

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/19/2015**

Bill/Resolution No.: SB 2287

- 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.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$89,000		\$64,000	
Appropriations			\$89,000		\$64,000	

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 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).*

The measure reduces the length of time gas may be flared from one year down to ninety days, and amends the qualifications for an exemption to evidence of 50,000 cubic feet or less per day of hydrocarbon gas being flared.

- 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.*

This measure will require the Oil & Gas Division to docket cases for hearing to determine the volume and value of the flared gas. Decisions will also have to be rendered which will require additional staff time to prepare the same.

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.*

This measure has no revenue effects.

- 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.*

Expenditures for the 2015-2017 biennium will include \$24,000 for an administrative assistant to docket the cases for hearing and maintain paper work (210 cases backlog + 550 cases during the biennium @ 1 hour per case) and \$65,000 for a petroleum engineer to review each case and determine the proper volume and value of the gas flared (210 cases backlog + 550 cases during the biennium @ 1.5 hours per case). Expenditures for the 2017-2019 biennium will include \$17,000 for an administrative assistant to docket the cases for hearing and maintain paper work (550 cases during the biennium @ 1 hour per case) and \$47,000 for a petroleum engineer to review each case and determine the proper volume and value of the gas flared (550 cases during the biennium @ 1.5 hours per case).

- 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

The Oil & Gas Division expenditures as mentioned in 3B are general fund expenses, and are not included in the executive budget.

**Name:** Robyn Loumer

**Agency:** Industrial Commission

**Telephone:** 701-328-8011

**Date Prepared:** 01/23/2015

**2015 SENATE ENERGY AND NATURAL RESOURCES**

**SB 2287**

# 2015 SENATE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Fort Lincoln Room, State Capitol

SB 2287  
1/30/2015  
22895

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature

*Kate Oliver*

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

Relating to flaring restrictions.

### Minutes:

9 attachments

Chairman Schaible opened the hearing. Senator Dotzenrod was on hand to introduce the bill.

Senator Dotzenrod: District 26. See attachment 1. (:16-9:30)

Vice Chair Unruh: You compare Texas to North Dakota. Do you think that is fair considering the development of the Texas oil industry?

Senator Dotzenrod: The volume is higher than we provide here. Texas has a reputation of being friendly with the industry. My thought was if you can take a thought like that tie it to the oil industry. We should be able to match what they are doing. I think you will find that companies in Texas when they come here they operate as they do in Texas.

Senator Armstrong: Did you look into their pipeline constriction law?

Senator Dotzenrod: I did not.

Senator Hogue: Your bill says 90 days and Texas is 180.

Senator Dotzenrod: The first bill draft it was 180 but after I looked at the gas capture plans. I could leave the bill at 180 or conform it to the regulators that is why I used 90.

Marie Hoff: Dakota Resource Council. See attachment 2. (12:32-15:27)

Senator Triplett: You reference the waste issue but you also refer to this as putting toxic material into the air. Can someone from the Department of Natural Resources talk of that. Flaring is sometimes done as a way to increase and improve safety. I think we will go with you on the waste issue.

Marie Hoff: That is something that other people can speak on.

Wayde Schafer: Conservation Organizer for the Dacotah Chapter of the Sierra Club. See attachment 3. (17:35-22:22)

Mark Treechock: Former Director of Dakota Resource Council. See attachment 4. (23:05-26:42)

Nicole Donaghy: Dacotah Resource Council. See attachment 5, 6. (27:30-32:01)

Eric Thompson: Representing self. See attachment 7. (32:23-33:41)

Janet Lucas: Representing self. In July we passed a new flaring standard by 2020. The Bakken burns of enough to heat all the homes in Chicago in a year in one day. Texas captures 99% of their flaring. North Dakota is making the news every week and it is not all good. I think we can do better, I hope we can do better; I hope you support this bill. (34:00-35:29)

Bruce Bale: From Mandan, representing self. See attachment 8. (36:05-41:18)

Opposition

Ron Ness: North Dakota Petroleum Council. See attachment 9. (42:02-53:34)

Chairman Schaible: Give an example of how the easements have exploded?

Ron Ness: As it relates to pricing I think that we are between \$60,000-\$100,000 a mile

Chairman Schaible: What was it 5 years ago?

Ron Ness: \$40-\$50 a rod.

Senator Laffen: If we were to implement a statewide vote can we do that on tribal land?

Ron Ness: That part of land is owned by the tribe so it would have been in place over a year ago.

Senator Triplett: 10% on the 1.8 miles and then you said there were 2 other situations each representing a substantial amount in the past. What were the percentage on those?

Ron Ness: Around 10%.

Senator Triplett: The second change is directing the industrial commission to give you a pass where other parties are blocking the way. Is that something that the industry has brought to the industrial commission?

Ron Ness: No, we feel like we have done a lot and not gotten credit for it.



Senator Triplett: When legislature has brought bills like this we get push back from the industrial commission and it seems to me that this would be an exception to the current policy and not a state law. I think it might be better at the policy level.

Ron Ness: We would encourage you to hog house the amendment.

Senator Armstrong: When this conversation occurs royalty owners act like they are losing money on gas except if you pass strict regulations. My thought is that they are going to lose their royalty the oil. Thoughts?

Ron Ness: Look at what we have spent to go get the gas and process it. It is a valuable addition and operators need this, we need some support. Historically if you drill on federal lands the easement was a given. Now it is getting to be a big problem almost as much as getting a permit to drill the well.

Senator Triplett: Do you have an option on the last section of the bill?

Ron Ness: We oppose that section as well. 50,000 cubic feet is a minimal provision and that analysis varies greatly. They have not granted an exception besides cold weather. You have a tougher threshold with the gas capture.

Senator Triplett: Can you comment on how the overstruck language is working?

Ron Ness: I think that was changed and I think that I would need to defer to the department of mineral resources. The bill in general is a tax and increase and our objection is to the whole concept.

Roger Kelly: Domestic Energy Producers Alliance. This issue has national indications beyond North Dakota. Rest assured that our goal is no flaring. Continental took a lead role in the flaring taskforce, we have employees whose job is to plan for the well and plan for the oil. We want to sell oil and gas that is our business. We will plant an oil well and plan for it to be received and find out it is already beaten to the punch. I stand in support of what Ron Ness said, we support the Petroleum. In Texas there were places that were so bright you didn't need headlights in the early 1970s. Since then infrastructure was built to help with that. By shutting down wells you lose money and jobs. (1:04:03-1:09:07)

Senator Triplett: Is Continental the company with a low flare rare in North Dakota?

Roger Kelly: Yes, around 10%.

Senator Triplett: is that because they have a commitment to capturing the gas or is it more profitable to get the gas capture in place.

Roger Kelly: Both, we have a group whose full time job is planning the well.

Senator Triplett: It may be more difficult to other companies who came to the game later.

Roger Kelly: I don't have anything to back that right now.

Senator Triplett: In a general sense our state goals of getting to 10% is realistic.

Roger Kelly: The progress is indicating that it will. All the producers in our state want to not flare gas; you will have some wells that will make it impossible getting it to market. Sometimes we have isolated wells and isolated production and they can't get to market.

Senator Triplett: I think it's great that your company is leading the way on this.

Bruce Hicks: Assistant Director, Oil and Gas Division. Here to answer any questions.

Senator Triplett: Can you talk about when and why it is necessary to flare, under what circumstances is it a good idea?

Bruce Hicks: When it is not possible to connect to a gas line, if you are in a remote area. When companies go and drill you are going to drive them out. We do not allow venting in our state and by flaring operators go out with high efficient flares and all the volatiles are combusted.

Senator Triplett: From an air pollution standpoint which is better under those circumstances to flare rather than vent?

Bruce Hicks: As far as venting every harmful vapors can go into the air and kill people. Due to a safety concern we do not allow it.

Senator Triplett: Can you talk about the notion of associated gas vs natural gas play in terms of how that may produce different statistics from state to state.

