2025 SENATE FINANCE AND TAXATION

SB 2397

2025 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2397
2/3/2025

Relating to the definition of non-oil-producing county for purposes of the flexible transportation fund, legacy earnings township aid fund, municipal infrastructure fund, and county and township infrastructure fund; to provide an effective date; and to declare an emergency.

10:30 a.m. Chairman Weber opened the hearing.

Members present: Chairman Weber, Vice Chairman Rummel, Senator Marcellais, Senator Patten, Senator Powers, Senator Walen

Discussion Topics:

- Measuring oil by output or value

10:30 a.m. Senator Enget, District 2, introduced SB 2397 and testified in favor.

10:34 a.m. Geoff Simon, Lobbyist, Western Dakota Energy Association, testified in favor and submitted testimony #33519, #33520, #33521, and #33802.

10:37 a.m. Shannon Holter, County Commissioner, Burke County, testified in favor and submitted testimony #33598.

10:41 a.m. Sonny Radenic, Road Foreman, Divide County Road Department, testified in favor.

10:46 a.m. Aaron Birst, Executive Director, ND Association of Counties, testified in favor.

10:48 a.m. Ron Ness, President, North Dakota Petroleum Council, testified in favor.

10:51 a.m. Pete Hanebutt, Director of Public Policy, North Dakota Farm Bureau, testified in favor.

10:52 a.m. Larry Syverson, Executive Director, North Dakota Township Officers Association, testified in favor.

10:53 a.m. Chairman Weber closed the hearing.

10:54 a.m. Senator Walen moved a Do Pass.

10:54 a.m. Senator Patten seconded the motion.

Senators	Vote
Senator Mark F. Weber	Y

Senator Dean Rummel	Y
Senator Richard Marcellais	A
Senator Dale Patten	Y
Senator Michelle Powers	Y
Senator Chuck Walen	Y

Motion passed 5-0-1.

Senator Walen will carry the bill.

Additional written testimony:

Bryan Haugenoe, Divide Country Road Department, submitted written testified in opposition #33456.

10:54 a.m. Chairman Weber closed the hearing.

Chance Anderson, Committee Clerk

REPORT OF STANDING COMMITTEE
SB 2397 (25.1360.01000)

Finance and Taxation Committee (Sen. Weber, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2397 was placed on the Eleventh order on the calendar. This bill does not affect workforce development.

DIVIDE COUNTY ROAD DEPARTMENT

Phone: 701-965-6522

707 1st Ave NW -- Box 91 -- Crosby ND 58730

Divide County has experienced a significant increase in oil field traffic and volume, especially over the last 2 years. This increase resulted in sizable impacts on the county and township roads used to access new and existing well sites, often causing damage to these roads that are also used by members of the public and those in the agricultural field. More and more well sites are being developed and coming online as each month goes by. At one point in 2024, there were 7 active drilling rigs in Divide County. The increased traffic and impact of this spike in oil industry has created a strain on our departmental resources and budget to maintain the roads and keep them safe for all traffic.

As a county, we have doubled our amount of gravel applied to county roads, from 600 tons per mile up to 1200 tons per mile on these roads, sometimes even applying 2000 tons per mile on heavily affected county roads. Townships in the county have also had to increase the tonnage of gravel applied to the roads and have needed to also increase the frequency of graveling their township roads. For the gravel that is used in the county, we currently budget for $500,000 crushing gravel for both our county and township usage. This is a significant decrease from our previous years of $1,000,000 crushing budget from height of the oil boom in 2012-2016 years. This decrease is not a result of decreased demand but is due to decreased funds available to Divide County. During the time since this decrease, traffic has maintained levels, if not increased significantly in some areas of the county.

Divide County has also experienced an increase in the number of roads that need constant maintenance as well as increased frequency of maintaining these roads. Some areas and townships that have higher levels of oil activity currently occurring have gone from road blading/maintenance once every 3-4 weeks to now having a need for blading multiple times per week. This has resulted in a reduction in services for less affected county and township roads. Members of the community have suffered from less frequent maintenance of their respective roads due to this increased oil field traffic and numerous complaints and issues have been noted by residents. We feel that our ability to adequately maintain the safety and stability of our roads in Divide County, township and county alike, is hampered by the lack of funding and resources to keep up with the impact that the oil industry has on our roadway infrastructure.

Paved county roads in Divide County also have been impacted by the increase in oilfield traffic in the area. Heavier loads and more frequent loads on these paved roads have resulted in accelerated aging of these heavy use corridors. Some paved roads are over 40 years old and convey some of the heaviest and most numerous traffic in the county. We currently do not have adequate funding to properly and proactively repair or maintain these roads to the level that we feel is appropriate. A recent paving project in the western part of the county involved paving 12 miles of an existing county road that has started to see degradation of the roadbed after establishment of an oil well site on it, with more planned in the near future. We were only able to do this full stretch after receiving Flex Fund monies from the state, as current funding would not have allowed us to complete that project. Additionally, we have 29 miles of existing graveled county roads that would benefit from becoming paved roads. These two roads would link state highways with already paved county roads in Williams County to the south. Paving these roads would decrease the required maintenance that is necessary on gravel roads in addition to negating the need to shut down roads after significant rainfall events. When significant amounts of rain impact these roads, weight restrictions are put into place to preserve the safety and integrity of the roads. This has the negative side effect of reducing if not shutting down oil production near these areas as most of the well sites in our county are not linked to pipeline infrastructure. The reduction in production then results in fewer tax dollars coming back to the county. Currently, it is not in our budget in the future to pave these roads as we must use our limited dollars to maintain our existing roads.

Bryan Haugenoe
Divide County Highway Superintendent

ND Historical Barrels of Oil Produced by County

(Confidential Wells are Not Included)

Date	Adams	Billings	Bottineau	Bowman	Burke	Divide	Dunn	Golden Valley	Hettinger	McHenry	McKenzie	McLean	Mercer	Mountrail	Renville	Slope	Stark	Ward	Williams
11-2020	0	331156	104128	346309	253609	480148	7808769	46114	0	4677	15210653	62904	0	6763980	36921	20630	189849	1177	5068613
12-2020	0	343617	108502	351804	258235	481088	7620981	46910	0	4762	15039850	68867	0	7114886	39244	21365	194553	1308	5173542
1-2021	0	367342	108798	354780	258108	466961	7290779	47627	0	4652	14446353	64752	0	6906953	40042	21331	187992	1146	4934929
2-2021	0	296439	95011	303179	216397	389470	5960322	41461	0	4088	12242714	49650	0	6398794	33649	18550	160561	711	4076890
3-2021	0	325450	112068	332992	248997	464768	6494964	45466	0	4676	14145340	62246	0	7162484	41029	20397	193305	1250	4645107
4-2021	0	300288	110134	324588	238762	445921	6354521	46044	0	4532	13948130	58363	0	6797981	40854	19126	190020	1373	4697866
5-2021	0	321396	115875	331600	230209	422682	6841813	46330	0	4768	14099663	62033	0	7289401	41031	19023	187559	1692	4918510
6-2021	0	295362	109860	316014	226025	416238	6552548	43219	0	3340	14294694	55125	0	6855477	39123	19107	170346	1525	4600419
7-2021	0	364753	114684	320964	228138	423748	6528723	44193	0	4416	13798474	49010	0	6594140	41181	19970	184186	1456	4667501
8-2021	0	380908	114129	318457	219336	428056	7127189	42519	0	4353	13411173	49470	0	7399202	41676	19132	177315	2090	4548409
9-2021	0	353801	111498	306002	205708	402429	6741144	43093	0	3966	12696022	50541	0	7755897	41543	18335	165253	2120	4448302
10-2021	0	342385	118273	324942	211068	411269	7269893	44131	0	4756	12652820	50852	0	8198471	43151	20216	167332	1818	4501048
11-2021	0	320755	114287	302483	206066	427710	7698572	40339	0	4169	12819089	50540	0	7890005	39538	17928	157549	1404	4703503
12-2021	0	325465	114989	309485	198078	445369	8428632	42280	0	4070	12516933	47164	0	7505016	44039	18578	162836	1253	5288085
1-2022	0	308174	103323	299381	181932	428803	7966420	40438	0	4031	11795706	44596	0	7037170	38422	16053	154811	1218	5355269
2-2022	0	279871	95787	270971	169379	417186	7274184	35964	0	3719	10423141	44203	0	6397761	38663	17442	141675	1155	4992103
3-2022	0	304567	110794	305466	197566	489027	8358892	40568	0	4218	12053436	47450	0	6889298	44938	19591	155604	1580	5904780
4-2022	0	266989	99840	265361	152365	344767	6439443	32810	0	3914	9702180	34178	0	5592450	36972	17058	140551	1134	4060871
5-2022	0	290072	116143	308620	175672	413649	7984970	40093	0	4131	12276438	43741	0	6620583	44417	20150	153638	1504	4335652
6-2022	0	281704	115965	285225	184764	466994	7368702	38840	0	3734	11957645	45746	0	6335453	44411	18450	142323	1506	5614205
7-2022	0	275044	122149	294585	210165	448919	7224166	40851	0	3784	11982979	46727	0	6754244	46509	19479	143205	1537	5583046
8-2022	0	290239	122504	287243	242063	477269	7677149	39379	0	3598	11658450	46262	0	6883859	44192	19205	150809	1534	5312174
9-2022	0	271841	117931	270590	295199	468682	7869547	39595	0	3749	11898986	44192	0	6856187	45511	17470	148524	1241	5295961
10-2022	0	283155	119104	279261	332708	522348	8177051	39514	0	4095	12142681	46854	0	7055877	46368	18827	150262	1469	5419292
11-2022	0	262602	115712	254882	294915	505047	7812505	38329	0	3789	11419338	39780	0	6630280	44951	18114	144355	1646	5315332
12-2022	0	252375	112267	238608	211535	470287	7051437	33721	0	3643	10105264	32128	0	6062026	40130	16637	141325	991	4919142
1-2023	0	267545	110765	262194	273584	599960	8108039	42549	0	3635	11489382	33686	0	6157471	42039	16614	142598	1311	5325529
2-2023	0	264628	103069	236418	320928	553871	7725180	34978	0	2929	11444027	31997	0	5892654	39907	16658	131223	1083	5578212
3-2023	0	279503	112767	257132	295485	551802	8156770	38194	0	3026	11971108	35680	0	6369218	42912	17531	141054	847	6512329
4-2023	0	277170	106448	261348	273398	539041	7944025	38821	0	2822	11992770	34756	0	5869403	41397	17443	138021	1013	6457070
5-2023	0	283406	111262	277329	295583	534523	9233911	40036	0	3230	11610091	37467	0	5723409	41386	17828	140404	1247	6905551
6-2023	0	265831	107500	266299	297822	535326	9268802	35001	0	3068	11355257	36466	0	5546753	42590	16871	134943	1025	7229684
7-2023	0	280253	110454	280857	302184	529176	9531626	39223	0	3731	11503530	38757	0	5750527	45596	17334	135365	926	8100699
8-2023	0	259565	113620	269476	294741	514672	9602052	39609	0	2917	11460736	40790	0	6963465	51494	17123	135325	959	7966598
9-2023	0	241584	109334	255806	289937	480295	9646834	38909	0	3670	11713555	35644	0	7775317	48321	17190	130318	1266	7916629
10-2023	0	251616	111241	255548	293345	482591	9678002	37661	0	3136	11739324	35076	0	7775100	47603	18315	137315	1055	8072249
11-2023	0	236644	107082	246039	316603	494121	9712656	38840	0	3034	11535844	33035	0	7593425	46074	16819	131238	1420	7925459
12-2023	0	246788	113938	263627	322457	540253	10270884	41644	0	2973	12010807	67689	0	7387321	45386	18087	128682	724	8126319
1-2024	0	229217	113766	239445	279575	509807	8384765	37804	0	2959	10372523	142354	0	6661376	39234	16859	122502	865	7065502
2-2024	0	274880	110522	242773	283158	660644	8907885	36602	0	2779	11487333	134850	0	6755700	36258	15529	117453	1365	7311405
3-2024	0	316490	118632	261184	287028	711913	8709537	40020	0	2903	12596668	132686	0	6949188	46987	15722	126792	1028	7821221
4-2024	0	322182	116849	254200	265264	766934	8851376	36539	0	2884	12329768	135361	0	6513791	46714	15496	121819	985	7476414
5-2024	0	286230	127177	273778	269374	749446	9013620	38152	0	2945	12208523	118257	0	6623163	44286	15931	119041	1311	7255829
6-2024	0	286826	116440	253571	252863	692582	8775364	35801	0	2953	11616745	112650	0	6509922	42264	13719	111825	997	6749949
7-2024	0	286056	116854	251444	248899	677918	8724782	37465	0	2990	12045465	104802	0	6918439	45745	14776	111686	1006	6578074
8-2024	0	307637	121999	233800	252310	757385	8335474	39317	0	2973	12006648	93261	0	7467258	46472	15886	108650	1118	6185319
9-2024	0	306482	114507	230002	237118	684273	8154791	36723	0	2519	11156814	91488	0	7367690	42368	15139	108179	1024	5882015
10-2024	0	336253	118665	242357	241481	701591	8136390	37222	0	2995	10720088	89575	0	7290783	42564	15172	106521	1134	5798237
11-2024	0	431134	115817	242451	220526	634880	8620654	34920	0	2766	10328630	83887	0	7061543	39676	15077	100007	1448	5701914

WESTERN DAKOTA ENERGY ASSOCIATION

February 2, 2025

Testimony of:
Geoff Simon, Lobbyist #144
in support of SB 2397 – Oil County Definition
Senate Finance and Taxation Committee

Chairman Weber and members of the Senate Finance and Taxation Committee:

On behalf of the city, county and school district members of the Western Dakota Energy Association (WDEA), we wish to express our strong support for SB 2397, which would provide a new definition for "oil-producing county," offering the opportunity for the lesser producing counties to obtain much-needed transportation infrastructure funding.

The current definition applies to any county that receives more than $5 million in gross production tax revenue annually, but four of the eight counties that currently meet that criteria – Billings, Bowman, Burke and Divide Counties – just barely exceed that threshold. In contrast, the other four counties in the category – Dunn, McKenzie, Mountrail and Williams – are several times over the $5 million level. The disparity means the "Big Four" generally have adequate revenue to maintain and improve county and township roads, but the lesser four producing counties struggle to keep up in the face of increasing oil industry activity. There was a point a few months back when there were four rigs in both Burke and Divide Counties, bringing in heavy truck traffic that delivers a beating to county roads.

SB 2397 would change the oil county definition from a monetary amount to a production figure, which we believe more accurately reflects the amount of oilfield activity in a county. The legislation would change the threshold to 10 million barrels of crude annually, which would be based on the county's three-year rolling average to account for sometimes sharp swings in oil production. Divide County, currently the No. 5 producing county, produced just over 8 million barrels in the most recent 12-month period. Compare that to No. 4 Williams County, which produced nearly 82 million barrels the past 12 months, yet the two counties are currently lumped into the same category in Century Code.

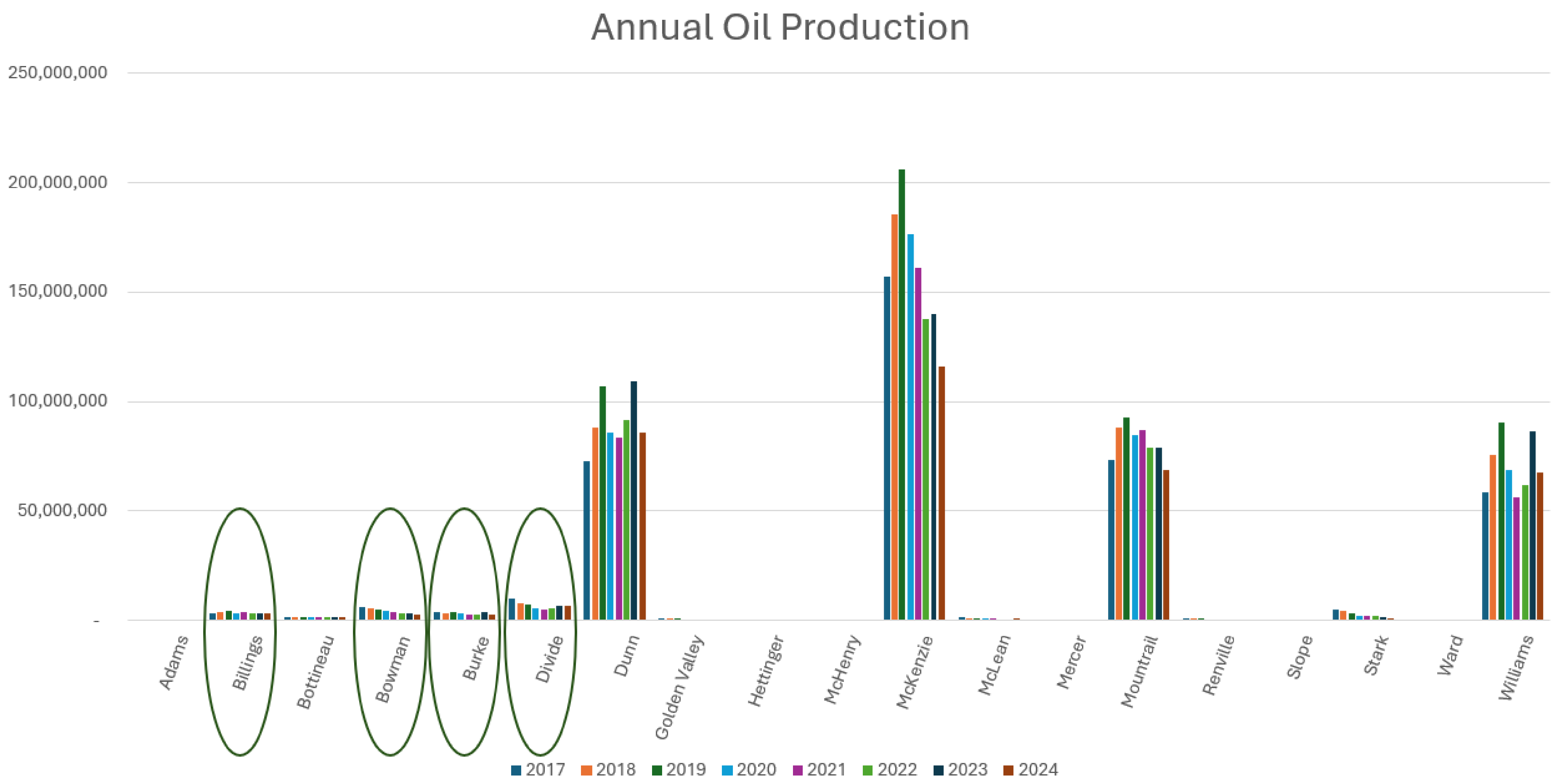
You will hear in other testimony that the road impacts from heavy oilfield truck traffic are real and increasing in Billings, Bowman, Burke and Divide Counties. We've all heard that drilling opportunities in the Tier One Bakken core, are nearly exhausted. Oil producers have begun moving into the Tier Two areas, namely Burke, Divide and northern Billings County. You're also aware that activity has picked up in Bowman County with the CO2-based enhanced oil recovery operations of Denbury/ExxonMobil.

SB 2397 would make these lesser-producing counties eligible for transportation funding that is reserved in statute for non-oil producing counties. And if the buckets fill in the coming biennium, they would also be eligible for a share of Operation Prairie Dog funding.

Please keep the oil industry moving with a strong Do Pass on SB 2397.

Western Dakota Energy Association
1661 Capitol Way, Bismarck ND 58501
www.ndenergy.org • 701-527-1832

#33521


Annual Oil Production
250,000,000
200,000,000
150,000,000
100,000,000
50,000,000
-
Adams
Billings
Bottineau
Bowman
Burke
Divide
Dunn
Golden Valley
Hettinger
McHenry
McKenzie
McLean
Mercer
Mountrail
Renville
Slope
Stark
Ward
Williams
2017
2018
2019
2020
2021
2022
2023
2024

Testimony in support of SB 2397

We in Burke County are more than thankful for the Oil money we currently are receiving. But things have changed a lot in the last few years and it is starting to become a financial strain on the county and the townships, especially the townships in and around oil production.

With increased oil activity in Burke our road maintenance crews are spending more and more time graveling, blading and fixing on these roads more and more to the point some of these roads need daily work. As we encounter soft spots or bad spots in roads we have been trying to dig them out and fix them properly and not just fill them in with gravel and hope for these best. We have multiple gravel haulers graveling in the county every day during the summer months.

Townships do not have the funds to keep up with graveling and fixing/repairing township roads caused by oil traffic. The county has helped out where we can and have even taken over maintaining some of these roads. In some townships they are restricting their roads so it takes 2 trucks to haul what one truck would normally haul.

With the potential for further drilling in the county which we are more than happy to see the cost to properly and safely up keep these roads be it county or township is going to continue to increase. With a water depot for fresh water in Powers Lake they have a steady stream of trucks in and around Powers Lake hauling water in the area with a lot of those trucks coming and going to neighboring Mountrail County. This is a great income for Powers Lake, but it is starting to take its toll on the paved county roads going thru and around Powers Lake. It is also taking its toll on other paved county highways in Burke County.

Our bridges are all starting to get gradually degraded and the tonnage is being lowered on some of them. One bridge has been relegated to one lane only. This is causing detours around the bridge and is putting more strain on the township roads. The wait time to get these bridges fixed keeps getting pushed back each year. The last bridge we had degraded we didn't even put in for federal money to fix it. We moved forward ourselves and eliminated the bridge and went to culverts. We cannot afford to do this with too many more but we also cannot wait years to get them fixed.

Culverts in our county are getting old and are needing to be replaced at an alarming rate with most of these being in oil country. Even if these are on township roads we have been doing a majority of these replacements as the townships do not have the means to repair at the rate they are going bad.

As the county oil activity picks up we are going to have more expenses with upkeep trying to keep these roads in safe drivable condition. I believe with the amount of activity in our county and with the activity around us that is also using our county roads Burke County should be removed from the definition of the major oil counties as proposed in SB 2397 and receive more money to help keep the roads safe and in good shape.

Thank you

Shannon Holter

Burke County Commissioner

#33802

County Infrastructure Fund

County Allocation

County	Total Needs	% of Total Needs	Total Allocated
Adams	$104.02	1.00%	$1,003,620
Barnes	$316.02	3.05%	$3,049,068
Benson	$147.18	1.42%	$1,420,042
Billings	$118.97	1.15%	$1,147,863
Bottineau	$302.08	2.91%	$2,914,570
Bowman	$159.65	1.54%	$1,540,357
Burke	$170.21	1.64%	$1,642,244
Burleigh	$354.14	3.42%	$3,416,862
Cass	$639.68	6.17%	$6,171,848
Cavalier	$204.28	1.97%	$1,970,962
Dickey	$151.67	1.46%	$1,463,363
Divide	$176.97	1.71%	$1,707,466
Eddy	$84.93	0.82%	$819,433
Emmons	$116.84	1.13%	$1,127,312
Foster	$129.05	1.25%	$1,245,118
Golden Valley	$131.11	1.26%	$1,264,994
Grand Forks	$499.97	4.82%	$4,823,879
Grant	$266.55	2.57%	$2,571,764
Griggs	$78.54	0.76%	$757,780
Hettinger	$134.04	1.29%	$1,293,263
Kidder	$97.90	0.94%	$944,572
LaMoure	$237.66	2.29%	$2,293,024
Logan	$57.97	0.56%	$559,314
McHenry	$249.53	2.41%	$2,407,550
McIntosh	$111.97	1.08%	$1,080,324
McLean	$338.68	3.27%	$3,267,699
Mercer	$259.43	2.50%	$2,503,068
Morton	$319.07	3.08%	$3,078,495
Nelson	$118.67	1.14%	$1,144,968
Oliver	$68.73	0.66%	$663,130
Pembina	$292.17	2.82%	$2,818,955
Pierce	$126.49	1.22%	$1,220,418
Ramsey	$130.20	1.26%	$1,256,214
Ransom	$123.35	1.19%	$1,190,122
Renville	$140.05	1.35%	$1,351,250
Richland	$451.95	4.36%	$4,360,566
Rolette	$97.09	0.94%	$936,757
Sargent	$131.89	1.27%	$1,272,519
Sheridan	$76.70	0.74%	$740,027
Sioux	$76.50	0.74%	$738,098
Slope	$112.20	1.08%	$1,082,543
Stark	$316.52	3.05%	$3,053,892
Steele	$155.39	1.50%	$1,499,255
Stutsman	$295.10	2.85%	$2,847,224
Towner	$192.38	1.86%	$1,856,147
Traill	$352.26	3.40%	$3,398,723
Walsh	$445.83	4.30%	$4,301,518
Ward	$526.29	5.08%	$5,077,823
Wells	$176.61	1.70%	$1,703,993
Total Non-Oil	**$10,364.48**	**100.00%**	**$100,000,000**

Dunn	$403.69
McKenzie	$624.06
Mountrail	$298.66
Williams	$551.65
Total Oil	**$1,878.06**
Total State	**$12,242.54**

Township Allocation

County	# of Townships w >0 Miles	Per Township Amount	Total Allocated
Adams	28.00	8,581.24	$240,275
Barnes	42.00	8,581.24	$360,412
Benson	40.17	8,581.24	$344,708
Billings	32.00	8,581.24	$274,600
Bottineau	55.00	8,581.24	$471,968
Bowman	24.00	8,581.24	$205,950
Burke	29.00	8,581.24	$248,856
Burleigh	47.01	8,581.24	$403,404
Cass	48.00	8,581.24	$411,899
Cavalier	48.00	8,581.24	$411,899
Dickey	32.00	8,581.24	$274,600
Divide	32.00	8,581.24	$274,600
Eddy	18.00	8,581.24	$154,462
Emmons	43.46	8,581.24	$372,941
Foster	18.00	8,581.24	$154,462
Golden Valley	30.00	8,581.24	$257,437
Grand Forks	43.00	8,581.24	$368,993
Grant	47.93	8,581.24	$411,299
Griggs	20.00	8,581.24	$171,625
Hettinger	32.00	8,581.24	$274,600
Kidder	39.00	8,581.24	$334,668
Lamoure	32.00	8,581.24	$274,600
Logan	28.00	8,581.24	$240,275
McHenry	53.00	8,581.24	$454,805
McIntosh	28.00	8,581.24	$240,275
McLean	60.39	8,581.24	$518,221
Mercer	30.84	8,581.24	$264,645
Morton	54.60	8,581.24	$468,535
Nelson	28.00	8,581.24	$240,275
Oliver	20.37	8,581.24	$174,800
Pembina	39.00	8,581.24	$334,668
Pierce	30.00	8,581.24	$257,437
Ramsey	35.83	8,581.24	$307,466
Ransom	24.00	8,581.24	$205,950
Renville	28.00	8,581.24	$240,275
Richland	45.00	8,581.24	$386,156
Rolette	30.00	8,581.24	$257,437
Sargent	30.00	8,581.24	$257,437
Sheridan	28.00	8,581.24	$240,275
Sioux	28.40	8,581.24	$243,707
Slope	34.00	8,581.24	$291,762
Stark	39.00	8,581.24	$334,668
Steele	20.00	8,581.24	$171,625
Stutsman	64.00	8,581.24	$549,199
Towner	32.00	8,581.24	$274,600
Traill	26.00	8,581.24	$223,112
Walsh	38.00	8,581.24	$326,087
Ward	57.00	8,581.24	$489,130
Wells	36.00	8,581.24	$308,924
Total Non-Oil	**1,748.00**		**$15,000,000**

Total Allocation

County	Total Allocated
Adams	$1,243,895
Barnes	$3,409,479
Benson	$1,764,751
Billings	$1,422,462
Bottineau	$3,386,538
Bowman	$1,746,307
Burke	$1,891,099
Burleigh	$3,820,266
Cass	$6,583,748
Cavalier	$2,382,862
Dickey	$1,737,963
Divide	$1,982,066
Eddy	$973,896
Emmons	$1,500,252
Foster	$1,399,580
Golden Valley	$1,522,431
Grand Forks	$5,192,872
Grant	$2,983,063
Griggs	$929,405
Hettinger	$1,567,863
Kidder	$1,279,240
Lamoure	$2,567,623
Logan	$799,589
McHenry	$2,862,355
McIntosh	$1,320,599
McLean	$3,785,920
Mercer	$2,767,713
Morton	$3,547,030
Nelson	$1,385,243
Oliver	$837,930
Pembina	$3,153,623
Pierce	$1,477,855
Ramsey	$1,563,679
Ransom	$1,396,072
Renville	$1,591,524
Richland	$4,746,722
Rolette	$1,194,194
Sargent	$1,529,956
Sheridan	$980,302
Sioux	$981,805
Slope	$1,374,305
Stark	$3,388,560
Steele	$1,670,880
Stutsman	$3,396,423
Towner	$2,130,747
Traill	$3,621,835
Walsh	$4,627,605
Ward	$5,566,954
Wells	$2,012,917
Total Non-Oil	**$115,000,000**

2025 HOUSE FINANCE AND TAXATION

SB 2397

2025 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

SB 2397
3/11/2025

Relating to the definition of non-oil-producing county for purposes of the flexible transportation fund, legacy earnings township aid fund, municipal infrastructure fund, and county and township infrastructure fund; to provide an effective date; and to declare an emergency.

10:29 a.m. Chairman Headland opened the hearing.

Members Present: Chairman Headland, Vice Chairman Hagert, Representatives Anderson, Dockter, Dressler, Foss, Grueneich, Ista, Motschenbacher, Nehring, Olson, Porter, Steiner, Toman
Members Absent: Representatives Porter, Dockter

Discussion Topics:
- Road Maintenance
- Load Pass Permits
- County productions numbers

10:30 a.m. Senator Mark Enget, District 2, introduced the bill.

10:38 a.m. Geoff Simon, Western Dakota Energy Association, testified in favor.

10:14 a.m. Ron Ness, President, ND Petroleum Council, testified in favor.

10:47 a.m. Chairman Headland closed the hearing.

Janae Pinks, Committee Clerk

2025 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

SB 2397
4/15/2025

Relating to the definition of non-oil-producing county for purposes of the flexible transportation fund, legacy earnings township aid fund, municipal infrastructure fund, and county and township infrastructure fund; to provide an effective date; and to declare an emergency.

9:00 a.m. Chairman Headland opened the meeting.

Members Present: Chairman Headland, Vice Chairman Hagert, Representatives D. Anderson, Dockter, Dressler, Foss, Grueneich, Ista, Motschenbacher, Nehring, J. Olson, Porter, Steiner, Toman

Discussion Topics:
- Middle Three Forks Development
- Oil well production
- Gas to electric generation
- ND economy
- Industrial Commission
- Enhanced oil recovery

9:00 a.m. Representative Dockter proposed amendment LC#25.1360.01004, testimony #44993.

9:02 a.m. Nathan Anderson, Director, Department of Mineral Resources, testified in favor of proposed amendment.

9:03 a.m. Timothy Nesheim, Core Library Manager, ND Geological Survey, testified in favor of proposed amendment, testimony #44999.

9:20 a.m. William Houser, Director of Regulatory Affairs, Continental Resources, testified in favor of proposed amendment, testimony #44995.

9:30 a.m. John Argo, Vice President, Williston Basin, Continental Resources, testified in favor of proposed amendment, testimony #45029.

9:57 a.m. Ron Ness, President, ND Petroleum Council, testified in favor of proposed amendment.

10:04 a.m. Nathan Anderson stood for questions.

10:08 a.m. William Houser stood for questions.

10:11 a.m. Recess

10:46 a.m. Chairman Headland adjourned the meeting.

Janae Pinks, Committee Clerk

25.1360.01004
Title.

Prepared by the Legislative Council staff for Representative Dockter
April 14, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2397

Introduced by

Senators Enget, Sorvaag, Sickler

Representative Kempenich

A BILL ~~for an Act to amend and reenact subdivision f of subsection 4 of section 24-02-37.3, subsection 4 of section 54-27-19.4, subdivision c of subsection 4 of section 57-51.1-07.7, and subdivision b of subsection 6 of section 57-51.1-07.8 of the North Dakota Century Code, relating to the definition of non-oil-producing county for purposes of the flexible transportation fund, legacy earnings township aid fund, municipal infrastructure fund, and county and township infrastructure fund; to provide an effective date; and to declare an emergency.~~for an Act to create and enact a new subsection to section 57-51.1-03 of the North Dakota Century Code, relating to a limited exemption for development incentive wells; to amend and reenact sections 57-51-02.6, 57-51-05, and 57-51.1-01 of the North Dakota Century Code, relating to the temporary exemption for oil and gas wells employing a system to avoid flaring, an exemption from gross production tax for gas produced from certain enhanced oil recovery projects, and the definition of development incentive well; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

~~**SECTION 1. AMENDMENT.** Subdivision f of subsection 4 of section 24-02-37.3 of the North Dakota Century Code is amended and reenacted as follows:~~

~~f. For purposes of this subsection, "non-oil-producing county" means a county that received no allocation of funding or a total allocation of less than five million dollars under subsection 2 of section 57-51-15 inhad average annual oil production of fewer than ten million barrels based on the average annual oil~~

~~production in the three-year period ending with the most recently completed even-numbered fiscal year before the start of each biennium.~~

~~**SECTION 2. AMENDMENT.** Subsection 4 of section 54-27-19.4 of the North Dakota Century Code is amended and reenacted as follows:~~

~~4. For purposes of this section, "non-oil-producing county" means a county that received no allocation of funding or a total allocation of less than five million dollars under subsection 2 of section 57-51-15 inhad average annual oil production of fewer than ten million barrels based on the average annual oil production in the three-year period ending with the most recently completed even-numbered fiscal year before the start of each biennium.~~

~~**SECTION 3. AMENDMENT.** Subdivision c of subsection 4 of section 57-51.1-07.7 of the North Dakota Century Code is amended and reenacted as follows:~~

~~c. "Non-oil-producing county" means a county that received no allocation of funding or a total allocation of less than five million dollars under subsection 2 of section 57-51-15 inhad average annual oil production of fewer than ten million barrels based on the average annual oil production in the three-year period ending with the most recently completed even-numbered fiscal year before the start of each biennium.~~

~~**SECTION 4. AMENDMENT.** Subdivision b of subsection 6 of section 57-51.1-07.8 of the North Dakota Century Code is amended and reenacted as follows:~~

~~b. "Non-oil-producing county" means a county that received no allocation of funding or a total allocation of less than five million dollars under subsection 2 of section 57-51-15 inhad average annual oil production of fewer than ten million barrels based on the average annual oil production in the three-year period ending with the most recently completed even-numbered fiscal year before the start of each biennium.~~

~~**SECTION 5. EFFECTIVE DATE.** This Act becomes effective on July 1, 2025.~~

~~**SECTION 6. EMERGENCY.** This Act is declared to be an emergency measure.~~

SECTION 1. AMENDMENT. Section 57-51-02.6 of the North Dakota Century Code is amended and reenacted as follows:

57-51-02.6. Temporary exemption for oil and gas wells employing a system to avoid flaring.

