a list of eleven addresses that have been contacted.

We support this. Once they push a pile of snow out by the road, it becomes a problem and even has damaged equipment. There are 300 subdivisions that circle Bismarck. Most of these eleven addresses are 40 acre tracts like hobby farmers. Some don't have the right type of equipment. But they need to either get it or make arrangements to have someone move their snow. When we contact them, they call me and say we have no authority. The states attorney told me, "You have to back off." We are looking forward to some type of law to help us back this up.

Opposition: none

Chairman Johnson: Closed the hearing.

2011 HOUSE STANDING COMMITTEE MINUTES

House Agriculture Committee
Peace Garden Room, State Capitol

HB 1232
January 27, 2011
Job #13544

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Committee work on obstructions on section line roads.

Minutes:

Chairman Johnson: We have suggestions that some of the township officers brought in by Larry Syverson. (See attached #1)

John Olson, BNSF: Brought amendment. (See attached #2) The law has been significantly changed where you are eliminating the permanent obstructions to any obstruction. The railroad's concern is that we often times do work on crossings that normally are on section lines. That would be a temporary obstruction. We are concerned about that prohibition and about the elimination of that permanent also compels us to go to the township supervisors and the county commissioners and get permission to do what we have always been doing. That is in Section 1.

Section 2, when you have eliminated some of the language there is some technical heartburn with the railroad on making sure that if section lines are improved that the railroad is not required at that point to remove permanent facilities.

The amendment would add to subsection 1 a new subsection which would be 4. It would say that "subsections 1 and 2 shall not apply to a railroad company or its contractors who are performing maintenance and repair work of railroad track, crossings or other railroad facilities."

The amendment to section 2 would create another subsection that would say "the provisions of this section do not apply railroad facilities."

Representative Boe: Have you seen the other amendment?

John Olson: No.

Representative Boe: If we chose to not go forward with this bill, would that please you?

John Olson: It would eliminate any concern that we had.

Larry Syverson, ND Townships: Some of the concerns from the committee were that this could apply to snow that was pushed. So we inserted the text in yellow that specifies "brought from outside the right-of-way." The full paragraph that is added is reference to in some cases the problem may not be caused by a adjacent landowner. Since we would not have a tax hold on the individual, it would have to be treated as a case of littering. They would have their day in court for us to have a handle on it.

We have no quarrel with the railroad doing necessary work in manner that is consistent with traffic safety.

Representative Boe: What is the penalty for littering on the highway?

Larry Syverson: That is in a bill that passed from the house yesterday. They raised the minimum to \$200 with a maximum of \$500 for an infraction.

Representative Belter: Moved the railroad amendments

Representative Rust: Seconded them.

Voice Vote taken. Motion passed.

Representative Wrangham: Moved to add the words "brought from outside the right-of-way" in the two places that are suggested in attached #1.

Representative Schatz: Seconded.

Voice Vote taken. Motion passed.

Representative Headland: Moved **Do Not Pass** as amended.

Representative Boe: Seconded the motion.

Representative Trottier: That means that the large section is not part of the amendment.

Chairman Johnson: correct.

Representative Boe: The way the bill is now, it would specify where the mud or snow would have to come from. With the large section not in there, that leaves the penalty phase of putting on the taxes of the adjacent landowner that probably had nothing to do with the problem. I don't know if that is the right way to go. I will support the Do Not Pass.

Representative Schmidt: I am also concerned about the adjacent landowner because in my case I would be that adjacent landowner. I do not want to hold the adjacent landowner responsible for somebody else's actions.

A Roll Call vote was taken on **Do Not Pass as amended.**

Yes: 11, No: 1, Absent: 2,
(Representatives Rust and Wall)

DO NOT PASS as amended carries.

Representative Boe will carry the bill.

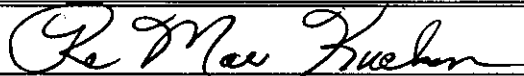
2011 HOUSE STANDING COMMITTEE MINUTES

House Agriculture Committee
Peace Garden Room, State Capitol

HB 1232
February 3, 2011
Job #13938

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Committee work--relating to obstructions on section line roads

Minutes:

Chairman Johnson: Last week we sent this bill out with **Do Not Pass**. We've been holding this bill because if we send it out with Do Not Pass, it goes back to the original language. The concerns the committee had was notification of adjacent land if debris was on the section line. That gave the sponsors an opportunity to come up with language to fix that.

If we can have a motion to reconsider our actions to move this bill forward:

Representative Wrangham: Moved to reconsider action of **Do Not Pass**

Representative Trottier: Seconded the motion

Voice Vote taken. Motion Passed.

Chairman Johnson: Amendments (11.0533.01002) have been distributed. The bill is open again.

Rep. Monson, Co-Sponsor: The township officers from Pembina County wanted me to introduce this bill. We saw that it needed a lot of clean up. For example, the way the law is now, if I take down some trees and load up the pickup. On the way out of town, if the trees fall off, the adjacent landowners would be sent the bill if they are not removed within 30 days. That is what the beginning of this bill started to do. If you killed the bill as it is, you have the same problem. It is a bad law. That is why I asked to bring it back. This amendment takes out the language we put in.

Representative Mueller: This is to place the responsibility on the proper party in regard to rubbish, mud, snow, etc. Hazards can include mud, snow.

Rep. Monson: On amendment p. 2, line 25, is the part my township officers would like to see new. It does put the burden on who did it. Maybe you don't want to bill somebody who leaves the hazard. The way it is now, if someone wanted to drop snow on a road they could. My neighbors do clean their yard with a bucket; they could pile it on the road. I own

the land across from their yard. The original bill if it covered snow, I would have to pay the bill. Now we just made it a traffic hazard. Each township officer or county commission might have a different idea of what is a hazard.

Representative Belter: On p. 2, subsection 2, last line, "the obstruction of traffic" and "the person might be billed for the removal of the obstruction." When you talk about removal of obstruction, when we have severe muddy conditions for beet and potato harvest, sometimes these roads get covered with mud one-half to one mile. Is it our intent that the costs would only be charged for the cost of removing the mud to the best of our ability or are you charged for graveling the road to get it back into condition?

Rep. Monson: I don't know what the state does. They grade that off to the best of their ability. I would hope it is not more than just the bill for the grader to take it off. There are no fines or penalty. It is just the guy that put it there is asked to remove it. If the county has to do it and the gravel gets taken off, he might get a bill. He could say it is excessive. If you would like to change it to something better, that is OK.

Representative Belter: My concern is, we are not suggesting as legislative intent that we are opening the door for counties, townships, or the state to come in and aggressively send bills.

Rep. Monson: It says "must be billed for any costs incurred by the county or township for removal of the obstruction." It doesn't say for regaveling or resurfacing. They have to notify you. The township people probably have mud from their own field coming on the road. Legislative intent is only the cost of removal.

Representative Headland: Does the reference to "the vertical plane of 33 feet" have to be in there. Sometimes the section line is farmed or hayed. Is that new language?

Rep. Monson: No, that is already in there. The purpose of that is if trees start growing over the top of a road, they have to come out to trim. That is a permanent obstruction. If it is anchored in the ground, it is considered permanent. That is already in law.

Chairman Johnson: That refers to when section lines are open or closed.

Rep. Monson: That is correct. Several sessions back there was a fight about people putting up fences across township roads. This part of law was piecemealed together to address fences. We left all that in there.

Representative Wrangham: The bill we were acting on before, one of the amendments was, "places or causes to be place upon the section line or highway road surface any traffic hazard or accumulated snow or mud." Now in the amendment those lines are eliminated. I think it is clear that accumulated snow and mud are not part of this process.

Rep. Monson: Accumulated snow or mud could be an obstruction or a traffic hazard in Section 2 of this amendment. It is not a permanent one. All amendments on page 1 put the original law back in place. Branches falling off are not permanent obstructions. So if you adopt the first part and not section 2, I can drop all the trees I want.

Representative Mueller: On the back page three lines from the bottom, the ability to put on the tax bill the cost of removal "must" be billed. Is that what we want? Or would "may" be billed be better?

Rep. Monson: I would agree. "May" is a much better word.

Representative Schmidt: On line 15 it still refers to owners of adjacent property. Line 24 it says adjacent property. Why couldn't we take what you have for your amendment in #2 and strike from line 10 to line 25 and replace it with this?

Rep. Monson: That is in current law now. That is dealing with permanent obstructions. Now the owner of a permanent obstruction is going to get the bill.

Representative Schmidt: I do like what you have in #2. I don't want to hold the adjacent landowner responsible for mud that is on the road.

Rep. Monson: If you adopt these amendments, the adjacent landowner will not get the bill for mud. Only the landowner that has permanent obstructions will get a bill. That is in law now.

Representative Belter: Moved to change "must" to "may" and the amendments presented by Rep. Monson.

Representative Headland: Seconded the motion.

Voice vote taken. Motion carried.

Representative Mueller: Moved Do Pass as amended on HB 1232.

Representative Schatz: Seconded motion.

A Roll Call vote was taken. **Yes: 13, No: 0, Absent: 1,**
Representative Boe)

DO PASS as amended carries.

