

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

ENERGY DEVELOPMENT AND TRANSMISSION COMMITTEE

Thursday, January 26, 2012
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Rich Wardner, Chairman, called the meeting to order at 9:00 a.m.

Members present: Senators Rich Wardner, John M. Andrist, Lonnie J. Laffen, Stanley W. Lyson, Ryan M. Taylor, John Warner; Representatives Michael D. Brandenburg, Shirley Meyer, Todd Porter, Mike Schatz, Gary R. Sukut

Member absent: Representative Scot Kelsh

Others present: Representative Jerry Kelsh, member of the Legislative Management, was also in attendance.

See [Appendix A](#) for additional persons present.

It was moved by Representative Meyer, seconded by Representative Schatz, and carried on a voice vote that the minutes of the November 29, 2011, meeting be approved as distributed.

OILFIELD STORAGE AND TREATMENT SYSTEMS

Mr. Rich Millard, Mr. Allen Stein, and Mr. Dan McNair, Quick Pits, LLC, Grand Junction, Colorado, gave a presentation ([Appendix B](#)) on modular fluid storage systems. Mr. Stein described the pit construction and design. He said the system will result in 90 percent fewer trucks on the road for a frac job.

In response to a question from Senator Wardner, Mr. Stein said the Quick Pits product is going to market in Pennsylvania and south of Dickinson.

In response to a question from Senator Wardner, Mr. Stein said his product will result in smaller well sites and fewer leaks.

In response to a question from Senator Wardner, Mr. Stein said the pits can be used in conjunction with a water treatment system. He said moving the water to site will be done with poly line from one big pit. He said the pit may be constructed on any compacted level location.

In response to a question from Senator Warner, Mr. Stein said liners can be recycled, and different liners are used for different substances.

In response to a question from Senator Wardner, Mr. McNair said flowback water is high in salts. He said the salt content is 10 times that of seawater. He said there is a small amount of oil in the saltwater. He said using an electrokinetic system the water can be charged, and with the combination of the right kind of metal, the sludge floats to the top. He said the sludge

can be removed and be made into a ceramic product. He said after this treatment, the water has 50 percent of the salt and can be reused by a driller. He said the salt level can be made even lower and the oil removed. He said this additional process is not that expensive.

In response to a question from Senator Warner, Mr. McNair said the ceramic created from the sludge could be used for a proponent in frac jobs. He said the ceramic is stronger than concrete and can be made with salt reaction without baking.

In response to a question from Senator Wardner, Mr. McNair said there is testing being done on the use of the ceramic as frac sand.

In response to a question from Senator Andrist, Mr. McNair said because frac water can be treated and used again, it cuts trucking in half.

In response to a question from Senator Wardner, Mr. McNair said there is technology for treating cuttings from the Bakken and removing the oil.

Mr. Millard said his company can store water and clean water and, as a result, remove trucks from the road resulting in less wear and tear and dust. He said approximately 40 percent of the water is returned in frac jobs. He said reusing 40 percent of the water is a benefit to the aquifers.

In response to a question from Senator Taylor, Mr. Millard said the average oil well site can be reduced from five acres to around three acres because of the removal of frac tanks. He said the amount of frac jobs that can be supported by a system is quite large if the frac jobs are managed in a sequential manner. He said there are challenges in keeping the water from freezing in the poly pipe. He said the system has many safeguards, and although freezing is an issue, it is not a hazard.

In response to a question from Representative Meyer, Mr. Millard said most local governments and local citizens are supportive of the poly lines, so permits and easements should be obtained in the normal manner.

In response to a question from Senator Andrist, Mr. Millard said the length of the poly line is dependent on the need, and ditches could be used to hold the poly line.

OIL PRODUCTION IMPACT ON SCHOOLS

Mr. Steven Holen, Superintendent, McKenzie County Public School District, gave a presentation

([Appendix C](#)) on the oil and gas production tax formula and on the McKenzie County Public School District No. 1 and the Ray-Nesson Public School District.

Mr. Gary Wilz, Superintendent, Killdeer Public School District, gave a presentation ([Appendix D](#)) on the 5 percent gross production tax distribution.

