

FISCAL NOTE
Requested by Legislative Council
01/26/2015

Bill/Resolution No.: SB 2370

- 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			\$25,000		\$25,000	
Appropriations			\$25,000		\$25,000	

- 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).*

This measure changes the allowable distance for an oil or gas well to be located from an occupied dwelling from 500 feet to 1320 feet.

- 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 staff to verify that no occupied dwellings exist within 1320 feet of the proposed well instead of the current 500 feet. It is assumed an additional 30 minutes per location will be necessary.

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 \$25,000 for additional inspection time. Assumes 2000 permits issued each year, average 4 wells per pad, 30 minutes additional inspection time per pad. Expenditures for the 2017-2019 biennium are expected to be similar to the previous biennium.

- 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: 02/02/2015

2015 SENATE ENERGY AND NATURAL RESOURCES

SB 2370

2015 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Fort Lincoln Room, State Capitol

SB 2370
2/6/2015
23392

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Katia Oliver

Explanation or reason for introduction of bill/resolution:

Relating to setbacks for oil and gas wells.

Minutes:

7 Attachments

Chairman Schaible called the committee back to order and the hearing on SB 2370 was opened. Senator Ole Larsen was on hand to introduce the bill.

Senator Larsen: District 3 from Minot. This came to me from individuals who were concerned about how close the drill sites are to the houses. Currently it is 500 feet and we have requested 1,300 feet. Part of the reason we are thinking about the setback is if something happens and they need emergency equip then 500 feet isn't enough space to implement those activities as well as noise factors as well. (2:30-3:58)

Senator Triplett: Are you aware that we had the same bill 2 years ago?

Senator Larsen: Yes I am aware and it didn't have much traction then.

Senator Triplett: Any solutions about the inability to locate wells?

Senator Larsen: I am not sure if it is a 1/4 mile set back.

Senator Triplett: Well that is the distance.

Senator Larsen: An entity came to me to sponsor the bill to open the talks again and 500 feet is pretty close especially when you have all of that equipment.

Tom Wheeler: Director of Northwest Landowners Association. See attachment #1. (6:42-10:43)

Bob Wisness: North Dakota Grain Growers Association. See attachment #2. (11:38-19:07)

Arthur Langdon: Representing self. See attachment #3. (19:59-25:06)

Linda Wise: Member, Dakota Resource Council. I am here to speak in favor of this bill and most leases that were signed several years back said that it had the 500 feet in there. It is way too close to buildings. So many wells near me are beyond that but the flares can be heard. They can choose a site farther away from the dwelling. I always wonder what will happen in an emergency and are we prepared. This is an accident waiting to happen putting it this close.

Nicole Donaghy: Dakota Resource Council. Read testimony from Dakota Resource Council member, Shelly Finch. See attachment #4. (28:23-29:32)

Fenton Dooley: I would like to bring a constitutional focus on this. Have you looked at the constitutional provision? The fact that by the law in place we are undertaking state action to take private property for unpermitted use, it needs to be compensated. All the land with wells deserves damages. What we are doing is passing a law which is imposing damage on private property. The economic welfare of our state is the reason we are allowing this but we need to look at what it does to private property. I cannot imagine a new home looking over a butte and this arrogance. Is public health more important than profit? The answer is yes. I called the committee to order on they closed the wells to suppress light, sound and noise. This is modest movement.

Opposition

Alexis Baxley: North Dakota Petroleum Council. See attachment #5. (34:45-37:54)

Chairman Schaible: Who was involved in the compromise?

Alexis Baxley: Farmers Union, Petroleum Council, ect.

Kent Beers: Senior Vice President of Oasis Petroleum testifying on behalf of the Board of the North Dakota Petroleum Council. See attachment #6. (38:55-52:55)

Senator Murphy: Do you think that other companies making the same kind of effort that you are?

Kent Beers: Well I can't speak for the industry but we have spent a lot of time talking about it at the North Dakota Petroleum Council. They are aware of the needs of this situation. I think that the industry in general does make every effort to try and reach an agreement and we do well with it considering the number of wells that are in the state.

Senator Hogue: Do you ever have sit downs with the land owner, or do the rules permit negotiation of the setbacks?

Kent Beers: When we go out to stake a well we need to give landowner notice that is the first discussion. When we pick the locations we know now that we know how many wells we will drill in a spacing unit. The first thing we do is look at a map and see where there are dwellings. If a landowner feels strongly about moving it we try as best we can to move it and have always been able to come to an agreement.

Vice Chair Unruh: You send notice to the landowner when you stake a well. Just where the well cat is located or adjacent landowners as well?

Kent Beers: The landowners who is having the stake in their property but after that we inform landowners who are within 1,000 feet. We talk to all of the people living in homes about our plan.

Bruce Hicks: Assistant Director North Dakota Industrial Commission-Department of Mineral Resources-Oil and Gas Division. See attachment #7. (58:09-1:02:37)

Senator Triplett: We heard about things that are done in different states, has that been thought of for our area?

Bruce Hicks: We do not have rules in place for noise and impacts. As far as private wells go, no.

Senator Triplett: Is that something that you think the industrial commission would consider if petitioned by landowners?

Bruce Hicks: It was decided that they should not be affecting land that should be private. I cannot speak absolutely on that.

There was no further testimony and Chairman Schaible closed the hearing on SB 2370.

2015 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Fort Lincoln Room, State Capitol

SB 2370
2/6/2015
23422

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Katie Oliver

Explanation or reason for introduction of bill/resolution:

Relating to setbacks for oil and gas wells.

