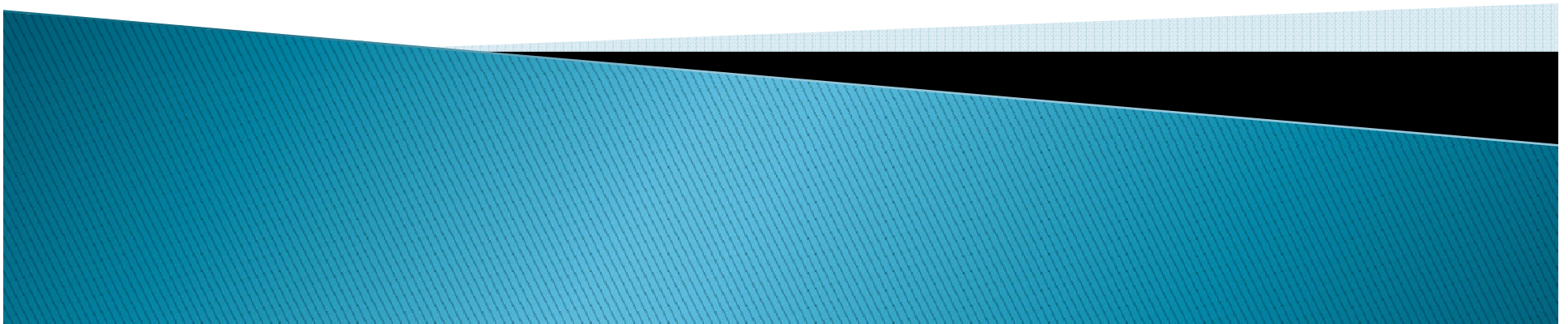


Oil and Tax Agreement & Regulatory Agreement

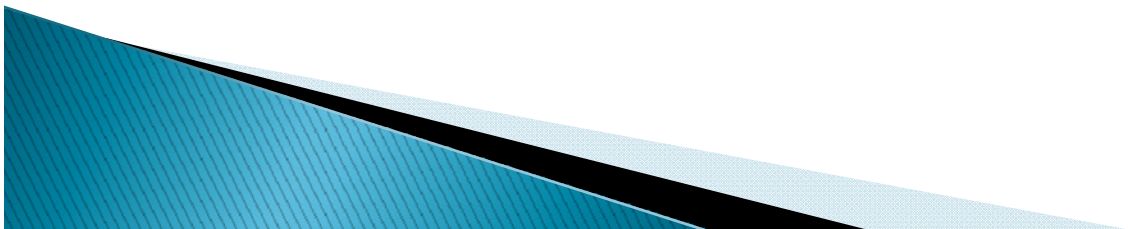
Three Affiliated Tribes and State of North Dakota

9/9/2010



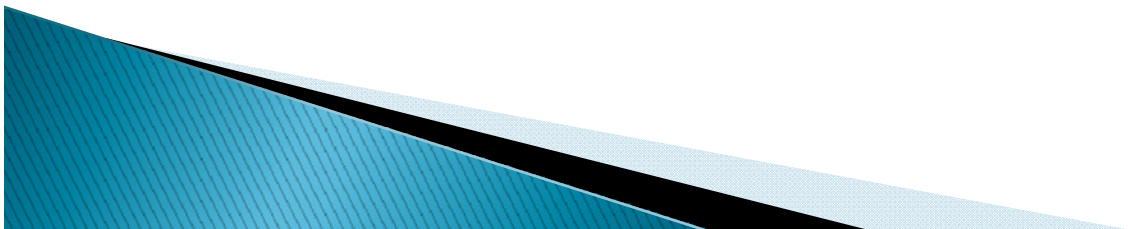
Background

- ▶ Senate Bill 2419 introduced as a delayed bill in the 2007 session
- ▶ Bill allowed the Governor, in consultation with the Tax Commissioner, to enter into agreements with the Three Affiliated Tribes relating to taxation and regulation of oil and gas exploration and production on the Fort Berthold Reservation.