Ms. Viola LaFontaine, Superintendent, Williston Public School District, gave a presentation ([Appendix E](#)) on the needs and challenges of the Williston Public School District No. 1.

Mr. Doug Sullivan, Superintendent, Dickinson Public School District, provided written testimony ([Appendix F](#)) on the impact of oil development on the Dickinson Public School District.

Mr. Kent Hjelmstad, Superintendent, Stanley Public School District, provided written testimony ([Appendix G](#)) on the impact of oil development on the Stanley Public School District. He said birthrates have multiplied by over four times. He said it is difficult and expensive to find housing for teachers. He said eight schools in oil country need to be built. He said matching funds for buildings seems like a good idea, but the debt limit for local schools does not allow full use of matching funds. He said influx aid is more appropriate.

Mr. Holen said an aid program for facilities is prudent. He said it is not fair for local taxpayers to bear the full expense for oil development.

In response to a question from Senator Wardner, Mr. Holen said the schools need impact money for facilities immediately. He said schools also need an increase in the share of the production tax.

In response to a question from Representative Meyer, Mr. Hjelmstad said federal law defines homeless as multiple people living in a setting that should not have multiple people. He said the dwelling must be a four-season dwelling. He said federal law provides that homeless children must be welcome without records or immunization regardless of where they live. He said there is a great influx of homeless children in oil country although the parents may make \$30-plus per hour.

In response to a question from Senator Andrist, Mr. Holen said the production tax imputed to general education funding varies from district to district. He said imputation is not a factor in whether to increase production tax allocations to schools.

In response to a question from Representative Porter, Mr. Hjelmstad said foundation aid comes in the following year. He said when there is rapid growth, the school district is a year behind, and there needs to be money in the front-end. He said the mill rate increases are limited, and as property values go up, the overall mill limit is not an issue.

In response to a question from Representative Brandenburg, Mr. Wilz said gross production tax revenues have to be used immediately, and it is difficult to use them for something in the future. He said there are not sufficient funds to build schools.

In response to a question from Representative Sukut, Mr. Holen said although schools have access to the \$100 million in impact funds, schools are not eligible until the fourth round. He said the \$5 million provided for rapid enrollment removed schools from the first three rounds.

In response to a question from Representative Sukut, Mr. Wilz said housing requests were denied categorically in the early rounds. He said the school district combined with a request from the city for personnel housing in Killdeer.

Senator Wardner said school districts need to provide a plan as a starting point for the Legislative Assembly because the school districts are the experts in the area.

OIL DEVELOPMENT IMPACT ON CITIES

Mr. Shawn Kessel, City Administrator, Dickinson, provided written testimony ([Appendix H](#)) previously presented by Mr. Dennis W. Johnson, Commission President, Dickinson, on energy impact. In addition, Mr. Kessel gave a presentation ([Appendix I](#)) on the dynamic growth in the city of Dickinson. He said the interest rate on the revolving loan fund is 3 percent and is higher than market levels. He said the state should lower the interest rate for the revolving loan fund.

Mr. Brad Bekkedahl, City Commissioner, Williston, provided written testimony and gave a presentation ([Appendix J](#)) on the impacts of oil development on Williston. His presentation included four segments--impacts, what has been done with current impact funding, future challenges and impacts, and funding sources.

Mr. Bekkedahl provided written testimony ([Appendix K](#)) from Mr. Nathan Germundson, President, City Commission, Tioga.

Mr. Brent Sanford, Mayor, Watford City, gave a presentation ([Appendix L](#)) on:

- Current oil activity.
- Retail, governmental, and health service facilities.
- Planning for permanent construction and development regulation.
- Solutions.

In response to a question from Senator Wardner, Mr. Sanford said he recommends the expansion of the infrastructure grant program for schools and hospitals. He said there needs to be more money provided from the gross production tax.

In response to a question from Representative Porter, Mr. Sanford said the construction of the Western Area Water Supply has stopped because the Army Corps of Engineers has not issued a permit.

In response to a question from Representative Porter, Mr. Ron Anderson, County Commissioner, McKenzie County, said the independent water users are putting pressure on the corps for a full environmental assessment before the issuance of a permit. He said this full environmental assessment

could take two years. He said the corps has indicated it will issue the permit without the environmental assessment, but has not issued the permit.

