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2005 HOUSE NATURAL RESOURCES

HB 1322

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1322

House Natural Resources Committee

☐ Conference Committee

Hearing Date January 20, 2005

Tape Number	Side A	Side B	Meter #
1	x		0-END
1		x	0-1390

Committee Clerk Signature *Laura Bonnet*

Minutes: Chr. Nelson opened the hearing on HB 1322, Roll was taken, 1 absent at Senate hearing; Bill was read aloud. Turned the chair over to V. Chr. Porter.

V. Chr. Porter: Opened the hearing;

Rep. Nelson: Introduced HB 1322. Urged Do Pass. **(WRITTEN TESTIMONY ATTACHED)**

V. Chr. Porter: On your cost analysis sheet, is it all those tests or are there certain ones. There are many tests listed.

Rep. Nelson: Those are highlighted on the analysis sheet. The first water analysis for drinking/livestock/irrigation would be adequate in this situation. A representative of the company said that \$50 fee would cover the cost of quality and quantity.

V. Chr. Porter: How long is the turn around time after the sample is taken and sent to the lab?

Rep. Nelson: There was a three-day period. That was changed to seven. We could work on a friendly amendment to keep seismic activity from being held up. We thought seven days wasn't

enough turn around; it may not be. There is a problem there. I think we can work on an amendment that would allow more time from the notification to the seismic activity.

V. Chr. Porter: Further questions of Rep. Nelson?

Rep. Nottestad: Is it possible as this bill is written that the operator of the land who has no mineral rights, could the operation be stopped?

Rep. Nelson: That's not the intention of this bill. The intention is that all affected parties would be notified prior to the seismic activity taking place. I don't think that possibility would happen but that may be an arguable point.

Rep. Drovdal: When researching this bill, did you come up with a possible number of tests that could be required on an average seismographic study in today's standards? Approximately how many wells could be studied in a typical seismographic survey?

Rep. Nelson: Depending on the size of the area that's being considered, all the wells could potentially be affected. But, the landowner has the right of refusal. They don't have to ask for the test but they are required under this bill to be notified that it is their right to ask for it. It is the right of the landsman to pay for the test if they (the landowner) ask for it. It protects both parties.

Rep. Drovdal: The reason for testing is to determine the exact quality and quantity beforehand. Will there also be a requirement that they pay for the test if they believe there is damage at the end of the shoot?

Rep. Nelson: That's not written in the bill, but it does provide that baseline so if the landowner feels that there is a change in the quality or quantity of the water, then subsequent tests would give the courts the information necessary to prove whether there is any damage.

V. Chr. Porter: So this would be the potential base line test if requested by the landowner prior to any shoot in that area?

Rep. Nelson: Yes.

Rep. Keiser: A technical point, on page 2, subsection 4, suddenly you're putting a "must" in there that I don't like. If requested, the person could provide that information, but they "must" provide it? It doesn't make sense from a business standpoint. If they *request* it, I understand that I have to provide it, but that I *must* provide it within seven days.

Rep. Nelson: First of all, I think that the Oil & Gas division has done a good job of sending people into the field and notifying people affected, both landowners and operators, of the activity taking place. Some do fall through the cracks. I can't believe that the permitting agents would miss anybody. They go to the counties and go through all the abstracts of the landowners in their due diligence. This simply is a protection for those landowners that they should know their rights. I guess it does give the Oil & Gas Division a more solid footing as far as notification. Right now, there is the possibility that a landowner could say they he never got this (notification). There is no flow of communications that would allow this. This provision simply puts into law what was current practice. It's important to some of the landowners in that area that they have this information. You can't force them to make decisions that may or may not harm them, but given the information of the protection of the state is all this section does.

Rep. Keiser: If they're already doing it, and they fall through the cracks and don't do it, what's your penalty? Will they be arrested?

Rep. Nelson: I don't see a penalty in this section. It just gives guidelines to that agency that this is what we think are prudent guidelines.

V. Chr. Porter: Rep. Solberg.

Rep. Solberg: This bill does not change the distance from 660 feet to 1320 feet, obviously there have been a number of water wells that been wrecked by this type of exploration. In the event that a well is determined to have been ruined by seismic exploration, is that seismic company responsible for paying for a new well which costs from \$5,000 and up?

Rep. Nelson: I would certainly hope so. I should caution you that since 1997, there hasn't been any problem, and with the lower shot size there is less of a chance of this happening. Back in the 1970's they were using 25-lb. shot sizes; now some of the charges are down to five pounds so there is less chance of disturbance of the well. But there still is a chance and this bill puts a process in motion so they can determine if there is any damage to the well. Certainly if there is damage, the seismic company would be liable for it.

V. Chr. Porter: Further questions for Rep. Nelson? Seeing none, thank you.

Rep. Bill Devlin, Dist. 23: (WRITTEN TESTIMONY ATTACHED)

V. Chr. Porter: I would remind everyone to please sign in when giving testimony. Is there further testimony in support of HB 1322?

Cindy Klein, Dakota Resource Council, Dickinson, ND: (WRITTEN TESTIMONY ATTACHED) Other members wanted to be here, but could not due to the weather.

Don Nelson, Keene, ND: (WRITTEN TESTIMONY ATTACHED, READ BY CINDY KLEIN)

Sheryl Turbiville, Rhame, ND: (WRITTEN TESTIMONY SUBMITTED BY CINDY KLEIN & ATTACHED, NOT READ)

Melvin Wisdahl, Alamo, ND: (WRITTEN TESTIMONY SUBMITTED BY CINDY REP. KLEIN & ATTACHED, NOT READ)

V. Chr. Porter: Are there questions for Miss Klein? In Mr. Nelson's letter, he makes a pretty broad statement. We were able to find instances where landowners thought there were damages but the cost associated with taking the cases to court were too daunting. Do you have any of those?

Klein: We have some cases that are quite old. We were able to collect affidavit statements with those. They were from the late 70's and early 80's. More recently, FROM the last round of seismic (activity) that went through there, I was given the names of Don Lovass, Roger Brenna. Leif Jellestad (sp?), now this was a case where a seismic company took care of things right away. They ran over some kind of pipe that they had been getting water from a stream for their cattle. That was fixed right away. DRC member Linda Rauser has a problem with water at this time. She's working with Amerada Hess and they're being very good to find exactly what the problem is.

V. Chr. Porter: Further questions of Klein? Further testimony in support of HB 1322?

Josh Kramer, ND Farmers Union: (WRITTEN TESTIMONY ATTACHED)

V. Chr. Porter: Do you have written testimony?

Kramer: Yes, one copy.

V. Chr. Porter: Would you leave it with the clerk and we'll make copies. Is there further testimony in support of HB 1322?

Ralph Muecke, farmer, Gladstone, ND: I think this is a good bill. We should have had bills like this about 50 years ago and would have averted or solved problems. I can remember seismic

activity in the early 50's. In 1958 we had a well drilled on our land and were told it was a dry hole. There has been more seismographing ever since. The point is, we've been seismographed to death. A lot of shot holes have been drilled, 300-400 feet, we had big craters left on our land that we had to find someone to fill in. Thank goodness under the reclamation laws now, they have to plug the holes. I think we have too much government, too much regulation, but we have to have a few regulations and I think this is a good one. I think the farmers/ranchers/oil companies can all live together and get along if we just have a few common sense rules in place. We need balance. We have had water well damage. We had three surface wells, with the hole drilling and blasting, they drained out these surface veins. The one well in particular had beautiful water, no rust, clear, good tasting. After one time of seismographing through there ½ mile from the place, something happened to the well. Now the water is rusty, it's swampy no matter how long you pump it. It doesn't get any better. Luckily it isn't the one we use for the house. It's o.k. for the livestock. I know of damage to other wells where they can no longer use the well for human consumption and even for livestock. I sympathize for those people and I'm here to speak a little on their behalf. I agree on what's been said. If there is any water testing to be done, the seismic company that wants to do the drilling should pay for the test. We shouldn't be liable for it; the time to get the test back should be minimal compared to damage; this is our livelihood. Urge Do Pass.

V. Chr. Porter: Questions of Mr. Muecke? Further testimony in support of HB 1322? Is there opposition to HB 1322?

Ron Ness, ND Petroleum Council, a trade association that represents more than 100 companies involved in all aspects of the oil & gas industry in ND: Oppose HB 1322.

(WRITTEN TESTIMONY ATTACHED-Multiple charts also attached.) Current system is now working well, urges Do Not Pass. Thinks if this is free, everyone will sign up for testing.

V. Chr. Porter: Questions of Mr. Ness?

Rep. Nelson: I don't disagree with your analysis that the seismic activity is much safer and much less destructive than in the past. If there is a less likely occurrence at 300 feet, have other oil producing states around us such as Montana and Wyoming dropped the 1320- foot setback like we have in the state?

Ness: Wyoming and Montana are both at 1,320 feet. One, much of their oil and gas activity is on federal lands. On federal lands it's actually about 145 feet. If you look at the Williston Basin and where the oil is at, now that it has moved into Richland County, MT, it is not on federal land. In Wyoming and Montana much land activity has been on federal lands. I think that the oil and gas division in promulgating this rule along with the Industrial Commission realized that it's good to be up front with some of these issues. The signs show that we could move closer. We feel we can probably move closer yet because landowners generally authorize it in these contracts. This just takes away some of the paperwork.

Nelson: I think we have done that so that has been a benefit for the oil industry in this state. I'd like to refer you to Page 3 of your Surface Ownership Status testimony where you referred to a landowner who had provisions put in his contract so no shots were allowed within 660 feet of wells, a creek, and a spring in that case. You use that as an example of how the industry has worked with landowners to create a good contract. If this bill passed, what aspect would change from what you refer to as being the good or best example of contractual obligation?

Ness: The result would essentially be that you would test all of those wells. Whether the landowner felt it necessary and a big enough concern in order to bring it up in a previous contractual agreement or not because now as you had indicated previously, the burden completely shifts to make it a requirement under state law unless there is an opt out. This process (current) is working. The Oil & Gas division receive a copy of this. They have a person out on the ground when there is seismic activity going on. They know this landowner says stay 660 feet away from his tract, so they're there on the ground to make sure that happens.

Nelson: Mr. Ness, wouldn't you agree that the reason this contract worked for the benefit of both parties is because that landowner was informed of his rights by statute and he certainly had the option to opt out. The requirement that he put in place isn't required with this (new) bill. It basically allows the landowner that same right as this landowner had made to make the best decision that he/she could on the land that he/she owns or operates. In this case it worked. I think it would work in more cases because of that information, that communication. There's no requirement that every well has to be tested, is there Mr. Ness?

Ness: There would be a requirement that every well would have to be tested because it would be in state law. As you can see on this document, in the contract provided, they are informed that the company is liable for damages. I think what making this law change would do is take this off the table as a negotiation point at all and I can't speak for the landowners but I think that after 50 years of oil and gas activity I firmly believe that they understand how to negotiate the contract. You as a landowner certainly knows how to negotiate a contract with a leasor of your pasture or anything like that. The state does not have to come in and require that the leasor of your pasture install new gates if that gate is damaged. Essentially that is what this bill is doing.

Nelson: We may disagree on some of that but subsection 8, page 2, the first sentence, clearly allows that not every well would have to be tested. I don't see why that is even in debate.

Ness: If the landowner chooses to opt out that would have to be in this document as an opt out.

The landowner would have to sign to opt out. My point would be, if you provide a free test, I'm going to sign up every time I can, because it's free.

V. Chr. Porter: Further questions of Mr. Ness?

Rep. Solberg: Regarding seismic exploration and methods, in our country they changed from the drilling to the vibrators method. What percentage of the seismic exploration is now done with vibrators as opposed to the drilling and the shots?

Ness: I would have to defer that question to the Oil & Gas Division.

Solberg: Do you know the average depth of the drilling and shooting?

Ness: I believe in this shoot the depth was 60 feet, but the Oil & Gas Division has that in the permit. They can tell you every source point.

V. Chr. Porter: Are there further questions of Mr. Ness? Seeing none, thank you. Further testimony opposing HB 1322?

Jeff Herman, representing Petro-Hunt, LLC: (WRITTEN TESTIMONY ATTACHED)

Urges Do Not Pass.

V. Chr. Porter: Are there any questions of Mr. Herman? Seeing none, thank you. Is there further testimony opposing HB 1322? Mr. Helms, would you come up for informational testimony/questions?

Rep. Solberg: Regarding the percentage of vibration in seismic exploration as opposed to the drilling. Do you have percentages there? Are they using the vibration more than in the past?