Minutes:

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Chairman Schaible called the committee to order, Senator Armstrong made a motion for a do not pass with a second by Vice Chair Unruh.

Senator Triplett: I hope that the oil companies and their representatives will keep working with landowners and maybe start doing a better job in some cases where they have to put wells in close proximity to houses. Should be addressed by the industrial commission or the department of mineral resources not sure when or how but there should be room in the process for landowners to have a voice at the table. It isn't our place to put that kind of detail into state law.

Senator Murphy: We can all see both sides of this issue and while I understand the impracticality of what the bill is suggesting I am going to let my nay vote stand as a mute symbolic gesture.

There was no further discussion, roll was taken, the motion passed on a 6-1-0 count and Vice Chair Unruh carrying the bill to the floor.

**2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2370**

Senate Energy and Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Senator Armstrong Seconded By Vice Chair Unruh

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 Vice Chair Unruh

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

REPORT OF STANDING COMMITTEE

SB 2370: Energy and Natural Resources Committee (Sen. Schaible, Chairman)
recommends **DO NOT PASS** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING).
SB 2370 was placed on the Eleventh order on the calendar.

2015 TESTIMONY

SB 2370

1.1
2-6-15

Chairman Schaible and Energy and Natural Resources committee members I am Tom Wheeler, Farmer at Ray. I am a director with Northwest Landowners Association. I am here asking for your help with SB 2370. Our association sent out a survey last November asking among other issues what is your major concern with oil development. The number one concern by a large margin was the 500 foot setback being too close to their home.

With all the technology and knowledge available to industry today I can't help but believe that there could be any trapped oil not accessible with setbacks much greater than 500 feet. In fact I know a number of industry employees, the ones that are actually on the drilling rigs that agree with my assessment. Might be some added expense but longer setbacks should not hinder oil recovery.

But many times in any industry change is not made until they are forced into changing their practices.

It does not matter what the setback is, industry might kick and scream but they will adapt. And when prices are high enough they will get every last drop and they will make money doing it.

Several days ago the Minot Daily news had an article about the flooding at Rice Lake. The residents felt they might need to go to the legislature for help with their naturally occurring problem.

We are not here looking for any financial help. We are here looking for an increase in setback rules for a man made problem.

Residents along the Missouri River here in Bismarck and the Red River in the east can purchase flood insurance to protect their homes.

When an oil well is drilled near a residence, the value of the home will drop according to the closeness of the well bore and where it is located in the view shed of the house. Insurance coverage is not available to protect the value of the house from the intrusion of oil production.

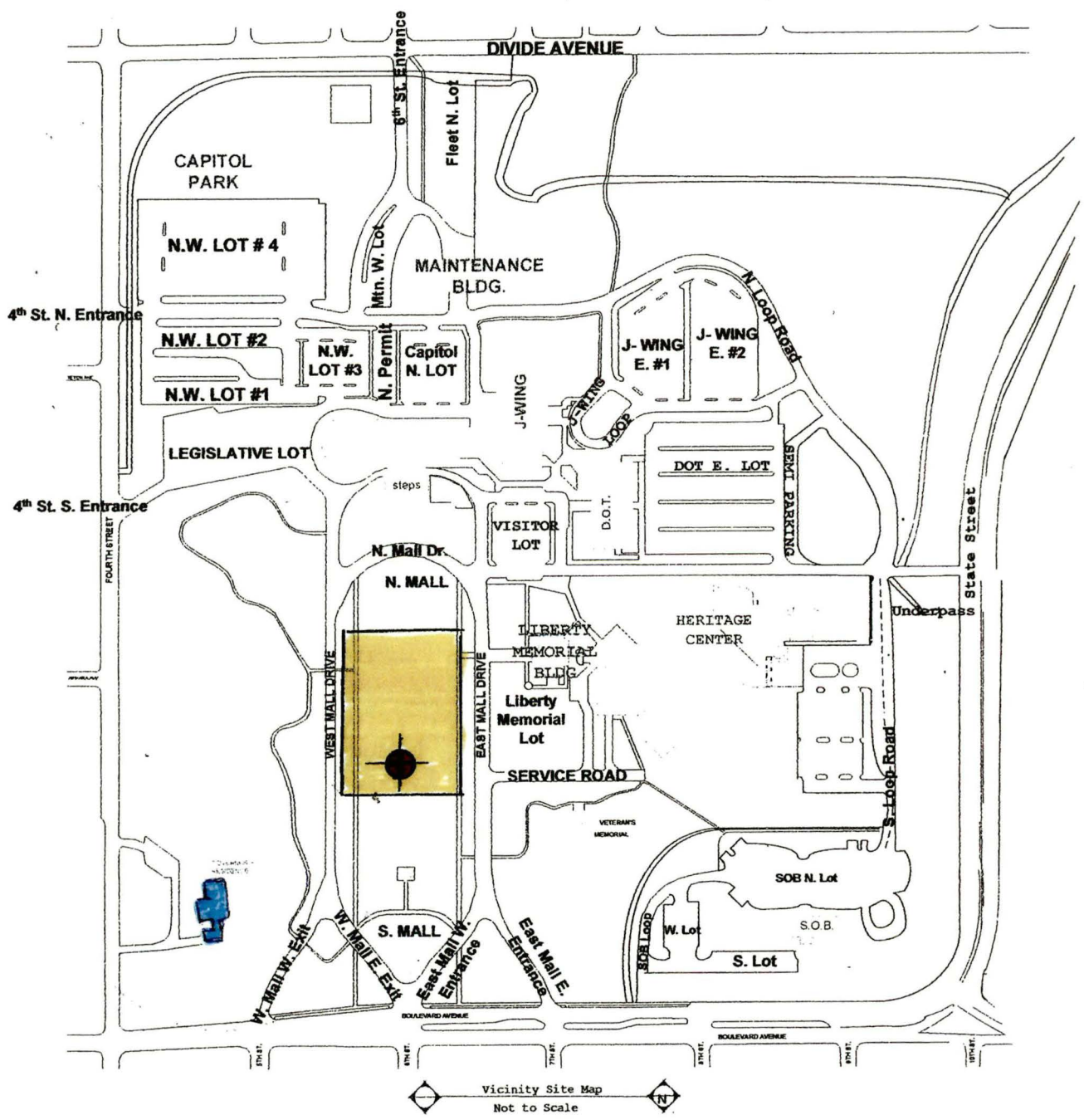
The distance from the west windows in the hallway between the Senate and the House chambers to the entrance to the supreme court is about 550 feet. Look at it when you have time. An oil bore could happen at that distance from a farm house.