Representative Mueller will carry the bill.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1232

Page 2, after line 8, insert:

- "5. Subsections 1 and 2 shall not apply to a railroad company or its contractors who are performing maintenance and repair work of railroad track, crossings or other railroad facilities."

Page 3, after line 7, insert:

- "3. The provisions of this section do not apply to railroad facilities."

Date: 1/27/11

Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1232

House **Agriculture** Committee

Legislative Council Amendment Number Railroad amendment

Action Taken: ☐ Do Pass ☒ Do Not Pass ☐ Amended

☐ Rerefer to Appropriations

Motion Made By Representative Belter Seconded By Representative Rust

Representatives	Yes	No	Representatives	Yes	No
Dennis Johnson, Chair			Tracy Boe		
Joyce Kingsbury, Vice Chair			Tom Conklin		
Wesley Belter			Richard Holman		
Craig Headland			Phillip Mueller		
David Rust					
Mike Schatz					
Jim Schmidt					
Wayne Trottier					
John Wall					
Dwight Wrangham					

Total Yes _____ No _____

Absent _____

Bill Carrier _____

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

Date: 1/27/11

Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1232

House **Agriculture** Committee

Legislative Council Amendment Number (see below)

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended

☐ Rerefer to Appropriations

Motion Made By Representative Wrangham Seconded By Representative Schatz

Representatives	Yes	No	Representatives	Yes	No
Dennis Johnson, Chair			Tracy Boe		
Joyce Kingsbury, Vice Chair			Tom Conklin		
Wesley Belter			Richard Holman		
Craig Headland			Phillip Mueller		
David Rust					
Mike Schatz					
Jim Schmidt					
Wayne Trottier					
John Wall					
Dwight Wrangham					

Total Yes _____ No _____

Absent _____

Bill Carrier _____

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

Add "brought from outside the right-of-way"

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1232

Page 1, line 12, after "mud" insert ", brought from outside the right-of-way."

Page 2, after line 6, insert:

- "4. Subsections 1 and 2 do not apply to a railroad company or its contractors who are performing maintenance and repair work of railroad track, crossings, or other railroad facilities."

Page 2, after line 9, insert:

"1."

Page 2, line 13, after "mud" insert ", brought from outside the right-of-way."

Page 2, after line 25, insert:

- "2. This section does not apply to railroad facilities."

Renumber accordingly

Date: 1/27/11

Roll Call Vote # 3

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1232

House **Agriculture** Committee

Legislative Council Amendment Number (see below)

Action Taken: ☐ Do Pass ☒ Do Not Pass ☒ Amended

☐ Rerefer to Appropriations

Motion Made By Representative Headland Seconded By Representative Boe

Representatives	Yes	No	Representatives	Yes	No
Dennis Johnson, Chair	X		Tracy Boe	X	
Joyce Kingsbury, Vice Chair	X		Tom Conklin	X	
Wesley Belter	X		Richard Holman	X	
Craig Headland	X		Phillip Mueller	X	
David Rust	AB				
Mike Schatz	X				
Jim Schmidt	X				
Wayne Trottier	X				
John Wall	AB				
Dwight Wrangham		X			

Total Yes 11 No 1

Absent 2

Bill Carrier Representative Boe

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

Add "brought from outside the right-of-way"

Add Railroad amendment

Date: 2/3/11

Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB1232

House **Agriculture** Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended

☐ Rerefer to Appropriations

Reconsider Do Not Pass

Motion Made By Representative Wrangham Seconded By Representative Trottier

Representatives	Yes	No	Representatives	Yes	No
Dennis Johnson, Chair			Tracy Boe		
Joyce Kingsbury, Vice Chair			Tom Conklin		
Wesley Belter			Richard Holman		
Craig Headland			Phillip Mueller		
David Rust					
Mike Schatz					
Jim Schmidt					
Wayne Trottier					
John Wall					
Dwight Wrangham					

Total Yes _____ No _____

Absent _____

Bill Carrier _____

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

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1232

Page 1, line 2, after "obstructions" insert "and traffic safety hazards"

Page 1, line 7, after the boldfaced dash insert "**Obstructions and traffic safety hazards -**"

Page 1, line 8, remove the overstrike over "~~permanent~~"

Page 1, line 8, overstrike ", stone, tree"

Page 1, line 9, overstrike "or portion of a tree, or rubbish"

Page 1, line 10, remove "or place or cause"

Page 1, remove line 11

Page 1, line 12, remove "accumulated snow or mud that creates a traffic safety hazard."

Page 1, line 14, overstrike "the case may be" and insert immediately thereafter "appropriate"

Page 1, line 19, after "2." insert "A person may not place or cause to be placed any obstruction or traffic safety hazard within the vertical plane of thirty-three feet [10.06 meters] of any section line or within the right of way of any highway, unless written permission is first secured from the board of county commissioners or board of township supervisors, as appropriate.

3."

Page 2, line 4, overstrike "3." and insert immediately thereafter "4."

Page 2, line 4, overstrike "2" and insert immediately thereafter "3"

Page 2, line 6, overstrike "2" and insert immediately thereafter "3"

Page 2, line 9, after "of" insert "permanent"

Page 2, line 9, overstrike "**when section lines opened**"

Page 2, line 9, after the boldfaced dash insert "**Removal of obstructions and traffic safety hazards -**"

Page 2, after line 9, insert:

"1."

Page 2, line 10, remove the overstrike over "a" and remove "an"

Page 2, line 10, after "an" insert "permanent"

Page 2, line 10, remove the underscored comma

Page 2, line 10, overstrike "stone, tree or portion of a tree, or"

Page 2, line 11, overstrike "rubbish"

Page 2, line 12, remove ", or places or causes to be placed upon the section line or"

Page 2, remove line 13

Page 2, line 14, remove "traffic safety hazard"

Page 2, line 15, overstrike "the case may be" and insert immediately thereafter "appropriate"

Page 2, line 16, after "the" insert "permanent"

Page 2, line 16, remove the underscored comma

Page 2, line 16, overstrike "stone, tree or portion of a tree, or rubbish"

Page 2, line 16, remove "or the traffic safety hazard"

Page 2, line 19, after the second "the" insert "permanent"

Page 2, line 19, remove the underscored comma

Page 2, line 19, overstrike "stone, tree or portion of a tree, or"

Page 2, line 20, overstrike "rubbish"

Page 2, line 20, remove "or to remove the traffic safety hazard as soon"

Page 2, line 21, remove "as practical after the notice is received"

Page 2, line 22, overstrike "the case may be" and insert immediately thereafter "appropriate"

Page 2, line 22, after the second "the" insert "permanent"

Page 2, line 22, remove the underscored comma

Page 2, line 22, overstrike "stone, tree or portion"

Page 2, line 23, overstrike "of a tree, or rubbish"

Page 2, line 23, remove "or material that creates a traffic safety hazard"

Page 2, after line 25, insert:

"2. If a person places or causes to be placed an obstruction or traffic safety hazard within the vertical plane of thirty-three feet [10.06 meters] of any section line or within the right of way of any highway road surface, the board of county commissioners or board of township supervisors, as appropriate, shall issue a written order to the person who caused the obstruction or traffic safety hazard to be placed there to remove the obstruction or traffic safety hazard. If the person notified fails to remove the obstruction or traffic safety hazard as soon as practical after the notice is received, the board of county commissioners or board of township supervisors, as appropriate, shall remove the obstruction or traffic safety hazard. The person responsible for placement of the obstruction or traffic safety hazard is responsible and must be billed for any costs incurred by the county or township for removal of the obstruction or traffic safety hazard."

Renumber accordingly

Date: 2/3/11

Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB1232

House **Agriculture** Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended

☐ Rerefer to Appropriations

Motion Made By Representative Belter Seconded By Representative Headland

Representatives	Yes	No	Representatives	Yes	No
Dennis Johnson, Chair			Tracy Boe		
Joyce Kingsbury, Vice Chair			Tom Conklin		
Wesley Belter			Richard Holman		
Craig Headland			Phillip Mueller		
David Rust					
Mike Schatz					
Jim Schmidt					
Wayne Trottier					
John Wall					
Dwight Wrangham					

Voice Vote on amendment PASSED

Total Yes _____ No _____

Absent _____

Bill Carrier _____

If the vote is on an amendment, briefly indicate intent:
Amendment presented by Rep. Monson LC # 11.0533.01002
and change "must" to "may" on page 2, 3rd line from bottom

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1232

Page 1, line 2, after "obstructions" insert "and traffic safety hazards"

Page 1, line 7, after the boldfaced dash insert "**Obstructions and traffic safety hazards -**"

Page 1, line 8, remove the overstrike over "permanent"

Page 1, line 8, overstrike ", stone, tree"

Page 1, line 9, overstrike "or portion of a tree, or rubbish"

Page 1, line 10, remove "or place or cause"

Page 1, remove line 11

Page 1, line 12, remove "accumulated snow or mud that creates a traffic safety hazard,"

Page 1, line 14, overstrike "the case may be" and insert immediately thereafter "appropriate"

Page 1, line 19, after "2." insert "A person may not place or cause to be placed any obstruction or traffic safety hazard within the vertical plane of thirty-three feet [10.06 meters] of any section line or within the right of way of any highway, unless written permission is first secured from the board of county commissioners or board of township supervisors, as appropriate.

