

House Bill 1270

House Judiciary Committee

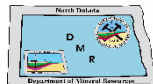
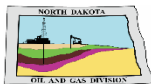
January 26, 2021

Comments of Christopher Maike, Geologist
Department of Mineral Resources

I am opposed to House Bill 1270 in its present form because I am concerned that state employees performing duties pursuant to their agency's mission may indirectly photograph a person and/or property and be subject to the proposed penalties.

DMR Oil and Gas Division field inspectors and Geological Survey geologists routinely take photographs in the field to document their observations. These include thousands of photographs taken from the ground as well as thousands of photographs taken by DMR drones. The DMR has five drones and nine licensed drone pilots. Items routinely photographed include:

- Landslides
- Rock outcrops and landforms
- Fossils
- Oil and gas well pad reclamation
- Pipeline corridors
- Flooding of oil and gas infrastructure



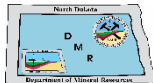
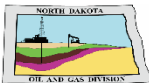
House Bill 1270

House Judiciary Committee

January 26, 2021

12.1-31-14. Surreptitious intrusion or interference with privacy.

3. An individual is guilty of a class B misdemeanor if, with intent to intrude upon or interfere with the privacy of another, the individual:
- a. Surreptitiously, through the use of any device, surveils, observes, photographs, or records by audio, video, thermal, infrared, or other imaging technology, the private property of another at or in a place where a reasonable individual would have an expectation of privacy.
 - b. Surreptitiously, through the use of any device, surveils, observes, photographs, or records by audio, video, thermal, infrared, or other imaging technology, an individual at or in a place where a reasonable individual would have an expectation of privacy.



House Bill 1270

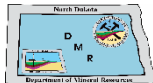
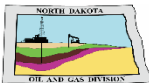
House Judiciary Committee

January 26, 2021

Proposed Amendment:

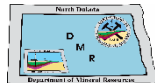
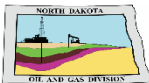
12.1-31-14. Surreptitious intrusion or interference with privacy.

3. An individual is guilty of a class B misdemeanor if, with intent to intrude upon or interfere with the privacy of another, the individual:
- a. Surreptitiously, through the use of any device, surveils, observes, photographs, or records by audio, video, thermal, infrared, or other imaging technology, the private property of another at or in a place where a reasonable individual would have an expectation of privacy.
 - b. Surreptitiously, through the use of any device, surveils, observes, photographs, or records by audio, video, thermal, infrared, or other imaging technology, an individual at or in a place where a reasonable individual would have an expectation of privacy.
 - c. Employees and agents of a public agency of the state performing tasks within the scope of the agency's responsibilities and authority are not subjected to the constraints of this section.



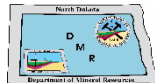
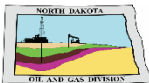
Davis Buttes Photograph (August 1987)

Davis Buttes, northeast of Dickinson in the background. Impossible not to photograph farmsteads and homes in the foreground. Individuals and private property may be indirectly captured in these landform photographs.



Flood Impacting Well-Pad near confluence of the Missouri and Yellowstone Rivers (March 2019)

Oil & Gas Division inspectors utilize drones in a variety of ways, including inspecting well-pads during natural disasters, such as floods. We had to take up close and distant photographs of this well site in order to monitor the floodwaters which required us to indirectly include this home.





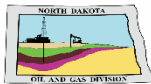
Landslide Impacting I-94 Valley City (August 2017)

