

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1210

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Operator's Signature

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10/2/03

2003 HOUSE FINANCE AND TAXATION

HB 1210

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10/2/03  
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1210

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date January 22, 2003

Tape Number	Side A	Side B	Meter #
1	X		0.5

Committee Clerk Signature

*Ganice Stein*

Minutes:

**REP. WESLEY BELTER, CHAIRMAN** Called the hearing to order.

**REP. DAVE WEILER, DIST. 30, BISMARCK** Introduced the bill. See attached written testimony.

**REP. CLARK** What is the taxable effect on the well, if they don't get the exemption?

**REP. WEILER** Deferred the question to someone else.

**LYNN HELMS, DIRECTOR OF THE OIL & GAS DIVISION, NORTH DAKOTA**

**INDUSTRIAL COMMISSION** Testified in support of the bill, see written testimony.

**REP. CLARK** This exemption they are filing for, what is it for?

**LYNN HELMS** It is a ten year exemption on the extraction tax, on the two year inactive wells which is the 6 1/2% tax. The well will still pay the 5% gross production tax, which mostly, goes back to the county, school districts and cities.

**REP. CLARK** Is the exemption tax per well or amount of oil produced?

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*Dennis Hallmark*  
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1/22/03  
Date

Page 2  
House Finance and Taxation Committee  
Bill/Resolution Number HB 1210  
Hearing Date January 22, 2003

**LYNN HELMS** The extraction tax is 6 1/2% of the value of oil produced, but it is administered on a well by well basis. Any individual well that is idle for more than two years time, would qualify. The concept behind it, is to encourage companies to go back into some seven hundred odd idle wells that we have in North Dakota, to look at them and give them the incentive to put them back into production.

**REP. WINRICH** If a well is inactive for two years, then the owner chooses to put it back into production, they will get an exemption from the extraction tax for the next ten years?

**LYNN HELMS** Yes, if they invest the money and put that well into production, then it is exempt from the extraction tax for the next ten years.

**REP. WINRICH** What is the limit to eighteen months on tax refund?

**LYNN HELMS** The idea there, is to make sure they get their filing in, and that we don't pay back tax refunds for more than eighteen months. What happened back in the mid 90's when some of these tax exemptions were put in place, was, companies would do the work, and they would qualify, but they wouldn't file for several years, because the tax department paid ten percent interest on back taxes, so it was a really good investment, to wait six years. This eighteen months will make them get their forms in, if they want the full exemption. All they will ever get in back taxes, is eighteen months.

**REP. WINRICH** Thought they filed within a month.

**LYNN HELMS** Stated under the current definition they do. Under the new definition, they will have eighteen months to file.

**REP. WINRICH** Is there a reason for picking eighteen months?

*Dannan G. Ball*  
Operator's Signature

10/2/03  
Date

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House Finance and Taxation Committee

Bill/Resolution Number HB 1210

Hearing Date January 22, 2003

**LYNN HELMS** Stated the eighteen months is consistent with all the other extraction tax incentives. How eighteen months was chosen in the first place, Kevin Schatz could answer that better.

**REP. KLEIN** How many wells are producing now?

**LYNN HELMS** Currently, there are 3300 wells producing, but 700 are idle. This legislation will go a long ways to get those 700 back on stream.

**REP. IVERSON** These 700 wells that are inactive, have companies approached you and said they will go back and start reworking those wells?

**LYNN HELMS** This legislation has been in place since 1995. We have had, in the neighborhood of fifteen wells qualify, out of the seven hundred, for this exemption. Related to what happened a year ago. He stated several companies went in and started doing the work, but did not qualify for the tax exemption. It really put a lid on it. How many of the seven hundred would be impacted, is pretty much a guess, I would say a couple dozen at least.

**JOHN MORRISON, ATTORNEY ON BEHALF OF THE NORTH DAKOTA GAS & OIL**

**COUNCIL** Testified in support of the bill. See written testimony and a proposed amendment.

What the amendment does, is add one phrase. After July 31, 1995, on page 1, line 19. The purpose is to ensure that the universal wells which are eligible for the tax exemption, would be reentered after the effective date of August 1, 1995. The Tax Department requested this phrase, and we have no objection to it.