I have handed out a map of the North Dakota Capitol grounds. The building colored blue in the lower left hand corner is the Governors residence. The yellow area is the size of an average single well pad. The small red circle would be the well bore.

According to North Dakota law a well could be drilled at this location. What would happen to the view from south facing windows in the capitol building? Is there anyone here that would approve of an oil well in this location?

I have been at hearings where persons of opposing views points have been asked to work out a compromise. We are open to discussion on improving the quality of life for persons unlucky enough to have their home in the wrong location. Northwest Landowners association is asking for a do-pass recommendation on SB 2370. I will stand for any questions.

NORTH DAKOTA STATE CAPITOL COMPLEX





2.1

Your voice for wheat and barley. www.ndgga.com

**North Dakota Grain Growers Association
Testimony on SB 2370
Senate Energy and Natural Resources
Committee
February 6, 2015**

Hello, my name is Bob Wisness and I'm from Arnegard, North Dakota....which is now nearly a suburb of Watford City. I have lived and farmed in that area my entire life. I am also the Past President of the North Dakota Grain Growers Association. I am here today in support for Senate Bill 2370.

About six years ago, my wife and I made a decision about where we would live for the rest of our lives. We chose to stay "home" even though we could have sold out and left for warmer climates like so many of our friends and neighbors who had become disillusioned with life in the rapidly changing Bakken. We committed to building a new farmstead which would be the headquarters for our farm for generations to come. With two sons on the farm, we had to think of the future.

When "The Bakken" first began, few people had any idea how or where the development would proceed. What we now know is that there has been a stunning lack of foresight and planning on many levels of government and industry. Essentially, the last six years has all too often been like the wild west as the race to drill as many wells as possible has overwhelmed everything, including many farms, ranches and other rural residents. We found out the hard way how little control we have over our property, livelihoods and way of life.

Our once peaceful farmstead is now a place of constant noise and lights. It never stops. Jake brakes, reverse beepers, unmuffled vehicles, sirens, flashing lights, clanking CAT tracks and oil well flares are an unwelcome yet constant companion. At any one time I can see 8-12 drilling rigs from my house and at least that many gas flares. On a calm evening the noise from the flares bounces off the surrounding hills and sounds like a 747 at full throttle that never leaves the ground. Our house's windows are never open anymore....too much crime, dust and noise.

NDGGA provides a voice for wheat and barley producers on domestic policy issues – such as crop insurance, disaster assistance and the Farm Bill – while serving as a source for agronomic and crop marketing education for its members.

And yet, we are the lucky ones because the closest wells to our house are a mile away. Still, there are probably 50+ wells within a two mile radius of our house and the experts say we've only scratched the surface of this phenomenon called The Bakken. If you think I'm griping you ought to hear our friends and neighbors! Some of them are literally in the line of fire as they are surrounded by oil wells. Just imagine having all of that going on 500 feet from your house? Would YOU want to live like that? Wouldn't YOU be upset that your property values have plummeted because of the oil industry? Do YOU consider that a good environment to raise a family?

And then there is the safety issue. Every so often these oil wells have blowouts, ruptures, leaks and fires. I know these things are not supposed to happen but they do and it's just a matter of time before a tragic accident occurs because a well is too close to a dwelling.

Rural residents often reside on places that have been there for generations. These farms were usually built on a section line for close access to a county road. Low and behold, the oil industry also wants to use those section lines and they want to drill as close as possible to those lines to maximize their profits. Are we now supposed to tell the farmers that their family's well-being and the preceding generations of hard work are meaningless? I sincerely hope not!

So, how far is 500 feet? Roger Maris could hit a baseball that far. It's less than half the length of a cruise ship and it's definitely close enough to feel the heat from a gas flare. Remember, the rule is now 500 feet from the house while outbuildings, corrals and other structures don't count. It's my opinion that the 500 foot rule is tantamount to telling the inhabitants to get out because oil is more important.

Fortunately, we are still in the early stages of developing The Bakken and there is the time and the opportunity to protect a lot of those family farmsteads. Ultimately, there will tens of thousands more wells drilled and the desire of the oil companies will be to place many of those wells in close proximity to farm homes. It is not too late to make a positive difference in the lives of those people who live and work on the land...the very families who will be here long after the shale is pumped dry.

I support SB 2370 and I ask you to do the same.

Thank You!