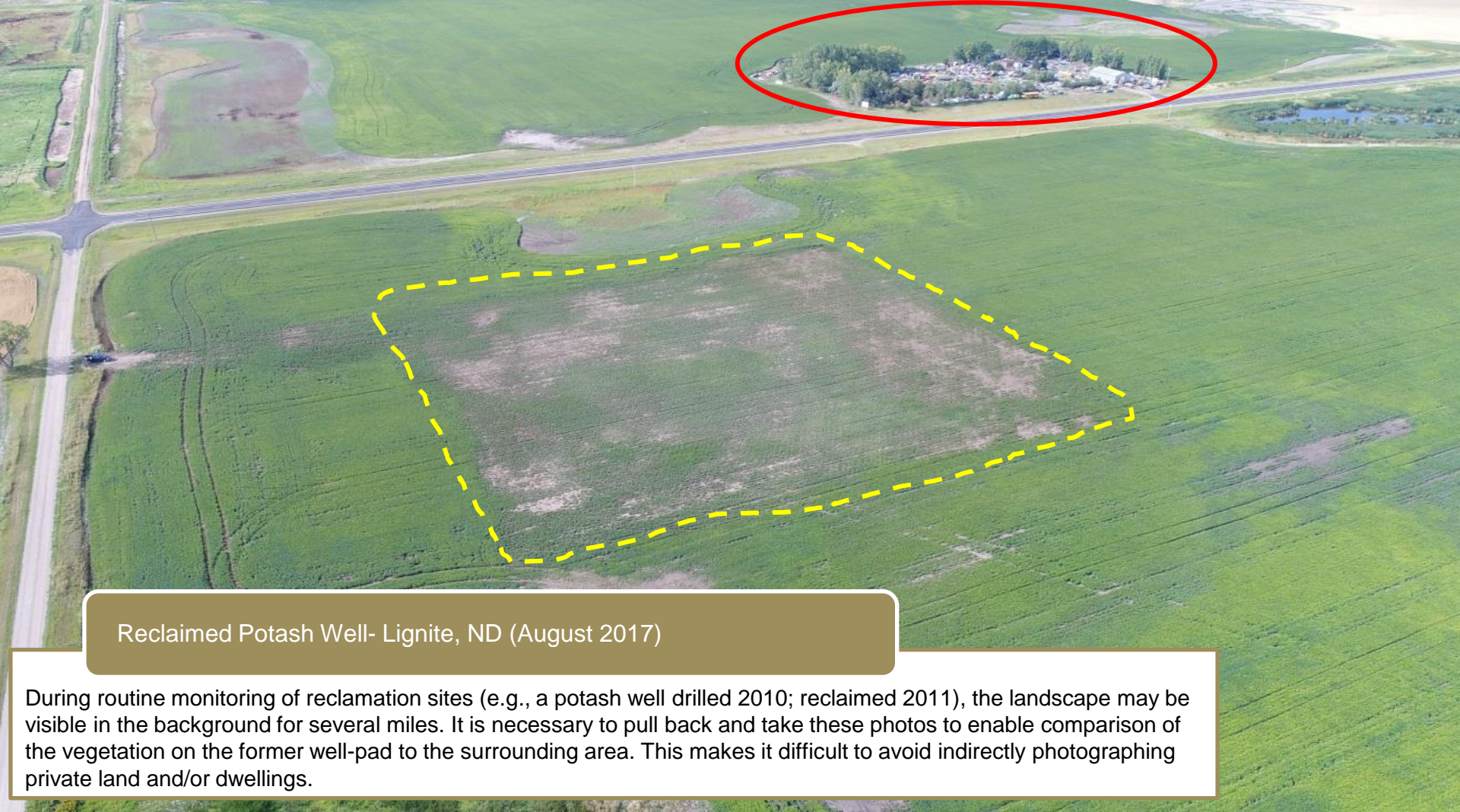
There are landslides that are impacting I-94 in Valley City. The photo, while directed at the landslide features, may still indirectly photograph individuals and/or private property. These large-scale photos are necessary for geologists to see and understand the whole feature and to provide context on the impacts to the area.



Landslide River Road-North of Bismarck- Burleigh County (December 2019)

- Drone photographs of these homes are unavoidable in North Bismarck but is also needed to look at their proximity to the landslide and the hillslope in this area. While capturing a photo of the landslide, nearby homes and individuals may be indirectly captured.





Reclaimed Potash Well- Lignite, ND (August 2017)

During routine monitoring of reclamation sites (e.g., a potash well drilled 2010; reclaimed 2011), the landscape may be visible in the background for several miles. It is necessary to pull back and take these photos to enable comparison of the vegetation on the former well-pad to the surrounding area. This makes it difficult to avoid indirectly photographing private land and/or dwellings.