Gas is exempt from the tax under section 57-51-02.2 for a period of two years and thirty days from the time of first production if the gas is:

1. Collected and used at the well site to power an electrical generator that consumes ~~at least seventy-five percent of the~~ gas from the well; or
2. Collected at the well site by a system that intakes at least seventy-five percent of the gas and natural gas liquids volume from the well for beneficial consumption by means of compression to liquid for use as fuel, transport to a processing facility, production of petrochemicals or fertilizer, conversion to liquid fuels, separating and collecting over fifty percent of the propane and heavier hydrocarbons, or other value-added processes as approved by the industrial commission.

SECTION 2. AMENDMENT. Section 57-51-05 of the North Dakota Century Code is amended and reenacted as follows:

57-51-05. Payment of tax on monthly basis - When tax due - When delinquent - Payment by purchaser - By producer - How casinghead gas taxed - Exemptions.

1. The gross production tax on oil or gas~~, as herein provided,~~ must be paid on a monthly basis. The tax on oil is due and payable on the twenty-fifth day of the month succeeding the month of production. The tax on gas is due and payable on the fifteenth day of the second month succeeding the month of production. If the tax is not paid as required by this section, it becomes delinquent and must be collected as provided in this chapter. The penalty does not apply if ninety percent of the tax due has been paid with the monthly return and the taxpayer files an amended monthly return and pays the total tax due within sixty days from the original due date. The commissioner, upon request and a proper showing of the necessity ~~therefor~~for an extension, may grant an extension of time, not to exceed fifteen days, for paying the tax and when the request is granted the tax is not delinquent until the extended period has expired. Any taxpayer who requests and is granted an extension of time for filing a return shall pay, with the tax, interest at the rate of twelve percent per annum from the date the tax was due to the date the tax is paid.

2. On oil or gas produced and sold, the gross production tax ~~thereon~~ must be paid by the purchaser, and the purchaser is authorized to deduct in making settlement with the producer or royalty owner, the amount of tax paid; provided, ~~that~~ in the event oil produced is not sold but is retained by the producer, the tax on the oil not sold must be paid by the producer, including the tax due on royalty oil not sold; provided further, that in settlement with the royalty owner the producer has the right to deduct the amount of the tax paid on royalty oil or to deduct therefrom royalty oil equivalent in value at the time the tax becomes due with the amount of the tax paid.

3. Gas when produced and utilized in any manner~~, except when used for fuel or otherwise used in the operation of any lease or premises in the drilling for or production of oil or gas therefrom, or for repressuring thereon,~~ must be considered for the purpose of this chapter, as to the amount utilized, as gas actually produced and saved, except gas:

   a. Used for fuel or otherwise used in the operation of any lease or premises in the drilling for or production of oil or gas from the lease or premises, including repressuring on the lease or premises; and

   b. Produced from an enhanced oil recovery project utilizing the injection of gas, either alone or in combination with other fluids, for the purpose of testing the feasibility of enhanced oil recovery operations on a temporary basis for one or more spacing units or employing enhanced oil recovery operations for an extended or indefinite period of time on a field-wide basis through unitization of the reservoir that produces oil and gas. The exemption under this subdivision applies to all enhanced oil recovery projects created and established by the industrial commission after June 30, 2025, and for any gas produced after the date of first production following initial injection of gas until all gas injected as part of the enhanced oil recovery project has been recovered from the reservoir being tested or unitized.

4. All calculations of the gross production tax on oil or gas, including production, distribution, and claims for credit or refund, are based on the month of production and must be credited to that month.

SECTION 3. AMENDMENT. Section 57-51.1-01 of the North Dakota Century Code is amended and reenacted as follows:

57-51.1-01. Definitions for oil extraction tax.

For the purposes of this chapter:

1. "Average daily production" of a well means the qualified maximum total production of oil from the well during a calendar month period divided by the number of calendar days in that period, and "qualified maximum total production" of a well means that the well must have been maintained at the maximum efficient rate of production as defined and determined by rule adopted by the industrial commission in furtherance of its authority under chapter 38-08.

2. "Development incentive well" means, as determined and certified by the industrial commission, a well:

   a. Spud after June 30, 2025, which:

      (1) Is drilled within the geographical boundaries of a spacing unit established by the industrial commission and is producing oil or gas; or

      (2) Has a bottom hole location that penetrates a stratigraphic interval other than the spaced, producing stratigraphic interval which is located within the geographical boundaries of the producing spacing unit;

   b. That utilizes a new or innovative drilling or completion technique that constitutes a technical advancement beyond current industry standards; and

   c. That is designed and anticipated to, more likely than not, increase production or the ultimate recovery of oil or gas from the well.

3. "Horizontal well" means a well with a horizontal displacement of the well bore drilled at an angle of at least eighty degrees within the productive formation of at least three hundred feet [91.44 meters].

~~3.~~4. "Oil" means petroleum, crude oil, mineral oil, casinghead gasoline, and all liquid hydrocarbons that are recovered from gas on the lease incidental to the production of the gas.

~~4.~~5. "Property" means the right which arises from a lease or fee interest, as a whole or any designated portion thereof, to produce oil. A producer shall treat as a separate property each separate and distinct producing reservoir subject to the same right to

produce crude oil; provided, that such reservoir is recognized by the industrial commission as a producing formation that is separate and distinct from, and not in communication with, any other producing formation.

~~5.~~6. "Qualifying secondary recovery project" means a project employing water flooding. To be eligible for the tax exemption provided under section 57-51.1-03, a secondary recovery project must be certified as qualifying by the industrial commission and the project operator must have obtained incremental production as defined in subsection 3 of section 57-51.1-03.

~~6.~~7. "Qualifying tertiary recovery project" means a project for enhancing recovery of oil which meets the requirements of section 4993(c), Internal Revenue Code of 1954, as amended through December 31, 1986, and includes the following methods for recovery:

a. Miscible fluid displacement.
b. Steam drive injection.
c. Microemulsion.
d. In situ combustion.
e. Polymer augmented water flooding.
f. Cyclic steam injection.
g. Alkaline flooding.
h. Carbonated water flooding.
i. Immiscible carbon dioxide displacement.
j. New tertiary recovery methods certified by the industrial commission.

It does not include water flooding, unless the water flooding is used as an element of one of the qualifying tertiary recovery techniques described in this subsection, or immiscible natural gas injection. To be eligible for the tax exemption provided under section 57-51.1-03, a tertiary recovery project must be certified as qualifying by the industrial commission, the project operator must continue to operate the unit as a qualifying tertiary recovery project, and the project operator must have obtained incremental production as defined in subsection 3 of section 57-51.1-03.

~~7.~~8. "Restimulation well" means a previously completed oil or gas well that, following completion and production of oil, has been treated with an application of fluid under

pressure for the purpose of initiating or propagating fractures in a target geologic formation to enhance production of oil. The term does not include a well that:

a. Has less than sixty months of production or is producing more than one hundred and twenty-five barrels of oil per day reported to the industrial commission before completion of the restimulation treatment;

b. Is part of a qualifying secondary recovery project, qualifying tertiary recovery project, or stripper well or stripper well property as defined under this section; or

c. Is drilled but not completed and does not have a record of oil production reported to the industrial commission.

~~8.~~9. "Royalty owner" means an owner of what is commonly known as the royalty interest and shall not include the owner of any overriding royalty or other payment carved out of the working interest.

~~9.~~10. "Stripper well" means a well drilled and completed, or re-entered and recompleted as a horizontal well, after June 30, 2013, whose average daily production of oil during any preceding consecutive twelve-month period, excluding condensate recovered in nonassociated production, per well did not exceed ten barrels per day for wells of a depth of six thousand feet [1828.80 meters] or less, fifteen barrels per day for wells of a depth of more than six thousand feet [1828.80 meters] but not more than ten thousand feet [3048 meters], and thirty barrels per day for wells of a depth of more than ten thousand feet [3048 meters] outside the Bakken and Three Forks formations, and thirty-five barrels per day for wells of a depth of more than ten thousand feet [3048 meters] in the Bakken or Three Forks formation.

~~10.~~11. "Stripper well property" means wells drilled and completed, or a well re-entered and recompleted as a horizontal well, before July 1, 2013, on a "property" whose average daily production of oil, excluding condensate recovered in nonassociated production, per well did not exceed ten barrels per day for wells of a depth of six thousand feet [1828.80 meters] or less, fifteen barrels per day for wells of a depth of more than six thousand feet [1828.80 meters] but not more than ten thousand feet [3048 meters], and thirty barrels per day for wells of a depth of more than ten thousand feet [3048 meters] during any preceding consecutive twelve-month period. Wells which did not actually yield or produce oil during the qualifying twelve-month period, including

disposal wells, dry wells, spent wells, and shut-in wells, are not production wells for the purpose of determining whether the stripper well property exemption applies.

SECTION 4. A new subsection to section 57-51.1-03 of the North Dakota Century Code is created and enacted as follows:

a. The first three hundred thousand barrels of oil produced during the first thirty-six months after completion from a development incentive well that has been certified as a qualified well by the industrial commission are exempt from the tax under section 57-51.1-02.

b. For purposes of the exemption under this subsection, the industrial commission may not certify more than:

(1) One development incentive well per spacing unit which meets the criteria in paragraph 1 of subdivision a of subsection 2 of section 57-51.1-01; and

(2) One development incentive well per spacing unit which meets the criteria in paragraph 2 of subdivision a of subsection 2 of section 57-51.1-01.

c. The tax exemption under this subsection does not apply to a well located within the exterior boundaries of a reservation, a well located on trust properties outside reservation boundaries as defined in section 57-51.2-02, or a straddle well as defined in section 57-51.1-07.10 located on reservation trust land, unless a tribe makes an irrevocable election to opt-in to the tax exemption by providing written notice to the tax commissioner. If a tribe provides notice of its election to opt-in to the tax exemption, the tax commissioner shall apply the tax exemption beginning in the month of production after the notice is received by the tax commissioner.

SECTION 5. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 2025.

2591
Houser

Successful Exploration Incentive Example

Hawkinson Area

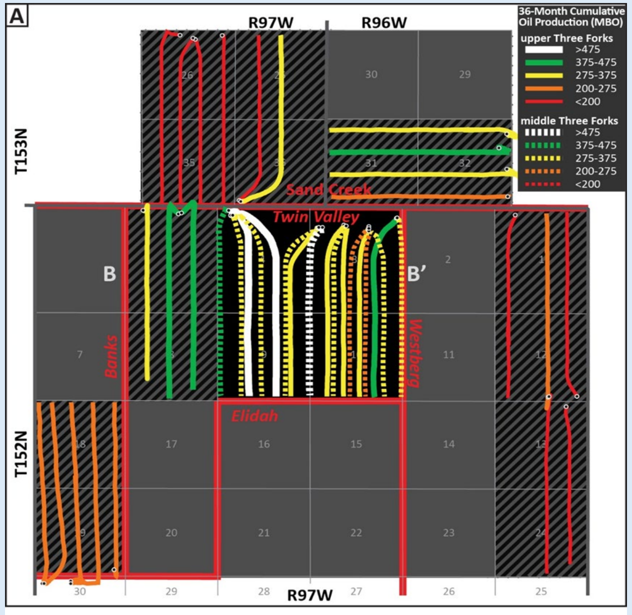
Horizontal Producers
- Wildcat Wells – 9
- Subsequent Wells – 271

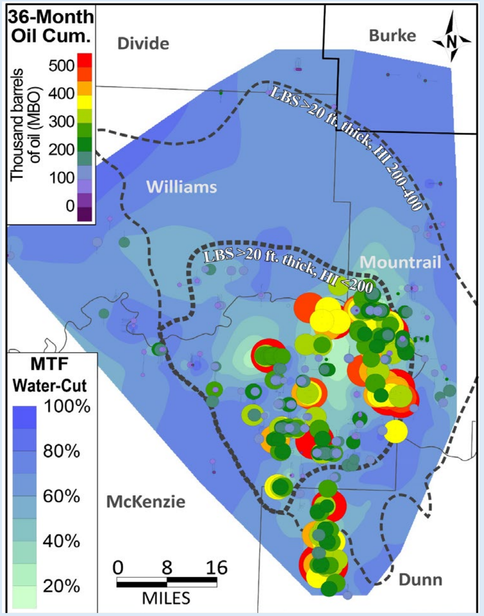
Cumulative Production
- Wildcat Wells – ~3 MMbo
- Subsequent Wells – ~105 Mmbo

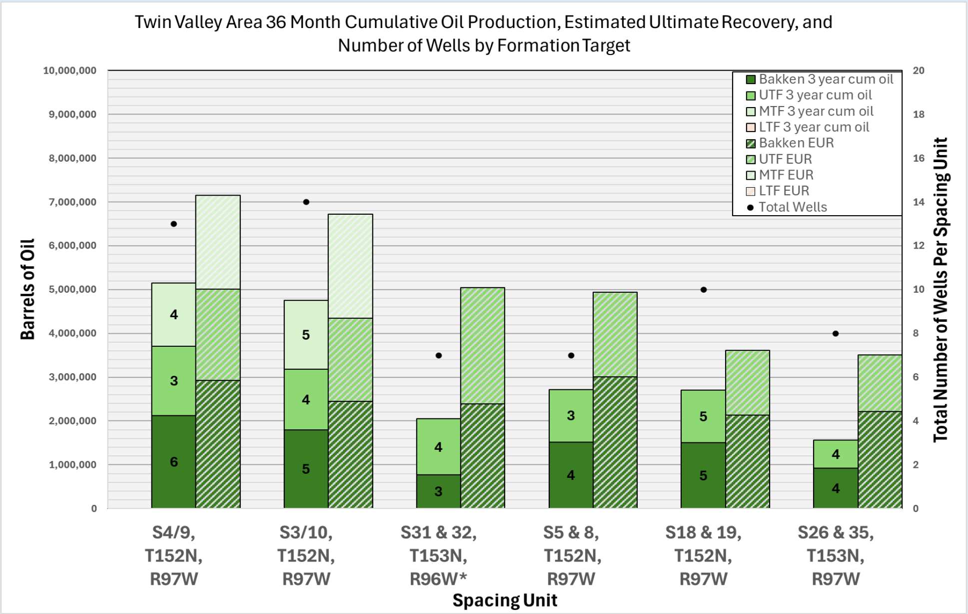
Under the proposed incentive structure, this historical example would have:
- **Generated >$700 MM and counting tax revenue** (gross production & extraction)
- All from the incentive to operators to risk and explore via **~$100 MM of their risked capital** with the incentive from the state of **reduced taxes of only ~$5MM**
- In addition, the state and Western ND communities would have received **material additional benefits** from this exploration and subsequent wells (jobs, commerce, taxes, etc)

Hawkinson Area Development – Township 147N – 96W

Underdeveloped Resources in the Middle Three Forks Formation







Timothy O. Nesheim* & Ted Starns*

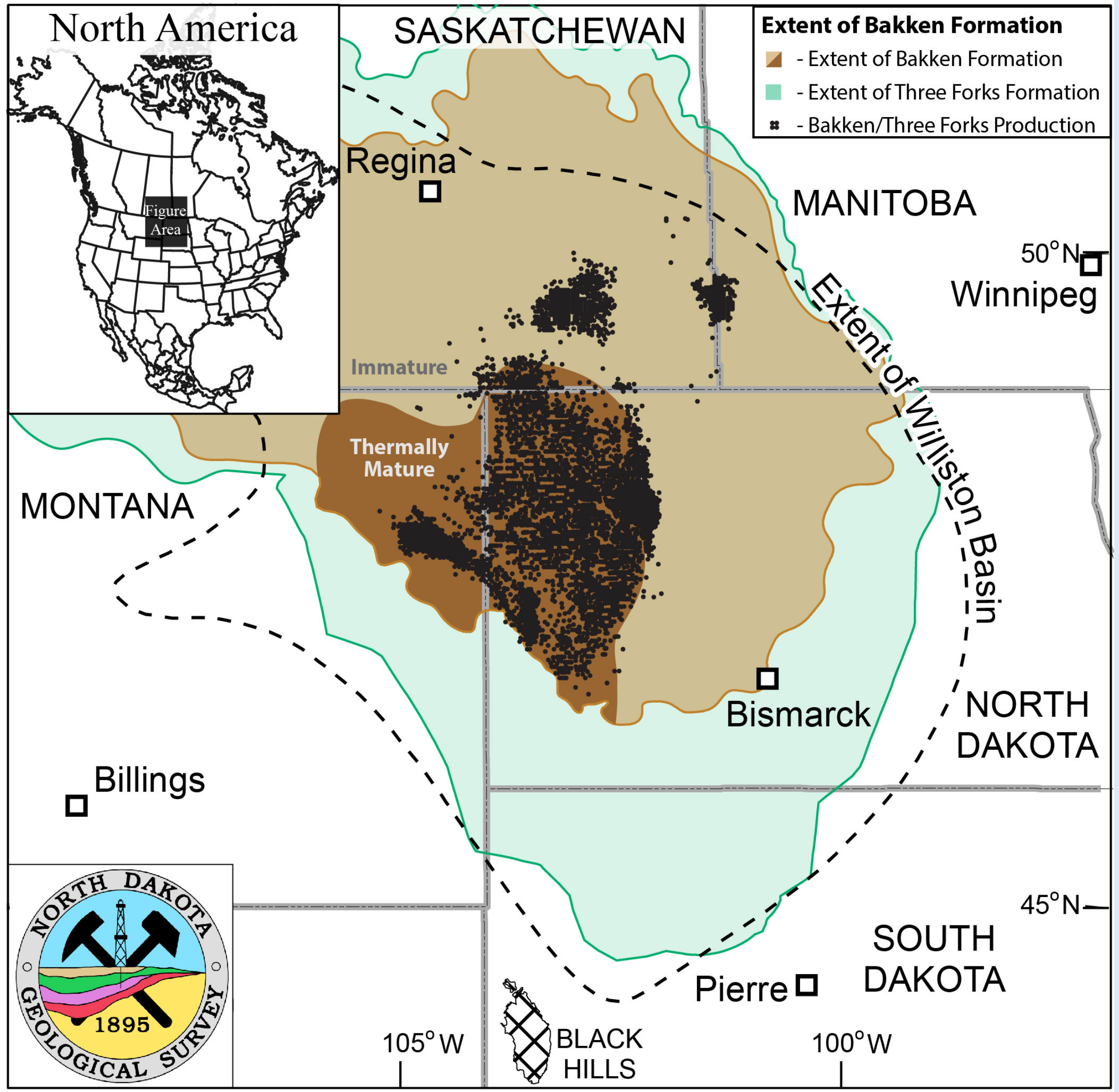
*North Dakota Geological Survey
Department of Mineral Resources

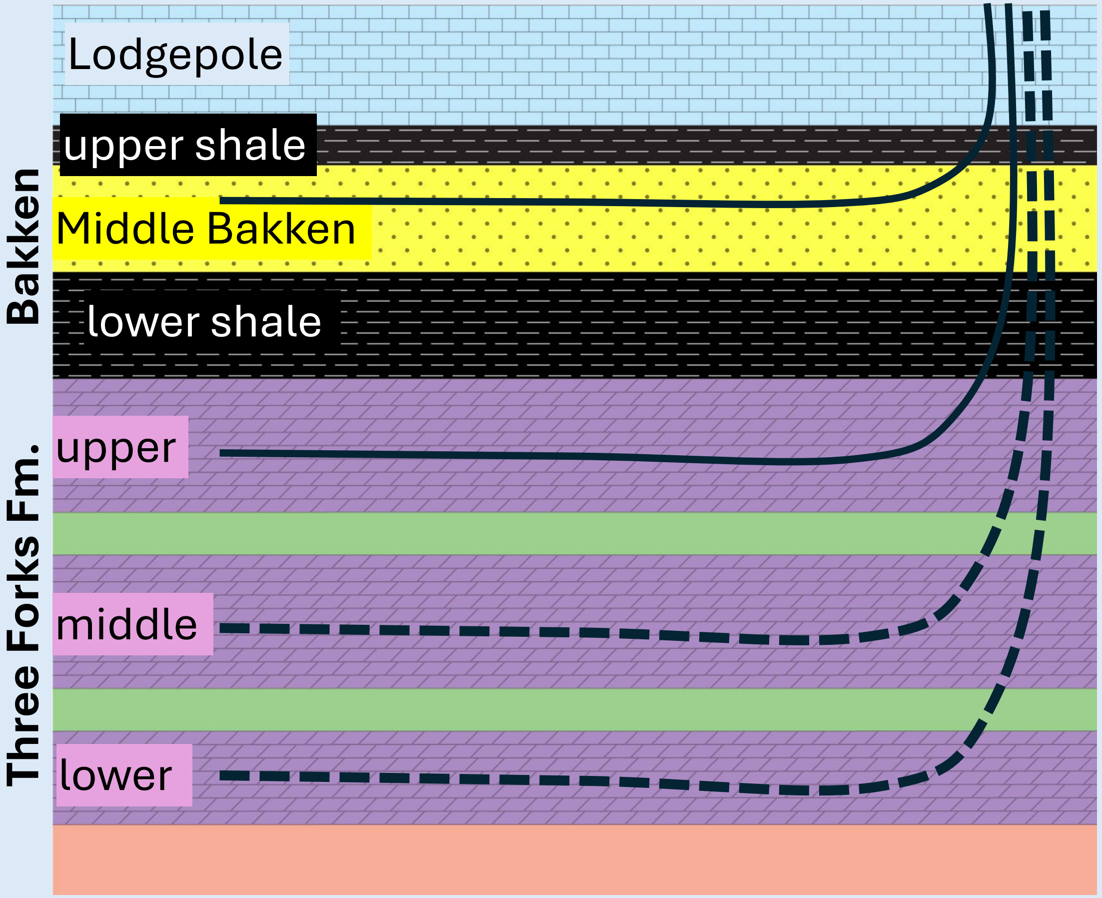
SB-2397

4/15/2025

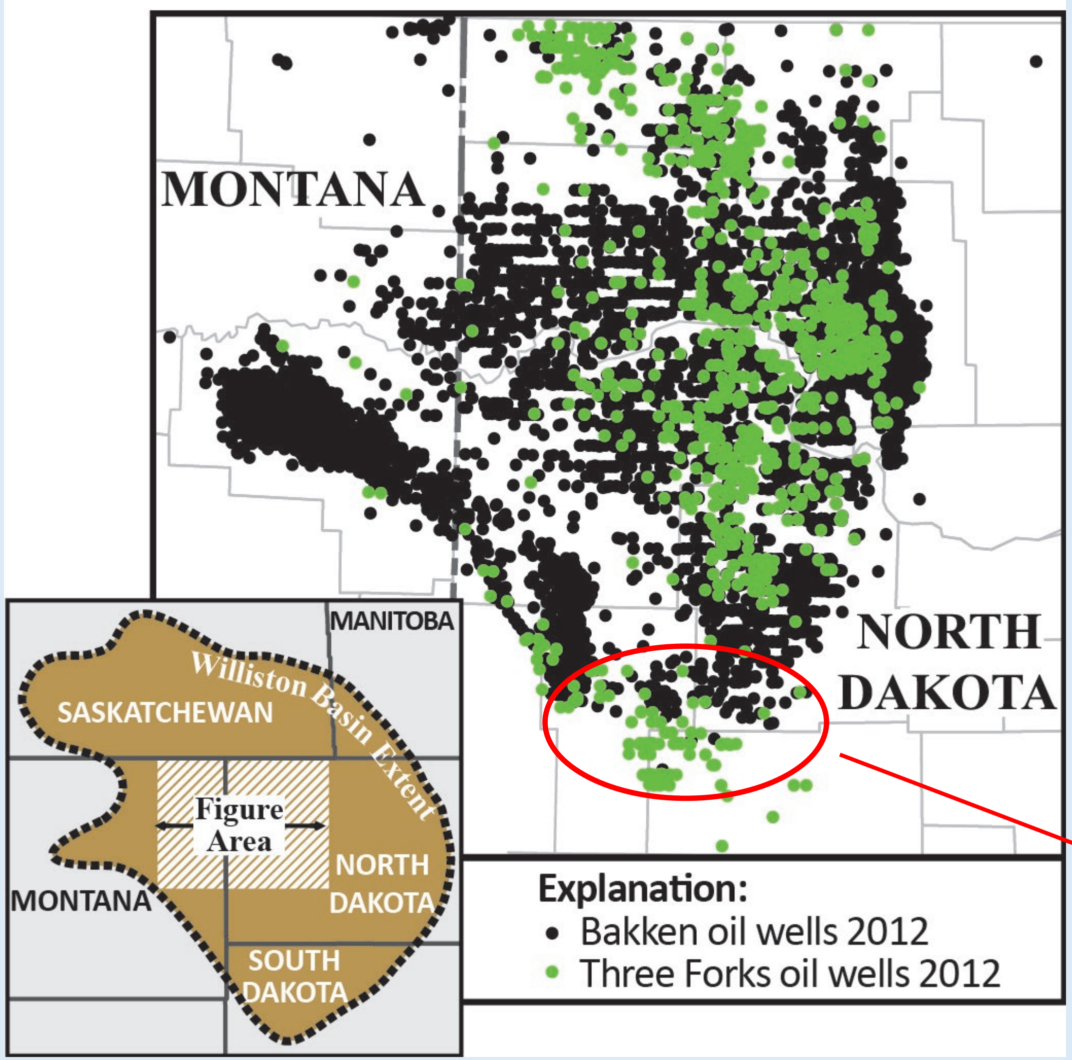
NORTH Dakota
Be Legendary.™

Bakken-Three Forks Play Overview

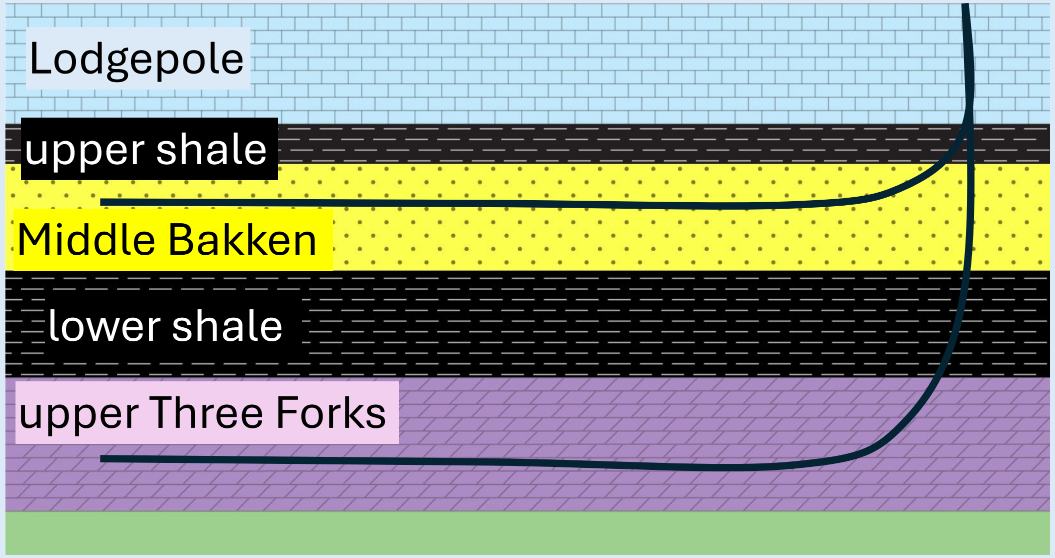




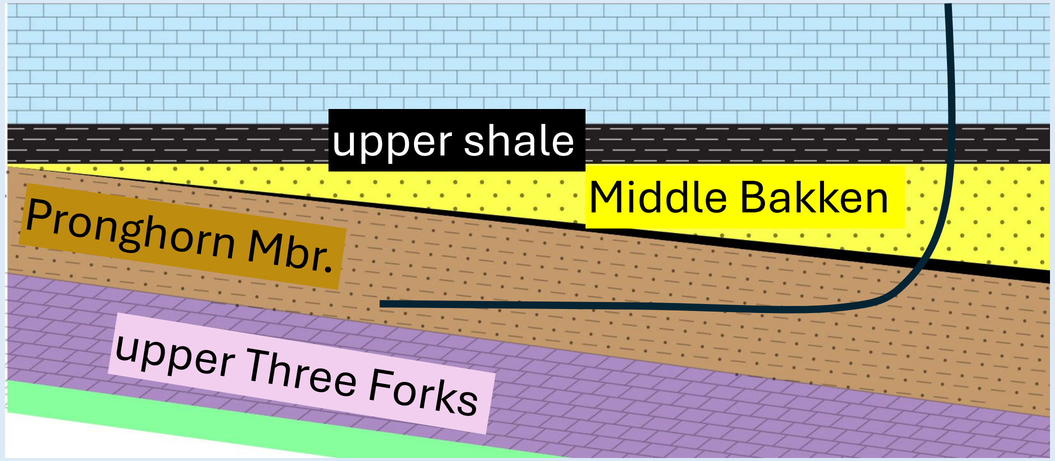
Bakken-Three Forks Play Evolution



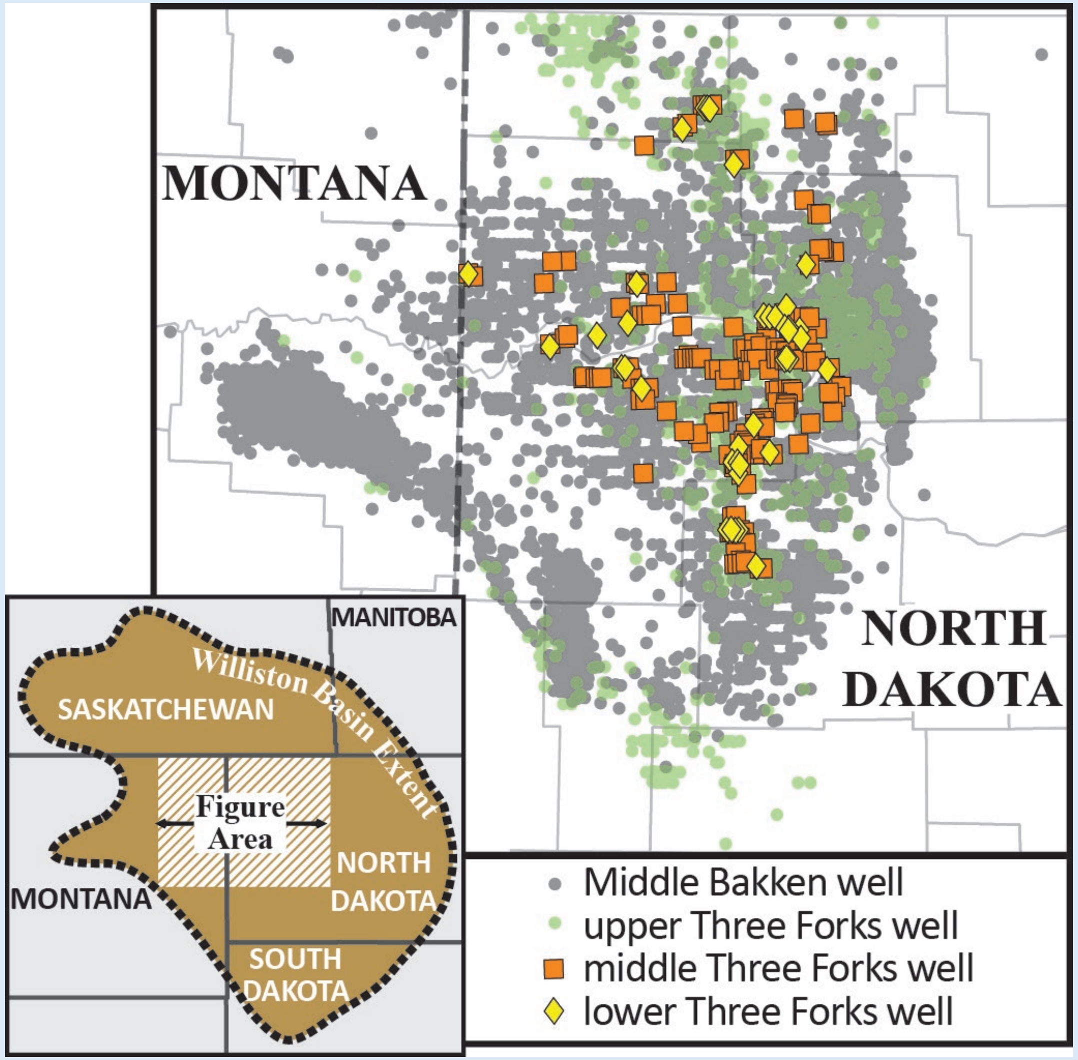
Middle Bakken & u. Three Forks(2000-08)



