

**2013 HOUSE ENERGY AND NATURAL RESOURCES**

**HB 1333**

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Energy and Natural Resources

Pioneer Room, State Capital

HB1333

January 31, 2013

18045

Conference Committee

*Erinette*

Relating to reclamation of pipelines facilities and oil and gas gross production tax for reclamation

**Minutes:**

*Attachments 1-7*

Rep. Porter: We will the hearing on open HB 1333.

Rep. Schatz: This bill has six parts and addresses issues brought forth by landowners concerning multiple easements across their land. (See Attachment 1)

Rep. Skarphol: What I proposing in this amendment is; in relation to title disputes. (Attachment 2)

Ron Ness: President of the N.D. Petroleum Council; this bill is the result of many discussions with landowners across the Bakken Region and specifically working with the Dunn County Landowners Group. (Attachment 3)

Daryl Dukart: A landowner representing Dunn County Energy Development; our concerns are to assist in development of corridor systems to allow ease of access for companies to install the needed transmission gathering lines, provide reclamation and responsibility for abandon lines once no-longer in use, care for the reclamation of tank battery gathering sites along with compressor station sites once abandon and deal with offsite parking area near injection well sites. (Attachment 4)

Myron Hanson: President of Northwest Landowners Association; There is a problem with old equipment, pipelines, well sites, and contaminated areas sitting out there and the companies that last held interest in these facilities are gone along with any bond that may have existed for them.( attachment 5)

Rep. Keiser: Does a landowner get compensated for the pipelines that go through their land?

Myron Hanson: Yes when you sign an easement.

Rep. Keiser: They do make a profit on that line and then they abandon it and the state pays 100 percent? Why don't we ask the landowner who makes a profit to participate along with the state and ask the developer to put money into the fund?

Myron Hanson: I think you have a valid point. The problem that has arisen and is a concern from the Northwest Landowners perspective are the old lines that were put in place years ago and the company is gone and the state didn't require sufficient bonding requirements.

Rep. Keiser: Being proactive looking at the future should we be looking at the future and establish a reserve fund for reclamation?

Myron Hanson: I agree; I can't speak for the oil and gas industry and I wouldn't presume to speak for all the landowners.

Rep. Froseth: Are most easements a onetime payment? What is happening in the world of easements as far as negotiating with the farmers and landowners?

Myron Hanson: I need to defer that to Mr. Dukart on that.

Daryl Dukart: The present policy is \$100.00 a rod for that 100 foot temporary with a 50 foot permanent. In the gathering line systems most landowners receive no income other than that onetime payment.

Lynn Helms: Director of the Dept. of Mineral Resources under the N.D. Industrial Commission; the division has since 1981 had jurisdiction over underground pipelines under the following sections of law. (Attachment 6)

Rep. Porter: Do you think we should put the emergency clause on this so that you can work on this?

Lynn Helms: I think that would be a great idea because as soon as the frost is out of the ground the digging will begin.

Rep. Nathe: What does it cost to reclaim oil and gas related pipelines?

Lynn Helms: I don't have that number. I will get and provide it to the committee.

Rep. Nathe: Do you think the \$75,000.000 is enough?

Lynn Helms: We do believe so.

Rep. Nathe: Do the counties keep any of this in your records?

Lynn Helms: This doesn't exist in the county records or in our records.

Rep. Kelsh: What is the reason for the confidentiality?

Lynn Helms: It is primarily for security purposes. Many of these pipelines would be targets for vandalism or terrorism problems.

Rep. Kelsh: If the farmer leases the land is the tenant knowledgeable of that information?

Lynn Helms: Our anticipation is that the confidentiality statutes that are applied to the N.D. Industrial Commission information would be applied here which would mean it is a class c felony to release that information. I don't think the farmer would be bound by the same law.

Rep. Mock: Section 4 says "the submission for mapping" I don't see a penalty for failure to report is there a penalty in the administrative rule or another section in which it is not included in this bill?

Lynn Helms: That would be one of the things that would be built into the administrative rules for this and the Industrial Commission has authority to leave a civil penalty up to \$12,500.00 per day.

Rep. Schmidt: Is there any inventory that exists to identify where those old pipelines are?

Lynn Helms: There is some information from some gas plant operators.

Rep. Nathe: What do they pay for the current bond for saltwater operators?

Lynn Helms: Those pipelines are attached to the well bond and for a saltwater well operator they post a \$50,000 and that pipeline is treated as an appetence to the saltwater disposal well. We increase that bond by 2.5 fold during this current biennium so once we start our rule making that will be another discussion.

Pat Fahn: With the Public Service Commission; we are opposed to HB 1333 we are concerned with how this HB addressed the abandoned pipeline lines and want to know that is clear in the end. We understand that there is an amendment that is proposed we would look at that as well. (Attachment 7)

Rep. Keiser: Why didn't submit an amendment if you think there should be one?

Pat Fahn: I don't know the answer to that question.

Rep Porter: We will close the hearing on HB 1333

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Energy and Natural Resources

Pioneer Room, State Capital

HB1333

February 8, 2013

18612

Conference Committee

*J. Minetti*

Relating to Reclamation and to provide for retroactive application

**Minutes:**

1-2 Attachment

Rep. Porter: We have HB 1333 in front of us; this one has money in it for the abandoned facilities reclamation fund. If this gets a do pass needs to go to appropriations.

Rep. Nathe: We will go through these one at a time. (1 Attachment The first amendment presented by Mr. Ness) I would like to move the amendment.

Rep. Porter: We have a motion by Rep. Nathe and a second Rep. Keiser for the amendment to HB 1333 that inserts language on page 1 after line 17. Voice vote carried

Rep. Nathe: The subcommittee voted 3-0 on these amendments to move these forward.

Rep. Nathe: What the second amendment does is it amends section one of the bill and inserts sections 4-7 and rennumbers puts civil penalties in and clarifies this code. (Attachment2). I move the amendment

Rep. Porter: We have a motion from Rep. Nathe and a second from Rep. Hunskor to move the amendment; voice vote carries.

Rep. Nathe: We have the amendment on the Tax this is the last amendment on the bill. This says the tax dept. is responsible for assessments and this does give them access to the GIS data base.

Rep. Porter: We have a motion from Rep. Keiser and a second from Rep. Hunskor to adopt the amendment. Voice vote carries.

Rep. Nathe: That is the bill with the amendments and I move a do pass as amended with a rerefer it to appropriations On HB 1333.

Rep. Porter: We have a motion from Rep. Nathe for a do pass as amended with a rerefer to appropriations on HB 1333 Second from Rep.Keiser.

Rep. Forseth: On the second amendment the civil penalties going to the cleanup fund, the cap on the fund is \$75,000.000 and those penalties will go towards that cap?

Rep. Porter: My understanding is that the \$5,000.000 on the trigger will happen and then any additional civil penalties will happen on top of that. We have a do pass motion as amended in front of us with a rerefer to Appropriations. Motion carried.

Yes 12 No 0 Absent 1 Carrier: Nathe

February 8, 2013

1/23/13  
WMP

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1333

Page 1, line 1, replace "two" with "three"

Page 1, line 3, after "reenact" insert "subsection 2 of section 38-08-04,"

Page 1, line 4, replace the first "subsection" with "subsections 1 and"

Page 1, line 4, replace the "and" with "subsection 6 of section 38-08-15, subsection 1 of section 38-08-16, section 38-08-23, and"

Page 1, line 5, after "to" insert "saltwater disposal wells, the abandoned oil and gas well plugging and site reclamation fund,"

Page 1, line 5, after "facilities" insert a comma

Page 1, line 8, replace "Two" with "Three"

Page 1, after line 18, insert:

""Underground gathering pipeline" means an underground gas or liquid pipeline that is designed for or capable of transporting crude oil, natural gas, carbon dioxide, or water produced in association with oil and gas which is not subject to chapter 49-22.

**SECTION 2. AMENDMENT.** Subsection 2 of section 38-08-04 of the North Dakota Century Code is amended and reenacted as follows:

2. To regulate:
  - a. The drilling, producing, and plugging of wells, the restoration of drilling and production sites, and all other operations for the production of oil or gas.
  - b. The shooting and chemical treatment of wells.
  - c. The spacing of wells.
  - d. Operations to increase ultimate recovery such as cycling of gas, the maintenance of pressure, and the introduction of gas, water, or other substances into producing formations.
  - e. Disposal of saltwater and oilfield wastes.
  - f. Saltwater disposal wells and all associated facilities, including safety relating to location and road access to disposal wells and all associated facilities.
  - g. The underground storage of oil or gas.

Page 2, after line 27, insert:



4/23

**"SECTION 4. AMENDMENT.** Subsection 1 of section 38-08-04.5 of the North Dakota Century Code is amended and reenacted as follows:

1. Revenue to the fund must include:
  - a. Fees collected by the oil and gas division of the industrial commission for permits or other services.
  - b. Moneys received from the forfeiture of drilling and reclamation bonds.
  - c. Moneys received from any federal agency for the purpose of this section.
  - d. Moneys donated to the commission for the purposes of this section.
  - e. Moneys received from the state's oil and gas impact fund.
  - f. Moneys recovered under the provisions of section 38-08-04.8.
  - g. Moneys recovered from the sale of equipment and oil confiscated under section 38-08-04.9.
  - h. Moneys transferred from the cash bond fund under section 38-08-04.11.
  - i. Such other moneys as may be deposited in the fund for use in carrying out the purposes of plugging or replugging of wells or the restoration of well sites.
  - j. Civil penalties assessed under section 38-08-16."

Page 3, after line 5, insert:

**"SECTION 6. AMENDMENT.** Subsection 6 of section 38-08-15 of the North Dakota Century Code is amended and reenacted as follows:

6. All proceeds derived from the sale of illegal oil, illegal gas, or illegal product, as above provided, after payment of costs of suit and expenses incident to the sale ~~and all amounts paid as penalties provided for by this chapter~~ must be paid to the state treasurer and credited to the general fund.

**SECTION 7. AMENDMENT.** Subsection 1 of section 38-08-16 of the North Dakota Century Code is amended and reenacted as follows:

1. Any person who violates any provision of this chapter, or any rule, regulation, or order of the commission is subject to a civil penalty to be imposed by the commission not to exceed twelve thousand five hundred dollars for each offense, and each day's violation is a separate offense, unless the penalty for the violation is otherwise specifically provided for and made exclusive in this chapter. Any such civil penalty may be compromised by the commission. All amounts paid as civil penalties must be deposited in the abandoned oil and gas well plugging and site reclamation fund. The penalties provided in this section, if not paid, are recoverable by suit filed by the attorney general in the name and on behalf of the commission, in the district court of the county in which the defendant resides, or in which any defendant resides, if there be more than one defendant, or in the district court of any county in which the violation



occurred. The payment of the penalty may not operate to legalize any illegal oil, illegal gas, or illegal product involved in the violation for which the penalty is imposed, or to relieve a person on whom the penalty is imposed from liability to any other person for damages arising out of the violation.

**SECTION 8. AMENDMENT.** Section 38-08-23 of the North Dakota Century Code is amended and reenacted as follows:

**38-08-23. Plats.**

Any person reclaiming a drilling pit or reserve pit after the completion of oil and gas drilling operations shall record an accurate plat certified by a registered surveyor showing the location of the well and notice that an abandoned drilling pit or reserve pit may be on the location within six months of the completion of the reclamation with the recorder of the county in which the drilling pit or reserve pit is located. A plat filed for record in accordance with this section may be recorded without acknowledgment or further proof as required by chapter 47-19 and without the auditor's certificate referred to in section 11-18-02."

Page 4, after line 2, insert:

"4. Upon request by the tax commissioner, the commission may allow access to information contained in the geographic information system database to the tax commissioner to be used for the sole purpose of administering the valuation and assessment of centrally assessed underground gathering pipeline property under chapter 57-06. The information obtained under this subsection is confidential and may be used only for the purposes identified in this subsection."

Renumber accordingly

Date: 2-8-13  
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1333

House Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number Mr. Neis /

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

Motion Made By Rep. Nathe Seconded By Rep. Keiser

Representatives	Yes	No	Representatives	Yes	No
Chairman Todd Porter			Rep. Bob Hunsakor		
Vice Chairman Chuck Damschen			Rep. Scot Kelsh		
Rep. Jim Schmidt			Rep. Corey Mock		
Rep. Glen Froseth					
Rep. Curt Hofstad					
Rep. Dick Anderson					
Rep. Peter Silbernagel					
Rep. Mike Nathe					
Rep. Roger Brabandt					
Rep. George Keiser					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

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

If the vote is on an amendment, briefly indicate intent: Voice vote carries for the amendment for HB 1333 that insert language on page 18 line 17

Date: 2-8-2013  
 Roll Call Vote #: 2

**2013 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. HB 1333  
~~2012~~**

House Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number proposed amendment # 2

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

Motion Made By Rep name Seconded By Rep Hunskor

Representatives	Yes	No	Representatives	Yes	No
Chairman Todd Porter			Rep. Bob Hunskor		
Vice Chairman Chuck Damschen			Rep. Scot Kelsh		
Rep. Jim Schmidt			Rep. Corey Mock		
Rep. Glen Froseth					
Rep. Curt Hofstad					
Rep. Dick Anderson					
Rep. Peter Silbernagel					
Rep. Mike Nathe					
Rep. Roger Brabandt					
Rep. George Keiser					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

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

If the vote is on an amendment, briefly indicate intent: voice vote carried  
to move the amendment

Date: 2-8-2013  
Roll Call Vote #: 3

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 233

House Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number amendment from top dept

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

Motion Made By Rep Keiser Seconded By Rep Hunskor

Representatives	Yes	No	Representatives	Yes	No
Chairman Todd Porter			Rep. Bob Hunskor		
Vice Chairman Chuck Damschen			Rep. Scot Kelsh		
Rep. Jim Schmidt			Rep. Corey Mock		
Rep. Glen Froseth					
Rep. Curt Hofstad					
Rep. Dick Anderson					
Rep. Peter Silbernagel					
Rep. Mike Nathe					
Rep. Roger Brabandt					
Rep. George Keiser					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

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

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

Date: 2-8-2013  
Roll Call Vote #: 71

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 41333

House Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number Roll Call

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

Motion Made By Rep Nathe Seconded By Rep Keiser

Representatives	Yes	No	Representatives	Yes	No
Chairman Todd Porter	✓		Rep. Bob Hunsakor	✓	
Vice Chairman Chuck Damschen	AB		Rep. Scot Kelsh	✓	
Rep. Jim Schmidt	✓		Rep. Corey Mock	✓	
Rep. Glen Froseth	✓				
Rep. Curt Hofstad	✓				
Rep. Dick Anderson	✓				
Rep. Peter Silbernagel	✓				
Rep. Mike Nathe	✓				
Rep. Roger Brabandt	✓				
Rep. George Keiser	✓				

Total (Yes) 12 No 0

Absent 1

Floor Assignment Carrier Rep Nathe

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

*Do pass  
goes to Standing Committee Report*



**REPORT OF STANDING COMMITTEE**

**HB 1333: Energy and Natural Resources Committee (Rep. Porter, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1333 was placed on the Sixth order on the calendar.