3."

Page 2, line 4, overstrike "3." and insert immediately thereafter "4."

Page 2, line 4, overstrike "2" and insert immediately thereafter "3"

Page 2, line 6, overstrike "2" and insert immediately thereafter "3"

Page 2, line 9, after "of" insert "permanent"

Page 2, line 9, overstrike "**when section lines opened**"

Page 2, line 9, after the boldfaced dash insert "**Removal of obstructions and traffic safety hazards -**"

Page 2, after line 9, insert:

"1."

Page 2, line 10, remove the overstrike over "a" and remove "an"

Page 2, line 10, after "an" insert "permanent"

Page 2, line 10, remove the underscored comma

Page 2, line 10, overstrike "stone, tree or portion of a tree, or"

Page 2, line 11, overstrike "rubbish"

Page 2, line 12, remove ", or places or causes to be placed upon the section line or"

Page 2, remove line 13

Page 2, line 14, remove "traffic safety hazard"

Page 2, line 15, overstrike "the case may be" and insert immediately thereafter "appropriate"

Page 2, line 16, after "the" insert "permanent"

Page 2, line 16, remove the underscored comma

Page 2, line 16, overstrike "stone, tree or portion of a tree, or rubbish"

Page 2, line 16, remove "or the traffic safety hazard"

Page 2, line 19, after the second "the" insert "permanent"

Page 2, line 19, remove the underscored comma

Page 2, line 19, overstrike "stone, tree or portion of a tree, or"

Page 2, line 20, overstrike "rubbish"

Page 2, line 20, remove "or to remove the traffic safety hazard as soon"

Page 2, line 21, remove "as practical after the notice is received"

Page 2, line 22, overstrike "the case may be" and insert immediately thereafter "appropriate"

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Page 2, line 22, remove the underscored comma

Page 2, line 22, overstrike "stone, tree or portion"

Page 2, line 23, overstrike "of a tree, or rubbish"

Page 2, line 23, remove "or material that creates a traffic safety hazard"

Page 2, after line 25, insert:

"2. If a person places or causes to be placed an obstruction or traffic safety hazard within the vertical plane of thirty-three feet [10.06 meters] of any section line or within the right of way of any highway road surface, the board of county commissioners or board of township supervisors, as appropriate, shall issue a written order to the person who caused the obstruction or traffic safety hazard to be placed there to remove the obstruction or traffic safety hazard. If the person notified fails to remove the obstruction or traffic safety hazard as soon as practical after the notice is received, the board of county commissioners or board of township supervisors, as appropriate, shall remove the obstruction or traffic safety hazard. The person responsible for placement of the obstruction or traffic safety hazard is responsible and may be billed for any costs incurred by the county or township for removal of the obstruction or traffic safety hazard."

Renumber accordingly

February 3, 2011

VR
2/4/11
102

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1232

Page 1, line 2, after "obstructions" insert "and traffic safety hazards"

Page 1, line 7, after the boldfaced dash insert "**Obstructions and traffic safety hazards -**"

Page 1, line 8, remove the overstrike over "permanent"

Page 1, line 8, overstrike ", stone, tree"

Page 1, line 9, overstrike "or portion of a tree, or rubbish"

Page 1, line 10, remove "or place or cause"

Page 1, remove line 11

Page 1, line 12, remove "accumulated snow or mud that creates a traffic safety hazard."

Page 1, line 14, overstrike "the case may be" and insert immediately thereafter "appropriate"

Page 1, line 19, after "2." insert "A person may not place or cause to be placed any obstruction or traffic safety hazard within the vertical plane of thirty-three feet [10.06 meters] of any section line or within the right of way of any highway, unless written permission is first secured from the board of county commissioners or board of township supervisors, as appropriate.

3."

Page 2, line 4, overstrike "3." and insert immediately thereafter "4."

Page 2, line 4, overstrike "2" and insert immediately thereafter "3"

Page 2, line 6, overstrike "2" and insert immediately thereafter "3"

Page 2, line 9, after "of" insert "**permanent**"

Page 2, line 9, overstrike "**when section lines opened**"

Page 2, line 9, after the boldfaced dash insert "**Removal of obstructions and traffic safety hazards -**"

Page 2, after line 9, insert:

"1."

Page 2, line 10, remove the overstrike over "a"

Page 2, line 10, remove "an obstruction."

Page 2, line 10, overstrike "stone, tree or portion of a tree, or"

Page 2, line 11, overstrike "rubbish" and insert immediately thereafter "permanent obstruction"

Page 2, line 12, remove ", or places or causes to be placed upon the section line or"

Page 2, remove line 13

Page 2, line 14, remove "traffic safety hazard"

Page 2, line 15, overstrike "the case may be" and insert immediately thereafter "appropriate"

Page 2, line 16, remove "obstruction."

Page 2, line 16, overstrike "stone, tree or portion of a tree, or rubbish"

Page 2, line 16, replace "or the traffic safety hazard" with "permanent obstruction"

Page 2, line 19, remove "obstruction."

Page 2, line 19, overstrike "stone, tree or portion of a tree, or"

Page 2, line 20, overstrike "rubbish" and insert immediately thereafter "permanent obstruction"

Page 2, line 20, remove "or to remove the traffic safety hazard as soon"

Page 2, line 21, remove "as practical after the notice is received"

Page 2, line 22, overstrike "the case may be" and insert immediately thereafter "appropriate"

Page 2, line 22, remove "obstruction."

Page 2, line 22, overstrike "stone, tree or portion"

Page 2, line 23, overstrike "of a tree, or rubbish"

Page 2, line 23, replace "or material that creates a traffic safety hazard" with "permanent obstruction"

Page 2, after line 25, insert:

"2. If a person places or causes to be placed an obstruction or traffic safety hazard within the vertical plane of thirty-three feet [10.06 meters] of any section line or within the right of way of any highway road surface, the board of county commissioners or board of township supervisors, as appropriate, shall issue a written order to the person who caused the obstruction or traffic safety hazard to be placed there to remove the obstruction or traffic safety hazard. If the person notified fails to remove the obstruction or traffic safety hazard as soon as practical after the notice is received, the board of county commissioners or board of township supervisors, as appropriate, shall remove the obstruction or traffic safety hazard. The person responsible for placement of the obstruction or traffic safety hazard is responsible and may be billed for any costs incurred by the county or township for removal of the obstruction or traffic safety hazard."

Renumber accordingly

Date: 2/3/11

Roll Call Vote # 3

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1232

House **Agriculture** Committee

Legislative Council Amendment Number 11.0533.01004

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended

☐ Rerefer to Appropriations

Motion Made By Representative Mueller Seconded By Representative Schatz

Representatives	Yes	No	Representatives	Yes	No
Dennis Johnson, Chair	X		Tracy Boe	AB	
Joyce Kingsbury, Vice Chair	X		Tom Conklin	X	
Wesley Belter	X		Richard Holman	X	
Craig Headland	X		Phillip Mueller	X	
David Rust	X				
Mike Schatz	X				
Jim Schmidt	X				
Wayne Trottier	X				
John Wall	X				
Dwight Wrangham	X				

Total Yes 13 No 0

Absent 1

Bill Carrier Representative Mueller

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

REPORT OF STANDING COMMITTEE

HB 1232: **Agriculture Committee** (Rep. D. Johnson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1232 was placed on the Sixth order on the calendar.

Page 1, line 2, after "obstructions" insert "and traffic safety hazards"

Page 1, line 7, after the boldfaced dash insert "**Obstructions and traffic safety hazards -**"

Page 1, line 8, remove the overstrike over "permanent"

Page 1, line 8, overstrike ", stone, tree"

Page 1, line 9, overstrike "or portion of a tree, or rubbish"

Page 1, line 10, remove "or place or cause"

Page 1, remove line 11

Page 1, line 12, remove "accumulated snow or mud that creates a traffic safety hazard."

Page 1, line 14, overstrike "the case may be" and insert immediately thereafter "appropriate"

Page 1, line 19, after "2." insert "A person may not place or cause to be placed any obstruction or traffic safety hazard within the vertical plane of thirty-three feet [10.06 meters] of any section line or within the right of way of any highway, unless written permission is first secured from the board of county commissioners or board of township supervisors, as appropriate.

3."

Page 2, line 4, overstrike "3." and insert immediately thereafter "4."

Page 2, line 4, overstrike "2" and insert immediately thereafter "3"

Page 2, line 6, overstrike "2" and insert immediately thereafter "3"

Page 2, line 9, after "of" insert "permanent"

Page 2, line 9, overstrike "**when section lines opened**"

Page 2, line 9, after the boldfaced dash insert "**Removal of obstructions and traffic safety hazards -**"

Page 2, after line 9, insert:

"1."

Page 2, line 10, remove the overstrike over "a"

Page 2, line 10, remove "an obstruction."

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Page 2, line 12, remove ", or places or causes to be placed upon the section line or"

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Page 2, line 19, overstrike "stone, tree or portion of a tree, or"

Page 2, line 20, overstrike "rubbish" and insert immediately thereafter "permanent obstruction"

Page 2, line 20, remove "or to remove the traffic safety hazard as soon"

Page 2, line 21, remove "as practical after the notice is received"

Page 2, line 22, overstrike "the case may be" and insert immediately thereafter "appropriate"

Page 2, line 22, remove "obstruction."