Ron Helms, ND Industrial Commission Oil & Gas: In about ten seconds I'm going to get my geophysical supervisor up here to answer those questions for you. The Industrial Commission at this point is neutral on this bill. They discussed it briefly on Monday and some things between parties that opposed and supported the bill had not taken place yet and they decided to remain neutral on the bill at this point. We're here to provide information. As Rep. Nelson indicated to you, I consulted with him in creating this bill to make sure that should this bill pass that it's something that the Oil & Gas Division could enforce and that it didn't contain provisions that we couldn't live with. With that, I will turn responses over to Dave Hinden.

Dave Hinden, ND Industrial Commission Oil & Gas: I will help you as best I can.

Rep. Solberg: Regarding the percentages of the two methods (of seismographing) that I see being used, the vibration and the shot hole.

Hinden: We've had 96 permits since 1997. Approximately 15% of those have been vibracized but we have seen an increase over the past two or three years where the vibracize is being used more and more. A lot of times it depends mainly on where you're at and how the geophysist or those companies really want to do their work.

Rep. DeKrey: When you're talking about the number of pounds of explosives used, are they using a TNT equivalent or going with a C4? Are they going up or down according to the explosives?

Hinden: I'm not real knowledgeable on that. Are you asking more the size of the charge? It would be a dynamite equivalent.

DeKrey: Ok. When they're drilling these charges, are they packing on top of the charge?

Charges laid on the surface aren't going to do the same amount of damage as the one placed in

the hole and then tamped or not tamped. It seems like the chart gives these feet and says how many pounds of charge, but is there any standard to what type of charge they have to use? If they use five pounds of C4 instead of five pounds of TNT it makes quite a difference. Is that regulated?

Hinden: I can give you a standard shot-hole process that might clear some things up. What they'll do is drill a 60 foot hole, in some cases 40 foot or 100 foot. Sixty feet is a good average in North Dakota and they will put in five pounds of powder explosive. I'm not an explosives expert and I don't know about C4. Once they've drilled the hole, they'll place the charge, then they'll slowly pour bentonite, a clay that swells with the water, into the hole. Or they'll actually add water to the hole so it does swell. They'll fill that all the way to the surface with the exception of a little bit on the top that they'll scrape in the cuttings that they got from drilling the hole. It's packed, with a wire sticking out of the ground. When it comes time to actually shoot the hole and record it, they will detonate that.

DeKrey: Do they do any determination of soil type? If you're in a tight clay soil there is much more of an effect of the explosive than in loose sandy soil.

Hinden: They do not do that. They have a set pattern that's set up unique to each company. They'll come out with a pre-plot map which sets up everything for the entire shoot. The pre-plot map is usually done on a topographic map where they can identify different features of the surface. At that point, they'll identify water wells for speaking with the landowners. Then they move according to our rules or by the agreement that they have with the landowner. Those holes will be moved around, not on the basis of soil type. They're going to want to get good records by

putting that charge into a specific formation so they get better records coming back from the waves that are going through the ground.

Keiser: I think the way they do things is important, but what this bill is really trying to address is the damage done to the well. Have there been any formal complaints filed since the Oil & Gas Division took this over?

Hinden: I guess the definition of formal complaint is a tough one. The only water complaints we have gotten in our office are perhaps flowing shot holes. Shot holes that have been drilled into areas of artesian flow and those wells continue to seep. Everything that has been done to that was prior to 1997. I consider those a formal complaint from something that we didn't have the jurisdiction over at that time. Flowing holes can still happen but we have a bonded company who can take care of it immediately. The problem with things prior to 1997, is the company is still around, or is their bond still in effect, things like that. We get complaints, but none in regards to damage to water wells.

Keiser: Does the contractual approach as the companies are using with the landowner, are they working adequately to manage whether the landowner wants to have the well tested or not?

Hinden: I do believe it is working, just because of the lack of complaints. That's my personal belief just from what I've seen over the past eight years.

Keiser: When there are obvious damages, from your experience, are the companies providing appropriate intervention to resolve conflicts with the landowners, whether or not it was in the contract?

Hinden: I would say they are, based on previous testimony on both sides of the bill. Probably the most important thing you'd have to look at right now is that these companies are bonded in

the state. We have yet to try to capture anyone's bond to take them out and make sure that they got their job done.

Rep. Nelson: Dave, you're the individual who goes out in the field in these situations....

Hinden: Excuse me for interrupting, Mr. Chairman, I actually do have a field person who is out in the field, but I work with that person quite a bit.

Nelson: You have good working knowledge of the situations that have occurred as far as dealing with the public in these cases. Regarding Mr. Herman's testimony about the tests, obviously there are people who do require the seismic companies to perform tests now. Is there a standard to the tests now performed, as far as you can identify as what we're looking for, as for seismic activity and the disruption to the water flow or quality? He made the comment that this could potentially stop oil development in the state.

Hinden: If I understand your question correctly, I'm not a water well tester. I did check with the Health Department to find out what kind of tests would make sense. I don't know that a nitrate or bacteriological type test would be necessary to do. It looks like a partial or full mineral chemistry would make sense to actually do. The Health Dept. actually has six or seven private water well testing labs in ND listed on their web site. The word certified is unnerving. It can mean something different on different levels. They do have 95 certified water well contractors in the state; of which 71 are from North Dakota. Getting back to your question, the Health Dept. does do those tests. I believe testing just from the Oil & Gas division over the years on different water samples would probably be adequate.

Nelson: Dave, what's the turn around time for the tests that you've been privy too?

Hinden: I don't know that. I haven't turned one in for several years. I could certainly find out from the Health Dept.

Nelson: In your experience, when someone has required a water well test, has that slowed the project?

Hinden: No.

Nelson: Thank you.

V. Chr. Porter: Mr. Hinden, just follow up on Rep. DeKrey's question on how the actual charge takes place. Are they designed so that it's more of a shaped charge where it's actually going down and out so that it's getting into the area that they want it to and less going up?

Hinden: The charge isn't necessarily shaped, but the fact that they pile the bentonite on top of it does direct the charge to get more energy facing downward rather than coming out of the hole like in the old days where they didn't plug them at all. That was probably the main problem for open holes in the 70's.

V. Chr. Porter: Any further questions for Mr. Hinden? Thank you. Is there further testimony in opposition or neutral to HB 1322? Hearing none, we'll close the hearing on HB 1322.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1322

House Natural Resources Committee

☐ Conference Committee

Hearing Date February 11, 2005

Tape Number	Side A	Side B	Meter #
1	x		0-1970

Committee Clerk Signature

Karen Bonnet

Minutes:

Chr. Nelson: Call to order. All members present at roll. I would ask the clerk to read the bill aloud. There are some amendments on your desk. We will take action today on HB 1322. On Pg. 3, Line 3, I would like to propose changing that seven day period to 30. There was concern in the oil industry that if a landowner or operator had some concerns about their well, at the last minute they could step in and stop a project. Changing that seven days to 30 would allow the seismologist and the crew more time to work that out. I think that change was made in the interest of the oil industry. Adding Section 3 would put a sunset after this biennium. The reason for that is that there are a number of problems that may occur because seismic crews are using lower pound charges than they did in the past. My concern is that there has not been enough seismic activity to know if the water wells are going to be damaged. I think we will have a better understanding at the end of this biennium because there is activity in oil country right now.

There is a lot of seismic activity taking place and that is going to take place. I think we will have

a much better picture of possible problems at the end of this biennium. This isn't part of the written amendment, but on Pg. 2, Line 29, I'd like to strike "any" and insert "the primary," so Subsection 8 would read, "Upon request of the operator of the land, the permitting agent must have a certified test performed on the primary domestic livestock or irrigation water supply located on the property." I propose that change so it clears up any uncertainty about a landowner or operator having every well tested even if they are not being used. This is done to give landowners and operators the ability and right to have their main water well tested. If they want to negotiate more than that then it would be their duty (to bring it up) before they sign the lease. With those changes, I would move that amendment.

Rep. Nottestad: You're going from seven to 30 days on the third page, third line. You still have a seven-day period on the second page, Line 14. Any reason why you aren't consistent on it?

Nelson: That's the time when the agent first contacts the landowner or operator. Within that period they have to give (the landowner) a copy of the section of code that gives that person the rights.

Nottestad: I understand what it is. My point is that if they failed to get that done within the seven days, it's a "must" in there. Could that invalidate everything that had been done? I think it probably would.

Nelson: My understanding of it is what Lynn Helms, Director of the Oil & Gas Division of the Industrial Commission told me. They make that notice at the initial contact and that the seven day period was adequate. That was language that he put together.

Rep. DeKrey: I'll move your amendment for you. As chairman you can't.

Rep. Drovdal: I second the amendment.

Nelson: Thank you. On Pg. 2, Line 14 there is a seven day period between initial contact of the permitting agent and the operator when the permitting agent must provide the operator of the land a written copy of Chapter 38-11.1. That's generally done at contact. That seven-day period just extended that.

Ron Ness, ND Petroleum Council: I believe that is generally done. I believe Oil & Gas has already implemented a policy whereby in their permitting process they are going to give the seismic crew notice that they need to give a written copy to these surface owners when they have that original meeting.

Rep. Nottestad: The word "must" is in there. Would that have any effect on it? Would it stymie (the project) if it wasn't done?

Ness: I think this is just a notice requirement that we would be fine with. I believe it's already in that contract that is provided between the two. The Oil & Gas Division since the hearing on this committee has already implemented an internal policy to require that.

Rep. DeKrey: Are you sure you want to change "any" to "primary?" Here's my reasoning. What is my primary well? I've got two places and one of them waters all my livestock when they are down there. When I come home, my primary well waters the farmstead and the livestock. Which one of those is my primary? I think it is more confusing if you take the "any" out. Maybe it makes the bill look more palatable but I think you're going to get into a debate sometime with some rancher about which was his primary well, and who is going to determine if it's the primary? Does the rancher determine it, or the oil company?

Chr. Nelson: I would agree with your analysis, but that was a concern raised by the oil industry about the number of wells that would have to be tested. I have no objection with that issue if it's an inactive well. The one's I am concerned about are the ones that are active and being used. If there is better wording, I would look at that as a favorable suggestion or amendment, if there is a better word. My rationale was that if the primary water source was listed in code and was tested, then I think that would trip the wires to that land owner or operator that he or she may want to negotiate other sources of water wells in the lease as well if there are concerns. If there is not, they still have that opt out provision in the legislation that they don't have to have it done. This is an opt in.

Rep. Hanson: On Line 25, I don't quite understand it. It says "excluding Saturdays and holidays," how about Sundays?

Chr. Nelson: That's Legislative Council's wording.

Hanson: I understand that, but I don't understand the use of just Saturdays, and leave out Sundays, unless you are a Seventh Day Adventist.

Rep. Charging: Is this the existing language that is already in the bill? We can change it.

Rep. DeKrey: Sunday is not a business day, by code. So I've seen this language before where Sunday isn't mentioned because Sunday is presumed not to be a business day.

Chr. Nelson: You have the motion by Rep. DeKrey, seconded by Rep. Drovdal. Is there further discussion on the amendment? Seeing none, I'll try a voice vote. All those in favor of the amendment, signify by saying aye. Opposed, same sign. Motion carried. (Unanimous.) What is the committee's wishes?

Rep. Hanson: I move Do Pass as Amended.

Chr. Nelson: Rep. Hanson moves a do pass, is there a second?

Rep. Kelsh: Second.

Chr. Nelson: Committee discussion.

Rep. Nottestad: I'm going to oppose the motion. I see no reason for a bill which is really retrospective to the 1970's, early 80's. Contrary to what Chr. Nelson said, there has been seismographic activity with lesser (dynamite) charges. We didn't hear anything pertaining to problems with charges of that sort. I see this as legislation to clutter up the books just to make someone feel good. I see no reason for that.

Chr. Nelson: Further discussion?

Rep. Kelsh: I will support the bill. It goes back a long way. Since the last interim, we've changed Administrative Rule so that these charges are being detonated at a much closer range. There may be necessity for a change.

Rep. Solberg: I agree with Rep. Kelsh. The Administrative Rules changed it from 1,320 feet to 660 feet. If that had not been changed by Administrative Rules, I would more than likely not be in favor of this bill, but I think that's way too close and there may be some damage. So I would have to support this.