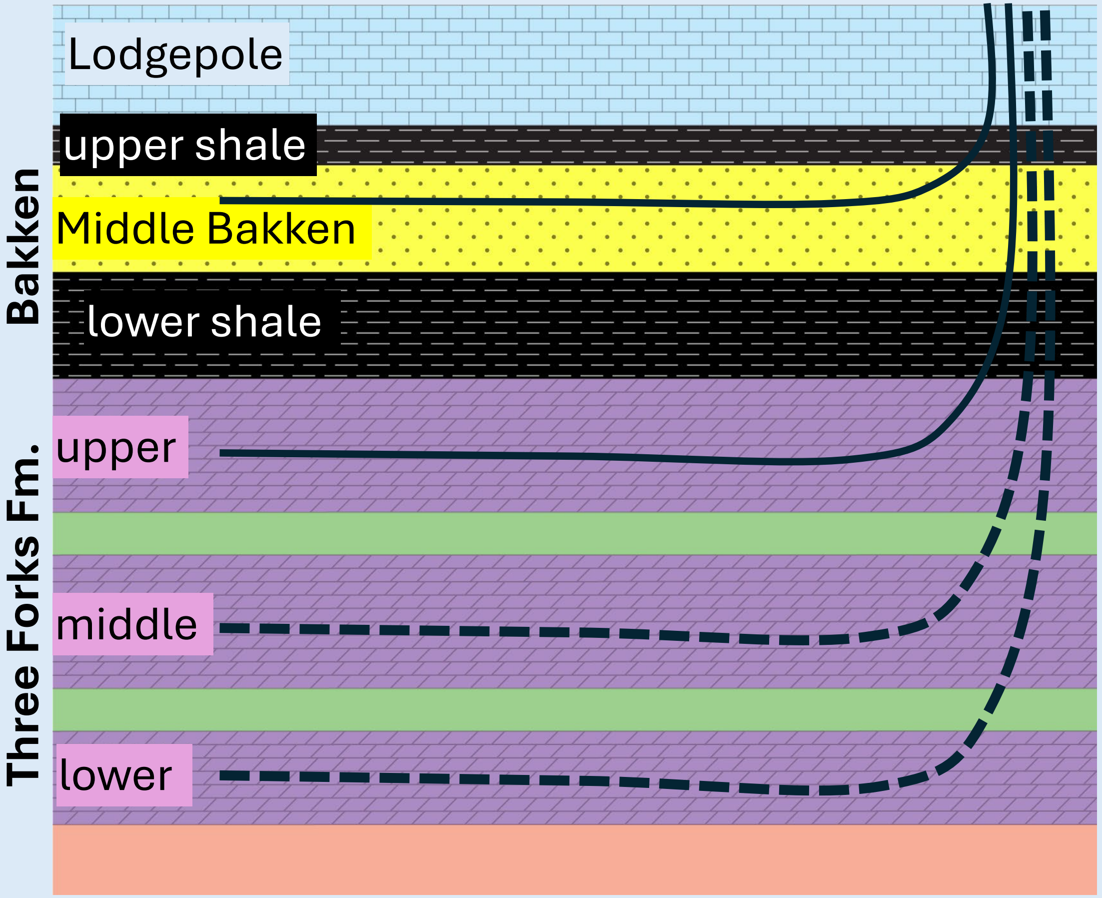
Pronghorn Member (~2010)



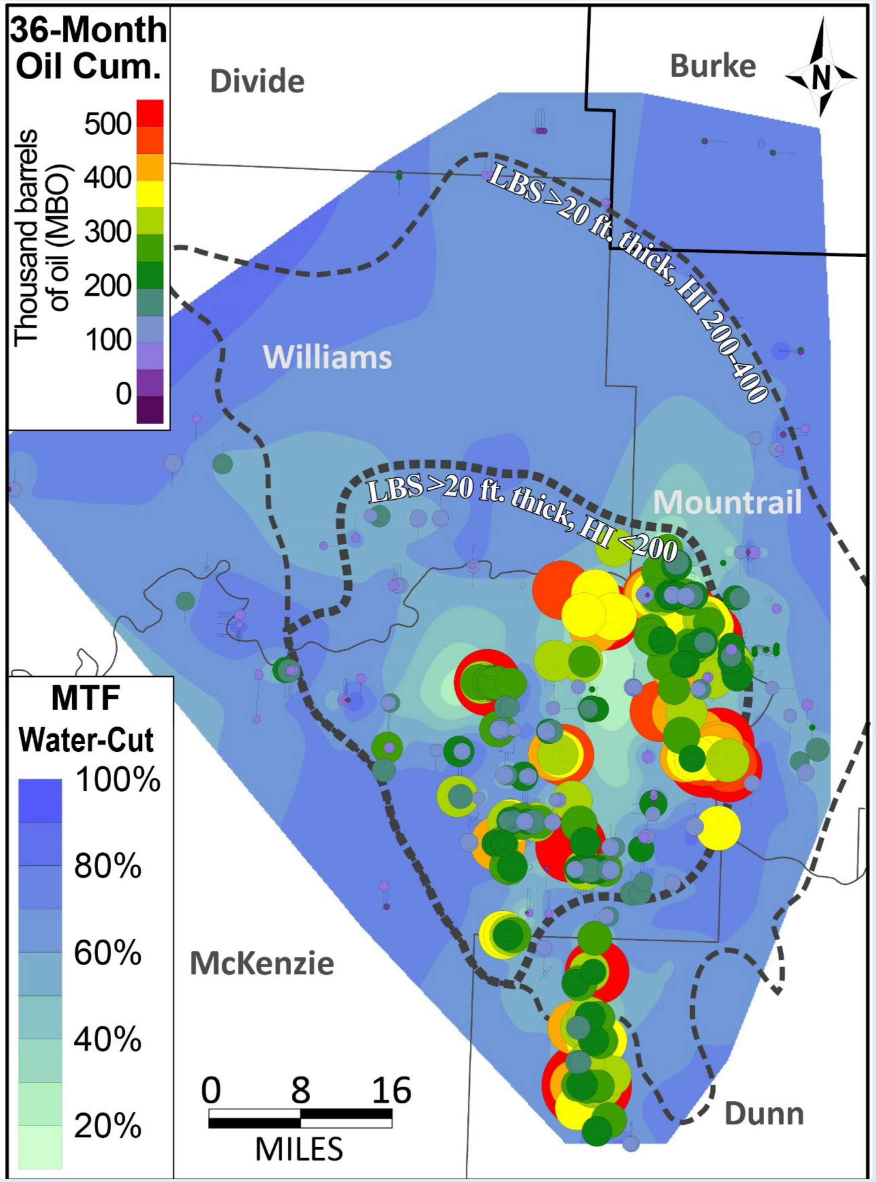
Bakken-Three Forks Play Evolution

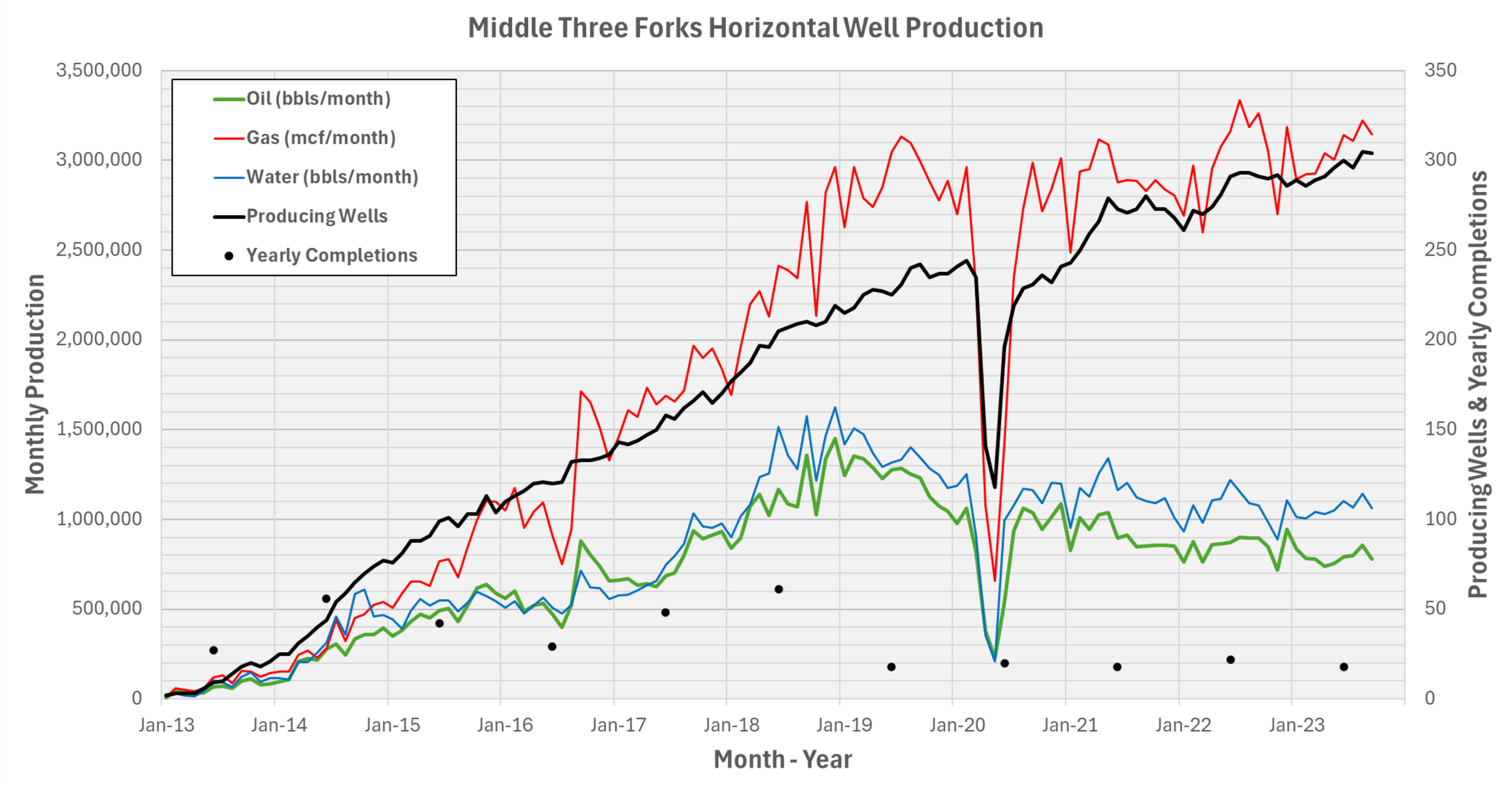


middle & lower Three Forks (~2013)



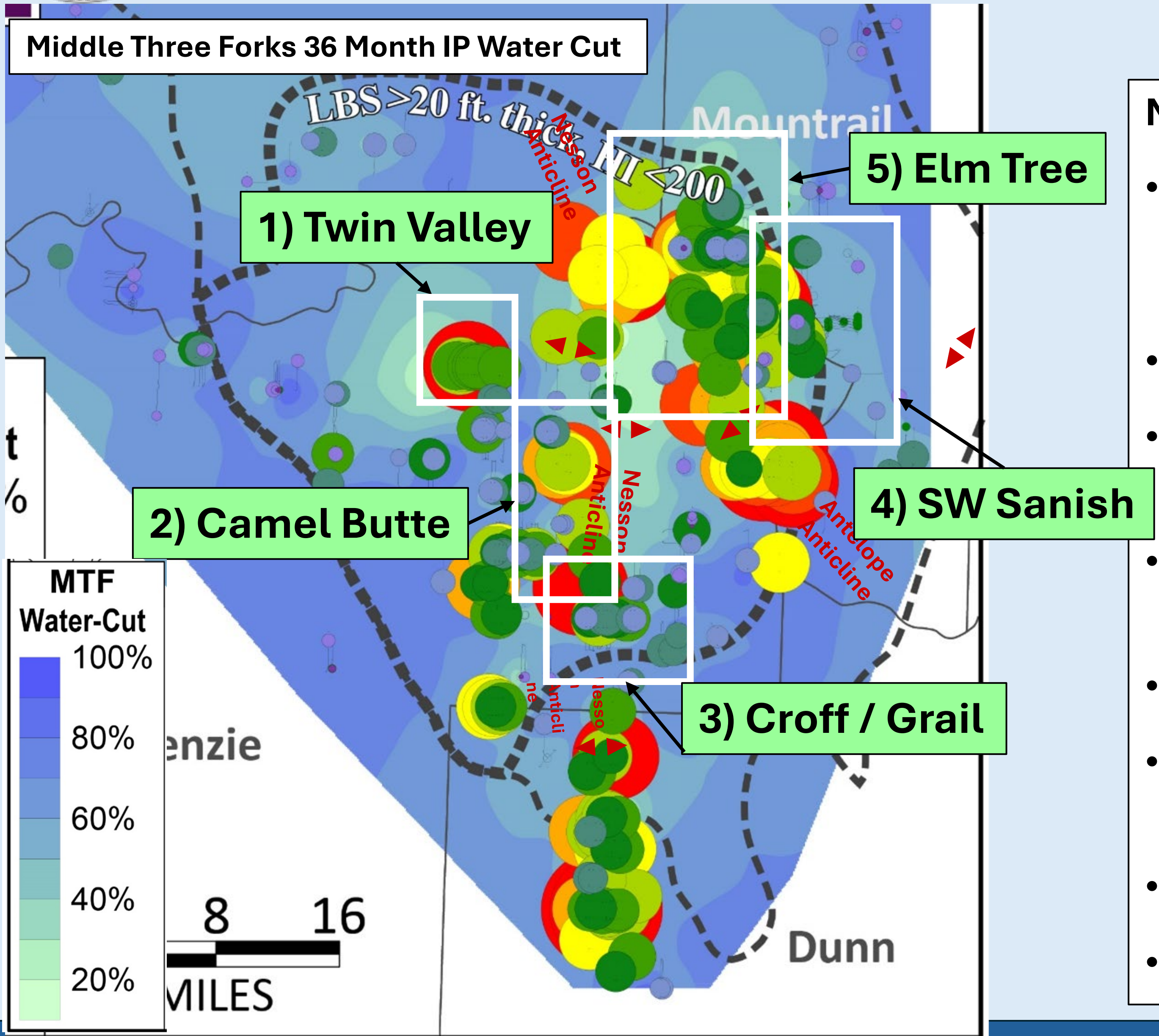
Middle Three Forks Development





- 373 horizontal producers
- 92.5 MMBO Cum. Oil
- 107.7 MMBW Cum. Water
- 238.2 BCF Cum. Gas

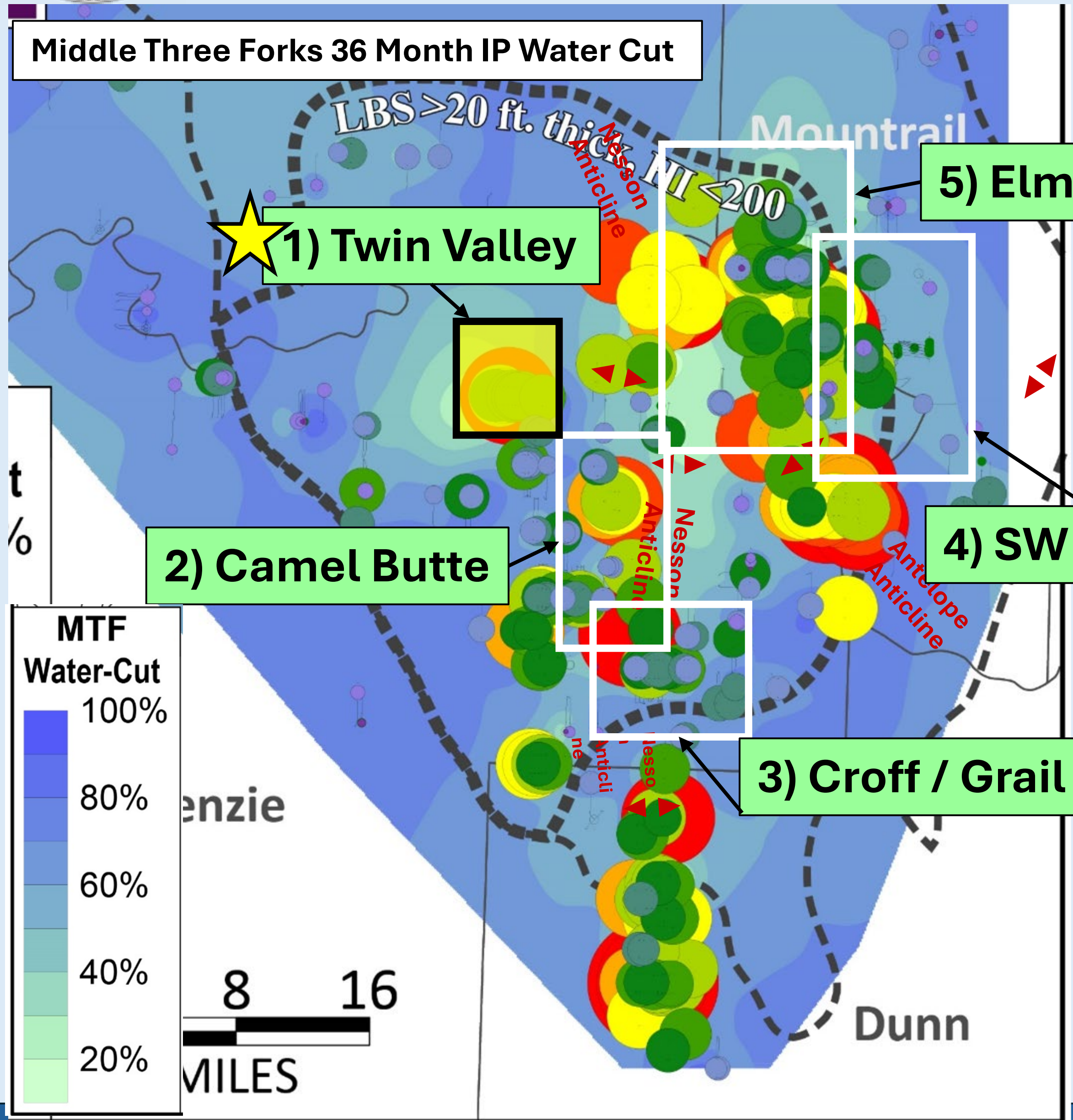
Middle Three Forks Resource Potential – Project Update



METHODS:

- Selected 1280-acre DSU's with MTF surrounded by DSU' w/o MTF development (avoided contiguous development areas)
- Confirm/determined lateral reservoir target
- Compiled production data, EUR forecasting methodology (e.g., cut off at 300 BBL/Month)
- Investigated cores in immediate area for reservoir quality of upper and middle Three Forks
- Isopach and structure mapping (geologic variations)
- Documented noteworthy interactions where discernible (i.e. existing production w/ later infill)
- Evaluated completions data
- Investigated 532 wells in 45 DSUs

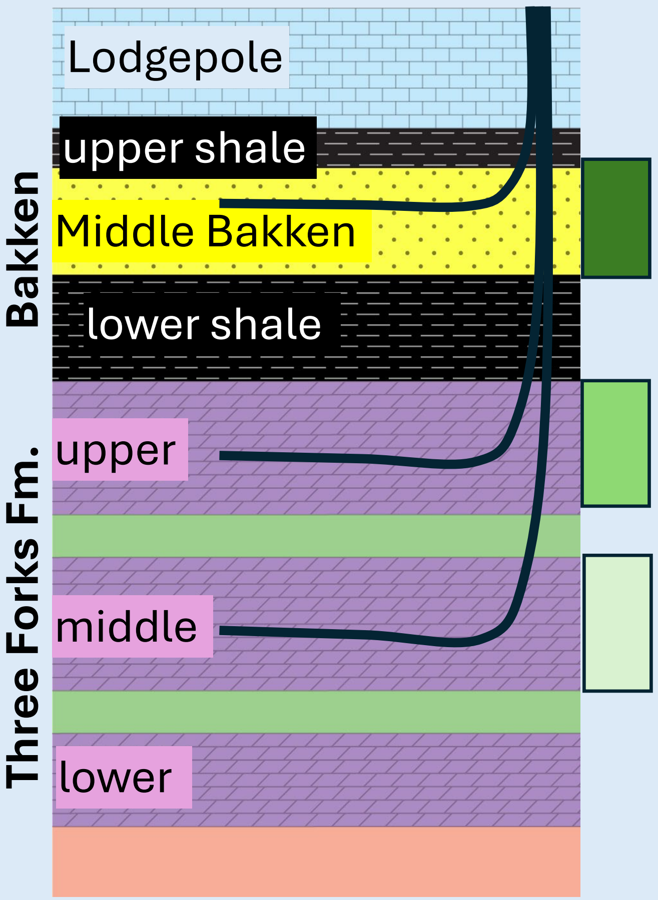
Middle Three Forks Resource Potential – Project Update

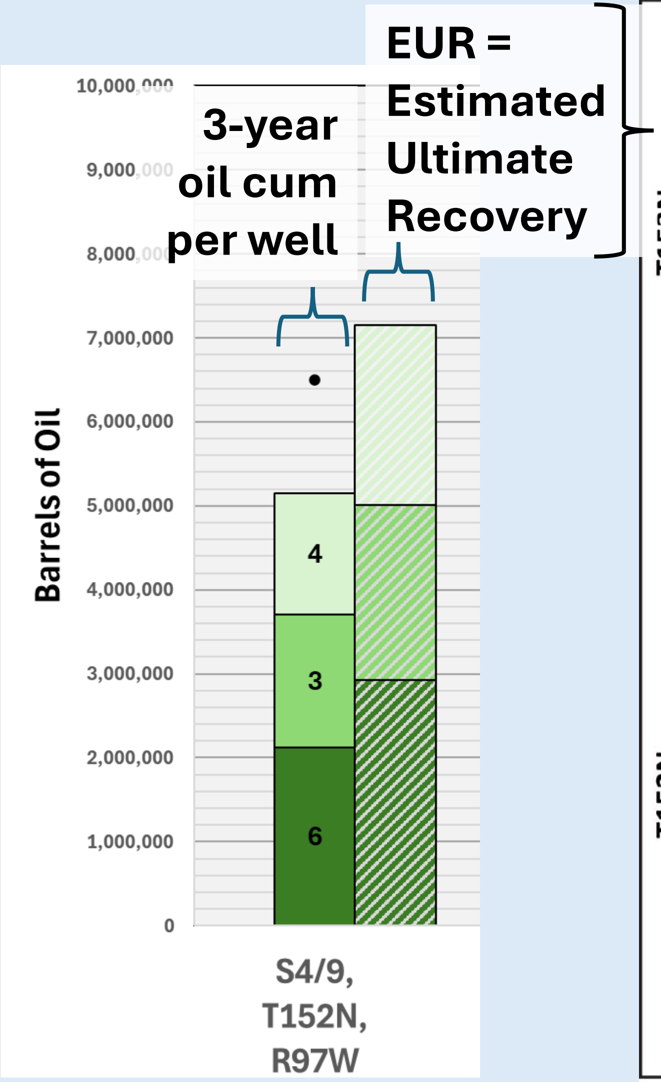


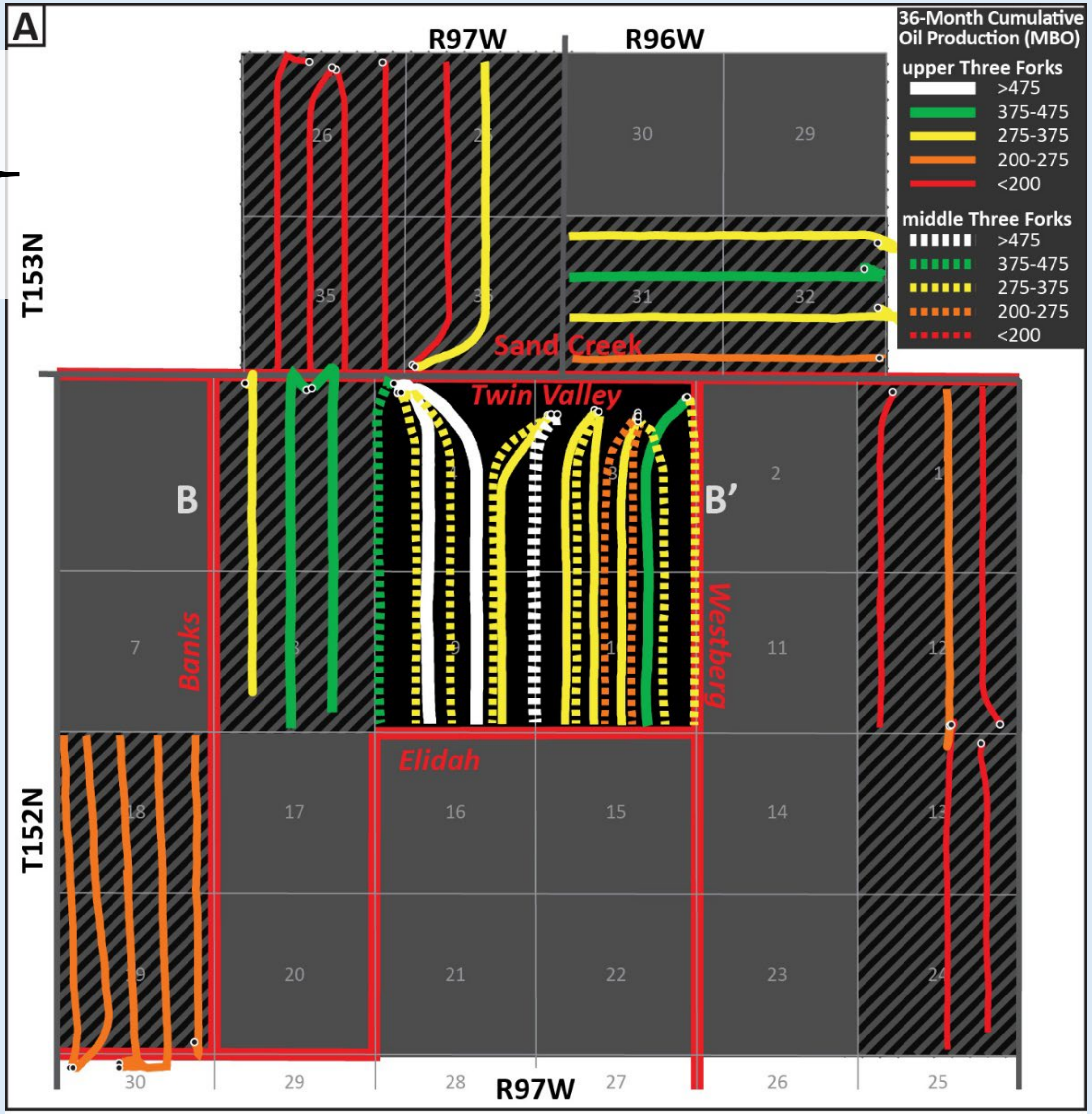
METHODS:

- Selected 1280-acre DSU's with MTF surrounded by DSU' w/o MTF development (avoided contiguous development areas)
- Confirm/determined lateral reservoir target
- Compiled production data, EUR forecasting methodology (e.g., cut off at 300 BBL/Month)
- Investigated cores in immediate area for reservoir quality of upper and middle Three Forks
- Isopach and structure mapping (geologic variations)
- Documented noteworthy interactions where discernible (i.e. existing production w/ later infill)
- Evaluated completions data
- Investigated 532 wells in 45 DSUs

