



Dakota Resource Council
"Organizing North Dakotans Since 1978"
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**ADMINISTRATIVE RULES COMMITTEE MEETING
DECEMBER 12, 2007**

**TESTIMONY OF DAKOTA RESOURCE COUNCIL REGARDING A CHANGE TO THE
ADMINISTRATIVE CODE UNDER OIL AND GAS RULES UNDER 43-02-03-01.**

Chairman Fisher and members of the committee, my name is Cindy Klein and I am an organizer and member of Dakota Resource Council. Dakota Resource Council uses grassroots actions to influence public opinion and shape public policy to protect agriculture, natural resources, livelihoods and community well-being.

I am here today to discuss a rule change that addresses the development of oil and gas resources.

House Bill 1229 was intended to protect the surface owners and occupants in oil and gas country. This bill limits the issuance of an oil or gas drilling permit if a well is to be drilled within 500 feet of a residence. Everyone involved in the passage of this bill had a clear understanding of its legislative intent. It was intended to protect all and not some.

The proposed rule change will define an occupied dwelling as one that is lived in by a person six months out of the year. In western North Dakota there are landowners who do not live on their farms all year long. Should they be afforded any less protection than one who does? There are many people all over western North Dakota who have cabins along Lake Sakakawea and the Missouri River. Should they be less protected than someone who is faced with coal mining?

There is no reason to define occupancy in oil and gas country any differently than it is already defined in the rules that address coal mining. An occupied dwelling is defined in 69-05.2-01-02 as any building that is currently being used on a regular or temporary basis for human habitation.

The Federal Office of Surface Mining deliberated the definition of occupancy when it enacted rules for the Surface Mining Control and Reclamation Act of 1977 and concluded the language currently in North Dakota Administrative Rules is the best. We agree.

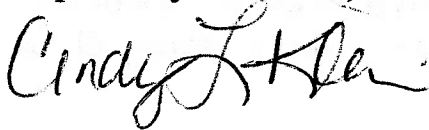
There is no reason that residents who live in areas of oil and gas development should have any less protection than those that live in areas of coal mining.

The oil and gas industry in North Dakota and elsewhere has developed very refined processes for extraction of oil and gas reserves. There is no need to drill a well within 500 feet of a residence no matter how long someone lives there.

This begs the question, how will an oil or gas company determine who lives in a residence and how long they live there? There is really no way to answer that question.

Furthermore, there is no need to create a loophole to allow drilling closer than the legislature intended. We believe this rule change is not in harmony with legislative intent and ask you to consider sending this rule back to the oil and gas division to be amended. We ask that the definition of occupied dwelling be identical to that of SMCRA and North Dakota Administrative Rules that address surface mining.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Cindy L. Klein".

Cindy L. Klein
DRC Staff and Member