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Colista Rickford
Operator's Signature

10/16/03
Date

2003 HOUSE NATURAL RESOURCES

HCR 3075

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Alister Richard
Operator's Signature

10/6/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 3075

House Natural Resources Committee

☐ Conference Committee

Hearing Date March 7, 2003

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|-----------|
| 1 | xx | | 0-2006 |
| 2 | xx | | 2994-3205 |
| Committee Clerk Signature <i>Em Meyer</i> | | | |

Minutes:

Chair Nelson called the hearing on HCR 3075 a concurrent resolution directing the Legislative Council to study and identify federal and state statutory and regulatory policies that discourage or prevent final bond release applications from being filed and study and identify Public Service Commission regulatory policies that could be implemented to encourage flexibility in proving reclamation success and reducing administrative and regulatory burdens necessary for bond release applications and study and identify actions being undertaken by the mining companies to achieve final bond release.

Rep. Galvin: Introduced HCR 3075. Introduced HCR 3075 on behalf of a constituent in district. I have served on the school board and member of the city commission. I am very aware of the vital role the mining industry plays in economy. **Rep. Galvin** introduced an amendment.

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Yolanda Rickford
Operator's Signature

10/16/03
Date

Page 2

House Natural Resources Committee

Bill/Resolution Number 3075

Hearing Date March 7, 2003

John Dwyer: President Lignite Energy Council. Support of HCR 3075 with the amendment.

Testified that the amendment takes out the inflammatory language from the resolution. Pointed out that the section 10-06.1-06 provides for an exemption to the corporate farming laws.

Rep. Solberg: You rent the land for taxes. Do you rent it back to the owner?

John Dwyer: That is usually the case, however it is not always the case. If the land is not bought by the company. About 70% of the land is just rented.

Jean Wertz: Testified in opposition to HCR 3075 based on the amendment. Testified that the amendment tries to blame the agencies for the problem. Falkirk mine has never returned to farmers. This has messed up the farm economy in the area.

Rep. Kelsh: Would you support the amendment if it resulted in the study?

Jean Wertz: It is better than nothing.

Chair Nelson: Do you currently lease land for the coal companies?

Jean Wertz: I used to. My landlord sold the land to Falkirk mine. They have buddies, farmers that do not rock the boat. We reported a violation and the public service commission concurred with us. That same year they pulled my lease and gave it to a different farmer.

Commissioner Wefald: ND Public Service Commission. Testified Neutral to HCR 3075. (See Attached Testimony) Commissioner Wefald prepared an Amendment.

Chair Nelson closes the hearing on HCR 3075.

Chair Nelson: Reopens the hearing on HCR3075.

Rep. Drovda moves and amendment seconded by **Rep. Clark**. Passed by voice vote.

Motion made by **Rep. Drovda** seconded by **Rep. Klein** to place the resolution on the Consent Calendar. Motion carries. **Rep. DeKrey** will carry.

33115.0101
Title.

Prepared by the Legislative Council staff for
Representative Nelson
March 4, 2003

PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3075

Page 1, line 1, after "resolution" replace the remainder of the resolution with "directing the Legislative Council to study and identify federal and state statutory and regulatory policies that discourage or prevent final bond release applications from being filed and study and identify Public Service Commission regulatory policies that could be implemented to encourage flexibility in proving reclamation success and reducing administrative and regulatory burdens necessary for bond release applications."

WHEREAS, there are approximately 50,000 acres of disturbed land under mining permits in this state and there is a 10-year statutory period once mining and initial reclamation are completed before final bond release can be achieved; and

WHEREAS, the Public Service Commission estimates that there may be between 8,000 and 10,000 acres of land that have been reclaimed for 10 years but for which no related final bond release requests by mining companies have been filed with the Public Service Commission; and

WHEREAS, the mining companies, regulatory agencies, and farmers and ranchers have mutual interests in obtaining timely bond release; and

WHEREAS, there are circumstances in which the land has been reclaimed for 10 years and is in full agricultural production where mining companies have not applied for final bond release due to the irregular shape of tracts, proximity to active operations, need for future access, and safety concerns for the landowners or tenants;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Council study and identify federal and state statutory and regulatory policies that discourage or prevent final bond release applications from being filed and study and identify Public Service Commission regulatory policies that could be implemented to encourage flexibility in proving reclamation success and reducing administrative and regulatory burdens necessary for bond release applications; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Fifty-ninth Legislative Assembly."