**SEN. RON NICHOLS, DIST. #4** Testified in support of the bill. He stated they have some of those wells in his part of the country, which have been abandoned. If they can put those wells

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House Finance and Taxation Committee

Bill/Resolution Number HB 1210

Hearing Date January 22, 2003

back into production, even if they are low producing wells, they will be paying some taxes, which help with the schools, etc. Also, it will keep people employed.

With no further testimony, the hearing was closed.

**COMMITTEE ACTION** 1-27-03 Tape 1, Side B, Meter #16.0

**REP. CLARK** Made a motion to adopt the amendments which were presented. These amendments clarify the date the well is put back into production.

**REP. HEADLAND** Second the motion. **MOTION CARRIED.**

**REP. WEILER** Made a motion for a **DO PASS AS AMENDED**

**REP. KLEIN** Second the motion. **MOTION CARRIED**

13 YES 0 NO 1 ABSENT

**REP. IVERSON** Was given the floor assignment.

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*Dorena H. Smith*  
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10/2/03  
Date

**FISCAL NOTE**  
Requested by Legislative Council  
01/13/2003

Bill/Resolution No.: HB 1210

1A. **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.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

HB 1210 is expected to have no fiscal impact.

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.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Kathryn L. Strombeck	Agency:	Tax Dept.
Phone Number:	328-3402	Date Prepared:	01/21/2003

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Date

Date: 1-27-03  
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1210

House FINANCE & TAXATION Committee

☐ Check here for Conference Committee

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

Action Taken Do Pass as Amended

Motion Made By Rep Weiler Seconded By Rep Klein

Representatives	Yes	No	Representatives	Yes	No
BELTER, CHAIRMAN	✓				
DROVDAL, VICE-CHAIR	✓				
CLARK	✓				
FROELICH	✓				
GROSZ	✓				
HEADLAND	✓				
IVERSON	✓				
KELSH	✓				
KLEIN	✓				
NICHOLAS	A				
SCHMIDT	✓				
WEILER	✓				
WIKENHEISER	✓				
WINRICH	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Iverson

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

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Doreen Ballantyne  
Operator's Signature

1/27/03  
Date



**REPORT OF STANDING COMMITTEE (410)**  
January 27, 2003 3:49 p.m.

Module No: HR-15-1152  
Carrier: Iverson  
Insert LC: 38263.0101 Title: .0200

**REPORT OF STANDING COMMITTEE**  
HB 1210: Finance and Taxation Committee (Rep. Belter, Chairman) recommends  
**AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS**  
(13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1210 was placed on the  
Sixth order on the calendar.

Page 1, line 19, after "production" insert "after July 31, 1995"

Renumber accordingly

(2) DESK, (3) COMM

Page No. 1

HR-15-1152

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*Dannan Ballin*  
Operator's Signature

*1/2/03*  
Date

2003 SENATE FINANCE AND TAXATION

HB 1210

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Deanna Hall  
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10/2/03  
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1210

Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date March 4, 2003

Tape Number	Side A	Side B	Meter #
1	X		2040-3085
1		X	3710-3914

Committee Clerk Signature

Minutes:

Chairman, Senator Urlacher opened the hearing on HB1210. A quorum is present. This bill relates to eligibility of a two-year inactive well for exemption from the oil extraction tax and to the definition of a two-year inactive well and eligibility of a work-over project for exemption from the oil extraction tax.

Representative Dave Weiler (mtr #2057) - Introduced the bill and explained its intent. This is a housekeeping bill that turns the current practice of dealing with inactive wells, into law. Written testimony is attached.

Lynn Helms, ND Industrial Commission, Oil and Gas Division (mtr #2176) - Testified in support of HB1210. Gave testimony for the perspective of the Oil and Gas Division. Clarified the definition of a two-year inactive well, the eighteen-month eligibility, and the Notice of Intention to begin a work over project. Written testimony is attached.

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Date

Page 2

Senate Finance and Taxation Committee

Bill/Resolution Number HB1210

Hearing Date March 4, 2003

Senator Seymour (mtr #2546) - Question for Mr. Helms as to why there is not a lot of oil activity in ND today.