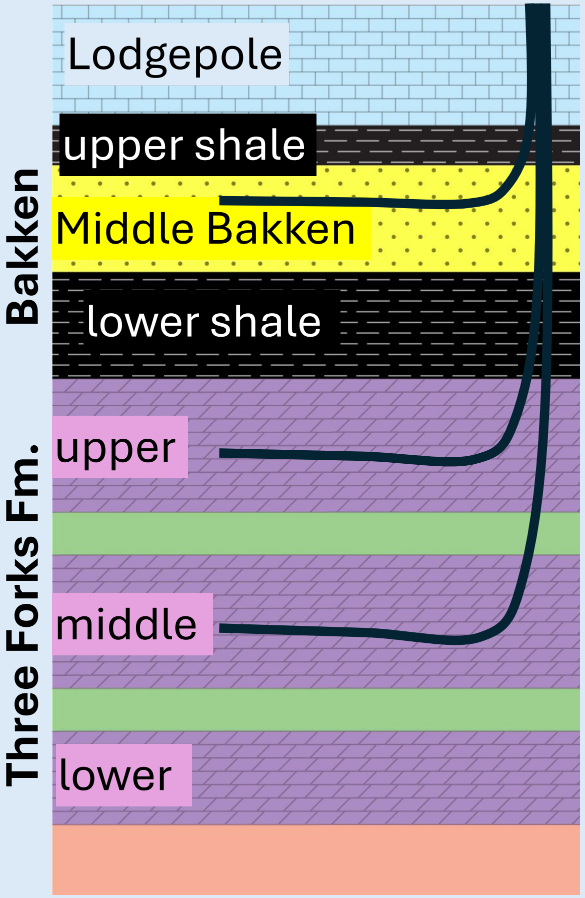
Evaluation Methods

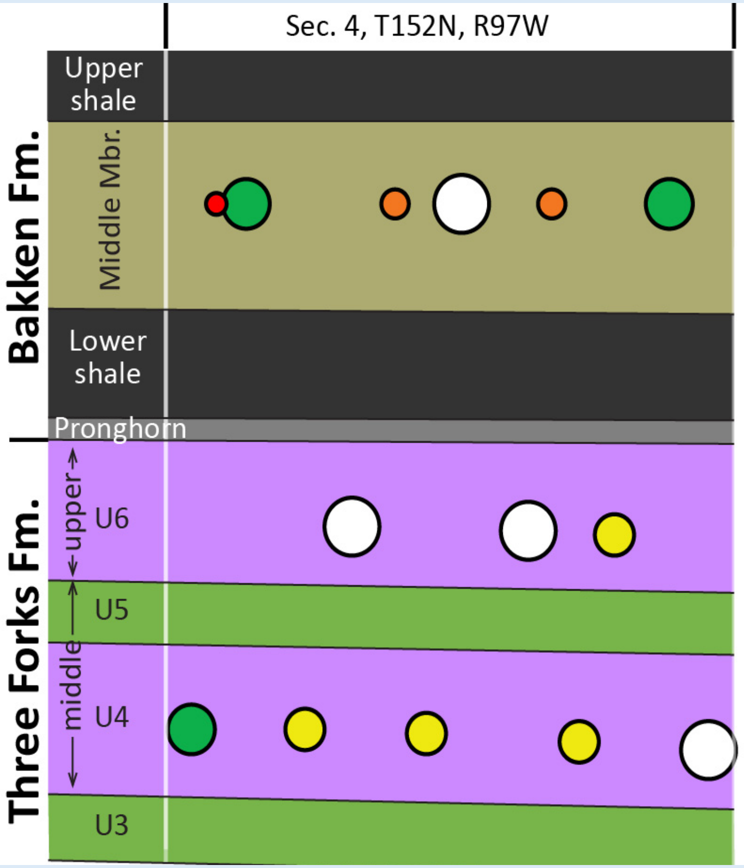


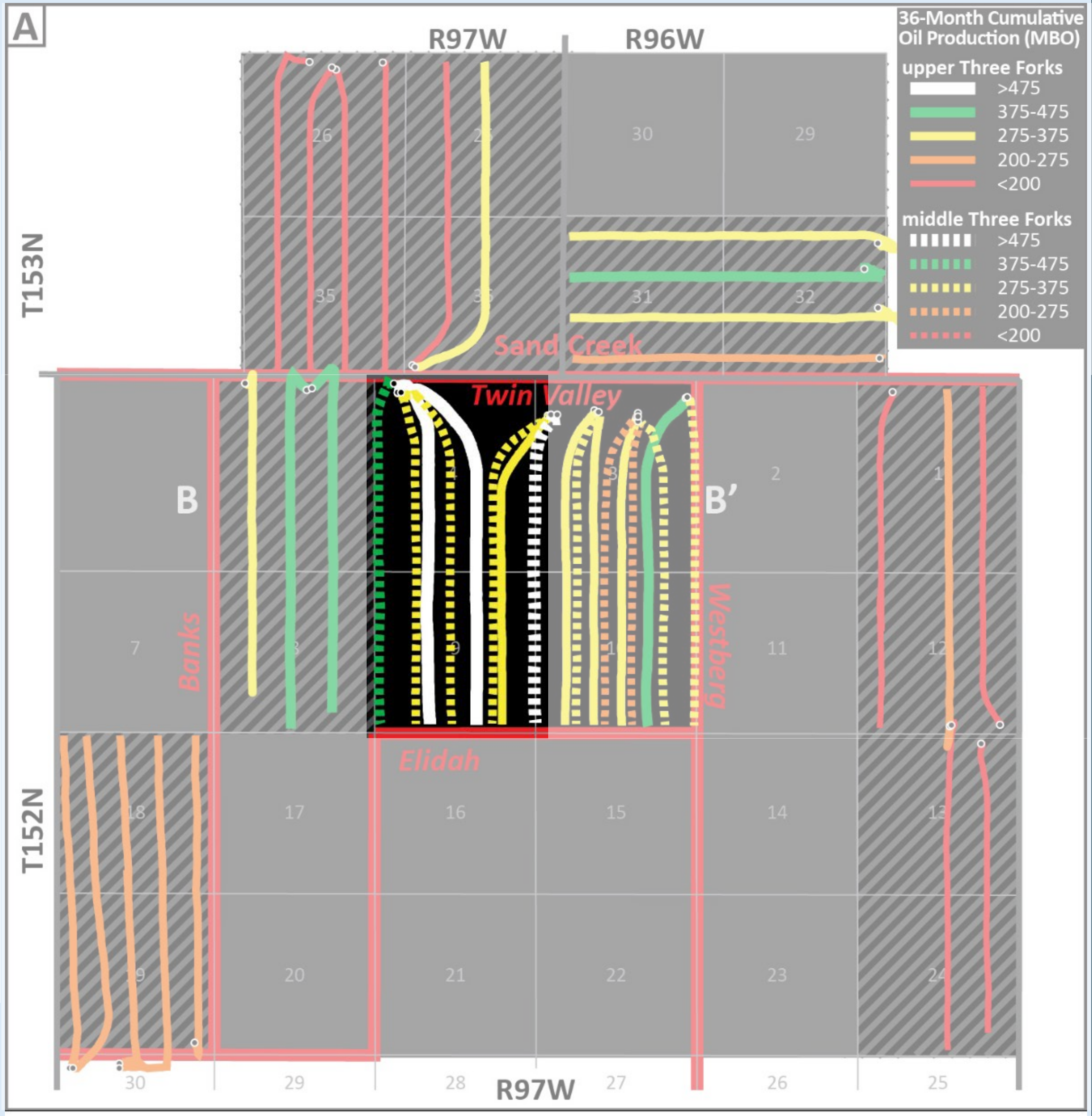




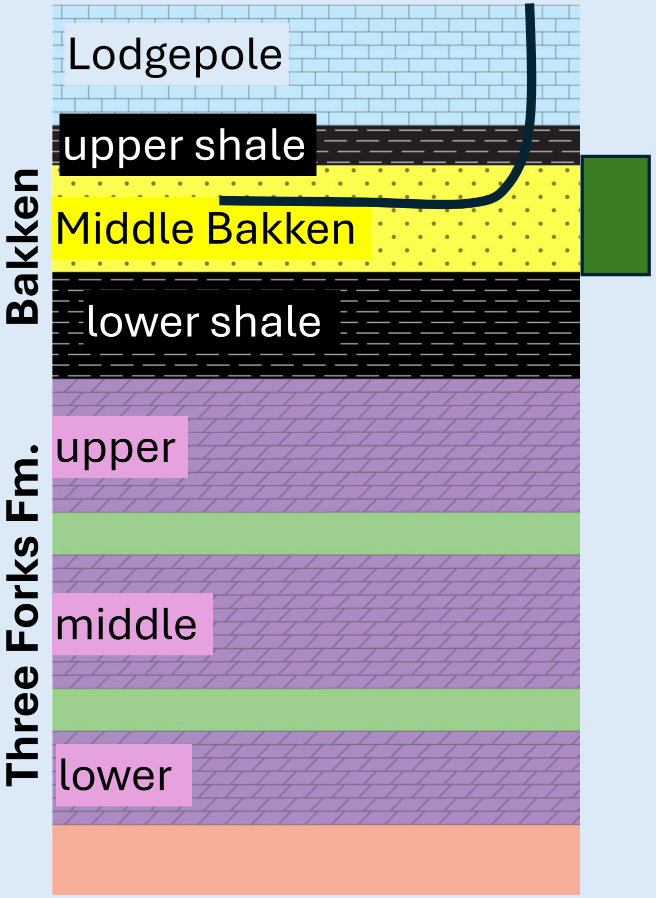
Evaluation Methods

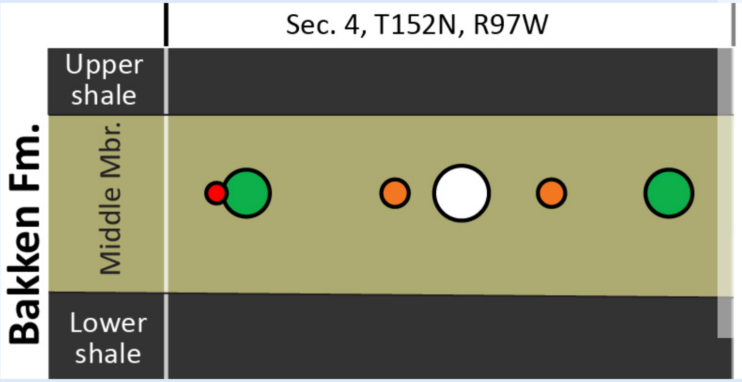


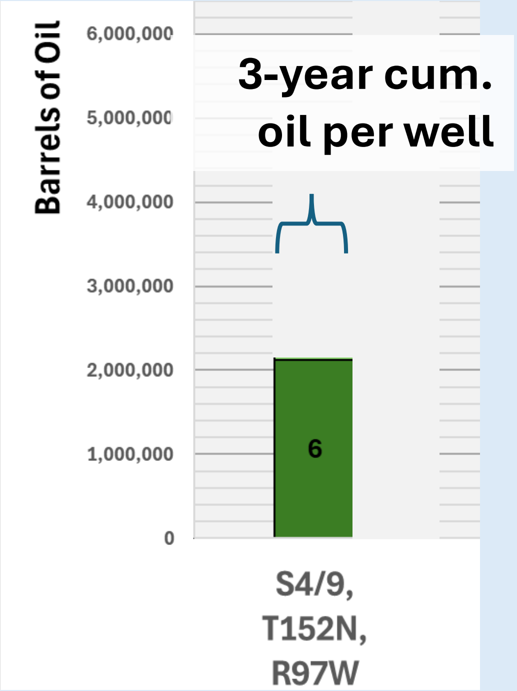


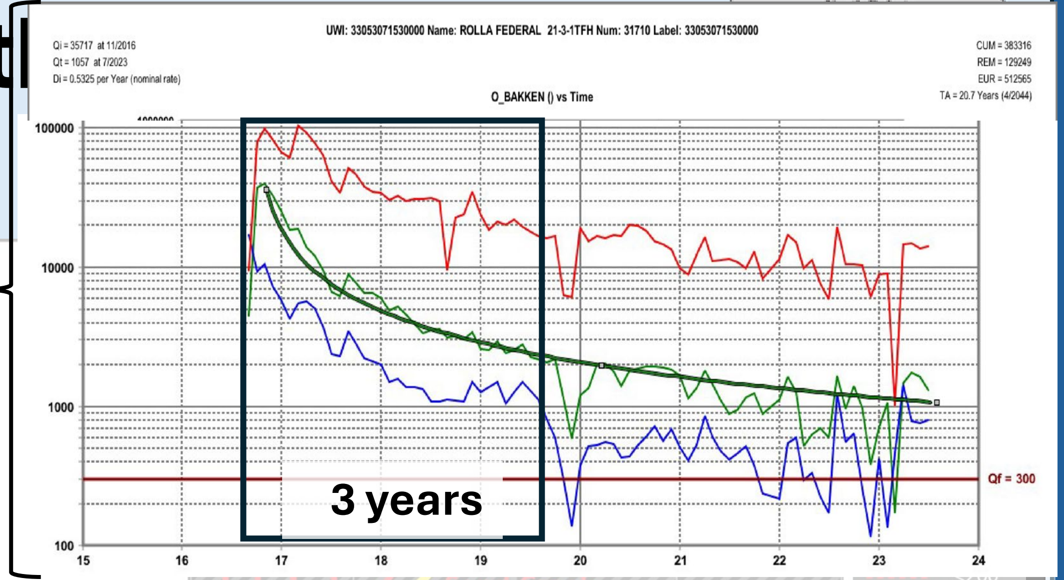


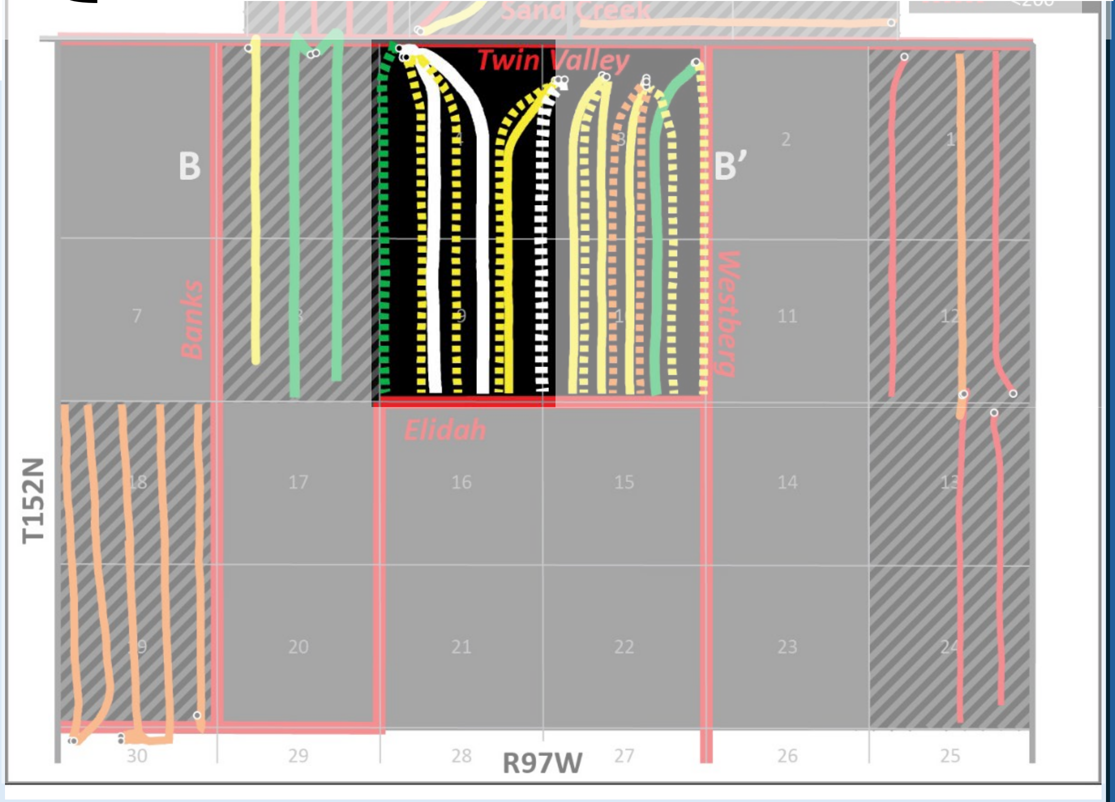
Evaluation Met



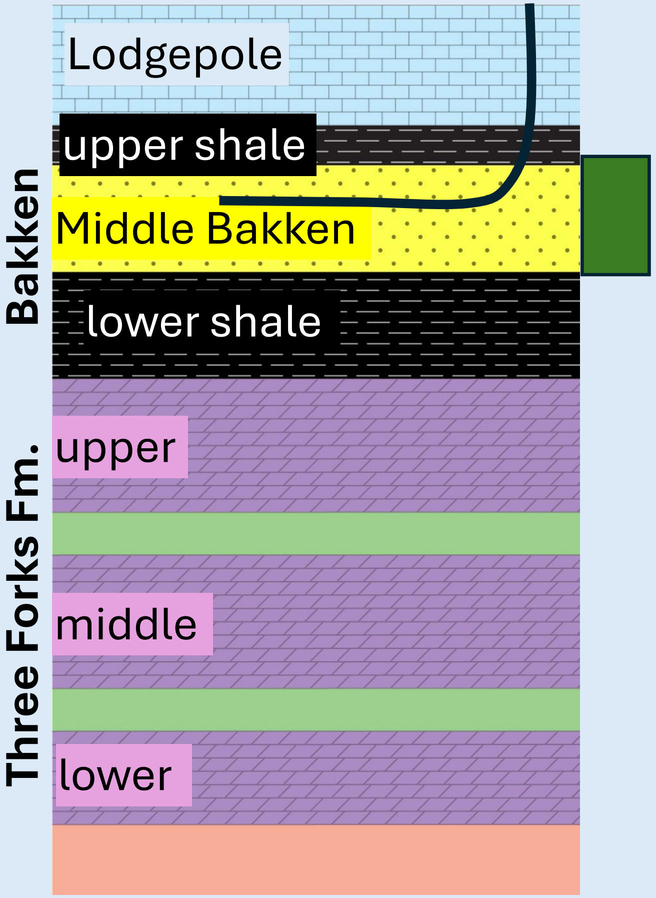


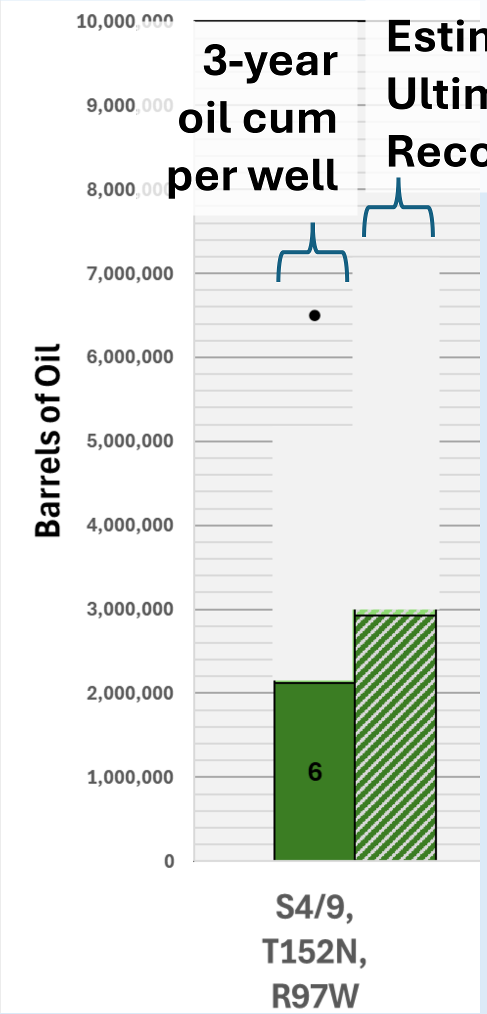






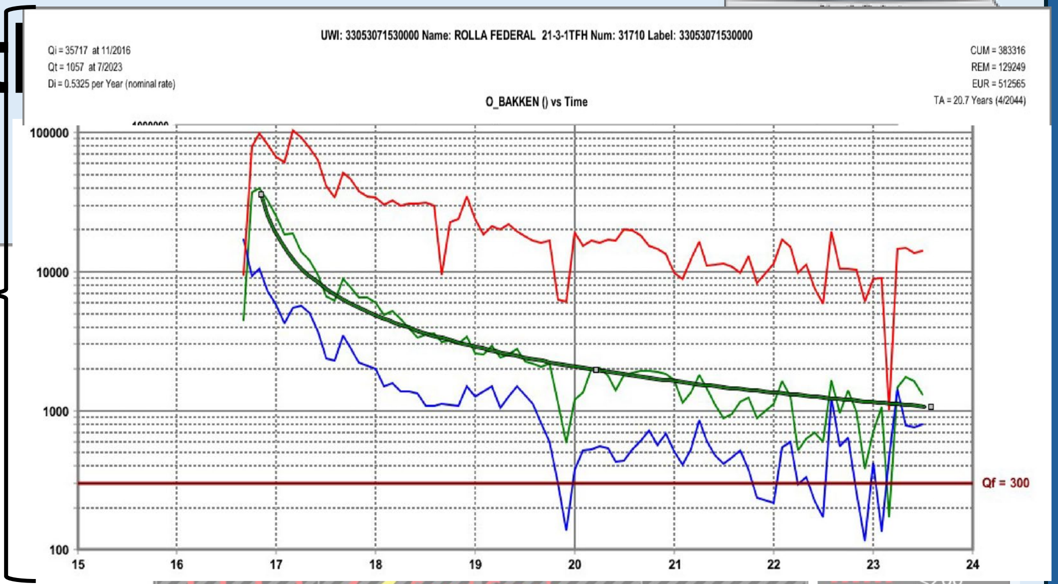
Evaluation Met

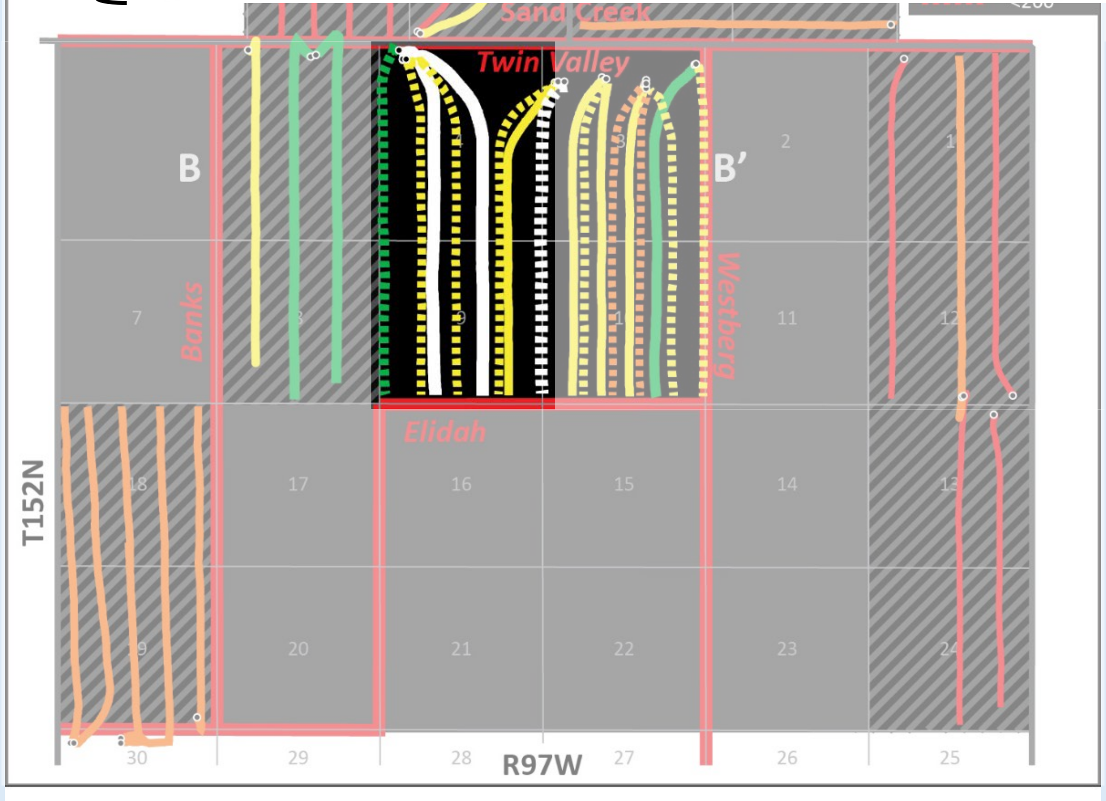




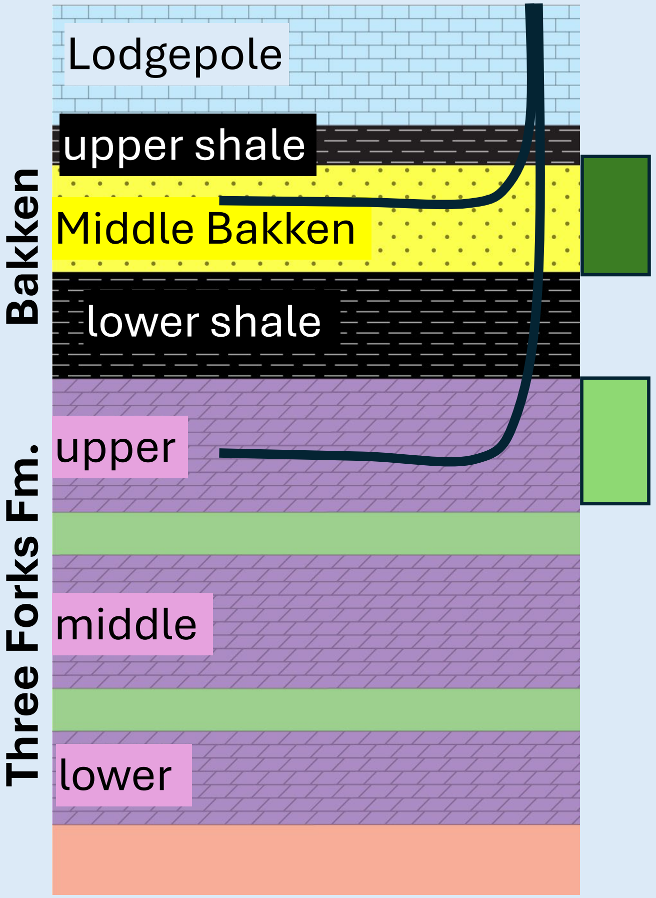
3-year oil cum per well

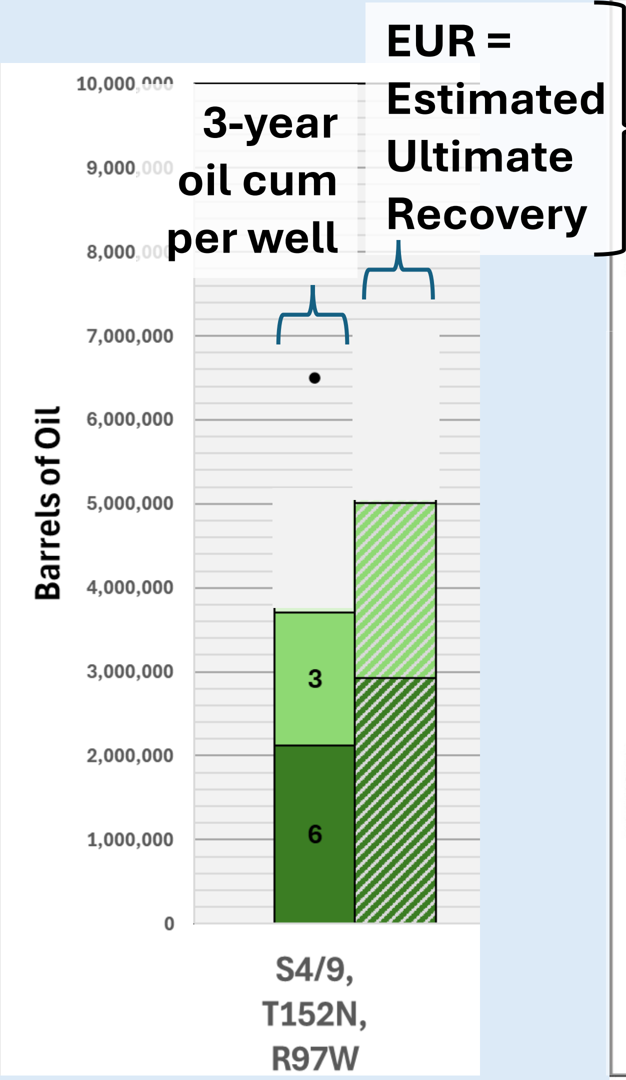
EUR = Estimated Ultimate Recovery

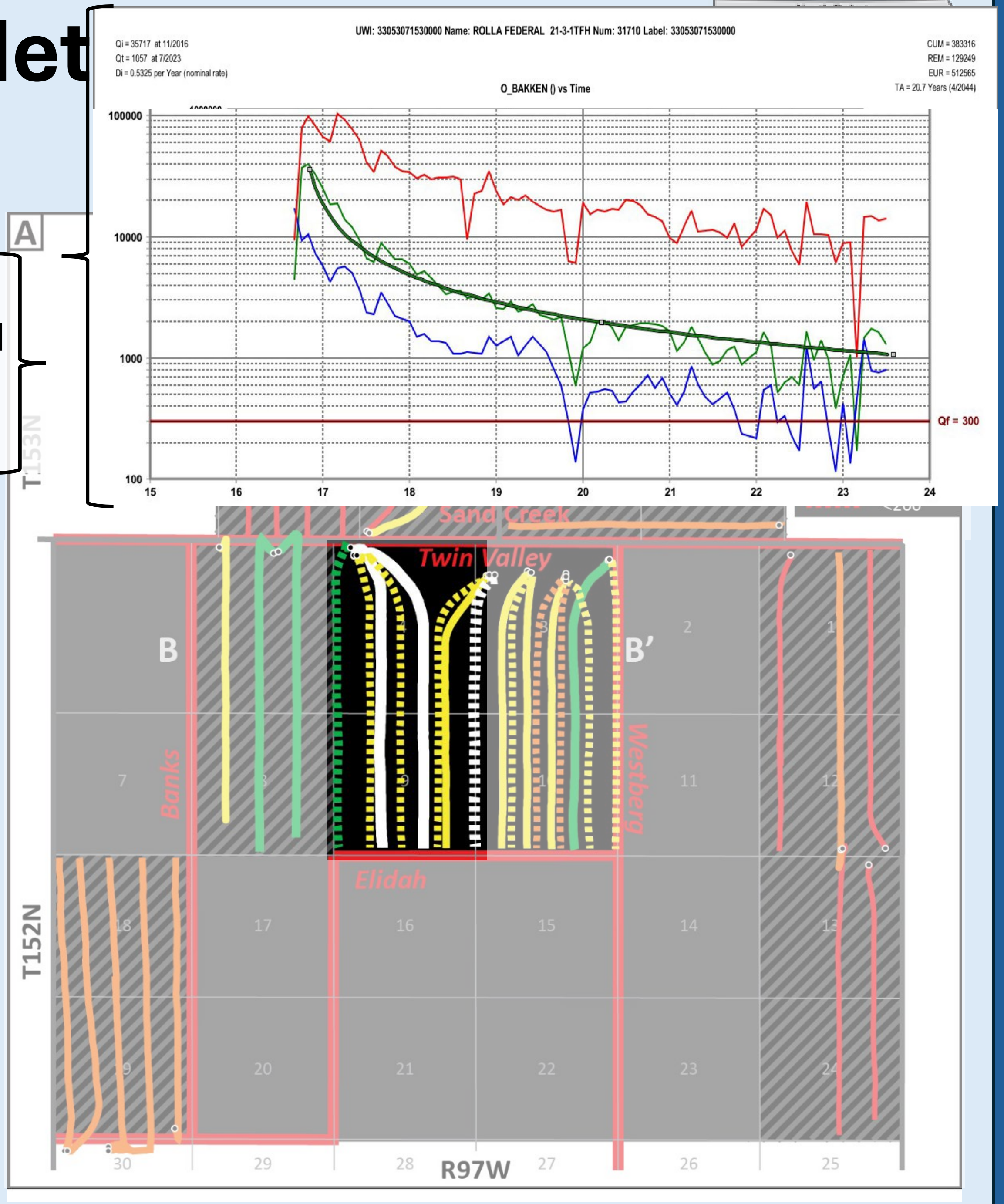




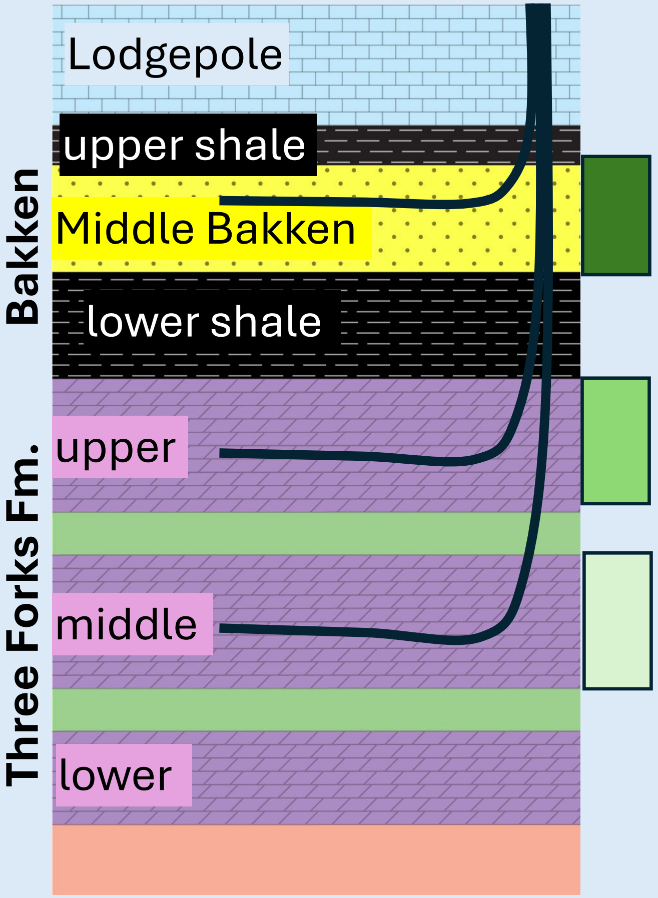
Evaluation Met

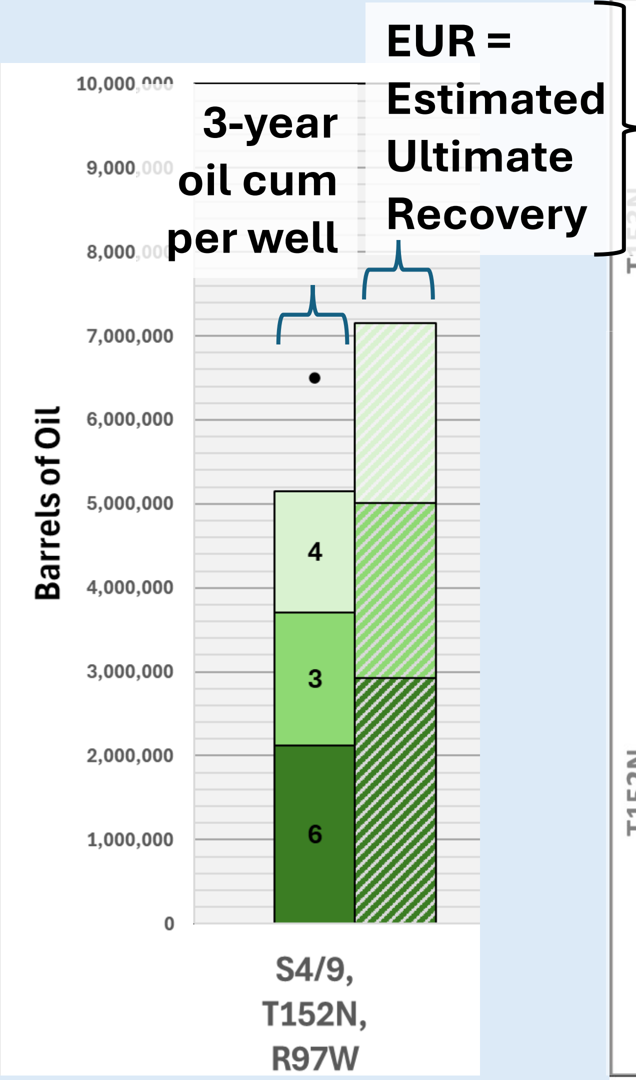


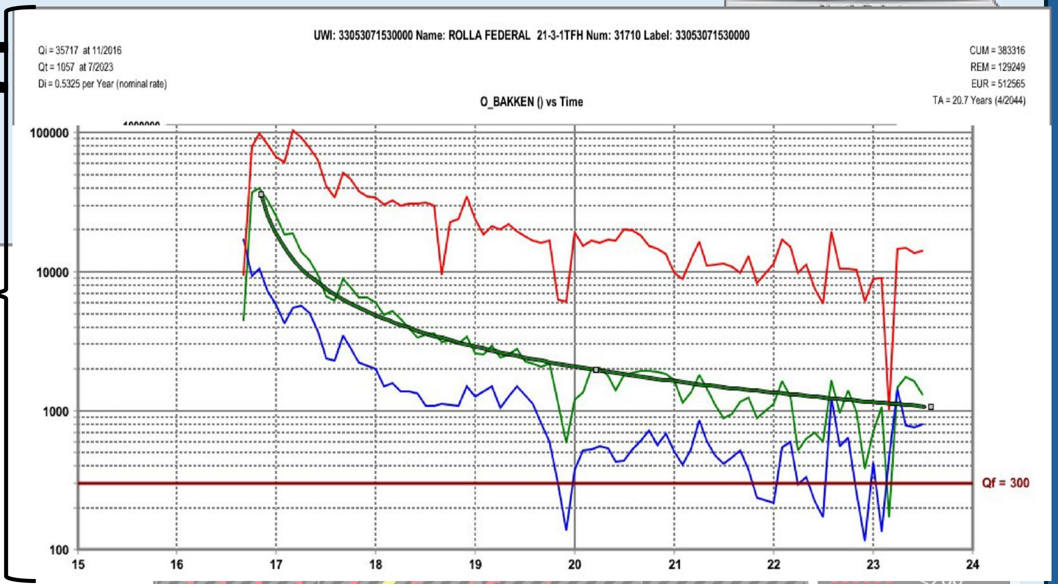


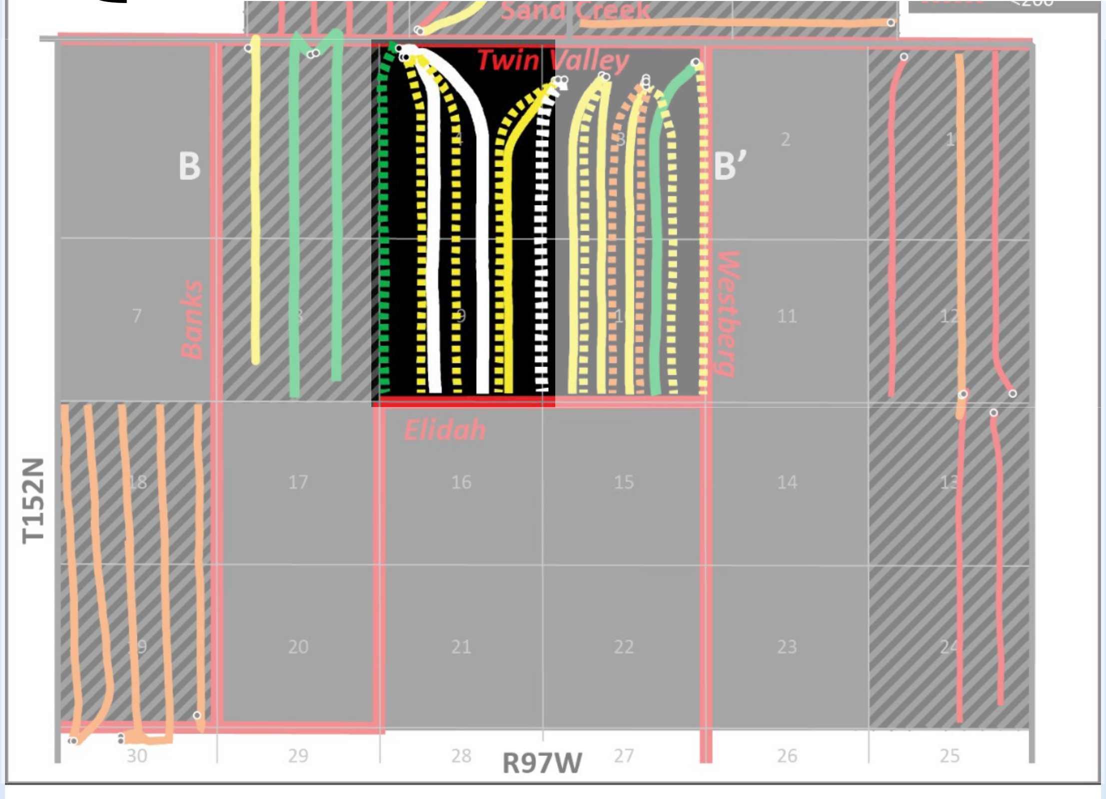


Evaluation Met

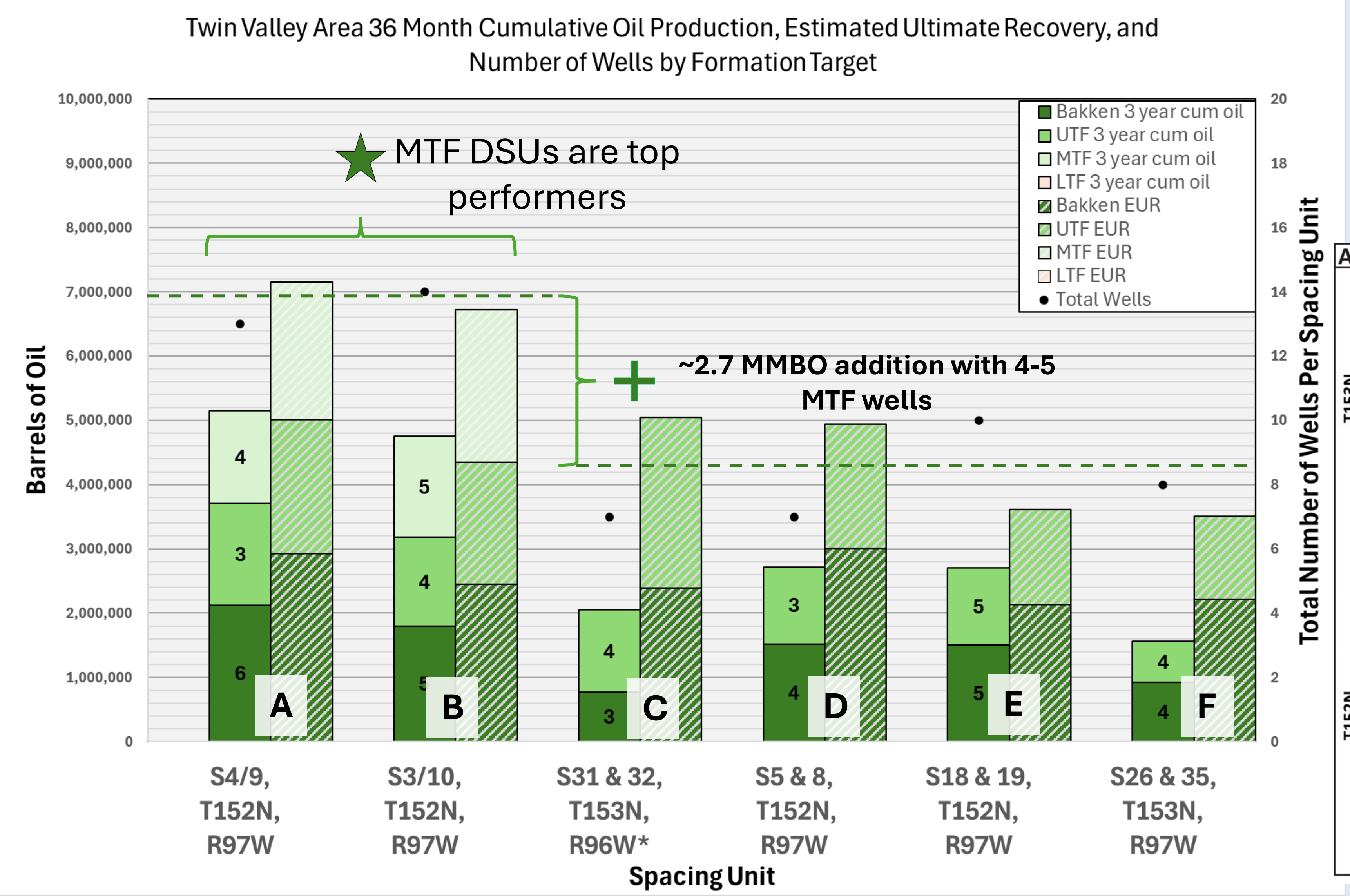