Renumber accordingly

33115.9999
Title.

Representative Nelson
March 4, 2003

PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3075

Page 1, line 1, after "resolution" replace the remainder of the resolution with "directing the Legislative Council to study and identify federal and state statutory and regulatory policies that discourage or prevent final bond release applications from being filed and study and identify Public Service Commission regulatory policies that could be implemented to encourage flexibility in proving reclamation success and reducing administrative and regulatory burdens necessary for bond release applications and study and identify actions being undertaken by the mining companies to achieve final bond release."

WHEREAS, there are approximately 50,000 acres of disturbed land under mining permits in this state and there is a 10-year statutory period once mining and initial reclamation are completed before final bond release can be achieved; and

WHEREAS, the Public Service Commission estimates that there may be between 8,000 and 10,000 acres of land that have been reclaimed for 10 years but for which no related final bond release requests by mining companies have been filed with the Public Service Commission; and

WHEREAS, the mining companies, regulatory agencies, and farmers and ranchers have mutual interests in obtaining timely bond release; and

WHEREAS, there are circumstances in which the land has been reclaimed for 10 years and is in full agricultural production where mining companies have not applied for final bond release due to the irregular shape of tracts, proximity to active operations, need for future access, and safety concerns for the landowners or tenants;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Council study and identify federal and state statutory and regulatory policies that discourage or prevent final bond release applications from being filed and study and identify Public Service Commission regulatory policies that could be implemented to encourage flexibility in proving reclamation success and reducing administrative and regulatory burdens necessary for bond release applications and study and identify actions being undertaken by the mining companies to achieve final bond release; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Fifty-ninth Legislative Assembly."

Renumber accordingly

33115.0102
Title.0200

Prepared by the Legislative Council staff for
Representative Nelson
March 4, 2003

House Amendments to HCR3075 - Natural Resources Committee 03/07/2003

Page 1, line 1, after "resolution" replace the remainder of the resolution with "directing the Legislative Council to study and identify federal and state statutory and regulatory policies that discourage or prevent final bond release applications from being filed and study and identify Public Service Commission regulatory policies that could be implemented to encourage flexibility in proving reclamation success and reducing administrative and regulatory burdens necessary for bond release applications and study and identify actions being undertaken by the mining companies to achieve final bond release.

WHEREAS, there are approximately 50,000 acres of disturbed land under mining permits in this state and there is a 10-year statutory period once mining and initial reclamation are completed before final bond release can be achieved; and

WHEREAS, the Public Service Commission estimates that there may be between 8,000 and 10,000 acres of land that have been reclaimed for 10 years but for which no related final bond release requests by mining companies have been filed with the Public Service Commission; and

WHEREAS, the mining companies, regulatory agencies, and farmers and ranchers have mutual interests in obtaining timely bond release; and

WHEREAS, there are circumstances in which the land has been reclaimed for 10 years and is in full agricultural production where mining companies have not applied for final bond release due to the irregular shape of tracts, proximity to active operations, need for future access, and safety concerns for the landowners or tenants;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Council study and identify federal and state statutory and regulatory policies that discourage or prevent final bond release applications from being filed and study and identify Public Service Commission regulatory policies that could be implemented to encourage flexibility in proving reclamation success and reducing administrative and regulatory burdens necessary for bond release applications; and study and identify activities being undertaken by the mining companies to achieve final bond release; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Fifty-ninth Legislative Assembly."

