

MAR 10 2010

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March 9, 2010

Jeff Nelson
ND Legislative Council
600 East Boulevard Avenue
Bismarck, ND 58505RE: National Resource Committee Meeting of
March 4, 2010

Dear Mr. Nelson:

I was advised to write to you regarding issues of surface owners and the oil companies as raised by the Dunn Center group. At the top of my agenda is the lease. At issue is:

1. No fixed term. *ie term of surface use is not limited*
2. No negotiations, period. As was stated by Mr. Knudson for him it was and is a take the offer or leave it and the company will do what it wants.
3. No definition of appurtenances.
4. Massive waste pits left on landowners property.

No one knows what appurtenances are. It is now my understanding that they include a massive pit into which tons and gallons of waste are placed and then covered up. At issue are the contents of this waste and its burial on the site as opposed to clean up in accordance with health department rules.

No one knows exactly what is in each pit but we believe they contain diesel fuel, benzene, totulene and other toxic chemicals.

Also at odds are the Oil and Gas Division of the State of North Dakota and how to treat the waste. It is my understanding that there are waste dump approved sites but it costs money to haul and dump the waste there. Another issue then comes into play and that brings in the health department. It appears that it is okay to bury this waste in the landowners yards as waste but if moved off site, it becomes a hazardous waste matter. These two government units must get on the same page on this.

As I mentioned at the hearing it is an unknown if the fact of a waste site is in the title abstract (I suspect not because no permit or lease is required of the landowner), and must it be disclosed to any potential buyer and the effect on land values.

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As you are aware the law allows for any damages to the property and the affect the oil business has on the surface owners. Although the statutes are broad in their language and not restricted to definitions in the oil and gas, they are unclear. For example, N.D.C.C. 38-11.2-08 states:

"The remedies provided by this chapter do not preclude any person from seeking other remedies allowed by law..."

It is my take on this that the statutes need to specifically include "quality of life" standards. By this I mean, dust, noise, (especially from on site generators), odors (VOC's), air quality from all neighboring wells with an impact on others in the vicinity.

The right to go to court is not a real choice for a landowner. It is expensive and costs will easily exceed the money offered. The law permits the landowners to sue and recover attorney fees and costs if the end result is in the landowners favor in excess of the money offered by the oil company.

One of the most frustrating things is the highhandedness of the oil barons is dealing with the lowly surface owner. The oil company can and does ignore the owner and does what it wants, where it wants, and pays nothing. They do, in fact, refuse to "negotiate."

In the case I have there is no requirement for the oil company to remove or clean up the pit. Why? Why is the lease forever? These should be for a fixed number of years and have to be renegotiated every few years.

Other collateral issues are air quality and the effect of VOC's and burning off the gases, recycling of saltwater, hydrogen sulfide gas, poisons in the oil, chemicals used by the drillers in the fracturing process, health and usage of the outdoors by humans and their animals.

I hope this is of some help to the committee and will result in legislative changes in favor of the surface owners.

Sincerely,

A handwritten signature in blue ink, appearing to read "Richard B. Baer", with a long horizontal flourish extending to the right.

Richard B. Baer

RBB:lcj