Mr. Helms (mtr #2558) - Discussed some of the reasons for the drop in oil activity in ND today.

Has testimony for HB1145 that will address that issue. Also talked about the difficulties in raising capital for drilling.

Senator Nichols (mtr #2750) - Question regarding natural gas exploration. Will that continue for the foreseeable future?

Mr. Helms (mtr #2773) - All indications show that natural gas exploration will continue for a decade or more. Natural gas has become the fuel of choice. 99% of the natural gas consumed in the United States is produced on the North American continent. Oil has much more volatility than natural gas.

Senator Tollefson (mtr #2908) - Do we have the potential to attract natural gas exploration here?

Mr. Helms (mtr #2930) - Will be giving extensive testimony on that issue with the next bill.

HB1145.

Ron Ness, ND Petroleum Council (mtr #2993) - Testified in support of HB1210. Feels this is a housekeeping bill to clarify current practices.

Vice Chairman, Senator Wardner (mtr #3043) - Given no further testimony for HB1210, closed the hearing.

Tape 1, Side B

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Date

10/2/03

Page 3

Senate Finance and Taxation Committee

Bill/Resolution Number HB1210

Hearing Date March 4, 2003

Senator Urlacher (mtr #3710) - Reopened the discussion on HB1210 which relates to the two-year inactive well extraction tax exemption.

Senator Nichols (mtr #3737) - Has to do with timing, makes sense if it helps. Moves a Do Pass.

Second by Senator Wardner. Roll call vote 6 yea, 0 nay, 0 absent. Carrier is Senator Nichols.

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Operator's Signature

10/2/03  
Date

Date: 3/4/03  
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 148 1210

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

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

Action Taken Do pass

Motion Made By Sen. Nichols Seconded By Sen. Wardner

Senators	Yes	No	Senators	Yes	No
Senator Urlacher - Chairman	<input checked="" type="checkbox"/>		Senator Nichols	<input checked="" type="checkbox"/>	
Senator Wardner - Vice Chairman	<input checked="" type="checkbox"/>		Senator Seymour	<input checked="" type="checkbox"/>	
Senator Syverson	<input checked="" type="checkbox"/>				
Senator Tollefson	<input checked="" type="checkbox"/>				

Total (Yes) 6 No 0

Absent \_\_\_\_\_

Floor Assignment Sen. Nichols

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

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Date

**REPORT OF STANDING COMMITTEE (410)**  
March 4, 2003 4:20 p.m.

Module No: SR-38-3907  
Carrier: Nichols  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**  
HB 1210, as engrossed: Finance and Taxation Committee (Sen. Urlacher, Chairman)  
recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).  
Engrossed HB 1210 was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-38-3907

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10/2/03  
Date

2003 TESTIMONY

HB 1210

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10/2/03  
Date



House Finance & Tax Committee  
January 22, 2003

House Bill 1210

Testimony of Rep. Dave Weller, District 30 Bismarck

Chairman Belter and Members of the Finance & Tax Committee

A 2 year inactive well is defined as a well that did not produce oil in more than one month in any consecutive 24 month period before being returned to production.

Current law gives a tax exemption on production from a 2 year inactive well on the day you file for the exemption with the industrial commission.

However, current practice of the ND Tax Dept. is to give the exemption, beginning the day the well was put back into production.

HB 1210 changes the law so that an exemption is given the day a well is put back into production.

The exemption must be filed within 18 months after the end of the 2 year inactive wells qualification period.

Please vote do pass on HB 1210

This concludes my testimony and I will be happy to answer any questions from the committee.

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10/2/03



House Bill 1210  
House Finance and Taxation Committee  
Testimony By  
Lynn D. Helms  
Director  
Oil & Gas Division  
North Dakota Industrial Commission

Mr. Chairman and members of the committee, my name is Lynn Helms, and I am the Director of the Oil & Gas Division of the North Dakota Industrial Commission (NDIC).

The NDIC regulates geophysical exploration; drilling, development, and production of oil and gas; disposal of oil field brine; and plugging and reclamation of abandoned wells through the Oil & Gas Division.

