

2013 HOUSE ENERGY AND NATURAL RESOURCES

HB 1347

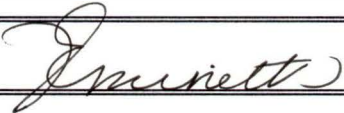
2013 HOUSE STANDING COMMITTEE MINUTES

House Energy and Natural Resources

Pioneer Room, State Capital

HB1347
January 31, 2013
18082

☐ Conference Committee



Relating to controls on gas and liquid gathering transmission lines

Minutes:

10 testimony

Rep Porter: We will open the hearing on HB 1347.

Rep. Anderson: I am here in support of HB 1347. The intent of this bill is to have the public service commission require the installation of flow meters and pressure cutoff switches to all gas and liquid transmission lines including salt water pipelines. Lines should be on the certified plat map with GPS coordinates indicating the position of the line. We are trying to stop the leaks and spills before they occur.

Rep. Porter: As you were looking at this bill did you come up with any cost figures on what this mandate would cost?

Rep. Anderson? No; I know that putting a flow meter and pressure switches it is somewhat expensive. The biggest we have is monitoring it.

Derrick Braaton: I am an attorney at Baumstark Braaton Law Partners in Bismarck; I am here in behalf of the Northwest Landowners Association to support HB 1347. (testimony1)

Rep. Keiser: The proposed language says" which are not regulated by the Public Service Commission. Where is the cutoff point?

Derrick Braaton: I can't tell you all the laws and regulations around that and where those boundaries are.

Rep Porter; Is it your understanding that on line 7-8 -9 that the supplies to all existing and new pipelines so that this requirement would be retrofitted into all existing pipelines across the state?

Derrick Braaton: I believe that is does read that way.

Rep. Poter: The other component of this on line 11-12-13 with the bonding requirements and what we heard in HB 1333 with the establishment of a fund that is available for those situations that either happen because a company went out of business or defaults through the bond or goes bankrupt is already covered. Do you see that as necessary language?

Derrick Braaton: Not with the understanding that would be covered by the other bill being passed and those provisions being put into place.

Myron Hanson: Northwest Landowners Association; Our association feels that this is the most critical issue facing farmers and ranchers out there today. (See Testimony2)

Rep. Keiser: Do have a measure statewide of the damage that is occurring today from because of the saltwater and other spills?

Myron Hanson: I would have to defer to Mr. Helms on that.

Galen Peterson: I am a farmer from Bottineau County; I also have here some testimony from Susan Veigel she emailed this to me. (See testimony3) My testimony is basically on the spill that happened in Renville County. (See testimony 4) The installation of flow meters and pressure cutoff switches would greatly reduce the size of the 2 spills. The cost to install the equipment is much less than the cost to clean up the resultant spills.

Lance Loken: I am here for Western Lands Plains Consulting; Flow meters to me are just trivia but there is a lot of salt water spills. We are involved in clean ups that cost from anywhere from a few thousand to millions. When you start looking at what these oil companies are for the disposal, construction, bad press so I support that something be done.

Rep. Anderson: When you go out to treat a spill what is the best example that you used to restore the soil activity?

Lance Loken: You can get all the way there. It is very difficult I would rather work with clean up spills they are much easier.

Rep. Anderson: It was stated that we would have a \$75,000.000 fund to clean these up would that be enough?

Lance Loken: We are dealing with some that are bad and the oil companies start to complain when the cleanup costs approach the cost to drill a new oil well. They don't like to see this and they don't like dealing with it because these are distractions to their work. They do not want these leaks to happen.

Rep. Hofstad: Give me a sense of the cause of spills. The products that we use are they better and are we getting better at this?

Lance Loken: We are seeing brand new lines leak. We have seen some old pipelines that are from the 1960's and 70's. I have yet to clean up a spill where when start digging we

start finding a minimum of three pipelines in the trench. Nobody knows who's they are and how long they are been there if they are active or not.

Rep. Nathe: Is the company who installed of the pipelines easy to find?

Lance Loken: The Company itself had been around for quite a while.

Matt Peterson: I am form the Antler area; the land that my father and I farm has a saltwater disposal pipeline across it. It was installed in 2010 and has broken a number of times. (See testimony5)

Claude Sem: CEO from Farm Credit Services; I am here today to testify in support of HB 1347 and as an individual in support of that bill. (See testimony 6) We are cautious about taking collateral from hazardous sites.

Rep. Hunskor: The value of land per acre prior to the spill how would you compare that to the value of the land now?

Claude Sem: Based on a production it would be worthless.

Rep. Hunskor: I am talking about now just of the land with the spill but the whole quarter.

Claude Sem: I would not know that that would be difficult.

Rep. Hunskor: Would there be a significant difference in the value of the land?

Claude Sem: I would think so.

Daryl Duakrt; DCED board member; we support this HB. We have not had any spills in Dunn County.

Ron Ness: With the Petroleum Council; we stand in opposition of this bill based upon the fact that Mr. Hanson's information that he shared with me. We have passed this bill around and it is ambiguous. How are you going to install flow meters and cutoff switches to pipelines in the ground? It is my understanding that the Department of Environmental is requiring some of these cutoff switches or monitoring systems on the water ways now.

Rep. Hunskor: The fact is that this is a serious problem my question is why hasn't the oil industry been using meters and cutoff switches?

Ron Ness: I cannot answer that question.

Rep. Anderson: Do you have to get permission from the land owner for the saltwater well?

Ron Ness: The salt water disposal wells I believe within the field where you are operating they would need permission from the landowner.