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Renumber accordingly

**2013 HOUSE APPROPRIATIONS**

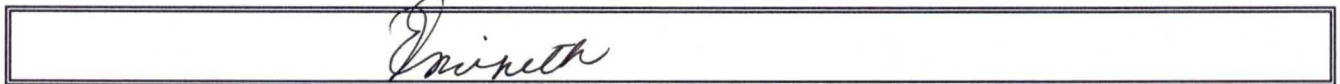
**HB 1333**

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Committee  
Roughrider Room, State Capitol

HB 1333  
2/14/13  
18978

Conference Committee



## Minutes:



Rep. Todd Porter, District 34: Introduced the bill. It deals with the abandoned pipelines and facilities across the state. We go into talking about the recreation of those facilities when abandoned and how the abandoned process works. We have an abandoned well and pipeline fund that doesn't have enough money in it to do anything. If a company were to go bankrupt and walk from there recreation requirement the bond would not be enough to clean that site up and the state of N.D. would be responsible. What this does is through a mechanism through production tax that funds the Oil and Gas Research Council allows for a mechanism to put \$5,000.000 into this fund as more-less in N.D. supper fund. As we looked at this we thought putting \$5,000.000 a year into this fund, presently is an ok way to do it. There isn't anything from stopping us as an assembly from writing a check and putting \$75,000.000 into that fund so that it is full and then the other part of the language goes away. There has been an instance of saltwater spills; Charbonneau Creek that the company is cleaning up and in compliance with all the rules. Take the same serial and a company and that company goes bankrupt and the bond only covers a small percentage of that the state of N.D. would have to clean that up.

3:55

Chairman Delzer: Does that fund currently exist?

Rep. Kempenich: There is an abandoned well fund that is run out of the Oil and Gas Division and the Industrial Commission.

Chairman Delzer: This is the same fund?

Rep. Kempenich: It is but that has been capped. It's in the industrial commission.

Chairman Delzer: Where are you camping that?

Porter: There is a fund already in existence, this just enhances that fund.

Chairman Delzer: You have several penalties going in there and you're capping it at \$75,000.000 but what to the civil when they cap it?

Porter: If there were all of a sudden a whole bunch of civil penalties, there is nothing that would stop it from being at \$110,000.000 plus at the next session would come in and say " you are at \$100,000.000, the civil penalties are now revert back to the general fund.

Chairman Delzer: The legislature would have control of the fund?

Porter. No it's the Industrial Commission.

Rep. Delzer: Does it have to be used to be appropriated to be used?

Rep. Kempenich: It does up to that point. There's a fee charged for every well drilled. When it hits the number, it drops off.

Rep. Delzer: What is the level right now?

Brady Larson: I can get that

Chairman Delzer: Does this take money from the same place as heritage fund? Who gets it first?

Porter: Yes the way that it is broken down it flows to everybody at the same time. It's similar language as the other bill (1278??)

Rep. Delzer: That 5% that you are talking about or whatever what that creating?

Rep. Porter: I do not have that dollar figure.

Chairman Delzer: It's enough that everybody is covered and then some? If it fell short, how would that is handled? Do they flow even so that the heritage fund there's.

Porter: The way it's set up, the funds are at a percentage. It flows to everyone at the same time. If it falls off, it will decline for everyone at the same rate.

Chairman Delzer; It's \$10,000.000 per biennium to go here, \$30,000.000 to go to Heritage Fund for an biennium?

Porter: Correct.

Chairman Delzer: Questions by the committee?

Rep. Dosch: What makes the state of ND liable and where does the state step in as liable?

Porter: The state is only liable upon default of that company. The state does in the end maintain the liability for the company if they would go bankrupt. That's the way it goes forward. There is a bonding requirement that they have to have, the bonding requirement

when you look at a couple million dollar cost for example like Charbonneau Creek instant-ident would have happened with a company that was bankrupt and didn't have the ability to pay then that would empty that fund.

I felt it was a prudent investment into the future, that it would cover the state's responsibility for any potential liability in cleanup of major incidences.

Rep. Skarphol: Does this legislation make the state responsible? Without this language would the state not have this responsibility and would it go to the landowner who had signed the agreement to clean it up?

Porter: This just clarifies what we are responsible for. It could be argued that it expands it... but it was from the testimony that it was it was clarifying what we are responsible for.

Chairman Delzer: Was this at the request of the Industrial Commission?

Porter: I'm not sure if Rep. Schatz...the commission's testimony was in favor of this bill, as amended.

Rep. Kempenich: This is one of the issues with surface owners and severed minerals, and where there is no responsible party. Most of the time on sites like the Charbonneau Creek salt water spill they did tag that on to a company so the company is liable for that. The surface owner is not responsible for this because a lot of times the surface owner is not willing participate in that well to start with.

Chairman Delzer: Thank you. Did you do any study as whether this is set up the same as the Petroleum Relief Fund?

Porter: No.

Chairman Delzer: We have a Petroleum relief fund too, superfund for that too. We do this for 5 years, and you get 50-60Million in this fund. Oil goes totally south, state's in trouble. Is the only control on this in the Industrial Commission, or would the state have availability to use a portion of this fund if the legislature felt it was needed?

Porter: It's a statutorily created fund, so they are only technically protected to the next assembly. The legislature can change the rules regarding the budget stabilization fund at any time and take the money out for any purpose. I don't see this as any different than that.

Rep. Kempenich: The history is that the fund has been used off and on. It is when there isn't any responsible party involved that it is used.

Rep. Skarphol: Who decides whether or not dollars from this fund are going to be used for a purpose?

Porter: The Industrial Commission after the due diligence by the Department of Mineral Resources to determine the known pair of responsibility to clean up the mess.



Rep. Skarphol: Is this applicable only to those entities described on bottom of page 1 and top of page 2? I can think of instances where someone could have a legitimate claim to damage by saltwater, not by a pipeline, maybe 50 years ago. Could they come to this entity and ask for that spot to be cleaned up.

Porter: Yes there are, we know there are. That is also part of the purpose of this bill. We know there are no payers of last resort. Landowners have been harmed, this fund is for that.

Chairman Delzer: Do you have a reporting requirement on how this fund is used to the legislature? Do you think there would be a problem if some were some reporting requirements put in?

Porter: No, I doubt the Industrial Commission would have a problem with that.

Rep. Nelson: Has there been any activity as far as enforcement since the most recent oil activity? Is there adequate enforcement to make sure we find the responsible parties before we tap this fund?

Porter: There hasn't been any issue in the Bakken exploration process, because there hasn't been a company that has walked away from an incident. The Oil and Gas Division has done a good job of working along with the Health Department and with the companies when stance has happened.

They are doing what they are supposed to be doing. This fund is to look at some of those old incidences from 50 years ago, and be there if there is something 50 years from now if there should be situations that happen in the future.

Chairman Delzer: I would like to have an amendment drafted that would put a report to the legislative assembly to be done with the budget.

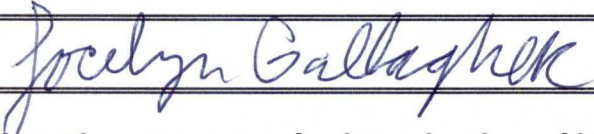
Are there further questions? We will close the hearing

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Committee  
Roughrider Room, State Capitol

HB 1333  
2/21/13  
Job 19318

Conference Committee



## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact two new subsections to section 38-08-02, a new section to chapter 38-08, and a new section to chapter 38-11.1 of the North Dakota Century Code, relating to locating, definitions for, and mediation for pipeline facilities; to amend and reenact section 38-08-04.4, subsection 2 of section 38-08-04.5, and subsection 1 of section 57-51-15 of the North Dakota Century Code, relating to reclamation of pipelines facilities and oil and gas gross production tax for reclamation; and to provide for retroactive application.

## Minutes:



**Chairman Delzer:** Handed out amendment.08002, described bill and amendment. This bill sets in place some money for reclamation fund. The amendment would put a date certain of when this fund could be used for August 1, of 83 and the reason they asked for that is when oil and gas took over the regulation.

**Chairman Delzer:** We have motion for the amendment .08002 by Rep. Sanford, seconded by Rep. Grande.

**Rep. Hawken:** What's in the fund now?

**Chairman Delzer:** (3:10) It is around 4 million now.

**Rep. Hawken:** We want to reclaim land, but we have turned down other things in this committee that need money as well

**Rep. Nelson:** I don't remember that distinction between 1983. Were there a lot of problems prior to that year we were considering in this?

**Chairman Delzer:** The potential came up, and that's where this came from. The bill sponsor is aware of this and says it was fine, as did the chair of the energy committee. It was asked for by the director of the department of mineral resources.

**Rep. Monson:** I noted there was no reporting requirement on this. I don't see on the amendment that you included that.

**Chairman Delzer:** I may have missed that if we want a reporting requirement, Becky can you write one up for us. Rep. Monson, how do you want that requirement?

**Rep. Monson:** I would like it bi-annually.

**Chairman Delzer:** Addition to motion to amend with approval of Rep. Sanford and Rep. Grande.

**(6:15)** Discussion on amounts.

**Rep. Skarphol:** I can live with the reporting requirement but I do think consideration should be given to whether or not a number certain is as appropriate as recognition of utilization and then establishing a growing number of utilization seems to indicate it.

**Chairman Delzer:** Further discussion? **Voice vote for amending HB 1333 with .08002 with reporting requirement bi-annually to the budget section. Motion carries.**

**Chairman Delzer:** We have a motion by Rep. Grande, second by Rep. Sanford for a do pass as amended. Discussion, clerk call the roll for a do pass as amended. **Motion carries, 21-0-1. Rep. Sanford will carry the bill.**

**FISCAL NOTE**  
**Requested by Legislative Council**  
**02/12/2013**

Amendment to: HB 1333

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$0		
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

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

Engrossed HB 1333 deals with pipeline facilities, saltwater disposal wells, and well plugging and site reclamation fund.

- 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 11 of engrossed HB 1333 allocates a portion of the first one-percent of gross production tax to the abandoned oil and gas well plugging and site reclamation fund.

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.*

If enacted, engrossed HB 1333 is expected to increase revenues in the abandoned oil and gas well plugging and site reclamation fund by \$10 million in the 2013-15 biennium and reduce revenues in the strategic investment and improvements fund by the same \$10 million. (Both of these are "other funds" in 1A above.)

- 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

**Telephone:** 328-3402

**Date Prepared:** 02/14/2013

YK  
2/25/13  
1082

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1333

Page 1, line 4, remove the first "section"

Page 1, line 4, after the first comma insert "sections"

Page 1, line 4, replace ", subsections 1 and 2 of section" with "and"

Page 1, line 8, after the semicolon insert "to provide for application;"

Page 3, remove lines 22 through 31

Page 4, replace lines 1 through 15 with:

**"SECTION 4. AMENDMENT.** Section 38-08-04.5 of the North Dakota Century Code is amended and reenacted as follows:

**38-08-04.5. Abandoned oil and gas well plugging and site reclamation fund - Budget section report.**

There is hereby created an abandoned oil and gas well plugging and site reclamation fund.

1. Revenue to the fund must include:
  - a. Fees collected by the oil and gas division of the industrial commission for permits or other services.
  - b. Moneys received from the forfeiture of drilling and reclamation bonds.
  - c. Moneys received from any federal agency for the purpose of this section.
  - d. Moneys donated to the commission for the purposes of this section.
  - e. Moneys received from the state's oil and gas impact fund.
  - f. Moneys recovered under the provisions of section 38-08-04.8.
  - g. Moneys recovered from the sale of equipment and oil confiscated under section 38-08-04.9.
  - h. Moneys transferred from the cash bond fund under section 38-08-04.11.
  - i. Such other moneys as may be deposited in the fund for use in carrying out the purposes of plugging or replugging of wells or the restoration of well sites.
  - j. Civil penalties assessed under section 38-08-16.
2. Moneys in the fund may be used for the following purposes:
  - a. Contracting for the plugging of abandoned wells.



- b. Contracting for the reclamation of abandoned drilling and production sites, saltwater disposal pits, drilling fluid pits, and access roads.
  - c. To pay mineral owners their royalty share in confiscated oil.
  - d. Defraying costs incurred under section 38-08-04.4 in reclamation of oil and gas-related pipelines and associated facilities.
3. All moneys collected under this section must be deposited in the abandoned oil and gas well plugging and site reclamation fund. This fund must be maintained as a special fund and all moneys transferred into the fund are appropriated and must be used and disbursed solely for the purpose of defraying the costs incurred in carrying out the plugging or replugging of wells, the reclamation of well sites, and all other related activities.
4. The commission shall report to the budget section of the legislative management on the balance of the fund and expenditures from the fund each biennium."

Page 7, after line 13, insert:

**"SECTION 11. APPLICATION.** This Act does not apply to the reclamation of an oil or gas-related pipeline or associated facility put into service before August 1, 1983."