Bruce Hicks: In North Dakota we have heard that 1% or less is flared in the United States. A lot of the gas plays is the revenue source. They have to market the gas and if they started to flare it there is no reason for them to be in the reservoir. When that gas is used on lease they will use it for equipment. Most of it is captured and sold; it is not fair to compare us to other states, Alaska has to gas line out of the state so they consume it within their state but can't send it to market. It is not a fair comparison.

Senator Triplett: If everybody has a base in the facts I think it makes for a better conversation. Can you tell us if the language on the last para is working or not.

Bruce Hicks: The language does work well, strong stance on not allowing flaring. Changing this to 50,000 cubic feet a day would equal 50-75 barrels a day and now we do not restrict more than 100 a day. We believe that the current language works well.

Senator Laffen: I have heard you say that in some instances it is just not possible; is it for physical reasons or is it access reasons? Can you give me an idea as to what is 'not possible'?

Bruce Hicks: The Petroleum Council would have a lot of those issues, they have a pipeline taskforce. There are issues that the 3 that Ron Ness reported on and they are just a few of

the issues; I think that it is monetary. On those there are some gas capture alternatives that the companies are trying. There isn't enough equipment out there and it can't be done in time.

Senator Laffen: Part of it is physical, part of it is access.

Bruce Hicks: It is mainly right-of-way issues where they can't get approval.

Senator Laffen: I assume you help develop that if we monitor the end date at the end of a year why is it more expensive to do it for only 90 days. Would we capture more gas or would it hinder capturing more gas?

Bruce Hicks: As far as the fiscal note goes the reason why there is an additional burden is because that is the convert.

Don Morrison: Director Dakota Resource Council. I want to make a response; we have a lot of people in North Dakota who think that the 90 days in this bill is too much time. If you entertain the hog house suggestion we ask that you hold this hearing open. It is a substantial change to this bill and a constitutional change is big. Landowners from the Bakken have been threatened. I would like to stress that when you talk about oil and gas issues you don't look at them as either or. The kind of predictions that you pass the bill as is makes it false. We need oil development but we can't destroy North Dakota in the process.

Senator Laffen: Would you trade eminent domain for flaring.

Don Morrison: That is an either or and not the choice we face today. No room for talking, working it out, science.

There was no further testimony and the hearing was closed.



# 2015 SENATE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Fort Lincoln Room, State Capitol

SB 2287  
2/6/2015  
23437

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature

*Katie Oliver*

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

Relating to flaring restrictions.

### Minutes:

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Vice Chair Unruh made a motion for a do not pass with a second by Senator Armstrong.

Senator Triplett: I am going to oppose the do not pass, I think that we can be doing better than the one year and that 90 days seems like a pretty good period of time for producers to seek an exemption.

Chairman Schaible: I am supporting the motion because I believe that we have made some nice progress on flaring and oil production they are into the phase of operating them.

Senator Armstrong: I think that this is a complicated problem and I think that too often in these things the end result is that you deal with it at the source when the source might not be the issue to begin with. To put the onus on the producer of the oil well is unfair.

Senator Hogue: The most disturbing part of this discussion is that the new rules are having significant fiscal impact in North Dakota. We should not have executive agencies making rules that have this kind of impact without this body reviewing and approving them.

Senator Triplett: I think that Senator Hogue's comments are not germane to the bills but HB 1187 is a bill that says that the industrial commission is not allowed to make rules of a general applicability without going through the rule making process.

There was no further discussion, roll was taken, the motion passed on a 6-1-0 count with Chairman Schaible carrying the bill to the floor.

**2015 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2287**

Senate Energy and Natural Resources Committee

☐ Check here for Conference Committee

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

Action Taken Do Not Pass

Motion Made By Vice Chair Unruh Seconded By Senator Armstrong

Senators	Yes	No	Senators	Yes	No
Chairman Schaible	X		Senator Murphy	X	
Vice Chair Unruh	X		Senator Triplett		X
Senator Armstrong	X				
Senator Hogue	X				
Senator Laffen	X				

Total (Yes) 6 No 1

Absent 0

Floor Assignment Chairman Schaible

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

**REPORT OF STANDING COMMITTEE**

**SB 2287: Energy and Natural Resources Committee (Sen. Schaible, Chairman)**  
recommends **DO NOT PASS** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING).  
SB 2287 was placed on the Eleventh order on the calendar.

**2015 TESTIMONY**

**SB 2287**

Senate Bill 2287 - "Flaring"

Jim Dotzenrod, District 26, ND State Senate

1.1  
1/30/15

The bill in front of you changes 3 things regarding flaring and flaring practices in ND. First, the one year that we allow for flaring on page 1, line 9 of the bill is changed to 90 days. This is to conform to the 90 day gas capture plans that have been advanced by the ND Dept. of Mineral Resources. The second change is the deletion of lines 12-16 on page 2 of the bill which removes the escape clause in current law that says that it is "economically infeasible" to stop the flaring practice on any one particular well. The third change allows the flaring on small volumes of gas to continue; the 50,000cu. ft./day is taken from Texas regulations.

As a member of the state legislature from a part of the state where there is no flaring, no drilling, and no impacts from this industry, I have for the most part reasoned that between the regulators, the industry and the legislators representing those areas where the activity is taking place that this is an area of rule-making that should take care of itself. That is, there is a process in place that should provide the kind of reasonable limits to flaring practices that would conform to some sense of conserving the resource and reduce to acceptable levels such large scale waste and almost careless disregard for the environment and lost value. For some reason, this process does not seem to be working. I have heard, anecdotally, that the lost value is in a range of \$1M per day.

This really became an issue for me and my district, when a year ago, propane prices soared to over \$4/gal. I had people stopping me and saying things like, "are you legislators out there in Bismarck paying any attention at all to what is happening to these prices?" and "how can you tolerate the throwing away of flared gas while at the same time I am paying these outrageous prices, virtually unaffordable prices to heat my house and/or dry my corn". So I agreed that during the 2015 session I would do what I could to try to address the concerns that I was hearing.

I started by looking at the rules that apply in Texas. I had heard that the volume of flaring that is going on in ND would not be allowed in Texas, the number one oil state in the US. The three changes provided in this bill are based on what I could find out about Texas and how their system works.

I have been told that oil companies that drill in ND who also have major operations in Texas, do a pretty good job of capturing gas here in our state because it is so much of their standard operating procedure in Texas. A lot of this behavior has to do with the standards adopted and followed by the corporate leadership that exists at the top of the companies out there doing this work. We need to do our part to help set the expectation of the kinds of behavior and practices that we think are good for our state and its residents.

I have attached to my testimony a summary of Texas policy titled "TEXAS FLARING REGULATION", and a news story from 2 years ago that reports on flaring and how we compare to Alaska.

I urge a DO PASS on SB 2287.



## TEXAS FLARING REGULATION

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<http://www.rrc.state.tx.us/about-us/resource-center/faqs/oil-gas-faq/faq-flaring-regulation/>

The Commission's Statewide Rule 32 allows an operator to flare gas while drilling a well and for up to 10 days after a well's completion for operators to conduct well potential testing. The majority of flaring permit requests received by the Commission are for flaring casinghead gas from oil wells. Permits to flare from gas wells are not typically issued as natural gas is the main product of a gas well.

Flaring of casinghead gas for extended periods of time may be necessary if the well is drilled in areas new to exploration. In new areas of exploration, pipeline connections are not typically constructed until after a well is completed and a determination is made about the well's productive capability. Other reasons for flaring include: gas plant shutdowns; repairing a compressor or gas line or well; or other maintenance. In existing production areas, flaring also may be necessary because existing pipelines may have no more capacity. Commission staff issue flare permits for 45 days at a time, for a maximum limit of 180 days.

See specifics on Statewide Rule 32 at the following link under §3.32 (Gas Well Gas and Casinghead Gas Shall Be Utilized for Legal Purposes):

[http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC?tac\\_view=4&ti=16&pt=1&ch=3&rl=Y](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=4&ti=16&pt=1&ch=3&rl=Y)

If operators want to pursue an additional 45 days past the initial 45-day flare permit time period, they must provide documentation that progress has been made toward establishing the necessary infrastructure to produce gas rather than flare it. A copy of the Statewide Rule 32 Exception Data Sheet can be found online at: <http://www.rrc.state.tx.us/forms/forms/og/pdf/swr32datasht.pdf>

The most common reason for granting an extension to an initial flaring permit is the operator is waiting for pipeline construction scheduled to be completed by a specified date. Other reasons for granting an extension include operators needing additional time for well cleanup and pending negotiations with landowners.