Lynn Helms: Department of Mineral Resources; The department is opposed to HB 1347. (See testimony 8) The director may require remote operated or automatic shutdown equipment be installed on or shut in for no more than forty days, any well that is likely to cause a serious threat of pollution or injury to the public health or safety. I don't see a fix for this bill.

Rep. Anderson: What is the difference between leaks and spills?

Lynn Helms: Absolutely the spills take in to account everything. About 10% are due to pipelines.

Rep. Damschen: The value of the land whether it was hazardous waste or not I think the issue was if the land is considered useless compared to the purpose of the surrounding land my question is; do you know where the pipelines are on the state lands and are the regulations the same on that land?

Lynn Helms: For state lands they are the same U.S. Fish and Wildlife lands they don't allow any surface facilities on those lands. The value of the land that has been contaminated by a hazardous waste is far different than the value of land that has been contaminated by a nonhazardous waste.

Rep. Nathe: What would you do to this bill to make it fixable for the saltwater issue?

Lynn Helms: I would kill this bill and focus on putting standards for saltwater regulation in HB 1333 and increase the jurisdiction of the Industrial Commission so that we can do some rulemaking with regards to 33304.

Rep. Silbernagel: You mentioned 141 pipeline leaks, valves, switches, will catch a leak after it occurs do you do a root cost analysis on these leaks?

Lynn Helms: Yes we do; I would be happy to share that information with the committee when meet with the subcommittee.

Rep. Kelsh: Hazardous material is something that is not within its approved container.

Lynn Helms: The most deadly chemical on the planet is water.

Rep. Kelsh: Did you say most the leaks are occurring on the newer pipelines?

Lynn Helms: The most severe ones yes.

Rep. Kelsh: Are those due to construction? What is the enforcement magnesium?

Lynn Helms: Correct. Currently there are isn't any jurisdiction over construction and materials.

Rep. Keiser: Instead of the state hiring all of these employees; if we establish new construction standards for the company to certify that the standards have been met?

Lynn Helms: I agree with much of what you said; I think those are the kind of details that you work out in rulemaking where you publish it and that allows land owners groups to submit comments and to testify in detail about what works and what doesn't. It is our intent to be able to direct the penalties to this fund.

Rep. Damschen: Which is tougher to control act of God or human error?

Lynn Helms: Human error.

Rep. Hunsakor: You require automatic shutdown equipment installed if the pipeline is near a waterway or other hazard. Should that also be true if it isn't near?

Lynn Helms: Meters and shutdown devices aren't the silver bullet solution. Applying them to all the pipelines is a mistake.

Rep. Brabandt: How are the pipelines connected?

Lynn Helms: Absolutely everything from a coupling to welded etc.

Zac Weiz: Government Affairs Representative, WPX Energy: I am opposed to this bill. My company does own and operate a gathering system in N.D. and we continually monitor that system. (See testimony 9) Our company sees a lot more issue with the truck traffic and the trucking of these products.

Illona Jeffcoat-Sacco: General Counsel with the Public Service commission: This bill appears to require metering of the oil and gas development lines, including gathering lines and saltwater lines, and water lines if any that are "not regulated by the PSC. This bills language is conflicting and ambiguous. We are opposed to HB 1347.

Danielle Welch: I am with One Oak; the largest independent operator of natural gas gathering and processing facility in western N.D. we stand in opposition to this bill in its current form.

Rep. Porter: We will close the hearing to HB 1347.

2013 HOUSE STANDING COMMITTEE MINUTES

House Energy and Natural Resources

Pioneer Room, State Capital

HB 1347
February 8, 2013
18589

☐ Conference Committee



Minutes:

Rep. Porter: We have HB 1347 in front of us.

Rep. Nathe: We came out of the committee with no recommendation on the amendment that was offered that the Dept. of Mineral and Resources already does so it was a hog house amendment that we decided not to push forward.

Rep. Porter: We have a motion on HB 1347 for a do not pass from Rep. Nathe and a second Rep. Silbernagel.

Rep. Froseth: The concerns I had can be taken care of through administrative rule and visiting with Mr. Helms he assured me that was possible and they were able to do that.

Rep. Porter: Motion carried

Yes 12 No 0 Absent 1 Carrier Rep. Schmidt

Date: 2-8-2013
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. ~~13~~ 1347

House Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken _____

Motion Made By Rep. Nathe Seconded By Rep. Silken

| 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 | ✓ | | | | |
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| | | | | | |
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Total (Yes) 12 No 0

Absent 1

Floor Assignment Rep Schmidt

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

Do not Pass

REPORT OF STANDING COMMITTEE

HB 1347: Energy and Natural Resources Committee (Rep. Porter, Chairman)
recommends **DO NOT PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).
HB 1347 was placed on the Eleventh order on the calendar.

2013 TESTIMONY

HB 1347

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**Testimony in Support of
HOUSE BILL NO. 1347**

House Energy and Natural Resources Committee – January 31, 2013

Chairman Porter, House Energy and Natural Resources Committee members, my name is Derrick Braaten. I am an attorney with Baumstark Braaten Law Partners in Bismarck, and I appear today as a lobbyist on behalf of the Northwest Landowners Association to support House Bill 1347.

As many of you know the Northwest Landowners Association is a network of farmers and ranchers whose purpose is to inform, support, and promote the property rights of landowners in North Dakota. The Association has approximately 350 members across the state.

Most people are aware of the enormous saltwater spill into Charbonneau Creek in 2006. Although I have heard that some people believe that the spill is cleaned up and has been completely reclaimed, I want to start by dispelling that notion. I represented some of the landowners affected by this spill. The company responsible for the spill is pumping saltwater out of a contaminated aquifer to this day. It is possible that the contaminated aquifer will never recover.