Page 2, line 22, overstrike "stone, tree or portion"

Page 2, line 23, overstrike "of a tree, or rubbish"

Page 2, line 23, replace "or material that creates a traffic safety hazard" with "permanent obstruction"

Page 2, after line 25, insert:

"2. If a person places or causes to be placed an obstruction or traffic safety hazard within the vertical plane of thirty-three feet [10.06 meters] of any section line or within the right of way of any highway road surface, the board of county commissioners or board of township supervisors, as appropriate, shall issue a written order to the person who caused the obstruction or traffic safety hazard to be placed there to remove the obstruction or traffic safety hazard. If the person notified fails to remove the obstruction or traffic safety hazard as soon as practical after the notice is received, the board of county commissioners or board of township supervisors, as appropriate, shall remove the obstruction or traffic safety hazard. The person responsible for placement of the obstruction or traffic safety hazard is responsible and may be billed for any costs incurred by the county or township for removal of the obstruction or traffic safety hazard."

Renumber accordingly

2011 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1232

2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee
Missouri River Room, State Capitol

HB 1232
March 24, 2011
15937

☐ Conference Committee

Committee Clerk Signature

Kathie Oliver

Explanation or reason for introduction of bill/resolution:

Relating to obstructions and traffic safety hazards on section line roads.

Minutes:

Testimony attached

Representative Dave Monson: District 10. We introduced this bill on behalf of the township and counties to address the problem dealing with mud and snow that was being left on roads and the inability to have any way to get the person who put it there to get them to remove it. It became quite a long process and I am not sure if it is perfect yet; in many of the sections it turned out to be housekeeping bill. The meat of the bill is the new language. This talks about fence lines and section lines, what we were truly after is on page 2 and 3. Section 2 subsection 2, they added the word permanent in here and I am not sure if it should have been added because the permanent part is in section 1. The old language, the way the law is now, the person who owns the lands on either side, regardless of if they put it there, is billed for it in their taxes. With this language the intent is that the person who actually puts the obstruction there would be billed for the removal.

Senator Cook: I am getting foggy on the problem. The only mud or snow that I have dealt with is snow that I had to remove wasn't put there by a person. What kind of problems are we having with mud and snow that is being placed on a township line?

Representative Monson: Beet trucks track a lot of mud and they leave the mud on the roadway. Maybe it is hay bales, if they drop a bale in the middle of the road that could be a hazard. If someone is plowing their road and they run out of places to put the snow, there is nothing stopping them from dumping it in the middle of the road and then it becomes the county's responsibility to remove it.

Senator Cook: Is it mud that is the problem, is it mostly sugar beet drivers.

Representative Monson: It is all of that.

Senator Cook: Why would they do that?

Representative Monson: Most of the time these township roads, nobody travels on them, so you could get away with doing it. But, maybe there is an instance to get it off of there.

Senator Cook: What does this have to do with trees?

Representative Monson: Right now the language in law talks about trees as obstructions. Line 17-20 on page 1; if a tree growing over the top, it's too close to the road, someone is coming through with their combine it then it can be considered a hazard. I live in town and have a very large backyard. If I loaded up my pickup and brought up my trees out to the farm and the trees happen to fall off en route to the farm, I could leave them there and the property owners on either side of the road would be bills for its removal.

Senator Cook: Will someone be talking to the effect of the billing?

Representative Monson: There will be someone from the Township Officers talking after me. I don't know if they have ever given out a bill. This needs to be fixed and they brought it forth and I put it in for them.

Senator Berry: It seems to me that the reason that they have it in statute is that sometimes you can't prove who put it there but they need to bill someone.

Representative Monson: I believe that is why it is there in this way. So if somebody is planting trees in property they don't own they would not be planting trees so that is where it makes sense.

Senator Berry: It would significantly decrease the county's ability to receive money. There are going to be a lot of times when the landowner denies that it is there obstruction.

Representative Monson: That is why there are 2 sections; one section is for permanent stuff that is growing there and that wouldn't be changing; the other one is for the cases where you can track down someone who tracked the mud out of their field and put it in the middle of the road.

Chairman Dever: Will there be someone to address the amendments you suggested.

Representative Monson: My only concern is the word 'permanent'

Larry Syverson: North Dakota Township Supervisors. See attached testimony #1.

Chairman Dever: So when we have a bad winter that is a different situation?

Larry Syverson: Yes, what we are addressing here is when the snow on the roadways becomes a snow trap.

Representative Monson: Section 2 subsection 1 addresses permanent obstructions. Section 2 line 11 & 12 says removal of obstructions so that is the part that deals with mud and snow and so on.

John M. Olsen: BNSF Railroad. We are concerned because railroads work on section lines. I have distributed an amendment (see attached testimony #2)

Chairman Dever: Contractors that are performing maintenance.

John M. Olsen: I don't think that it has ever been a problem but we believe it is problematic that would put us in the same situation.

Senator Nelson: Is it railroad maintenance policy to put up cones to inform people passing that there is debris?

John M. Olsen: I can't speak to that but I hope so.

Larry Syverson: I would like to point out that any exemption would require the obstructions be marked. I would ask that the amendment be amended that any obstruction be marked.

There was no further testimony in support, opposition, or a neutral position on HB 1232 and Chairman Dever closed the public hearing.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee
Missouri River Room, State Capitol

HB 1232
March 31, 2011
16224

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to obstructions and traffic safety hazards on section line roads.

Minutes:

No testimony attached.

A motion was made by Senator Cook to reconsider the prior action of a do not pass of HB 1232, all were in favor and the committee had the bill before them again. John Olsen had provided amendments to the committee for their consideration.

John Olsen: If you take a look at the statutes less than one section of law the township is liable.

Senator Cook: Do you feel that the township amendments are needed.

John Olsen: Yes I do.

Senator Cook: Hunters and sugar beet trucks are what come to mind. I think that the amendments should be put on the bill; still believe that we have to kill the bill.

Roll was taken to adopt the amendment provided by John Olsen, there was no further discussion, and the motion passed 7-0. Senator Cook then made a motion for a do not pass as amended with a second by Senator Schaible.

Vice Chairman Sorvaag: The argument for killing this is that it will place the burden on the land owner. If you read the bill the burden falls on the landowner if it is a permanent obstruction which the land owner will be responsible for.

Senator Berry: My understanding in changing this is that if the landowner is innocent then they would not be held accountable.

Senator Nelson: I find it a little confusing because it is all under the same section yet the title says permanent obstruction.

Vice Chairman Sorvaag: Subsection 1 deals with the permanent part subsection 2 deals with the not permanent part.

Senator Schaible: Where do you look, if you know where the obstruction is now is the concern that I have.

Senator Berry: Does the bill address the person who notifies about the obstruction. I don't see that it falls back to the person who caused it. My understanding is that current law is written that way.

Senator Nelson: On page 3 what bothers me is that in many cases it is far too long a period of time. If you have a slippery road you don't have time to do this.

Senator Berry: The law is full of discretion for just that reason. I understand the frustration of not having an exact time period.

Vice Chairman Sorvaag: We are discussing something that it has nothing to do with it. This gives them the right of what they want to bill. This brings in an opportunity to bring in the person responsible. It is addressing the issue of how do you compensate the political subdivision who is trying to clean up a mess that has been made.

Senator Cook: I don't think that this is relevant to it, if there is mud on the road and

Chairman Dever: That being the case does the township have the ability to adopt the policy itself.

Senator Marcellais: How do you go after the person who put the debris there? I have gotten calls that one of my garbage bags has fallen off the truck.

Senator Berry: Currently what they do is access the landowner and my thought is that this would alleviate that. I don't see that clarified in here.

Senator Schaible: The word of the testimony it's going on in section 1 of page 2 are including the issues of mud and snow.

There was no further discussion, roll was taken and the motion passed 7-0 with Chairman Dever carrying the bill to the floor.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee Missouri River Room, State Capitol

Bill # 1232
Date March 31, 2011
Job #

☐ Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

Minutes:

Chairman Dever: We inadvertently left out the railroad for the permanent obstructions. I think that our inclusion of that was inadvertent.

Senator Nelson: Section 2 doesn't say anything about permanent obstructions.

John Bjornson: Legislative Council. What I brought to your attention was in section 1 and section 2 the added exemption was put at the end and it exempts them from the entire section which subsection 1 of each of those sections relates to permanent obstructions as I understand it. Which then if they were exempt under the entire section they could make a permanent obstruction. If you limit the exemption for the railroad companies to subsection 2 of each one of those sections they could use the right of ways to do their work but wouldn't be allowed to put permanent obstructions there without the permission of whoever has jurisdiction there.

Senator Cook made a motion to reconsider the action in which they amended HB 1232 and the motion was seconded by Senator Nelson, there was no discussion and the motion passed on a voice vote. Senator Cook then made a motion to amend HB 1232 with a second by Senator Schaible.

John Bjornson: What I was suggesting was that in both of those instances that maybe it has the exception of subsection 2 so that they could work on the right of way property for temporary maintenance work. If that exception just applied to subsection 2 rather than subsection 1 and 2 they could do that work but they couldn't put in a permanent obstruction. Section 2 is a broader exception because it doesn't apply to railroad facilities.