Senator Wardner said one of the reasons for the Western Area Water Supply Authority was to provide water to Watford City.

In response to a question from Representative Porter, Mr. Sanford said the culture between the state and cities is different in that the state is slower. He said the state should award grants for impact funding before the money is available so that action can be taken by the city. He said there is a lag between when the money is received and when work may begin. He said grant round money was awarded in July and should have been awarded in April or May. He said the state only provided 60 percent in the first year in awards.

In response to a question from Representative Porter, Mr. Bekkedahl said the July money was paid in August. He said the city wanted to use the impact funding as collateral for bonds but could not because it had not been awarded. He said formula funding can be used with a bonding company, but grants on a biennial basis may not be used with a bonding company.

OIL PRODUCTION IMPACT ON EMERGENCY MEDICAL SERVICES

Mr. Cody Friesz, Administrator, North Dakota EMS Association, gave a presentation ([Appendix M](#)) on the trends and impact of oil development on emergency medical services (EMS). He said there are three major EMS issues--personnel, education, and funding. He said labor for EMS is provided by volunteers and the volunteer pool is dwindling.

Senator Taylor said the Energy Infrastructure and Impact Office should be allowed to provide impact funding for staffing. He said there should be funding for EMS staffing.

In response to a question from Senator Taylor, Mr. Friesz said the decision not to provide funding for staffing was a state land board decision.

In response to a question from Senator Wardner, Mr. Friesz said the top priority is for sustainable funding for personnel. He said impact funding is not a steady stream of funding.

Representative Brandenburg said funding through the Department of Transportation budget for EMS staffing may be appropriate.

OIL PRODUCTION IMPACT ON COUNTIES

Mr. Dave Hynek, Commissioner, Mountrail County Commission, gave a presentation ([Appendix N](#)) on oil production impact on Mountrail County, especially the road system. In addition, he provided a handout ([Appendix O](#)) on Bowman County gross production tax.

In response to a question from Senator Warner, Mr. Hynek said housing for road construction crews is an issue. He said the county is investigating reserving

places in man camps for construction workers. He said there needs to be a mechanism for continued maintenance and suggested a state fund. He said the main needs are time and money.

Mr. Anderson provided written testimony ([Appendix P](#)) on the impact of oil production on roads, employee compensation, hospitals, affordable housing, social services, and the landfill.

Ms. Donna Scott, County Commissioner, Dunn County, provided written testimony ([Appendix Q](#)) on the impact of oil production on law enforcement, planning and zoning, water, roads, emergency services, social services, county administration, schools, and day care.

Mr. Dan Kalil, County Commissioner, Williams County, gave a presentation ([Appendix R](#)) on the impacts of oil production. He said 10 percent want to buy homes, but want homes under \$250,000. He said there has been speculation in man camps and over 10,000 beds have been approved, but only 6,000 built. He said the quality of life has been affected, and the local population is angry and frustrated. He said the real problem is too much too fast. He said oil development needs to be slowed down. He said the communities cannot sustain 250 rigs. He said the oil site areas have exceeded the acres of land that has been strip mined in this state. He said the permitting process needs to be slowed down. He said the state is trading a third or fourth generation culture for a transient workforce.

Senator Wardner said it would be difficult to slow the process because oil companies have leases for three years and any intentional slowing of permit issuance could be considered a takings.

In response to a question from Senator Wardner, Mr. Kalil said there are two ways to slow the process--stop infill drilling or declare a state of emergency and extend the leases.

In response to a question from Senator Andrist, Mr. Kalil said the oil industry would like a slower pace. He said because of the fast pace the cost of doing business is astronomical. He said the fast pace is tough on the industry. He said a saltwater disposal permit was issued even though it created a traffic problem, because traffic was not an issue that could be considered.

In response to a question from Representative Meyer, Ms. Scott said the county is looking to increase permit fees.

In response to a question from Senator Taylor, Mr. Anderson said mineral leases went for \$300 per acre in 2006 and are going for \$3,000 per acre in 2012. He said the shares have increased from .125 percent to 17 percent to 20 percent. He said state and federal minerals are higher at \$30,000 to \$40,000 per acre.