Renumber accordingly

Date: 03/7/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 3075

House House Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken No Passage Consent Calendar

Motion Made By Drovdal Seconded By Klein

| Representatives | Yes | No | Representatives | Yes | No |
|---------------------------|-----|----|-----------------|-----|----|
| Chairman Jon O. Nelson | | | | | |
| Vice-Chairman Todd Porter | | | | | |
| Rep. Byron Clark | | | | | |
| Rep. Duane DeKrey | | | | | |
| Rep. David Drovdal | | | | | |
| Rep. Lyle Hanson | | | | | |
| Rep. Bob Hunsakor | | | | | |
| Rep. Dennis Johnson | | | | | |
| Rep. George Keiser | | | | | |
| Rep. Scott Kelsh | | | | | |
| Rep. Frank Klein | | | | | |
| Rep. Mike Norland | | | | | |
| Rep. Darrell Nottestad | | | | | |
| Rep. Dorvan Solberg | | | | | |

Total (Yes) _____ No _____

Absent _____

Floor Assignment De Krey

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

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Salvatore Riccardi
Operator's Signature

10/16/03
Date

REPORT OF STANDING COMMITTEE (410)
March 7, 2003 1:27 p.m.

Module No: HR-41-4265
Carrier: DeKrey
Insert LC: 33115.0102 Title: .0200

REPORT OF STANDING COMMITTEE

HCR 3075: Natural Resources Committee (Rep. Nelson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3075 was placed on the Sixth order on the calendar.

Page 1, line 1, after "resolution" replace the remainder of the resolution with "directing the Legislative Council to study and identify federal and state statutory and regulatory policies that discourage or prevent final bond release applications from being filed and study and identify Public Service Commission regulatory policies that could be implemented to encourage flexibility in proving reclamation success and reducing administrative and regulatory burdens necessary for bond release applications and study and identify actions being undertaken by the mining companies to achieve final bond release.

WHEREAS, there are approximately 50,000 acres of disturbed land under mining permits in this state and there is a 10-year statutory period once mining and initial reclamation are completed before final bond release can be achieved; and

WHEREAS, the Public Service Commission estimates that there may be between 8,000 and 10,000 acres of land that have been reclaimed for 10 years but for which no related final bond release requests by mining companies have been filed with the Public Service Commission; and

WHEREAS, the mining companies, regulatory agencies, and farmers and ranchers have mutual interests in obtaining timely bond release; and

WHEREAS, there are circumstances in which the land has been reclaimed for 10 years and is in full agricultural production where mining companies have not applied for final bond release due to the irregular shape of tracts, proximity to active operations, need for future access, and safety concerns for the landowners or tenants;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Council study and identify federal and state statutory and regulatory policies that discourage or prevent final bond release applications from being filed and study and identify Public Service Commission regulatory policies that could be implemented to encourage flexibility in proving reclamation success and reducing administrative and regulatory burdens necessary for bond release applications; and study and identify activities being undertaken by the mining companies to achieve final bond release; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Fifty-ninth Legislative Assembly."

Renumber accordingly

2003 SENATE NATURAL RESOURCES

HCR 3075

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Salvatore Riccardi
Operator's Signature

10/6/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3075

Senate Natural Resources Committee

☐ Conference Committee

Hearing Date 3-21-03

| Tape Number | Side A | Side B | Meter # |
|--|--------|--------|------------|
| 1 | X | | 0.0 - 36.8 |
| | | | |
| | | | |
| Committee Clerk Signature <i>Janet James</i> | | | |

Minutes:

Senator Thomas Fischer, Chairman of the Senate Natural Resources Committee opened the hearing on HCR 3075 directing the Legislative Council to study and identify federal and state statutory and regulatory policies that discourage or prevent final bond release applications from being filed and study and identify Public Service Commission regulatory policies that could be implemented to encourage flexibility in proving reclamation success and reducing administrative and regulatory burdens necessary for bond release applications and study and identify actions being undertaken by the mining companies to achieve final bond release.

All members of the committee were present except Senator Michael Every.

Jeff Reinke, (0.7) Center, North Dakota testified in support of HCR 3075 (See attached testimony). He also presented pictures of reclaimed land (See attached).

Mary Christensen (2.6) representing the Dakota Resource Council testified in support of engrossed version of HCR 3075 (see attached testimony).