Senator Cook: I am talking about something that is in section 2

John Bjornson: In section 1 of the bill there is something that line 9&10. Neither be removed but limit them to subsection 2 of each of those sections so that the permanent obstructions wouldn't be permitted.

Senator Cook: So on page 2 line 8 it should say that section 2 should not apply and then page 3 line 7 the provisions of subsection 2 in this section do not apply.

Chairman Dever: I think that it will read the same as it does now but subsection 2 will not apply.

The motion to adopt the amendment, roll was taken and the motion passed 7-0. A motion was then made for a do not pass by Senator Cook with a second by Senator Schaible, there was no further discussion, roll was taken and the motion passed 5-2 with Chairman Dever carrying the bill to the floor.

Date: 3/31/11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1230

Senate CVA Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☒ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Cook Seconded By Schaible

Senators	Yes	No	Senators	Yes	No
Chairman Dever		X	Senator Marcellais	X	
Vice Chairman Sorvaag		X	Senator Nelson	X	
Senator Barry		X			
Senator Cook	X				
Senator Schaible	X				

Total (Yes) 4 No 3

Absent _____

Floor Assignment Cook

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

March 31, 2011

JB
3-31-11

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1232

Page 2, after line 8, insert:

"5. Subsection 2 does not apply to a railroad company performing maintenance and repair work of railroad track, crossings, or other railroad facilities."

Page 3, after line 7, insert:

"3. Subsection 2 does not apply to railroad facilities."

Renumber accordingly

Date: 3/31/11
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1232

Senate GVA Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Cool Seconded By Schaible

Senators	Yes	No	Senators	Yes	No
Chairman Dever	X		Senator Marcellais	X	
Vice Chairman Sorvaag	X		Senator Nelson	X	
Senator Barry	X				
Senator Cook	X				
Senator Schaible	X				

Total (Yes) 7 No 0

Absent _____

Floor Assignment _____

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

Date: 3/31/11
Roll Call Vote # 3

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1232

Senate GHH Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☒ Do Not Pass ☒ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Cool Seconded By Schaible

Senators	Yes	No	Senators	Yes	No
Chairman Dever	X		Senator Marcellais	Y	
Vice Chairman Sorvaag		X	Senator Nelson	Y	
Senator Barry		X			
Senator Cook	X				
Senator Schaible	X				

Total (Yes) 5 No 2

Absent _____

Floor Assignment Dever

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

REPORT OF STANDING COMMITTEE

HB 1232, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1232 was placed on the Sixth order on the calendar.

Page 2, after line 8, insert:

"5. Subsection 2 does not apply to a railroad company performing maintenance and repair work of railroad track, crossings, or other railroad facilities."

Page 3, after line 7, insert:

"3. Subsection 2 does not apply to railroad facilities."

Renumber accordingly

2011 TESTIMONY

HB 1232

Testimony on HB 1232

Rep. David Monson

Dist. 10

#1
1/21/08

This bill was introduced on behalf of the ND Township Officers who said the idea originated with my constituents in Pembina County. It started off as a simple bill to include piles of snow and mud in the definition of an "obstruction" in this section of law. When Legislative Council looked at the entire section of code it became apparent that it needed some serious "housekeeping". It appeared that the code had been amended several times over the years and things really didn't fit together correctly. This bill, as you have it before you today, takes out the word "permanent" on line 8 since, really, nothing is permanent.

On lines 10-12 we added new language to include (but not limit) snow or mud as an obstruction and calling those things safety hazards. We felt that not all snow or mud is a safety hazard, but if the township supervisors or county commissioners deem that there is a safety hazard of any kind including snow or mud, they can address it with this bill. Sometimes the safety hazard needs to be removed more quickly than 30 days, so the language on page 2 lines 20-21 allows some leeway on a case by case basis.

Some examples of urgency could be a big hay bale dropped on the shoulder or right of way of a road, a large rock that could easily be hit by traffic, as well as a pile of snow or a lot of mud. In other cases, small amounts of mud or snow may not require any action. It just seemed that allowing the supervisors and the commissioners to use some common sense and judgment makes sense in this case. In any instance, the owner of adjacent property has to be made aware of the obstruction and given a chance to remove the hazard before getting assessed a fee by the township or county. This notification requirement is not new language and is found on p. 2 lines 14-25.

#2
1/21/11

ND Township Officers Association Testimony HB1232

By Ken Yantes

Mr. Chairman Johnson and House Agriculture Committee members:

My name is Kenneth Yantes and I serve as Executive Secretary for nearly 6,000 locally elected township officers.

The office of the state township officers is in my home in Brocket from which I send a quarterly newsletters to our 6,000 members. My name, phone number, mailing address and E-mail address are in the newsletter. Sometimes it seems they all try to communicate with me at the same time at all hours.

Some of the most frequent calls concern what can be done about the deep snow piles on the township road side and with the unusually wet environmental conditions what can be done with the mud we find on our roads? The farming equipment that re-enters the roads after being out in the wet fields are laden with mud in the tires or tracks and is deposited on our roads.

With the reduced size of some of our fuel efficient vehicles, an impact with these mud chunks could be very dangerous for even the most experienced driver.

These mud chunks do constitute a hazard and need to be removed.

Subsection #1 in 24-06-28 lines 8 through 12 include snow or mud as an obstruction that creates a traffic hazard.

24-06-29 is the section of code that says that if an obstruction is noticed within the right of way of a highway the controlling entity shall notify the owners of the adjacent property to remove the obstruction. If the owners fail to remove the obstruction within thirty days **or as soon as practical**, the governmental entity shall remove the obstruction and the cost of same be entered the same as taxes against the adjacent property and paid in the same manner as taxes.

We need HB1232 passed to assure a safe roadway for the traveling public and to generate a greater degree of awareness of what could constitute a traveling surface hazard.

Last night I received this e-mail from past President Chuck Thacker which I would like to read to you.

#3
1/21/11

In support of HB1232:

Good morning Chairman Johnson and members of the House Agriculture Committee.

I am Larry Syverson, a farmer from Mayville and Chairman of the Board of Township Supervisors of Roseville Township of Traill County. I am also the President of the North Dakota Township Officers Association. NDTOA represents nearly 6,000 township officers in 1,340 dues paying member townships.

The pictures being circulated were taken by one of the members of our state board in his home township in Grand Forks County. The photos with a 17 in the lower right were taken on December 17th and the ones with a 20 were January 20th. Grand Forks County has had less snow than much of the state but these pictures show what a big problem these piles of accumulated snow pushed to the shoulder of the road could become. You will note the pictures that include the four wheel drive pickup show that pile to be as tall as the truck. Every time the wind blows these piles are going to catch snow and can easily close the road repeatedly.

Once the snow has been pushed and piled, it is no longer the fluffy compliant stuff that flows around your feet as you walk. It becomes a solid hard frozen mass that would be a very hard sudden stop for any vehicle. It is also an obstacle that even a snow plow would have to avoid or be damaged badly. The only remedy for such piles of snow is to bring in cats and push them out unto the fields or front end loaders and truck them away.

This is a problem state wide, while I only have pictures taken in one township we get questions about what can be done about the snow piles on the side of the road from all over, we tell the township officers to talk to the ones that are causing the problems for their roads