The creek runs through one of the rancher's property, and provides a drinking source for her cattle in most of the pastures on the ranch. Even after the State Veterinarian declared the water safe for the cattle to drink, as the rancher put it, "tell my cattle that." It was years before the cattle began drinking from the creek again.

This spill was caused by a leaking pipeline. The leak was not detected for at least two weeks, but even officials with the State of North Dakota have openly admitted that it was likely much longer.

While it is true that the Charbonneau Creek spill is fortunately a rare occurrence in the North Dakota oilfields, saltwater spills are not, and they can destroy the productivity of agricultural land and contaminate water supplies, and the cost is too often borne by North Dakota's farmers and ranchers. Spills of the magnitude of the Charbonneau Creek spill could be avoided with something as simple as a pressure cutoff switch on a saltwater pipeline. Although not all spills can be avoided, the size and frequency of them can be greatly reduced. And this issue is becoming more and more critical every year.

It should also be noted that the Industrial Commission requires regular reporting and monitoring for saltwater injection wells, and requires meters on the wells. After the Charbonneau Creek spill, the Industrial Commission brought an enforcement action against the company responsible for the spill, and one of its allegations was that the company failed to properly monitor its injection system. In truth, the spill did not originate from the injection system; it originated from a gathering line, and there was no requirement for such monitoring or meters on the gathering lines. I have attached to my testimony an article in which Lynn Helms, director of the Oil and Gas Division, and members of the Industrial Commission are quoted following the Charbonneau Creek spill.

I would like to highlight a few of these: Lynn Helms stated: "Normally, such pipelines have switches that sense a pressure drop and stop the water flow, along with meters to measure the flow at both ends of the pipeline. The pipeline had a meter at only one end, and 'the pressure-sensing equipment wasn't there.' They did not have adequate monitoring equipment on this line." Most significantly, Mr. Helms then stated: "The Industrial Commission has no rules to require such equipment, but new regulations may be necessary." Governor Hoeven said "We'd

better look at our requirements, and do an evaluation out there in the field.” The Agriculture Commissioner Roger Johnson said “an emergency rule may be needed.”

We are here today because that emergency rule was never adopted, and it is needed more than ever. House Bill 1347 provides the statutory mandate for these much needed rules to be put in place, and they already have the support of North Dakota’s Industrial Commission.

Also attached to my testimony are some records obtained from the North Dakota Oil and Gas Division, after our office requested reports of all spills reported to the Industrial Commission. Many saltwater spills happen on the well site, and are contained by proper diking and site construction. The reports show an increase in containment of on-site spills as a result of diking. The Northwest Landowners Association commends the Oil and Gas Division for increasing the percentage of spills contained by diking in the past several years, as the report shows. But regardless of the percentage of spills contained, as the report indicates, the number of spills occurring each year is increasing drastically, and has actually tripled in the past few years. There were 480 reported spills in 2009, 617 in 2010, 1,114 in 2011, and 1,246 in 2012. These numbers are increasing with the additional wells drilled in the state, and they will continue to rise every year for years to come. Diking cannot contain them all, and when these spills occur in gathering lines located offsite, diking will do nothing. The Northwest Landowners Association supports additional pipeline infrastructure development in the state, but we have to ensure that we know where the pipelines are going, and that we are protecting North Dakota’s farmers and ranchers from the inevitable spills that are going to continue to occur in the oilfields.

In conclusion, I urge a **DO PASS** recommendation for **House Bill 1347**, and I would be happy to answer any questions at this time.

Saltwater spill may prompt new oilfield rules, regulator says

January 2006

U.S. Water News Online

BISMARCK, N.D. -- A pipeline that ruptured and spilled more than 900,000 gallons of salt water into a creek in rural northwestern North Dakota did not have equipment that is normally present to detect leaks, a state regulator says.

Lynn Helms, director of the state Industrial Commission's oil and gas division, said the 4-inch Zenergy Inc. pipeline spilled about 22,000 barrels of salt water, which equals about 924,000 gallons.

The water is about 20 times more saline than seawater, and can kill vegetation, make land sterile and hurt livestock, Helms said. Salt water is a normal waste product of oil production, and is typically disposed of by pumping it into deep disposal wells.

Normally, such pipelines have switches that sense a pressure drop and stop the water flow, along with meters to measure the flow at both ends of the pipeline. The pipeline had a meter at only one end, and "the pressure-sensing equipment wasn't there," Helms said.

"They did not have adequate monitoring equipment on this line," Helms told the state Industrial Commission.

The Industrial Commission has no rules to require such equipment, but new regulations may be necessary, Helms said. Some oil production areas are located near the Heart and Souris rivers, he said.

The commission, which regulates oil and gas production in North Dakota, includes Agriculture Commissioner Roger Johnson, Attorney General Wayne Stenehjem and Gov. John Hoeven.

"We'd better look at our requirements, and do an evaluation out there in the field," Hoeven said. Johnson said an emergency rule may be needed.

A spokesman for the pipeline's owner, Zenergy Inc. of Tulsa, Okla., could not be reached for comment.

Zenergy has hired an environmental consultant, Buys & Associates Inc., of Littleton, Colo., to prepare a remediation plan. A spokesman there referred questions to Zenergy.

Zenergy operates just over 100 wells in western North Dakota, and ranks among the state's 10 most-active oil companies. Helms said the saltwater disposal system was less than a year old, and that the underground pipe fractured because of faulty welding.