The NDIC supports HB 1210 and I am here to offer our perspective.

This bill proposes changes to three statutes. Two of the changes would remove unnecessary application and notice burdens from operators who re-activate oil and gas wells that have been idle for a long period of time or increase production from wells by working them over. The third change would limit the amount of back taxes available to operators in order to ensure that needed information is filed in a timely manner.

**Definition of a Two-year inactive well**

The definition currently contained in NDCC 57-51.1-01 part 12 was adopted verbatim from an Oklahoma statute. This language is very difficult to administer and places an unreasonable burden on operators by requiring the application to be submitted to the Industrial Commission within the same month that the well is returned to production. We have had more than one project where the work was completed late in the month and the application was not received until the following month.

The revised definition will allow adequate time for operators to complete the work and make the application. In addition, language defining other types of qualifying wells that is currently part of Tax Department and Oil and Gas Division rules is incorporated.

**Eighteen Month Eligibility**

The new subsection in NDCC 57-51.1-03.1 will limit tax refunds for two-year inactive well projects to 18 months as is done with other extraction tax incentives. This limit will make sure that the information actually needed to certify the project is filed in a timely manner.

### Notice of Intention to Begin a Workover Project

The current requirement in subsection 4 of NDCC 57-51.1-03 places an unreasonable burden on operators by requiring additional notice if the project is expected to qualify for the tax exemption. Some types of well work already require prior notice to the Industrial Commission but some do not. Also, it is common for well work that is expected to be simple and inexpensive to turn into a major project. We have had a number of projects that met the investment or production increase requirements, but did not qualify simply because the intent was not filed before work began. We are confident that we will be able to properly determine whether a project qualifies for the tax exemption without this added paper work.

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Deanna G. Smith  
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10/2/03  
Date

House Finance and Tax Committee  
January 22, 2003  
House Bill No. 1210

TESTIMONY OF JOHN W. MORRISON

Chairman Belter, members of the House Finance and Tax Committee, my name is John Morrison and I am appearing before you today as a member of the North Dakota Oil & Gas Association, one of the sponsoring organizations of the North Dakota Petroleum Council.

House Bill No. 1210 addresses the need for minor corrections to the "two-year inactive well" exemption and the work-over exemption to the Oil Extraction Tax. In 1995, the Legislature approved House Bill No. 1257, which provided certain exemptions to the Oil Extraction Tax for horizontal wells and also provided a 10-year exemption from the Oil Extraction Tax for oil produced from a well that had not produced oil for a two-year period. Oil prices were very low in 1995, and these exemptions were intended to provide incentives to the oil and gas industry to increase activity in the state.

As originally enacted, a "two-year inactive well" was defined as a well "that has not produced oil in more than one month in the two years before the date of application to the industrial commission for certification." A strict interpretation of this language means that if a company re-enters a well that has been dormant for years and restores the well to production, but then doesn't get an application for certification filed right away and the well produces oil in more than two months, the company loses the exemption. Although both the Industrial Commission and the Tax Department have worked with companies in the past to avoid this inequitable result, they have indicated that they would like the problem in the statute addressed.

House Bill No. 1210 is intended to clarify the existing incentive, ensure that companies don't lose the tax incentive as a result of technicalities, and hopefully make the two-year inactive well exemption a more useful incentive for new activity. The real substance of the bill is Section 2, where it amends the definition of "two-year inactive well" to mean a well that did not produce oil in more than one month during any two year, or twenty-four month, period, before being placed on production. Under Section 2, it wouldn't matter how much of a delay there was in filing for certification after the well is put on production, so long as the well didn't produce oil in more than one month during a twenty-four month period. Section 1, however, requires that the certification from the Industrial Commission be filed within 18 months after the end of the qualifying period. Section 3 is another clean-up provision relating to the work-over exemption and simply deletes the requirement that an operator file a notice of intention with the Industrial Commission before starting a work-over project. Production from a well that receives a qualifying work-over is exempt from the Oil Extraction Tax for a period of twelve months.