Rep. DeKrey: The reason they moved the feet for the charges is that the charges have gotten a lot smaller. I know quite a bit about explosives. That's what I teach in the National Guard. I know all about TNT equivalents, C4 and whatever they're using. A five-pound charge is minuscule. A 2 ½ -pound block of C4 doesn't create a real big bang. Two of those would be a five pound charge. The thing with explosives is, the amount of bang you get out of it is determined by how it's deployed. If you take that five pounds and lay it on a table and detonate

it, it's not going to be much more than a great big firecracker because there is nothing to contain the energy. If you stick that same five pounds in the ground and tamp it down, that will amplify the charge geometrically. That's what they are doing when they stick these in the (seismic) hole and put mud on top of it. When you compare that to the 200 pounds that they were using, which is now down to five pounds, ...(unfinished). The blast area when using explosives is geometric. It's not if you have five pounds it has to be five feet, 10 pounds/10 feet. If you pack it and go from five to 10 it will extend your danger area much further. The size of the charge and the number of pounds that they have decreased it by, created less energy to be released. I think the Administrative Rules Committee took the testimony on that and realized what was happening. I don't even know if you would feel a 10-pound charge (detonated) 60 feet down from the surface. You would have to have the instrumentation that the seismic people have to even really feel it unless you were on top of it. If you're going to be a quarter mile away from it, I don't even know if you'd hear a noise. I think that not voting for the bill because we changed the distance of the charge doesn't hold.

Rep. Solberg: I'm not a demolition expert but I know that five pounds of explosives is a lot. Some of these water veins that we have our wells in are very fragile and subject to any kind of a disturbance. I would not agree that five pounds is just a small charge and that's why the distance went to 660 feet.

Chr. Nelson: I would counter one thing that Rep. DeKrey commented on. The Administrative Rules committee wasn't going from 200 pounds to five pounds, but from a 20 or 25 pound-charge to five pounds. Rep. DeKrey and I are both on the Administrative Rules Committee and heard the rule last summer. That was the reason for the bill. I think it's

important to know that we are the only state in the region that has setbacks of 660 feet. Most of the oil-producing states around us are still at 1,320 feet. In making that change, we've significantly changed the possibility of damage. I would agree with Rep. DeKrey that chances are that there's not going to be a problem, but I think for a two year period, until we *know* (the outcome), I make no apologies for being on the safe side for the protection of landowners and the ranchers that derive their living from the land in that area of the state. One of the main parts of this whole discussion was the fact that in many cases if the landowners have a problem, they are not ready to be able to resolve it because they don't have a test. I think the main thing about this whole bill is that there is a baseline that is set and would direct from the state that the baseline be provided and I think it would continue in the future as common practice. I think this two-year period would give landowners enough time to come up to speed on what they need to do to protect themselves. I don't see where this is an undue burden on the industry.

Rep. Nottestad: You said that they could request a test. Is there anywhere in the contract that is signed between the landowner and the seismograph crew that states that they *can't* have a test?

Chr. Nelson: No. You're right. They can negotiate that now. If we want to leave it (bill) open-ended and leave it up to the landowner, that is certainly a possibility. But I think the state has a responsibility in this area because of the changes that we have allowed the industry to make with the setbacks. That's a discussion for the floor.

Rep. Norland: Without the sunset clause, I wouldn't support it. With the sunset clause, I can't see that it would hurt anything. I will support it with the sunset clause.

Chr. Nelson: Further discussion?

Page 8

House Natural Resources Committee

Bill/Resolution Number HB 1322

Hearing Date February 11, 2005

Rep. Charging: This is one of the bills that I have had the most calls on. I explained to people that the technology has changed regarding the lesser charges, but they still argue the point. I will support the bill since the sunset clause was added to the amendment.

Chr. Nelson: Further discussion?

Rep. Norland: Call for question on it.

Chr. Nelson: I will ask the committee clerk to call the roll on a

Do Pass as Amended motion on HB 1322:

Vote: 8-Yeas; 5-Nays; 1-Absent; CARRIER: Nelson

50355.0301
Title.

Prepared by the Legislative Council staff for
Representative Nelson
January 26, 2005

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1322

Page 1, line 3, after "exploration" insert "; and to provide an expiration date"

Page 3, line 3, replace "seven" with "thirty"

Page 3, after line 4, insert:

"SECTION 3. EXPIRATION DATE. This Act is effective through July 31, 2007,
and after that date is ineffective."

Renumber accordingly

January 26, 2005

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1322

Page 1, line 3, after "exploration" insert "; and to provide an expiration date"

Page 2, line 29, replace "any" with "the primary"

Page 3, line 3, replace "seven" with "thirty"

Page 3, after line 4, insert:

"SECTION 3. EXPIRATION DATE. This Act is effective through July 31, 2007,
and after that date is ineffective."

Renumber accordingly

February 11, 2005

VR
2/11/05

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1322

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and after that date is ineffective."

Renumber accordingly

Date:

Roll Call Vote #:

2/11/05

1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1322

Exploration permit reg. 2

House

NATURAL RESOURCES

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number :

Action Taken : NO Pass as Amend

Motion Made By : DeKrey Seconded By : Drovdal

Representatives	Yes	No	Representatives	Yes	No
Chairman - Rep. Jon O. Nelson	✓		Rep. Lyle Hanson	✓	
Vice Chairman - Todd Porter	Abs		Rep. Bob Hunsakor	✓	
Rep. Dawn Marie Charging	✓		Rep. Scot Kelsh	✓	
Rep. Donald L. Clark		✓	Rep. Dorvan Solberg	✓	
Rep. Duane DeKrey		✓			
Rep. David Drovdal	✓				
Rep. Dennis Johnson		✓			
Rep. George J. Keiser		✓			
Rep. Mike Norland	✓				
Rep. Darrell D. Nottestad		✓			

Total (Yes)

8

No

5

Absent

1

Floor Assignment

Nelson ✓

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

REPORT OF STANDING COMMITTEE

HB 1322: Natural Resources Committee (Rep. Nelson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (8 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING). HB 1322 was placed on the Sixth order on the calendar.

Page 1, line 3, after "exploration" insert "; and to provide an expiration date"

Page 2, line 29, replace "any" with "the primary"

Page 3, line 3, replace "seven" with "thirty"

Page 3, after line 4, insert:

"SECTION 3. EXPIRATION DATE. This Act is effective through July 31, 2007, and after that date is ineffective."

Renumber accordingly

2005 TESTIMONY

HB 1322

Good morning Mr. Chairman and members of the House Natural Resources Committee. I am before you this morning to introduce HB 1322 and explain its provisions to you.

Last summer the Oil and Gas Division promulgated rules that allowed a reduction in setback distance by geophysical operations conducting tests around water wells from 1320 feet to 660 feet. This was done to promote more exploration for oil and gas production in our state and the Administrative Rules Committee approved their adoption. The reason that industry experts and the Oil and Gas Division felt this was warranted was that the shot size that is used today is much less powerful than was used in past years.

There was a concern though from landowners and land operators regarding damage to water wells with this change in rulemaking. Several landowners testified that in past exploration, wells were damaged and because there wasn't prior testing of the well, damage to the well was difficult if not impossible to prove. Most of these claims came prior to the Oil and Gas Division assuming jurisdiction in monitoring geophysical activity.

HB 1322 is being introduced as a property rights protection to landowners and operators in these areas. The bill simply requires landmen or permitting agents to disclose the rights to landowners regarding damage to wells prior to the seismic activity taking place. The most important safeguard is in Section 2- subsection 8 of the bill that requires the landmen to perform a certified water test on the well "before" the activity takes place. This would create a baseline for determining if any damage has taken place after the completion of the exploration. I have also attached an estimate of the cost of this test in my testimony.

This bill was drafted in consultation with Lynn Helms and others in the Oil and Gas Division and although most of these provisions are currently part of the current practice, they are not required by state law.

With the passage of HB 1322, permitting agents will be afforded more liability coverage regarding false claims of water well damage, landowners will be afforded more protection regarding their rights in dealing with the oil and gas industry, and in the end, all will benefit because of the increased level of trust between the two parties.

I humbly ask for you to consider a DO PASS recommendation on HB 1322 and thank you for this opportunity.

Sathe Analytical Laboratory, Inc.**301 W. 2nd Street****P.O. Box 1527****701-572-3632****Williston, ND 58801****AGRICULTURE ANALYSIS**

Grain, Feeds, & Hays	Price
TDN-NIR (includes protein, moisture, fiber, TDN, ENE, Calcium, magnesium, potassium, and phosphorous)	\$19.00
Protein (kjeldahl)	\$8.00
Test Weight	\$4.50
Moisture	\$5.00
Dockage	\$6.00
Germination (cereal grains & oilseeds)	\$8.00
Oilseed Oil content (goldfinch extraction)	\$10.00
Free Fatty Acid	\$15.00
Peroxide Number	\$15.00
Iodine Value (Wijs)	\$20.00
Nitrate (forage and hays)	\$12.50
Prussic Acid (forages and hays)	\$12.50
Safflower Color	\$10.00
Water Analysis	
Drinking / Livestock / Irrigation (includes pH, Resistivity, Specific Gravity, CO ₃ , SO ₄ , HCO ₃ , Cl, Ca, Na, Mg, Fe, K, NaCl, Total Hardness, NO ₃ , and Total Dissolved Solids.)	\$50.00
Salinity (NaCl)	\$12.50
Nitrate	\$12.50
Total Hardness (as CaCO ₃)	\$25.00
Total Dissolved Solids	\$25.00
pH	\$5.00
Total Suspended Solids (Filterable Solids)	\$25.00
Solids Identification (quantitative)	\$80.00
Tannins & Lignins	\$25.00
Fuel Analysis	
Diesel / Gas Contamination	\$50.00
Pour Point (diesel fuel)	\$25.00
Cloud Point (diesel fuel)	\$25.00
Cetane Index (calc. diesel fuel)	\$50.00
Soil Analysis	
Standard Soil - Nitrate Nitrogen, phosphorous, potassium & pH (includes fertilization recommendations.)	\$25.00
Nitrate Nitrogen	\$12.50
Phosphate Phosphorous	\$12.50
Potassium as K₂O	\$12.50
pH	\$5.00
Trace Nutrients (Fe, Zn, Cu, Mn, and Sulfur)	\$35.00
Salt Contamination (Cation Exchange) (includes Na, K, Mg, Ca, So ₄ , Cl, and SAR)	\$55.00
Conductivity	\$15.00

All samples will be retained for 30 days and then discarded.

Please include a check payable to SATHE LABS, INC. with your sample or a billable address. Fax service is available.

By: Bill Devlin
HB 1322
1/20/05

Good Morning Chairman Nelson and members of the House Natural Resources Committee. For the record, I am Rep. Bill Devlin, of District 23 from Finley. This is my first appearance before this esteemed group and I welcome the opportunity to be here this morning.

HB 1322 has its roots in a hearing that we had in Administrative Rules Committee, which I chaired, during the interim.

While we were dealing with some rules from the Oil and Gas Division we had some requests from property owners in western North Dakota asking us to pass a rule to give them some protections during geophysical exploration activity.

They were very concerned about threats to their water wells for home use as well as threats to water supplies for livestock and irrigation.

They were under the mistaken impression that the Administrative Rules Committee could change state law to make the changes they sought. Of course we do not have the power to in-act state law as only the legislature can do that.

Some of us agreed that we would bring forth legislation to allow the legislature to have the debate on this issue.

I will leave it up to the wisdom of this committee to decide not only whether it has merit but if it does whether this is the proper language needed to answer their concerns.

I appreciate the opportunity to appear before you and ask that you hold any questions you might have for the property owners and other experts that will follow me.

Dakota Resource Council

P.O. Box 1095, Dickinson, ND 58602-1095

701-483-2851; www.drcinfo.com

Bismarck office: 701-224-8587

Fargo office: 701-298-8685

Testimony

HB 1322

House Natural Resources Committee

January 20, 2005

Mr. Chairman and Members of the Committee:

My name is Cindy Klein and I am the Oil and Gas Organizer for Dakota Resource Council in Dickinson.

Several of our members had hoped to attend today's hearing but were unable to do so because of the weather and other circumstances.

Dakota Resource Council (DRC) works to change policy regarding sustainable energy, responsible oil and gas development, fair trade in agriculture and other issues that directly affect our 600+ members.

I am here today, to provide you with DRC's formal testimony on HB 1322.

The reason that we asked for this bill is because we recognize that water is one of North Dakota's most valuable resources and that it should be protected at all costs.

In May of 2004, the distance that seismic charges must be set back from a water well or other sensitive area was cut in half by the Interim Rules Committee, from 1320 feet to 660 feet. At that time, DRC submitted comments opposing the rule change, and the vote at the final hearing in July 2004 was 10-9 to not hold over this rule change---a very close vote.

The actions that followed were a direct result of this rule change and can be attributed to the bi-partisan support for this bill.

We feel that if a seismic company wants to negotiate an agreement with an operator of the land, the operator of the land should have every resource available to protect his or her water, and one of those resources is section 38.11.1 of the North Dakota Century Code. Every operator of the land who

is going to be impacted by oil and gas development should receive a copy of this statute, which is the Oil and Gas Production Damage Compensation. This bill will require the permitting agent to provide the operator of the land with a copy of that statute within 7 days of the agent's first contact with the operator of the land to discuss negotiation for seismic activity.