Most of the water from the pipeline break flowed into an empty livestock watering pond, near Alexander in McKenzie County. It has been pumped out, Helms said. However, about 168,000 gallons overflowed, going over a beaver dam and into Charbonneau Creek, he said.

The accident caused a fish kill, although officials could not estimate how many died.

Workers dug ditches across a drainage area, and across a creek crossing to stop its water flow. "We've stopped the bleeding, but we do have a salt-water plume that's moving down Charbonneau Creek," Helms said.

David Glatt, the state Health Department's environmental chief, said salt-contaminated soil will have to be replaced, and significant repair work done. The stretch of creek is being monitored, he said.

Charbonneau Creek is fed by springs and is currently flowing. It empties into the Yellowstone River, and Glatt said the springs are helping to dilute the salt water, making it less hazardous.

Johnson said high oil prices have caused a rush to produce.

"You've always got the danger, when you've got markets the way they are, for people to take shortcuts to bring stuff on line as quickly as possible," Johnson said. "That's when you have to be more attentive, I think, as a regulator."

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Derrick-

Attached you will find the requested summary.

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Alison Ritter

Public Information Officer
Department of Mineral Resources
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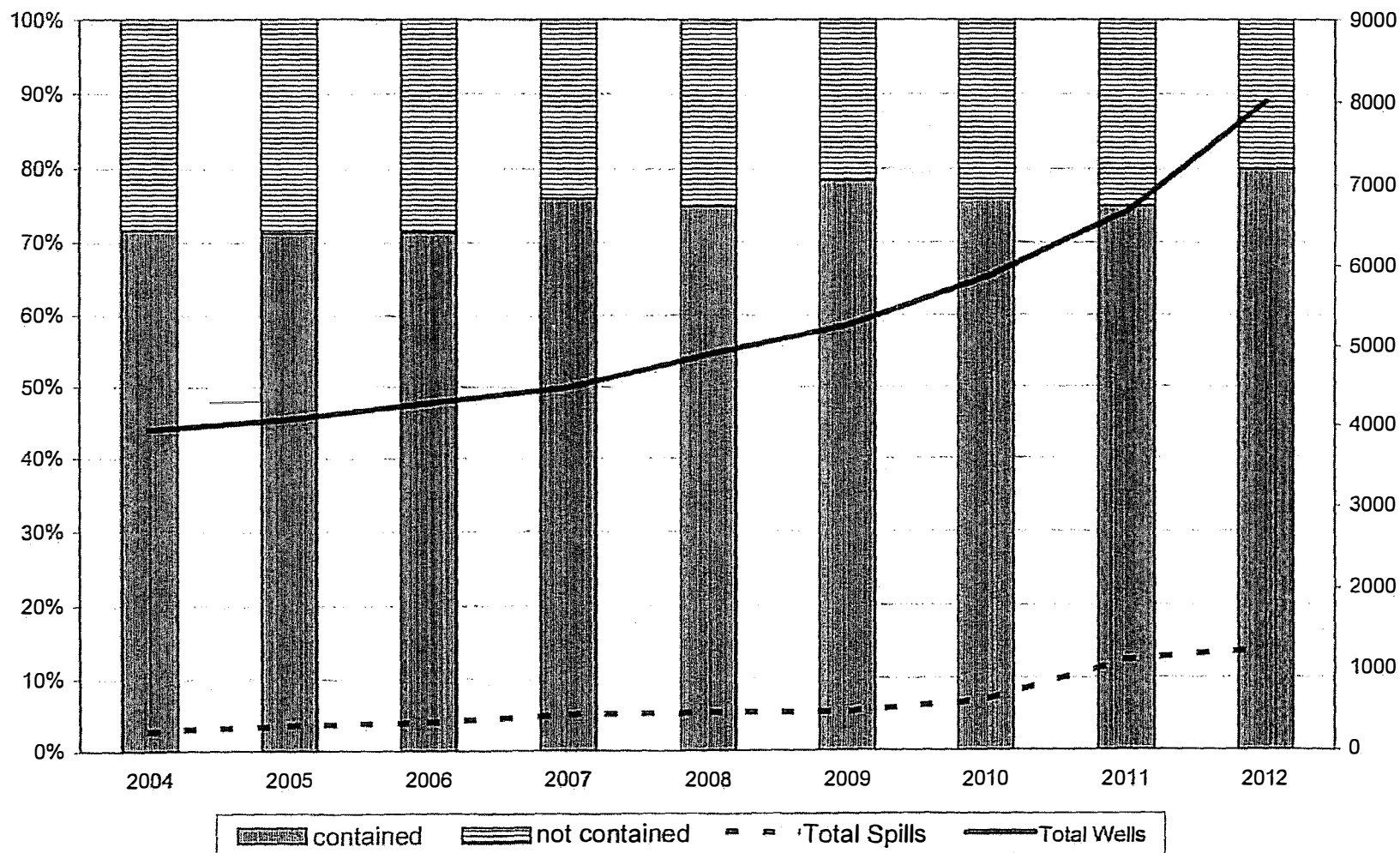
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Surface Spills

The Oil and Gas Division regulates spill containment through diking and site construction rules.



| | North Dakota | | | | | | | | |
|-----------------|--------------|------|------|------|------|------|------|------|------|
| | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
| contained | 72% | 71% | 71% | 76% | 75% | 78% | 76% | 75% | 80% |
| not contained | 28% | 29% | 29% | 24% | 25% | 22% | 24% | 25% | 20% |
| contained | 172 | 226 | 249 | 345 | 352 | 376 | 467 | 832 | 996 |
| not contained | 68 | 91 | 100 | 109 | 118 | 104 | 150 | 282 | 250 |
| Total spills | 240 | 317 | 349 | 454 | 470 | 480 | 617 | 1114 | 1246 |
| Wells Producing | 3276 | 3363 | 3559 | 3738 | 4080 | 4408 | 5002 | 5794 | 7125 |
| SWD Wells | 264 | 266 | 251 | 267 | 279 | 284 | 293 | 310 | 336 |
| EOR Wells | 412 | 461 | 482 | 489 | 547 | 578 | 571 | 582 | 555 |
| Total Wells | 3952 | 4090 | 4292 | 4494 | 4906 | 5270 | 5866 | 6686 | 8016 |

Mr. Chairman, members of the committee:

Myron Hanson, Northwest Landowners Association:

Our association feels that this is one of most critical issues facing farmers and ranchers today with regard to this development taking place on our land.