The majority of flaring permit requests that the Commission receives are for flaring casinghead gas from oil wells. The Commission does not issue long-term permits for flaring from natural gas wells as natural gas is the main product of a gas well. Both oil and gas wells are allowed under Commission rules to flare during the drilling phase and for up to 10 days after a well's completion for well potential testing. Rare exceptions for long-term flaring may be made in cases where the well or compressor are in need of repair. Operators are required to report to the Commission volumes of gas flared on their monthly Production Report form (PR form). The PR forms include actual, metered volumes of both gas well gas and casinghead gas reported by operators at the lease level.

Of the total amount of gas reported to the Commission, approximately 0.8 percent is flared/vented gas. The chart below reflects the percentage of total gas flared/vented.

Critics doubtful ND measures will curb wasted gas

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By JAMES MacPHERSON  
Associated Press

BISMARCK, N.D. (AP) \_ Legislation headed to Gov. Jack Dalrymple's desk that offers North Dakota oil drillers tax breaks if they stop burning and wasting natural gas will aren't enough to dim the burning glow over North Dakota's oil patch, critics say.

The Republican-sponsored bills offer oil companies tax incentives for capturing and using the byproduct of the state's booming crude production. But critics say the measures won't completely compel drillers to stop torching and wasting the gas.

Records show 275 million cubic feet of natural gas goes up in smoke each day in North Dakota, or enough to heat more than 1 million homes daily. Flaring also accounted for about 5 million tons of carbon dioxide emissions in North Dakota last year, or about the same amount that 945,000 automobiles would emit. The hundreds of flares in the oil patch emit a collective blaze so bright that it has been photographed from space.

"It's fine to offer a carrot but you also have to have a stick to ensure something actually gets done," Wayde Schafer, a North Dakota spokesman for the Sierra Club, said of oil companies' practice of flaring.

The Legislature has passed a pair of bills that give tax breaks to companies if natural gas is collected and used for agricultural, industrial and railroad purposes. Projects that also convert natural gas to such things as farm fertilizer or electricity also would be given incentives. The measures that were endorsed last week by lawmakers had not reached the Dalrymple's desk on Thursday.

Bob Harms, a former oil industry lobbyist and lawyer, said the measures amount to little more than a cosmetic attempt at curbing an increasingly unacceptable practice to North Dakotans.

"It's window dressing," said Harms, an outspoken critic of flaring who's also reaping royalties from oil wells on his land in western North Dakota. "These bills will help but they do nothing to significantly reduce flaring."

More than 30 percent of the state's gas production is being burned off because development of the pipelines and processing facilities needed to handle it has not kept pace with production. The U.S. Energy Department says the national average is less than 1 percent.

Lynn Helms, director of the state Department of Mineral Resources, said the measures are estimated to cut flaring in North Dakota's oil patch by 10 percent.

Both Helms and Ron Ness, president of the North Dakota Petroleum Council, said increased infrastructure is the answer to the flaring problem.

"We've got to get those pipelines in place," said Ness, whose group represents more than 400 companies working in the oil patch.

Justin Kringstad, director of the state Pipeline Authority, said about \$4 billion in infrastructure improvements have been built in North Dakota to capture natural gas and move it to market, but another \$5 billion to \$10 billion in gathering systems is needed.

Helms said it could be five to seven years before the flaring percentage reaches single digits.

There are currently 18 natural gas processing plants operating in the state, Kringstad said.



1.41  
Terry O'Clair, the state Health Department's air quality director, said the flare emissions in the state's oil patch continue to fall within acceptable air quality guidelines.

"Even though it is not creating a lot of pollution, it is a waste of a natural resource," O'Clair said.

North Dakota oil producers can flare natural gas for a year without paying taxes or royalties on it. Companies can then ask state regulators for an extension because of the high costs of moving the gas to market. More than 95 percent of the extensions requested over the past two years were granted, records show.

Lawmakers killed a Senate bill early in the session this year that sought to cut the easily acquired waiver that allows companies to claim an economic hardship of connecting a well to a natural gas pipeline.

Harms, the former oil industry lobbyist, said the state likely won't snuff extraordinary flaring unless companies are required to capture it once it comes to the surface.

"We have to be less willing to accept flaring as an unavoidable consequence of oil production," he said.

Helms, the state's top regulator, said North Dakota, the nation's No. 2 oil producer behind Texas, has rules similar to that state, which allows oil producers six months to capture natural gas before taxes are imposed.

But North Dakota's rules for flaring are lax compared with +Alaska+, a state North Dakota passed last year to become the second-leading oil-producing state in the nation. +Alaska+ only allows flaring under certain conditions and the state flared less than 1 percent of its natural gas production in 2012, Dan Seamount, commissioner of the +Alaska+ Oil and Gas Conservation Commission.

"We want to minimize waste as much as possible," Seamount said. Companies that flare natural gas are charged two times the commodity's value, he said.

"Operators who try and make the case that economics justify flaring gas is not an excuse that will fly with us," Seamount said. "Natural gas is too valuable. We can use that gas."

64<sup>th</sup> Legislative Assembly  
Senate Bill NO. 2287

261  
1-30

Testimony by: Marie D. Hoff, on behalf of self and of Dakota Resource Council, January 30, 2015

We support this bill to limit flaring of gas to ninety days or less. Human health and safety concerns drive our insistence that flaring of natural gas must be reduced significantly.

Flaring natural gas is a waste of a natural resource. We flare enough natural gas every day to heat a million homes. This waste is just not necessary.

Oil producers should not be exempt from paying taxes and royalties if they cannot comply with natural gas flaring reductions. This constitutes a theft from both private royalty holders as well as from the tax payers of North Dakota. If companies cannot comply with the laws limiting the flaring of natural gas, then they should not be engaged in production. "Economic infeasibility" is not a legitimate argument for allowing such highly-toxic substances into the air. Other industries are not allowed to argue "economic infeasibility" as an argument for not obeying the law or for threatening public safety and health. We see no reason to exempt one of the most profitable industries in the world. North Dakota oil royalty owners and taxpayers deserve first consideration.

Thank you for your consideration of the well-being of the people and the land and air of North Dakota. We request a do pass on Senate Bill 2287.

*Marie D. Hoff*  
*Bismarck, ND 58501*

Testimony for public hearing on SB 2287, January 30, 2015

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Mr. Chairman, members of the committee

My name is Wayde Schafer.

I am the Conservation Organizer for Dacotah Chapter of Sierra Club

Thank you for the opportunity to comment on this bill.

Dacotah Chapter of Sierra Club has been concerned about the amount of natural gas flaring in North Dakota's Bakken oil fields for a number of years. We are getting all of the pollution and none of the energy from a valuable natural resource. Our members were actively involved in the public process that eventually resulted in the policy to reduce flaring adopted by the ND Industrial Commission in June of last year. However, that new policy is inadequate in one crucial area. Even though the policy calls for gas capture plans to be submitted before drilling begins, oil and gas developers cannot be required to capture the gas before 1 year because of current state law which allows for a 1 year exemption.

This is important because, unlike conventional oil wells, Bakken wells generally produce most of their oil and gas in the first 2 years and then production drops off dramatically. So, if Bakken wells are allowed to flare their associated natural gas for the first year of production, most of the gas that that well will produce is wasted through flaring. **(See attached chart from NDIC policy).**

If we are serious about reducing the amount of wasted natural gas, we really need to be capturing it much sooner than 1 year from the start of production. SB 2287 does that.

This bill reduces the time a well is allowed to flare from 1 year to a more realistic 90 days. This 90 day timeframe will give the ND Industrial Commission the latitude it needs to develop reasonable gas capture plans and effectively implement its new flaring policy.