We also feel that if a seismic company wants to do seismic operations across someone's land, the seismic company, not the landowner, should be responsible for the costs involved in testing any wells at the request of the landowner. If seismic company wants to explore an area, they should be, upon the request of an operator of the land, responsible for the cost of these well tests. Farmers and ranchers cannot afford these extra costs.

There are a couple of small sections of language in this bill that do not coincide with language from 38-11.1.

The first item is on page 1, line 4, it states "permitting agent" but on page 2, line 24, it says "permit holder". These should be described in the same manner.

On page 2, line 28-29, it states that: "Upon the request of the operator of the land, the permitting agent must have a certified test....." This is in conflict with 38-11.1-06 where it states:

"If the domestic, livestock or irrigation water supply of any person who owns an interest in real property within one-half mile of where geophysical or seismograph activities are or have been conducted or within one mile of an oil or gas well has been disrupted or diminished in quality or quantity by the drilling operations and a certified quality and quantity test has been performed by the person who owns an interest in real property within one year preceding the commencement of drilling, the person who owns an interest in the real property is entitled to recover the cost of making such repairs, alterations, or construction that will ensure the delivery to the surface owner of that quality and quantity of water available to the surface owner prior to the commencement of drilling operations.."

We need to clarify this, as the language, in our opinion should be the same.

This must also be clarified in section 8 on page 3, lines 1-2.

It is our understanding that the North Dakota Petroleum Council has an issue with the language of section 8 in this bill. When we discussed this with the Legislative Council, DRC expressed concern and the former three-day limit was changed to seven days. Our intent is to not in any way disrupt or delay a legally permitted seismic project.

DRC has no problem with designating some sort of deadline to give to operators of the land to request that their wells be tested to insure that the seismic projects would not be delayed. DRC would not object to changing this language to a reasonable timeframe, yet to be determined, as long as the operator of the land has had at least 6 months to have their wells tested.

The worry that we have is that a "bad operator" would use the language from 38-11.1 where it states that a certified well test must be done within the preceding 12 months, and intentionally extend their project in order to make that certified test exempt.

This bill would be an insurance policy to both the operator of the land and to the permitting agent. It would eliminate any doubt as to the integrity of a well prior to seismic exploration. In the event of damage, which can be catastrophic in its long-term effects, the landowner is only able to prove claim by comparison to a water quality and quantity test which must be completed within the 12-month period preceding the seismic activity.

This legislation will not deter or unduly delay development projects conducted by reputable operators, but will only result in more reasonable protections for resources and the operators of the land.

Cindy Klein
Dakota Resource Council
Dickinson, ND

Read by: Cindy Klein
Dakota Resource
Council, Dickinson

Re: HB 1322

Testimony of Don Nelson, Keene, North Dakota
House Bill 1322
House Natural Resource Committee
Jan. 20, 2005

Mr. Chairman and Members of the Committee,

My name is Don Nelson and I ranch with my family near Keene. We have lived with oil and gas development for many years around us.

First, the NDPC claims testing the wells will be too costly. That is exactly our point. Not all water sites will need to be tested, only the ones negotiated between the landowner and permitting agent. The landowner should not be responsible for this cost. Not only the financial cost but the cost of the time it takes to arrange for the wells to be tested. Most people, especially ones who will now be affected by new development, do not realize they should test until it is too late and then the proof is gone.

Second, the NDPC claims that there haven't been any instances of damage to wells from seismic activity for 20 years. This is not true. We were able to find instances where landowners felt that there were damages but the costs associated with taking the cases to court were too daunting and one cannot wait for a lengthy court battle to get water. Remember, the responsibility lies with the landowner to prove that damage did occur. Those that had damages found it was cheaper to either repair wells or drill new wells than to go to court.

The money that would be involved is not much to the industry but it is a lot to farmers and ranchers. As the current law exists we as landowners incur the cost of testing and then litigation if there is a problem, or incur the cost of developing new water system whether it is well, natural spring, or dams. The NDPC believes the money paid for the right to access our private land and damages to crop and grass also includes major damages such as a well failure. Do they believe if they should start a fire and burn our crop or our farmsteads that this money also covers that?

With this bill there will be no questions about possible damages to wells and other water sources.

Don Nelson
Keene, ND

Submitted by: Cindy Klein
Dakota Resource Council
Dickinson, ND

Re: HB 1322

Mr. Chairman, Members of the committee...

This is my formal testimony regarding HB 1322 and I ask that you submit it into the official record of this hearing.

Thank you for giving me the opportunity to be heard today.

It is my opinion that any seismic shot hole be setback at least 1320 feet from any existing water well.

It is my opinion that the state should be responsible for testing those water wells before the seismic charges are set off.

The state should follow up on those wells with testing for a several years following seismic exploration, as these damages do not always show up right away.

I have had to deal with the Oil and Gas Division for a number of years and it is not cheap for us, as landowners to keep fixing our land back so it is useable.

The surface damage compensation that we receive does not come close to what we will lose off that parcel of land where oil well and land damages occur.

On our land, there are places where shot holes are caved in and My father had to fill in and the grass took years to start back in this area and the ruts from the equipment can still be seen.

Sheryl Turbiville
6510 162nd Ave SW
Rhame, North Dakota

Submitted by: Dakota Resource Council
Not Red.

THIS IS THE WRITTEN FORMAL TESTIMONY FROM MELVIN WISDAHL REGARDING HB 1322.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I WOULD LIKE TO HAVE THIS WRITTEN TESTIMONY SUBMITTED FOR THE RECORD FOR TODAY'S HEARING.

I AM A FARMER IN NORTHERN WILLIAMS COUNTY AND HAVE BEEN FOR MANY YEARS.

WATER IS A VALUABLE RESOURCE TO US AND THERE WOULD BE NO FAMILY FARMERS AND RANCHERS WITHOUT IT.

I AM ASKING YOU TODAY TO SUPPORT THIS BILL.

I FEEL THAT THIS BILL IS AN INSURANCE POLICY FOR FARMERS, RANCHERS AND OTHER LANDOWNERS, AS WELL AS, OUR OIL AND GAS DEVELOPMENT INDUSTRY.

I KNOW THAT THERE ARE MANY FARMERS WHO WOULD NOT BE ABLE TO REPLACE THEIR WATER WELLS IF THEY WERE DAMAGED BY SEISMIC CHARGES. THEY NEED A WAY TO PROTECT THEMSELVES.

MOST LANDOWNERS HAVE NOT BEEN MADE FAMILIAR WITH THEIR RIGHTS ACCORDING TO NORTH DAKOTA CENTURY CODE REGARDING THE OIL AND GAS PRODUCTION DAMAGE COMPENSATION SECTIONS.

THIS BILL WILL GIVE THOSE LANDOWNERS A CHANCE TO PROTECT THEIR WATER SOURCES.

CERTIFIED WELL TESTING IS VERY EXPENSIVE. IF I WERE NEGOTIATING AN AGREEMENT TO ALLOW SEISMIC ACTIVITY ON MY FARM, I WOULD NOT BE ABLE TO PAY FOR THOSE TESTS. I HAVE SEVERAL WATER SOURCES ON MY FARM AND HAVE FOUND THAT THE TESTING CAN COST UP TO \$700 PER WELL. I SHOULD NOT HAVE TO PAY TO PROTECT MY WATER.

WITH OUR OIL AND GAS INDUSTRY DEVELOPING STRONGLY AGAIN, WE CAN BE ASSURED THAT WE WILL SEE SEISMIC PROJECTS IN AREAS THAT MAY HAVE NEVER BEEN EXPLORED BEFORE. THESE LANDOWNERS ARE INEXPERIENCED IN THE LAWS AND RULES OF OUR STATE. THEY NEED TO HAVE THE OPPORTUNITY TO BECOME FAMILIAR WITH THEM, AND THIS BILL WILL GIVE THEM THAT CHANCE.

I THANK YOU FOR THE OPPORUNITY TO SUBMIT THHS TESIMONY.

RESPECTFULLY,

Melvin Wisdahl

MELVIN WISDAHL

ALAMO ND

By: Josh Kramer
HB: 1322

North Dakota Farmers Union

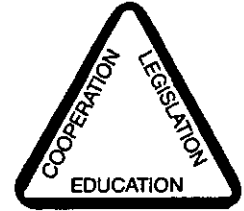
PO Box 2136 • 1415 12th Ave SE • Jamestown ND 58401

701-252-2340 • 800-366-NDFU

FAX: 701-252-6584

WEBSITE: www.ndfu.org

E-MAIL: ndfu@ndfu.org



House Bill 1322
Natural Resources

Chairman Nelson and Members of the House Natural Resources committee,

My name is Josh Kramer; I am here representing over 35,000 members of North Dakota Farmers Union. I am here to testify in favor of HB 1322.

Section 1-3

-NDFU members believe there should be setbacks from all water sources, to decrease the chance of water source damage

Section 8

-NDFU is in favor of improved notification requirements for landowners and adjacent landowners when mineral exploration is to be done.

Section 8

-Our members also call for notice to allow for water well testing. In local areas with a lot of mineral exploration going on, it may be difficult to get testing done in a few days.

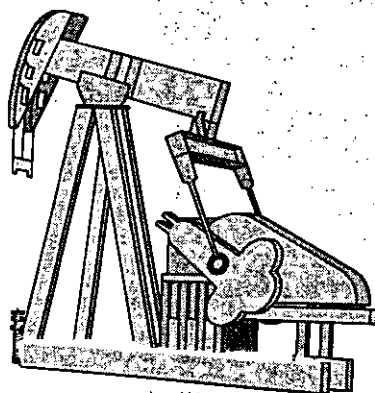
Section 8

-Some might oppose required testing of wells in the last section, but it is a very necessary step if damage to a water source occurs. It would seem that if water wells are not damaged, the oil exploration company would want that documented as well. In the case of an adjacent landowner trying to claim damages to a well, a certified test should help prove damage claims.

Thank you Chairman Nelson and Members of the House Natural Resources committee, I would be willing to answer any questions that you have at this time.

**NORTH DAKOTA
OIL & GAS
INDUSTRY**

**FACTS
&
FIGURES**



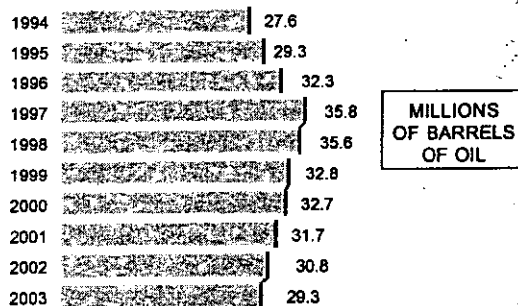
2004 EDITION

**NORTH DAKOTA
PETROLEUM COUNCIL**

NORTH DAKOTA'S OIL PATCH STATS FOR 2003

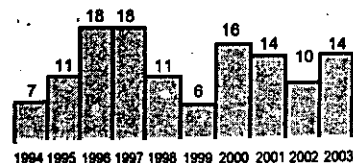
- ◆ North Dakota is the ninth largest oil producing state. The state produced just over 80,000 barrels of oil per day in 2003, totaling nearly 30 million barrels for the year.
- ◆ All-time production of crude oil in North Dakota amounts to more than 1.4 billion barrels.
- ◆ At the end of 2003, there were 3,243 wells capable of producing oil and gas in North Dakota. The average North Dakota well produced approximately 22 barrels per day.
- ◆ During 2003, 57.9 billion cubic feet of natural gas was produced and 51.6 billion cubic feet of natural gas was processed in North Dakota.
- ◆ The state's oil production dropped significantly in 2003 for the sixth consecutive year. Total oil production for the year was 29,345,807 barrels, down 1,449,733 from the previous year.

ANNUAL CRUDE OIL PRODUCTION (BARRELS) IN NORTH DAKOTA



- ◆ The drilling rig count, which is a prime barometer for measuring new oil and gas activity, averaged 14 rigs a day in 2003. The peak year for drilling rigs was 1981, with average monthly rig count of 119. The all-time high was in October of 1981 with 146 rigs operating.