Renumber accordingly

Date: 2/21/13  
 Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1333**

House Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number .08002

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

Motion Made By Rep. Sanford Seconded By Rep. Grande

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer			Rep. Streyle		
Vice Chairman Kempenich			Rep. Thoreson		
Rep. Bellew			Rep. Wieland		
Rep. Brandenburg					
Rep. Dosch					
Rep. Grande			Rep. Boe		
Rep. Hawken			Rep. Glassheim		
Rep. Kreidt			Rep. Guggisberg		
Rep. Martinson			Rep. Holman		
Rep. Monson			Rep. Williams		
Rep. Nelson					
Rep. Pollert					
Rep. Sanford					
Rep. Skarphol					

Total Yes \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

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

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

.08002 amend + biennial reporting requirement

voice vote carries

Date: 2/21/13  
 Roll Call Vote #: 2

**2013 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1333**

House Appropriations 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 Rep. Grande Seconded By Rep. Sanford

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer	X		Rep. Streyle	X	
Vice Chairman Kempenich	X		Rep. Thoreson	X	
Rep. Bellew	X		Rep. Wieland	X	
Rep. Brandenburg					
Rep. Dosch	X				
Rep. Grande	X		Rep. Boe	X	
Rep. Hawken	X		Rep. Glassheim	X	
Rep. Kreidt	X		Rep. Guggisberg	X	
Rep. Martinson	X		Rep. Holman	X	
Rep. Monson	X		Rep. Williams	X	
Rep. Nelson	X				
Rep. Pollert	X				
Rep. Sanford	X				
Rep. Skarphol	X				

Total Yes 21 No 0

Absent 1

Floor Assignment Rep. Sanford

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

**REPORT OF STANDING COMMITTEE**

**HB 1333, as engrossed: Appropriations Committee (Rep. Delzer, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (21 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1333 was placed on the Sixth order on the calendar.**

Page 1, line 4, remove the first "section"

Page 1, line 4, after the first comma insert "sections"

Page 1, line 4, replace ", subsections 1 and 2 of section" with "and"

Page 1, line 8, after the semicolon insert "to provide for application;"

Page 3, remove lines 22 through 31

Page 4, replace lines 1 through 15 with:

**"SECTION 4. AMENDMENT.** Section 38-08-04.5 of the North Dakota Century Code is amended and reenacted as follows:

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1. Revenue to the fund must include:
  - a. Fees collected by the oil and gas division of the industrial commission for permits or other services.
  - b. Moneys received from the forfeiture of drilling and reclamation bonds.
  - c. Moneys received from any federal agency for the purpose of this section.
  - d. Moneys donated to the commission for the purposes of this section.
  - e. Moneys received from the state's oil and gas impact fund.
  - f. Moneys recovered under the provisions of section 38-08-04.8.
  - g. Moneys recovered from the sale of equipment and oil confiscated under section 38-08-04.9.
  - h. Moneys transferred from the cash bond fund under section 38-08-04.11.
  - i. Such other moneys as may be deposited in the fund for use in carrying out the purposes of plugging or replugging of wells or the restoration of well sites.
  - j. Civil penalties assessed under section 38-08-16.
2. Moneys in the fund may be used for the following purposes:
  - a. Contracting for the plugging of abandoned wells.

- b. Contracting for the reclamation of abandoned drilling and production sites, saltwater disposal pits, drilling fluid pits, and access roads.
  - c. To pay mineral owners their royalty share in confiscated oil.
  - d. Defraying costs incurred under section 38-08-04.4 in reclamation of oil and gas-related pipelines and associated facilities.
3. All moneys collected under this section must be deposited in the abandoned oil and gas well plugging and site reclamation fund. This fund must be maintained as a special fund and all moneys transferred into the fund are appropriated and must be used and disbursed solely for the purpose of defraying the costs incurred in carrying out the plugging or replugging of wells, the reclamation of well sites, and all other related activities.
  4. The commission shall report to the budget section of the legislative management on the balance of the fund and expenditures from the fund each biennium."

Page 7, after line 13, insert:

**"SECTION 11. APPLICATION.** This Act does not apply to the reclamation of an oil or gas-related pipeline or associated facility put into service before August 1, 1983."

Renumber accordingly

**2013 SENATE NATURAL RESOURCES**

**HB 1333**



# 2013 SENATE STANDING COMMITTEE MINUTES

## Senate Natural Resources Committee Fort Lincoln Room, State Capitol

HB 1333  
March 14, 2013  
19935

Conference Committee

*Thomas Spelling*

### Explanation or reason for introduction of bill/resolution:

Relating to locating, definitions for, and mediation for pipeline facilities; relating to saltwater disposal wells, the abandoned oil and gas well plugging and site reclamation fund, reclamation of pipelines facilities, and oil and gas gross production tax for reclamation; to provide for application; and to provide for retroactive application.

### Minutes:

attachments

Chairman Lyson opened the hearing for HB 1333.

Mike Schatz, District 36, introduced the bill and offered an amendment. The purpose of the bill is to have more pipelines and fewer trucks on the roads. See attachment #1. (Ends at 4:00) They worked hard to get all groups together on this: the Petroleum Council, the Dunn County landowners, oil and gas producing counties, and the Industrial Commission.

There was discussion about the placement of the amendment into the proposed bill. (Ends at 5:50)

Daryl Dukart, Dunn County Commissioner and representative of the Dunn County Landowners Organization, stood in favor of the bill but requested one more amendment. Page 2, Section 3, line 25, they would suggest to strike the words "any of" and just have it read "if the following apply". They want the companies to be required to be in compliance with all three of the criteria. See attachment #2. (Ends at 11:10)

Myron Hanson, President of the Northwest Landowners Association, stood in support of the bill. See attachment #3. He feels there has to be some authority to answer to as far as salt water gathering is concerned and we must have protections in place to protect our valuable resource, our farm and ranch lands. He also passed around pictures of a leakage of a salt water gathering line that had multiple patches. At the time of the leak the gathering line was only one year old. Then he passed around a picture of 23 acres of prime farm land that was ruined as a result of the leak. See attachment #4.

Senator Triplett questioned when a landowner signed an agreement to have a gathering line go across their land, does the agreement state who is responsible if there is a leak.

Mr. Hanson was not sure. The lines going across his land are old lines.

Ron Ness, President of the North Dakota Petroleum Council, presented written testimony in favor of HB 1333. See attachment #5 and #6. He reviewed each section of the bill. (20:30 to 32:20) The bill defines what an abandoned pipeline is. Section 2 addresses the liability of the pipeline company. Section 3 addresses the use of the abandoned well and clean-up fund. Section 4 specifies that the fines will go into the abandoned well and clean-up fund.

There was a question whether Mr. Ness supported the amendment proposed by Mr. Dukart, and Mr. Ness said he did support it as long as the commission felt it didn't change their authority.

Senator Murphy asked if the PSC is being brought into this.

Mr. Ness said these are not PSC jurisdictional pipelines.

These are pipelines that are exempted from 49.22 as discussed by PSC Commissioner Brian Kalk in a previous hearing. Sections 5 and 6 begin to set up the language for the fines going into that fund. Section 7 is the technical change for the Industrial Commission relating to the elimination of reserve pits. Section 8 is the guts of the issue. Landowners want to know for future generations where those lines are that cross their land. We have created a special section that require the owners of these oil and gas related pipelines to submit in a plat file to the Industrial Commission specifying the placement of these lines. It is important to Homeland Security that this information is kept confidential, but the landowners need to have a place to get information on where those pipelines are. (Ends at 26:50)

There was a question about paragraph #1 on page three of attachment #6. Mr. Ness said the language referred to in that paragraph is in the bill on page 7 in section 11.

There was discussion about why these insignificant pipelines would be important to Homeland Security. (28:00 to 28:30)

Mr. Ness's explanation of the sections of the bill ends at 32:20.

Bethany Abrams, Administrator of the ND Department of Agriculture Mediation Services, presented attachment #7. The present funding is not adequate for the demand for the mediation services now that they are covering not only credit relief but are also handling surface and mineral owners and mediation. The additional cost could be handled by an increased appropriation or by passing it along to those who use the services. Presently they are allowed to charge \$25.00 per hour. Other mediation entities generally charge \$200 to \$250 per hour.

Senator Triplett asked what the actual costs to the Ag Dept. are.

Ms. Abrams said the best guesstimate was \$170 per hour would cover about 75% of the cost.

Lynn Helms, Director of the Department of Mineral Resources, presented written testimony. See attachment #8. He supports the bill and is in agreement with the amendments

presented by Representative Schatz. He gave a history of the genesis of the bill and explained each section of the bill. (36:00 to 46:45)

(43:00 to 44:15) Mr. Helms explained the need for the location of the lines to be kept confidential and at the same time the need to have the information available.

Senator Laffen asked how many spills there have been that were near the size of the Charbonneau Creek spill.

Mr. Helms said there have only been two spills of that size and scope in the fifteen years he has been directing the oil and gas division. The two worst spills came from inferior construction practices.

There was discussion about what exactly was the problem with the construction that caused the spills. Inferior ditching and refilling and compaction of the earth were the cause of the Kramer spill. The other one was a poor welding job.

There was discussion about whether more strict standards would take care of the problem or whether it would cause another problem. Would they then need more inspectors? There would have to be an affidavit from a professional engineer or someone at the company to sign off that the construction standards had been followed. This would make it possible to enforce the liability issue with the operator.

Mr. Helms explained how the acquisition of an easement is dealt with in a pooled spacing unit or in a unitized field (50:40 to 51:22).

There was a discussion about the depth of the lines. They are supposed to be a minimum of 4 feet below ground level but some of them are less than 18 inches below the ground. Four feet is adequate for salt water because it has a very low freezing point.

Chairman Lyson recessed the hearing for HB 1333 until 2:15 pm.

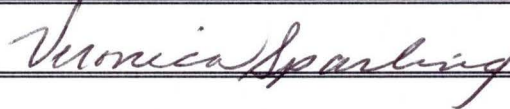
# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Natural Resources Committee  
Fort Lincoln Room, State Capitol

HB 1333  
March 14, 2013 pm  
19940

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to locating, definitions for, and mediation for pipeline facilities; relating to saltwater disposal wells, the abandoned oil and gas well plugging and site reclamation fund, reclamation of pipelines facilities, and oil and gas gross production tax for reclamation; to provide for application; and to provide for retroactive application

## Minutes:

attachments

Chairman Lyson re-opened the hearing for HB 1333.

Chairman Lyson distributed a testimony from a family who was not able to be in attendance due to a death in the family. See attachment #1pm.

Ladd Erickson, McLean County State's Attorney, expressed concern about Section 2 of the bill. He feels the amendments are a vast improvement to the bill. He is referring to attachment #1 presented in the hearing earlier today by Representative Schatz. "...the new number 2. If that means that it gives the Industrial Commission the authority to consider things other than geology, to consider road safety...as long as that is interpreted so it does not preempt local ability to put weight restrictions on county and township roads..." He also had concern with the wording "all associated facilities" at the end of number 2. He feels it should be clarified to say "not regulated under title 23". His explanation of the basis of his concern ends at 06:00.

There was discussion about whether the wording of the amendment was acceptable to Mr. Erickson. (Ends at 07:31)

Chairman Lyson requested that Mr. Erickson email any amendments to him.

Curtis Glasoe, representing the ND Society of Professional Land Surveyors that has over 300 members in ND and who has practiced engineering and land surveying for over 43 years in North Dakota, spoke in support of the bill; but he also offered suggestions for amendments. See attachments #2pm and #3pm. He feels there should be clarification of the US foot as opposed to the international foot. The GPS people use the international foot. If you use shapefiles, you have to use the international foot.

Richard Schlosser, on behalf of the ND Farmers Union, spoke to three issues within the bill; the reclamation and the funding mechanism put in place with respect to the reclamation fund, mediation helping to settle some of the issues, and the mapping to provide the information to landowners and to emergency services and contractors. He would want to make sure the amendment would still give the authority to the local entities.

More in favor: No

Opposition: None

Neutral:

Keith Magnuson, ND League of Cities, stated they had the same concerns that Ladd Erickson expressed. They still want to be able to regulate the weight limits on the roads at the local level.

Illona Jeffcoat-Sacco, ND Public Service Commission, stated she would like an opportunity to see the amendments that were discussed today once they are completed.

Senator Triplett asked Ms. Jeffcoat-Sacco to elaborate on her concerns.

Ms. Jeffcoat-Sacco said the most difficult part is the fact that they do not know what the Homeland Security closed records and confidentiality standards are. They are very hard to pin down. Without knowing what their standards are, it is hard for the PSC to conform to their standards.

Chairman Lyson closed the hearing for HB 1333.

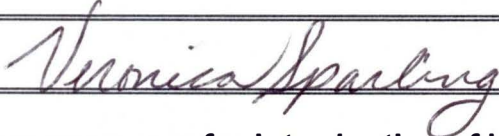


# 2013 SENATE STANDING COMMITTEE MINUTES

## Senate Natural Resources Committee Fort Lincoln Room, State Capitol

HB 1333  
March 21, 2013  
Job Number 20320

Conference Committee



### Explanation or reason for introduction of bill/resolution:

Relating to locating, definitions for, and mediation for pipeline facilities; relating to saltwater disposal wells, the abandoned oil and gas well plugging and site reclamation fund, reclamation of pipelines facilities, and oil and gas gross production tax for reclamation; to provide for application; and to provide for retroactive application

### Minutes:

attachments

Chairman Lyson opened the discussion for HB 1333.

Senator Unruh explained the amendments that Representative Schatz had proposed and the additional suggestions Lynn Helms had offered. See attachment #1. (Ends at 02:50)

Senator Triplett mentioned that Illona Jeffcoat-Sacco from the PSC wanted to be present during this discussion.

The legislative intern placed a call to her office.

There was discussion about the content of the amendment. Mr. Dukart was in agreement with the amendment presently being considered. Ladd Erickson, The Attorney General and the Industrial Commission had all been contacted and their input considered. (Ends at 07:15)

Lynn Helms presented an email from Ladd Erickson to clarify what Mr. Erickson had in mind. See attachment #2. He explained what would be included and what would be excluded. He explained the jurisdiction issues and gave an example to illustrate. He likes the amendment proposed by Rep. Schatz. (Ends at 11:17)

There was discussion about the "may" or "shall" and which word would give more flexibility to make wise decisions with all things considered.

There was also discussion about whether the words "not regulated under Title 23" should be included.

Illona Jeffcoat-Sacco declined to comment on the legal interpretation of either issue.



Senator Hogue made a motion to accept amendment 13.0478.09003.