Robert (Bob) Wisness
12912 23rd St NW
Arnegard, ND 58835
(701) 586-3763

3.1

SB 2370

2-6-15



3.2



3.3



3.4





64th Legislative Session
Senate Bill 2370
February 6, 2015

4.1

Mr. Chairman and Members of the Committee:

I am testifying in support of Senate Bill 2370 because of the noise, activity, toxicity, and pollution that come with oil sites. All of these events that come with extraction activity diminish, and oftentimes, destroy one's health and/or quality of life. One argument in the last legislative session that was against a setback of 1320 ft. from an occupied dwelling was that placing a site 1320 ft. from a "section line" would disrupt the corridor of oil site placements and impact more land. This argument is misleading as the words used are "from a section line" instead of "from an occupied dwelling." Sites could still be placed in their corridor along a section line, yet spaced 1320 ft. from a residence. It involves moving the site north/south or east/west parallel to the section line, depending on the location of the residence. Ron Ness has said if an oil site interferes with a favorite pheasant hunting spot, it can be moved over the hill. If it can be moved for a pheasant hunter, it should be possible to move it for a resident who is living there, not just there for the time it takes to bag a bird.

I suggest that you vote a do pass on Senate Bill 2370.

Thank you.

Shelly Ventsch
New Town, ND

Senate Bill 2370
Testimony of Alexis Brinkman-Baxley
Senate Natural Resources Committee
February 6, 2015

Chairman Schaible and members of the Senate Energy and Natural Resources Committee, my name is Alexis Baxley, and I am representing the North Dakota Petroleum Council. The North Dakota Petroleum Council (NDPC) represents more than 550 companies directly employing 65,000 people 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 to Senate Bill 2370. Following my testimony, Kent Beers, NDPC Board Member and our resident expert on setback issues, will testify and provide more detailed information on the potential consequences of increased setbacks.

Through administrative rules in 2006, North Dakota increased the setback provision from 250 feet to 500 feet. Last session, the legislature added a provision that allowed the NDIC to require flares, tanks and treaters of wells located less than 1,000 feet from an occupied dwelling be placed further away at the request of the landowner. This legislation was a mutually agreed upon compromise between landowners and industry. It was a big step, and we believe these current setback rules are working, allowing enough distance to ensure safety for homeowners, but also allowing developers and landowners to locate wells in places where the minerals can be extracted and impacts to the land reduced. We also feel that it has helped improve communication between industry and landowners, allowing operators to work with landowners on placement of the facilities. With over 8,000 Bakken-Three Forks wells drilled since 2006, there have been very few instances where the operator and home owners haven't been able to work out an agreement, particularly since last session's law went into effect. We have heard anecdotal stories of wells being placed directly in front of a homeowner's picture window, but inspectors at DMR are not aware of a single incident where this

has been the case. For some people, there may be no amount of distance setback that would satisfy them. Increasing the setback to 1,320 feet will make the process even more challenging for parties to agree. Farmers, ranchers and tenants will lose more control as mineral developers who have a right of access will place the wells where they are needed with limited options to make adjustments.

The consequences of increased setbacks include inefficient land use, drilling of additional wells, more truck traffic, fragmented wildlife habitat and loss of farmland. If passed, this bill would discourage reduced footprint operations with multi-well pads and corridor development. Increased setbacks also harm the royalty owner by increasing development costs and decreasing access certainty, putting millions of dollars of royalty interests at risk and potentially denying the mineral owner the right to develop their property.

Current setback rules acknowledge and accommodate these stakeholders and adequately address the perceived health and safety risks, while allowing the surface owner, mineral owner, operator and regulators the ability to determine the best location of the well in order to maximize the resource and protect private property rights. For these reasons we urge a Do Not Pass on SB 2370. I would be happy to answer any questions.

- Mr. Chairman – members of the Committee
- KB SVP Oasis – here today on behalf of the Board of the NDPC
- Oasis works exclusively in the Williston Basin – started in 2007
- Offices in Williston, Powers Lake and Alexander– with 320 employees and multiples of that # in Contractors
- As of yearend 2014 we were the 3rd most active driller in terms of rig count and #7 in terms of boepd
- We currently operate over 800 wells
- Safety- Compliance - and earning the reputation of a company that landowners want to work are all #1 objectives for us
- We don't believe those objectives conflict with also being a top tier Operator

-SB2370 is well intentioned – in attempting to legislate well setback requirement but is not necessary based on our experience in dealing with our landowner partners – and has some enormous unintended consequences.

-First it's not necessary because in our experience (800+ wells) - we have yet not to reach agreement with a landowner on a location – this is not to say some (particularly those not owning minerals) would have prefer not have to deal with the surface interference at all, but none have had something shoved down their throat – and that very important to us

-Also important are the impacts of a 1320" setback requirement that may not be obvious at first blush – the "unintended" consequences.

-As an Operator, we have an obligation to our mineral owners, our royalty owners, our working interest owners, and our stockholders that's really much the same as the responsibilities of the NDIC