AVERAGE NUMBER OF DRILLING RIGS

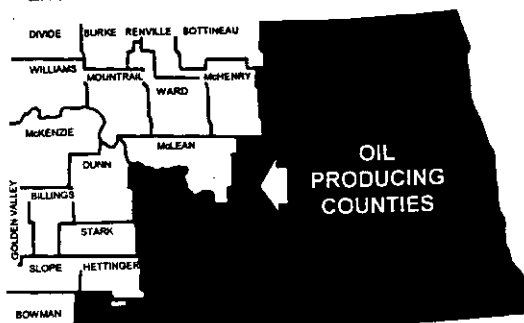


- ◆ There were 143 drilling permits issued during 2003, compared to 121 the previous year. Approximately 110 wells were completed during the year – up 1% from the previous year.
- ◆ Horizontal, or directional, drilling accounted for 73% of the new wells drilled in 2003 and accounted for 33% of the state's total oil production.
- ◆ The success ratio for wells in existing fields in 2003 was 93% and for wildcat wells it was 40%. Horizontal wells were successful 98% of the time. The overall industry success rate in North Dakota for 2003 was 91%. A wildcat well is a new well drilled at least one mile from existing production.
- ◆ The deepest vertical well drilled last year in North Dakota was 14,200 feet. The average depth for a North Dakota well in 2003 was 11,139 feet compared to 6,219 feet nationwide. The deepest horizontal well drilled last year in North Dakota was 18,262 feet.
- ◆ The average cost of completing an oil well in North Dakota was approximately \$1,225,000 during 2003. The average cost of completing a well in the U.S. in 2002 was \$755,000.

WHERE THE OIL COMES FROM

- ◆ There are 17 counties in the state with commercial oil production. Oil and gas exploration has occurred at some point in every county in the state except Traill County.
- ◆ Bowman County was the top-producing county in 2003 accounting for 18.4% of the state's oil production. The other top-producing counties were Mountrail and Grand Forks.

ing counties were McKenzie, Billings, Stark, and Williams.



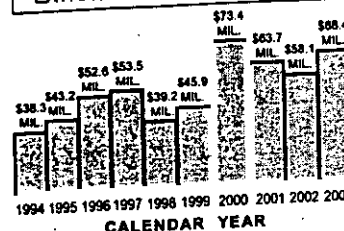
OIL PATCH EMPLOYMENT

- The state averaged 1,900 North Dakotans at work in the oil patch in 2002. Peak oil field employment occurred in late 1981, when more than 10,000 people were working in the oil patch.
- Each drilling rig results in approximately 120 direct and indirect jobs.
- Other sectors of the petroleum industry include refineries, gas plants, pipelines, retail gasoline stations, wholesalers, and transporters. The industry altogether employed almost 8,500 people in North Dakota in 2002.
- Job Service North Dakota reports that in 2002 the average yearly wage in the mining industry, which includes oil and gas extraction, coal mining, sand and gravel, and support activity for mining was \$49,153. That wage is 85% above the statewide average wage of \$26,550.

OIL TAX REVENUES HIGH IN 2003

- Higher crude oil prices in 2003 led to huge tax collections for the State of North Dakota. Counties, schools, and cities benefited from increased oil and gas tax collections as well. State tax revenues for 2003 were \$68.4 million representing a 1.2% increase from 2002.

*OIL AND GAS PRODUCTION AND EXTRACTION TAX COLLECTIONS



*Total collections reflect all revenue paid by the industry, including the counties' share of the 5% production tax and the trust fund portion of the 6.5% extraction tax.

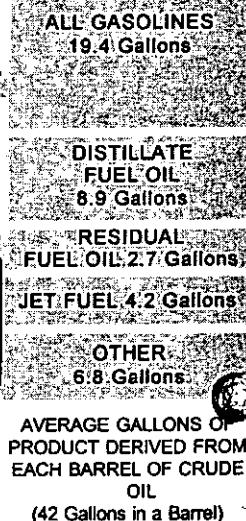
- All-time oil tax revenues to the State have exceeded \$1.9 billion.
- The average production and extraction tax paid on crude oil in 2003 was 7.7%. The tax rate on crude oil varies between 5% and 11.5% depending upon the type of well.
- The State collected \$46.6 million in sales tax from the oil and gas industry in 2003, up 41.1% from 2002.
- The tax on natural gas in 2003 was seven cents per thousand cubic feet (mcf). In 2003, the State collected more than \$3.6 million in natural gas taxes.
- Over the past 53 years, the State of North Dakota has received nearly \$460 million from oil and gas leases, bonuses, royalties and rentals on State land. During 2003, over \$1.4 million went to the Lands and Minerals Trust and over \$8.1 million to the Board of University and School Lands Trust.
- U.S. Forest Service administered lands in the Little Missouri National Grasslands provided oil and gas revenues of \$11.8 million during fiscal year 2003. Of that amount, one-fourth, or \$2.9 million was returned to McKenzie, Billings, Golden Valley and Slope Counties for schools and roads. In addition, Bureau of Land Management administered land produced more than \$9.8 million during fiscal year 2003. Half of that amount, \$4.9 million, was returned to the State's general fund and is the first money expended for education statewide.

RESPONSIBLE DEVELOPMENT ON PUBLIC LANDS

- ◆ The oil and gas industry in North Dakota has explored and drilled the grasslands for over 50 years and has a proven track record of being able to produce oil without disrupting the environment or wildlife.
- ◆ The industry, in cooperation with the Forest Service, has reclaimed over 700 wells and 280 miles of roads in the national grasslands. This represents 5,290 acres returned to vegetation after the oil and gas reserves were depleted.
- ◆ Twenty-four percent of the state's oil production and 22% of the state's producing wells are on the grasslands.

REFINING AND TRANSPORTATION

- ◆ The state's only operating crude oil refinery is at Mandan. It has a daily capacity of about 60,000 barrels.
- ◆ There are nine natural gas processing plants operating in western North Dakota. They are located near Tioga, Ambrose, Killdeer, Lignite, Rhame, Gorham, Arnegard, Trotters, and Marmarth.
- ◆ The nine natural gas processing plants processed enough natural gas in 2003 to heat 464,000 North Dakota households for one year. 43% of the homes in North Dakota use natural gas as their primary heating fuel.



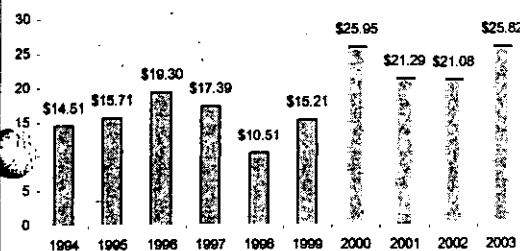
GASOLINE – CONSUMPTION & TAXES

- ◆ North Dakotans pay 21 cents state tax and 18.4 cents federal tax on each gallon of gasoline and diesel fuel they buy.
- ◆ North Dakotas used over 367 million gallons of gasoline in 2003, and nearly 395 million gallons of diesel fuel.
- ◆ Gasoline and special fuels taxes raised nearly \$116 million in tax revenue during 2003 – up from \$113 million the previous year. These funds are used primarily for road construction.

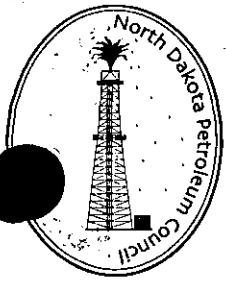
HISTORY

- ◆ April 4, 2001 marked the 50th Anniversary of the discovery of oil in North Dakota. It was on April 4, 1951, that the Clarence Iverson #1 well came in near Tioga in Williams County. That well produced more than 585,000 barrels of oil over 28 years.
- ◆ Prior to the discovery of oil in 1951, 64 wells had been drilled in the state dating back to 1910. Since 1951, another 14,157 wells have been drilled in North Dakota.
- ◆ The average crude oil posted price for North Dakota in 2003 was \$25.82 per barrel. That represents nearly \$5 a barrel increase from the 2002 average.

Average Crude Prices for last 10 Years



By: Ron Ness



North Dakota Petroleum Council

Ron Ness
President
Marsha Reimnitz
Office Manager

Email: ndpc@btinet.net
Phone: 701-223-6380
Fax: 701-222-0006
120 N. 3rd Street • Suite 225
P.O. Box 1395
Bismarck, ND 58502-1395

House Bill 1322

House Natural Resources Committee

January 20, 2005

Mr. Chairman, and members of the Committee, my name is Ron Ness, President of the North Dakota Petroleum Council. The North Dakota Petroleum Council represents more than 100 companies involved in all aspects of the oil and gas industry including oil and gas production, refining, pipeline, mineral leasing, consulting, legal work, and oil field service activities in North Dakota, South Dakota, and the Rocky Mountain region. I appear before you today in opposition of House Bill 1322.

We believe this bill is a solution looking for a problem. Since the Industrial Commission's Oil and Gas Division took over the regulation of geophysical activities in 1997 from the individual counties, there have been 96 geophysical operations and NO complaints of damage to water wells were filed with their office. Prior to that change, there were plenty of issues; however, any complaints relating back to the 1980's should not be part of today's discussion. Geophysical technology and use has changed; but it's still a critical element of the oil and gas exploration business. This bill places a financial and timing burden on geophysical operations. The costs of these projects are astounding. We are fortunate in North Dakota to have companies interested in conducting geophysical operations. They allow science to more precisely determine where oil and gas reservoirs exist and reduce the chances of drilling dry wells and the associated impacts.

Attached to my testimony is a chart from the International Association of Geophysical Contractors (IAGC) showing the commonly used safe distance chart for geophysical operations. As you can see, North Dakota's present law of 660 feet from water wells, buildings, underground cisterns, pipelines, and flowing springs is well within safe distances (NDCC 43-02-12-05) by IAGC and other studies. Unless waived or altered by the landowner in the surface use written agreement, this is the distance a geophysical operation must be from these structures. On Forest Service lands, the U.S.D.A. allows five pound charges to be within 145 feet of cultural resource structures and other facilities and ten-pound charges must be 205 feet away. Once again, this bill is a solution looking for a problem.

Also attached is a copy of a geophysical operation conducted last year in western North Dakota. As you can see, the geophysical company representative, usually a North Dakota landman, met with each surface owner and they negotiated the terms and conditions of the surface use agreement. In this case, two landowners requested that their wells be tested, and it was done. Others signed variances to allow the geophysical operation closer than 660 feet but required them to stay 400 feet away. In all cases, the landowners were well compensated for the surface use. The NDIC Oil and Gas Division is provided copies of this information to assist them in regulating the seismic activities. Our research shows that in this 50 square mile geophysical operation, there were 53 water wells and 33 water springs - had this law requiring water well testing been in place, 86 tests might have been required to be performed. Our data shows that an average test costs around \$600 which means $\$600 \times 86 =$ nearly \$52,000 in additional expense. Our companies indicate that if a well is tested before seismic activity, another test is needed afterward to determine that no damage has occurred to limit pending liability through no fault of geophysical operation. This more than doubles the surface use payments for the project. At some point, these additional costs can discourage the use of geophysical operation in North Dakota. To my knowledge, no other state in this region requires such testing.

Other issues with this bill:

- The timing is bad – seven days notice is not enough to complete the work.
- What is a certified test? Can the work get done in time if required?
- How long is the test applicable for liability?
- From where does the half-mile start?
- It appears the bill includes testing when vibroseis is used. This must be changed?

We believe that landowners currently do not file complaints because the issues are not significant and the compensation for surface use is more than adequate. If landowners want tests now, it's generally done as part of the agreement. If it becomes a requirement upon request, then maybe the landowner should front the costs unless damage is verified. This is similar to credit checks or cholesterol checks – if it's free – sign me up every time. If I have to pay or share the costs – I will only do it when it's a concern.

We urge a Do Not Pass on this bill. I would be happy to answer any questions.