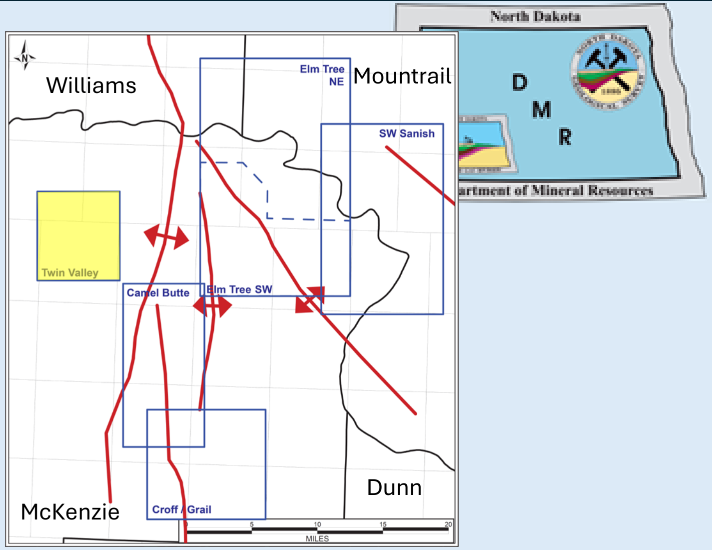


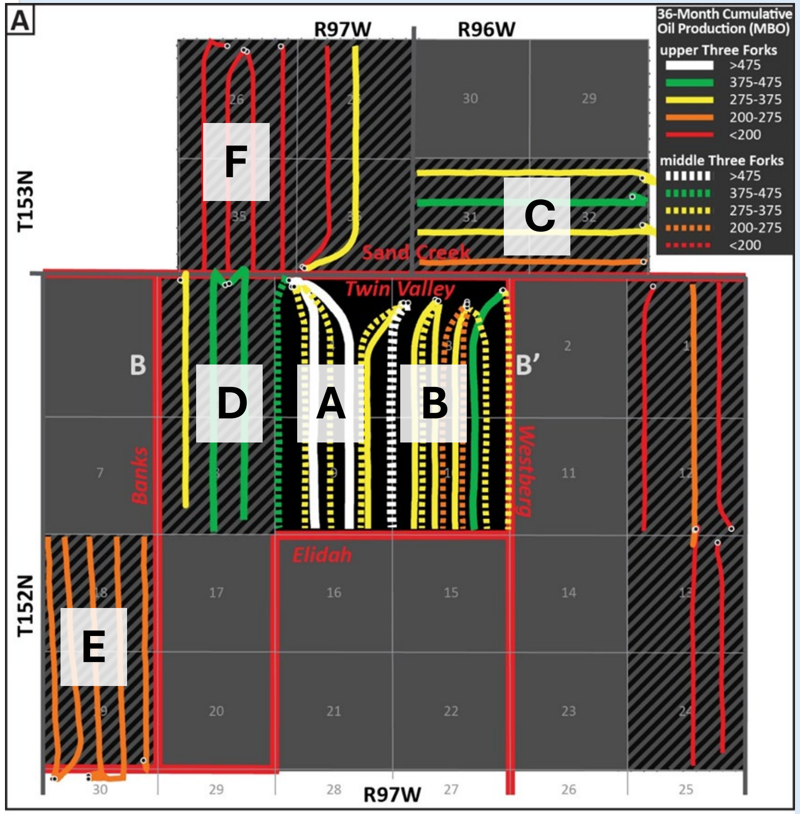




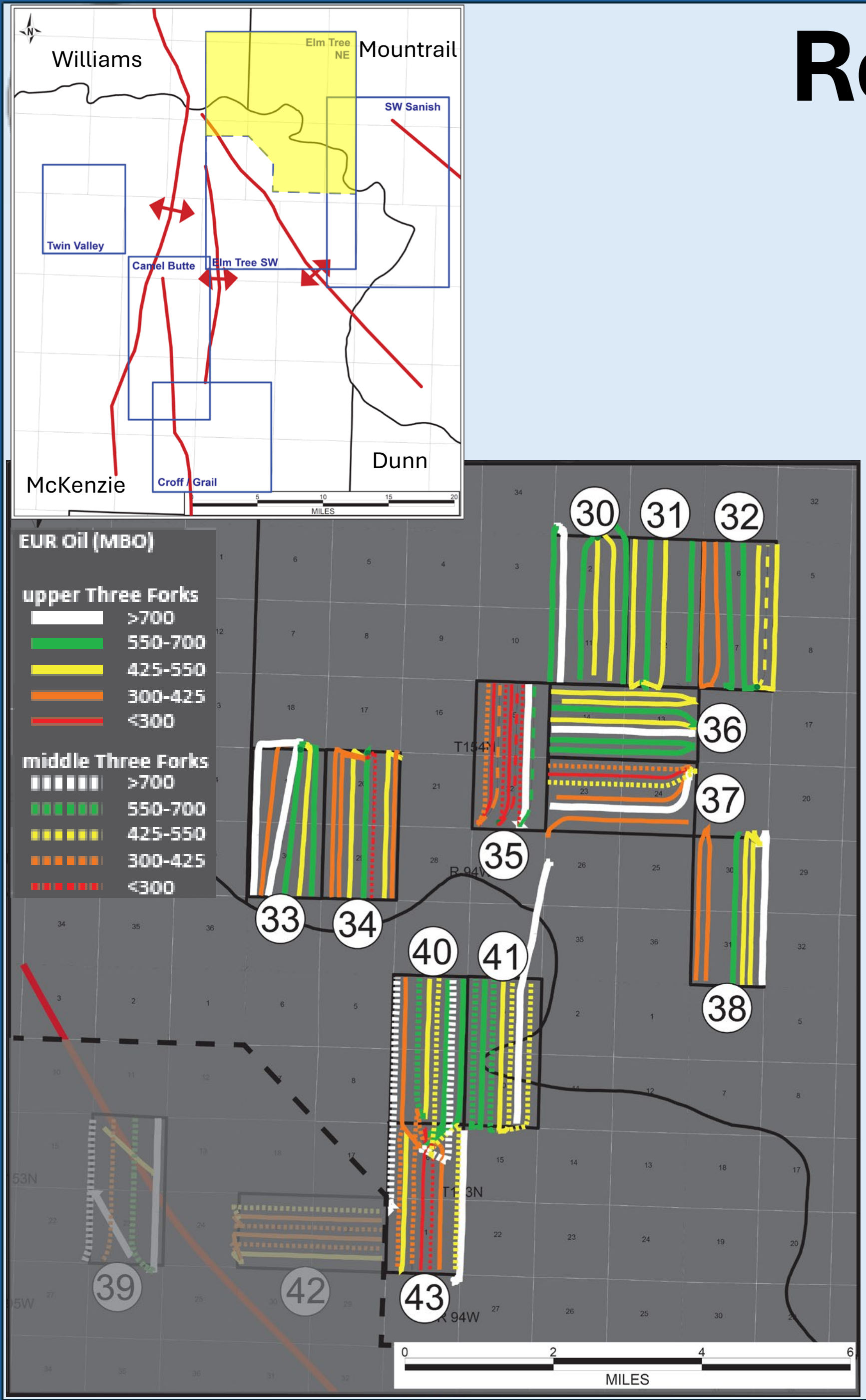
Results: Twin Valley

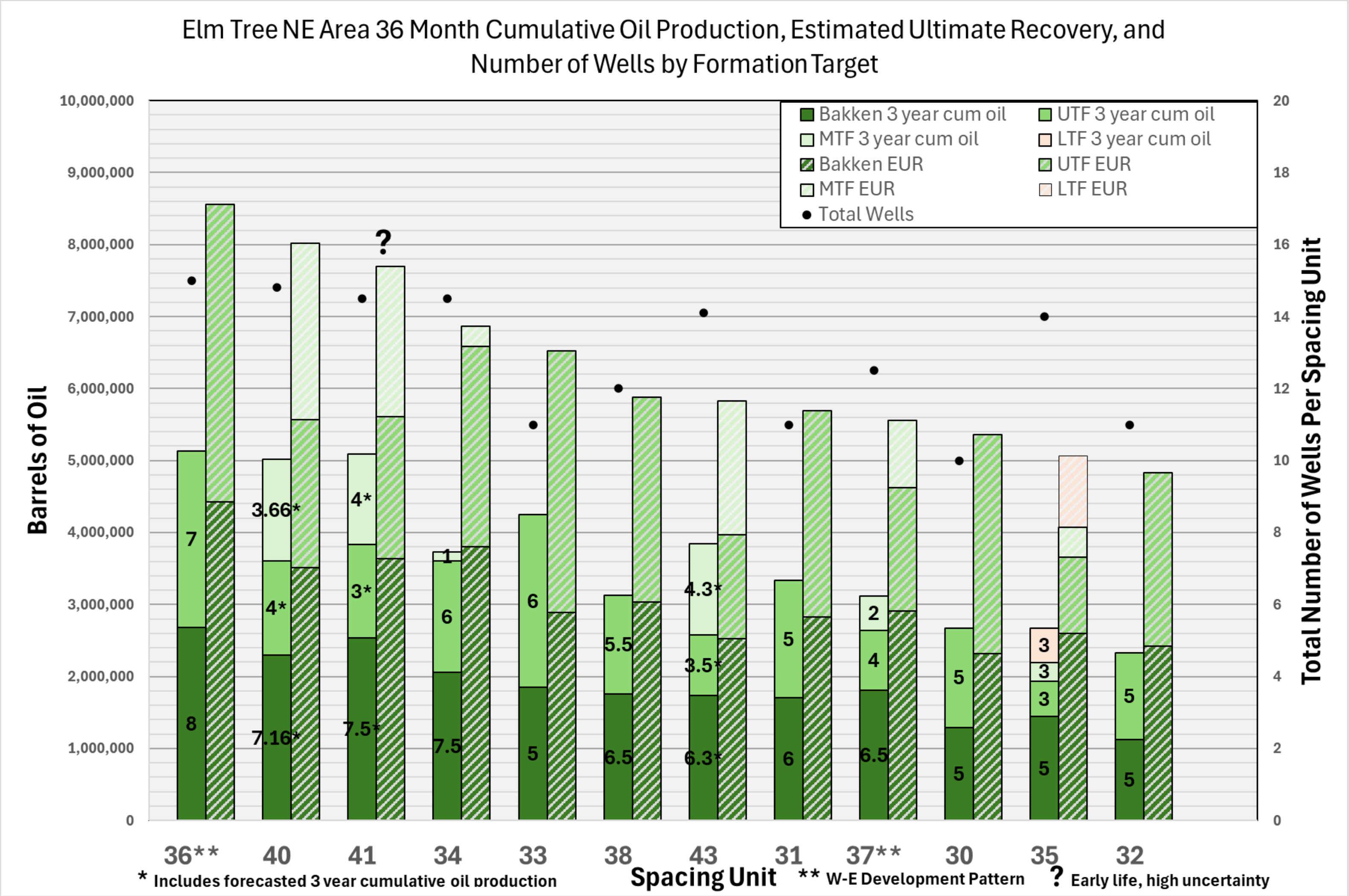




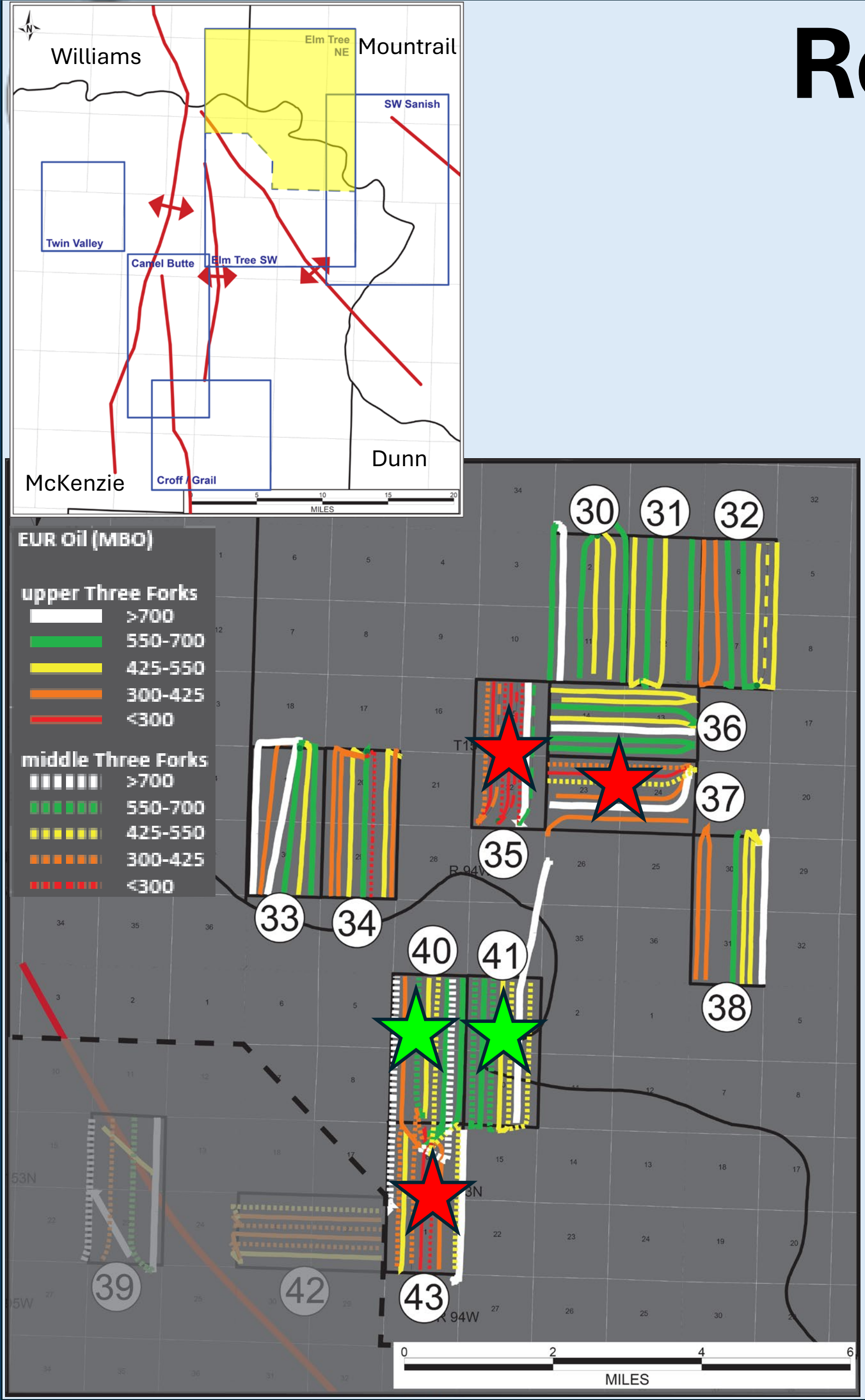


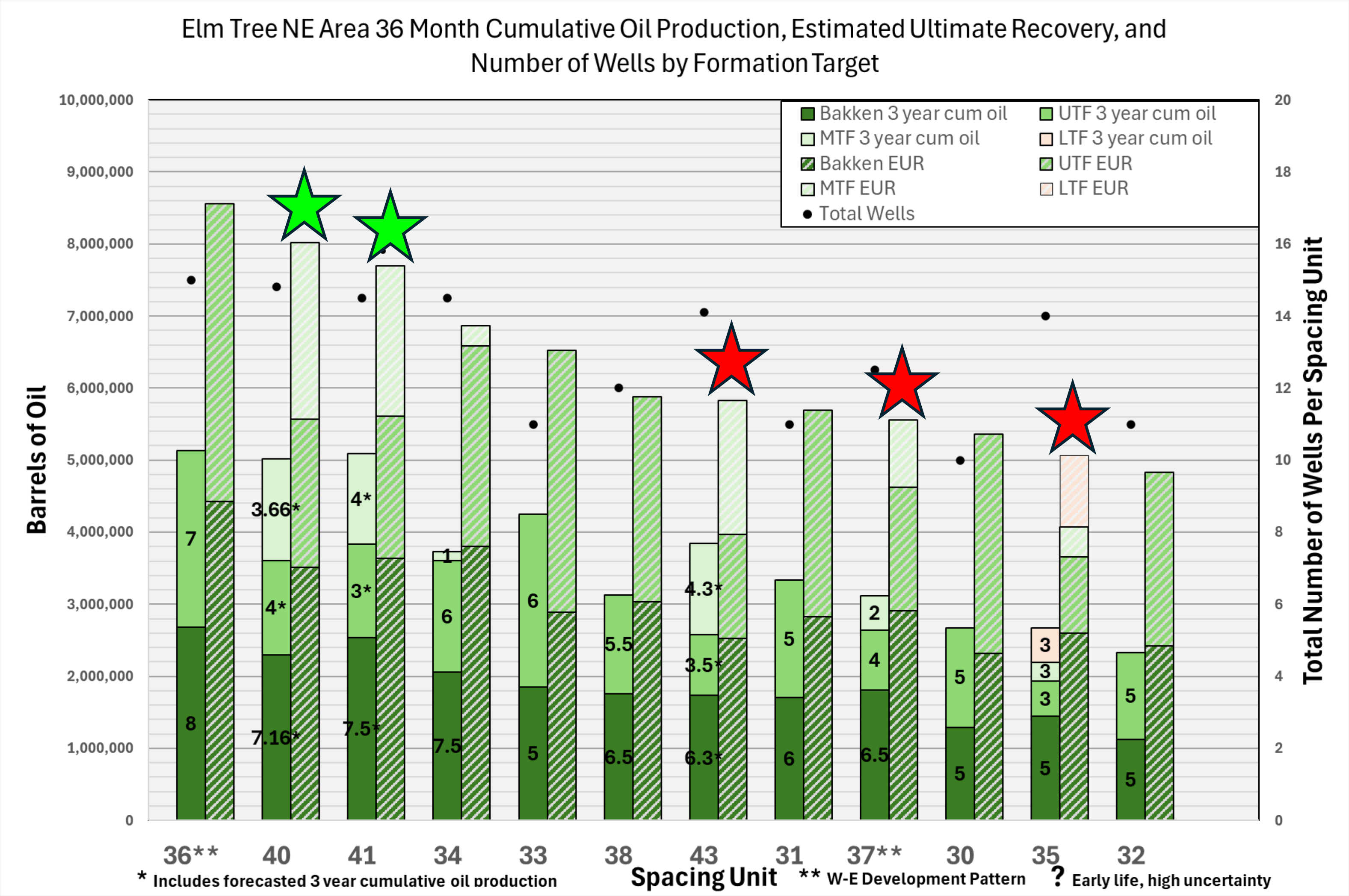
Results: NE Elm Tree





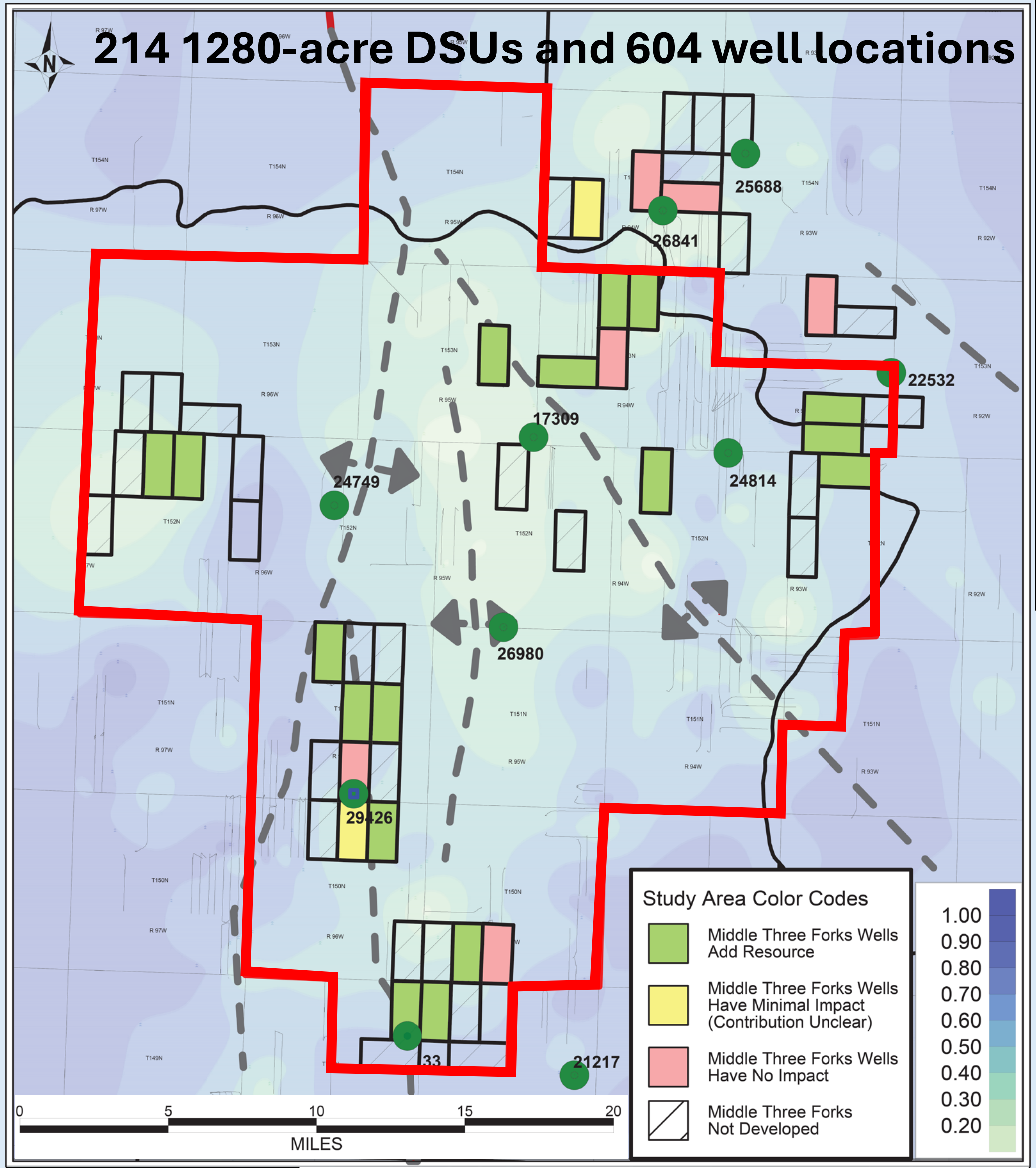
Results: NE Elm Tree





Middle Three Forks Remaining Resource Potential

~275,000 Contiguous Acres of Initial Development Potential



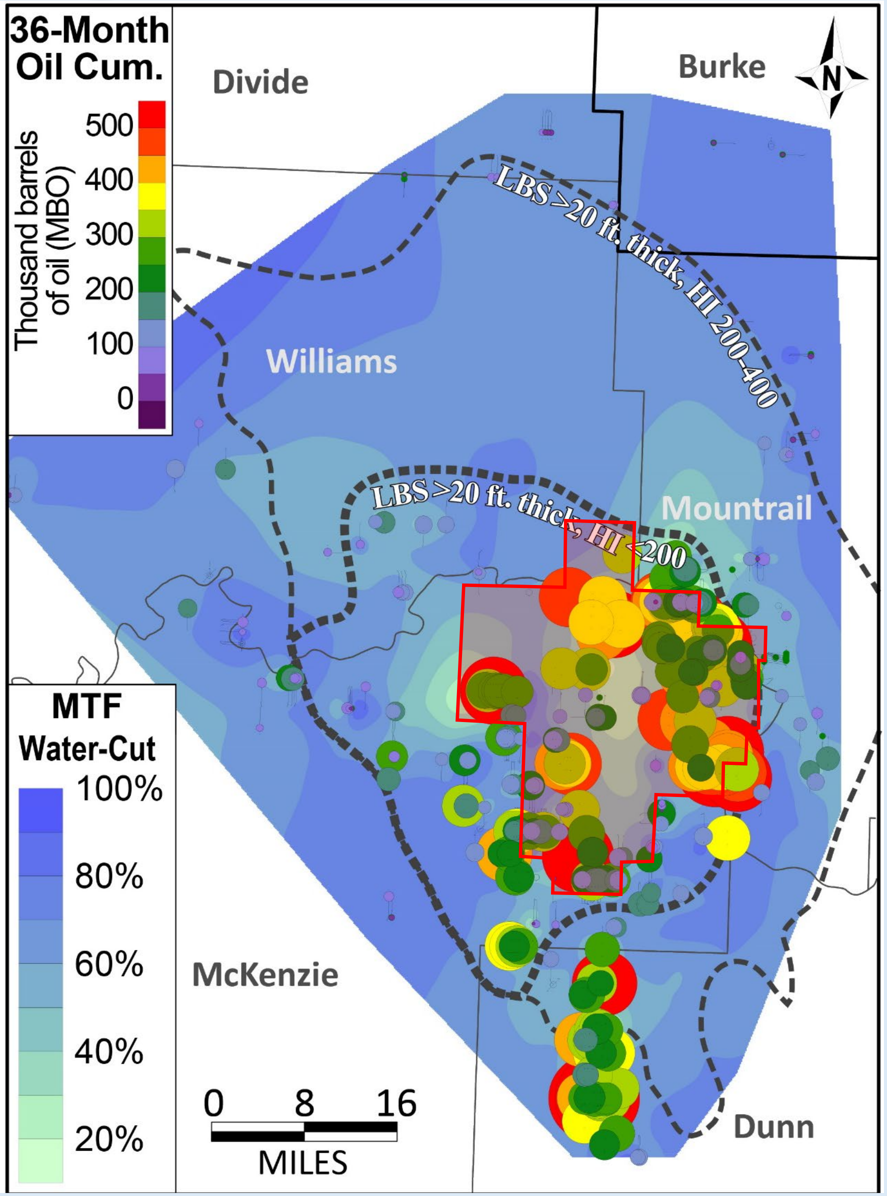
Number of Wells in Data Set	10th Percentile Middle Three Forks Well EUR (BO)	50th Percentile Middle Three Forks Well EUR (BO)	90th Percentile Middle Three Forks Well EUR (BO)
62	257,500	415,600	667,000

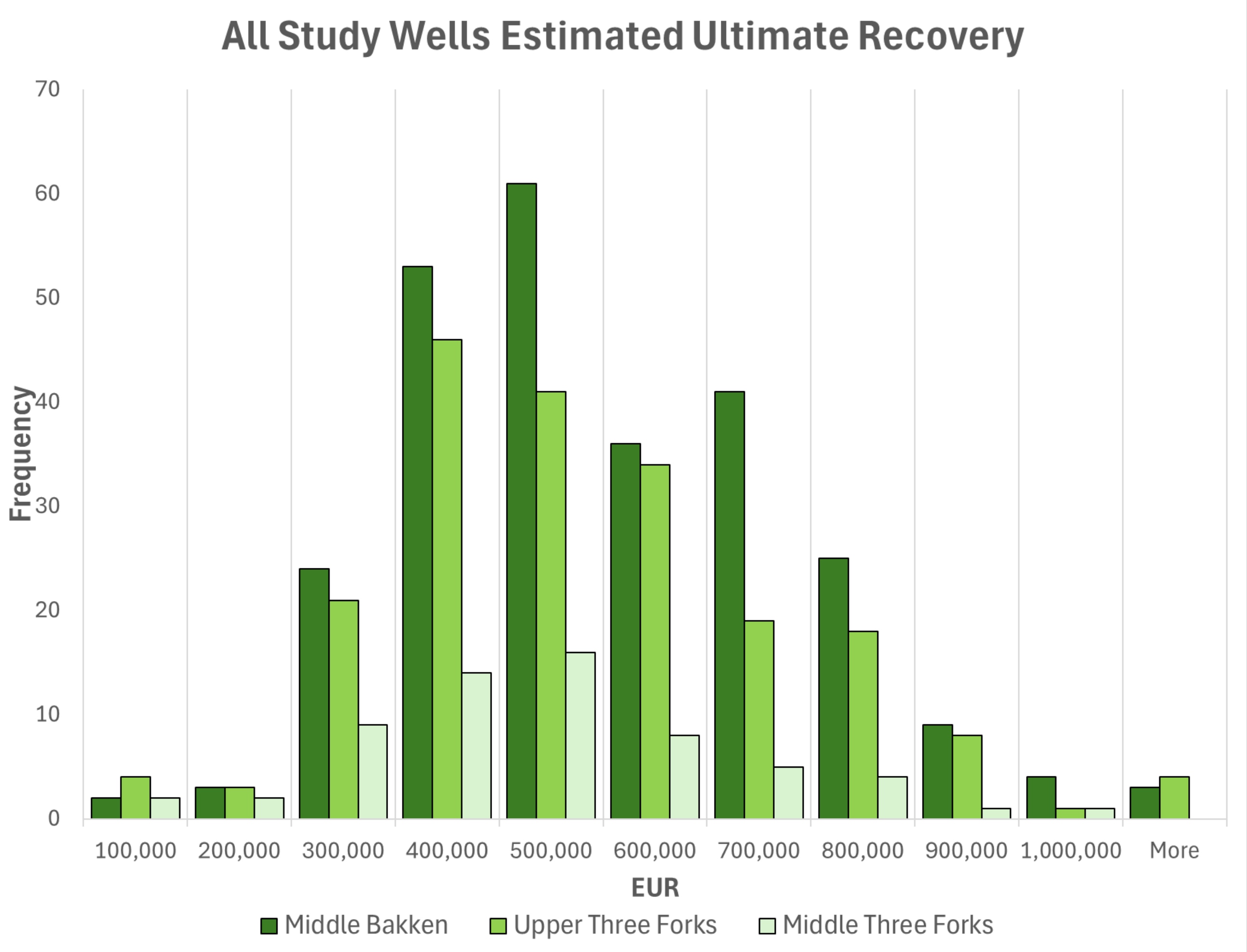
Number of Potential Drilling Locations	Prospective area 10th Percentile Middle Three Forks EUR (BO)	Prospective area 50th Percentile Middle Three Forks EUR (BO)	Prospective area 90th Percentile Middle Three Forks EUR (BO)
600	154,500,000	249,360,000	400,200,000