Senator Unruh: Second

Senator Triplett: Motion to further amend to change the "may" to "shall" on page 1 of the amendment, on Page 2, after line 14, in section (2).

Senator Murphy: Second

Senator Triplett requested to hold the vote until the Attorney General could give an opinion on the ramifications of using the word "may" or "shall".

The request was denied by the chairman.

There was extensive discussion about the word "may" or "shall".

Senator Triplett's motion failed by voice vote.

A voice vote on Senator Hogue's motion to amend the bill by accepting amendment 13.0478.09003 carried the motion.

Senator Unruh: Do Pass on re engrossed HB 1333 as Amended

Senator Murphy: Second

There was discussion that there was no opposing testimony but two neutral testimonies.

Senator Unruh reminded the committee that this bill was the result of discussions with landowners in the western part of the state to address a lot of the concerns they have had with the oil development.

Roll Call Vote: 7, 0, 0 Do Pass as Amended

Carrier: Senator Unruh

Senator Triplett clarified that this bill needed to be re referred to the Appropriation Committee.

**FISCAL NOTE**  
**Requested by Legislative Council**  
**02/12/2013**

Amendment to: HB 1333

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$0		
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

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

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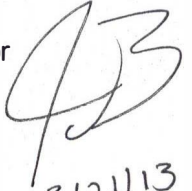
If enacted, engrossed HB 1333 is expected to increase revenues in the abandoned oil and gas well plugging and site reclamation fund by \$10 million in the 2013-15 biennium and reduce revenues in the strategic investment and improvements fund by the same \$10 million. (Both of these are "other funds" in 1A above.)

- 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  
**Telephone:** 328-3402  
**Date Prepared:** 02/14/2013

March 21, 2013

  
3/21/13

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1333

Page 2, after line 14, insert:

- "(1) The commission shall give all affected counties written notice of hearings in such matters at least fifteen days before the hearing.
- (2) The commission may consider, in addition to other authority granted under this section, safety of the location and road access to saltwater disposal wells, treating plants, and all associated facilities."

Page 2, line 15, remove "Saltwater disposal wells and all associated facilities, including safety relating to"

Page 2, remove line 16

Page 2, line 17, remove "g."

Page 2, line 27, overstrike the third "or"

Page 2, line 29, after "facility" insert ", or damage is the result of an illegal dumping incident"

Page 3, line 3, after "bond" insert "or damage is the result of an illegal dumping incident"

Page 6, line 7, replace the first "the" with "this"

Page 6, line 23, after "information" insert ", if available,"

Renumber accordingly

Date: 3-21-13  
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1333

Senate Natural Resources Committee

Check here for Conference Committee

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

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment *further amend the amendment*  
 Rerefer to Appropriations  Reconsider

Motion Made By Triplett Seconded By Murphy

Senators	Yes	No	Senators	Yes	No
Senator Lyson			Senator Triplett		
Senator Burckhard			Senator Murphy		
Senator Hogue					
Senator Laffen					
Senator Unruh					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

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

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

*motion failed by voice vote*  
*change "may" to "shall"*  
*on page 1 of amendment 13-0478.0900 page 2 after line 14 (2)*

Date: 3-28-13  
Roll Call Vote #: 2

2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1333

Senate Natural Resources Committee

Check here for Conference Committee

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

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt <sup>Unruh</sup> Amendment

Rerefer to Appropriations  Reconsider 13.0478.09003

Motion Made By Hogue Seconded By Unruh

Senators	Yes	No	Senators	Yes	No
Senator Lyson			Senator Triplett		
Senator Burckhard			Senator Murphy		
Senator Hogue					
Senator Laffen					
Senator Unruh					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

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

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



Date: 3-21-13  
Roll Call Vote #: 3

2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1333 *re-eng*

Senate Natural Resources Committee

Check here for Conference Committee

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

Action Taken:  Do Pass  Do Not Pass  Amended <sup>as</sup>  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Unruh Seconded By Murphy

Senators	Yes	No	Senators	Yes	No
Senator Lyson	✓		Senator Triplett	✓	
Senator Burckhard	✓		Senator Murphy	✓	
Senator Hogue	✓				
Senator Laffen	✓				
Senator Unruh	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Unruh

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

**REPORT OF STANDING COMMITTEE**

**HB 1333, as reengrossed: Natural Resources Committee (Sen. Lyson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1333 was placed on the Sixth order on the calendar.**

Page 2, after line 14, insert:

- "(1) The commission shall give all affected counties written notice of hearings in such matters at least fifteen days before the hearing.
- (2) The commission may consider, in addition to other authority granted under this section, safety of the location and road access to saltwater disposal wells, treating plants, and all associated facilities."

Page 2, line 15, remove "Saltwater disposal wells and all associated facilities, including safety relating to"

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Page 2, line 17, remove "g."

Page 2, line 27, overstrike the third "or"

Page 2, line 29, after "facility" insert ", or damage is the result of an illegal dumping incident"

Page 3, line 3, after "bond" insert "or damage is the result of an illegal dumping incident"

Page 6, line 7, replace the first "the" with "this"

Page 6, line 23, after "information" insert ", if available,"

Renumber accordingly

**2013 SENATE APPROPRIATIONS**

**HB 1333**

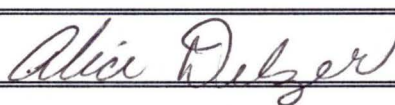
# 2013 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

HB 1333  
03-29-2013  
Job # 20683

Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A BILL regarding locating, definitions for & mediation for pipeline facilities; saltwater disposal wells; abandoned oil & gas well plugging, reclamation of pipelines facilities; oil & gas gross production tax for reclamation (DO PASS)

### Minutes:

You may make reference to "attached testimony."

**Chairman Holmberg** called the committee to order on Friday, March 29, 2013 at 9:00 am in regards to HB 1333. All committee members were present.

Becky J. Keller- Legislative Council  
Lori Laschkewitsch- OMB

**Senator Unruh**, District 43. She explained each section of the bill and testified in favor of HB 1333. It was a bill that addresses land owner concerns and was drafted in cooperation with the industry. There are eleven sections, and will only briefly review each of them. Section 1 adds some needed definitions to the code. Sections 2 & 3 authorize the Industrial Commission to extend reclamation duties to include oil and gas related pipelines and associated facilities. This ensures that landowners will have a place to seek reclamation or clean-up costs when there is no responsible party. Section 4 requires the Industrial Commission to report to the budget section of the Legislative Management on the balance of the fund and expenditures from the fund each biennium. Section 5 & 6 have clean-up language in them. In section 6, adds all oil and gas related civil penalties, penalty fees to the abandoned wells fund. Section 8, is a new section to the code requiring owners of the underground pipelines to file the location of the pipelines with the Industrial Commission. Section 9 adds the North Dakota mediation Service at the Department of Agriculture to include disputes related to easements for oil and gas related pipelines and associated facilities. Now, Section 10 that includes the appropriation. This creates a new funding mechanism for the abandoned oil and gas wells reclamation fund that will be used for qualifying projects as an indigent in Sections 2 and 3.

This will credit 4% of the amount available in Sub-section 1, of 57-51-15 relating to oil and gas production and extraction taxes to be abandoned oil and gas well plugging and site reclamation fund, but not in an amount exceeding \$5 million dollars in a state fiscal year, and with the entire fund balance not exceeding \$75 million dollars. The current abandoned well fund has a \$2 Million balance, and is only funded by industry permitting fees. This

change today would allow that 4% of the 1% to be included in that and then also, those penalty fees that she mentioned earlier to increase the fund. The committee felt that this current \$2 Million dollar balance was not sufficient for the long term needs and with the continued oil and gas activity with the associated risk of thousands of wells we didn't think \$2 Million was quite enough. This allocation would provide certainty to landowners and other affected parties that spills and clean-ups will be re-cleaned even if there is no responsible party available.

**Chairman Holmberg** I am going to have Becky or someone else who's here, I am misreading the fiscal note. It says if enacted it is expected to increase revenues...both of these or other funds in 1A above. In 1A above is zero.

**Senator Unruh** replied that is because the net effect for special funds will be zero because you're taking \$10 million from one special fund and then putting it into another fund. So the net effect up top is zero.

**Senator Warner:** There is kind of class of casual spills, and quite often they are on public property, salt water or crude oil was spilled alongside the roadway, would public entities be allowed to access this fund to clean up those kinds of spills or is there a separate pot of money within the Health Department perhaps, do you know how those could be addressed?

**Senator Unruh,** We added an amendment in Section 2 of the bill as it reads, "that would include the counties in that process". In Section 3, on page 2, line 29, we added language "or damages as a result of an illegal dumping ground incident" under this section so that would qualify that.

**Senator Gary Lee** I am having trouble understanding the dollar amount. It was \$5 million a year, out of this SIFF fund, up to a total of \$75 Million? This would be an ongoing dollar amount that would keep the fund at \$75 Million? **Senator Unruh** replied that was correct.

**Chairman Holmberg** Senator Robinson has special guests, a new voter, someone who will be evaluating things on their merit rather than other considerations.

**Senator Robinson** introduced his son James, daughter-in-law Mandy, Alex, and Max here today. They are here for the weekend to straighten things out for us on Monday morning. Alex just turned 10, Max is 4.

**Chairman Holmberg** anyone else wishes to testify.

**Jeb Oehlke,** Deputy Treasurer, The reason I am up here is section 10 of this bill requires us to make minor changes to our oil and gas tax distribution system. In order to make that allocation of the state's share of the gross production tax to the oil and gas well, abandoned well plugging and site reclamation fund. The estimate we got from ITD to make those changes was roughly \$17,000, so we would ask for an appropriation in this bill. We are asking for an emergency appropriation in this bill in order to implement that during the current fiscal year and before we need to implement it.



**Chairman Holmberg** There are two routes of course. There are 3 things, forget it, they could have the conference committee because there will be one on the treasurer office to make that adjustment if the case could be made also to the House folk, or we could go through the process of amending this bill. Sometimes we do tell them to forget it.

**Senator Oehlke:** Lynn Helms informed me it would take 5 minutes of oil production to address this.

**Senator Carlisle** why wasn't this addressed earlier?

**Senator Oehlke:** We received the amendment from ITD on the 25<sup>th</sup> of the month.

**Chairman Holmberg** Their estimate of what it would cost, what they would charge.

**Lynn Helms**, Director of Department of Mineral Resources

**Senator Warner:** There was a feeling there we created the fund, in our case the problems, becoming more aggravated as time goes on, so I would hope you can access this earlier, is there some sort of discovery process trying to track down everybody that could possibly have some liability, and as a last resort to access this. Is there some sort of recovery mechanism, that you attack the problem when it is still in the beginning phase using this money and then go after aggressively tracking down who is responsible so that we preserve the integrity of this fund and we're not using it all up on causes; if we spend a little bit of time, we could track down who was actually responsible for it.

**Lynn Helms** There is expenditure of this fund, has to be one of 3 tests. # 1 can't locate the responsible party. #2 Taken their bond and expended the entire amount of the bond so that we can cover the remaining cost #3, spill represents a threat of pollution or a threat to human safety and health. That 3<sup>rd</sup> one allows me as the Director to determine that's the situation and I can spend the money, clean up the spill, and then 38:08.04.8 and 10 provide a mechanism for me to then go back and seek re-compensation from all working interests owners involved in the well or site, or business that created the spill. We do have mechanisms, if it is a spill that we can take a little time and go after the bond and go after the operator, we do that first. If it's not, if it represents an imminent threat to health, safety and pollution, we just take the money, clean it up but then there are two provisions later in the statute that allows us to go after those owners and get compensated for the money we took out of the fund. We can be made whole.

**Ron Ness**, ND Petroleum Council. This bill is extremely important to address the flaring issue in ND. This bill was worked on between the Petroleum Council and the Dunn County Land Owners Association. The 8 specific things this bill does with things that were impediments to land owners granting easements to connect pipe lines, into eliminating the flares. So the things that you see in here they all identified to me in multiple meetings about where are the pipelines and we created a plat system; when it leaves the oil site, it is bought by a 3<sup>rd</sup> company, currently, those pipelines aren't subject to the provisions under the Industrial Commission for cleanup, should there be a pipeline company that goes out of business and unable to secure their situation, this authorizes the clean- up. Hopefully it won't be used much, it is a long term clean- up fund for the landowners in North Dakota,



and the Northwest land owners, it allows mediation, to be expanded for to for easements. Currently the ag department only uses that for well site locations pads, but this actually will allow for oil and gas pipeline issues. This bill does a myriad of things that the senator walked through, but they are all intended to benefit the land owner.

**Senator Warner** On page 5, the language that the data the GIS database are exempt from any disclosure to parties outside the commission and are confidential. It seems to me that would be useful information, for anybody to do planning and zoning to make determinations as to where other utilities would go, or water pipelines or it seems like it would be useful data to a lot of people, why was it excluded?

**Ron Ness**, Petroleum Council That is an essential part of this mechanism. For two reasons:

- a. There are always homeland security issues, that result with pipelines and that was discussed in Senate Policy Committee.
- b. A huge propriety issue to the owners and operators of these pipelines. It was something that we worked out in and is done in most of the other provisions in the Industrial Commission. That is really is key to ensuring that you get that data there and that the land owner and the tenant and the state Tax Department are the primary ones that have access to it.

**Senator Warner** I am probably mistaken here, but I've always been under the assumption that the big arterial lines were public record. That these sort of capillary lines if you will, these gathering lines to exclude. I would think the greater Home Security thrill would be on the big lines where you could cause disruption at chokepoints and that sort of thing.

**Ron Ness** I think you are right it was read from the statute by one of PSC got up on that issue and said basically you can't ask Homeland Security what the real definition of that is, because it's secure to tell you. It has been vetted pretty fully through the two committees. These gathering lines are like lines coming into your home off of the MDU line or the power line. They are auxiliary lines, but it is part of this discussion.

**Chairman Holmberg** closed the hearing on HB 1333.

**Vice Chairman Grindberg moved a do pass. 2<sup>nd</sup> by Vice Chairman Bowman.**

**Chairman Holmberg** I have just appointed Senator Carlisle, Vice Chairman Bowman and Senator Robinson on 1005 for the conference committee because the House will not concur.