SB 2419

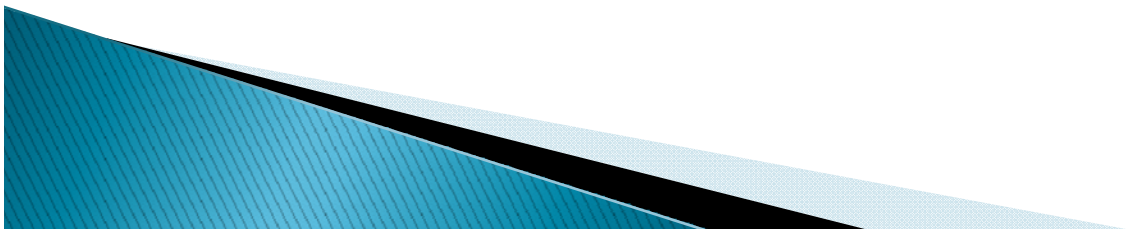
- ▶ State's oil and gas gross production tax under chapter 57–51 must apply to all wells on the Reservation
- ▶ State's oil extraction tax under chapter 57–51.1 on trust lands could not exceed 6 ½% but could be reduced by negotiation
- ▶ All current tax exemptions for oil produced on fee land still apply.



SB 2419

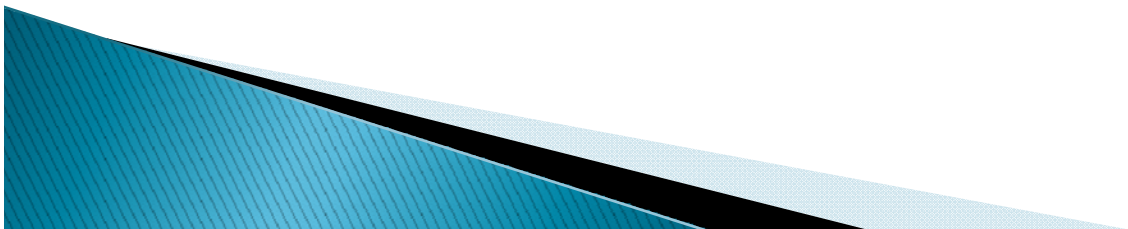
Cont.

- ▶ Oil and gas wells drilled and completed during the agreement are subject to the agreement for the life of the well.
- ▶ Passed both Chambers unanimously.



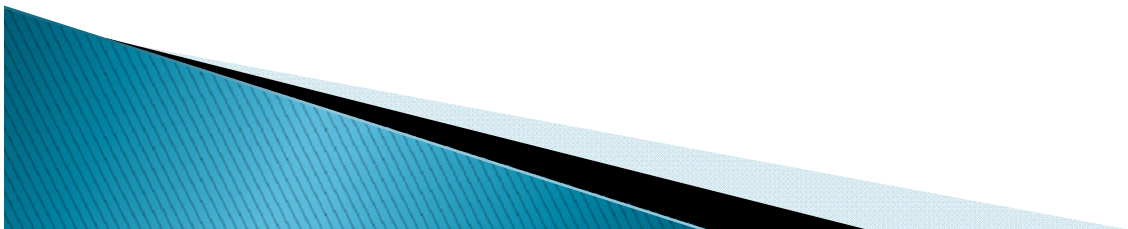
Tax Agreement

- ▶ Originally signed by Governor Hoeven and Chairman Levings on June 10, 2008.
 - Two year term
- ▶ Governor Hoeven and Chairman Levings signed an indefinite extension on January 13, 2010.
 - May be formally cancelled by either party



Tax Agreement

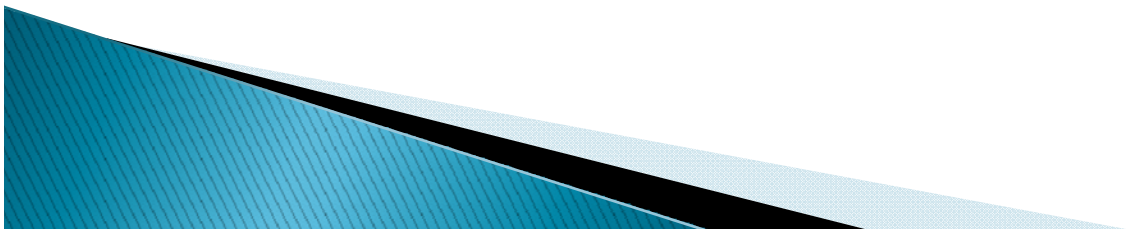
- ▶ State Tax Commissioner will establish for each Reservation well the mineral acres of Trust Lands and Non-Trust Lands.
- ▶ Gross Production Tax Rate of 5%
- ▶ Oil Extraction Tax Rate of 6.5%
 - Non-Trust Land exempt for 60 months
- ▶ Gas Tax Rate same as current state law.