~150 - 400 MMBO Recoverable Oil

- **Investigated 532 wells in 45 DSUs (25 DSU's with MTF development)**
- **17 DSU's displayed volumetric addition by developing MTF, 6 DSU's did not, and 2 DSU's were unclear.**
- **Middle Three Forks wells investigated average ~415,000 barrels EUR**

Middle Three Forks Remaining Resource Potential





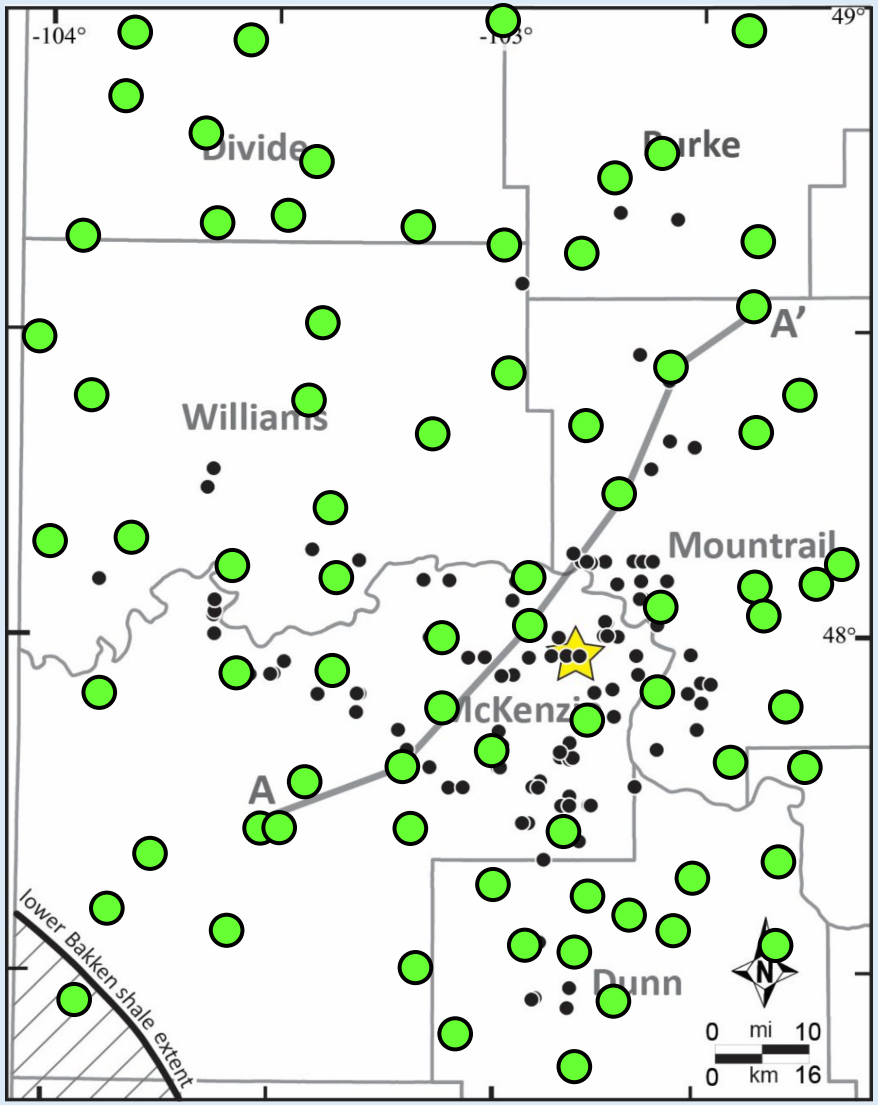
Percentile	10th	50th	90th	sample set
Middle Bakken	296,525	479,337	766,702	261
upper Three Forks	273,795	470,303	755,192	199
middle Three Forks	257,498	415,594	667,007	62

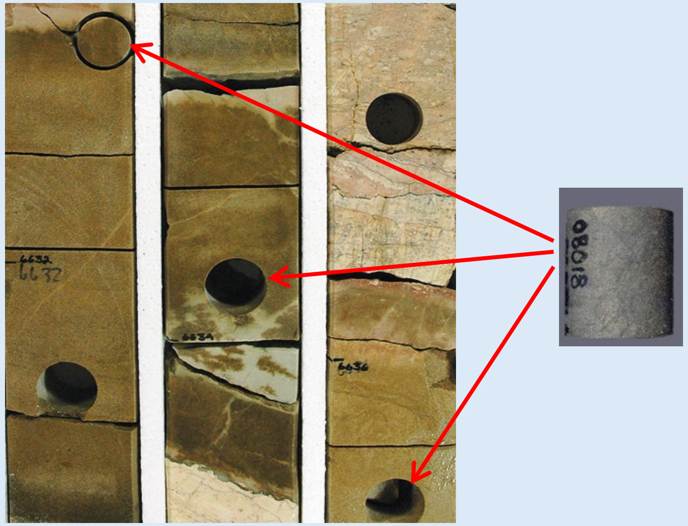
Thank you for your Time!

Tim Nesheim: tonesheim@nd.gov
Ted Starns: ecstarns@nd.gov

Bakken-Three Forks Petroleum System: Core-Plug Fluid Saturation mapping

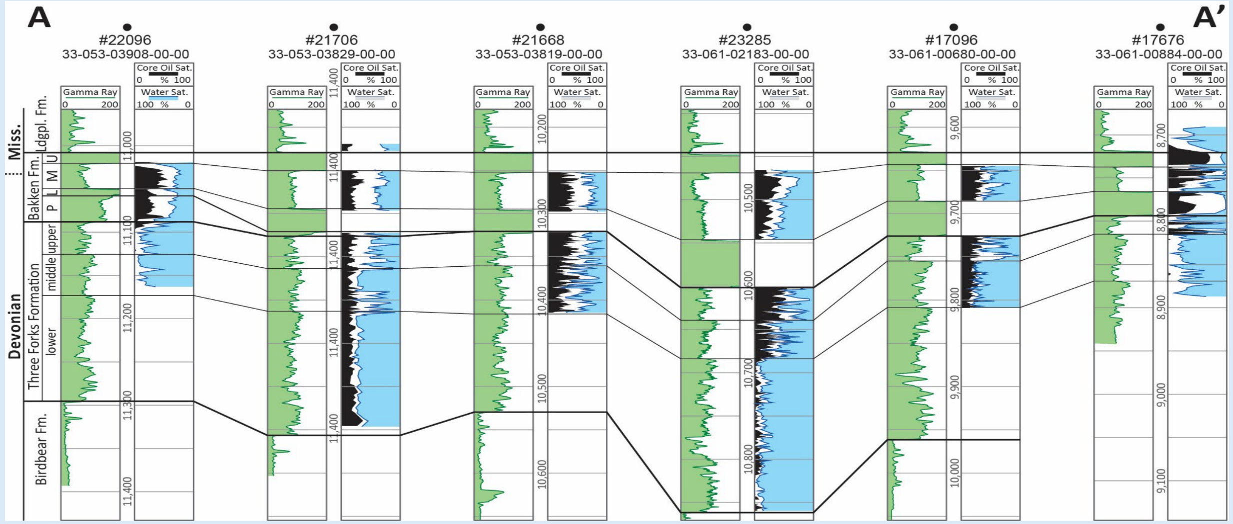
Three Forks cores with compiled core-plug fluid saturation and porosity data





- core sample with oil saturations for the upper, middle, and/or lower Three Forks

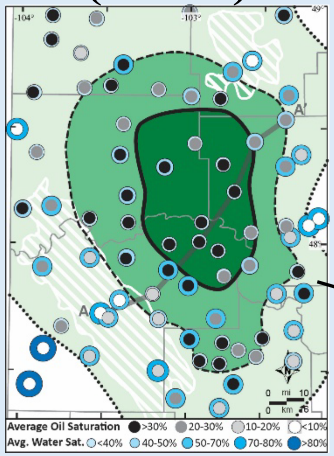
60+ cores data sets compiled



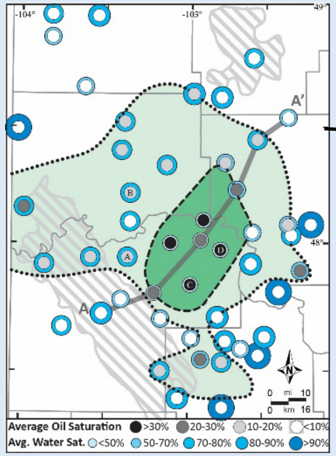
Bakken-Three Forks Petroleum System: Core-Plug Fluid Saturation mapping

Three Forks Formation Oil Saturations

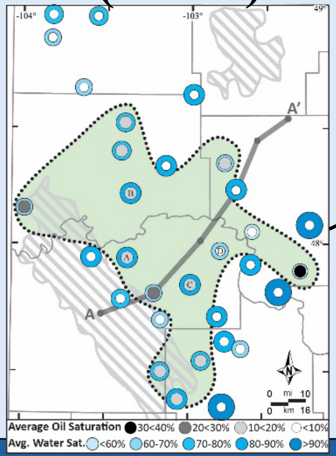
upper TF
(unit 6)

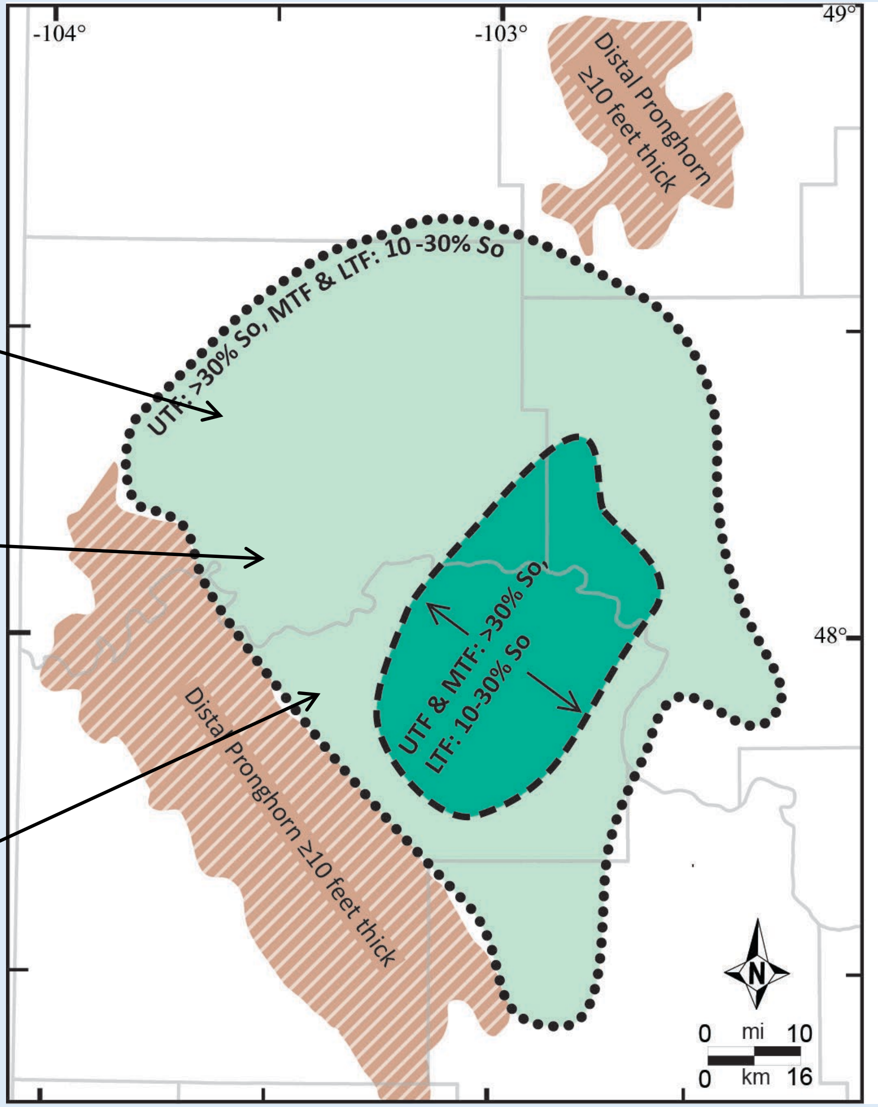


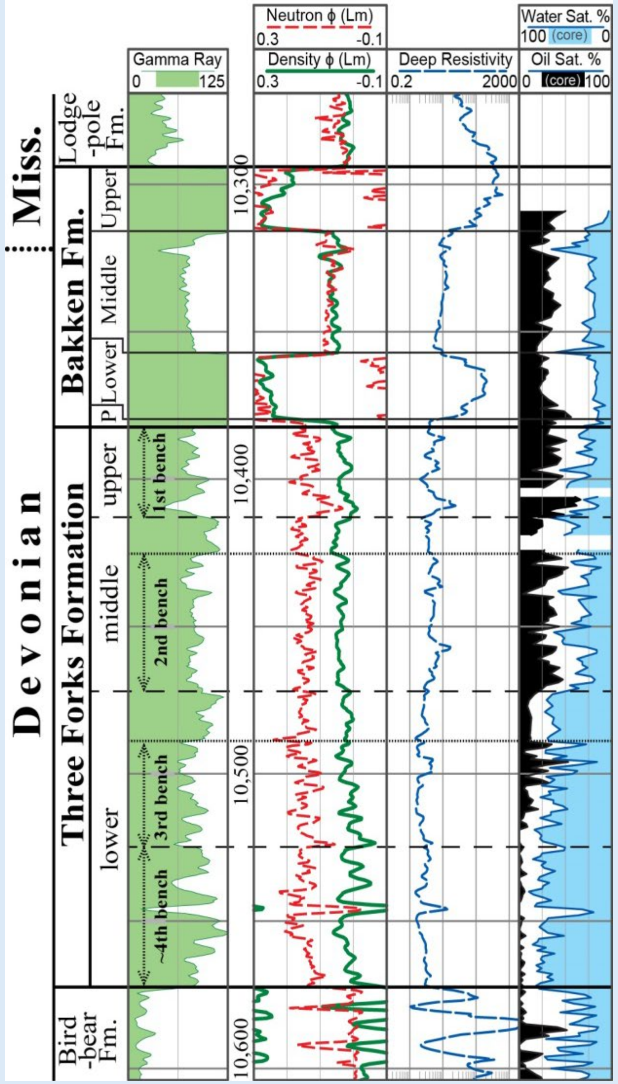
middle TF
(unit 4)



lower TF
(unit 2)



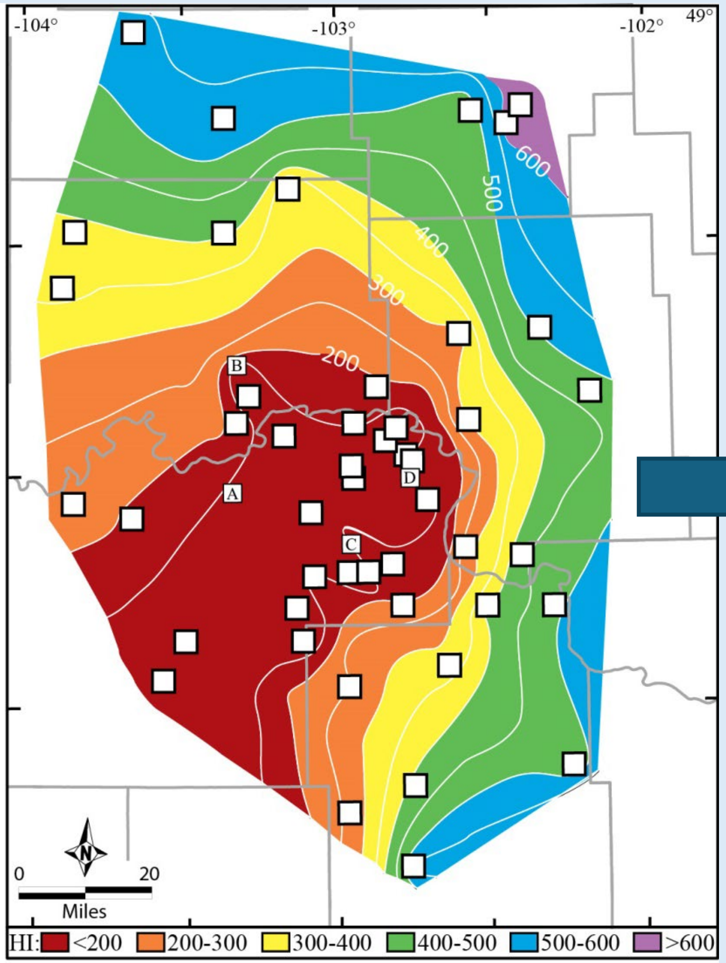


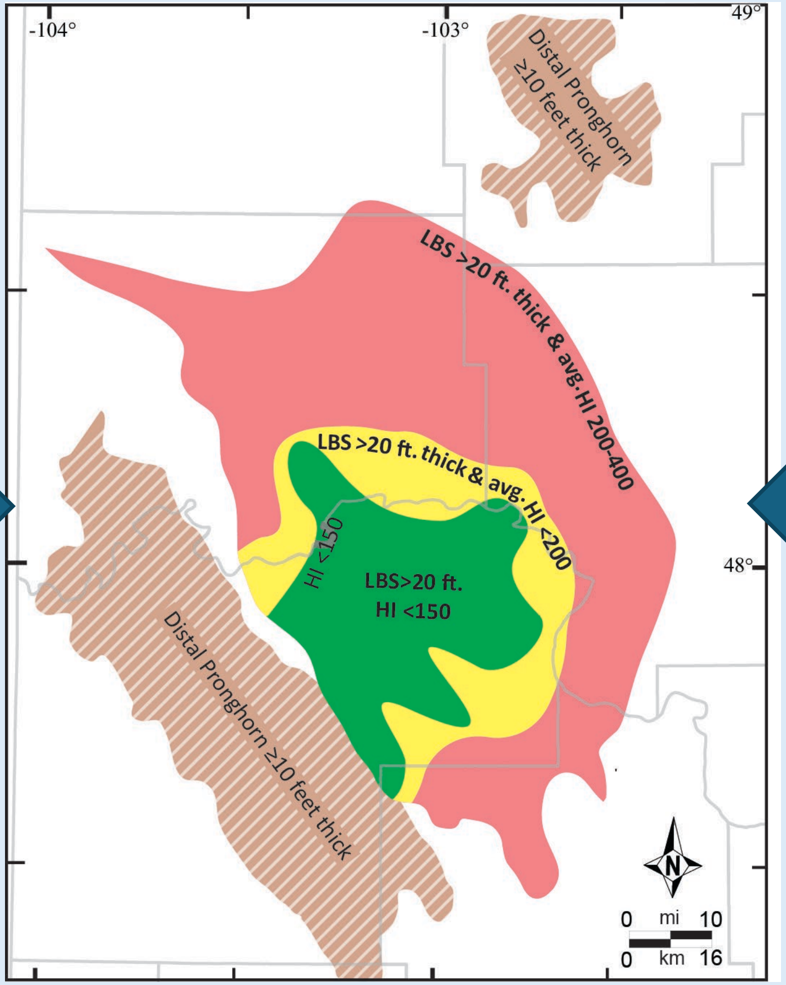


Bakken-Three Forks Petroleum System: Lower Bakken shale sourcing of Three Forks

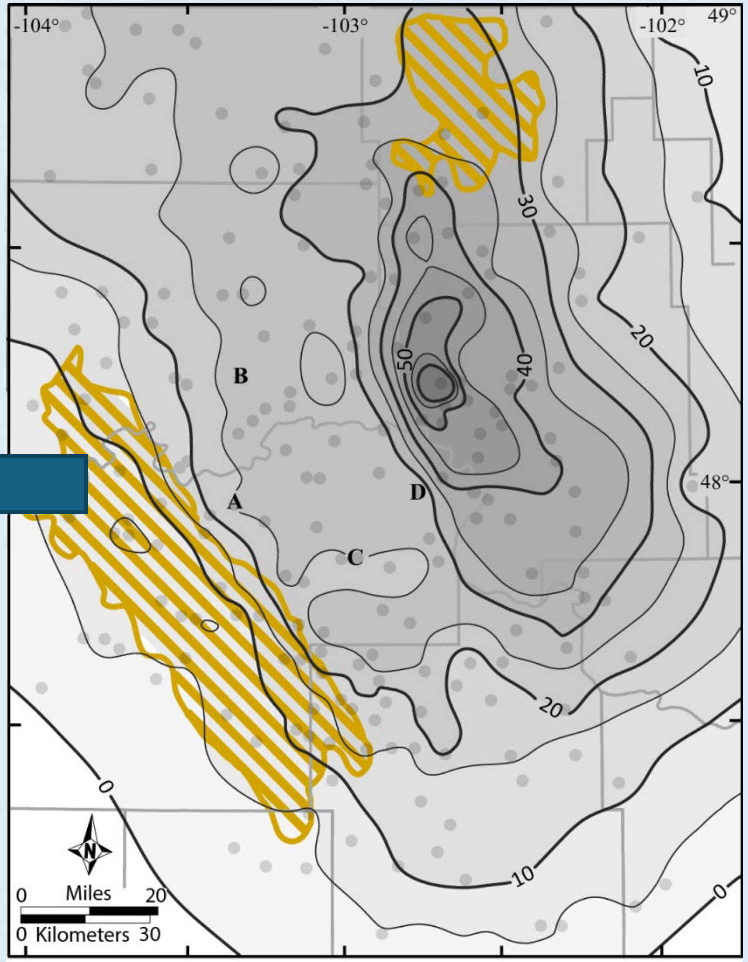
Lower Bakken Shale Thickness & Thermal Maturity (~Hydrocarbon Generation)

LBS average HI (thermal maturity)





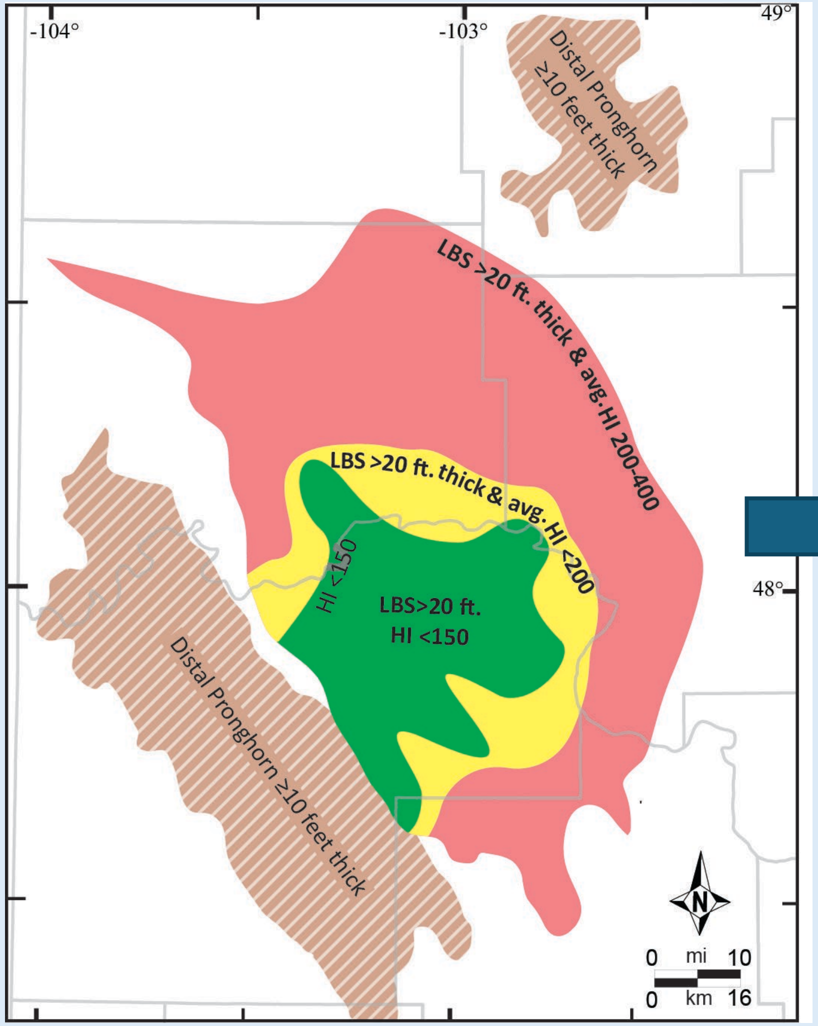
LBS isopach (ft.)

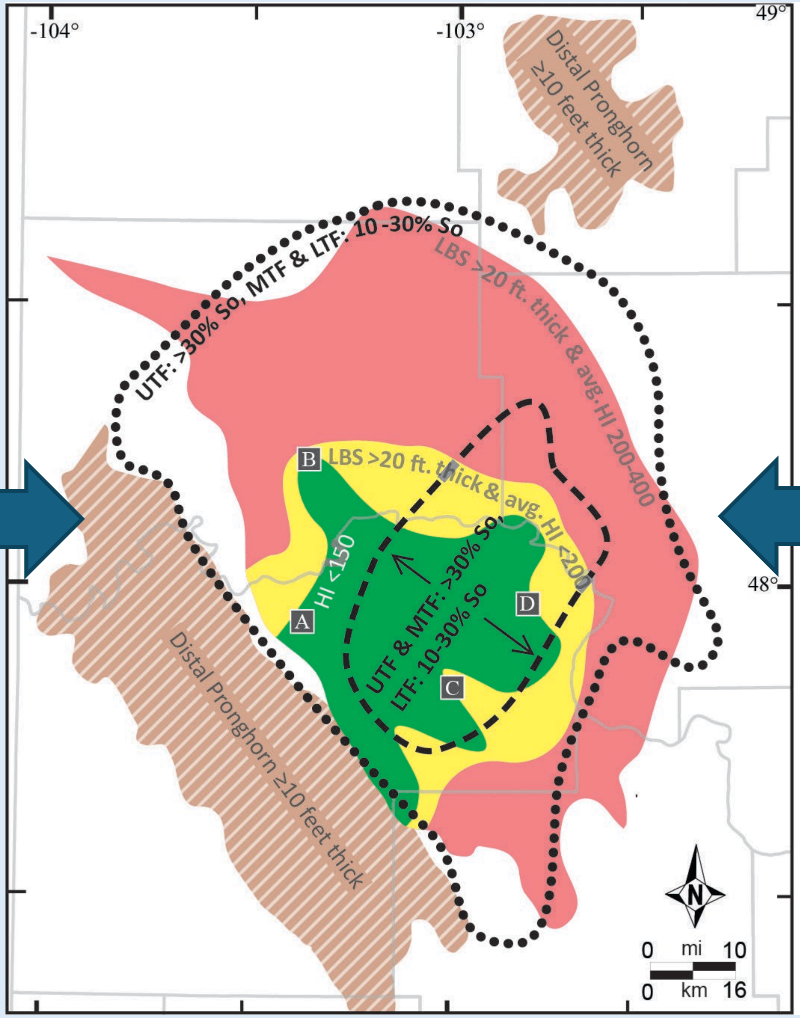


Bakken-Three Forks Petroleum System: Lower shale vs. Three Forks oil charge

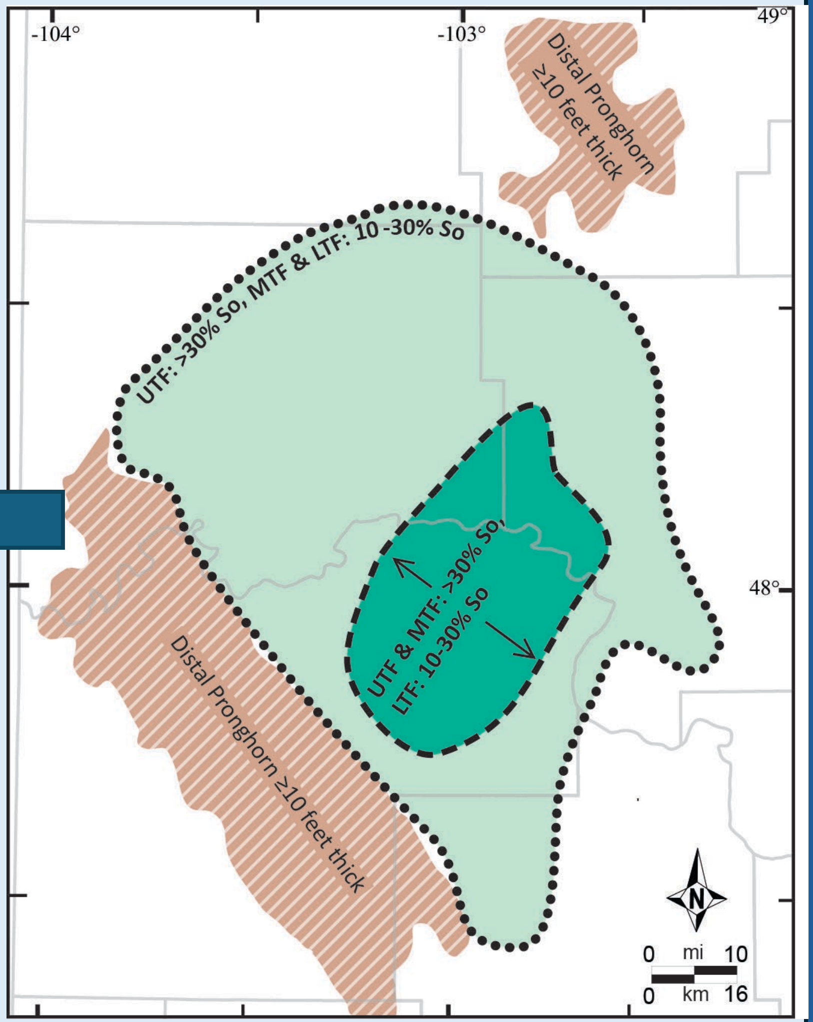
Lower Bakken Shale Thickness & Thermal Maturity (~Hydrocarbon Generation)

Lower Shale Thickness + Thermal Maturity





Three Forks Oil Saturations

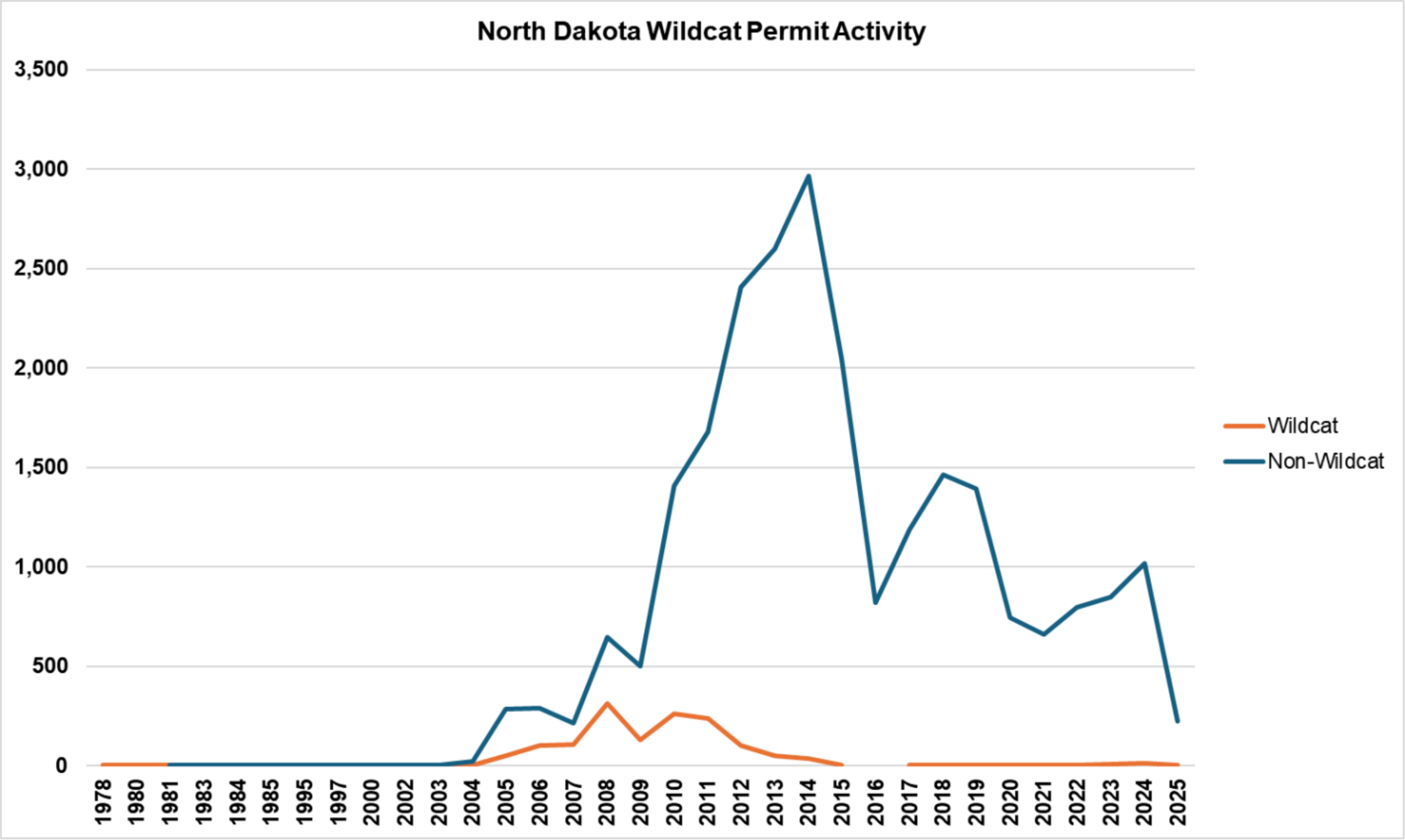


John Argo, Vice President Williston

Continental Resources

Personal background:	First generation energy industry employee, mom is a teacher and dad is a welder
Technical experience:	University of Oklahoma (BS Petroleum Engineering, MBA with Energy Focus) Two decades in the energy industry (Dominion E&P, HighMount E&P, and Continental Resources)
Basin Appreciation:	Appreciation for the greatest North Dakota resource – North Dakotans