**A Roll Call vote was taken. Yea: 13; Nay: 0; Absent: 0.**

**Chairman Holmberg:** This will go back to natural resources. **Senator Unruh will carry the bill.**

The hearing was closed on HB 1333.

**FISCAL NOTE**  
**Requested by Legislative Council**  
**02/12/2013**

Amendment to: HB 1333

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$0		
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

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

Engrossed HB 1333 deals with pipeline facilities, saltwater disposal wells, and well plugging and site reclamation fund.

- 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 11 of engrossed HB 1333 allocates a portion of the first one-percent of gross production tax to the abandoned oil and gas well plugging and site reclamation fund.

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.*

If enacted, engrossed HB 1333 is expected to increase revenues in the abandoned oil and gas well plugging and site reclamation fund by \$10 million in the 2013-15 biennium and reduce revenues in the strategic investment and improvements fund by the same \$10 million. (Both of these are "other funds" in 1A above.)

- 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  
**Telephone:** 328-3402  
**Date Prepared:** 02/14/2013

Date: 3-29-13

Roll Call Vote # 1

2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES

BILL/RESOLUTION NO. 1333

Senate Appropriations Committee

Check here for Conference Committee

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

Action Taken  Adopt Amendment  Do Pass  
 Do Pass as Amended  Do Not Pass

Motion Made By Grindberg Seconded By Bowman

Senators	Yes	No	Senator	Yes	No
Chairman Ray Holmberg	✓		Senator Tim Mathern	✓	
Co-Vice Chairman Bill Bowman	✓		Senator David O'Connell	✓	
Co-Vice Chair Tony Grindberg	✓		Senator Larry Robinson	✓	
Senator Ralph Kilzer	✓		Senator John Warner	✓	
Senator Karen Krebsbach	✓				
Senator Robert Erbele	✓				
Senator Terry Wanzek	✓				
Senator Ron Carlisle	✓				
Senator Gary Lee	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Natural Resources

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

**REPORT OF STANDING COMMITTEE**

**HB 1333, as reengrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1333, as amended, was placed on the Fourteenth order on the calendar.

**2013 TESTIMONY**

**HB 1333**



## HB 1333 - Reclamation of Pipelines

Mr Chairman and Members of the House Energy and Natural Resources Comm.

For the Record, my name is Mike Schatz, Representative from District 36 which is part of Dickinson, Stark, Dunn, Morton, and Hettinger counties. I am here today as the prime sponsor on HB 1333 which relates to reclamation of pipeline facilities and oil and gas gross production tax for reclamation.

This bill has six sections and addresses issues brought forth by landowners concerning multiple easements across their land. Our hope is to create a flow of product through pipelines that will require fewer trucks and a safer countryside.

Section 1: Defines abandon pipelines as no longer in service.

Section 2: Authorizes the Industrial Commission to reclaim pipelines where the responsible party is no longer in business.

Section 3: Defrays the costs incurred for reclamation of oil and gas-related pipelines and associated facilities.

Section 4: Requires owners of pipelines to file locations and allows landowners to access the shape files on their property.

Section 5: Expands Ag. Mediation Service to include disputes relating to easements for oil and gas pipelines.

And Section 6: Creates the funding mechanism with the state's share of oil tax revenues of \$5 million per year with a cap of \$75 million which would be used for reclaiming abandon pipelines.

The Petroleum Council and Dunn County landowners worked hard to create much of the language and I feel this is a bill that will solve many problems. I will field any questions but there are people who will testify after me who are more qualified. Thank you Mr. Chairman.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1355 +1333

Page 1, line 1, replace "a" with "two"

Page 1, line 1, replace "section" with "sections"

Page 1, line 2, after "operations" insert "and resolution of title disputes"

Page 1, after line 13, insert:

**"SECTION 2.** A new section to chapter 47-16 of the North Dakota Century Code is created and enacted as follows:

**Resolution of title disputes.**

If the mineral owner and mineral developer disagree over the mineral owner's ownership interest in a spacing unit, the mineral developer shall furnish the mineral owner with a description of the conflict and the proposed resolution or that portion of the title opinion that concerns the disputed interest."

Renumber accordingly



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**House Bill 1333**  
**House Natural Resources Committee**  
**January 31, 2013**

Chairman Porter and members of the Committee, my name is Ron Ness. I am President of the North Dakota Petroleum Council. The Petroleum Council represents more than 400 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. Our members produced 98% of the more than 200 million barrels of oil produced in North Dakota last year. I appear before you today in support of House Bill 1333.

This bill is the results of many discussions with landowners across the Bakken Region and specifically working with the Dunn County Landowners Group. Over the past year, the Petroleum Council and our member oil operators and pipeline companies have worked to identify solutions in getting more pipelines in the ground to capture and transport oil, gas, fresh-water and salt-water. These pipelines are the key to reducing truck traffic, eliminating flaring, making the roads safer, and reducing dust – all of these things irk North Dakotans and are essential to addressing the major challenges facing the Bakken. However, getting an easement for a new pipeline has become extremely

challenging and is resulting in gas plants potentially having excess capacity due to the inability to connect wells which results in more flaring, more trucks, more dust, and wasted natural resources. There is no silver bullet for getting parties to agree on easement terms. Money is generally the biggest issue but ideas such as quick take authority for a special law authorizing county based corridors can be effective in theory but unlikely to pass this body, we want to work together to try another approach. So, instead HB 1333 is intended to improve communications and alleviate significant concerns about impacts on their land by landowners and address concerns for future generations. It is our hope that this bill along with a pipeline education and outreach program next summer on pipelines will open the doors to more easement agreements and result in fewer trucks, dust, and flares.

This bill follows a trend established by this committee over the past few sessions of highly encouraging or forcing parties to communicate to resolve conflicts and address the challenges facing both parties. We urge a Do Pass on HB 1333. I would be happy to answer any questions.

**1333 Actions:**

**Section 1:** Definitions – Pipeline Facility definition for purposes of clean-up provisions of the bill.

Amendment to clarify what underground pipelines must be submitted to the Industrial Commission. “Oil and gas underground gathering pipelines” means an underground gas or liquid pipeline and designed for or capable of transporting crude oil, natural gas, CO2, and water produced in association with oil and gas and not subject to N.D.C.C. 49-22.

**Section 2:** Authorizes the Industrial Commission to expand reclamation duties to include oil and gas related pipelines and associated facilities including off the production lease and other legacy leaks and spills where there is no responsible party. Expanding authorized uses for the abandon well oil and gas clean-up fund to ensure landowners will have a place to seek reclamation or clean-up when there is no responsible party.

**Section 3:** Same authorization as Section 2

**Section 4:** Creates a new requirement for owners of underground gathering pipelines to provide a file of the location to the Industrial Commission.

4.1 Requires the Commission to create a database to collect shape files and makes the information confidential as provided in the section.

4.2 Requires the operator of an underground gathering pipeline to submit a shape file to the Industrial Commission within 180 days of putting a new pipeline into service. The operator has 18 months from the effective date to submit a file of all pipeline put in service since August 1, 2011. This was the date that these gathering lines were required to submit to the one-call program.

4.3 Allows the landowner or tenant to access the shape files on their property.

ND Industrial Commission will need to establish and internal policy or rule to determine how to accept and approve a landowner or tenant request.

**Section 5:** Expands the North Dakota Mediation Service at the Department of Agriculture to include disputes related to easements for oil and gas related pipelines and associated facilities.

This program has been a success since created in 2011 with 22 successful mediations. Each of those has a large impact on other parties reaching agreement.

**Section 6:** Creates a funding mechanism for the abandoned oil and gas well reclamation fund.

Allocates funding from the state’s share of the oil tax revenues of \$5 million per year with a cap of \$75 million. Currently, this fund has a \$2 million balance and is funded by permitting fees. This fund is not sufficient for the long-term needs of continued oil and gas activity.



# Baytex Details Huge Electrical/Gas Feeder System

A massive multi-million dollar effort to tie in over 60 wells in North Dakota's Divide County to 120 miles of natural gas feeder pipelines as well as a \$50 million electrical supply system was detailed by Baytex Energy USA of Denver.

At a hearing earlier this month before the ND Industrial Commission, the company sought approval for unrestricted production which would allow the wells to be flared.

Once the wells are connected to ONEOK system that feeds into its two gas processing plants in Williams County, more than 10 Mmcf a day will be fed into the pipelines.

Baytex pointed out that other operators including Samson Resources, Continental Resources, Crescent Point and Hunt Oil are all participating in the building of the three-phase electric feeder system at sub station at Ambrose being erected by Burke-Divide Electric Cooperative.

The electricity will also power a ONEOK compressor station.

ONEOK has been held up on completing the \$160 million natural pipeline system in the county because of delays in getting right of way agreements from land owners and issues with easements in wildlife habitat areas. There are 235 private land owner right of way agreements that are in various states of completion, Baytex said.

Each well produces on average of between 75 to 80 Mcf a day and the "wet" gas makes it difficult to use on some locations where diesel generators are used to power the pumping units now.

A natural gas feeder line owned by Hess Corp. that runs to its gas processing plant at Tioga is at capacity. Baytex has explored several new technologies including stripping out the liquids but the volumes are too low to make it economical as an alternative to flaring.

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# Continental Zips Into 3-Mile Drilling

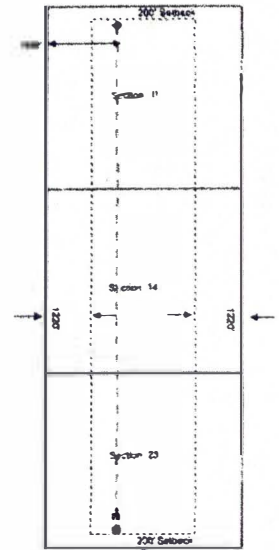
Continental Resources said it is drilling its fourth three-mile long lateral well later this summer in the Williston Basin and subjecting it to a 45-stage fracture stimulation.

The company said the proposed Three Forks well in North Dakota's Burke County would be drilled at a cost of \$10.5 million and it expects an ultimate recovery of 472,000 barrels.

Continental disclosed the information during a hearing before the ND Industrial Commission, where it sought approval of 1920-acre spacing in sections 11, 14 & 23, T161N-R94W.

The 24,000-foot well will be subjected to a 30-stage plug and perf frac and the last 15 stages will be sliding sleeve. This is the fourth three-mile well, and the last one the company drilled was 26,400 feet.

Continental expects an initial production rate of 763 BOPD and a payout in 3.3 years.



Note: The B.H.L. and S.H.L. are non specific, made for field rules found on the ADP (Approved Drilling Permit)

Exact location of Lateral Well Bores may change based on topographical and/or cultural features.

- 7" Casing Point
- Surface Location
- Bottom Hole Location
- Section Line



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Amendments to HB 1333

These amendments add to the sponsor's amendments

Page 1 after line 17 insert "Oil and gas underground gathering pipelines" means an underground gas or liquid pipeline and designed for or capable of transporting crude oil, natural gas, CO2, and water produced in association with oil and gas and not subject to N.D.C.C. 49-22.

Renumber Accordingly

January 31, 2013

Testimony for HB1333

Committee: Energy and Natural Resources

Presented by Daryl Dukart Landowner and Reporter for Dunn County Energy Development Organization.  
(Known as DCED)

Chairman Rep. Todd Porter and Committee members:

First of all I would like to thank Rep.Schatz for carrying HB1333 for us alone with a hearty thank you to Mr. Ron Ness from the Petroleum Council for all of his help. Back in September of 2011 DCED started to hold discussion at our regular meetings about the issue offered in HB1333. Most of us in our late fifties and early sixties as for age are becoming very concerned about what is this country going to appear like in 40-60-or even one hundred years if we continue to allow the number of gathering pipeline systems we presently are. Will the next generation be so challenged by underground lines running multi direction on their property, dealing with different types of easements? Spills/leaks happen as equipment ages so who is responsible because the easement has now been transferred two or three times and the contact information provided are no longer valid. Oh Yes, at one point in the development stage we DCED had many more items we felt necessary to include but as time went along we figured some of them just did not fit this offered bill. September of 2012 Mr. Ness attended our DCED meeting in Dunn Center for roughly three hours and listened while taking many notes as the discussion carried on with some 38 landowners that evening.

Let it be understood DCED is not trying to step in front or force control to PSC type of regulations at this time. Our concerns are to assist in development of corridor systems to allow ease of access for companies to install the needed transmission gathering lines, provide reclamation and responsibility of abandon lines once no -longer in use, care for the reclamation of tank battery gathering sites along with compressor station sites once abandon and deal with offsite parking areas near injection well sites. Injection well site are under NDIC regulation presently, while the offsite parking is not.

Let me break a few of these items down so you have a better understanding for the needs with in this bill.

**1: Corridor type of easement areas for gathering line systems:** Very similar to what you have been hearing in HB1147 yet these are not PSC regulated lines. Use of a corridor system places everything possible from roads, transmission gathering lines of all kinds into a smaller confined area when possible. I have seen and heard of 300 foot or less corridors working in areas. They the oil company's and pipeline company's place oil , gas , production water ,electrical, fresh water lines and the service road all into these corridor areas and this is held under one corridor easement.

Advantages: Is one easement with the main oil company not three or four easement with different companies. Abstracts on land would be much easier to update because you no-longer have multi easement attached which converts to saving legal cost when transferring or selling property. Places the

package deal into a geographic system for ease of tracking and supplying information for one call (811). Responsibility/liability ends up with one company for damage with in the corridor.

Disadvantages: Oil Companies not willing to share corridors, companies not wanting to be responsible for liability of damages to property, over all up front easement cost could be greater than expected.

## **2: Reclamation of lines and spills:**

Today NDIC presently has very good reclamation regulation in place for well site and injection well sites along with PSC regulations for transmission lines. We would like to see similar regulation applied but not necessary the same to these gathering line systems. Main concerns are in the areas of production water lines (salt water, brine water, waste water) associated with spills /leaks. Oil spills and leaks are of concern but are much easier to clean up and reclamation time period to get land back into production is less. Gas leaks expose us as operator to high levels of danger, while the actually damage to land and impacts to production are very limited. Another concern is once lines are abandoning and cleaned to specifications will this abandon line now move to the surface as many other materials placed in the earth do in North Dakota because of our freeze thaw effects from our weather. We all know movement of products placed near a frost line happen regularly.