We have had endless conversations about trucks, roads and dust and we agree with Mr. Ness when he says that the only way to solve this issue is to put pipe in the ground.

With this however, comes the ever increasing danger of significant and permanent damage to an irreplaceable resource, North Dakota farm and ranch land from salt water, oil and other spills.

Because of these very real and frightening possibilities, we strongly urge a do pass recommendation on HB 1347.

Statement of Susan Veigel Dickey
Submitted to
Energy and Natural Resources Committee
North Dakota House of Representatives
Thursday, January 31, 2013

I am Susan Veigel Dickey. I am an owner in common with my siblings of Dunn County lands acquired by my grandfather, Walter R. Veigel, and my father, Louis W. Veigel as well as land homesteaded by my great grandmother Susan Veigel. These properties in the Killdeer Mountains have unique historical, archeological, geological and ecological values. In addition I maintain a residence in Dickinson. Accordingly, I have a vital interest in legislation that would afford surface owners added economic and environmental protections in the face of continuing energy development.

I have had to address issues associated with well placement, pad size, and cutting pit location as well as several easement and or lease requests for gas lines, electrical lines, and fiber optic cables and communications towers. While some requests deal with discretionary issues with little environmental consequences, others involve matters of major economic and environmental significance to not only me but my neighbors as well. Because of asymmetric knowledge and gross imbalances between economic resources between energy development interests and property owners in any negotiation, it is essential that the State provide assistance and protections to all of its surface right owners through protective legislation. Such legislation helps ensure consistent levels of environmental and safety protection throughout the State. Moreover, it avoids the waste of the economic resources required when each surface owner must negotiate every aspect of protection on his own.

The present lack of significant leverage on the part of surface owners with regard to well development is obvious. My family has had to expend major personal and economic resources when dealing in particular with the oil company's representatives to obtain maximum environmental protections for our lands.

Because of the weaknesses inherent in existing law, the developers retain their inherent positions of power.

Most recently when I requested information on payments over time for the value of lost production for a pad site, the response I received was "We do not do payments over time." I was further shocked to learn that in converting the estimated payment for lost production to its present-value equivalent, the company used an absurd 10 percent annual discount rate as opposed to a more appropriate 2 or 3 percent rate.

Since ND law (Century Code 38-11.1-040) supposedly protects landowners on this point, it is important for you to understand that, short of landowners taking legal action, some oil companies are proceeding without concern for legal protections now guaranteed in law. HB 1353 would give land owners added leverage in such negotiations but my experience is that unless there are severe penalties imposed for non-compliance, oil companies and other development interests will continue to skirt the law. It is vitally important that proposed bills HB1333, HB1347, HB1348, HB1349, HB 1352, & HB1355, all of which provide various protections for surface owners dealing the energy development industry in the production and transmission of oil and gas, be enacted into law, and furthermore, that the ND government begin to invest a portion of its substantial oil development based revenues to assure that these laws once passed are enforced.

Thank you for the opportunity to submit this testimony.

Susan Verigil Dickey

Testimony on HB1347

I am Galen Peterson, farmer, from western Bottineau County.

There was a major saltwater spill that occurred in 2006 in the Charbonneau Creek area. At that time, members of the Industrial Commission and Mr. Helms stated that regulations may be needed to help prevent this type of spill from happening again. Well, nothing was done, and in June of 2011, history repeated itself, and an even larger spill of saltwater happened in section 5 of Renville Township of Bottineau County. The spill was initially reported as 300 barrels (42 gallons per barrel), but is obviously much larger. This spill devastated about 23.8 acres of prime cropland. As is noted in the Charbonneau Creek news article, saltwater produced from oil activity is 20 times saltier than ocean water. And it destroys the productivity of soil very long term. Unless the water is removed immediately, the only remediation that will work, is completely removing all contaminated soil and replace with different soil. That is a very expensive undertaking, costing ^{upwards} ~~a minimum~~ of \$1 million per acre for a 3 foot excavation. Or, flushing the salts out with water that has the capability to dissolve the salts and carry them to a sump for removal. This is also expensive and requires a lot of water and a lot of time. Irregardless, the salt must be removed. If not, it moves laterally and vertically with groundwater movement, contaminating more soil in the process.

The installation of flow-meters and pressure cutoff switches would greatly reduced the size of the 2 above mentioned spills. The cost to install the equipment is much less than the cost to clean up the resultant spills.

Galen Peterson

Mr/Madam Chairman and members of the committee,

My name is Matthew Peterson and I am from the Antler area. My father and I farm land that has a salt water disposal pipeline across it. It was installed in the fall of 2010 and since has broken multiple times creating one of the largest salt water spills in ND. After the fourth break, the pipeline has been deemed decommissioned, and currently not in use. When I was spraying this land I noticed a lot of plants turning brown and dying around the sloughs and general area. At the time I didn't think the situation was unusual because of the ground conditions. This was the spring of 2011 and the property was extremely saturated with excessive amounts of water, was unable to be seeded, and was enrolled in prevent plant.