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Salvatore Riccardi 10/16/03
Operator's Signature Date

Page 2

Senate Natural Resources Committee

Bill/Resolution Number HCR 3075

Hearing Date 3-21-03

Marlow Johnson representing John Dwyer of the Lignite Energy Council testified in a neutral position of HCR 3075. He presented copies of John Dwyer's written testimony on HB 1470 to the members of the committee. He stated that the Lignite Energy Council is in the process of forming a task force by members of the mining companies to work with the PSC on the issues that are referred to in Section D of the testimony.

Susan Wefald (5.9) of the Public Service Commission testified on her own behalf not the commission, in a neutral position (See attached testimony). When questioned why she was testifying on her own behalf and not the commission, she responded that the commission was in a neutral position to the resolution and did not choose to make a statement but said she could share her ideas.

Dean Peterson representing the North American Coal Corporation, The Falkirk Mining Company and The Coteau Properties Company testified on HCR 3075 stating he could be all three position on the resolution. He stated that after a news article in the newspaper he felt he needed to make some comments for clarification. He presented the PSC regulatory document and the statute. He gave the history of how complex and the dramatic changes made after this program became law. He stated that if the study is approved, the companies are willing to participate, but stated that before the study is moved forward, hold the companies accountable to have exhausted all the remedies and in and outs in the regulatory documents. It might be premature for the study until all the companies, the PSC and the interested parties have gone through the regulations and addressed all the concerns and problems. He addressed the article in the newspaper stating it was reasonably accurate and cited Commissioner Wefald's quote regarding inquiries about reclaimed mine land. The companies are not aware of complaints or

Page 3

Senate Natural Resources Committee

Bill/Resolution Number IICR 3075

Hearing Date 3-21-03

problems with people wanting to purchase reclaimed mined land although the PSC has had two inquires. He presented a copy of a letter from Commissioner Wefald sent to The Falkirk Mining Company to the members of the committee and further stated how she and other PSC people regularly inspect the reclaimed lands at the mine sites.

Senator John Traynor asked for an explanation of the bonding requirements.

Dean Peterson explained a posted performance bond is required to guarantee performance and this is done on each of the permit areas that is applied for with the PSC. The PSC reviews it and approves it and part of the review is giving the public the opportunity to review the same information. The bonds are posted in different forms as provided for by the guidelines and rules. The bonds are determined by calculations of what is being proposed and what is the maximum liability when all of the disturbance categories are considered. Some of the bonds are done as a self bond with their customer as a third party guarantor and some of them are surety bonds.

Representative Pat Galvin of District 33 cosponsor of the HCR 3075 listed the coal related industries in his district. This issue was addressed in HB 1470 that was defeated but those interested parties felt that there was still was something that should be studied. Reclamation and final release of bonded acreage is not a very simple thing to do.

Senator Joel Heitkamp asked if he is aware of his constituents having problems or complaints with this issue.

Rep. Pat Galvin responded that he has not been made aware of any problems.

Senator Ben Tollefson closed the hearing on HCR 3075.

Senator Fischer opened the discussion on HCR 3075.

Page 4

Senate Natural Resources Committee

Bill/Resolution Number HCR 3075

Hearing Date 3-21-03

Senator Layton Freborg stated that the mines are doing the job that is required by the PSC through administrative rules adopted by legislation passed, but for no other reason maybe the study should be done to review the rules and guidelines.

Senator Freborg made the motion for a Do Pass of HCR 3075.

Senator Heltkamp commented that the study would not indicate the coal companies aren't doing a good job, but he would support the study because maybe it's time to bring the legislature up to speed.

Senator Heltkamp second the motion.

Senator Traynor stated the coal companies have done a great job and admire them for the generous lease back program so farmers are able to farm the land, but the legislative council should decide if the old system should be looked at and all the parties involved could come to the table and make any improvements if needed.

Roll call vote was taken indicating 6 YEAS, 0 NAYS AND 1 ABSENT OR NOT VOTING.

Senator Freborg will carry HCR 3075.