Advantages: Public safety is important today and will be in the future, as well as our environmental concerns as they are part of our priorities as North Dakotans. Impacts caused by abandon pipelines and other energy industry related facilities need regulations to protect the next generation of surface landowners. Responsibilities of easement holding companies needs to be filed and watched over to make sure we can have full reclamations and repairs of abandon sites or facilities. If funds are not available for the responsibilities for these describe actions who would take the responsibility away from the state and/or local county governments in the future.

Disadvantages: Entity (State Department) which needs to tract and follow the procedures necessary to make sure information and regulation are being met. Bonds are filed and paid, holding company within the state for the bonds.

**3: Defraying the cost incurred in reclamation when all else fails.** The money has to come from some place, be held in some account and someone will need to be accountable for the funds. We would also have to have someone accountable to make sure the reclamations gets done in the correct and proper ways necessary to clean up the disturbance caused by the incident.

**4: Submission of geographic information systems data on oil and gas underground gathering pipelines required:** Lots of words to say we need the gathering systems to be registered under the one call system. Shape file on most if not all lines are available but are only seen or kept with private operator records, landowner records and in the county court house if the easement has been recorded. I would say 90% of the time two of the three record methods mentioned have been taken care of and are fairly easy to access. Our concern is availability of these records twenty –forty and more years from now if these lines are not removed and total reclamation does not happen. Safety is the issue. We have seen and heard of cases in the counties of Dunn, McKenzie and Billings when pipeline companies installing

new lines for this Bakken development have found or hit old lines which have not been identified. Minor cost and no lives lost "thank God"!

**5: Mediation of disputes:** We have members of DCED who have used the mediation service and speak very highly of it and how it solved the small issue they could not agree on when dealing with oil well site issues. We believe this again offers to the landowner an opportunity to have someone work with the two parties when nothing comes together to finalize the easement agreement. DCED offers this suggestion: Negotiations between parties must have been stalled for a period of at least 280 days since first offered easement date before mediation service could be requested. DCED does not see this as a major part of the bill but it does hold a natural fit to be part of HB1333.

Thank you,

Dunn County Energy Development organization support HB1333

Presenter

Daryl Dukart

Mr. Chairman, members of the committee,

Myron Hanson, President of Northwest Landowners Association

The Northwest supports HB 1333 because it recognizes the fact that there is a problem with old equipment, pipelines, well sites, and contaminated areas sitting out there and the companies that last held interest in these facilities are gone along with any bond that may have existed for them.

This simply means that there is no one available to take responsibility for the reclamation of these sites.

Some of these sites have existed for years and the landowner is left with no recourse for remediating this situation and simply don't have the resources to do it.

We feel that this presents the only viable solution to this problem and urge the committee to give a do pass recommendation to HB 1333.



**House Bill 1333**  
**House Energy and Natural Resources**  
 January 31, 2013

Testimony of Lynn D. Helms, Director

The North Dakota Industrial Commission – Department of Mineral Resources – Oil and Gas Division has since 1981 had jurisdiction over underground pipelines under the following sections of law. That jurisdiction has been limited however to monitoring requirements plus leak and spill reporting:

**NDCC 38-08-04 (2)**

**NDAC 43-02-03-30. NOTIFICATION OF FIRES, LEAKS, SPILLS, OR BLOWOUTS.** All persons controlling or operating any well, pipeline, receiving tank, storage tank, or production facility into which oil, gas, or water is produced, received, stored, processed, or through which oil, gas, or water is injected, piped, or transported, shall verbally notify the director within twenty-four hours after discovery of any fire, leak, spill, blowout, or release of fluid. If any such incident occurs or travels offsite of a facility, the persons, as named above, responsible for proper notification shall within a reasonable time also notify the surface owners upon whose land the incident occurred or traveled. Notification requirements prescribed by this section shall not apply to any leak, spill, or release of fluid that is less than one barrel total volume and remains onsite of a facility. The verbal notification must be followed by a written report within ten days after cleanup of the incident, unless deemed unnecessary by the director. Such report must include the following information: the operator and description of the facility, the legal description of the location of the incident, date of occurrence, date of cleanup, amount and type of each fluid involved, amount of each fluid recovered, steps taken to remedy the situation, cause of the accident, and action taken to prevent reoccurrence. The signature, title, and telephone number of the company representative must be included on such report. The persons, as named above, responsible for proper notification shall within a reasonable time also provide a copy of the written report to the surface owners upon whose land the incident occurred or traveled.

The commission, however, may impose more stringent spill reporting requirements if warranted by proximity to sensitive areas, past spill performance, or careless operating practices as determined by the director.

**NDAC 43-02-05-12. REPORTING AND MONITORING REQUIREMENTS.**

4. The operator of an injection well shall keep the well and injection system under continuing surveillance and conduct such monitoring and sampling as the commission may require.



le

This bill provides needed expansion of that authority as we look to the future of oil and gas development in our state and see the number of wells and miles of underground pipelines grow ten-fold in the 25 year period from 2006 through 2030.

Sections 1, 2, 3, and 5 of the bill define, provide for proper reclamation of, and establish a funding mechanism for spill clean-up and reclamation when no responsible party can be identified.

Section 4 of the bill provides a storehouse of confidential pipeline location information that is needed by regulators and landowners.

It is anticipated that the Oil and Gas Division request for 1 FTE engineering technician in our Bismarck office - information technology group- to handle database and public mapping system support will be approved and allow us to provide this service. As you are aware, we already have a mapping system that can provide an accurate location of all directional and horizontal well bores in the state, so this would be a separate, confidential application of that service.

For security and competitive business reasons it is important to limit access to the information. The Department of Mineral Resources maintains a set of current county atlases which show land ownership and would be used as the primary mechanism to determine information access. The ownership information currently maintained by 811 services, viewing a copy of a deed or lease, etc. could be used to supplement this information when verifying access.

The Department of Mineral Resources has decades of experience enforcing confidentiality for oil and gas wells, coal exploration, and subsurface mineral programs.

I am working on some amendments that will accomplish two other important and related changes to 38-08:

- 1) NDCC 38-08-04.4, 38-08-15, and 38-08-16 need to be amended to ensure that civil penalties collected by the Oil and Gas Division are used to maintain the site restoration fund that will be utilized for pipelines when no responsible party can be found.
- 2) NDCC 38-08-04 needs to be expanded to allow the Oil and Gas Division to consider additional factors for saltwater disposal sites, access roads, and facilities.

Mr. Chairman and members of House Energy and Natural Resources the North Dakota Industrial Commission urges a do pass for House Bill 1333 with amendments.

**House Bill 1333**

**Presented by:** Illona A. Jeffcoat-Sacco  
Public Service Commission

**Before:** House Energy and Natural Resources Committee  
Representative Todd Porter, Chairman

**Date:** January 31, 2013

**TESTIMONY**

Mister Chairman and committee members, I am Illona Jeffcoat-Sacco, General Counsel with the Public Service Commission. The Commission asked me to appear today on House Bill 1333 to bring to your attention several concerns with the bill's language that should be addressed before the bill is passed.

The definitions in Section One of the bill are problematic. While the definition of "abandoned pipeline" in the bill means an underground gathering line, the definition of "pipeline facility" in the bill is more broad and includes pipelines used for transportation and distribution. We do not know if this was intentional. Is the bill intended to apply to abandoned transmission or distribution lines, as well as gathering lines, or only to abandoned gathering lines?

The definition section also raises some additional interpretation questions. Traditional usage of the terms in industry distinguishes between gathering lines, transmission lines and distribution lines. For example, a distribution line is the line that brings natural gas to your home. Is the bill intended to apply to such lines? If so, is it intended to apply to all such lines, or only those not subject to

other abandonment jurisdiction, such as the Public Service Commission's jurisdiction over the distribution systems of investor-owned utilities?

Transmission lines and gathering lines appear to be included in this bill, but are treated differently in different areas of the law. For example, in the area of gas safety jurisdiction, transmission lines are jurisdictional to the federal or state gas safety programs, but only some gathering lines are jurisdictional. Abandonment requirements under gas safety jurisdiction, whether federal or state, consequently differ because some gathering lines are nonjurisdictional. Similarly, the Public Service Commission's jurisdiction for environmental siting under the Energy Conversion and Facility Siting Act (Siting Act), N.D.C.C. Chapter 49-22, extends to some, but not all, transmission lines, but not to gathering lines. Also, gathering lines are defined differently for siting purposes and gas safety purposes.

The definitions in this bill are sufficiently broad to include some facilities that are under federal or state gas safety jurisdiction and also under siting jurisdiction. This raises a question of whether the bill's proponents intended to include abandonment authority only for facilities that are not otherwise handled elsewhere in federal or state jurisdiction, or for all facilities regardless of whether there is some other jurisdiction that might apply. Amendments would be in order to clarify the intent of the bill.

This concludes my testimony. I would be glad to answer any questions you may have.

Amendment #1

Mr. Ness

Amendments to HB 1333

These amendments add to the sponsor's amendments

Page 1 after line 17 insert "Oil and gas underground gathering pipelines" means an underground gas or liquid pipeline and designed for or capable of transporting crude oil, natural gas, CO2, and water produced in association with oil and gas and not subject to N.D.C.C. 49-22.

Renumber Accordingly

Amendments to HB 1333

Page 2 line 28 after the word "Subsection" insert "s 1 and"

Page 2 line 30 insert

"1. Revenue to the fund must include:

- a. Fees collected by the oil and gas division of the industrial commission for permits or other services.
- b. Moneys received from the forfeiture of drilling and reclamation bonds.
- c. Moneys received from any federal agency for the purpose of this section.
- d. Moneys donated to the commission for the purposes of this section.
- e. Moneys received from the state's oil and gas impact fund.
- f. Moneys recovered under the provisions of section 38-08-04.8.
- g. Moneys recovered from the sale of equipment and oil confiscated under section 38-08-04.9.
- h. Moneys transferred from the cash bond fund under section 38-08-04.11.
- i. Such other moneys as may be deposited in the fund for use in carrying out the purposes of plugging or replugging of wells or the restoration of well sites.
- j. Civil penalties assessed under section 38-08-16(1)"

Page 3 line 6 insert

"**SECTION 4. AMENDMENT.** Subsection 6 of section 38-08-15 of the North Dakota Century Code is amended and reenacted as follows:

6. All proceeds derived from the sale of illegal oil, illegal gas, or illegal product, as above provided, after payment of costs of suit and expenses incident to the sale ~~and all amounts paid as penalties provided for by this chapter~~ must be paid to the state treasurer and credited to the general fund."

"**SECTION 5. AMENDMENT.** Subsection 1 of section 38-08-16 of the North Dakota Century Code is amended and reenacted as follows:

1. Any person who violates any provision of this chapter, or any rule, regulation, or order of the commission is subject to a civil penalty to be imposed by the commission not to exceed twelve thousand five hundred dollars for each offense, and each day's violation is a separate offense, unless the penalty for the violation is otherwise specifically provided for and made exclusive in this chapter. Any such civil penalty may be compromised by the commission. All amounts paid as civil penalties shall be deposited into the Abandoned Oil and Gas Well Plugging and Site Reclamation Fund. The penalties provided in this section, if not paid, are recoverable by suit filed by the attorney general in the name and on behalf of the commission, in the district court of the county in which the defendant resides, or in which any defendant resides, if there be more than one defendant, or in the district court of any county in which the violation occurred. The payment of the penalty may not operate to legalize any illegal oil, illegal gas, or illegal product involved in the violation for which the penalty is imposed, or to relieve a person on whom the penalty is imposed from liability to any other person for damages arising out of the violation."

"**SECTION 6. AMENDMENT.** Subsection 1 of section 38-08-23 of the North Dakota Century Code is amended and reenacted as follows:

Any person reclaiming a drilling pit or reserve pit after the completion of oil and gas drilling operations shall record an accurate plat certified by a registered surveyor showing the location of the well and notice that an abandoned reserve pit may be on the location within six months of the completion of the reclamation with the register of deeds of the county in which the reserve pit is located. A plat filed for record in accordance with this section may be recorded without acknowledgement or further proof as required by chapter 47-19 and without the auditor's certificate referred to in section 11-18-02.



"SECTION 7. AMENDMENT. Subsection 2 of section 38-08-04 of the North Dakota Century Code is amended and reenacted as follows:

2. To regulate:

- a. The drilling, producing, and plugging of wells, the restoration of drilling and production sites, and all other operations for the production of oil or gas.
- b. The shooting and chemical treatment of wells.
- c. The spacing of wells.
- d. Operations to increase ultimate recovery such as cycling of gas, the maintenance of pressure, and the introduction of gas, water, or other substances into producing formations.
- e. Disposal of saltwater and oil field wastes.
- f. Saltwater disposal well and all associated facilities location, road access, and safety.
- fg. The underground storage of oil or gas.

Page 3 line 6 change SECTION 4 to SECTION 8

Page 4 line 3 change SECTION 5 to SECTION 9

Page 4 line 8 change SECTION 6 to SECTION 10

Prepared by the Office of  
State Tax Commissioner for  
Representative Nathe  
February 7, 2013

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1333

Page 4, after line 2, insert:

“4. Upon request by the tax commissioner, the commission may allow access to information contained in the geographic information system database to the tax commissioner to be used for the sole purpose of administering the valuation and assessment of centrally assessed oil and gas gathering pipeline property under chapter 57-06. The information obtained under this subsection is confidential and may be used only for the purposes identified in this subsection.”

Renumber accordingly  
A. 11

13.0478.08002  
Title.

Prepared by the Legislative Council staff for  
Representative Delzer  
February 21, 2013

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1333

Page 1, line 4, remove the first "section"

Page 1, line 4, after the first comma insert "section"

Page 1, line 8, after the semicolon insert "to provide for application;"

Page 7, after line 13, insert:

**"SECTION 12. APPLICATION.** This Act does not apply to the reclamation of an oil or gas-related pipeline or associated facility put into service before August 1, 1983."

Re-number accordingly

#1

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1333

Page 2, after line 14, insert:

- "(1) The commission shall give all affected counties written notice of hearings in such matters at least fifteen days before the hearing.
- (2) The commission may consider, in addition to other authority granted under this section, safety of the location and road access to saltwater disposal wells, treating plants, and all associated facilities."