SAFE OPERATING DISTANCE CHART

COMMONLY USED AND ACCEPTED BY THE GEOPHYSICAL INDUSTRY

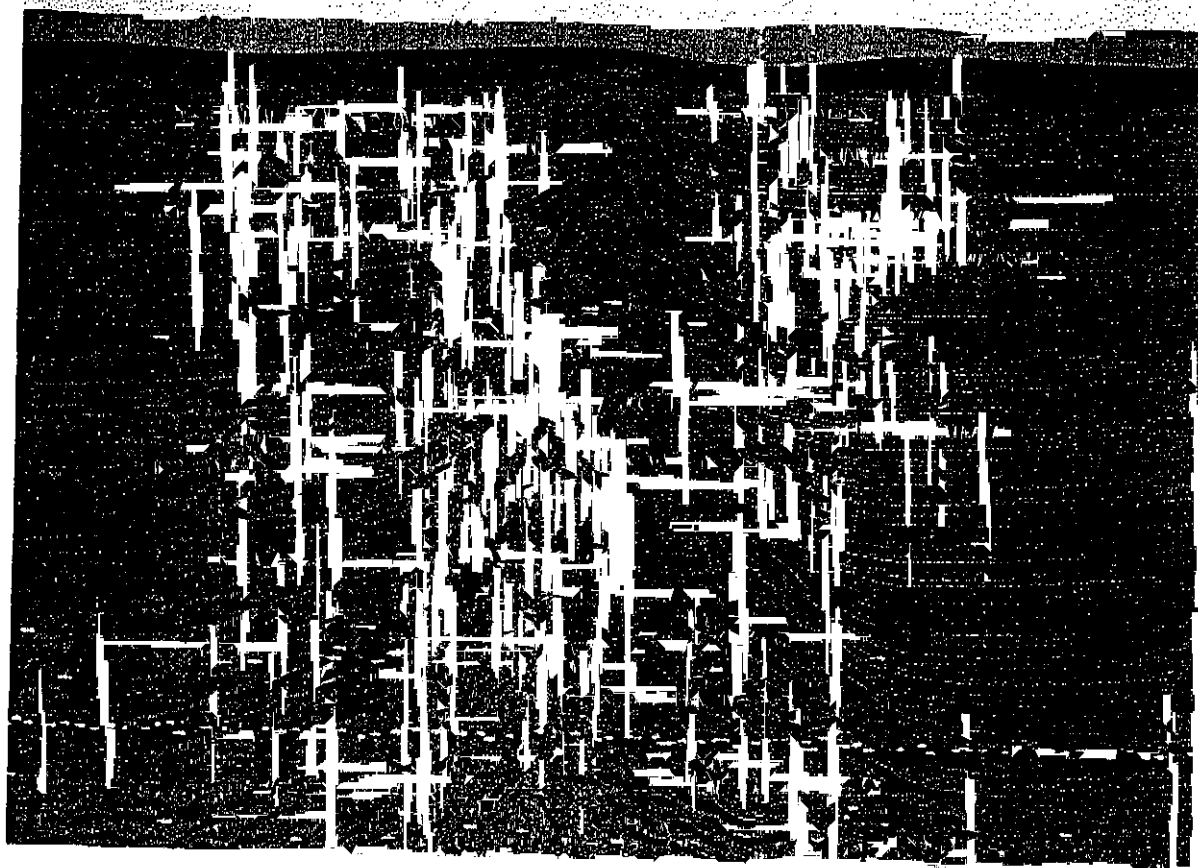
	Explosives Energy Source Charge size shown in pounds					Vibro- seis
	5 or <u>under</u>	6 to <u>10</u>	11 to <u>20</u>	21 to <u>40</u>	41 to <u>100</u>	
Pipeline less than 6" diameter	100'	140'	190'	230'	290'	300'
Pipeline 6" to 12" diameter	150'	215'	280'	350'	430'	300'
Pipeline greater than 12" diameter	200'	290'	380'	460'	580'	300'
Telephone lines	40'	56'	76'	80'	115'	**
Railroad track or main paved highway	150'	215'	280'	350'	430'	**
Electric power line (shot hole not to exceed 200' depth)	300'*	300'*	300'*	300'*	300'*	**
Water well, buildings, underground cistern, and all other objects not mentioned including all living things	300'	430'	560'	700'	860'	300'

* This distance may be decreased to 40 feet where Primacord is used in detonating the explosive charge.

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Geophysical Operations

Providing Needed Information on the
Geology of the National Forest System



United States Department of Agriculture • Forest Service • International Association of Geophysical Contractors
FS-589 • October 1996

Table I: Recommended Safe Distances from Buried Shots to Cultural Resource Structures and Other Facilities

Uses a scaled distance of 65

Peak particle velocity at these distances will be below 0.75 in/sec under normal conditions

Charge Size (lb)	0.33	0.5	1	3	5	10	15	20	30	40	50	60	75
Depth (ft)													
5	37	46 *	65 *	112 *	145 *	205 *	252 *	291 *	356 *	411 *	460 *	503 *	563 *
10	36	45	64	112 *	145 *	205 *	252 *	291 *	356 *	411 *	460 *	503 *	563 *
15	34	43	63	112	145 *	205 *	251 *	290 *	356 *	411 *	459 *	503 *	563 *
20	32	41	62	111	144	205 *	251 *	290 *	355 *	411 *	459 *	503 *	563 *
25	28	39	60	110	143	204 *	250 *	290 *	355 *	410 *	459 *	503 *	562 *
30	22	35	58	109	142	203 *	250 *	289 *	355 *	410 *	459 *	503 *	562 *
40	-	23	51	105	140	202	249 *	288 *	354 *	409 *	458 *	502 *	561 *
50	-	-	42	101	136	199	247	286 *	352 *	408 *	457 *	501 *	561 *
75	-	-	-	84	124	191	240	281	348	404 *	453 *	498 *	558 *
100	-	-	-	52	105	180	231	273	342	399	449	493	554
125	-	-	-	-	74	163	219	262	333	392	442	488	549
150	-	-	-	-	-	141	202	249	323	383	434	481	543
175	-	-	-	-	-	108	181	232	310	372	425	472	535
200	-	-	-	-	-	47	153	211	295	359	414	462	526
225	-	-	-	-	-	-	113	184	276	344	401	450	516
250	-	-	-	-	-	-	30	148	253	326	386	437	504
275	-	-	-	-	-	-	-	94	226	306	368	422	491
300	-	-	-	-	-	-	-	-	192	281	348	404	476
325	-	-	-	-	-	-	-	-	145	252	325	385	460
350	-	-	-	-	-	-	-	-	65	216	298	362	441
375	-	-	-	-	-	-	-	-	-	168	266	336	420
400	-	-	-	-	-	-	-	-	-	95	226	306	396
450	-	-	-	-	-	-	-	-	-	-	94	226	338
500	-	-	-	-	-	-	-	-	-	-	-	59	259
550	-	-	-	-	-	-	-	-	-	-	-	-	120
600	-	-	-	-	-	-	-	-	-	-	-	-	-
650	-	-	-	-	-	-	-	-	-	-	-	-	-
700	-	-	-	-	-	-	-	-	-	-	-	-	-
750	-	-	-	-	-	-	-	-	-	-	-	-	-
800	-	-	-	-	-	-	-	-	-	-	-	-	-

* Some charge sizes, although safe from a distance standpoint, may be more prudently detonated in deeper boreholes

- For the depth and charge size listed, no surface location should experience a peak particle velocity over 0.75 in/sec

Table II: Recommended Safe Distances from Surface Shots to Cultural Resource Structures and Other Facilities

Uses a scaled distance of 470

Maximum decibels at these distances will not exceed 140 DB under normal conditions

Charge Size (lb)	0.33	0.5	1	3	5	10	15	20	30	40	50	60	75
Distance (feet)													
	325	373	470	678	804	1013	1159	1276	1460	1607	1731	1840	1982

Estate of Ivan Chornuk
10

**SEISMIC PERMIT
AND RELEASE SETTLEMENT OF SURFACE DAMAGES**

AGREEMENT, by and between the Undersigned hereinafter called "Landowner" (whether one or more), and **JOHN & STRAHN, INC., PO BOX 3020, CHEYENNE, WY 82003**, and its designated agents, hereinafter referred to as "Company"

WITNESSTH, that the Landowner, for and in consideration of Five and More Dollars (\$5.00), cash in hand paid, receipt of which is hereby acknowledged, does hereby grant Company, its successors and assigns, the exclusive right, but not the obligation, to conduct and explore by geophysical and other means, seismic operations and surveys by use of seismograph or other geophysical methods. The right of entry shall include the right to bring workmen, vehicular and seismograph equipment, and implements necessary for seismic operations, on and across, the following described lands in the County of Billings, State of North Dakota, to-wit:

Township 143 North, Range 100 West, 5th P.M.
Section 23: W/2
Section 28: SE/4

	CROP	NON-CROP
	480.00 Acres	0.00 Acres
	X \$5.00 per acre	X \$3.00 per acre
\$	2,400.00	\$ 0.00
TOTAL CROP		TOTAL NON-CROP

Containing 480.00 acres, more or less

TOTAL PAYMENT: \$ 2,400.00

Payment: \$5.00 per acre cropland
\$3.00 per acre non-cropland

This agreement shall remain in force for one (1) year from the date of execution herein. As consideration to conduct this seismic operation, Company shall pay Landowner (as noted above beside the description) per surface acre owned for all damages, if any, caused by its operation on said land, proportionately reduced to Landowner's (s') surface acreage ownership in each section of land described herein. Payment for said damages will be due and payable prior to conducting any seismic related activity. If said Landowner owns a less interest in the above described land than the entire and undivided surface estate therein, then the payment herein provided shall be paid to the Landowner only in the proportion which his interest bears to the entire surface estate.

Company shall conduct said seismic operations or cause same to be conducted in a workmanlike manner, according to accepted industry practice. Company further agrees to indemnify and save landowner harmless from and against all claims from damages of every nature that might arise as a result of Company's operations. Permission is hereby given to Company, its agents and assigns, to enter the lands described herein for the purpose of sampling water wells and to conduct seismic operations. Company agrees that seismic shot-holes shall be drilled NO CLOSER than 400 feet from Landowner's water wells, buildings, underground cisterns, oil and/or gas pipelines and flowing springs and NO CLOSER than 100 feet from Landowner's water pipelines. This permission is granted on the condition that Company assumes responsibility for any verifiable damages to said water wells, buildings, underground cisterns, oil and/or gas pipelines, flowing springs, or water pipelines, which result solely as a result of its seismic operations. The right of entry shall include the right of Company to bring workmen, vehicular and other equipment necessary for said operations. The Landowner hereby releases and forever discharges Company and their employees, agents, associates, affiliates, companies, successors and assigns of and from any and all further claims on account of any damages to the surface of the above described lands as a result of said seismic operation.

Seismic Permit (Continued)

If the estate of either party hereto is assigned or sublet, the express and implied covenants herein shall extend to the sublessees, successors and assigns of the parties hereto. In the event the Company assigns its interest in this agreement, it shall be relieved and discharged any liability to the Landowner thereafter accruing upon any of the terms, provisions and covenants in this agreement.

This permit shall be effective as to each Landowner on execution hereof as to his or her interest and shall be binding on those signing and all persons claiming by, through, or under them, or as heirs, personal representatives, assigns or surface tenants, notwithstanding some of the Landowners herein named, may not join in the execution hereof. The word "Landowner" as used in this agreement means the party or parties who execute this agreement as the Landowner, although not named herein. In the event others should claim an interest in this damage payment, I (we), the undersigned, agree to be personally liable to them for their proportionate part thereof.

Our information shows your ownership as follows:

(a) Surface owner	X	(c) Surface Tenant/Lessee	
(b) Mineral owner		(d) Mineral Lessee	

(We) do hereby certify that I am (we are) Landowner, Tenant, and or Authorized Agent of the herein described property. I (We) do hereby waive any further notice required by Company under NDCC Chapter 38-08.1 or other applicable statutes. No other permission need be obtained by Company to conduct its operations except as follows:

1) It is understood and agreed by the parties hereto that should it be necessary for "Company" to conduct its aforementioned operations (except for surface surveying accomplished without the use of vehicles), upon those lands and 'Croplands', then it is agreed that an additional 'Crop-Damage' Settlement will be paid in the amount of .00 , in full settlement for tenant's growing crops; Payment to be made to Harry W. Chornuk, as Personal Representative of the Estate of Ivan J. Chornuk.

2) It is understood and agreed by the parties hereto that "Company" will not place its shot-points any closer than a 660 foot radius from all of Landowner's water wells located on said lands, or within a 660 foot radius of all that part of the Creek (referred to as Betsy Creek) that runs through the W/2 of Section 23-T143North, Range 100 West, 5th P.M. It is also understood that "Company" will not place its shot-points any closer than a 660 foot radius of the two springs located in the SW/4SE/4 of Section 28, T143North-R100W, 5th P.M. Furthermore, "Company" will conduct a flow test and water analysis test to the well located in the NW/4NW/4 of Section 23, T143North-R100W, 5th P.M., before and after sourcing and will provide Landowner with the results from such test.

IN TESTIMONY WHEREOF, this instrument is executed this 12th day of April, 2004.

Harry Chornuk PR
Landowner/Tenant/Authorized Agent

Landowner/Tenant/Authorized Agent

Name: Harry W. Chornuk as Personal
Representative of the Estate of Ivan J.
Chornuk, deceased

Address:
City/State:
Phone:

Tax ID#

Name:

Address:
City/State:
Phone:

Tax ID#

Magnie

Julia Kordon

Seismic Permit (Continued)

If the estate of either party hereto is assigned or sublet, the express and implied covenants herein shall extend to the sublessees, successors and assigns of the parties hereto. In the event the Company assigns its interest in this agreement, it shall be relieved and discharged any liability to the Landowner thereafter accruing upon any of the terms, provisions and covenants in this agreement.

This permit shall be effective as to each Landowner on execution hereof as to his or her interest and shall be binding on those signing and all persons claiming by, through, or under them, or as heirs, personal representatives, assigns or surface tenants, notwithstanding some of the Landowners herein named, may not join in the execution hereof. The word "Landowner" as used in this agreement means the party or parties who execute this agreement as the Landowner, although not named herein. In the event others should claim an interest in this damage payment, I (we), the undersigned, agree to be personally liable to them for their proportionate part thereof.