SB 2287 also closes a loop hole that could thwart North Dakota's efforts to reduce gas flaring. Current law allows an exemption from capturing the gas if it is "economically infeasible." The goal of reducing the amount of natural gas wasted through flaring is too important to sabotage it because oil companies cannot make money capturing it. The oil companies are making vast amounts of money from the oil. Whether capturing the natural gas is profitable or not should not be the determining factor when it comes to flaring.

SB 2287 sets the right priorities for North Dakota by reducing the time a producing well is allowed to flare natural gas and eliminating a loop hole that could endanger our efforts to reduce the amount of wasted natural gas.

Dacotah Chapter respectfully urges this committee to recommend a DO PASS for SB 2287.



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3

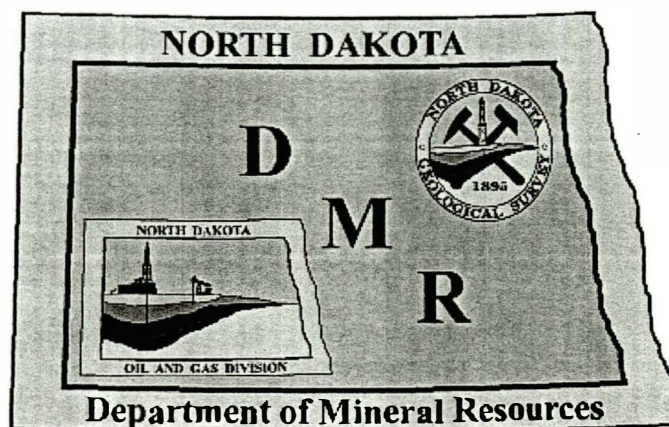
page 1

# North Dakota Industrial Commission

## 03/03/2014

**11:30 a.m. Presentation of the Department of Mineral Resources review of North Dakota Petroleum Council Flaring Task Force Report and Consideration of implementation steps**

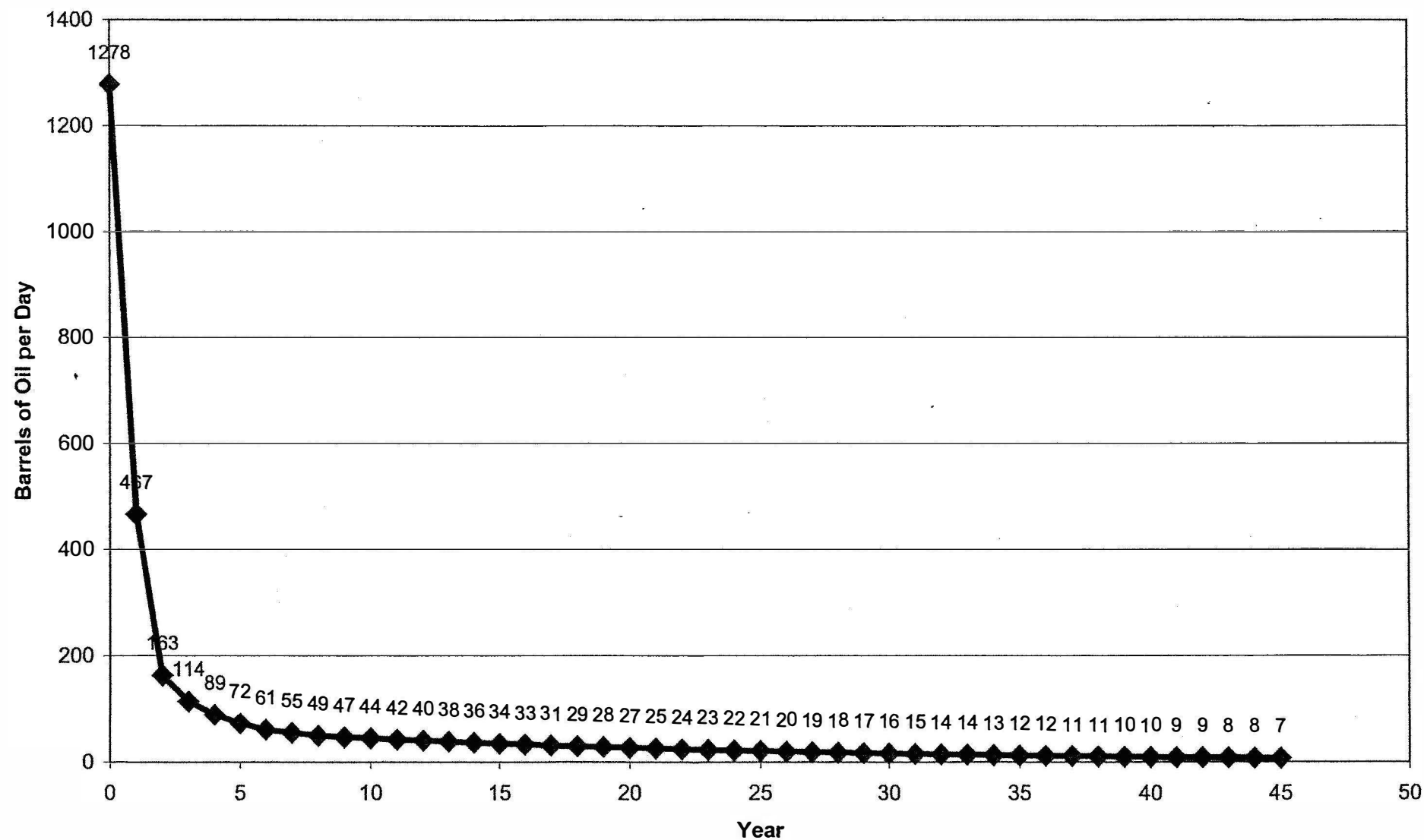
<http://www.oilgas.nd.gov>



<http://www.state.nd.us/ndgs>

**600 East Boulevard Ave. - Dept 405  
Bismarck, ND 58505-0840  
(701) 328-8020 (701) 328-8000**

## Typical Bakken Well Production



Testimony of Mark Trechock  
SB 2287 January 30, 2015

My name is Mark Trechock, I have lived in Dickinson since 1993. I was the Director of Dakota Resource Council from December 1993 until January 2012. I am also a mineral owner and receive royalty payments for oil and gas. My mineral acreage is very small – the size of a half-lot within the city limits of Dickinson. Oil and gas have been produced on my mineral acreage for over a decade and I received royalty payments of 15% that have averaged around \$500 per year. Since my retirement I have written several reports on oil and gas issues including an analysis of flaring and its impacts, published last fall by the Western Organization of Resource Councils. I am speaking in support of SB 2287

North Dakota has a history of balancing power production and clean air, but the massive flaring of natural gas that characterizes North Dakota's current oil production poses a serious challenge to that balance. Flaring of natural gas in North Dakota has reached nearly 40% at times in recent years. The level of flaring has diminished somewhat since the state put into place a plan for flaring reduction and the current rate of flaring has been reduced to less than 30%. However the state's goal of reaching 5% to 10% flaring by 2020 is far from being achieved. Even if it is reached, North Dakota will still be flaring a higher percentage of natural gas in the nation by 2020. We have a long way to go.

The bill before this committee will assist North Dakota in reducing the massive level of flaring that still exists in our state. Currently, gas produced from an oil well may be flared throughout the first year of production, and extensions are possible and not uncommon.

SB 2287 can be a useful component to the flaring reduction goals of the state because it reduces the time period when flaring is allowed on a blanket basis from one year to 90 days following the date of first production. This will ensure that more oil and gas mineral owners will see a greater financial benefit and will also improve air quality and living conditions in general in the Bakken. It will also move the state along toward the level of stewardship exemplified by other states, especially Alaska. That state has for many years continued robust oil and gas production, even though it has virtually no tolerance for gas flaring under a policy that has been in place for several decades.

As a North Dakotan, I would like to see my state move resolutely toward improved stewardship of our natural resources. This bill can move us a long way toward more responsible oil and gas production and I urge its passage.

