

Senate Bill 2339
Testimony of Brady Pelton
Senate Energy and Natural Resources Committee
February 4, 2021

Chairman Kreun and members of the Senate Energy and Natural Resources Committee, my name is Brady Pelton, general counsel and director of government affairs for the North Dakota Petroleum Council. The North Dakota Petroleum Council represents more than 650 companies in all aspects of the oil and gas industry, including oil and gas production, refining, pipeline, transportation, mineral leasing, consulting, legal work, and oilfield service activities in North Dakota. I appear before you today in opposition to Senate Bill 2339.

Requiring single-well bonds, which may cost as much as \$100,000 per well in certain cases, for situations where a more cost-effective blanket bond will suffice is unnecessary and duplicative. Though there may never be a good time for overregulation and unnecessary expense requirements in a business-friendly environment, now is certainly a time when such impactful policies create needless potential liabilities for oil and gas operators in the state. The type of regulatory change addressed in this bill does drive business decisions on where to position capital and should not become policy.

Senate Bill 2339 creates a new subparagraph in the North Dakota Century Code mandating the North Dakota Industrial Commission (the “Commission”) to require non-abandoned-well status wells covered by a blanket bond subject to forfeiture to be placed on a single-well bond. In short, this bill as written is understood to require a single-well bond on non-abandoned wells that are no longer covered by a blanket bond. Pursuant to its authority derived from N.D.C.C. section 38-08-04, the Industrial Commission already provides for comprehensive well bonding requirements through administrative rule (*see* N.D.A.C. 43-02-03-

15). Well bond amounts set by the Industrial Commission are \$50,000 when a single well is sought for approval and \$100,000 when applied to more than one well. These bonds may only terminate after plugging and reclamation of the well has been approved by the Commission.

In a logical scenario envisioned as one intended to be addressed by this bill, imagine there are ten wells covered by a blanket bond. Two reach a point in time when they have not produced oil or gas in paying quantities for one year. These two wells are subject to being placed by the Commission into abandoned-well status. The NDIC currently has the authority to require each of those two wells be placed immediately on a single-well bond equal to the cost of plugging each well and reclaiming each respective well site. Should those two wells not return to production within one year of being in abandoned-well status and action is not taken by the well owners to plug and reclaim the wells, the single-well bonds covering each are subject to forfeiture. Note in this scenario that it is the single-well bonds covering the abandoned-well status wells that are subject to forfeiture and *not* the blanket bond covering the remaining eight wells. Under this scenario, the need for each of the remaining eight active wells to be covered by a single-well bond is completely absent. Costs for plugging and reclaiming those wells remain covered by the existing blanket bond.

In the event of any well becoming abandoned with no principal bond holder capable of covering plugging and reclamation costs, additional protections exist in the Abandoned Oil and Gas Well Plugging and Site Reclamation Fund (“AWPSRF”). This Fund sits with a healthy current fund balance and is replenished through allocations from the state’s oil and gas gross production tax distribution formula and fees paid to the North Dakota Department of Mineral Resources, among other sources.

Given the unnecessary bonding coverage this bill seeks to require and the substantial costs to industry that may result, the North Dakota Petroleum Council urges a **Do Not Pass** on Senate Bill 2339. I would be happy to try to answer any questions.