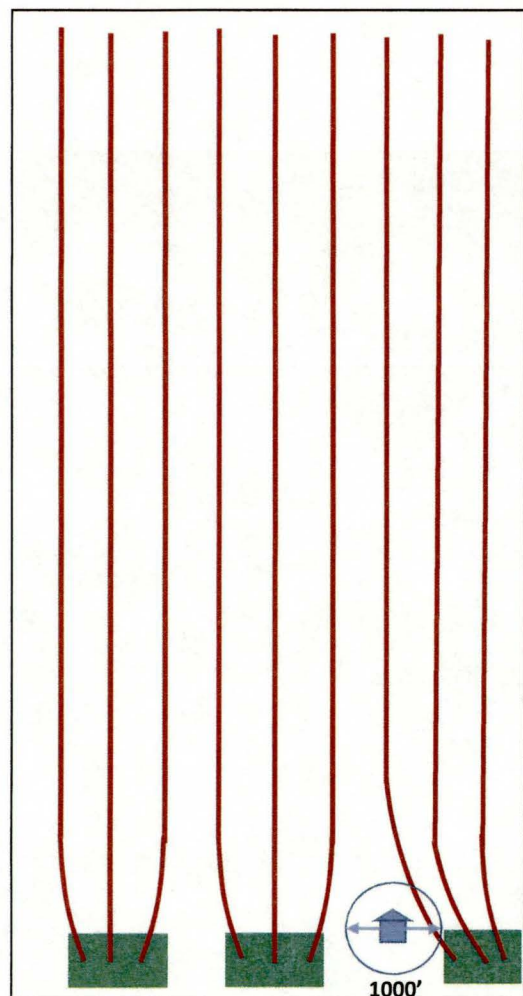
- To protect correlative rights
- To prevent waste
- To insure maximum economic recovery of the resource.

-SB2370 would make meeting those obligations impossible in many circumstances because when you start putting half mile circles around every home in the Bakken you are dramatically limiting the options for well/pad placement

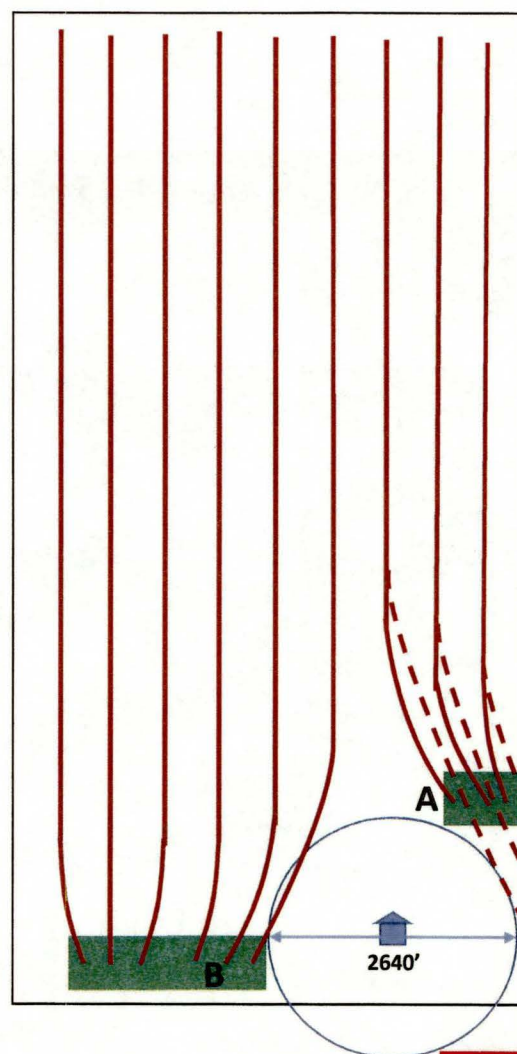
-Bakken / three forks development now includes anywhere from 4 -24 wells per 1280 ac DSU And while Industry has made great strides in reducing our footprint – by utilizing multiwell pads and Corridor road and pipeline access the drilling of this number of wells in an efficient and effective pattern requires reasonable surface access.

-A picture is still worth a thousand words – so let's take a look at the handouts I've brought with me today

The remainder of the presentation will consist of walking then through the well diagram/cartoon and 4 google earth maps



Current Regulation



Proposed Regulation



Drilling Options and Impacts:

Option A:

- Shorten lateral by at least 820 feet leaving 60 MBOE of reserves un-accessed per affected well¹.