The way the pipeline was put in, in my opinion, has a lot to do with these particular situations, not just ours but across the state. During easement negotiations the land owner was told the pipeline was to be placed approximately 6ft down but excavation has shown it to be only at 3 to 4 ft. During the excavation and repair of the line it was noted by myself and other professionals in this field, that the bed preparation was not done properly, such as no sand bed and cover of the line, along with the backfilling procedure and material. There needs to be an organized plan of the installation, such as an engineered plan and supervision to follow that plan.

As far as reclamation has gone there have been a few methods applied but with little results. The company that owns the line currently was prompt to repair the line breaks once discovered, but since their insurance company stepped in, the process has been slow.

There needs to be standards established for the installation of and the continuing operation of these pipelines. Had there been a flow meter on both ends of this pipeline, this could have been discovered sooner and not have resulted to the extent of loss that occurred. According to Kleinfelder/Buys & Associates, Inc Environmental Consultants, the loss was determined to be 23.8 acres of contaminated farm land of which approximately 13 acres are farmable wetlands. (see exhibit "A") A fear that I have is that this will spread out not just on our land but the adjacent land as well due to adjoining wetlands, elevation differences to a near by waterway and underground sand veins. (see exhibit "B")

Communication as a tenant has been very minimal and after the fact rather than proactive. It is my understanding as tenant that I am suppose to be contacted prior to entering onto the property. In our cases we have either found them with equipment working or they call us after the fact when the project has already been completed. An update to on goings before the fact would be nice.

We have lost this land's potential productivity and will continue to in the years to come. Just for reference this year the unaffected land produced 77.4 bushels per acre of winter

wheat. Our average sales price of \$7.50/bushel would have amounted to a production value of \$580.50/acre. At 23.8 acres that is a loss of \$13,815.90 this year. With our 5 year contract on this land and with opportunity to raise other crops with higher productivity we see an average potential loss of \$69,079.50. Not only do we lose the production value but the inefficiency of farming around the contaminated area. Were prior to the spill we were able to farm the full mile stretch. This is very inefficient not only in time but the extra fuel, seed, chemicals and fertilizers wasted.

My purpose for testifying for this bill is to enact proper legislation to establish standards for proper installation procedures of flow lines, better monitoring such as flow meters and pressure gauges on both ends of a line, enforcement of reclamation procedures and timeliness.

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HB 1347
House Energy and Natural Resources Committee
Testimony of Claude Sem

Good Morning Chairman Porter and members of the House Natural Resources Committee. My name is Claude Sem, and I am here today to testify in support of House Bill 1347. I am the Chief Executive Officer of Farm Credit Services of North Dakota, but I am here today to testify as an individual in support of this bill.

Farm Credit Services of North Dakota (FCSND) lends money to farmers and ranchers in Northwest North Dakota. Farm Credit has approximately 55% of the market share on real estate financing in its territory. Much of that real estate lies in the oil rich Bakken region of North Dakota which is subject to possible contamination from well sites and pipelines. Farm real estate values have increased significantly the last several years and this has caused us to look closely at the increasing risk of financing land in a market where we begin to question whether those values will be sustained. A contamination of the land due to an oil or saltwater spill increases the risk of financing land that may be subject to such events.

Farm Credit is concerned about taking security in any property that has or potentially has hazardous material on the premises, such as from a saltwater spill or oil spill. In fact, we would be cautious of even taking collateral near the hazardous or potentially hazardous site. It is and has been the policy of FCSND to not take security in property that is or potentially will be environmentally damaged. FCS discourages credit applications on property that is contaminated and would, and will, deny approval if credit was requested.

I am offering this testimony because I think it's important for folks to know that farmers who have spills on their land don't just have land taken out of production and potential contamination; they also will have difficulty with financing at a time when they could really

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need it. It is my feeling that the provisions of HB 1347 which would first help prevent a hazardous land spill and secondly reduce the size of the larger spills, would be beneficial to North Dakota landowners.

Thank you.

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January 31, 2013

Written support for HB 1347

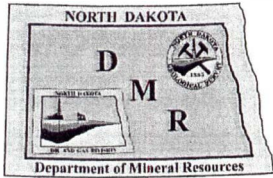
House Energy and Natural Resources Committee:

Dunn County Energy Development Organizations does fully support HB1347:

As landowners in Dunn County we are very lucky to have energy companies who are good neighbors and operate by the rules of safety with the public awareness of what is available in modern technologies as for oil and gas production. I am not aware of any wells in Dunn County which are operating and do not have flow meters attached ^{to} well^s as pressure cutoffs.

We support HB1347

Daryl Duakrt DCED board member



House Bill 1347
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 the following rules already in place for oversight of flowlines and transfer lines:

43-02-03-28. SAFETY REGULATION. During drilling operations all oil wells shall be cleaned into a pit or tank, not less than forty feet [12.19 meters] from the derrick floor and one hundred fifty feet [45.72 meters] from any fire hazard. All flowing oil wells must be produced through an approved oil and gas separator or emulsion treater of ample capacity and in good working order. No boiler, portable electric lighting generator, or treater shall be placed nearer than one hundred fifty feet [45.72 meters] to any producing well or oil tank. Placement as close as one hundred twenty-five feet [38.10 meters] may be allowed if a flame arrestor is utilized on the equipment. Any rubbish or debris that might constitute a fire hazard shall be removed to a distance of at least one hundred fifty feet [45.72 meters] from the vicinity of wells and tanks. All waste shall be burned or disposed of in such manner as to avoid creating a fire hazard. All vegetation must be removed to a safe distance from any production equipment to eliminate a fire hazard.