Date: 3-21-03
Roll Call Vote #:

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 3075

Senate Senate Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Freborg Seconded By Heitkamp

| Senators | Yes | No | Senators | Yes | No |
|--------------------------|-----|----|--------------------------|-----|----|
| Senator Thomas Fischer | ✓ | | Senator Michael A. Every | | |
| Senator Ben Tollefson | ✓ | | Senator Joel C. Heitkamp | ✓ | |
| Senator Layton Freborg | ✓ | | | | |
| Senator Stanley W. Lyson | ✓ | | | | |
| Senator John T. Traynor | ✓ | | | | |
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Total (Yes) 6 No 0

Absent 1

Floor Assignment Heitkamp Freborg

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Salvatore Riccardi
Operator's Signature

10/16/03
Date

REPORT OF STANDING COMMITTEE (410)
March 21, 2003 12:36 p.m.

Module No: SR-51-5419
Carrier: Freborg
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HCR 3075, as engrossed: Natural Resources Committee (Sen. Fischer, Chairman)
recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).
Engrossed HCR 3075 was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-51-5419

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Operator's Signature

Richard Costa

10/6/03

Date

2003 TESTIMONY

HCR 3075

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Yolanda Richardson
Operator's Signature

10/16/03
Date

Dakota Resource Council

P. O. Box 1095, Dickinson ND 58602-1095
(701) 483-2851; www.drcinfo.com

Failure to apply for final bond release: Why North Dakota needs to study the final phase of strip-mine reclamation

(HCR 3075)

- Nothing in state or federal laws requires mining companies to apply for final bond release on strip-mined lands they have reclaimed.
- Mining companies own perhaps as much as 50,000 acres of agricultural land now under permit for strip-mining—as well as other land not under permit.
- As much as 10,000 acres of reclaimed land in North Dakota has gone through the 10-year waiting period and should be eligible for final bond release—but mining companies have not applied for it
- In a special exemption to state farm ownership laws, coal companies are allowed to own land when it is “reasonably necessary for mining”—a term no court has fully defined.
- The logical time to require coal companies to sell agricultural land back to farmers and ranchers is after final bond release.
- At least in theory, mining companies may never apply for bond release, and could wind up being permanent owners of agricultural land—not something the Legislature had in mind when granting the exemption to state farm ownership laws.
- The state should study this problem now, before thousands of additional acres are involved.

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La Costa Rickford
Operator's Signature

10/16/03
Date

HCR 3075

Presented By: Susan E. Wefald
Public Service Commissioner

Before: Natural Resources Committee
Representative Jon O. Nelson, Chairman

Date: March 7, 2003

TESTIMONY

Mr. Chairman and Members of the Committee. I am Commissioner Susan Wefald. The Public Service Commission has responsibility for Coal Mining Permitting and Reclamation. The views that I am sharing today are my own views and not those of the Commission. I am neutral on whether or not you choose to adopt this study resolution.

A study resolution allows the legislature to learn more about particular topics, so that it can make better decisions. Access to reliable information is always helpful.

Yesterday, at a periodic meeting with the mining companies, the Public Service Commission agreed to participate with the companies in a taskforce to address final bond release issues. Other interested parties, including the Dakota Resource Council, would be invited to participate in the activities of the task force. The Office of Surface Mining, our federal counterpart, also has an initiative this year to look at bond release issues.

However, our Commission has already taken several steps in recent rulemakings to address issues identified by the mining industry to facilitate final bond release. It is very important to have good standards in place to measure final bond release.

Now is the time for the mining companies of active mines to step forward and devote the staff and resources to work on these matters. Most of the final bond release applications we have received are for lands on closed mines. I hope that these legislative discussions will provide an impetus for operators of active mines to more

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Operator's Signature

Susan E. Wefald

10/16/03
Date

closey scrutinize their mining operations, and commit the resources to pursue final bond release.

If you ask for a study resolution, we would be happy to provide information about the final bond release taskforce, mining company bond release activities, and information about OSM activities to the legislative council.