Mr. Chairman and members of the committee, my name is Nicole Donaghy and I am an organizer for Dakota Resource Council. We are in favor of Senate Bill 2287. Flaring is an unnecessary waste of one of North Dakota's valuable energy resources. With all that our ancestors before us have worked so hard for on this land, we should know that waste is not a North Dakota value.

Many Dakota Resource Council members live in the Bakken and are faced daily with the impacts of the extreme amount of unnecessary flaring of natural gas that North Dakota officials have allowed to happen in our state. Our members, such as Brenda and Richard Jorgenson, ranchers near Tioga, Don Nelson, rancher and mineral owner near Keene, and Theodora Bird Bear, a landowner and mineral owner in Mandaree, had all hoped to be here today, but were unable to make it to Bismarck. They are all members of our Oil and Gas Task Force and they are in favor of you being serious about reducing the amount of flaring allowed in North Dakota.

New rules from the Industrial Commission were intended to cut flaring to 10% by 2020. This is an insignificant goal when other oil producing states, such as Alaska, flare less than 1% of gas produced. In Texas, the Texas Railroad Commission allows an operator to flare for only 10 days after the completion of a well. We were in a race to reach the one million barrel mark, let's race to keep up with other states that limit their emissions.

Burning off gas that could be used elsewhere in this nation is not in the best interest of anyone other than the oil companies, especially when the leaders on my reservation had to declare a state of emergency when a member of my tribe froze to death because of a shortage of fuel. How is flaring considered reasonable when tragedies such as this occur within our state borders?

Flaring poses a large threat to human health as it emits volatile organic compounds that may be detrimental to those who are exposed to these emissions on a daily basis. A study from Ventura County Air Pollution Control District shows that gas flaring can emit numerous pollutants such as benzene, formaldehyde, propylene, toluene, xylenes and ethyl benzene, several of these are known carcinogens. There are 11,000 people living within a mile of a flare in North Dakota, does our current administration really want to be responsible for the illnesses and diseases that will be inflicted on many of these people?

There have been many empty threats given by our chief regulator and promoter who often claims that if we tighten regulations then oil companies would leave North Dakota. We don't believe that; we believe that these companies have too large of a vested interest to simply walk away forever from the vast abundance of North Dakota's shale field. If companies are going to temporarily cut back because of low prices, they will resume production when the price goes back up. So, we need to stop with the threats. We also need our current administration to finally look out for the best interest of those of us who are going to remain here after the booms and rigs are gone. It's about time we look back to our roots and start being good neighbors again and stop putting the profit margins of outside companies ahead of North Dakotans.

We ask that you vote a do pass on this bill. Thank you for your time.

661  
1-30-15

I am writing in favor of SB 2287 relating to flaring restrictions.

⌈ Hess drilled the Mollet well on Section 20, Range 158N, Township 93W, Mountrail County, and it's flared for seven years! No attempt has been made to lay a line to it. How do the mineral owners get paid for the gas? ⌋

The State of ND is concerned about loss of money from lower oil prices recently, but the State has wasted money - by flaring - all this time!

In the first year of production, 30 % of the gas is released! The most amount of gas is then allowed to be wasted by flaring. This is a huge waste of financial resources!

Flaring is a waste of what should be a "precious natural resource". Some states out East are drilling for the sole purpose of capturing natural gas. Here we put Mother Earth through the ringer and waste that limited "natural resource" by flaring it.

There is no monitoring of the air coming off the flares to protect any living thing nearby.

⌈ There is much mention about landowners being the holdup. There is reason for landowner fatigue. There is reason because anything the landowners bring up to anyone - except to another landowner - is dismissed by those - wearing suits! The burden of proof is on the people, the landowner, those trying to be good stewards of God's Creation. ⌋

We are left with questions and risks!

Are the number of flares being reduced by gathering lines then being flared at more central facilities?

Is the Governor's Task Force for Flaring comprised of anyone living near a flare?

Richard Jorgenson



Mr. Chairman

7.1

1-30-15

SB 2287

Hi, my name's Eric Thompson and I am representing myself.

There are two reasons that you should vote for this bill. The first is that, when you are saying to everyone that you are concerned about revenue loss due to low oil prices, it would appear odd that you would allow the waste of something that would increase revenues if it were not wasted.

The second is that it is a mistake for those who are responsible for the creation of law to say to those who might break those laws that they could continue to break those laws if they can prove that following those laws would create financial hardship. 34 years in corrections assures me that everyone who breaks the law does so because they believe following the law would create a financial hardship for them. That precedent simply should not be set.

I urge your support for SB 2287  
Thank you for your time.

Mr. (or Madam) Chairman & members of the committee, I'm Bruce Bale, from Mandan, & I'm in favor of Senate Bill **2287** that would reduce the allowable flaring period instead of from 365 to 90 days, except that we should reduce that period to **30** days, AND eliminate 38-08-06.4, section 6., that allows "a producer [to] obtain an **exemption** from this section from the industrial commission upon application that shows to the [commission's] satisfaction that ... the volumes of hydrocarbon gas being flared are less than or equal to fifty thousand cubic feet for each day – because:

- Even at 90 days, it's continuing to deplorably **waste** a valuable natural resource,
- We're losing valuable, & with dropping oil prices, now increasingly lowered, **tax revenue** on this flared gas, &
- It's continued flaring deleteriously makes an outsized contribution to the global climate change that's ominously increasing, & threatening our civilization & way of life.

The oil companies here are made up of highly competent professionals: they can meet that deadline. I expect everyone here thinks of themselves as responsible – we *WANT* to be responsible people. And Americans like to be "Number One" – in *everything*. We ARE close to that, in emitting greenhouse gases, while our President has recently visited India & asked them to keep a lid on *they're* growing fossil fuel use, as they also want to enjoy increased prosperity. Meanwhile, among states, North Dakota is 51<sup>st</sup> in insulating our homes & businesses. Can we improve on this, *at all*?

Other advanced countries have national energy policies. Here we do it state by state. As of Sept 1, 2014, "North Dakota drillers burned off, or flared, about 30% of the gas, because development of pipelines & processing facilities to capture it hasn't kept pace with oil drilling. Less than 1% of natural gas is flared from oil fields nationwide[, & less than 3% worldwide, according to the U.S. Energy Dept]." [http://www.huffingtonpost.com/2014/07/02/north-dakota-natural-gas-flaring\\_n\\_5549457.html](http://www.huffingtonpost.com/2014/07/02/north-dakota-natural-gas-flaring_n_5549457.html) Prolonged, excessive gas flaring at the wellhead? TX, Calif & Alaska don't allow it; Okla? Pennsylvania? These are our highest state oil producing brethren, & we're currently the 2<sup>nd</sup> highest producer. When oil drillers come to those states, they're ready to plunk down what it costs, to comply with the regulations & recover the natural gas their wells produce. What's different here? As the development rush got underway, & I learned of the 1,000s of flares visible from space, I wasn't thinking "success & prosperity," but inept, unplanned waste & harm; so were thousands of N.D.-ans, & millions of Americans.

These producers can do it. What are the requirements of other states, that producers have been meeting all along? Their own materials say they're "allowed" 30 to 60 days to produce at a "maximum efficient rate." Once new drilling was well underway here, why couldn't the necessary gas pipeline infrastructure have been built & laid out to meet & gather it? Per Lynn Helms, Director, Dept of Mineral Resources, who believes in "peer pressure" among oil companies to ensure targets are met, As of Sept 1 last year, "about a dozen oil companies were already meeting gas capturing targets set for October. Another 10 companies "were close," but a "handful were way out." That sounds like an even third in each group. ARE all those "pressured" companies complying now? Doesn't prudent regulation to enforce that make sense? The percentage of flared natural gas in N.D. has remained around one-third of production in recent years, though the overall volume has dramatically increased. Id.