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*Deanna Bell*  
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10/2/03  
Date

The proposed amendment to House Bill No. 1210 has been requested by the Tax Department. It simply provides that the well must have been returned to production after July 31, 1995. August 1, 1995 was the effective date of the original two-year inactive well exemption.

In spite of relatively high prices for both oil and gas in recent months, the level of activity in North Dakota remains relatively low. Because House Bill No. 1210 will clarify and make the inactive well and work-over incentives more available, and thereby encourage additional activity and increased production, the North Dakota Petroleum Council supports House Bill No. 1210 and asks for a "do pass" recommendation from this Committee.

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10/2/03  
Date

**Senate Finance & Tax Committee  
March 4, 2003**

**House Bill 1210**

**Testimony of Rep. Dave Weiler, District 30 Bismarck**

**Mr. Chairman and Members of the Finance & Tax Committee**

**A 2 year inactive well is defined as a well that did not produce oil in more than one month in any consecutive 24 month period before being returned to production.**

**Current law gives a tax exemption on production from a 2 year inactive well on the day you file for the exemption with the industrial commission.**

**However, current practice of the ND Tax Dept. is to give the exemption, beginning the day the well was put back into production.**

**HB 1210 simply turns the current practice into law.**

**The exemption must be filed within 18 months after the end of the 2 year inactive wells qualification period.**

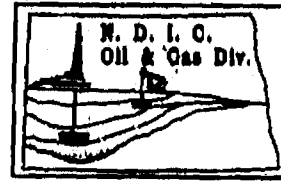
**This concludes my testimony and I will be happy to answer any questions from the committee.**

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*Dave Weiler*  
Operator's Signature

*10/2/03*  
Date

Engrossed House Bill 1210  
Senate Finance and Taxation Committee  
Testimony By  
Lynn D. Helms  
Director, Oil & Gas Division  
North Dakota Industrial Commission



Mr. Chairman and members of the committee, my name is Lynn Helms, and I am the Director of the North Dakota Industrial Commission Oil & Gas Division (NDIC).

The NDIC regulates geophysical exploration; drilling, development, and production of oil and gas; disposal of oil field brine; and plugging and reclamation of abandoned wells through the Oil & Gas Division.

The NDIC supports HB 1210 and I am here to offer our perspective.

This bill proposes changes to three statutes. Two of the changes would remove unnecessary application and notice burdens from operators who re-activate oil and gas wells that have been idle for a long period of time or increase production from wells by working them over. The third change would limit the amount of back taxes available to operators in order to ensure that needed information is filed in a timely manner.

**Definition of a Two-year Inactive well**

The definition currently contained in NDCC 57-51.1-01 part 12 was adopted verbatim from an Oklahoma statute. This language is very difficult to administer and places an unreasonable burden on operators by requiring the application to be submitted to the Industrial Commission within the same month that the well is returned to production. We have had more than one project where the work was completed late in the month and the application was not received until the following month.

The revised definition will allow ~~adequate~~ time for operators to complete the work and make the application.

Language defining other types of qualifying wells that is currently part of Tax Department and Oil and Gas Division rules is incorporated.

Finally, the amendment approved by the House of Representatives ensures that wells returned to production before this body originally approved this exemption in 1995 do not qualify.

*Dan Helms*  
Operator's Signature

10/2/03  
Date

### **Eighteen-Month Eligibility**

The new subsection in NDCC 57-51.1-03.1 will limit tax refunds for two-year inactive well projects to 18 months as is done with other extraction tax incentives. This limit will make sure that the information actually needed to certify the project is filed in a timely manner.

### **Notice of Intention to Begin a Workover Project**

The current requirement in subsection 4 of NDCC 57-51.1-03 places an unreasonable burden on operators by requiring additional notice if a well workover project is expected to qualify for the tax exemption. Some types of well work already require prior notice to the Industrial Commission but some do not. Also, it is common for well work that is expected to be simple and inexpensive to turn into a major project. We have had a number of projects that met the investment or production increase requirements, but did not qualify simply because the intent was not filed before work began. We are confident that we will be able to properly determine whether a project qualifies for the tax exemption without this added paper work.