North Dakota Permanent Program Permits Cumulative Acres through 2001

| Mine | Disturbed Areas | Long Term facilities | Active Mine Areas | Areas Graded | Phase I Bond Release | Areas Re-soiled & Seeded | Phase III (veg. est.) Release | Areas Seeded 10 years* | Dist. Acres Final Bond Released |
|--------------|-----------------|----------------------|-------------------|--------------|----------------------|--------------------------|-------------------------------|------------------------|---------------------------------|
| Beulah | 4432 | 1050 | 847 | 2635 | 469 | 2443 | 469 | 664 | 469 |
| Center | 5866 | 1240 | 1077 | 3549 | 126 | 3586 | 126 | 1515 | 126 |
| Falkirk | 12857 | 4903 | 1344 | 6610 | 1079 | 6331 | 246 | 2630 | 246 |
| Freedom | 15431 | 4315 | 2849 | 8267 | 315 | 7635 | 315 | 1438 | 295 |
| Gascoyne | 2360 | 79 | 0 | 2281 | 2215 | 1970 | 586 | 560 | 586 |
| Glenharold | 4355 | 30 | 0 | 4325 | 1060 | 4325 | 372 | 1650 | 372 |
| Indian Head | 2404 | 3 | 0 | 2401 | 2401 | 2401 | 2170 | 778 | 605 |
| Larson | 650 | 0 | 0 | 650 | 528 | 650 | 485 | 550 | 50 |
| New Leipzig | 25 | 0 | 0 | 25 | 25 | 25 | 25 | 0 | 25 |
| Royal Oak-JK | 105 | 0 | 0 | 105 | 89 | 105 | 86 | 18 | 10 |
| Royal Oak | 318 | 0 | 0 | 318 | 312 | 318 | 177 | 72 | 237 |
| Velva | 387 | 0 | 0 | 387 | 387 | 387 | 387 | 0 | 387 |
| | 49190 | 11620 | 6117 | 31553 | 9006 | 30176 | 5444 | 9875 | 3406 |

* Does not include final bond release areas

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Yolanda Rickford
Operator's Signature

10/16/03
Date

Chairman Nelson, Members of the Natural Resource Committee

My name is Jeff Reinke, I am supporting myself on HCR 3075.

HCR 3075 is in reference to HB 1470.

Here are some facts to consider.

Fact: There are approximately 10,000 acres of reclaimed land eligible for bond release.

Fact: Virtually no applications have been filed with the PSC requesting bond release.

Fact: Some land has been reclaimed for at least 18 years.

Fact: Some mining companies are profiting from these lands.

Fact: This is stretching the reasonable amount of time needed for mining companies to be exempt from the corporate farming laws of North Dakota.

Fact: People affected by this process want to know why.

Fact: This issue will not go away until the legislature addresses and corrects the problem.

Jeff Reinke
Center ND

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Salvatore Riccardi
Operator's Signature

10/16/03
Date

3-21-03

Chairman Fischer, Members of the Senate Natural Resource Committee

My name is Jeff Reinke, I live in Center N.D. I have interest in reclaimed farmland in Oliver County

I am representing myself in support of HCR 3075

Here are some facts to consider.

Fact: There are approximately 10,000 acres of reclaimed land eligible for bond release.

Fact: Virtually no applications have been filed with the PSC requesting bond release.

Fact: It is not the PSC that is holding up the bond release process. Coal companies are not applying for bond release because there is no timeline in place for them to do so. When the original law was written, it was thought that there would be a financial incentive for the mines to release land, but the current situation is that the bond amount is so small that it is no longer an incentive.

Fact: The majority of the reclaimed tracts are not irregularly shaped, are not in close proximity to active operations, have absolutely no need for future access and the safety concerns for landowners and tenants are not an issue.

Fact: Some reclaimed land may be miles from a mining area.

Fact: Some land has been reclaimed for at least 18 years.

Fact: Some mining companies are profiting from these lands.

Fact: Under the law mining companies can hold land "as long as is reasonably necessary", but it seems that they are, at the very least, pushing the law to the limits.

10-06. 1-06. Surface coal mining - Exception.