In 2013, ND produced 102.8 billion cu ft, about half of all US production.<sup>1</sup> Under the Exemption of ¶ 6. of the relevant NDCC Code section, as proposed by Bill 2287, up to 4.5 Million cu ft over that initial 90 day production grace period, equal to an annual 18,500,000 cu ft over a year, could be wasted, flared – for each well! If this was reduced to 30 days, the wasted gas & lost tax revenue base would still be 1.5 million cu. ft. We acknowledge that N.D. has been a real laggard, not exactly racing, to build up needed infrastructure in the industry, to support the pipeline & transportation impacted by this blazing development. It certainly wasn't completely unforeseeable. Now, when a billion dollars of infrastructure in the industry has come up, the state senator from my district has expressed regret that he had to refrain from voting for it, concerned over the recent great drop in the oil price, & resultant plummeting state revenue collections reflected here.

1: U.S. Energy Information Agency, [http://www.eia.gov/dnav/ng/ng\\_prod\\_sum\\_a\\_EPG0\\_vgv\\_mmcfa.htm](http://www.eia.gov/dnav/ng/ng_prod_sum_a_EPG0_vgv_mmcfa.htm)



The Dept of Mineral Resources Director has said this bill would increase his workload, to determine the volume & value of gas flared for royalty payments. Isn't that the state's job? And isn't this merely complaining of administrative inconvenience?

How much of this contributes to at least the appearance of "timid, unsophisticated little N.D." getting repeatedly "rolled" by powerful outside commercial interests, or merely caving in? "The prairies – once dotted only with cattle & an occasional lazy oil derrick – are now marked by thousands of flares, open pits or steel pipes burning off excess natural gas." PITY those poor, hapless North Dakotans unlucky enough to actually LIVE near the jet-engine roar of bright day & night flaring. *Plus*, "For some landowners like Tom Wheeler, who still farms the 3,000 acres in Ray, ND that his grandfather homesteaded in 1902, it's not the noise or light pollution that gets to them, but the region's wasted natural resource. "It's not just a waste to the landowner or the tax collector, it's a waste of the land's natural product," Wheeler said. "When I was growing up, we were taught not to waste anything." " <http://www.cnn.com/id/101934384>

The industry's N.D. Petroleum Council president has said the industry believes it can meet the flaring goals *but hopes punishing companies by curtailing oil production will be used by regulators "as a last resort."* Most ND-ans are Practical, good stewards, often even Frugal people. Wasting good, better-than-lignite natural gas & sending it up the flu to further compound our climate problems, while asking other countries to join us in curbing greenhouse gases is the height of absurdity, if not outright recklessness. "Wasteful" is leaving the water tap on, & letting the unneeded resource simply go down the sewer. But needlessly flaring gas is Wasteful AND Harmful: it's another unnecessary Greenhouse gas piling on to unwanted, growing climate change. It's time to tighten up this destructive wastefulness, & regulate those who enjoy ND's resources & our economic milieu to extract them.

How many ND homes & businesses could we already have heated through our frigid winters, how much cleaner electricity could we have generated, from the gas we've already carelessly torched? Natural gas is also a Feedstock, to make Fertilizer we can use, *as in* the plants ready to do so here, among other products.

If we weren't quite ready when fracking & horizontal drilling technology took off here, and we well knew that this would only compound climate change, plus having the bitter winters we often experience – which natural gas can go a long way to warming – why didn't we simply take a "go slow" approach, & allow drilling exploration a few wells at a time, properly regulated, with the byproducts responsibly gathered, rather than a headlong rush to get it all out at once? Gov. Art Link said, What's the hurry? It'll still be there down the road – it isn't going anywhere. It's been about ten years now, since these latest technologies & activity have been used here. Isn't it about time to ask producers to responsibly fully recover the rest of what they pull out of the ground, & not continue this folly? They do it everywhere else when asked. Reminds one of the Monopoly Millionaire man, in top hat & tails, lighting his cigars with hundred dollar bills. We already have plenty of cattle, expelling or emitting methane gas, readily acknowledged as among the worst greenhouse gases.

Norwegian-based Statoil has been among the biggest players in the Bakken region, since it bought Brigham Exploration for \$4.4 billion in 2011. With about 300,000 net acres, it's making a concerted push to expand its presence here, & also working to cut its flaring. Last year Statoil announced a joint partnership with 2 other companies, & [GE & Ferus Natural Gas Fuels, a Canadian natural gas logistics co.] they've been piloting General Electric's "CNG in a Box" technology at a Statoil rig by Watford City, ND. As Lance Langford, vice president of the Bakken Asset for Statoil said, "Capturing natural gas from its wells is a win on multiple levels – at the site we're reducing flaring, we're also capturing value & we're lowering our fuel costs." "We need the state, federal & local governments to help encourage the use of CNG," he said. "We also need the private sector to come up with ways to use CNG. It's cheaper, cleaner and there are lots of opportunities."

Climate change IS the most serious & immediate peril facing everyone & everything on our planet. It usually IS mildly cyclical, occurring slowly over thousands of years – millennia – up & down, like a roller coaster. But since we, humans, first started paying attention to it, around the mid-1950s, our climate's warming has continued on an unprecedented, ever-steeper climb, with no end in sight. Ten of the last 12 years are the hottest on record, globally, helping to melt vast glaciers & the huge ice sheets over our poles. And so far, those records are mostly on an increasing, "rolling forward" basis. We're well aware of repeated, severe flooding, for



instance, along our Red & Souris Rivers, unknown during our time here, regularly overflowing what was once designated a "100-year flooding" event; & devastating, expensive drought, in places like Calif & Texas, plus the haboobs – hundred foot high desert dust storms blowing through Arizona, reminiscent of Thirties' Dust Bowl days.

This remains the only planet we have – we can't leave & find another once we've completely spoiled it. Hopefully, we can further curtail the bright mass of light that appears to orbiting satellites, larger than that of Minneapolis 6006miles6away.6The6collective6glow6of6thousands6of6oil6wells6being6set6afire.6

Thank6you6for6allowing6me6to6comment6there6today.

Senate Bill **2287** Introduced by Senators **Dotzenrod**, Wyndmere, Farmer, BS, Engineering, NDSU, Air Force; ND Air Natn'l Guard, & **Warner**, Ryder (*Minot*), Minority Caucus Leader, Retired Farmer, BS, NDSU; BS, MSU, on several good Boards;

& Representatives **Amerman**, Forman, Bobcat Co. operator, VietNamVet [*Uncle Gus Berg*], NDSCS, & **Kelsh**: Jerry, Fullerton, 2 degrees, UND, older, retired, heavier; or Scot, younger, Fargo, Firefighter, BS Architect, NDSU, MN Assn. of Songwriters, Board, Prairie Public Broadcasting; Past Member?

#### 38-08-06.4.6Flaring6of6gas6restricted6

1. As permitted under rules of the industrial commission, gas produced with crude oil from an oil well may be flared during a ~~one year~~ ninety-day period from the date of first production from the well.

6. A producer may obtain an **exemption** from this section from the industrial commission upon application that shows to the satisfaction of the industrial commission that ~~connection of the well to a natural gas gathering line is economically infeasible at the time of the application or in the foreseeable future or that a market for the gas is not available and that equipping the well with an electrical generator to produce electricity from gas or employing a collection system described in subdivision d of subsection 2 is economically infeasible~~ the volumes of hydrocarbon gas being flared are less than or equal to fifty thousand cubic feet for each day. ...

**Senate Bill 2287**  
**Testimony of Ron Ness**  
**House Natural Resources Committee**  
**January 30, 2015**

Senator Schaible and members of the committee, my name is Ron Ness, president of the North Dakota Petroleum Council. The North Dakota Petroleum Council (NDPC) represents more than 550 companies directly employing 65,000 employee in North Dakota in all aspects of the oil and gas industry, including oil and gas production, refining, pipeline, transportation, mineral leasing, consulting, legal work, and oilfield service activities in North Dakota. I appear before you today in opposition of Senate Bill 2287.

Senate Bill 2287 is unnecessary. Clearly defined gas capture goals have been established implemented through an order effective October 1, 2014 by the North Dakota Industrial Commission. The order includes a severe penalty (shut-in production) against our recommendations for failure to meet the established capture targets. Although, we feel the Industrial Commission went too far, the process is in place and industry is striving to meet the targets. This bill is punitive, does not coincide with that order, and will have substantial negative impacts on oil activity, further impact on jobs, tax revenues, and investment into natural gas infrastructure.