Tax Agreement

Revenue Sharing – Trust Lands

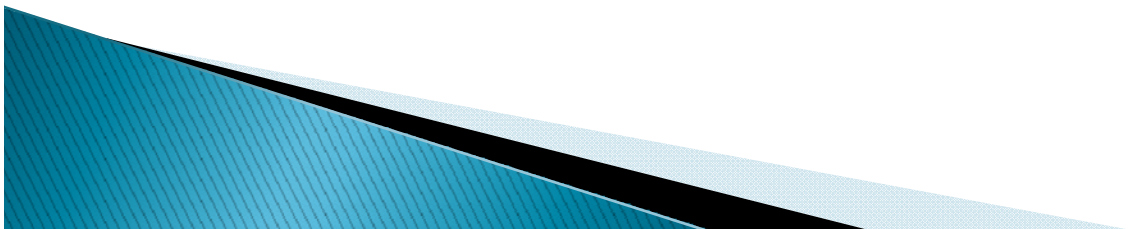
- ▶ Oil and gas tax revenue sharing from production on Trust Lands
 - 50% of total allocated and paid to the Tribe
 - 50% of total allocated and paid to the State and political subdivisions based on statutory distribution formulas



Tax Agreement

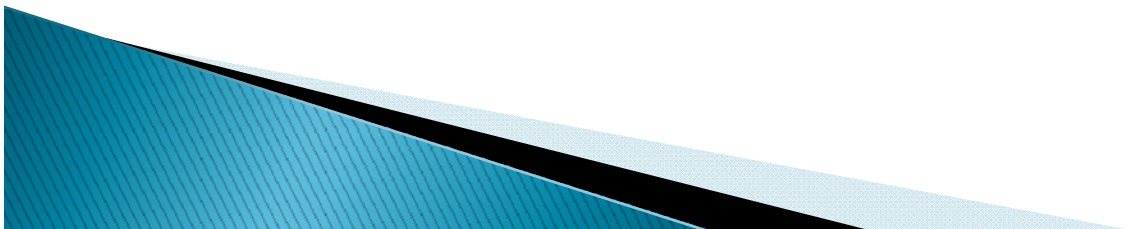
Revenue Sharing – Non-Trust Lands

- ▶ Oil and gas tax revenue sharing from production on Non-Trust Lands
 - 20% of gross production taxes allocated and paid to the Tribe
 - 80% of gross production taxes and 100% of oil extraction taxes allocated and paid to the State and political subdivisions based on statutory distributions formulas



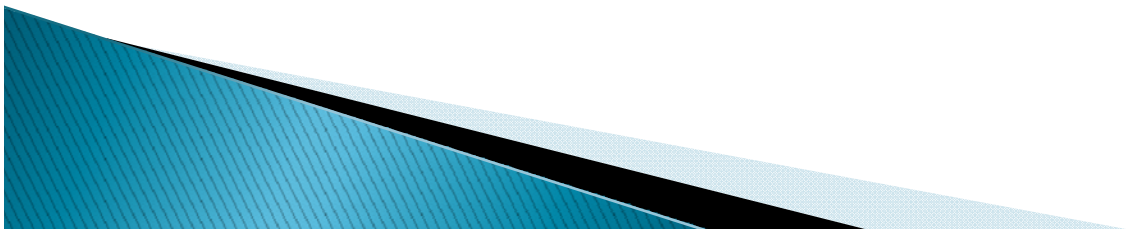
Tax Agreement

- ▶ Agreement provides for a one time \$60,000 TERO fee and \$40,000 Tribal Application fee per well.
- ▶ The fees are payable to the Tribe and are not collected and administered by the Office of State Tax Commissioner.
- ▶ Fees are applicable if the well's spacing unit is comprised of a majority of trust land.