Page 2, line 15, overstrike "f."

Page 2, line 15, remove "Saltwater disposal wells and all associated facilities, including safety relating to"

Page 2, remove line 16

Page 2, line 17, replace "g." with "f."

Page 2, line 27, overstrike the third "or"

Page 2, line 29, after "facility" insert ", or damage is the result of an illegal dumping incident"

Page 3, line 3, after "bond" insert "or damage is the result of an illegal dumping incident"

Page 3, line 4, after "facility" insert an underscored comma

Renumber accordingly

#2

March 14th, 2013

Testimony for HB1333

Chairman Senator Stanley Lyson,

Senate Natural Resources Committee:

I am Daryl Dukart Landowner and board member for Dunn County Energy Development Organization. (Known as DCED)

**There will be a massive amounts of infrastructure constructed, in the future, in western ND. Without some guidance it will just get more chaotic. Without additional pipelines to move fluids, we will continue to degrade our roads, thus keeping us in a never ending cycle of repairing roads and asking for more monies.**

Many of the members of DCED are in their late fifties and early sixties as for age! While this is the beginning of the golden age as we are told we are very concerned about what Western North Dakota will emerge as in 40-60-or even one hundred years if we continue to allow the number of gathering pipeline systems we presently are experiencing. Will the next generation be so challenged by underground lines running multi direction on their property, dealing with different types of easements and spills or leaks will happen when equipment ages. Now who is responsible because the easement has now been transferred two, three or even more times and the contact information provided is no longer valid.

Our concerns are to assist in the development of corridor systems to allow ease of access for companies to install the needed transportation gathering lines, deliver reclamation and become responsibility for abandon lines once they are no longer in use, deliver and care for the reclamation of tank battery gathering sites along with compressor station sites once abandon, offsite parking areas near injection well sites , (Injection well site are under NDIC regulation ) while the offsite parking which is happening is not.

We encourage support of the bonding requirements set forth in this bill along with the availability of North Dakota Departments of Ag- Mediation Service if necessary.

**Let me break a few of these items down so you have a better understanding for the needs with in this bill.**

**1: Corridor type of easement areas for gathering line systems:** Very similar to what you have been hearing in HB1147 yet these are not PSC regulated lines. Use of a corridor system places everything possible from roads, transmission gathering lines of all kinds into a smaller confined area when possible. Not several easements which can never seem to overlap!

**2: Reclamation of lines, sites and spills:** Today NDIC presently has very good reclamation regulation in place for oil well sites and injection well sites. We would like to see similar regulation applied to these gathering line systems. Main concerns are in the areas of production water lines (salt water, brine water, waste water) as associated with spills and/or leaks. These types of spills or leaks are normally very expensive to clean up and cause loss of production for a long period of time. Oil spills or leaks are of concern but are much easier to clean up with shorter reclamation time periods having less cost impact on the clean up process. Gas leaks expose us as operators to high levels of danger, while the actual damage to land and impacts to production are very limited. Another concern is once lines are abandoned and cleaned to specifications will these abandoned lines now move to the surface as many other materials placed in the earth do in North Dakota because of our freeze thaw effects from our weather. We all know movement of products placed near a frost line happens regularly.

**3: Defraying the cost incurred in reclamation when all else fails:** The money has to come from some place, be held in some account and someone will need to be accountable for the funds. We would also have to have someone accountable to make sure the reclamations get done in the correct and proper ways necessary to clean up the disturbance caused by the incident.

**4: Submission of geographic information systems data on oil and gas underground gathering pipelines required:** Lots of words to say we need the gathering systems to be registered under the one call system. Shape file on most if not all lines are available but are only seen or kept with private operator records, landowner records and in the county court house if the easement has been recorded. I would say 90% of the time two of the three record methods mentioned have been taken care of and are fairly easy to access. Our concern is availability of these records twenty–forty and more years from now if these lines are not removed and total reclamation does not happen. Safety is the issue. We have seen and heard of cases in the counties of Dunn, McKenzie and Billings when pipeline companies installing new lines for this Bakken development have found or hit old lines which have not been identified. Minor cost and no lives thank God!

**5: Mediation of disputes:** We have members of DCED who have used the mediation service and speak very highly of it and how it solved the few small issues they could not agree on when dealing with oil well site issues. We believe this again offers to the landowner an opportunity to have someone work with the two parties when nothing comes together to finalize the easement agreement. Negotiations between parties must have been stalled for a period of at least 280 days since first offered easement date before mediation service could be requested.

**Seventy five million dollars sounds like lots of money but two or three salt water-brine water leaks or spills could consume a large amount of this account very fast.**



**We support HB1333 as is and would ask the Senate Natural Resource Committee for your support with a do pass for the future of Western North Dakota.**

**Thank you,**

**Dunn County Energy Development Organization**

Presenter

Daryl Dukart

#3

Mr. Chairman, members of the committee:

Myron Hanson, President of the Northwest Landowners Association, and we stand in support of House Bill 1333.

We support this bill for a number of reasons. First, it provides for a means of cleaning up and the reclamation of old, abandoned equipment and old sites for which no operator can be found. The burden of cleanup falls to the landowner in these instances where bankrupt companies are involved with no bonding in place. The landowners would have no means of dealing with this removal and cleanup of these old sites without the state's involvement. It also provides for the mapping of all abandoned reserve pits which may be located on our farms or ranches.

Second, it provides for the compiling of geographic information on underground gathering systems. This is important because in the older fields, there is no accurate knowledge as to the location of active lines. It does no good to call the one call system because they don't know where these lines are and there have been instances where an active line has been cut and fluids have escaped. This is a real concern especially when dealing with salt water.

Third, it provides for the regulation of the disposal of salt water.

These are all important aspects for the farmers and ranchers in Western North Dakota, especially the sections dealing with the mapping of the gathering lines and the regulation of salt water disposal.

We have heard repeatedly about truck traffic, its impact on the roads, safety issues, and the dust. The only way to relieve that is to put pipe in the ground.

The latest National Geographic cover story is on the activity in this state. The author talks about the amount of pipe needed to cover the gathering of all the product and byproduct produced, such as salt water. This involves thousands of miles of pipe and an immense construction project.

This raises a whole other set of problems. You simply cannot trade one problem for another without putting in place some authority to make sure that adequate



safeguards exist to protect the land, North Dakota's primary resource, from spills or leaks.

The Northwest Landowners Association urges the committee to give a do pass recommendation to House Bill 1333.





#7









#5



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### **House Bill 1333**

### **Senate Natural Resources Committee**

**March 14, 2013**

Chairman Lyson and members of the Committee, my name is Ron Ness. I am President of the North Dakota Petroleum Council. The Petroleum Council represents more than 400 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. Our members produced 98% of the more than 243 million barrels of oil produced in North Dakota last year. I appear before you today in support of House Bill 1333.

This bill is the results of many discussions with landowners across the Bakken Region and specifically working with the Dunn County Landowners Group. Over the past year, the Petroleum Council and our member oil operators and pipeline companies have worked to identify solutions to getting more pipelines in the ground to capture and transport oil, gas, fresh water and salt water. These pipelines are the key to reducing truck traffic, eliminating flaring, making roads safer, and reducing dust – all of these things irk North Dakotans and are essential to addressing the major challenges facing the Bakken. However, getting an easement for a new pipeline has become extremely



challenging and is resulting in gas plants potentially having capacity due to the inability to connect wells, which results in more flaring, more trucks, more dust, and wasted natural resources. There is no silver bullet for getting parties to agree on easement terms. Money is generally the biggest issue but ideas such as quick take authority for a special law authorizing county based corridors can be effective in theory but unlikely to pass this body, we want to work together to try another approach. So, instead HB 1333 is intended to improve communications and alleviate significant concerns about impacts on their land by landowners and address concerns for future generations. It is our hope that this bill along with a pipeline education and outreach program next summer on pipelines will open the doors to more easement agreements and result in fewer trucks, dust, and flares.

This bill follows a trend established by legislature over the past few sessions of highly encouraging or forcing parties to communicate to resolve conflicts and address the challenges facing both parties. The House made several positive additions to the bill which we support. We urge a Do Pass on HB 1333. I would be happy to answer any questions.

HB 1333, is the results of many discussions between the Petroleum Council and landowners across the Bakken Region specifically the Dunn County Landowners Group who worked with the Petroleum Council to draft this bill to identify solutions to getting more pipelines in the ground to capture and transport oil, gas, fresh-water and salt-water.

Pipelines are the key to reducing truck traffic, eliminating flaring, making the roads safer, and reducing dust – all of these things are essential to addressing the major challenges facing the Bakken. However, getting an easement for a new pipeline has become extremely challenging and is resulting in gas plants potentially having excess capacity due to the inability to connect wells which results in more flaring, more trucks, more dust, and wasted natural resources.

Money is generally the biggest issue in obtaining easements and at \$33,000 to \$45,000 per mile for a pipeline easement sometimes that's not even enough. So, HB 1333 is intended to improve communications and alleviate significant concerns that landowners have for future generations with so

many pipelines crossing their land. It is our hope that this bill will open the doors to more easement agreements and result in fewer trucks, dust, and flares.

### **1333 Actions:**

#### **Section 1:**

It defines "Abandoned Pipeline" which is important for reclamation purposes.

Defines "Pipeline Facility" for purposes of clean-up provisions of the bill.

Defines "Oil and gas underground gathering pipelines" as an underground gas or liquid pipeline and designed for or capable of transporting crude oil, natural gas, CO<sub>2</sub>, and water produced in association with oil and gas and not subject to N.D.C.C. 49-22. (this is the pipelines which are regulated under the public service commission.)

#### **Section 2:**

Authorizes the Industrial Commission to expand reclamation duties to include oil and gas related pipelines and associated

facilities including off the production lease and other leaks and spills where there is no responsible party. So this is expanding authorized uses for the abandon well oil and gas clean-up fund to ensure landowners will have a place to seek reclamation or clean-up when there is no responsible party and the Industrial Commission has exhausted all efforts to utilize the bond, collect monies, or cease assets.

The Appropriations Committee added an amendment limiting the use of these funds for clean-up work back to the creation of the abandon well clean-up fund in 1983. XXX – I haven't seen this language yet.

**Section 3:** Same authorization as Section 2

**Section 4:** Places the revenues collected from civil penalties assessed against the oil and gas industry for violations into the abandon well and reclamation fund – previously, they revenues went to the general fund.

**Section 5 - 6 – clean-up language and authorization for revenues from civil penalties going to the abandon well fund.**

**Section 7** – Technical change for the Industrial Commission recent rule change eliminating reserve pits.

**Section 8** – This is one of the key components of the bill, landowners want to know where underground gathering lines are on their property. This information is confidential for Homeland Security and other proprietary purposes. The Petroleum Council has worked with Dunn County Landowners and the Industrial Commission to design this statute which requires the owners of underground pipelines as defined in this statute to file the location with the agency.

**8.1** Requires the Commission to create a database to collect shape files and makes the information confidential as provided in the section.

**8.2** Requires the operator of an underground gathering pipeline to submit a shape file to the Industrial Commission within 180 days of putting a new pipeline into service. The operator has 18 months from the effective date to submit a file of all pipeline put in service since August 1, 2011. This was the date that

these gathering lines were required to submit to the one-call program.

**8.3** Allows the landowner or tenant to access the shape files on their property.

ND Industrial Commission will need to establish and internal policy or rule to determine how to accept and approve a landowner or tenant request.

**8.4** Allows the Tax Commissioner access to the underground pipeline database to gather tax valuation information.

**Section 9:** Expands the North Dakota Mediation Service at the Department of Agriculture to include disputes related to easements for oil and gas related pipelines and associated facilities.

This program has been a success since created in 2011 with 22 successful mediations. Each of those has a large impact on other parties reaching agreement.



**Section 10:** Creates a funding mechanism for the abandon oil and gas well reclamation fund. Allocates funding from the state's share of the oil tax revenues of \$5 million per year with a cap of \$75 million. The funds will come out of the oil and gas production and extraction taxes at the same point as the Oil and Gas Research Council which is after the constitutional funds.

Currently, this abandon well fund has a \$2 million balance and is funded by only by industry permitting fees. This fund is not sufficient for the long-term needs with continued oil and gas activity and the associated risks of thousands of oil wells. The expected use of this fund might be decades down the road but now is the time to begin funding this necessary clean-up fund for landowners in the event there is no responsible party available.

COMMISSIONER  
DOUG GOEHRING



#7  
ndda@nd.gov  
www.nd.gov/ndda

**NORTH DAKOTA**  
**DEPARTMENT OF AGRICULTURE**  
STATE CAPITOL  
600 E BOULEVARD AVE DEPT 602  
BISMARCK ND 58505-0020

**Testimony of Bethany Abrams, North Dakota Mediation Service Administrator**  
**North Dakota Department of Agriculture**  
**House Bill 1333**  
**Senate Natural Resources Committee**  
**Fort Lincoln Room**  
**11:00 AM March 14, 2013**

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Chairman Lyson and members of the Senate Natural Resources Committee, I am Bethany Abrams, the North Dakota Mediation Service Administrator at the North Dakota Department of Agriculture (NDDA). I am here today on behalf of Agriculture Commissioner Doug Goehring to offer information regarding the North Dakota Mediation Services (NDMS) as it is relevant to HB 1333.

NDMS was started in 1984 to help financially distressed farmers and ranchers by providing assistance in credit and financial matters and resolving disputes. The 2011 legislative assembly expanded NDMS responsibilities to include dispute resolution of property issues related to energy development.

We believe mediation is important because it helps to avoid litigation, saves time and money, and improves communication between disputing parties. Mediation is voluntary and confidential.

There is one primary areas of focus from our perspective:

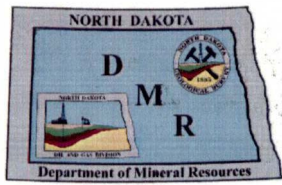
1. Funding requests currently pending for NDMS is based upon the current case load, with the current staffing. Under prior statute, NDMS is only allowed to charge a \$25 per hour fee for mediation. This rate was set in 1985, in response to mediation regarding credit and lending. The expertise required for oil and gas mediation, along with the passage of

nearly 30 years, necessitates an increase in the fee for these types of mediations. Our recommendation is for an amendment allowing NDMS to charge \$170 per hour fee for oil and gas mediations leaving the fee at \$25 per hour for credit and financial mediations.