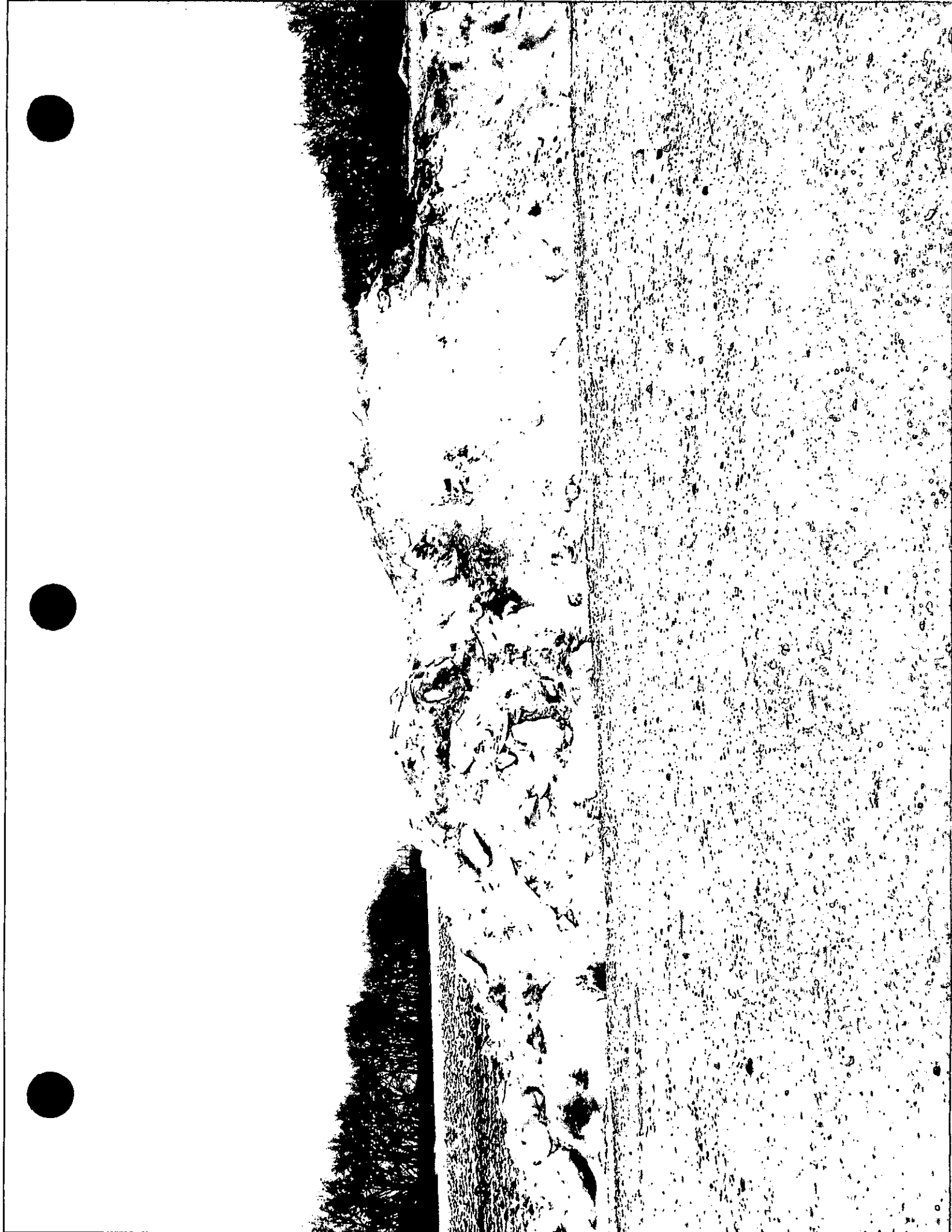
and try to get them to cooperate. Some of these individuals will respond favorably when contacted and will stop this hazardous practice but others take a "you can't make me!" attitude, and perhaps they are right. Any attempt to penalize these obstructions, either snow piles or mud, without a basis in state law could be subject to reversal by a court and result in such levies being refunded. The penalty for violation of this section of the NDCC is not a large fine or fee to bring in funds to the township; it is the actual cost of removal of the hazardous obstruction.

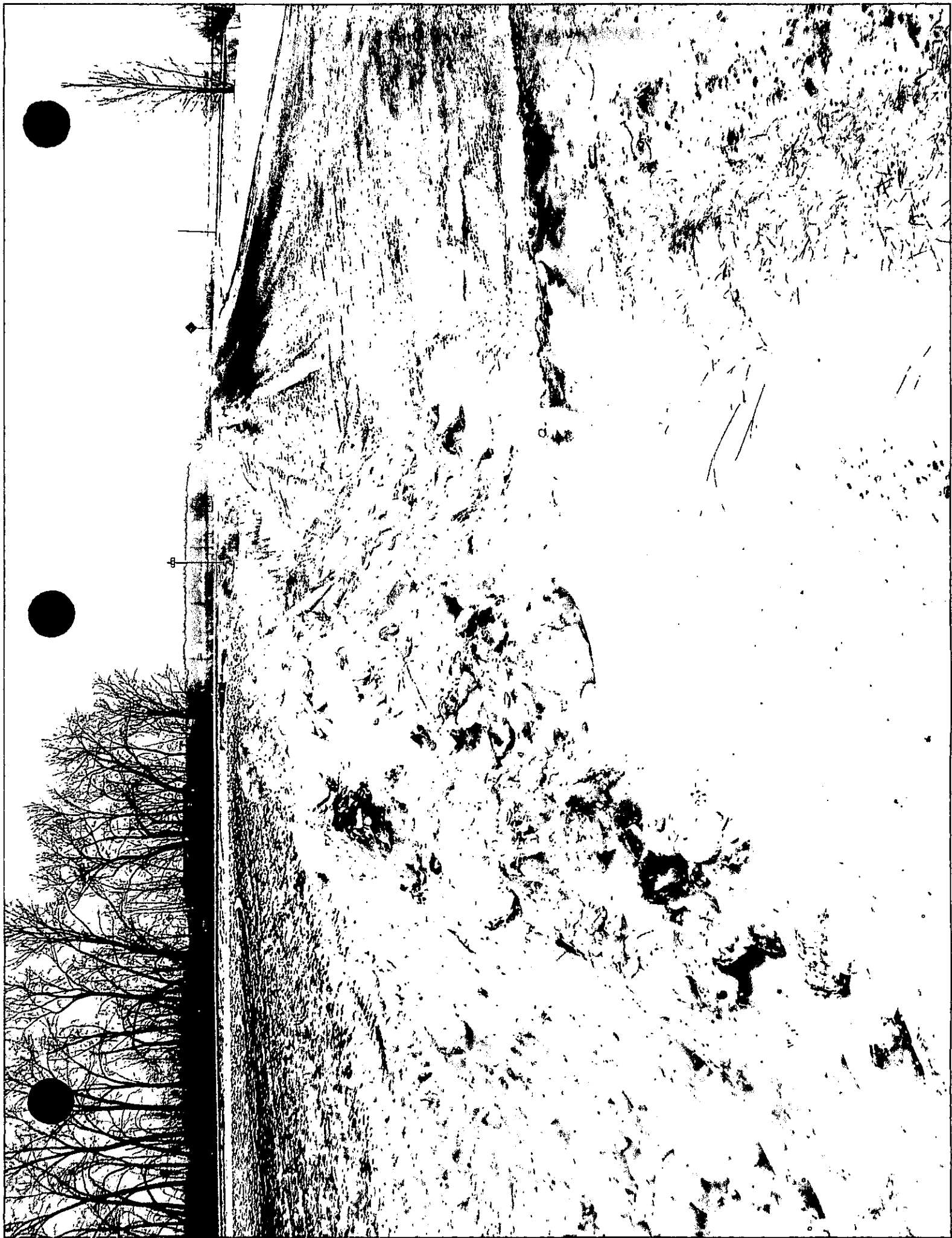
You might ask, if these individuals can't push the snow from their driveways what can they do? They can push the snow onto their own property, like residents of any town or city do with their driveways, they are not allowed to deposit snow in the city right of way. They have to find a place for it on their own lot, and most of them are shoveling it by hand not using a front wheel assist loader tractor.

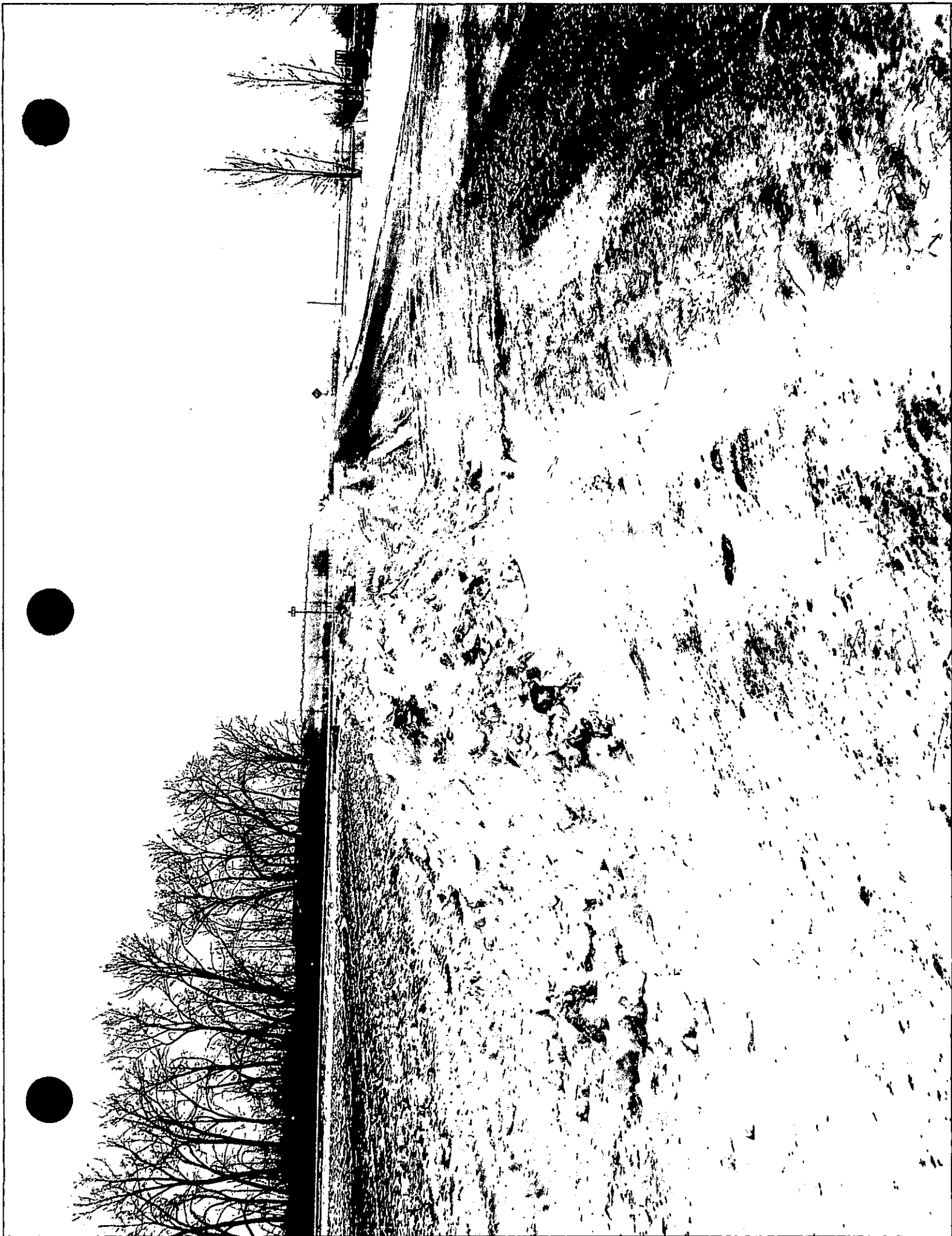
Winter might not seem that menacing when you are sitting in that 225hp front wheel assist tractor with the heater and your trusty cell phone, but this is North Dakota and people still die when they have trouble on our snow covered roads. Please help us convince these short sighted offenders that the roads they have so little respect for are vital for their neighbors and then they may even realize that they are even endangering themselves.