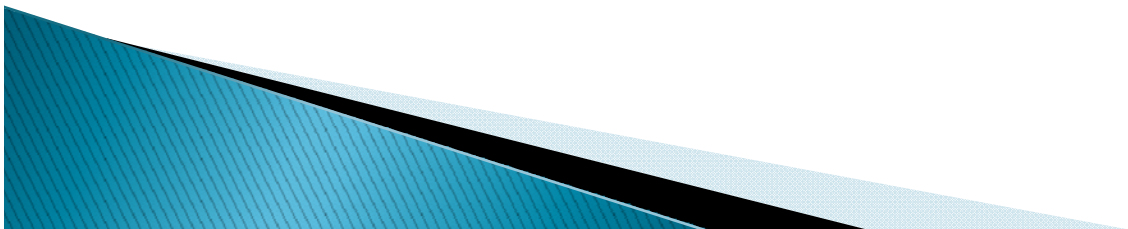
Tax Agreement Results

- ▶ Before the Agreement
 - 1 well drilled
 - 0 on Trust Land
- ▶ Since
 - 2837 Leases approved by Tribe
 - 65 wells currently producing
 - 23 rigs currently drilling
 - Mostly on Trust Land



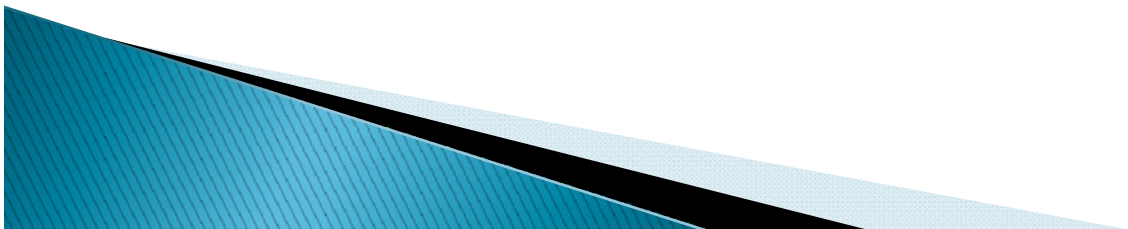
Tax Agreement Results

- ▶ Total Production and Extraction Tax Distributed
 - Tribe – \$13,289,154.43
 - \$181,227,968.14 leases paid
 - State – \$32,442,548.76



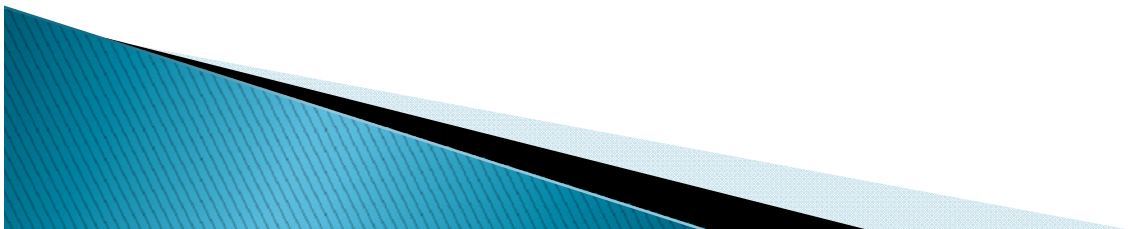
Regulatory Agreement

- ▶ Original Regulatory Agreement
 - Differentiated Regulatory Authorities
 - Signed by Chairman Levings and Governor Hoeven June 2008.
 - BIA & BLM did not sign the Agreement
- ▶ New Regulatory Agreement
 - Defines the cooperative process to approve permits and spacing rules

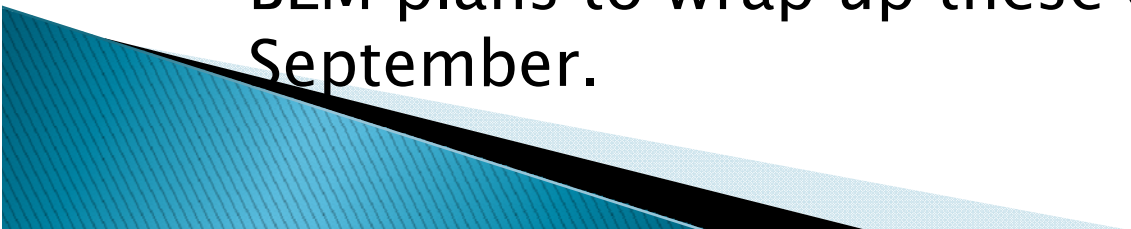


Regulatory Agreement

- ▶ BLM will adopt state-wide well location rules and set-back requirements.
- ▶ BLM shall be provided a seat at the hearing and present expert testimony.
- ▶ Orders will be issued as follows:
 - Only Trust lands, the BLM will issue Order and the NDIC may co-sign the Order.
 - Both Trust lands and non-Trust lands, the BLM and NDIC will co-sign the order.
 - No Trust lands, the NDIC will issue order and the BLM will not co-sign the order.