A corporation or limited liability company not engaged in the business of farming or ranching may own or lease lands used for farming or ranching, when the business of such a corporation or limited liability company is the conducting of surface coal mining operations or related energy conversion, and when the owning or leasing of lands used for farming or ranching is reasonably necessary in the conduct of the business of surface coal mining or related energy conversion. When the necessity for owning or leasing of lands used for farming or ranching no longer exists, the exception provided in this section ceases and the corporation or limited liability company owning or leasing such lands is subject to this chapter.

Fact: People affected by this process want to know why.

Fact: This issue will not go away until the legislature addresses and corrects the problem.

Fact: The coal industry needs to be held accountable for not releasing land that is no longer needed for their mining operation. It is up to them to start the bond release process in 2003.

Please recommend a "DO PASS" on HCR 3075

Thank You.

LR

Dakota Resource Council
P.O. Box 1095, Dickinson, ND 58602-1095
701-483-2851; www.drcinfo.com

HCR 3075
Senate Natural Resources Committee
March 21, 2003

Chairman Fischer and Members of the Committee,

Dakota Resource Council supported the original HCR 3075. We generally support the engrossed bill, but we do have concerns about some of the language.

It seems that several reasons for the lack of application by the mining companies are identified in this bill. If these are the reasons, then why is there a need to 'reduce administrative and regulatory burdens'?

Our members are very interested in seeing that fully reclaimed land is put back into the hands of local owners. We support a responsible process to examine the reasons why this is not happening—on the part of both the agencies and the mining companies—but we would not support a process that leads to weakening our current reclamation standards.

Sincerely,

Mary R. Christensen, staff
Dakota Resource Council

Mary R. Christensen
Operator's Signature

10/16/03
Date

2/6/03

**Testimony of John W. Dwyer
President, Lignite Energy Council
Before the House Natural Resources Committee
In Opposition to HB 1470**

A. Mining Process (Permits, Mining, Reclamation, Bonding)

1. History of bonding concept – Role of Bonding in Reclamation Process
 - a. Adds nothing to success of reclamation – only cost to operator & consumer!
 - b. 10 year liability period in West vs. 5 year liability period in East
2. What's required before bond release application filed?
 - a. Data collection – range or crop yield data / surface & groundwater quality and quantity data / wildlife data / land use data / legal land surveys
 - b. Soil re-spread standards / regraded topography / proven reclamation success equal or better than prior to mining
3. Interest of mining company to obtain bond release as soon as possible – reduce liability and "worst case" amount
4. Agricultural land within 10 year liability period is being farmed and grazed by landowners as contemporaneous reclamation is required within three years of coal removal

B. HB 1470 would be counter-productive in expediting bond release

1. Establishes 80 acre tracts as "trigger" to apply for bond release
 - a. Impractical – breaks up ½ section or section fields in 80 acre tracts:
 - What if different landowners on two contiguous 40 acre tracts?
 - What if water source is just outside 80 acre tract?
 - What if upstream areas are not yet reclaimed – will require operator to unnecessarily build additional water management structures on upstream areas
 - May create safety hazard for landowners going to 80 acre tracts
 - Lots of questions and regulatory uncertainty created
 - b. Costly – more data and more applications from industry / more review time by regulators if smaller bond release areas are required
 - c. Release of one 80 acre tract could cause delays in other tracts because of additional water management structures being required
 - d. Would require farmers to determine yield data by 80 acre tracts versus fields that are laid out to accommodate changes in topography, drainage systems and other site specific conditions
2. Bottom Line – HB 1470 - creates additional administrative burden without rational purpose - 80 acre tract is an arbitrary standard

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John W. Dwyer
Operator's Signature