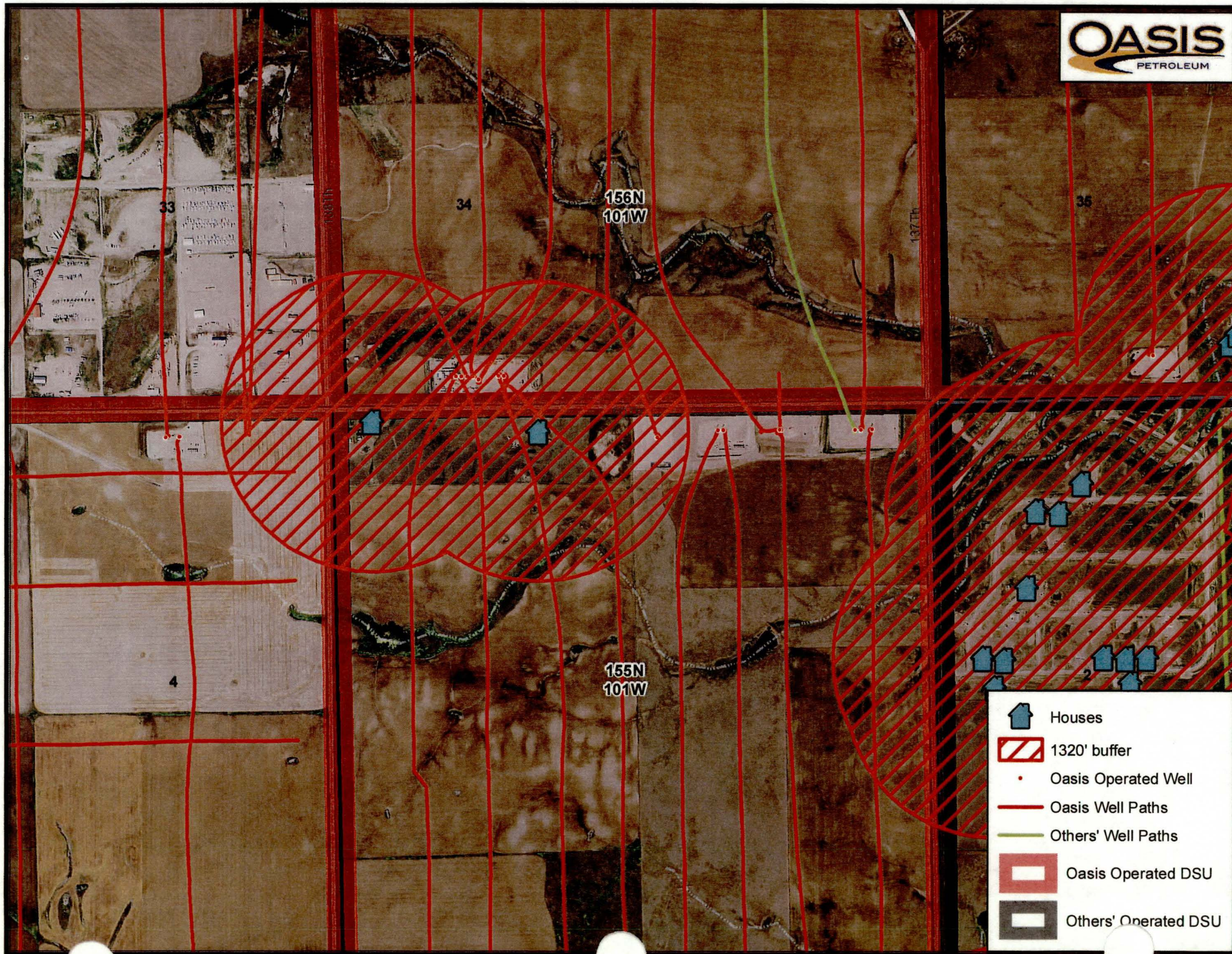
Option B:

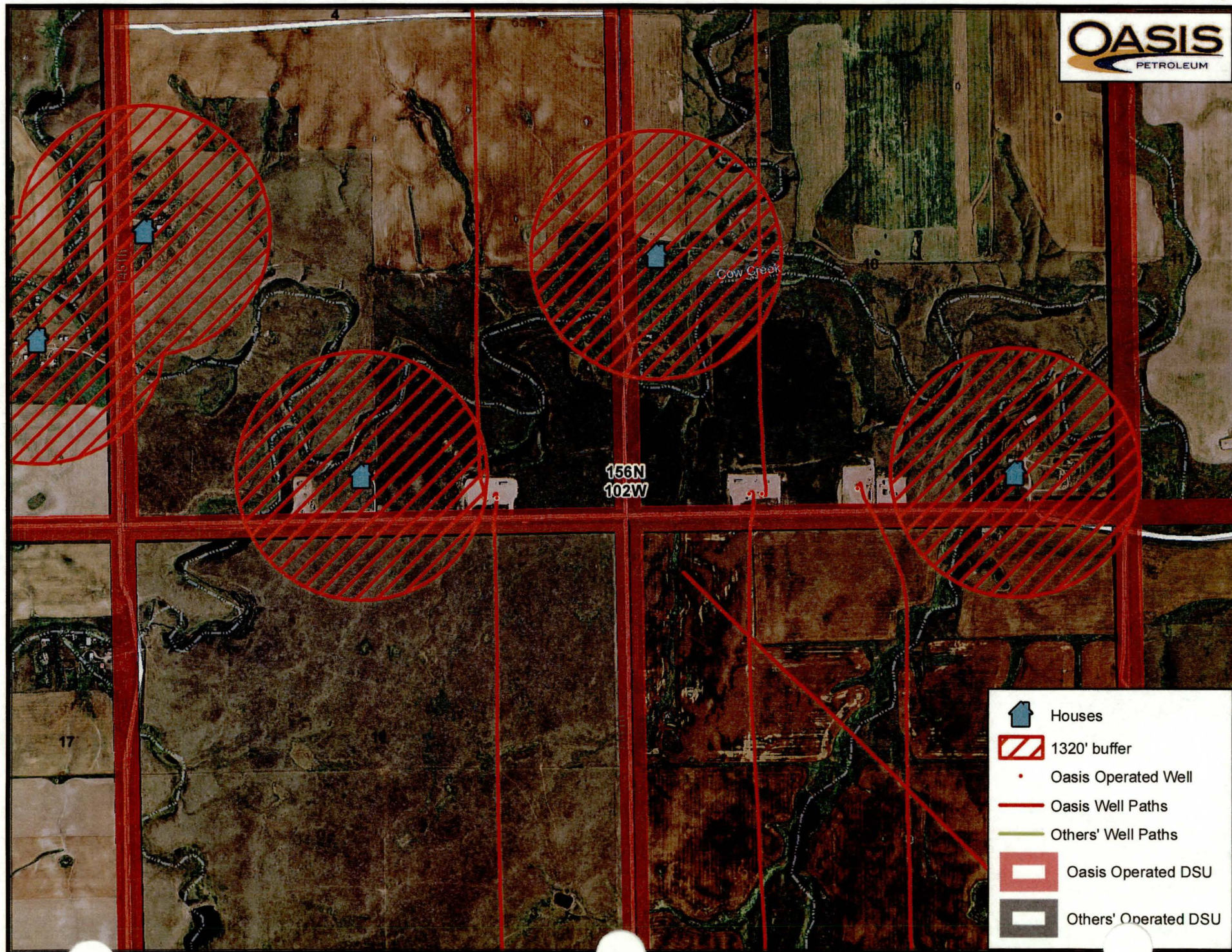
- Move potential surface location(s) further from the targeted lateral placement.
 - Would increase costs and risk to extend reach to those placements.
 - Would reduce usable lateral length due to feasible drilling limits of curved portion of well.