Impact of Testing



Successful Exploration Incentive Example

Hawkinson Area

Horizontal Producers
- Wildcat Wells – 9
- Subsequent Wells – 271

Cumulative Production
- Wildcat Wells – ~3 MMbo
- Subsequent Wells – ~105 Mmbo

Under the proposed incentive structure, this historical example would have:
- **Generated >$700 MM and counting tax revenue** (gross production & extraction)
- All from the incentive to operators to risk and explore via **~$100 MM of their risked capital** with the incentive from the state of **reduced taxes of only ~$5 MM**
- In addition, the state and Western ND communities would have received **material additional benefits** from this exploration and subsequent wells (jobs, commerce, taxes, etc)

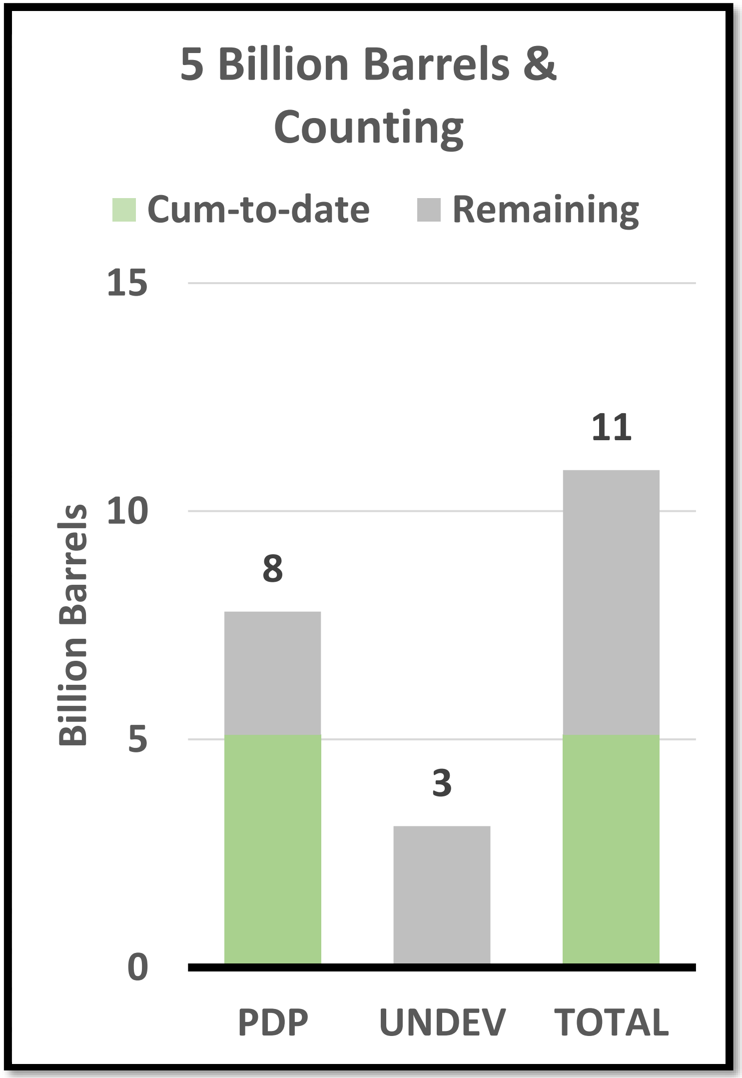
Hawkinson Area Development – Township 147N – 96W

Wildcat: Known permit designated Wildcat Middle Bakken or Three Forks wells; 2007+ initial production date
Subsequent: Non-Wildcat designated Middle Bakken or Three Forks wells; 2007+ initial production date

Industry Accomplishments

<u>US Bakken Statistics:</u>

▪ Milestones	1st Multi-Stage Lateral – 2003 1st 3-mile – 2013 1st 4-mile – 2024
▪ Development	Approx. 26,000 Horizontal Wells Over 1,000 3-Mile Wells Approx. 350 Re-fracs 12 EOR Pilots
▪ Record Production:	Approx. 2.00 MMBOEPD
▪ Sustained Production:	Approx. 1.60 MMBOEPD
▪ Aerial Extent:	Over 17,500 mi^2 | 11mm Acres



Source: Enverus PRISM® 2025, Enverus Intelligence Research® 2024

UNDEV defined as sub-$60 BE Inventory

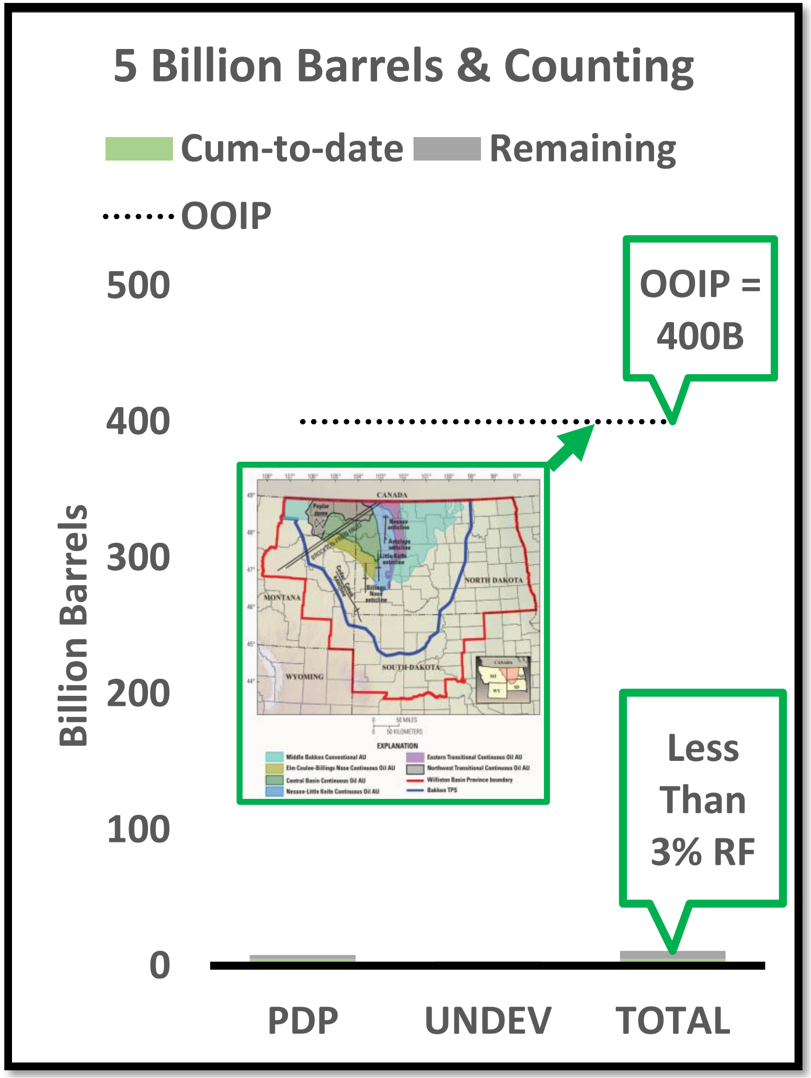
Industry Sourced OOIP & RF Estimate

- OOIP: **~400B Bbls In-Place**
- Currently Quantified EUR: ~11B Bbls
- Recovery Factor Today: **< 3%**

- Can we do better? Should we do better?

1% Incremental = 4B Bbls

5% Incremental = 20B Bbls



Source: Enverus PRISM® 2025, Enverus Intelligence Research® 2024, USGS

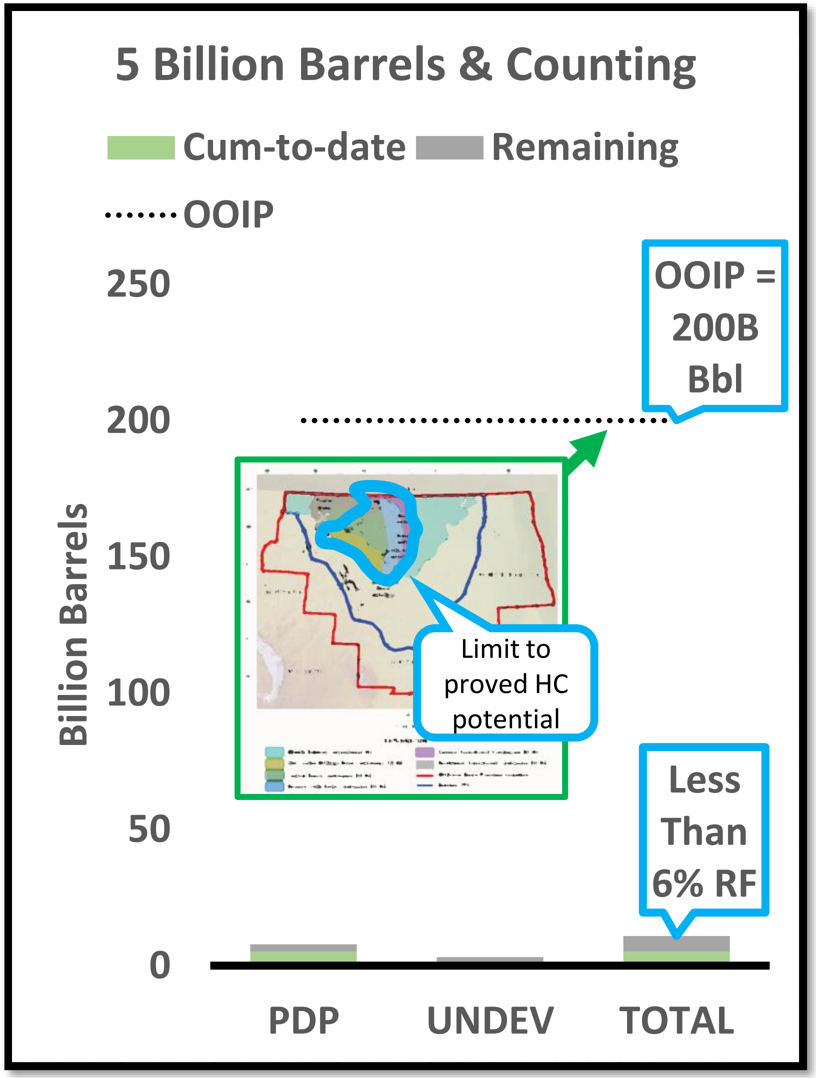
Industry Sourced OOIP & RF Estimate

- OOIP: ~200B Bbls In-Place
- Currently Quantified EUR: ~11B Bbls
- Recovery Factor Today: < 6%

- Can we do better? Should we do better?

1% Incremental = 2B Bbls

5% Incremental = 10B Bbls



Source: Enverus PRISM® 2025, Enverus Intelligence Research® 2024, CLR

2025 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

SB 2397
4/16/2025

Relating to the definition of non-oil-producing county for purposes of the flexible transportation fund, legacy earnings township aid fund, municipal infrastructure fund, and county and township infrastructure fund; to provide an effective date; and to declare an emergency.

10:00 a.m. Chairman Headland called the meeting to order.

Members Present: Chairman Headland, Vice Chairman Hagert, Representatives Anderson, Dockter, Dressler, Foss, Grueneich, Ista, Motschenbacher, Nehring, Olson, Porter, Steiner, Toman

Discussion Topics:
- Committee action

10:00 a.m. Representative Dockter proposed Amendment LC: 25.1360.01005, testimony #45028.

10:02 a.m. Representative Dockter moved adopt amendment LC: 25.1360.01005, testimony #45028.

10:02 a.m. Representative J. Olson seconded the motion.

Representatives	Vote
Representative Craig Headland	Y
Representative Jared Hagert	Y
Representative Dick Anderson	Y
Representative Jason Dockter	Y
Representative Ty Dressler	Y
Representative Jim Grueneich	Y
Representative Mike Motschenbacher	Y
Representative Dennis Nehring	Y
Representative Jeremy Olson	Y
Representative Todd Porter	Y
Representative Vicky Steiner	Y
Representative Nathan Toman	Y
Representative Austin Foss	Y
Representative Zachary Ista	Y

10:07 a.m. Motion passed 14-0-0

10:07 a.m. Representative J. Olson moved a Do Pass as Amended.

10:07 a.m. Representative Steiner seconded the motion.

Representatives	**Vote**
Representative Craig Headland	Y
Representative Jared Hagert	Y
Representative Dick Anderson	Y
Representative Jason Dockter	Y
Representative Ty Dressler	Y
Representative Jim Grueneich	Y
Representative Mike Motschenbacher	Y
Representative Dennis Nehring	Y
Representative Jeremy Olson	Y
Representative Todd Porter	Y
Representative Vicky Steiner	Y
Representative Nathan Toman	Y
Representative Austin Foss	Y
Representative Zachary Ista	Y

10:08 a.m. Motion passed 14-0-0

10:08 a.m. Representative J. Olson will carry the bill.

10:09 a.m. Chairman Headland adjourned the meeting.

Wyatt Armstrong for Janae Pinks, Committee Clerk

25.1360.01005
Title.02000

Prepared by the Legislative Council
staff for Representative Dockter
April 15, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

VC 4/16/25
1 of 8

SENATE BILL NO. 2397

Introduced by

Senators Enget, Sorvaag, Sickler

Representative Kempenich

A BILL ~~for an Act to amend and reenact subdivision f of subsection 4 of section 24-02-37.3, subsection 4 of section 54-27-19.4, subdivision c of subsection 4 of section 57-51.1-07.7, and subdivision b of subsection 6 of section 57-51.1-07.8 of the North Dakota Century Code, relating to the definition of non-oil-producing county for purposes of the flexible transportation fund, legacy earnings township aid fund, municipal infrastructure fund, and county and township infrastructure fund; to provide an effective date; and to declare an emergency.~~for an Act to create and enact a new subsection to section 57-51.1-03 of the North Dakota Century Code, relating to a limited exemption for development incentive wells; to amend and reenact sections 57-51-02.6, 57-51-05, and 57-51.1-01 of the North Dakota Century Code, relating to the temporary exemption for oil and gas wells employing a system to avoid flaring, an exemption from gross production tax for gas produced from certain enhanced oil recovery projects, and the definition of development incentive well; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

~~**SECTION 1. AMENDMENT.** Subdivision f of subsection 4 of section 24-02-37.3 of the North Dakota Century Code is amended and reenacted as follows:~~

~~f. For purposes of this subsection, "non-oil-producing county" means a county that received no allocation of funding or a total allocation of less than five million dollars under subsection 2 of section 57-51-15 inhad average annual oil production of fewer than ten million barrels based on the average annual oil~~

2 of 8

~~production in the three-year period ending with the most recently completed even-numbered fiscal year before the start of each biennium.~~

~~**SECTION 2. AMENDMENT.** Subsection 4 of section 54-27-19.4 of the North Dakota Century Code is amended and reenacted as follows:~~

~~4. For purposes of this section, "non-oil-producing county" means a county that received no allocation of funding or a total allocation of less than five million dollars under subsection 2 of section 57-51-15 inhad average annual oil production of fewer than ten million barrels based on the average annual oil production in the three-year period ending with the most recently completed even-numbered fiscal year before the start of each biennium.~~

~~**SECTION 3. AMENDMENT.** Subdivision c of subsection 4 of section 57-51.1-07.7 of the North Dakota Century Code is amended and reenacted as follows:~~

~~c. "Non-oil-producing county" means a county that received no allocation of funding or a total allocation of less than five million dollars under subsection 2 of section 57-51-15 inhad average annual oil production of fewer than ten million barrels based on the average annual oil production in the three-year period ending with the most recently completed even-numbered fiscal year before the start of each biennium.~~

~~**SECTION 4. AMENDMENT.** Subdivision b of subsection 6 of section 57-51.1-07.8 of the North Dakota Century Code is amended and reenacted as follows:~~

~~b. "Non-oil-producing county" means a county that received no allocation of funding or a total allocation of less than five million dollars under subsection 2 of section 57-51-15 inhad average annual oil production of fewer than ten million barrels based on the average annual oil production in the three-year period ending with the most recently completed even-numbered fiscal year before the start of each biennium.~~

~~**SECTION 5. EFFECTIVE DATE.** This Act becomes effective on July 1, 2025.~~

~~**SECTION 6. EMERGENCY.** This Act is declared to be an emergency measure.~~

SECTION 1. AMENDMENT. Section 57-51-02.6 of the North Dakota Century Code is amended and reenacted as follows:

3 of 8

57-51-02.6. Temporary exemption for oil and gas wells employing a system to avoid flaring.

Gas is exempt from the tax under section 57-51-02.2 for a period of two years and thirty days from the time of first production if the gas is:

1. Collected and used at the well site to power an electrical generator that consumes ~~at least seventy-five percent of the~~ gas from the well; or
2. Collected at the well site by a system that intakes at least seventy-five percent of the gas and natural gas liquids volume from the well for beneficial consumption by means of compression to liquid for use as fuel, transport to a processing facility, production of petrochemicals or fertilizer, conversion to liquid fuels, separating and collecting over fifty percent of the propane and heavier hydrocarbons, or other value-added processes as approved by the industrial commission.

SECTION 2. AMENDMENT. Section 57-51-05 of the North Dakota Century Code is amended and reenacted as follows:

57-51-05. Payment of tax on monthly basis - When tax due - When delinquent - Payment by purchaser - By producer - How casinghead gas taxed - Exemptions.

1. The gross production tax on oil or gas~~, as herein provided,~~ must be paid on a monthly basis. The tax on oil is due and payable on the twenty-fifth day of the month succeeding the month of production. The tax on gas is due and payable on the fifteenth day of the second month succeeding the month of production. If the tax is not paid as required by this section, it becomes delinquent and must be collected as provided in this chapter. The penalty does not apply if ninety percent of the tax due has been paid with the monthly return and the taxpayer files an amended monthly return and pays the total tax due within sixty days from the original due date. The commissioner, upon request and a proper showing of the necessity ~~therefor~~for an extension, may grant an extension of time, not to exceed fifteen days, for paying the tax and when the request is granted the tax is not delinquent until the extended period has expired. Any taxpayer who requests and is granted an extension of time for filing a return shall pay, with the tax, interest at the rate of twelve percent per annum from the date the tax was due to the date the tax is paid.

4 of 8

2. On oil or gas produced and sold, the gross production tax ~~thereon~~ must be paid by the purchaser, and the purchaser is authorized to deduct in making settlement with the producer or royalty owner, the amount of tax paid; provided, ~~that~~ in the event oil produced is not sold but is retained by the producer, the tax on the oil not sold must be paid by the producer, including the tax due on royalty oil not sold; provided further, that in settlement with the royalty owner the producer has the right to deduct the amount of the tax paid on royalty oil or to deduct therefrom royalty oil equivalent in value at the time the tax becomes due with the amount of the tax paid.

3. Gas when produced and utilized in any manner~~, except when used for fuel or otherwise used in the operation of any lease or premises in the drilling for or production of oil or gas therefrom, or for repressuring thereon,~~ must be considered for the purpose of this chapter, as to the amount utilized, as gas actually produced and saved, except gas:

   a. Used for fuel or otherwise used in the operation of any lease or premises in the drilling for or production of oil or gas from the lease or premises, including repressuring on the lease or premises; and

   b. Produced from an enhanced oil recovery project utilizing the injection of gas, either alone or in combination with other fluids, for the purpose of testing the feasibility of enhanced oil recovery operations on a temporary basis for one or more spacing units or employing enhanced oil recovery operations for an extended or indefinite period of time on a field-wide basis through unitization of the reservoir that produces oil and gas. The exemption under this subdivision applies to all enhanced oil recovery projects created and established by the industrial commission after June 30, 2025, and for any gas produced after the date of first production following initial injection of gas until all gas injected as part of the enhanced oil recovery project has been recovered from the reservoir being tested or unitized.

4. All calculations of the gross production tax on oil or gas, including production, distribution, and claims for credit or refund, are based on the month of production and must be credited to that month.

SECTION 3. AMENDMENT. Section 57-51.1-01 of the North Dakota Century Code is amended and reenacted as follows:

57-51.1-01. Definitions for oil extraction tax.

For the purposes of this chapter:

1. "Average daily production" of a well means the qualified maximum total production of oil from the well during a calendar month period divided by the number of calendar days in that period, and "qualified maximum total production" of a well means that the well must have been maintained at the maximum efficient rate of production as defined and determined by rule adopted by the industrial commission in furtherance of its authority under chapter 38-08.
2. "Development incentive well" means, as determined and certified by the industrial commission, a well:
   a. Spud after June 30, 2025, which:
      (1) Is drilled within the geographical boundaries of a spacing unit established by the industrial commission and is producing oil or gas; or
      (2) Has a bottom hole location that penetrates a stratigraphic interval other than the spaced, producing stratigraphic interval which is located within the geographical boundaries of the producing spacing unit;
   b. That utilizes a new or innovative drilling or completion technique that constitutes a technical advancement beyond current industry standards; and
   c. That is designed and anticipated to, more likely than not, increase production or the ultimate recovery of oil or gas from the well.
3. "Horizontal well" means a well with a horizontal displacement of the well bore drilled at an angle of at least eighty degrees within the productive formation of at least three hundred feet [91.44 meters].

~~3.~~4. "Oil" means petroleum, crude oil, mineral oil, casinghead gasoline, and all liquid hydrocarbons that are recovered from gas on the lease incidental to the production of the gas.

~~4.~~5. "Property" means the right which arises from a lease or fee interest, as a whole or any designated portion thereof, to produce oil. A producer shall treat as a separate property each separate and distinct producing reservoir subject to the same right to

produce crude oil; provided, that such reservoir is recognized by the industrial commission as a producing formation that is separate and distinct from, and not in communication with, any other producing formation.

~~5.~~6. "Qualifying secondary recovery project" means a project employing water flooding. To be eligible for the tax exemption provided under section 57-51.1-03, a secondary recovery project must be certified as qualifying by the industrial commission and the project operator must have obtained incremental production as defined in subsection 3 of section 57-51.1-03.

~~6.~~7. "Qualifying tertiary recovery project" means a project for enhancing recovery of oil which meets the requirements of section 4993(c), Internal Revenue Code of 1954, as amended through December 31, 1986, and includes the following methods for recovery:

a. Miscible fluid displacement.
b. Steam drive injection.
c. Microemulsion.
d. In situ combustion.
e. Polymer augmented water flooding.
f. Cyclic steam injection.
g. Alkaline flooding.
h. Carbonated water flooding.
i. Immiscible carbon dioxide displacement.
j. New tertiary recovery methods certified by the industrial commission.

It does not include water flooding, unless the water flooding is used as an element of one of the qualifying tertiary recovery techniques described in this subsection, or immiscible natural gas injection. To be eligible for the tax exemption provided under section 57-51.1-03, a tertiary recovery project must be certified as qualifying by the industrial commission, the project operator must continue to operate the unit as a qualifying tertiary recovery project, and the project operator must have obtained incremental production as defined in subsection 3 of section 57-51.1-03.

~~7.~~8. "Restimulation well" means a previously completed oil or gas well that, following completion and production of oil, has been treated with an application of fluid under

pressure for the purpose of initiating or propagating fractures in a target geologic formation to enhance production of oil. The term does not include a well that:

a. Has less than sixty months of production or is producing more than one hundred and twenty-five barrels of oil per day reported to the industrial commission before completion of the restimulation treatment;

b. Is part of a qualifying secondary recovery project, qualifying tertiary recovery project, or stripper well or stripper well property as defined under this section; or

c. Is drilled but not completed and does not have a record of oil production reported to the industrial commission.

~~8.~~9. "Royalty owner" means an owner of what is commonly known as the royalty interest and shall not include the owner of any overriding royalty or other payment carved out of the working interest.

~~9.~~10. "Stripper well" means a well drilled and completed, or re-entered and recompleted as a horizontal well, after June 30, 2013, whose average daily production of oil during any preceding consecutive twelve-month period, excluding condensate recovered in nonassociated production, per well did not exceed ten barrels per day for wells of a depth of six thousand feet [1828.80 meters] or less, fifteen barrels per day for wells of a depth of more than six thousand feet [1828.80 meters] but not more than ten thousand feet [3048 meters], and thirty barrels per day for wells of a depth of more than ten thousand feet [3048 meters] outside the Bakken and Three Forks formations, and thirty-five barrels per day for wells of a depth of more than ten thousand feet [3048 meters] in the Bakken or Three Forks formation.

~~10.~~11. "Stripper well property" means wells drilled and completed, or a well re-entered and recompleted as a horizontal well, before July 1, 2013, on a "property" whose average daily production of oil, excluding condensate recovered in nonassociated production, per well did not exceed ten barrels per day for wells of a depth of six thousand feet [1828.80 meters] or less, fifteen barrels per day for wells of a depth of more than six thousand feet [1828.80 meters] but not more than ten thousand feet [3048 meters], and thirty barrels per day for wells of a depth of more than ten thousand feet [3048 meters] during any preceding consecutive twelve-month period. Wells which did not actually yield or produce oil during the qualifying twelve-month period, including

disposal wells, dry wells, spent wells, and shut-in wells, are not production wells for the purpose of determining whether the stripper well property exemption applies.

SECTION 4. A new subsection to section 57-51.1-03 of the North Dakota Century Code is created and enacted as follows:

a. The first three hundred thousand barrels of oil produced during the first thirty-six months after completion from a development incentive well that has been certified as a qualified well by the industrial commission are exempt from the tax under section 57-51.1-02.

b. For purposes of the exemption under this subsection:

(1) An operator seeking certification of a well as a development incentive well shall meet the burden of demonstrating to the industrial commission that the well meets the criteria under subsection 2 of section 57-51.1-01.

(2) The industrial commission may not certify more than:

(a) One development incentive well per spacing unit which meets the criteria in paragraph 1 of subdivision a of subsection 2 of section 57-51.1-01; and

(b) One development incentive well per spacing unit which meets the criteria in paragraph 2 of subdivision a of subsection 2 of section 57-51.1-01.

c. The tax exemption under this subsection does not apply to a well located within the exterior boundaries of a reservation, a well located on trust properties outside reservation boundaries as defined in section 57-51.2-02, or a straddle well as defined in section 57-51.1-07.10 located on reservation trust land, unless a tribe makes an irrevocable election to opt-in to the tax exemption by providing written notice to the tax commissioner. If a tribe provides notice of its election to opt-in to the tax exemption, the tax commissioner shall apply the tax exemption beginning in the month of production after the notice is received by the tax commissioner.

SECTION 5. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 2025.

REPORT OF STANDING COMMITTEE
SB 2397

Finance and Taxation Committee (Rep. Headland, Chairman) recommends **AMENDMENTS (25.1360.01005)** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT OR EXCUSED AND NOT VOTING). SB 2397 was placed on the Sixth order on the calendar.

25.1360.01005
Title.

Prepared by the Legislative Council staff for Representative Dockter
April 15, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2397

Introduced by

Senators Enget, Sorvaag, Sickler

Representative Kempenich

A BILL ~~for an Act to amend and reenact subdivision f of subsection 4 of section 24-02-37.3, subsection 4 of section 54-27-19.4, subdivision c of subsection 4 of section 57-51.1-07.7, and subdivision b of subsection 6 of section 57-51.1-07.8 of the North Dakota Century Code, relating to the definition of non-oil-producing county for purposes of the flexible transportation fund, legacy earnings township aid fund, municipal infrastructure fund, and county and township infrastructure fund; to provide an effective date; and to declare an emergency.~~for an Act to create and enact a new subsection to section 57-51.1-03 of the North Dakota Century Code, relating to a limited exemption for development incentive wells; to amend and reenact sections 57-51-02.6, 57-51-05, and 57-51.1-01 of the North Dakota Century Code, relating to the temporary exemption for oil and gas wells employing a system to avoid flaring, an exemption from gross production tax for gas produced from certain enhanced oil recovery projects, and the definition of development incentive well; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

~~**SECTION 1. AMENDMENT.** Subdivision f of subsection 4 of section 24-02-37.3 of the North Dakota Century Code is amended and reenacted as follows:~~

~~f. For purposes of this subsection, "non-oil-producing county" means a county that received no allocation of funding or a total allocation of less than five million dollars under subsection 2 of section 57-51-15 inhad average annual oil production of fewer than ten million barrels based on the average annual oil~~

~~production in the three-year period ending with the most recently completed even-numbered fiscal year before the start of each biennium.~~

~~**SECTION 2. AMENDMENT.** Subsection 4 of section 54-27-19.4 of the North Dakota Century Code is amended and reenacted as follows:~~

~~4. For purposes of this section, "non-oil-producing county" means a county that received no allocation of funding or a total allocation of less than five million dollars under subsection 2 of section 57-51-15 inhad average annual oil production of fewer than ten million barrels based on the average annual oil production in the three-year period ending with the most recently completed even-numbered fiscal year before the start of each biennium.~~

~~**SECTION 3. AMENDMENT.** Subdivision c of subsection 4 of section 57-51.1-07.7 of the North Dakota Century Code is amended and reenacted as follows:~~

~~c. "Non-oil-producing county" means a county that received no allocation of funding or a total allocation of less than five million dollars under subsection 2 of section 57-51-15 inhad average annual oil production of fewer than ten million barrels based on the average annual oil production in the three-year period ending with the most recently completed even-numbered fiscal year before the start of each biennium.~~

~~**SECTION 4. AMENDMENT.** Subdivision b of subsection 6 of section 57-51.1-07.8 of the North Dakota Century Code is amended and reenacted as follows:~~

~~b. "Non-oil-producing county" means a county that received no allocation of funding or a total allocation of less than five million dollars under subsection 2 of section 57-51-15 inhad average annual oil production of fewer than ten million barrels based on the average annual oil production in the three-year period ending with the most recently completed even-numbered fiscal year before the start of each biennium.~~

~~**SECTION 5. EFFECTIVE DATE.** This Act becomes effective on July 1, 2025.~~

~~**SECTION 6. EMERGENCY.** This Act is declared to be an emergency measure.~~

SECTION 1. AMENDMENT. Section 57-51-02.6 of the North Dakota Century Code is amended and reenacted as follows:

57-51-02.6. Temporary exemption for oil and gas wells employing a system to avoid flaring.

Gas is exempt from the tax under section 57-51-02.2 for a period of two years and thirty days from the time of first production if the gas is:

1. Collected and used at the well site to power an electrical generator that consumes ~~at least seventy-five percent of the~~ gas from the well; or
2. Collected at the well site by a system that intakes at least seventy-five percent of the gas and natural gas liquids volume from the well for beneficial consumption by means of compression to liquid for use as fuel, transport to a processing facility, production of petrochemicals or fertilizer, conversion to liquid fuels, separating and collecting over fifty percent of the propane and heavier hydrocarbons, or other value-added processes as approved by the industrial commission.

SECTION 2. AMENDMENT. Section 57-51-05 of the North Dakota Century Code is amended and reenacted as follows:

57-51-05. Payment of tax on monthly basis - When tax due - When delinquent - Payment by purchaser - By producer - How casinghead gas taxed - Exemptions.

1. The gross production tax on oil or gas~~, as herein provided,~~ must be paid on a monthly basis. The tax on oil is due and payable on the twenty-fifth day of the month succeeding the month of production. The tax on gas is due and payable on the fifteenth day of the second month succeeding the month of production. If the tax is not paid as required by this section, it becomes delinquent and must be collected as provided in this chapter. The penalty does not apply if ninety percent of the tax due has been paid with the monthly return and the taxpayer files an amended monthly return and pays the total tax due within sixty days from the original due date. The commissioner, upon request and a proper showing of the necessity ~~therefor~~for an extension, may grant an extension of time, not to exceed fifteen days, for paying the tax and when the request is granted the tax is not delinquent until the extended period has expired. Any taxpayer who requests and is granted an extension of time for filing a return shall pay, with the tax, interest at the rate of twelve percent per annum from the date the tax was due to the date the tax is paid.

2. On oil or gas produced and sold, the gross production tax ~~thereon~~ must be paid by the purchaser, and the purchaser is authorized to deduct in making settlement with the producer or royalty owner, the amount of tax paid; provided, ~~that~~ in the event oil produced is not sold but is retained by the producer, the tax on the oil not sold must be paid by the producer, including the tax due on royalty oil not sold; provided further, that in settlement with the royalty owner the producer has the right to deduct the amount of the tax paid on royalty oil or to deduct therefrom royalty oil equivalent in value at the time the tax becomes due with the amount of the tax paid.

3. Gas when produced and utilized in any manner~~, except when used for fuel or otherwise used in the operation of any lease or premises in the drilling for or production of oil or gas therefrom, or for repressuring thereon,~~ must be considered for the purpose of this chapter, as to the amount utilized, as gas actually produced and saved, except gas:

    a. Used for fuel or otherwise used in the operation of any lease or premises in the drilling for or production of oil or gas from the lease or premises, including repressuring on the lease or premises; and

    b. Produced from an enhanced oil recovery project utilizing the injection of gas, either alone or in combination with other fluids, for the purpose of testing the feasibility of enhanced oil recovery operations on a temporary basis for one or more spacing units or employing enhanced oil recovery operations for an extended or indefinite period of time on a field-wide basis through unitization of the reservoir that produces oil and gas. The exemption under this subdivision applies to all enhanced oil recovery projects created and established by the industrial commission after June 30, 2025, and for any gas produced after the date of first production following initial injection of gas until all gas injected as part of the enhanced oil recovery project has been recovered from the reservoir being tested or unitized.

4. All calculations of the gross production tax on oil or gas, including production, distribution, and claims for credit or refund, are based on the month of production and must be credited to that month.

SECTION 3. AMENDMENT. Section 57-51.1-01 of the North Dakota Century Code is amended and reenacted as follows:

57-51.1-01. Definitions for oil extraction tax.