Mr. Kalil provided handouts ([Appendix S](#)) from Mr. Thomas P. Powers on impacts of oil activity, planning and zoning in Williams County, road conditions, and locations for a truck bypass around Williston. He said the preferred route for the bypass

cannot be used because of teepee rings and burial stones. He said people are dying because of the lack of a bypass due to archaeological impediments; there is a trading of old graves for new graves.

In response to a question from Senator Andrist, Mr. Kalil said the trigger for not disturbing burial stones and teepee rings without approval from the tribe is accepting federal funding for any projects.

In response to a question from Representative Kelsh, Mr. Kalil said the legacy funds will not come fast enough. He said 40 percent of the state budget is financed by oil.

Mr. John Plaggemeyer, County Commissioner, Hettinger County, provided testimony to the committee. He said there is no affordable housing because prices have gone up from \$60,000 to \$150,000 for the same house over a short time. He said the school has 76 kids, and there has been an increase of 22 kids in the last couple of years. He said Hettinger County does not have oil production so there is no extra funding. He said crime is up, day cares are full, and calls for ambulance service are up 50 percent. He said by the time rigs arrive and start producing, the county will be broke.

OIL PRODUCTION IMPACT ON TOWNSHIPS

Mr. Greg Boschee, County Commissioner and township officer, Mountrail County, provided testimony on the impact on townships. He provided a handout ([Appendix T](#)) of a dangerous intersection ahead sign covered with mud. He said the cost for a township for gravel has increased over three times. He said the gravel is thrown from the road by fast-moving trucks. He said to gravel a mile of road costs approximately \$15,000, and the township received \$40,000 for gravel from the impact fund. He said the township has 34 miles of road and can do 1.5 miles per year with gravel. He said there are too many projects and not enough money.

Mr. Wayne Johnson, Director, Mountrail Township Officers Association, presented testimony on an issue with a contractor in his township. He said the contractor agreed to do work for a higher-than-ever paid rate and did work with the wrong grade of gravel. He said the agreed price was \$17,400, and the final bill was \$115,000. He said the contractor expected there to be money available from the oil companies or the state to pay the inflated rate. He said when the state announced that there was oil impact funding of \$100 million, people started to take advantage. He said there needs to be checks and balances to avoid this kind of abuse, and townships are an appropriate level of government to regulate this abuse.

In response to a question from Senator Wardner, Mr. Johnson said in 34 years of being on the township board there has never been a signed contract except for one time to gravel roads. He said usually the contractors are local, but in this situation the township was desperate and had two days to get the project completed or close the road.

Mr. Johnson said township officers have to take on a lot of liability, and people threaten to sue township officers on a regular basis.

In response to a question from Senator Lyson, Mr. Johnson said the township has legal counsel, but the matter will take a long time to resolve.

In response to a question from Representative Brandenburg, Mr. Johnson said because overweight charges go to the state there is no incentive for local officials to enforce overweight violations.

Mr. Johnson said most oil companies will work with a township, but when putting in the oil well the oil company knows it will destroy the road and does not want to put any money into the road until after the well is in.

Mr. Floyd Miller, Williston, provided a handout ([Appendix U](#)) on recommended guidelines for township roads. He said oil companies do not give notice when they start an oil well, and oil company roads are not built up to township standards. He said rain does not stop oil well drilling. He said safety is not an issue, and the goal is to get the well in as soon as possible. He said oil companies are in the business of getting oil and not making roads. He recommended that townships be included in the statute for impact funding.

Mr. Boschee said counties and townships work well together. He said the township officers are busier than ever, and the No. 1 concern is to fix the roads.

Representative Kelsh said the eastern part of the state has similar problems because of water and agribusiness.

Mr. Dan Brosz, President, North Dakota Association of Oil and Gas Producing Counties, gave a presentation ([Appendix V](#)) on the gross production tax. He said counties do not have enough money especially for infrastructure.

Senator Wardner said the Legislative Assembly provided a lot of money this biennium and would like a report on how the money was used and if it helped.

No further business appearing, Chairman Wardner adjourned the meeting at 5:15 p.m.

Timothy J. Dawson
Committee Counsel

ATTACH:22