10/16/03
Date

2/6/03

- C. HB 1470 would add unnecessary costs / \$25 fee would amount to \$250,000 first year and \$300,000 the second year, or over one-half million for biennium
- D. Better solution than HB 1470 is to:
1. Urge Congress to reduce bond liability period for western states
 2. Urge PSC to continue to be pro-active in regulatory initiatives / PSC has done good job!
 - a. PSC has revised rules on data collection
 - b. PSC has revised rules on native grasslands standards
 - c. PSC has changed boundary informational requirements for partial bond release
 3. Potential PSC regulatory initiatives:
 - a. Encourage flexibility in proving reclamation success so that an operator does not have to use last year of data (would require OSM approval)
 - b. Allow operator access across bond released lands without having to re-permit or keep such lands in existing permits
 - c. Encourage PSC assessments on data already submitted instead of waiting for bond release application to assess reclamation success (surface water, groundwater, wildlife, vegetation success data, etc.)
 - d. Encourage PSC and industry to establish mutual goals and action plan in reducing information required for bond release applications
- E. Summary
1. Many things PSC has done – can do in future to expedite bond release
 2. Agree to sit down with PSC to find solutions if problems do in fact exist
 3. HB 1470 is a step backward:
 - a. HB 1470 is counter-productive from administrative perspective
 - b. HB 1470 is costly to operators, a burden to farmers, and will increase PSC administrative costs
 - c. Better ways to reach mutual objective of expedited bond release for all parties involved
 4. Urge you to give HB 1470 a Do Not Pass recommendation.

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Operator's Signature

Salvatore Riccardi

10/6/03

Date

HCR 3075

Presented By: Susan E. Wefald
Public Service Commissioner

Before: Natural Resources Committee
Senator Tom Fischer, Chairman

Date: March 21, 2003

TESTIMONY

Mr. Chairman and Members of the Committee. I am Commissioner Susan Wefald. The Public Service Commission has responsibility for Coal Mining Permitting and Reclamation. The views that I am sharing today are my own views and not those of the Commission. I am neutral on whether or not you choose to adopt this study resolution.

A study resolution allows the legislature to learn more about particular topics, so that it can make better decisions. Access to reliable information is always helpful.

On March 6th, at a periodic meeting with the mining companies, the Public Service Commission agreed to participate with the companies in a taskforce to address final bond release issues. Other interested parties, including the Dakota Resource Council, would be invited to participate in the activities of the task force. The Office of Surface Mining, our federal counterpart, also has an initiative this year to look at bond release issues.

However, our Commission has already taken several steps in recent rulemakings to address issues identified by the mining industry to facilitate final bond release. It is very important to have good standards in place to measure final bond release.

Now is the time for the mining companies of active mines to step forward and devote the staff and resources to work on these matters. Most of the final bond release applications we have received are for lands on closed mines. I

hope that these legislative discussions will provide an impetus for operators of *active mines* to more closely scrutinize their mining operations, and commit the resources to pursue final bond release.

When this resolution came before the House Natural Resources Committee, at the request of the committee, I worked with John Dwyer, North Dakota Lignite Council, to modify his amendment. We recommended adding language to study the actions being undertaken by the mining companies to achieve final bond release. The committee accepted these changes.

If you approve this study resolution, we would be happy to provide information about the final bond release taskforce, mining company bond release activities, and information about OSM activities to the legislative council.



Public Service Commission
State of North Dakota

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March 30, 2001

Randy Crooke, Technical Group Manager
Falkirk Mining Company
PO Box 1987
Underwood, ND 58578-1087

Dear Randy:

I enjoyed having the chance to meet with you and Troy yesterday and to learn more about the challenges you face in your work. Coal mining and reclamation are complex these days, as the energy industry faces many changes.

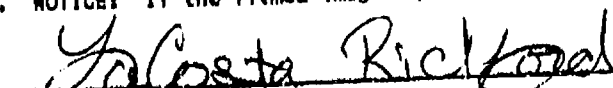
Thank you for your commitment that Falkirk will work on achieving stage one and two bond release, and perhaps stage three bond release, during the next two years on parcels of land that you identify. I know that our staff is more than willing to provide you with technical assistance as you work on this project.

It is so important, during this time of excitement in our state about the possibility of additional coal generation facilities, that we address as many issues as possible that raise concerns.

I commend you on the excellent reclamation work that is occurring on your mine. When I bring visitors to the state, I am proud to bring them to your mine and show them your work.

Sincerely,


Susan E. Wefald
President


Operator's Signature

10/16/03
Date