The director may require remote operated or automatic shutdown equipment to be installed on, or shut in for no more than forty days, any well that is likely to cause a serious threat of pollution or injury to the public health or safety.

No well shall be drilled nor production or injection equipment installed less than five hundred feet [152.40 meters] from an occupied dwelling unless agreed to in writing by the owner of the dwelling or authorized by order of the commission.

Subsurface pressure must be controlled during all drilling, completion, and well-servicing operations with appropriate fluid weight and pressure control equipment.

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.

Following a significant spill the commission has been requiring spill prevention plans be submitted for the pipeline or facility.

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.

The commission has been implementing permit stipulations requiring shut off devices, meters, and annual mechanical integrity testing of pipelines for new underground injection permits. This is done on a site specific basis where the pump and well are not on the same facility site and on older wells where field inspectors have identified pipelines that cross or could endanger a sensitive area like surface waters.

This bill requires flow meters and pressure cutoff devices on every pipeline regardless of what fluid it carries, what size it is, or what pressure it operates at, no exceptions. That is truly the definition of one size fits all. These new gauges, flowmeters, and cut off switches will add thousands of new pipeline connections that are a source for more leaks and spills. False alarms will shut down pipelines and could result in tank overflows and other serious spills.

House bill 1347 does not define transmission line, a term not commonly used in the oil field.

This bill requires the filing of a plat map, but does not identify where to file it.

The bill requires a new system of bonding for pipelines but does not offer any definition of what is meant by the cost of escape of gas or liquid. Under the current Oil and Gas Division process using penalties and settlements one operator has spent over \$3 million on reclamation of the Charbonneau Creek spill and another has spent over \$1 million on reclamation of the Cramer spill. Both operators are required to continue working on the reclamation. If they could forfeit a bond and walk away do you think they would make that kind of investment?

The most accurate meters available can measure gas free water in a completely full pipeline to 0.25% accuracy. That means for a typical 10,000 barrel per day salt water disposal well a leak of 50 barrels per day could not be detected. The accuracy of meters for multiphase fluids, crude oil, natural gas, and partially full pipelines is much poorer.

There were 141 pipeline leaks reported in 2012, ninety nine of which released salt water totaling 8,044 barrels with 6,150 barrels of the released salt water recovered. The 8,044 barrels is 0.03% of the 25,535,332 barrels produced in 2012. In a perfect world this would be zero. One half the released volume was from 4 large spills caused by defective materials or installation.

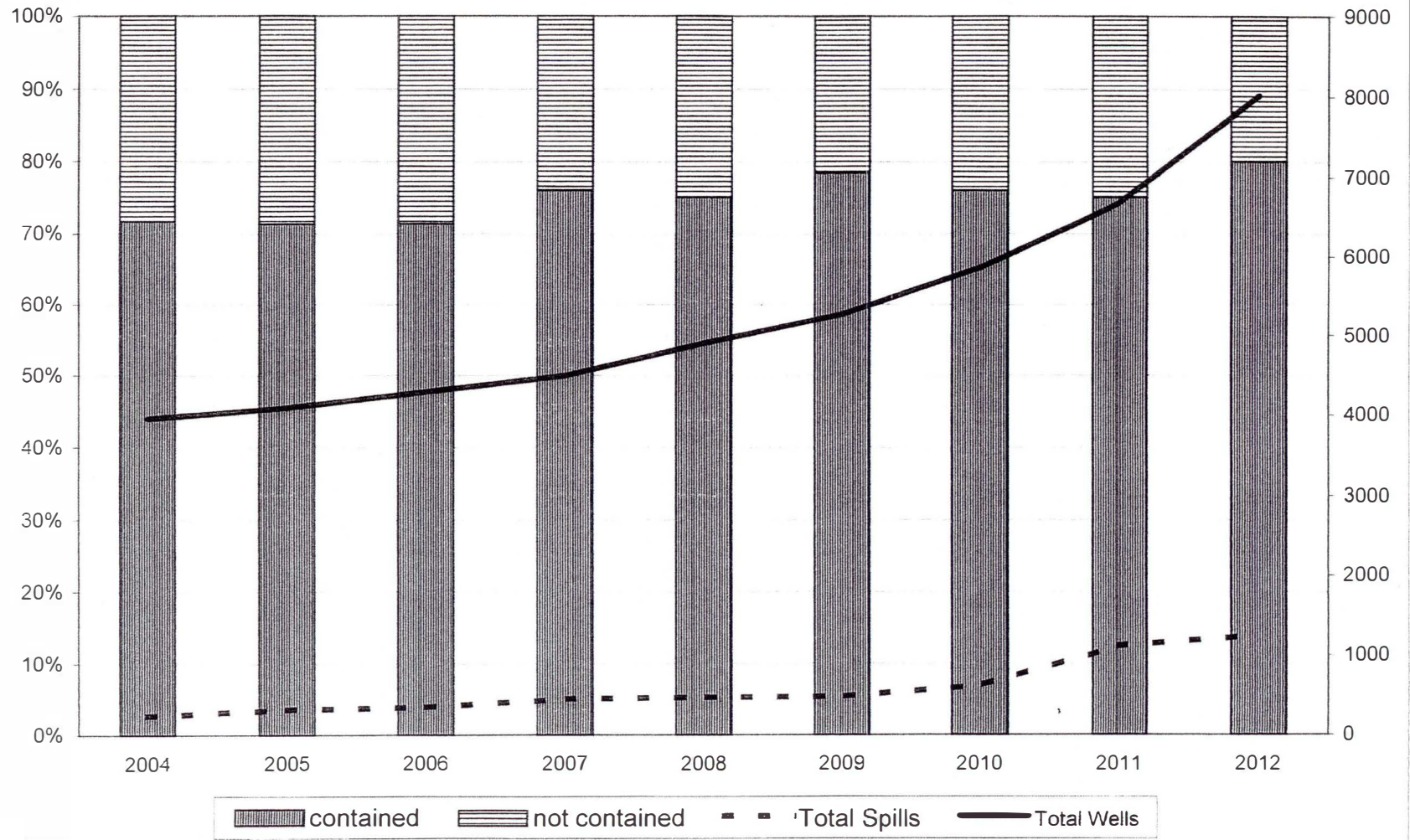
78 of the salt water releases were below the 50 barrel per day detection limit for perfect metering and 35 were on multiphase flowlines where metering technology does not exist.