Regulatory Agreement

- ▶ BLM still needs to approve the Agreement
 - BLM was working with the Tribal Energy Office to set up three consultation sessions for August.
 - BLM's feedback at local Allottee and Landowner meetings have been positive.
 - BLM presented it to the Tribal Council and it recommended more extensive consultation.
 - BLM's District and State Office are in agreement with the MOU and are waiting for the completion of the consultation efforts.
 - BLM plans to wrap up these efforts in early September.
- 

Taxation for Well Located Within the Fort Berthold Reservation
Quick Reference Sheet

1. Tax Rate
 - a. Oil
 - i. Trust Land
 1. 11.5%
 - ii. Non-Trust Land
 1. 5% for the first 60 months then 11.5% thereafter
 - b. Gas
 - i. Tax rate for gas produced from Trust and Non-Trust land is set by N.D.C.C. 57-51-02.2.
2. Spacing units comprised of Trust and Non-Trust land.
 - a. Tax rate is determined by applying a "Trust and Non-Trust Ratio" to the applicable tax rate.
 - b. For example:
 - i. "Trust Ratio" is determined by dividing the total Trust Lands acreage in a Spacing Unit by the Spacing Unit Acres.
 - ii. "A Non-Trust Ratio" is determined by dividing the total Non-Trust Lands acreage in a Spacing Unit by the Spacing Unit Acres.
 - iii. The two different "Ratios" then are applied to the corresponding tax rate.
 1. Example #1
 - a. In a hundred acre spacing unit, 60 acres are Trust lands and 40 acres are Non-Trust lands.
 - i. Trust Ratio would be 0.6 and Non-Trust would be 0.4
 - ii. Therefore, 0.6 of the oil produced from the well would be taxed at 11.5% and 0.4 of the oil produced from the well would be taxed at 5% for 60 months and 11.5% thereafter.
 2. Example #2
 - a. In a hundred acre spacing unit, 30 acres are Trust lands and 70 acres are Non-Trust lands.
 - i. Trust Ratio would be 0.3 and Non-Trust would be 0.7
 - b. Therefore, 0.3 of the oil produced from the well would be taxed at 11.5% and 0.7 of the oil produced from the well would be taxed at 5% for 60 months and 11.5% thereafter.
3. Tribal Fees
 - a. Trust Land
 - i. Tribe collects a \$60,000 TERO fee and \$40,000 Tribal Application fee. This is a one time fee per well remitted to the Tribe. TERO employment regulations apply if the well is located on Trust land. For the purposes of fees and employment only, a well is on Trust land if the majority of the Spacing Unit is comprised of Trust lands.
 - b. Non-Trust
 - i. No fees or employment regulations.
 - c. The TERO and Tribal Application fees are not applied on a prorated basis.

* This reference sheet is not official or binding on any agency and does not supersede the terms of the agreements.

Key Provision of BLM/BIA Spacing Agreement:

5/19/10

- 1) IC will forward applications to BLM & BIA.
- 2) IC shall notify BLM of Hearing Docket at least 15 days prior.
- 3) BLM shall notify tribes and allottees of the affected land.
- 4) BIA/BLM & IC will work cooperatively to enforce MOU.

Federal Lands.

- 1) BLM will adopt state-wide well location rules and set-back requirements in NDAC 43-02-03-18.
- 2) BLM shall be provided a seat at the hearing and present expert testimony.
- 3) BLM shall object by written objection
 - a. Will attempt to meet to resolve
 - b. If no agreement, IC will issue final order to non-federal lands. BLM will issue to Federal Lands.
- 4) Dual signature on one order.

Trust Lands.