The industry has made great strides in reducing flaring over the past year, I would hope we get some credit for that and for spending nearly **\$13 BILLION on natural gas infrastructure** in North Dakota since 2006. The way to reduce natural gas flaring is getting pipelines in the ground. The oil and gas industry's goal is to have pipelines connected for natural gas sales from the moment of first production. The major roadblocks identified through our Flaring Task Force was struggles to gain easements from specific individual landowners along a pipeline route, the ability of federal agencies to process the permits allowing pipelines, the challenges of weaving through the bureaucracy on tribal lands.



Our current capture targets have been met but the bar will keep going up in 2015 and as we indicated in our presentation to the Industrial Commission, we need the support of all stakeholders to reach these targets. Today, I'm disappointed to report – we are not receiving that support. We currently have three parties holding-up easement agreements over a fraction of the pipeline access needed on three pipelines that account for nearly 1/3 of the total flaring occurring in North Dakota. For example, a major gas processor has been working on one remaining easement on a 1.8 mile section crossing tribal owned land for more than a year. This 1.8 miles of right of way stands in the way of capturing nearly 10% of the total gas flared. The gas processor recently announced to producers that because of delays, it has lost a significant amount of its ability to recapture its return on investment, they have not been unable to reach an agreement with the tribe, and they are giving up on the project. That will leave the gas on private land south of the reservation stranded and flaring – putting these producers in a tough spot. We have another example with the federal government and one with one 33% of the owners in a family trust blocking an easement – each representing substantial amounts of gas. These are substantial roadblocks in reaching the flare capture targets and pose tremendous penalties for companies having to shut-in production. Last month the Industrial Commission indicated 12,000 barrels of oil per-day were shut-in due to not meeting the target. That's \$14 million a month even at just \$40 oil to one or two companies. In addition, many companies have held-off completing wells this fall to achieve the target. We suspect this could get worse if we don't get some relief.

If this committee is really serious about addressing flaring, it's time our State makes some bold policy decisions instead of imposing punitive measures such as this that will reduce investment, discourage operators and midstream companies from operating in this state. If an immediate reduction in flaring beyond the goals currently in place is your priority, then, yes, we can deal with that goal, but only if you are willing to reverse the long standing state policies which block our ability to do so. There can be no doubt the flaring "issue" could be resolved quite swiftly if industry had "quick take" eminent domain rights to acquire pipeline right of way as in other states. North Dakota has had a long standing constitutional policy that "quick take" is not an option for private industry. To date, we have respected that and have conducted

business accordingly, yet by this Bill and other measures being proposed, the State policy makers are demanding we achieve the same rate of success and on the same timeframe as other states that allow quick take eminent domain, which is simply unattainable. If the Committee is seriously considering this or similar punitive Bills, then we urge this committee to back it up and make the bold proposal to put us on equal footing as other States and come forward with new a policy to enable us to achieve these goals. And you can achieve that by hog-house this bill and amending the following concepts into the bill:

9.3

1. Recommend a Constitutional amendment creating a quick take provision that if 85% of the easements have been obtained through private negotiations on an oil and gas pipeline line project, the operator may obtain immediate access to the remaining non-consenting land owner's property for the purposes of pipeline construction by depositing with the District Court an amount equal to the highest amount paid per rod for the pipeline project. The Landowner shall have the right to a speedy trial to contest the amount of the deposit, and if the jury returns a verdict in excess of the amount deposited, the Landowner shall be entitled to attorneys fees and costs. .
2. Direct the ND Industrial Commission to develop a notice and hearing process that allows an operator to file documentation verifying they have obtained 85% of the easement agreements for a gas pipeline project, provide the names of the non-consenting landowners the operator was unable to reach agreement , hold a hearing giving all parties an opportunity to be heard to ensure a fair offer was made, and if the Commision determines the operator has acted in good faith, the the Operator will not be penalized as to gas capture requirements for gas flared due to the inability to obtain pipeline easements, and the Operator shall also be exempt from paying royalties and production taxes on gas flared cause by the inability to construct a gas pipeline.

The only tools left in the toolbox for producers to meet the gas capture goal is to further reduce the number of wells that are completed or reducing the rig count (both coming soon), however, some operators are squeezed with assets only on the reservation or in areas waiting for pipelines – this bill has


dire consequences for some. Putting additional pressure into this already difficult situation will only increase the pressure on a stressed industry. In addition, unless sufficient wells are coming on line in a particular location, midstream companies will not have the economic incentive to invest in pipeline infrastructure, a very long term and capital intensive commitment.

9.4

I repeat, the solution is not additional punitive regulations. If policy makers and the public deem a speedy resolution is mandatory, the solution is in streamlining the process of acquiring right of ways in a timely and economic manner. Thus, if you really want to help, this is where you can help.

We urge a Do NOT Pass on SB 2287, I would be happy to answer any questions.


9.5



## Testimony on SB 2287

Ron Ness,  
President, NDPC

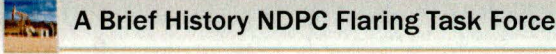
[www.ndoil.org](http://www.ndoil.org)



## Unique, Very Focused

- Unique for Industry to work holistically
  - Not normal, companies are fierce competitors – upstream and midstream
- Consisted of 35 Industry experts in natural gas gathering, processing, and transport
- Met over 20 times from Sept. 2013 to Jan. 2014 – very focused
- Tribal subcommittee met 8 times from Nov. 2013 to Jan. 2014

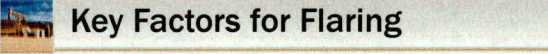
[www.ndoil.org](http://www.ndoil.org)



## A Brief History NDPC Flaring Task Force

- September 2013
  - Meeting with Governor Dalrymple. **"Fix it or I will."**
  - Stood up the NDPC Flaring Task Force
  - Agreed to present an Industry developed proposed solution to the flaring issue to NDIC at the January 2014 meeting

[www.ndoil.org](http://www.ndoil.org)



## Key Factors for Flaring

- Shale Oil production profile – high surge of initial production followed by steep declines
- Unique Liquids-Rich Gas
- Time Needed to Build Infrastructure & Weather Constraints
- Size of the Bakken
- Technology Outpaced Production Expectations
- Easements and ROWs are Challenging

[www.ndoil.org](http://www.ndoil.org)



## Flaring Task Force Mission

- Responsible and efficient development of ND natural resources
- NDPC completely supports the State flaring goals
  - Reduce flare volumes
  - Reduce the number of wells flared, and
  - Reduce connect time period from first gas production to marketing gas sales


[www.ndoil.org](http://www.ndoil.org)



## Infrastructure and Investment





906



### Industry Investment to Date

- Industry Investment in North Dakota
  - Over \$6 Billion by Jan. 2014
  - Easily over \$12 billion by Jan. 2015
- Numbers include cost of:
  - Gas gathering – wellhead to plant
  - Plant Processing – stand alone
  - Export capacity for residue gas and natural gas liquids (NGLs)


[www.ndoil.org](http://www.ndoil.org)

### Unique challenges on the FBIR


- ROWs are very slow to get – consent from landowner, Tribe
- More permit scrutiny - 3 federal agencies must approve (BLM, BIA, USFWS)
- Tribal policies conflict with getting pipelines to well locations
  - Developing a conditionally-assignable ROW form – 13 pages long
  - ½ mile setback for all pipelines and compressors from any occupied structure
- Topography and Lake Sakakawea make gas gathering systems challenging to operate

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PETROLEUM  
COUNCIL

*We keep North Dakota going strong*



### Flaring Statistics




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PETROLEUM  
COUNCIL

*We keep North Dakota going strong*





### Future Capture Targets



### Entire State Flaring Statistics

- Entire State
  - Met October 2014 capture goal of 76%
- NDPC asked state to track separately
  - Better to address specific problems
  - Private and State Lands (excludes FBIR)
  - Ft. Berthold Indian Reservation lands


[www.ndoil.org](http://www.ndoil.org)