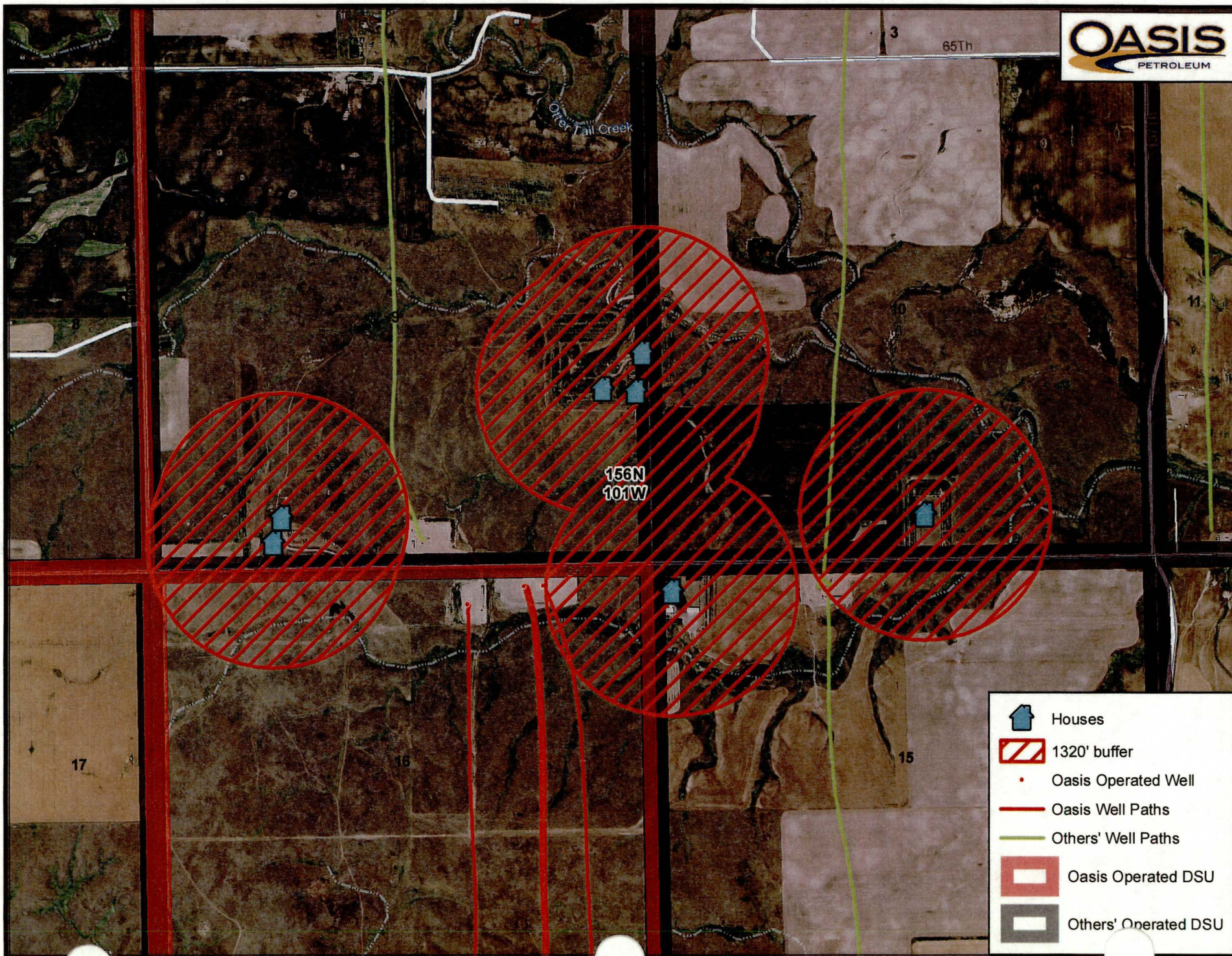
Option C:


- Move potential surface location(s) out of feasible drilling range.
 - Inability to drill wells would leave 750 MBOE of reserves un-accessed per undrilled well¹.