Our information shows your ownership as follows:

(a) Surface owner	X	(c) Surface Tenant/Lessee	
(b) Mineral owner		(d) Mineral Lessee	

(We) do hereby certify that I am (we are) Landowner, Tenant, and or Authorized Agent of the herein described property. I (We) do hereby waive any further notice required by Company under NDCC Chapter 38-08.1 or other applicable statutes. No other permission need be obtained by Company to conduct its operations except as follows:

1) It is understood and agreed by the parties hereto that should it be necessary for "Company" to conduct its aforementioned operations (except for surface surveying accomplished without the use of vehicles), between the time frame as follows - May 01 through July 31, upon those lands deemed 'Croplands', then it is agreed that an additional 'Crop-Damage' Settlement will be paid in the amount of \$1,100.00.

2) It is understood and agreed by the parties hereto that "Company" will not place shot-points any closer than a 660 foot radius of the water well located in the NW/4NE/4NE/4 of Section 05, T142N-R100W, 5th P.M.; and "Company" also agrees to test said well located in the NW/4NE/4NE/4 of Section 05, T142N-R100W, 5th P.M. before and after sourcing and will provide Landowner with the results concluded from such test.

IN TESTIMONY WHEREOF, this instrument is executed this 3 day of 30, 2004.

Julia Kordon
Landowner/Tenant/Authorized Agent

Name: Julia Kordon
Address: 13639 Blacktail Rd.
City/State: Fairfield, ND 58627-9453
Phone: 701-575-4954

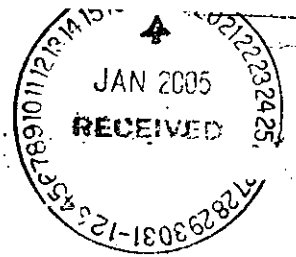
Tax ID# 523-32-9768

Julia Kordon
Landowner/Tenant/Authorized Agent

Name:
Address:
City/State:
Phone: H - (701) -575-8435 (Kirt)
M-(701)-290-0843 (Kirt)

Tax ID#

**9400 MAGPIE SEISMIC PROSPECT
BILLINGS COUNTY, NORTH DAKOTA
STEPHENS ENERGY COMPANY, LLC**



11	12	07	08	09	10	11
14	13	18	17	16	15	14
23	24	19	20	21	22	23
26	25	30	29	28	27	26
35	36	31	32	33	34	35
02	01	06	05	04	03	02
11	12	07	08	09	10	11
14	13	18	17	16	15	14
23	24	19	20	21	22	23
26	25	30	29	28	27	26
35	36	31	32	33	34	35
02	01	06	05	04	03	02
11	12	07	08	09	10	11

T144N-R100W 5TH PM

T143N-R100W 5TH PM

SURFACE OWNERSHIP STATUS
9400-MAGPIE SEISMIC PROSPECT, BILLINGS COUNTY, NORTH DAKOTA

TRACT #	LANDOWNER	LANDS	COMMENTS				
1	Hecker, Dwight, aka - Dwight A., & Teresa A. (HW) 1453 Whitetail Rd. Belfield, ND 58622 701-575-4952	Township 143 North, Range 100 West Section 16: All Section 17: All Section 19: Lots 1(38.55), 2(38.69), 3(38.83), 4(38.97), E/2W/2, E/2 Section 20: NW/4, N/2NE/4, SW/4NE/4, NW/4SE/4 Section 21: N/2 Section 22: SE/4 Section 27: NW/4 Section 34: NE/4 Containing 3,035.04 acres, more or less	PERMITTED - 02-24-2004 STIPS - Crop Damage Settlement between May 1 st thru July 31. Staging Permit - Yes - \$1,500.00				
	CROP ACRES	NON-CROP ACRES	CROP \$	NON-CROP \$	FLAT FEE \$	DAMAGES \$	TOTAL \$
	520.00	2515.04	2600.00 Paid	7545.12 Paid	5.00 Paid	1500.00 Paid	11,650.12
2	Lowman, James J. & Dona M. (HW) 1316 Whitetail Rd. Fairfield, ND 58627-9743 701-575-4708	Township 143 North, Range 100 West 10: N/2S/2 Township 144 North, Range 100 West 07: SW/4SW/4 Containing 200.00 acres, more or less	PERMITTED - 02-25-2004 & 03-20-2004 STIPS - Crop Damage Settlement between May 1 st thru July 31.				
	CROP ACRES	NON-CROP ACRES	CROP \$	NON-CROP \$	FLAT FEE \$	DAMAGES \$	TOTAL \$
	160.00	40.00	800.00 Paid	120.00 Paid	10.00 Paid	1000.00 Paid	1,930.00
3	Evoniuk, Dale, aka Dale G., & Linda Evoniuk, (HW) 13343-20 th St. SW. Fairfield, ND 58627-0092 701-575-4593	Township 142 North, Range 100 West Section 02: Lots 3(40.05), 4(40.23), S/2NW/4, SW/4 Containing 320.28 acres, more or less	PERMITTED - 02-21-2004 STIPS - Crop Damage Settlement between May 1 st thru July 31.				
	CROP ACRES	NON-CROP ACRES	CROP \$	NON-CROP \$	FLAT FEE \$	DAMAGES \$	TOTAL \$
	320.28	0.00	1601.40 Paid	0.00 Paid	5.00 Paid	913.00 Paid	2,519.40
4	Evoniuk, Margorie & Samuel J. Evoniuk, (WH) 13347-20 th St. SW. Fairfield, ND 58627-0092 701-575-4980	Township 142 North, Range 100 West Section 11: NW/4, less 2.87 acre tract Section 11: SW/4 Containing 317.13 acres, more or less	PERMITTED - 02-21-2004 STIPS - Crop Damage Settlement between May 1 st thru July 31.				
	CROP ACRES	NON-CROP ACRES	CROP \$	NON-CROP \$	FLAT FEE \$	DAMAGES \$	TOTAL \$
	317.13	0.00	1585.65 Paid	0.00 Paid	5.00 Paid	913.00 Paid	2,503.65

SURFACE OWNERSHIP STATUS
9400-MAGPIE SEISMIC PROSPECT, BILLINGS COUNTY, NORTH DAKOTA

TRACT #	LANDOWNER	LANDS	COMMENTS				
5	Kurtis J. Kordon 13633 Blacktail Rd. Fairfield, ND 58627-9453 H-701-575-8435 M-701-290-0843	Township 143 North, Range 100 West Section 27: SW/4 Section 30: Lots 1(39.10), 2(39.22), E/2NW/4, NE/4 Section 34: W/2 Township 142 North, Range 100 West Section 05: A 15.50-acre tract of land, more or less, and more fully described in Book 60 of Deeds, at Page 713. Containing 813.82 acres, more or less	PERMITTED -02-25-2004 STIPS -Crop Damage Settlement between May 1 st thru July 31.				
	CROP ACRES	NON-CROP ACRES	CROP \$	NON-CROP \$	FLAT FEE \$	DAMAGES \$	TOTAL \$
	495.50	318.32	2477.50 Paid	954.96 Paid	5.00 Paid	1500.00 Paid	4,937.46
TRACT #	LANDOWNER	LANDS	COMMENTS				
6	Haverluk, Pauline 1707 Main South Dickinson, ND 58601-8626 (Son - Neil - 701-575-8449)	Township 143 North, Range 100 West Section 04: SE/4NW/4, NW/4SW/4, E/2SW/4, SE/4 Section 05: Lots 1(40.15), 2(40.13), 3(40.11), 4(40.09), S/2N/2, S/2 Containing 960.48 acres, more or less	PERMITTED -03-21-2004 STIPS -Crop Damage Settlement between May 1 st thru July 31.				
	CROP ACRES	NON-CROP ACRES	CROP \$	NON-CROP \$	FLAT FEE \$	DAMAGES \$	TOTAL \$
	320.00	640.48	1600.00 Paid	1921.44 Paid	5.00 Paid	1140.00 Paid	4,666.44
TRACT #	LANDOWNER	LANDS	COMMENTS				
	*O'Brien, Donald, aka Don, & Rose, (HW) PO Box 452 Belfield, ND 58622 701-575-4316	Township 143 North, Range 100 West Section 04: Lots 1(39.88), 2(39.96), S/2NE/4 Containing 159.84 acres, more or less	PERMITTED -02-28-2004 STIPS -None *Subject to KFD to Dennis O'Brien & Arlinda C, HW & William L O'Brien & Lana F., HW. Payment to be made to T Lazy T. Ranch, A Partnership...				
	CROP ACRES	NON-CROP ACRES	CROP \$	NON-CROP \$	FLAT FEE \$	DAMAGES \$	TOTAL \$
	0.00	159.84	0.00 Paid	479.52 Paid	10.00 Paid	0.00	489.52
TRACT #	LANDOWNER	LANDS	COMMENTS				
8	Cecilia Yourk Hurt, Trustee of the Roman Yourk Equity Pure Trust 401-2 nd Avenue NE Belfield, ND 58622-7235 701-575-4672	Township 143 North, Range 100 West Section 22: SW/4 Containing 160.00 acres, more or less	PERMITTED -03-05-2004 STIPS - Crop Damage Settlement between May 1 st thru July 31.				
	CROP ACRES	NON-CROP ACRES	CROP \$	NON-CROP \$	FLAT FEE \$	DAMAGES \$	TOTAL \$
	160.00	0.00	800.00 Paid	0.00 Paid	5.00 Paid	500.00 Paid	1,305.00

SURFACE OWNERSHIP STATUS
9400-MAGPIE SEISMIC PROSPECT, BILLINGS COUNTY, NORTH DAKOTA

TRACT #	LANDOWNER	LANDS	COMMENTS				
9	Johnson, Curtis B., & Frances V., (HW), PO Box 75 South Heart, ND 58655-0075 & Johnson, Larry N. & Ruth N. PO Box 801 Belfield, ND 58622-0901 701-575-4900	Township 143 North, Range 100 West Section 27: W/2SE/4 Containing 80.00 acres, more or less	PERMITTED -03-20-2004 STIPS - Crop Damage Settlement between May 1 st thru July 31., & to be paid to tenant Donald Stigen.				
	CROP ACRES	NON-CROP ACRES	CROP \$	NON-CROP \$	FLAT FEE \$	DAMAGES \$	TOTAL \$
	80.00	0.00	400.00 Paid	0.00 Paid	5.00 Paid	500.00 Paid	905.00
9A	Curtis B. Johnson, Trustee of the Johnson Ranch Trust PO Box 75 South Heart, ND 58655-0075 701-677-5844	Township 143 North, Range 100 West Section 27: E/2SE/4 Section 28: SW/4 Section 34: SE/4 Containing 400.00 acres, more or less	PERMITTED -03-20-2004 STIPS - Crop Damage Settlement between May 1 st thru July 31., & to be paid to tenant Donald Stigen.				
	CROP ACRES	NON-CROP ACRES	CROP \$	NON-CROP \$	FLAT FEE \$	DAMAGES \$	TOTAL \$
	240.00	160.00	1200.00 Paid	480.00 Paid	5.00 Paid	1500.00 Paid	3,185.00
10	Harry W. Chornuk, as Personal Representative of the Estate of Ivan J. Chornuk, deceased Watford City, ND 701-575-4938	Township 143 North, Range 100 West Section 23: W/2 Section 28: SE/4 Containing 480.00 acres, more or less	PERMITTED -04-12-2004 STIPS - Crop Damage Settlement - No time frame specified. ADDITIONAL STIPS - 1: No Shots within 660' of wells. 2: No Shots within 660' of creek in 23. 3: No Shots within 660' of springs in 28. 4: Must test well in Sec. 23.				
	CROP ACRES	NON-CROP ACRES	CROP \$	NON-CROP \$	FLAT FEE \$	DAMAGES \$	TOTAL \$
	480.00	0.00	2400.00 PAID	0.00	5.00 Paid	2,500.00 Paid	4,905.00
11	Simnioniw, Edward J. 2985 Highway 85 Belfield, ND 58622 701-575-4452 & Simnioniw, Leslie 12631-37 th St. SW South Heart, ND 58655	Township 143 North, Range 100 West Section 32: SE/4, S/2NE/4 Containing 240.00 acres, more or less	PERMITTED -03-20-2004 STIPS - Crop Damage Settlement between May 1 st thru July 31.				
	CROP ACRES	NON-CROP ACRES	CROP \$	NON-CROP \$	FLAT FEE \$	DAMAGES \$	TOTAL \$
	240.00	0.00	1200.00 Paid	0.00 Paid	5.00 Paid	700.00 Paid	1,905.00
12	Kordon, Ben 13633 Blacktail Rd. Fairfield, ND 58627-9753 H-701-375-8435	Township 143 North, Range 100 West Section 32: SW/4, W/2NW/4 Containing 240.00 acres, more or less	PERMITTED -03-20-2004 STIPS - Crop Damage Settlement between May 1 st thru July 31.				
	CROP ACRES	NON-CROP ACRES	CROP \$	NON-CROP \$	FLAT FEE \$	DAMAGES \$	TOTAL \$
	100.00	140.00	500.00 Paid	420.00 Paid	5.00 Paid	300.00 Paid	1,235.00