### 85% Capture in Two Years

- Capture 74% by 4<sup>th</sup> Qtr. 2014
  - Recent processing expansion, BMPs
- Capture 77% by 1<sup>st</sup> Qtr. 2015
  - Continue capacity build out
  - Operational efficiencies
- Capture 85% by 1<sup>st</sup> Qtr. 2016
  - New recently announced processing plants
  - Value added North Dakota markets

[www.ndoil.org](http://www.ndoil.org)



9.7

### 90% Capture by 2020

.....with potential for 95% capture

- This plan allows for increased future oil production while reducing flaring
- Achieving this goal, requires full engagement by the industry, state, counties, NDIC, tribe, and landowners to implement this plan

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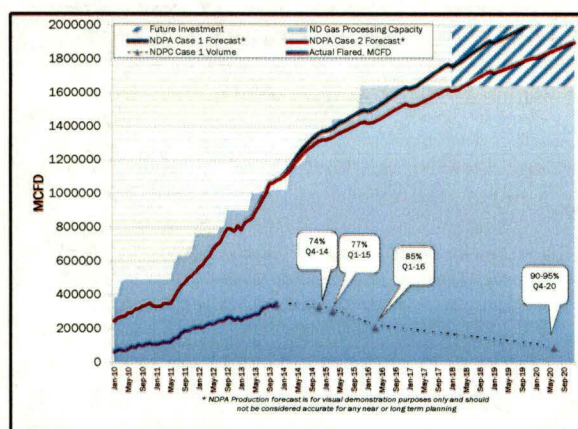
### Example Connect Times

- The typical process and time for connecting a well or multi-well pad to the gas plant is as follows:
  - Identify well(s), negotiate and execute gas processing agreement: 90 days (try to negotiate the agreement before the well is spud and during drilling so facilities are ready to capture the first production after well stimulation)
  - Once agreement is executed, apply for county permit: 30 days
  - Once permit is received, acquire right of way: 30-180 days
  - Upon ROW acquisition, construct gathering lines and appurtenant facilities: 30 days

Total time: up to 180 days, if no problem with ROW.

Note: Typically, can connect a well in 90 days (weather permitting) if the contract is already in place.

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### Delays to Gas Connection

- Single Biggest Challenge to connect gas**
  - Securing landowner permission for connection activities
    - up to 180 days or longer
- Biggest obstacles and time delays**
  - Delays in zoning by counties and townships for midstream facilities
  - Short construction season/weather
  - Limited number of available construction crews
  - Review of permits for natural gas fueled equipment

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NORTH DAKOTA PETROLEUM COUNCIL *We keep North Dakota going strong*

### Time Delays to Connect


### New Focus on Flaring Reduction

- Management focus to reduce flaring
- Focused internal effort to reduce flaring
  - Better drilling, completions, and facilities coordination to reduce flaring
  - Communication with midstream
  - Evaluation of gas utilization before midstream
  - Increased emphasis on obtaining ROW

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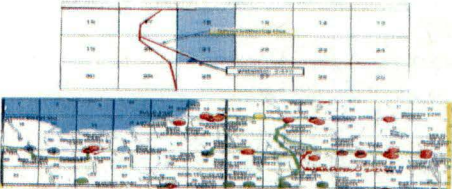
9.8



### Proposal to Meet Reduction Targets

### Sample Gas Capture Plan

**Gas Pipeline Information**  
Increase Density  
Sections 16 & 21 - 162N - 99W  
McKenzie County, North Dakota



Distance from state boundary to north of 24 miles  
Distance from state boundary to south of 24 miles  
Distance from state boundary to east of 24 miles  
Distance from state boundary to west of 24 miles  
Distance from state boundary to north of 24 miles  
Distance from state boundary to south of 24 miles  
Distance from state boundary to east of 24 miles  
Distance from state boundary to west of 24 miles

DATE: 10-28-2014  
PREPARED BY: [Signature]  
REVIEWED BY: [Signature]

### NDPC Flaring Reduction Recommendations

- Gas Capture Plan
- Regulatory Consequences
- Midstream Planning and Tracking
- Gathering Line Oversight
- Rights of Way
- State Actions
- Remote Capture Technologies
- Monitoring and Reporting

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### Gas Capture Plan Milestones

- June 1, 2014: All new APDs must have a GCP
- For all existing flaring wells, the producer will submit a GCP
  - September 1, 2014: large volume wells (based on Nov NDPA data) 60% is from 216 wells >300 MCFD, 50% connected to sales
  - March 1, 2015: all other wells flaring longer than 90-days, excluding marginal wells

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### New Permit Requirement

- Gas Capture Plan (GCP)
  - Forces gas capture planning prior to drilling
  - GCP may include at the discretion of NDIC:
    - Location map gathering system connection, processing plant(s) identified
    - Flowback strategy (rate, duration, plan for multi-well start up)
    - Current system capacity and utilization
    - Time period for connection


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### Regulatory Consequences

- At the discretion of NDIC, penalty for failure to comply
  - Failure to submit GCP
    - New wells – suspension or denial of permit
    - Existing wells – curtail production where no detriment to well or reservoir
  - Failure to comply with GCP
    - Curtail production
    - Not meeting flowback strategy
    - Mitigating circumstances may allow extension (i.e., economic evaluation, operator's overall capture rate, ROW, safety, weather, work crews, etc.)

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### Midstream Planning and Tracking

- Midstream companies meet with NDIC on a regular basis (i.e., annual, bi-annual) to status operations and updates
- Suggested reporting to include:
  - Percent gas captured by gathering system
  - Gathering forecast by gathering system
  - Status plant processing capacity and gathering capacity with future obligations and capture targets
  - Utilization and downtime/interruptions of service
    - Field compression downtime / Plant downtime/maintenance



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### ROW Task Force

- ROW Task Force to address biggest time delay challenge
  - Discuss and review potential energy corridors, section line easements, legislation to improve ROW access to reduce flaring
- Stakeholders to include:
  - NDIC, North Dakota Pipeline Authority
  - Attorney General due to legal issues
  - State Energy Impact Coordinator
  - Counties
  - Landowners groups
  - Industry members, both upstream and midstream



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### Gathering Line Oversight

- North Dakota will be the first in the nation to regulate gathering systems, effective April 1, 2014 (House Bill 1333)
  - 18,000 miles of existing gathering line will be regulated
  - New electronic mapping requirements
  - \$75 MM cleanup fund
  - Pipeline mediation



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### State Actions

- Incentivize rapid build out capacity for gas infrastructure
  - Property tax incentive, payment in lieu of taxes
  - Low interest loans (electrical transmission), etc.
  - Production tax credits for producers
- Incentivize intrastate value added markets
  - LNG, CNG, petrochemical, fertilizer plants, technology innovation
  - Develop Infrastructure Development Fund
- Support dense phase, high pressure export pipeline
  - Major investment – approximately \$3 billion
  - Long lead time – approximately 3 years construction time to mid-continent markets
  - NDPA is authorized by statute to take up to 10% of firm capacity



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### Pipeline Hotline

- NDIC develop and manage “hotline” for reporting surface owner issue related to pipelines
- Establish follow-up mechanism with company and surface owner to ensure quality control
- Provide landowner with easy notification system for problems and concerns


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### Incentivize Remote Capture Tech


- EERC evaluation process
- EERC pilot and scalability testing
- Increase funding for the Oil & Gas Research Council, focus on value added markets
  - Utilize Empower Commission Value Added Natural Gas Study

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### Flare Reporting and Monitoring


- Non-FBIR/FBIR flaring tracked separately
- Revise current NDIC gas production and sales report to include:
  - Non-routine flaring operations - safety, power outages, pressure control, pigging, etc.
  - Well testing and flowback operations
- NDPA report on target capture status to NDIC
  - 4<sup>th</sup> Qtr. 2014
  - 2<sup>nd</sup> Qtr. 2015
  - 1<sup>st</sup> Qtr. 2016

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### Questions?



### 90% Capture by 2020

- This plan allows for increased oil production while reducing flaring
- Possible target of 95% capture

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### Up To 95% Capture Possible

However,

achieving these targets, requires full engagement by the state, counties, NDIC, tribe, landowners, and industry, to implement this plan

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