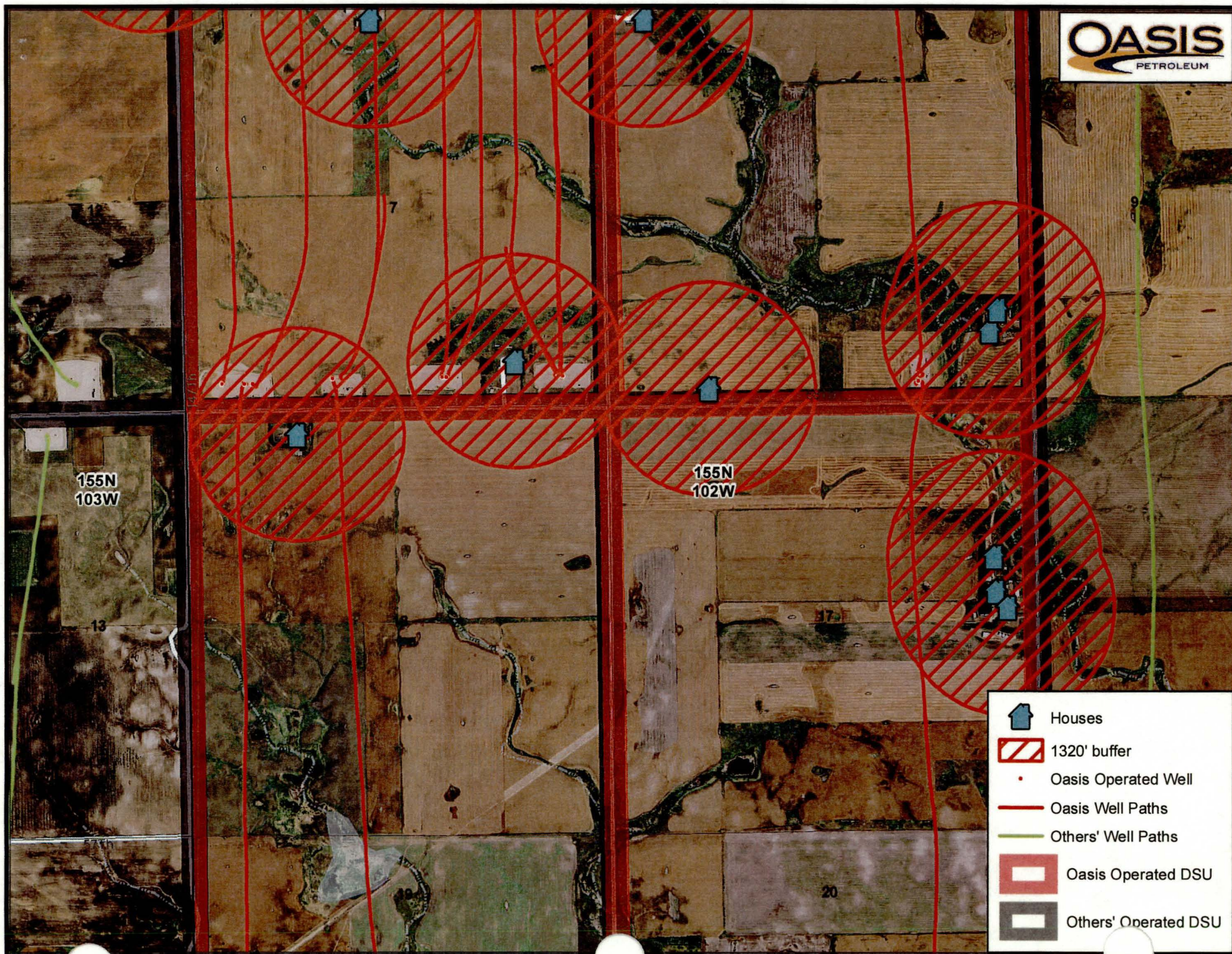
¹ - Based on 750 MBOE recovery and 10,000 foot lateral length per well.







-  Houses
-  1320' buffer
-  Oasis Operated Well
-  Oasis Well Paths
-  Others' Well Paths
-  Oasis Operated DSU
-  Others' Operated DSU



6.7

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Imagery Date: 8/15/2013 47°56'34.50" N 102°56'38.03" W 2359 ft eye

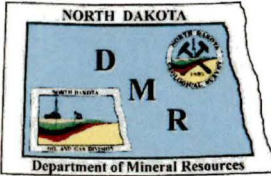
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Imagery Date: 9/25/2014 47°15'58.61"N 102°50'41.79"W Elev 2301 ft eye



7.1

Senate Bill 2370 **Senate Energy and Natural Resources**

February 6, 2015

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

SB2370 amends North Dakota Century Code § 38-08-05 and increases the distance a new well must be from an occupied dwelling from 500 feet to 1,320 feet.

Our department is neutral on this bill, but we offer the following information:

Historical Setbacks

- 1981—150-foot setback
- 1990—330-foot setback
- 2007—500-foot setback—NDCC § 38-08-05 was amended w/HB1229
 - Oil and Gas Division presented results of the Colorado Oil and Gas Association impact study in LaPlata County, Colorado and the New York State/EPA study of appropriate setbacks for Diesel Idling Reduction
 - Legislature concluded the 500-foot setback was appropriate

Current Requirements

- Applicant must notify the owner of any permanently occupied dwelling w/in 1,320 feet
- If well is within 1,000 feet of dwelling, owner can request flare, tank & treater > ~~1,000 feet~~ well
- 500-foot setback from occupied dwellings
- NDIC Order No. 14497 signed in 2010 established east-west development corridors based on standup 1,280-acre spacing and 500-foot setbacks from occupied dwellings
 - 9,000 wells drilled from 2010-present on many pads that will accommodate additional wells on the existing pad

Unintended Consequences of extending setback to 1,320 feet

- Additional Well Pad Locations: many existing pads can accommodate additional wells, but new pads would have to be constructed if existing ones are closer than 1,320 feet to an occupied dwelling
- Lost Oil Reserves: the heel and toe of Bakken wells can currently be completed 200 feet from a spacing unit boundary, but requiring the surface location of such wells to be 1,320 feet from an occupied dwelling could cause the well to be a much greater distance from the spacing unit boundary, causing a shorter completion interval and loss of reserves
- Energy Corridor Interruption: producers have reduced the surface footprint of development by placing wells and pipelines along common east-west routes. Requiring wells to be 1,320 feet from occupied dwellings will force some wells to be located outside the current energy corridors
- Additional Field Inspection: increasing the setback from 500 feet to 1,320 feet increases the inspection area 7-fold requiring additional inspection time especially in areas of hilly topography or rough terrain