- 1) BLM will adopt state-wide well location rules and set-back requirements in NDAC 43-02-03-18.
- 2) BLM shall be provided a seat at the hearing and present expert testimony.
- 3) Orders will be issued as follows:
 - a. If the spacing unit involves only Trust lands, the BLM will issue an Order covering all lands within the spacing unit. The NDIC may co-sign the Order.
 - b. If the spacing unit involves both Trust lands and non-Trust lands, the BLM and NDIC will co-sign the order. The BLM approval will apply only to Trust lands in the spacing pattern, and the NDIC approval will apply only to the non-Trust lands.
 - c. If the spacing unit does not involve Trust lands, the NDIC will issue an Order covering all lands within the spacing unit. The BLM will not co-sign the Order in this situation.
- 4) Upon request, the Tribe(s) or an affected Allottee(s) will be granted an opportunity by the BLM for a pre-hearing meeting to review the administrative record, submit additional information, and express their views.
- 5) The Tribe(s) or Allottee(s) will also be given an opportunity to participate in the hearing. The BLM may request a continuance to the next hearing if additional time is needed to meet with either the Tribe(s) or Allottee(s).

Oil and Gas : ArcIMS Viewer

Legend / Layers

Overview Map

View Entire State

Previous View

Clear Selection

Search

Generate PDF

Zoom In

Zoom Out

Pan

Rect Identify

Select Object

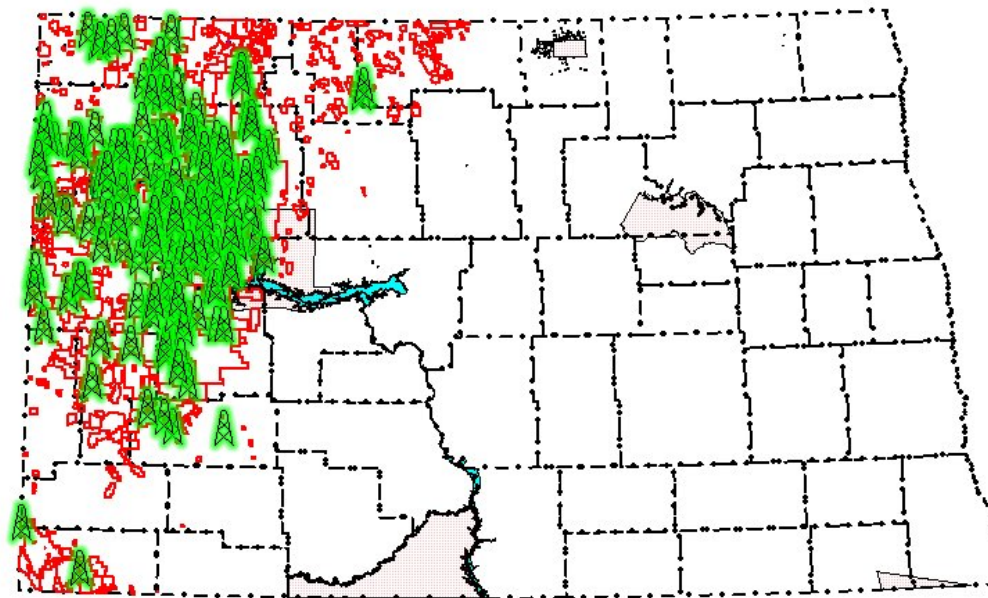
Buffer

Distance

Find Well

Find Field/Unit

Find Section



0 92mi

Download Shape Files

ND OIL & GAS LAYERS

- ☒ Oil and Gas
 - ☒ Wells
 - ☒ Rig Location
 - ☐ Directional Surveys
 - ☐ Directional Legs
 - ☐ Horizontal Surveys
 - ☐ Horizontal Legs
 - ☐ Cases Docketed
 - ☒ Oil Fields
 - ☐ Unit Boundaries
 - ☐ Inspector Areas
 - ☒ Drilling / Spacing
 - ☒ Seismic
 - ☐ Gas Plants
- ☒ Other
- ☒ Imagery
 - ☐ Topo/DRG 250k
 - ☐ Topo/DRG 100k
 - ☐ NAIP 2009

Refresh Map

☒ Auto Refresh

Help:

- A closed group, click to open.
- An open group, click to close.
- A map layer.
- A hidden group/layer, click to make visible.
- A visible group/layer, click to hide.
- A visible layer, but not at this scale.
- A partially visible group, click to make visible.
- An inactive layer, click to make active.
- The active layer.

Zoom In

Map Data Last Updated : 10/18/2010