SURFACE OWNERSHIP STATUS
9400-MAGPIE SEISMIC PROSPECT, BILLINGS COUNTY, NORTH DAKOTA

TRACT #	LANDOWNER	LANDS	COMMENTS				
13	Kordon, Julia 13639 Blacktail Rd. Fairfield, ND 58627-9753 H-701-575-4954	Township 143 North, Range 100 West Section 32: E/2NW/4 Township 142 North, Range 100 West Section 05: Lots 1(40.01), 2(40.03), S/2NE/4, SW/4, less a 15.50-acre tract of land, more or less, and more fully described in Book 60 of Deeds, at Page 713. Containing 384.54 acres, more or less	PERMITTED - Mail out STIPS - Crop Damage Settlement between May 1 st thru July 31. ADDITIONAL STIPS - 1: No Shots within 660' of well in NW/4NE/4NE/4 of Sec. 5-142-100. 2: Must test above well.				
	CROP ACRES	NON-CROP ACRES	CROP \$	NON-CROP \$	FLAT FEE \$	DAMAGES \$	TOTAL \$
	324.54	60.00	1622.70 Paid	80.00 Paid	0.00 Paid	1100.00 Paid	2,902.70
TRACT #	LANDOWNER	LANDS	COMMENTS				
14	Anheluk, Jerry 2183-133 rd Avenue SW Belfield, ND 58622-9320 H-701-575-4428	Township 143 North, Range 100 West Section 35: SW/4 Containing 160.00 acres, more or less	PERMITTED - 02-29-2004 STIPS - Crop Damage Settlement between May 1 st thru July 31.				
	CROP ACRES	NON-CROP ACRES	CROP \$	NON-CROP \$	FLAT FEE \$	DAMAGES \$	TOTAL \$
	160.00	0.00	800.00 Paid	0.00 Paid	5.00 Paid	500.00 Paid	1,305.00
TRACT #	LANDOWNER	LANDS	COMMENTS				
15	Kanski, Margaret, Life Estate (Remaindermen & AIF - Brenda Schumacher) HCR1 Box 51 Fairfield, ND 58627 Son/Kevin - 701-225-5313	Township 143 North, Range 100 West Section 26: SW/4 Containing 160.00 acres, more or less	PERMITTED - 02-29-2004 STIPS - Crop Damage Settlement - No time specified. ADDITIONAL STIPS - 1: Can't enter under Muddy conditions without consent of landowner.				
	CROP ACRES	NON-CROP ACRES	CROP \$	NON-CROP \$	FLAT FEE \$	DAMAGES \$	TOTAL \$
	160.00	0.00	800.00 Paid	0.00 Paid	5.00 Paid	2000.00 Paid	2,805.00
TRACT #	LANDOWNER	LANDS	COMMENTS				
16	Rodakowski, Arnold & Colleen (HW) 433-1 st Ave. East Dickinson, ND 58601 701-483-4885	Township 142 North, Range 100 West Section 03: SW/4 Containing 160.00 acres, more or less	PERMITTED - 04-03-2004 STIPS - Crop Damage Settlement between May 1 st thru July 31.				
	CROP ACRES	NON-CROP ACRES	CROP \$	NON-CROP \$	FLAT FEE \$	DAMAGES \$	TOTAL \$
	160.00	0.00	800.00 Paid	0.00 Paid	5.00 Paid	1200.00 Paid	2,005.00
TRACT #	LANDOWNER	LANDS	COMMENTS				
17	Rodakowski, Katherine 1101 Porter Avenue, Apt 23 Bismarck, ND 58501 701-530-9123	Township 142 North, Range 100 West Section 03: SE/4 Section 04: Lots 1(40.05), 2(40.35), S/2NE/4, SE/4, less a 15.98 acre tract of land, more or less, and more fully described in Book 62 of Deeds, at Page 469. Section 10: E/2E/2, S/2S W/4 Containing 704.46 acres, more or less	PERMITTED - 04-03-2004 STIPS - Crop Damage Settlement between May 1 st thru July 31. ADDITIONAL STIPS - 1: No Shots in the E/2NE/4 of 4.				
	CROP ACRES	NON-CROP ACRES	CROP \$	NON-CROP \$	FLAT FEE \$	DAMAGES \$	TOTAL \$
	704.46	0.00	3522.30 Paid	0.00 Paid	5.00 Paid	2100.00 Paid	5,627.30

SURFACE OWNERSHIP STATUS
9400-MAGPIE SEISMIC PROSPECT, BILLINGS COUNTY, NORTH DAKOTA

TRACT #	LANDOWNER	LANDS	COMMENTS				
17A	Rodakowski, David 13433 Blacktail Rd. Fairfield, ND 58627-9452 701-575-4653	Township 142 North, Range 100 West Section 04: A 15.98-acre tract of land, more or less, and more fully described in Book 62 of Deeds, at Page 469. Containing 15.98 acres, more or less	PERMITTED - 04-03-2004 STIPS - Crop Damage Settlement between May 1 st thru July 31.				
	CROP ACRES	NON-CROP ACRES	CROP \$	NON-CROP \$	FLAT FEE \$	DAMAGES \$	TOTAL \$
	15.98	0.00	79.90 Paid	0.00 Paid	5.00 Paid	100.00 Paid	184.90
18	Dutchuk, James, etal 127-8 th Ave. East, Apt 15 Dickinson, ND 58601 701-483-1449	Township 142 North, Range 100 West Section 04: Lots 3(40.21), 4(40.07), S/2NW/4 Containing 160.28 acres, more or less	PERMITTED - 02-29-2004 STIPS - Crop Damage Settlement between May 1 st thru July 31.				
	CROP ACRES	NON-CROP ACRES	CROP \$	NON-CROP \$	FLAT FEE \$	DAMAGES \$	TOTAL \$
	80.00	80.28	400.00 Paid	240.84 Paid	5.00 Paid	250.00 Paid	895.84
19	Krivourchka, Margaret 550 Colfax St. Dickinson, ND 58601 701-483-3459	Township 142 North, Range 100 West Section 04: SW/4 Section 05: SE/4 Containing 320.00 acres, more or less	PERMITTED - 02-28-2004 PERMITTED - 02-28-2004 (Son) STIPS - Crop Damage Settlement between May 1 st thru July 31. ADDITIONAL STIPS - Pay Crop damages to Roy Krivourchka				
	CROP ACRES	NON-CROP ACRES	CROP \$	NON-CROP \$	FLAT FEE \$	DAMAGES \$	TOTAL \$
	250.00	70.00	1250.00 Paid	210.00 Paid	5.00 Paid	715.00 Paid	2,180.00
20	Leilani R. Duke, Personal Representative of the Estate of Robert Kordon, deceased 260 East Birch St. Walla Walla, WA 99362-5007 509-529-3685	Township 142 North, Range 100 West Section 05: Lots 3(40.05), 4(40.07), S/2NW/4 Section 06: SW/4NE/4 Containing 200.12 acres, more or less	PERMITTED - 04-05-2004 STIPS - Crop Damage Settlement between May 1 st thru July 31.				
	CROP ACRES	NON-CROP ACRES	CROP \$	NON-CROP \$	FLAT FEE \$	DAMAGES \$	TOTAL \$
	200.12	0.00	1060.00 Paid	0.00	0.00	600.00 Paid	1,660.00
	CROP ACRES	NON-CROP ACRES	CROP \$	NON-CROP \$	FLAT FEE \$	DAMAGES \$	TOTAL \$
	0.00	40.00		0.00	0.00	0.00	120.00
	CROP ACRES	NON-CROP ACRES	CROP \$	NON-CROP \$	FLAT FEE \$	DAMAGES \$	TOTAL \$
	0.00	40.00		0.00	0.00	0.00	120.00

SURFACE OWNERSHIP STATUS
9400-MAGPIE SEISMIC PROSPECT, BILLINGS COUNTY, NORTH DAKOTA

TRACT #	LANDOWNER	LANDS	COMMENTS				
23	Saunders, Inez E. Ulrich 2340 Sanguinetti Lane, Space 28 Stockton, CA 95205 209-467-4003	Township 142 North, Range 100 West Section 06: Lot 2(40.05), AKA - NW/4NE/4 Containing 40.05 acres, more or less	PERMITTED - Yes - 04-03-2004 STIPS - None				
	CROP ACRES	NON-CROP ACRES	CROP \$	NON-CROP \$	FLAT FEE \$	DAMAGES \$	TOTAL \$
	0.00	120.05	0.00	120.05 Paid		0.00	120.05
24	Gregory, Raymond P. & Anna (HW) et al 516 Park St. Dickinson, ND 58601 701-225-6409	Township 142 North, Range 100 West Section 09: NE/4 Section 10: W/2NE/4, E/2NW/4 Containing 320.00 acres, more or less	PERMITTED - 3-19-2004 STIPS - Crop Damage Settlement between May 1 st thru July 31.				
	CROP ACRES	NON-CROP ACRES	CROP \$	NON-CROP \$	FLAT FEE \$	DAMAGES \$	TOTAL \$
	200.00	120.00	1000.00 Paid	360.00 Paid	5.00	600.00 Paid	1,965.00
25	West Plains Electric Cooperative, Inc. A cooperative corporation 1260 West Villard PO Box 1078 Dickinson, ND 58601-1079	Township 142 North, Range 100 West Section 11: A 2.87 acre tract of land as described in Book 53 of Deeds, at page 507. Containing 2.87 acres, more or less	PERMITTED - NO STIPS - None NOTE - Surface work will not cross. Minerals -- permitted.				
	CROP ACRES	NON-CROP ACRES	CROP \$	NON-CROP \$	FLAT FEE \$	DAMAGES \$	TOTAL \$
	0.00	2.87	0.00	8.61			8.61
26	State of North Dakota	Township 144 North, Range 101 West Section 36: All Township 143 North, Range 100 West Section 28: SE/4 (Minerals only) Containing 800.00 acres, more or less	PERMITTED - 03-30-2004 STIPS - None				
	CROP ACRES	NON-CROP ACRES	CROP \$	NON-CROP \$	FLAT FEE \$	DAMAGES \$	TOTAL \$
	0.00	800.00	0.00	2,400.00 Paid			2,400.00

Total surface use compensation \$66,435.99

House
Senate Bill 1322

House Natural Resources Committee

January 20, 2005

Mr. Chairman and members of the Committee, my name is Jeff Herman, I am the Regional Manager for Petro-Hunt, L.L.C out of their Bismarck Office. I appear before you today in opposition of House Bill 1322. The Hunt companies have been involved in ND Oil & Gas exploration since the late 1940's and are currently one of the top 10 production companies in the state.

We also believe this bill is a solution looking for a problem, as I am not aware of one claim of damages done to a water source as a result of seismic we have shot since I began with the company in 1980. Other active ND companies I have talked to about this issue report the same relative to their operations. It almost seems that this issue has become popular folklore as we hear all these horror stories, but never see any specific documented cases presented.

We feel this bill is unnecessary as under current law each landowner has the right to request testing prior to entry already. Mandatory testing would only opens up a can of worms. Who determines what tests are run, what defines a water well, will it extend to springs, ponds etc.? Who provides well location and background information? ("My water is much harder after the seismic shoot." Is pretty hard to defend without back data.) Who pays for storage of test water samples and information, for how long? Who determines damages? There is a current 7 year drought going over most of MT, ND and WY, wells are going dry all over the place, who determines if a poor well that goes dry after 3 or 4 months was damaged by the

seismic activity, over usage or lack of recharge? Who approves the tester, will they be certified/licensed by the state? Will this be another "tax" on business past through to the oil company? Does the test have to be supervised by a state employee? If so, who pays for that person?

How could you ever document if the damage was caused by seismic or the actual testing process caused the casing to fail because it had never been flowed that hard before. The flow rate was not changed, only water clarity which later cleared up. How do you deal with the lack of confidence from land owners that were told their wells produced so much when drilled and now only test half the original rate. If they won't believe the tester and are convinced that they are working for the seismic company will we have to provide a second opinion?

It appears to me that the current rules are working, why burden it with more regulation that seem like they will cause more problems than solutions? Activity in ND is just starting to pick up again, which is good for the State; let's not throw up unnecessary road blocks to slow it down or stop it.

We urge a Do Not Pass on this bill. I would be happy to answer any questions.