Mr. Chairman and members of House Energy and Natural Resources the North Dakota Industrial Commission urges a do not pass for House Bill 1347.



Surface Spills

The Oil and Gas Division regulates spill containment through diking and site construction rules.



| | North Dakota | | | | | | | | |
|-----------------|--------------|------|------|------|------|------|------|------|------|
| | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
| contained | 72% | 71% | 71% | 76% | 75% | 78% | 76% | 75% | 80% |
| not contained | 28% | 29% | 29% | 24% | 25% | 22% | 24% | 25% | 20% |
| contained | 172 | 226 | 249 | 345 | 352 | 376 | 467 | 832 | 996 |
| not contained | 68 | 91 | 100 | 109 | 118 | 104 | 150 | 282 | 250 |
| Total spills | 240 | 317 | 349 | 454 | 470 | 480 | 617 | 1114 | 1246 |
| Wells Producing | 3276 | 3363 | 3559 | 3738 | 4080 | 4408 | 5002 | 5794 | 7125 |
| SWD Wells | 264 | 266 | 251 | 267 | 279 | 284 | 293 | 310 | 336 |
| EOR Wells | 412 | 461 | 482 | 489 | 547 | 578 | 571 | 582 | 555 |
| Total Wells | 3952 | 4090 | 4292 | 4494 | 4906 | 5270 | 5866 | 6686 | 8016 |

WPX ENERGY TESTIMONY ON HB 1347
JANUARY 31, 2013
HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE
PIONEER ROOM
REPRESENTATIVE TODD PORTER, CHAIRMAN

ZAC WEIS – GOVERNMENT AFFAIRS REPRESENTATIVE, WPX ENERGY

Good morning, Mr. Chairman and members of the Energy and Natural Resources committee, my name is Zac Weis, Government Affairs Representative for WPX Energy, an oil and gas exploration and production company operating here in the Williston basin.

I am here to testify against house bill 1347. My company does own and operate a gathering system here in North Dakota and we continue to add to that system of pipelines to address new wells coming online and to increase safety. Within our gathering system our engineers have designed safe guards to prevent harm to operators and to avoid leaks. We also are continually monitoring all aspects of these gathering lines, whether that is the integrity of the system or the amount of product moving through the lines.

The technical gaps that accompany this bill is the reason for our opposition. Whether that be the term “gathering transmission lines” which contradicts itself or the requirement for the use of pressure cutoff switches which have a tendency to fail and cause greater harm. We do not believe the extra regulatory requirements of this bill would be beneficial step for spill prevention.

We can work with the committee on supporting gathering line maps through HB 1333 and the method for which that bill sets forth in collecting this information. But again the additional requirement in the final part of the bill requiring holding of bonds to cover the costs of an accidental release is unneeded. We do accept responsibility of a release if that incident took place on our line. In that case we do have measures in place to cover that cost.

I would also like to remind the committee of HB 1333 and the amendments to the abandoned oil and gas well plugging and site reclamation fund. Those changes to the program will enhance it to cover the costs of a pipeline release that occurred on a pipeline where there is no responsible party.

Mr. Chairman and members of the committee that concludes my testimony and I am happy to entertain any questions.

House Bill 1347

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'm Illona Jeffcoat-Sacco, General Counsel with the Public Service Commission. The commission asked me to appear here today to point out some of the commission's concerns with House Bill 1347. The commission does not support or oppose the bill, as it does not appear to directly impact the commission's jurisdiction or duties. However, the commission is concerned that if the bill is not clarified, impacted parties could be confused and implementation could be affected.

This bill appears to require metering of oil and gas development lines, including gathering lines and saltwater lines, and probably water lines, if any, that are "not regulated by the PSC". It also requires the filing of GPS information on these lines.

The bill's language is conflicting and ambiguous. The reference to what is not regulated by the PSC is unclear, as it could refer to PSC jurisdiction for gas safety, environmental siting, weights and measures, investor owned utility service, or some combination thereof. It is also unclear whether the phrase

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"which are not regulated by the Public Service Commission" refers to only saltwater pipelines, or all the pipelines the bill appears to cover.

A second area of concern is what specific types of pipelines the bill is intended to cover. In each area of Public Service Commission jurisdiction (gas safety, environmental siting under the Energy Conversion and Transmission Facility Siting Act, investor owned utility regulation, and weights and measures) different types of pipelines are treated differently, and in some cases, defined differently. For example, gathering lines are defined differently for gas safety purposes compared to environmental siting purposes. It would be helpful to the Commission, and we guess to other impacted parties, to clearly understand up front precisely what pipelines are covered by this bill.

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