The North Dakota Township Officers Association asks that you give House Bill 1232 a favorable recommendation.

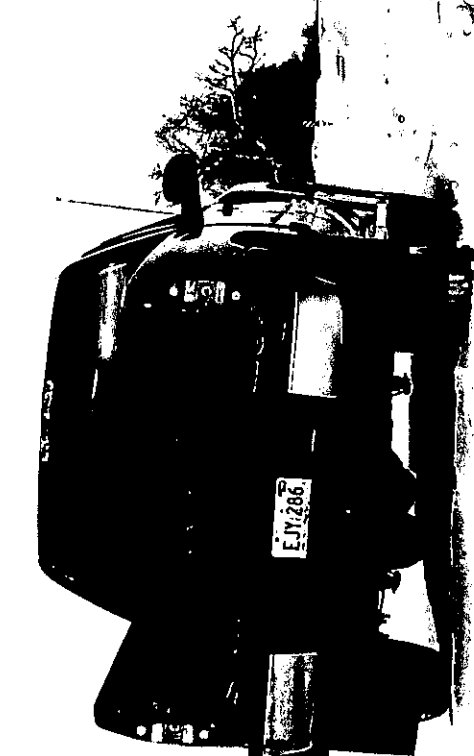
Thank you Chairman Johnson, that concludes my prepared testimony this morning and I will try to answer any questions you or the Committee may have.

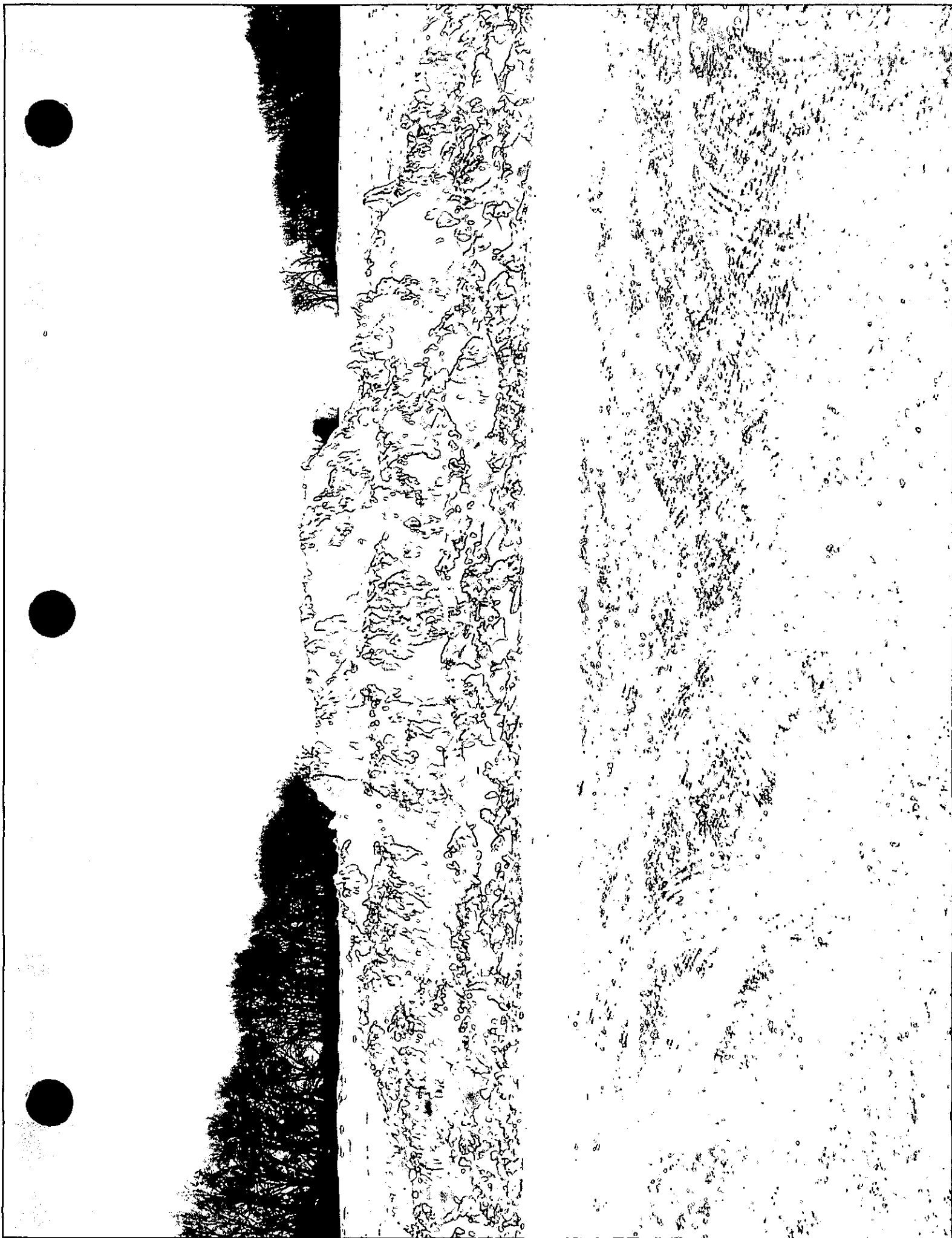


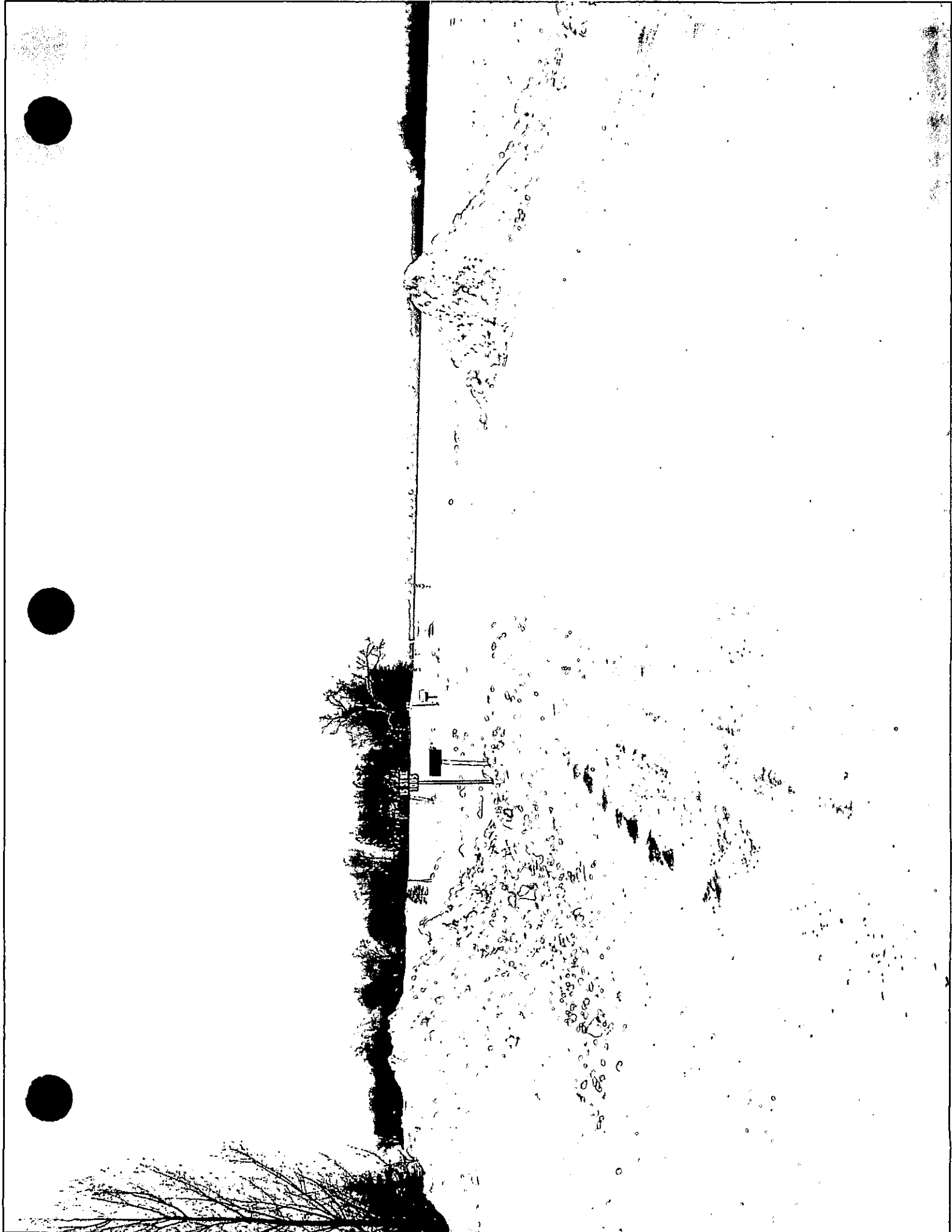






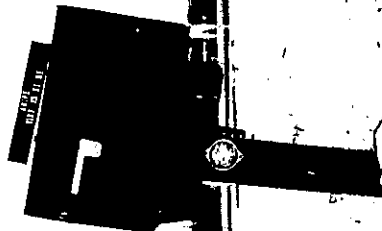








15 ST NE
1187
1191



CW #1

Concerning HB 1232:

To The House Agriculture Committee,

Chairman Johnson and Committee members, I am giving you a few suggestions for amendments to HB 1232 in an attempt to more correctly focus the effects of the law to those conditions we wish to address. Please consider them in your committee deliberations.

Thank you,

Larry A. Syverson

President, North Dakota Township Officers Association

24-06-28. Obstruction of section lines prohibited - Exception - Certain fences not

considered obstructions - Penalty.

A person may not place or cause to be placed any permanent obstruction, stone, tree or portion of a tree, or rubbish within the vertical plane of thirty-three feet [10.06 meters] of any section line or within the right of way of any highway, or place or cause to be placed upon the section line or highway road surface any traffic safety hazard or accumulated snow or mud, brought from outside the right-of-way, that creates a traffic safety hazard, unless written permission is first secured from the board of county commissioners or the board of township supervisors, as the case may be. The permission must be granted where the section line has been closed pursuant to section 24-07-03 or where the topography of the land along the section line is such that in the opinion of the board of county commissioners or board of township supervisors, as the case may be, the construction of a road on the section line is impracticable.

24-06-29. Removal of obstructions when section lines opened - Cost.

If a person places or causes to be placed a an obstruction, stone, tree or portion of a tree, or rubbish within the vertical plane of thirty-three feet [10.06 meters] of any section line or within the right of way of any highway, or places or causes to be placed upon the section line or highway road surface any traffic safety hazard or accumulated snow or mud, brought from outside the right-of-way, that creates a traffic safety hazard, the board of county commissioners or board of township supervisors, as the case may be, when a public highway is opened, shall notify the owners of adjacent property to remove the obstruction, stone, tree or portion of a tree, or rubbish or the traffic safety hazard. Written notice by registered mail to the record owner of the adjacent property mailed to the owner's last-known address and to any other persons in possession of the property constitutes valid notice. If the owners fail to remove the obstruction, stone, tree or portion of a tree, or rubbish within thirty days after the notice is mailed or to remove the traffic safety hazard as soon as practical after the notice is received, the board of county commissioners or the board of township supervisors, as the case may be, shall remove the obstruction, stone, tree or portion of a tree, or rubbish or material that creates a traffic safety hazard. The cost of removal must be entered the same as taxes against the adjacent property and paid in the same manner as taxes.

If the person that placed or caused to be placed an obstruction, stone, tree or portion of a tree, or rubbish within the vertical plane of thirty-three feet [10.06 meters] of any section line or within the right of way of any highway, or places or causes to be placed upon the section line or highway road surface any traffic safety hazard or accumulated snow or mud, brought from outside the right-of-way, that creates a traffic safety hazard, is other than an adjacent landowner, and that person fails to remove the obstruction or hazard when so directed, that person is guilty of an infraction in the same regard as littering on a highway and may be required to pay the costs of removal of the object and or repair of the right of way or road surface in addition to any fines or fees for the infraction.

CW #2

NDLA, SMaj-Sec

olsonpc@midconetwork.com
Thursday, January 27, 2011 10:08 AM
NDLA, SMaj-Sec
Fw: HB 1232

Subject:

Sent from my Verizon Wireless BlackBerry

From: "Sweeney, Brian J" <Brian.Sweeney@bnsf.com>
Date: Thu, 27 Jan 2011 09:06:42 -0600
To: 'olsonpc@midconetwork.com' <olsonpc@midconetwork.com>
Subject: HB 1232

John: here's an amendment for the section line road bill:

Amendment to Section 1

New Subsection 4 to 24-06-28

Subsections 1 and 2 shall not apply to a railroad company or its contractors who are performing maintenance and repair work of railroad track, crossings or other railroad facilities.

Amendment to Section 2

New Subsection 2: The provisions of this section do not apply to railroad facilities.

The reason for this is that a strict reading of the statute says we would have to move tracks if a section line road is built.

In support of HB1232:


Good morning Chairman Dever and Committee members.

I am Larry Syverson, a farmer from Mayville and Chairman of the Board of Township Supervisors of Roseville Township of Traill County. I am also the President of the North Dakota Township Officers Association. NDTOA represents nearly 6,000 township officers in 1,340 dues paying member townships.


We asked that this bill be introduced to satisfy a resolution passed by our association in December of 2009.

The pictures being circulated were taken by one of the members of our state board in his home township in Grand Forks County. The photos with a 17 in the lower right were taken on December 17th and the ones with a 20 were January 20th. Grand Forks County has had less snow than much of the state but these pictures show what a big problem these piles of accumulated snow pushed from a driveway to the shoulder of the road could become. You will note the pictures that include the four wheel drive pickup show that pile to be as tall as the truck. Every time the wind blows these piles are going to catch snow and can easily close the road repeatedly.

Once the snow has been pushed and piled, it is no longer the fluffy compliant stuff that flows around your feet as you walk. It becomes a solid hard frozen mass that would be a very hard sudden stop for any vehicle. It is also an obstacle that even a snow plow would have to avoid or be damaged badly. The only remedy for such piles of snow is to bring in cats and push them out unto the fields or front end loaders and truck them away.



This is a problem state wide, while I only have pictures taken in one township we get questions about what can be done about the snow piles on the side of the road from all over, we tell the township officers to talk to the ones that are causing the problems for their roads and try to get them to cooperate. Some of these individuals will respond favorably when contacted and will stop this hazardous practice but others take a “you can’t make me!” attitude, and perhaps they are right. Any attempt to penalize these obstructions, either snow piles or mud, without a basis in state law could be subject to reversal by a court and result in such levies being refunded. The penalty for violation of this section of the NDCC is not a large fine or fee to bring in funds to the township; it is the actual cost of removal of the hazardous obstruction.



You might ask if these individuals can’t push the snow from their driveways what can they do? They can push the snow onto their own property, like residents of any town or city do with their driveways, they are not allowed to deposit snow in the city right of way. They have to find a place for it on their own lot, and most of them are shoveling it by hand not using a front wheel assist loader tractor.


Winter might not seem that menacing when you are sitting in that 225hp front wheel assist tractor with the heater and your trusty cell phone, but this is North Dakota and people still die when they have trouble on our snow covered roads. Please help us convince these short sighted offenders that the roads they have so little respect for are vital for their neighbors and then they may even realize that they are even endangering themselves.

Snow piles pushed unto road right-of-ways is just one of the obstructions we have to deal with, some farm operations drag huge mud piles unto roadways and the operators simply drive away leaving the hazard for someone else to deal with. Some operators do the right thing by having a loader at the site to push the mud piles off the road right-of-way and even have some gravel hauled to repair the road surface. Others seem to think it is ok to slough the bill off on the tax payers of the township.

Most township board members are farmers and we can certainly sympathize with neighbors that have to harvest crops in horrible conditions or cant' get their bales picked up they day they are made. But the township is legally responsible for the safety of the traveling public on our roadways; all we ask is that the standard of doing this right by your neighbors becomes the legal standard to protect the taxpayers and the traveling public.

We do not seek or want to punish anyone, our goal is to be able to tell these individuals they have to fix what they have done or we will have it done and give them the bill. However if a young driver hits one of these obstacles and is injured or killed, the township will be punished for allowing the hazard, and the township will be sure the person responsible is invited to share in that.

The original bill was badly received in the House Agriculture Committee, all but one voted do not pass. Our prime sponsor, Representative Monson, got the committee to hold their action while he and the code revisers rewrote the bill several times until this version you have before you was developed. This bill then received the committees 13-0-1 do pass recommendation as their concerns were resolved.



We thank the bill sponsor for recognizing the need for this clarification of this law allowing townships to order the removal of a wide range of hazards or the recovery of cost if that order is not complied with.

The North Dakota Township Officers Association asks that you give House Bill 1232 a favorable recommendation.

Thank you Chairman Dever, that concludes my prepared testimony this morning and I will try to answer any questions you or the Committee may have.