Chairman Lyson and committee members, Commissioner Goehring is in favor of HB 1333 with the before mentioned considerations. I would be happy to answer any questions you may have.

Thank you.

#8



**Engrossed House Bill 1333**  
**Senate Natural Resources**  
March 14, 2013

Testimony of Lynn D. Helms, Director

The North Dakota Industrial Commission – Department of Mineral Resources – Oil and Gas Division has since 1981 had limited jurisdiction over underground pipelines under the following sections of law. That jurisdiction has been limited to monitoring requirements plus leak and spill reporting:

**North Dakota Century Code 38-08-04 (2)**

**North Dakota Administrative Code 43-02-03-30. NOTIFICATION OF FIRES, LEAKS, SPILLS, OR BLOWOUTS.** All persons controlling or operating any well, pipeline, receiving tank, storage tank, or production facility into which oil, gas, or water is produced, received, stored, processed, or through which oil, gas, or water is injected, piped, or transported, shall verbally notify the director within twenty-four hours after discovery of any fire, leak, spill, blowout, or release of fluid. If any such incident occurs or travels offsite of a facility, the persons, as named above, responsible for proper notification shall within a reasonable time also notify the surface owners upon whose land the incident occurred or traveled. Notification requirements prescribed by this section shall not apply to any leak, spill, or release of fluid that is less than one barrel total volume and remains onsite of a facility. The verbal notification must be followed by a written report within ten days after cleanup of the incident, unless deemed unnecessary by the director. Such report must include the following information: the operator and description of the facility, the legal description of the location of the incident, date of occurrence, date of cleanup, amount and type of each fluid involved, amount of each fluid recovered, steps taken to remedy the situation, cause of the accident, and action taken to prevent reoccurrence. The signature, title, and telephone number of the company representative must be included on such report. The persons, as named above, responsible for proper notification shall within a reasonable time also provide a copy of the written report to the surface owners upon whose land the incident occurred or traveled.

The commission, however, may impose more stringent spill reporting requirements if warranted by proximity to sensitive areas, past spill performance, or careless operating practices as determined by the director.

**North Dakota Administrative Code 43-02-05-12. REPORTING AND MONITORING REQUIREMENTS.**

4. The operator of an injection well shall keep the well and injection system under continuing surveillance and conduct such monitoring and sampling as the commission may require.

This bill provides needed expansion of that authority as we look to the future of oil and gas development in our state and anticipate the number of wells and miles of underground pipelines to grow ten-fold in the 25 year period from 2006 through 2030.

**Section 1** defines the types of pipelines and facilities that will be subject to Industrial Commission jurisdiction and for which spill reclamation funds could be expended.

**Section 2** contains language provided by an attorney working with Northwest Landowners. Oil, gas, and saltwater wells are under comprehensive Industrial Commission statutory authority which preempts county regulation of oil, gas, or saltwater wells, including their location (Attorney General's Opinion 2010-L-01). Current statutes and rules limit the Industrial Commission to considering only factors that are directly related to surface water, and ground water protection. The recent expansion of oil and gas activity has resulted in requests by counties and local residents to consider truck parking, noise, odors, light pollution, road access, pipeline leaks, emergency services, dust, truck traffic, view shed, wildlife, and economic impacts. The language contained in engrossed HB1333 is an attempt to allow some of those factors to enter into Industrial Commission decisions to grant, deny, or impose permit stipulations.

The commission would support amendments to this section so that for saltwater wells, associated facilities, and class 2 waste treating plants it would:

- 1) not preempt the appropriate legal jurisdictions of counties or other state agencies
- 2) would provide for appropriate notice to county commissions

- 3) would allow the Industrial Commission to consider location and associated facility safety such as pipeline construction standards
- 4) would allow the commission to consider the availability of safe access to county or township roads based on county and township input

**Sections 3, 4, 5, and 6** expand the Industrial Commission's authority to enter into contracts for reclamation of pipelines and the associated facilities when no responsible party can be located or legally forced to pay for the reclamation, direct the Industrial Commission to place all civil penalties collected into the reclamation fund, expand the spending authority of the fund to include reclamation of oil and gas related pipelines and associated facilities, and require a biennial fund report to the budget section.

The commission would support amendments to these sections that would also permit use of the fund to clean up illegal dumping sites.

**Section 7** is a technical correction needed to complete the switch to semi-closed loop drilling systems.

**Section 8** creates a system to house confidential pipeline location information that is needed by landowners, tenants, regulators, and property tax assessors. It is anticipated that the Oil and Gas Division request for 1 FTE engineering technician in our Bismarck office, information technology group, to handle database and public mapping system support will be approved and allow us to provide this service.



As you are aware, we already have a mapping system that can provide an accurate location of all directional and horizontal well bores in the state, so this would be a separate, confidential application of that service. For security and competitive business reasons it is important to limit access to the information. The Department of Mineral Resources maintains a set of current county atlases which show land ownership and would be used as the primary mechanism to determine information access. The ownership information currently maintained by 811 services, viewing a copy of a deed or lease, etc. could also be used to supplement this information when verifying access. The Department of Mineral Resources has decades of experience enforcing confidentiality for oil and gas wells, coal exploration, and subsurface mineral programs. We did find a couple of technical errors that should be amended. On page 6 line 7 “the section” should be “this section” and on line 23 “if available” should be inserted after information.

**Section 9** provides for the same mediation services on pipeline easement disputes that has been working so well for oil and gas well surface damages.

**Section 10** is the funding mechanism for the expanded reclamation fund. How was \$75 million arrived at as the correct fund cap? The current fund balance is \$2,019,879.91 which is approximately the amount spent by Petro Harvester on the Cramer salt water pipeline spill in 2011-2012 and approximately one third the estimate of what Zenergy will spend on the Charbonneau Creek spill (since 2006 they have spent over \$5 million).

The last two orphan wells we plugged and reclaimed in 2012 cost \$100,000 so the fund has enough money to handle one large salt water spill or up to 20 orphan wells (right now we have zero orphan wells). There are currently 194 wells in abandoned status (\$19.4 million in plugging and reclamation liability) covered by \$6.2 million in bonds and the current total well count is 11,640. When we reach the total well count of 50,000 approximately 20 years from now we expect to have 1,000 abandoned wells with a plugging liability of \$100 million covered by \$25 million in bonds for a net liability of \$75 million (all in today's dollars).

**Section 11** sets the date from which the reclamation fund can be retroactively used.

The date currently in the bill is when the fund was created which followed the creation of the Oil and Gas Division and our present system of regulation.

Mr. Chairman and members of Senate Energy and Natural Resources the North Dakota Industrial Commission urges a do pass for engrossed House Bill 1333.

#1 pm

On November 9, 2012, The North Dakota Industrial Commission approved a permit from SBG to drill a salt water disposal well (SWD) approximately ¼ of a mile from our farmstead along highway 85. There are no other occupied farmsteads along highway 85 for 15 miles to the south of us and 4 miles to the north. In SBG's original application to the NDIC they submitted a map of the area which had been surveyed by Kadmas, Lee & Jackson, which showed every farm within a 3 mile radius of the proposed SWD, except coincidentally, our farm which is the closest farm to the proposed SWD location. SBG's application stated that there were no known potable water wells within the ¼ mile. We hired an attorney to help us contest the NDIC. We filed a petition for denial, stating our concerns with the disposal well going in that close to our farm. In September, NDIC approved the permit and we filed for a reconsideration of petition. To our knowledge, NDIC did not go back and check over the maps or seem alarmed over any of our concerns. Just days after filing for a reconsideration, Dennis Hanson passed away. Needless to say, in October, NDIC denied the reconsideration and approved the permit.

There were issues and discrepancies with SBG's permit. Such as, filing the correct paperwork with the Secretary of State and with proper protocol of testing of fresh water wells. We have concerns over contamination of our fresh water well which is used for both domestic and livestock use. In the event of a spill, it would destroy our water supply along with the surrounding pastures and farmland. We stated our concerns with increased traffic, noise, and of course safety in the area. NDIC states "They have no jurisdiction over traffic, safety, noise, etc." There could potentially be up to 120 trucks in and out of this location daily. We chose this location as our home 28 years ago, for the rural lifestyle and simple way of life, as did many other landowners and neighbors. We helped make this state what it is today, and have stuck with farming and ranching through good years and some very difficult years. Before all the oil activity moved in.

Why does the NDIC even exist if they are going to approve anything and everything that is put before them, with no regard or respect to the residents that their decision is affecting. There is a lot of greed going on, and it wouldn't surprise me if there was a lot of bribery and/or kick backs going on in the NDIC/Government as well. It's time for us native residents to take a stand and stop the NDIC from ruining our way of life.

Family of the Late Dennis Hanson

Divide County Commissioners,

We are case number 17539 and order number 21290 with the North Dakota Industrial Commission, Bismarck, ND.

Sincerely,

Cathy Hanson  
9745 US 85  
Fortuna, ND 58844

701-982-3582  
701-641-8288

Justin Hanson  
9190 County Road 5  
Grenora, ND 58845

701-694-4042  
701-641-8289

Justin is currently out of the states until March 20.



#2  
pm

NDSPLS ADMINISTRATIVE OFFICE  
1811 East Thayer Avenue  
Bismarck, ND 58501  
Phone: 701-222-3499  
Fax: 701-222-0103  
E-mail: info@ndspls.org  
Website: www.ndspls.org

HB 1333 Testimony

March 14, 2013

Chairman Lyson and Committee Members:

My name is Curtis Glasoe. I was born and raised in North Dakota, graduated from NDSU in engineering, spent two years in the US Army during the Viet Nam era. I have practiced engineering and land surveying for over 43 years in North Dakota, South Dakota, Montana, and Idaho. I have resided in North Dakota for over 50 years. I am currently licensed to practice Land Surveying and Engineering in Montana, South Dakota, and the Great State of North Dakota.

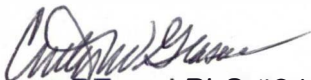
I am the National Society of Professional Surveyors (NSPS) Governor for North Dakota and the Legislative Co-Chairman of the North Dakota Society of Professional Land Surveyors (NDSPLS). This State Society is made up of over 330 members. There are approximately 300 Registered Land Surveyors and over 50 dual registrants in Engineering and Land Surveying in North Dakota. Some 200 of these registered people live and practice in the State of North Dakota.

I am here to testify in favor of HB1333 but offer a friendly amendment to the bill for the following reasons:

1. This Bill will bring the pipeline community up to speed with modern technology and mapping techniques to help monitor and administrate their locations.
2. Our amendments include the additional information to collect prospectively the data by a North Dakota registered surveyor. All states have registered surveyors but most are not familiar with our laws. This addition will make sure they are familiar with the rules and regulations that are on the books in North Dakota.
3. The other addition is from GIS surveyor specialists in the preparation of shapefiles. Environmental System Research Institute (Esri) is the national body that sets the standards for database collection and technology used to populate these databases. If the surveyors utilize this Esri protocol, they will all be on the same reference base for the GIS layer.
4. The last item we added was the diameter and what fluid is carried in the pipeline. We feel that is good data for all public to know, especially when locating lines for other construction activities that may encroach on the pipeline ROW.

Therefore, I urge this Committee to approve HB1333.

Thank you.

  
Curtis W. Glasoe, PE and PLS #2439  
NSPS Governor  
NDSPLS Legislative Co-Chairman

#3pm

## Proposed Amendments for Reengrossed HB 1333

Page 5, line 22, after "a" insert "North Dakota"

Page 6, line 4, replace "shape files" with "Environmental System Research Institute shapefiles"

Page 6, line 5, replace "shape files" with "Environmental System Research Institute shapefiles"

Page 6, line 9, after "shall" insert "prospectively"

Page 6, line 11, replace "shape file" with "Environmental System Research Institute shapefile"

Page 6, line 12, after the first "pipeline" with "with ties to the adjacent public land system and property boundary corners prepared and certified by a North Dakota registered surveyor. The data shall include the diameter of the pipeline and fluid carried in the line. The International foot shall be used for all linear measurements in all Environmental System Research Institute shapefiles"

Page 6, line 14, replace "shape file" with "Environmental System Research Institute shapefile"

Re-number accordingly

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This Proposed Amendment for Reengrossed HB 1333 is being submitted by Curtis W. Glasoe, PE&PLS #2439, NDSPLS - NSPS Governor

NOTE: Environmental System Research Institute (Esri) is the national body that sets standards and references for Geographical Information Systems (GIS) data bases in the industry.



March 20, 2013

#)

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1333

Page 2, after line 14, insert:

- "(1) The commission shall give all affected counties written notice of hearings in such matters at least fifteen days before the hearing.
- (2) The commission may consider, in addition to other authority granted under this section, safety of the location and road access to saltwater disposal wells, treating plants, and all associated facilities."

Page 2, line 15, remove "Saltwater disposal wells and all associated facilities, including safety relating to"

Page 2, remove line 16

Page 2, line 17, remove "g."

Page 2, line 27, overstrike the third "or"

Page 2, line 29, after "facility" insert ", or damage is the result of an illegal dumping incident"

Page 3, line 3, after "bond" insert "or damage is the result of an illegal dumping incident"

Page 3, line 4, after "facility" insert an underscored comma

Page 6, line 7, replace the first "the" with "this"

Page 6, line 23, after the second "information" insert ", if available,"

Renumber accordingly

#2

**Helms, Lynn D.**

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**From:** Ladd R Erickson <lre Erickson@nd.gov>  
**Sent:** Tuesday, March 19, 2013 11:59 AM  
**To:** Helms, Lynn D.  
**Cc:** Glatt, Dave D.

Lynn: These are my suggested amendments the proposed amendments to HB1333. Let me know if you have any concerns.....Thanks Ladd

Page 2, after line 14, insert:

- 1) The commission shall give all affected counties written notice of hearings in such matters at least fifteen days before the hearing.
  
- 2) The commission ~~may~~ shall consider, in addition to other authority granted under this section, safety of the location and road access to saltwater disposal wells, treating plants, and all associated facilities **not regulated under Title 23.**