For the purposes of this chapter:

1. "Average daily production" of a well means the qualified maximum total production of oil from the well during a calendar month period divided by the number of calendar days in that period, and "qualified maximum total production" of a well means that the well must have been maintained at the maximum efficient rate of production as defined and determined by rule adopted by the industrial commission in furtherance of its authority under chapter 38-08.

2. "Development incentive well" means, as determined and certified by the industrial commission, a well:

   a. Spud after June 30, 2025, which:

      (1) Is drilled within the geographical boundaries of a spacing unit established by the industrial commission and is producing oil or gas; or

      (2) Has a bottom hole location that penetrates a stratigraphic interval other than the spaced, producing stratigraphic interval which is located within the geographical boundaries of the producing spacing unit;

   b. That utilizes a new or innovative drilling or completion technique that constitutes a technical advancement beyond current industry standards; and

   c. That is designed and anticipated to, more likely than not, increase production or the ultimate recovery of oil or gas from the well.

3. "Horizontal well" means a well with a horizontal displacement of the well bore drilled at an angle of at least eighty degrees within the productive formation of at least three hundred feet [91.44 meters].

~~3.~~4. "Oil" means petroleum, crude oil, mineral oil, casinghead gasoline, and all liquid hydrocarbons that are recovered from gas on the lease incidental to the production of the gas.

~~4.~~5. "Property" means the right which arises from a lease or fee interest, as a whole or any designated portion thereof, to produce oil. A producer shall treat as a separate property each separate and distinct producing reservoir subject to the same right to

produce crude oil; provided, that such reservoir is recognized by the industrial commission as a producing formation that is separate and distinct from, and not in communication with, any other producing formation.

~~5.~~6. "Qualifying secondary recovery project" means a project employing water flooding. To be eligible for the tax exemption provided under section 57-51.1-03, a secondary recovery project must be certified as qualifying by the industrial commission and the project operator must have obtained incremental production as defined in subsection 3 of section 57-51.1-03.

~~6.~~7. "Qualifying tertiary recovery project" means a project for enhancing recovery of oil which meets the requirements of section 4993(c), Internal Revenue Code of 1954, as amended through December 31, 1986, and includes the following methods for recovery:

a. Miscible fluid displacement.
b. Steam drive injection.
c. Microemulsion.
d. In situ combustion.
e. Polymer augmented water flooding.
f. Cyclic steam injection.
g. Alkaline flooding.
h. Carbonated water flooding.
i. Immiscible carbon dioxide displacement.
j. New tertiary recovery methods certified by the industrial commission.

It does not include water flooding, unless the water flooding is used as an element of one of the qualifying tertiary recovery techniques described in this subsection, or immiscible natural gas injection. To be eligible for the tax exemption provided under section 57-51.1-03, a tertiary recovery project must be certified as qualifying by the industrial commission, the project operator must continue to operate the unit as a qualifying tertiary recovery project, and the project operator must have obtained incremental production as defined in subsection 3 of section 57-51.1-03.

~~7.~~8. "Restimulation well" means a previously completed oil or gas well that, following completion and production of oil, has been treated with an application of fluid under

pressure for the purpose of initiating or propagating fractures in a target geologic formation to enhance production of oil. The term does not include a well that:

a. Has less than sixty months of production or is producing more than one hundred and twenty-five barrels of oil per day reported to the industrial commission before completion of the restimulation treatment;

b. Is part of a qualifying secondary recovery project, qualifying tertiary recovery project, or stripper well or stripper well property as defined under this section; or

c. Is drilled but not completed and does not have a record of oil production reported to the industrial commission.

~~8.~~9. "Royalty owner" means an owner of what is commonly known as the royalty interest and shall not include the owner of any overriding royalty or other payment carved out of the working interest.

~~9.~~10. "Stripper well" means a well drilled and completed, or re-entered and recompleted as a horizontal well, after June 30, 2013, whose average daily production of oil during any preceding consecutive twelve-month period, excluding condensate recovered in nonassociated production, per well did not exceed ten barrels per day for wells of a depth of six thousand feet [1828.80 meters] or less, fifteen barrels per day for wells of a depth of more than six thousand feet [1828.80 meters] but not more than ten thousand feet [3048 meters], and thirty barrels per day for wells of a depth of more than ten thousand feet [3048 meters] outside the Bakken and Three Forks formations, and thirty-five barrels per day for wells of a depth of more than ten thousand feet [3048 meters] in the Bakken or Three Forks formation.

~~10.~~11. "Stripper well property" means wells drilled and completed, or a well re-entered and recompleted as a horizontal well, before July 1, 2013, on a "property" whose average daily production of oil, excluding condensate recovered in nonassociated production, per well did not exceed ten barrels per day for wells of a depth of six thousand feet [1828.80 meters] or less, fifteen barrels per day for wells of a depth of more than six thousand feet [1828.80 meters] but not more than ten thousand feet [3048 meters], and thirty barrels per day for wells of a depth of more than ten thousand feet [3048 meters] during any preceding consecutive twelve-month period. Wells which did not actually yield or produce oil during the qualifying twelve-month period, including

disposal wells, dry wells, spent wells, and shut-in wells, are not production wells for the purpose of determining whether the stripper well property exemption applies.

SECTION 4. A new subsection to section 57-51.1-03 of the North Dakota Century Code is created and enacted as follows:

a. The first three hundred thousand barrels of oil produced during the first thirty-six months after completion from a development incentive well that has been certified as a qualified well by the industrial commission are exempt from the tax under section 57-51.1-02.

b. For purposes of the exemption under this subsection:

(1) An operator seeking certification of a well as a development incentive well shall meet the burden of demonstrating to the industrial commission that the well meets the criteria under subsection 2 of section 57-51.1-01

(2) The industrial commission may not certify more than:

(a) One development incentive well per spacing unit which meets the criteria in paragraph 1 of subdivision a of subsection 2 of section 57-51.1-01; and

(b) One development incentive well per spacing unit which meets the criteria in paragraph 2 of subdivision a of subsection 2 of section 57-51.1-01.

c. The tax exemption under this subsection does not apply to a well located within the exterior boundaries of a reservation, a well located on trust properties outside reservation boundaries as defined in section 57-51.2-02, or a straddle well as defined in section 57-51.1-07.10 located on reservation trust land, unless a tribe makes an irrevocable election to opt-in to the tax exemption by providing written notice to the tax commissioner. If a tribe provides notice of its election to opt-in to the tax exemption, the tax commissioner shall apply the tax exemption beginning in the month of production after the notice is received by the tax commissioner.

SECTION 5. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 2025.

2025 CONFERENCE COMMITTEE

SB 2397

2025 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2397
4/25/2025
Conference Committee

Relating to the definition of non-oil-producing county for purposes of the flexible transportation fund, legacy earnings township aid fund, municipal infrastructure fund, and county and township infrastructure fund; to provide an effective date; and to declare an emergency.

4:00 p.m. Chairman Patten called the meeting to order.

Members present: Chairman Patten, Senator Rummel, Senator Sickler, Representative Dockter, Representative Porter, Representative Olson

Discussion Topics:
- Qualifications of development incentive wells
- Oil well costs

4:00 p.m. Chairman Patten provided discussion regarding development incentive well program, presented a proposed amendment and submitted testimony #45246.

4:01 p.m. Nathan Anderson, Director, Department of Mineral Resources, testified neutral.

4:12 p.m. Representative Porter provided discussion regarding exceptions to incentive well qualifications.

4:22 p.m. Representative Dockter proposed changes to Page 8 Line 22 to clarify language regarding acquisition of wells.

4:29 p.m. Chairman Patten adjourned the meeting.

Chance Anderson, Committee Clerk

25.1360.01006
Title.

Prepared by the Legislative Council staff for Senator Patten
April 25, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2397

Introduced by

Senators Enget, Sorvaag, Sickler

Representative Kempenich

In place of amendment (25.1360.01005) adopted by the House, Senate Bill No. 2397 is amended by amendment (25.1360.01006) as follows:

A BILL ~~for an Act to amend and reenact subdivision f of subsection 4 of section 24-02-37.3, subsection 4 of section 54-27-19.4, subdivision c of subsection 4 of section 57-51.1-07.7, and subdivision b of subsection 6 of section 57-51.1-07.8 of the North Dakota Century Code, relating to the definition of non-oil-producing county for purposes of the flexible transportation fund, legacy earnings township aid fund, municipal infrastructure fund, and county and township infrastructure fund; to provide an effective date; and to declare an emergency.~~for an Act to create and enact a new subsection to section 57-51.1-03 of the North Dakota Century Code, relating to a limited exemption for development incentive wells; to amend and reenact sections 57-51-02.6, 57-51-05, and 57-51.1-01 of the North Dakota Century Code, relating to the temporary exemption for oil and gas wells employing a system to avoid flaring, an exemption from gross production tax for gas produced from certain enhanced oil recovery projects, and the definition of development incentive well; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

~~**SECTION 1. AMENDMENT.** Subdivision f of subsection 4 of section 24-02-37.3 of the North Dakota Century Code is amended and reenacted as follows:~~

~~f. For purposes of this subsection, "non-oil-producing county" means a county that received no allocation of funding or a total allocation of less than five million dollars under subsection 2 of section 57-51-15 inhad average annual oil production of fewer than ten million barrels based on the average annual oil~~

~~production in the three-year period ending with the most recently completed even-numbered fiscal year before the start of each biennium.~~

~~**SECTION 2. AMENDMENT.** Subsection 4 of section 54-27-19.4 of the North Dakota Century Code is amended and reenacted as follows:~~

~~4. For purposes of this section, "non-oil-producing county" means a county that received no allocation of funding or a total allocation of less than five million dollars under subsection 2 of section 57-51-15 inhad average annual oil production of fewer than ten million barrels based on the average annual oil production in the three-year period ending with the most recently completed even-numbered fiscal year before the start of each biennium.~~

~~**SECTION 3. AMENDMENT.** Subdivision c of subsection 4 of section 57-51.1-07.7 of the North Dakota Century Code is amended and reenacted as follows:~~

~~c. "Non-oil-producing county" means a county that received no allocation of funding or a total allocation of less than five million dollars under subsection 2 of section 57-51-15 inhad average annual oil production of fewer than ten million barrels based on the average annual oil production in the three-year period ending with the most recently completed even-numbered fiscal year before the start of each biennium.~~

~~**SECTION 4. AMENDMENT.** Subdivision b of subsection 6 of section 57-51.1-07.8 of the North Dakota Century Code is amended and reenacted as follows:~~

~~b. "Non-oil-producing county" means a county that received no allocation of funding or a total allocation of less than five million dollars under subsection 2 of section 57-51-15 inhad average annual oil production of fewer than ten million barrels based on the average annual oil production in the three-year period ending with the most recently completed even-numbered fiscal year before the start of each biennium.~~

~~**SECTION 5. EFFECTIVE DATE.** This Act becomes effective on July 1, 2025.~~

~~**SECTION 6. EMERGENCY.** This Act is declared to be an emergency measure.~~

SECTION 1. AMENDMENT. Section 57-51-02.6 of the North Dakota Century Code is amended and reenacted as follows:

57-51-02.6. Temporary exemption for oil and gas wells employing a system to avoid flaring.

Gas is exempt from the tax under section 57-51-02.2 for a period of two years and thirty days from the time of first production if the gas is:

1. Collected and used at the well site to power an electrical generator that consumes ~~at least seventy-five percent of the~~ gas from the well; or
2. Collected at the well site by a system that intakes at least seventy-five percent of the gas and natural gas liquids volume from the well for beneficial consumption by means of compression to liquid for use as fuel, transport to a processing facility, production of petrochemicals or fertilizer, conversion to liquid fuels, separating and collecting over fifty percent of the propane and heavier hydrocarbons, or other value-added processes as approved by the industrial commission.

SECTION 2. AMENDMENT. Section 57-51-05 of the North Dakota Century Code is amended and reenacted as follows:

57-51-05. Payment of tax on monthly basis - When tax due - When delinquent - Payment by purchaser - By producer - How casinghead gas taxed <u>- Exemptions</u>.

1. The gross production tax on oil or gas~~, as herein provided,~~ must be paid on a monthly basis. The tax on oil is due and payable on the twenty-fifth day of the month succeeding the month of production. The tax on gas is due and payable on the fifteenth day of the second month succeeding the month of production. If the tax is not paid as required by this section, it becomes delinquent and must be collected as provided in this chapter. The penalty does not apply if ninety percent of the tax due has been paid with the monthly return and the taxpayer files an amended monthly return and pays the total tax due within sixty days from the original due date. The commissioner, upon request and a proper showing of the necessity ~~therefor~~<u>for an extension</u>, may grant an extension of time, not to exceed fifteen days, for paying the tax and when the request is granted the tax is not delinquent until the extended period has expired. Any taxpayer who requests and is granted an extension of time for filing a return shall pay, with the tax, interest at the rate of twelve percent per annum from the date the tax was due to the date the tax is paid.

2. On oil or gas produced and sold, the gross production tax ~~thereon~~ must be paid by the purchaser, and the purchaser is authorized to deduct in making settlement with the producer or royalty owner, the amount of tax paid; provided, ~~that~~ in the event oil produced is not sold but is retained by the producer, the tax on the oil not sold must be paid by the producer, including the tax due on royalty oil not sold; provided further, that in settlement with the royalty owner the producer has the right to deduct the amount of the tax paid on royalty oil or to deduct therefrom royalty oil equivalent in value at the time the tax becomes due with the amount of the tax paid.

3. Gas when produced and utilized in any manner~~, except when used for fuel or otherwise used in the operation of any lease or premises in the drilling for or production of oil or gas therefrom, or for repressuring thereon,~~ must be considered for the purpose of this chapter, as to the amount utilized, as gas actually produced and saved, except gas:

    a. Used for fuel or otherwise used in the operation of any lease or premises in the drilling for or production of oil or gas from the lease or premises, including repressuring on the lease or premises; and

    b. Produced from an enhanced oil recovery project utilizing the injection of gas, either alone or in combination with other fluids, for the purpose of testing the feasibility of enhanced oil recovery operations on a temporary basis for one or more spacing units or employing enhanced oil recovery operations for an extended or indefinite period of time on a fieldwide basis through unitization of the reservoir that produces oil and gas. The exemption under this subdivision applies to all enhanced oil recovery projects created and established by the industrial commission after June 30, 2025, and for any gas produced after the date of first production following initial injection of gas until all gas injected as part of the enhanced oil recovery project has been recovered from the reservoir being tested or unitized.

4. All calculations of the gross production tax on oil or gas, including production, distribution, and claims for credit or refund, are based on the month of production and must be credited to that month.

SECTION 3. AMENDMENT. Section 57-51.1-01 of the North Dakota Century Code is amended and reenacted as follows:

57-51.1-01. Definitions for oil extraction tax.

For the purposes of this chapter:

1. "Average daily production" of a well means the qualified maximum total production of oil from the well during a calendar month period divided by the number of calendar days in that period, and "qualified maximum total production" of a well means that the well must have been maintained at the maximum efficient rate of production as defined and determined by rule adopted by the industrial commission in furtherance of its authority under chapter 38-08.
2. "Development incentive well" means, as determined and certified by the industrial commission, a well spud after June 30, 2025, which:
   a. Utilizes a new or innovative drilling or completion technique that constitutes a technical advancement that has not been previously utilized with demonstrated success by the operator within the specific formation targeted for development by that operator;
   b. Demonstrates the capability to develop reserves within the target formation that would otherwise remain underdeveloped or undeveloped under existing drilling or completion techniques; and
   c. Is designed and anticipated to, more likely than not, increase the number of new wells, additional production, or the ultimate recovery of oil or gas within the target formation.
3. "Horizontal well" means a well with a horizontal displacement of the well bore drilled at an angle of at least eighty degrees within the productive formation of at least three hundred feet [91.44 meters].

~~3.~~4. "Oil" means petroleum, crude oil, mineral oil, casinghead gasoline, and all liquid hydrocarbons that are recovered from gas on the lease incidental to the production of the gas.

~~4.~~5. "Property" means the right which arises from a lease or fee interest, as a whole or any designated portion thereof, to produce oil. A producer shall treat as a separate property each separate and distinct producing reservoir subject to the same right to

produce crude oil; provided, that such reservoir is recognized by the industrial commission as a producing formation that is separate and distinct from, and not in communication with, any other producing formation.

~~5.~~6. "Qualifying secondary recovery project" means a project employing water flooding. To be eligible for the tax exemption provided under section 57-51.1-03, a secondary recovery project must be certified as qualifying by the industrial commission and the project operator must have obtained incremental production as defined in subsection 3 of section 57-51.1-03.

~~6.~~7. "Qualifying tertiary recovery project" means a project for enhancing recovery of oil which meets the requirements of section 4993(c), Internal Revenue Code of 1954, as amended through December 31, 1986, and includes the following methods for recovery:

a. Miscible fluid displacement.
b. Steam drive injection.
c. Microemulsion.
d. In situ combustion.
e. Polymer augmented water flooding.
f. Cyclic steam injection.
g. Alkaline flooding.
h. Carbonated water flooding.
i. Immiscible carbon dioxide displacement.
j. New tertiary recovery methods certified by the industrial commission.

It does not include water flooding, unless the water flooding is used as an element of one of the qualifying tertiary recovery techniques described in this subsection, or immiscible natural gas injection. To be eligible for the tax exemption provided under section 57-51.1-03, a tertiary recovery project must be certified as qualifying by the industrial commission, the project operator must continue to operate the unit as a qualifying tertiary recovery project, and the project operator must have obtained incremental production as defined in subsection 3 of section 57-51.1-03.

~~7.~~8. "Restimulation well" means a previously completed oil or gas well that, following completion and production of oil, has been treated with an application of fluid under

pressure for the purpose of initiating or propagating fractures in a target geologic formation to enhance production of oil. The term does not include a well that:

a. Has less than sixty months of production or is producing more than one hundred and twenty-five barrels of oil per day reported to the industrial commission before completion of the restimulation treatment;

b. Is part of a qualifying secondary recovery project, qualifying tertiary recovery project, or stripper well or stripper well property as defined under this section; or

c. Is drilled but not completed and does not have a record of oil production reported to the industrial commission.

~~8.~~9. "Royalty owner" means an owner of what is commonly known as the royalty interest and shall not include the owner of any overriding royalty or other payment carved out of the working interest.

~~9.~~10. "Stripper well" means a well drilled and completed, or re-entered and recompleted as a horizontal well, after June 30, 2013, whose average daily production of oil during any preceding consecutive twelve-month period, excluding condensate recovered in nonassociated production, per well did not exceed ten barrels per day for wells of a depth of six thousand feet [1828.80 meters] or less, fifteen barrels per day for wells of a depth of more than six thousand feet [1828.80 meters] but not more than ten thousand feet [3048 meters], and thirty barrels per day for wells of a depth of more than ten thousand feet [3048 meters] outside the Bakken and Three Forks formations, and thirty-five barrels per day for wells of a depth of more than ten thousand feet [3048 meters] in the Bakken or Three Forks formation.

~~10.~~11. "Stripper well property" means wells drilled and completed, or a well re-entered and recompleted as a horizontal well, before July 1, 2013, on a "property" whose average daily production of oil, excluding condensate recovered in nonassociated production, per well did not exceed ten barrels per day for wells of a depth of six thousand feet [1828.80 meters] or less, fifteen barrels per day for wells of a depth of more than six thousand feet [1828.80 meters] but not more than ten thousand feet [3048 meters], and thirty barrels per day for wells of a depth of more than ten thousand feet [3048 meters] during any preceding consecutive twelve-month period. Wells which did not actually yield or produce oil during the qualifying twelve-month period, including

disposal wells, dry wells, spent wells, and shut-in wells, are not production wells for the purpose of determining whether the stripper well property exemption applies.

SECTION 4. A new subsection to section 57-51.1-03 of the North Dakota Century Code is created and enacted as follows:

a. The first two hundred fifty thousand barrels of oil produced during the first thirty-six months after completion from a development incentive well drilled and completed before July 1, 2028, and certified as a qualified well by the industrial commission, are exempt from the tax under section 57-51.1-02.

b. For purposes of the exemption under this subsection:

(1) An operator seeking certification of a well as a development incentive well shall meet the burden of demonstrating to the industrial commission that the well meets the criteria under subsection 2 of section 57-51.1-01.

(2) An operator seeking certification of a well as a development incentive well must be classified as one of the following:

(a) An operator that has drilled and completed between fifty and ninety-nine wells within the Bakken or Three Forks formations during the period beginning July 1, 2023, and ending June 30, 2025.

(b) An operator that has drilled and completed between one hundred and one hundred forty-nine wells within the Bakken or Three Forks formations during the period beginning July 1, 2023, and ending June 30, 2025.

(c) An operator that has drilled and completed one hundred fifty or more wells within the Bakken or Three Forks formations during the period beginning July 1, 2023, and ending June 30, 2025.

(3) The industrial commission may not certify more than:

(a) Four development incentive wells for an operator classified under subparagraph a of paragraph 2 of subdivision b;

(b) Eight development incentive wells for an operator classified under subparagraph b of paragraph 2 of subdivision b; and

(c) Twelve development incentive wells for an operator classified under subparagraph c of paragraph 2 of subdivision b.

c. The tax exemption under this subsection does not apply to a well located within the exterior boundaries of a reservation, a well located on trust properties outside reservation boundaries as defined in section 57-51.2-02, or a straddle well as defined in section 57-51.1-07.10 located on reservation trust land, unless a tribe makes an irrevocable election to opt-in to the tax exemption by providing written notice to the tax commissioner. If a tribe provides notice of its election to opt-in to the tax exemption, the tax commissioner shall apply the tax exemption beginning in the month of production after the notice is received by the tax commissioner.

SECTION 5. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 2025.

SECTION 6. EXPIRATION DATE. Sections 3 and 4 of this Act are effective through June 30, 2031, and after that date are ineffective.

2025 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2397
4/28/2025
Conference Committee

Relating to the temporary exemption for oil and gas wells employing a system to avoid flaring, an exemption from gross production tax for gas produced from certain enhanced oil recovery projects, and the definition of development incentive well; and to provide an effective date.

2:30 p.m. Chairman Patten called the meeting to order.

Members present: Chairman Patten, Senator Rummel, Senator Sickler, Representative Dockter, Representative Porter, Representative Olson

Discussion Topics:
- Qualifications of development incentive wells

2:30 p.m. Nathan Anderson, Director, Department of Mineral Resources, testified neutral and submitted testimony #45270.

2:35 p.m. Representative Porter provided discussion regarding qualifying for oil extraction incentive.

2:44 p.m. Representative Dockter provided discussion regarding development incentive well program, presented a proposed amendment and submitted testimony in favor #45271.

2:49 p.m. Representative Porter moved Amendment LC#25.1360.01008 In Place Of Amendment LC#25.1360.01005.

2:49 p.m. Senator Rummel seconded the motion.

Motion passed 6-0-0.

Chairman Patten will carry the bill for the Senate.

Representative Dockter will carry the bill for the House.

2:51 p.m. Chairman Patten adjourned the meeting.

Chance Anderson, Committee Clerk

25.1360.01008
Title.03000

Sixty-ninth
Legislative Assembly
of North Dakota

Adopted by the Conference Committee

April 28, 2025

CO
4/28/25
1of9

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2397

Introduced by

Senators Enget, Sorvaag, Sickler

Representative Kempenich

In place of amendment (25.1360.01005) adopted by the House, Senate Bill No. 2397 is amended by amendment (25.1360.01008) as follows:

A BILL ~~for an Act to amend and reenact subdivision f of subsection 4 of section 24-02-37.3, subsection 4 of section 54-27-19.4, subdivision c of subsection 4 of section 57-51.1-07.7, and subdivision b of subsection 6 of section 57-51.1-07.8 of the North Dakota Century Code, relating to the definition of non-oil-producing county for purposes of the flexible transportation fund, legacy earnings township aid fund, municipal infrastructure fund, and county and township infrastructure fund; to provide an effective date; and to declare an emergency.~~for an Act to create and enact a new subsection to section 57-51.1-03 of the North Dakota Century Code, relating to a limited exemption for development incentive wells; to amend and reenact sections 57-51-02.6, 57-51-05, and 57-51.1-01 of the North Dakota Century Code, relating to the temporary exemption for oil and gas wells employing a system to avoid flaring, an exemption from gross production tax for gas produced from certain enhanced oil recovery projects, and the definition of development incentive well; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

~~**SECTION 1. AMENDMENT.** Subdivision f of subsection 4 of section 24-02-37.3 of the North Dakota Century Code is amended and reenacted as follows:~~

~~f. For purposes of this subsection, "non-oil-producing county" means a county that received no allocation of funding or a total allocation of less than five million dollars under subsection 2 of section 57-51-15 inhad average annual oil production of fewer than ten million barrels based on the average annual oil~~

2of9

~~production in the three-year period ending with the most recently completed even-numbered fiscal year before the start of each biennium.~~

~~**SECTION 2. AMENDMENT.** Subsection 4 of section 54-27-19.4 of the North Dakota Century Code is amended and reenacted as follows:~~

~~4. For purposes of this section, "non-oil-producing county" means a county that received no allocation of funding or a total allocation of less than five million dollars under subsection 2 of section 57-51-15 inhad average annual oil production of fewer than ten million barrels based on the average annual oil production in the three-year period ending with the most recently completed even-numbered fiscal year before the start of each biennium.~~

~~**SECTION 3. AMENDMENT.** Subdivision c of subsection 4 of section 57-51.1-07.7 of the North Dakota Century Code is amended and reenacted as follows:~~

~~c. "Non-oil-producing county" means a county that received no allocation of funding or a total allocation of less than five million dollars under subsection 2 of section 57-51-15 inhad average annual oil production of fewer than ten million barrels based on the average annual oil production in the three-year period ending with the most recently completed even-numbered fiscal year before the start of each biennium.~~

~~**SECTION 4. AMENDMENT.** Subdivision b of subsection 6 of section 57-51.1-07.8 of the North Dakota Century Code is amended and reenacted as follows:~~

~~b. "Non-oil-producing county" means a county that received no allocation of funding or a total allocation of less than five million dollars under subsection 2 of section 57-51-15 inhad average annual oil production of fewer than ten million barrels based on the average annual oil production in the three-year period ending with the most recently completed even-numbered fiscal year before the start of each biennium.~~

~~**SECTION 5. EFFECTIVE DATE.** This Act becomes effective on July 1, 2025.~~

~~**SECTION 6. EMERGENCY.** This Act is declared to be an emergency measure.~~

SECTION 1. AMENDMENT. Section 57-51-02.6 of the North Dakota Century Code is amended and reenacted as follows:

3 of 9

57-51-02.6. Temporary exemption for oil and gas wells employing a system to avoid flaring.

Gas is exempt from the tax under section 57-51-02.2 for a period of two years and thirty days from the time of first production if the gas is:

1. Collected and used at the well site to power an electrical generator that consumes ~~at least seventy-five percent of the~~ gas from the well; or
2. Collected at the well site by a system that intakes at least seventy-five percent of the gas and natural gas liquids volume from the well for beneficial consumption by means of compression to liquid for use as fuel, transport to a processing facility, production of petrochemicals or fertilizer, conversion to liquid fuels, separating and collecting over fifty percent of the propane and heavier hydrocarbons, or other value-added processes as approved by the industrial commission.

SECTION 2. AMENDMENT. Section 57-51-05 of the North Dakota Century Code is amended and reenacted as follows:

57-51-05. Payment of tax on monthly basis - When tax due - When delinquent - Payment by purchaser - By producer - How casinghead gas taxed - Exemptions.

1. The gross production tax on oil or gas~~, as herein provided,~~ must be paid on a monthly basis. The tax on oil is due and payable on the twenty-fifth day of the month succeeding the month of production. The tax on gas is due and payable on the fifteenth day of the second month succeeding the month of production. If the tax is not paid as required by this section, it becomes delinquent and must be collected as provided in this chapter. The penalty does not apply if ninety percent of the tax due has been paid with the monthly return and the taxpayer files an amended monthly return and pays the total tax due within sixty days from the original due date. The commissioner, upon request and a proper showing of the necessity ~~therefor~~for an extension, may grant an extension of time, not to exceed fifteen days, for paying the tax and when the request is granted the tax is not delinquent until the extended period has expired. Any taxpayer who requests and is granted an extension of time for filing a return shall pay, with the tax, interest at the rate of twelve percent per annum from the date the tax was due to the date the tax is paid.

4 of 9

2. On oil or gas produced and sold, the gross production tax ~~thereon~~ must be paid by the purchaser, and the purchaser is authorized to deduct in making settlement with the producer or royalty owner, the amount of tax paid; provided, ~~that~~ in the event oil produced is not sold but is retained by the producer, the tax on the oil not sold must be paid by the producer, including the tax due on royalty oil not sold; provided further, that in settlement with the royalty owner the producer has the right to deduct the amount of the tax paid on royalty oil or to deduct therefrom royalty oil equivalent in value at the time the tax becomes due with the amount of the tax paid.

3. Gas when produced and utilized in any manner~~, except when used for fuel or otherwise used in the operation of any lease or premises in the drilling for or production of oil or gas therefrom, or for repressuring thereon,~~ must be considered for the purpose of this chapter, as to the amount utilized, as gas actually produced and saved, except gas:

a. Used for fuel or otherwise used in the operation of any lease or premises in the drilling for or production of oil or gas from the lease or premises, including repressuring on the lease or premises; and

b. Produced from an enhanced oil recovery project utilizing the injection of gas, either alone or in combination with other fluids, for the purpose of testing the feasibility of enhanced oil recovery operations on a temporary basis for one or more spacing units or employing enhanced oil recovery operations for an extended or indefinite period of time on a fieldwide basis through unitization of the reservoir that produces oil and gas. The exemption under this subdivision applies to all enhanced oil recovery projects created and established by the industrial commission after June 30, 2025, and for any gas produced after the date of first production following initial injection of gas until all gas injected as part of the enhanced oil recovery project has been recovered from the reservoir being tested or unitized.

4. All calculations of the gross production tax on oil or gas, including production, distribution, and claims for credit or refund, are based on the month of production and must be credited to that month.

5 of 9

SECTION 3. AMENDMENT. Section 57-51.1-01 of the North Dakota Century Code is amended and reenacted as follows:

57-51.1-01. Definitions for oil extraction tax.

For the purposes of this chapter:

1. "Average daily production" of a well means the qualified maximum total production of oil from the well during a calendar month period divided by the number of calendar days in that period, and "qualified maximum total production" of a well means that the well must have been maintained at the maximum efficient rate of production as defined and determined by rule adopted by the industrial commission in furtherance of its authority under chapter 38-08.

2. "Development incentive well" means, as determined and certified by the industrial commission, a well spud after June 30, 2025, which:

   a. Utilizes a new or innovative drilling or completion technique that constitutes a technical advancement that has not been previously utilized with demonstrated success by the operator within the specific formation targeted for development by that operator;

   b. Demonstrates the capability to develop reserves within the target formation that would otherwise remain underdeveloped or undeveloped under existing drilling or completion techniques; and

   c. Is designed and anticipated to, more likely than not, increase the number of new wells, additional production, or the ultimate recovery of oil or gas within the target formation.

3. "Horizontal well" means a well with a horizontal displacement of the well bore drilled at an angle of at least eighty degrees within the productive formation of at least three hundred feet [91.44 meters].

~~3.~~4. "Oil" means petroleum, crude oil, mineral oil, casinghead gasoline, and all liquid hydrocarbons that are recovered from gas on the lease incidental to the production of the gas.

~~4.~~5. "Property" means the right which arises from a lease or fee interest, as a whole or any designated portion thereof, to produce oil. A producer shall treat as a separate property each separate and distinct producing reservoir subject to the same right to

6 of 9

produce crude oil; provided, that such reservoir is recognized by the industrial commission as a producing formation that is separate and distinct from, and not in communication with, any other producing formation.

~~5.~~6. "Qualifying secondary recovery project" means a project employing water flooding. To be eligible for the tax exemption provided under section 57-51.1-03, a secondary recovery project must be certified as qualifying by the industrial commission and the project operator must have obtained incremental production as defined in subsection 3 of section 57-51.1-03.

~~6.~~7. "Qualifying tertiary recovery project" means a project for enhancing recovery of oil which meets the requirements of section 4993(c), Internal Revenue Code of 1954, as amended through December 31, 1986, and includes the following methods for recovery:

a. Miscible fluid displacement.
b. Steam drive injection.
c. Microemulsion.
d. In situ combustion.
e. Polymer augmented water flooding.
f. Cyclic steam injection.
g. Alkaline flooding.
h. Carbonated water flooding.
i. Immiscible carbon dioxide displacement.
j. New tertiary recovery methods certified by the industrial commission.

It does not include water flooding, unless the water flooding is used as an element of one of the qualifying tertiary recovery techniques described in this subsection, or immiscible natural gas injection. To be eligible for the tax exemption provided under section 57-51.1-03, a tertiary recovery project must be certified as qualifying by the industrial commission, the project operator must continue to operate the unit as a qualifying tertiary recovery project, and the project operator must have obtained incremental production as defined in subsection 3 of section 57-51.1-03.

~~7.~~8. "Restimulation well" means a previously completed oil or gas well that, following completion and production of oil, has been treated with an application of fluid under

7of9

pressure for the purpose of initiating or propagating fractures in a target geologic formation to enhance production of oil. The term does not include a well that:

a. Has less than sixty months of production or is producing more than one hundred and twenty-five barrels of oil per day reported to the industrial commission before completion of the restimulation treatment;

b. Is part of a qualifying secondary recovery project, qualifying tertiary recovery project, or stripper well or stripper well property as defined under this section; or

c. Is drilled but not completed and does not have a record of oil production reported to the industrial commission.

~~8.~~ 9. "Royalty owner" means an owner of what is commonly known as the royalty interest and shall not include the owner of any overriding royalty or other payment carved out of the working interest.

~~9.~~ 10. "Stripper well" means a well drilled and completed, or re-entered and recompleted as a horizontal well, after June 30, 2013, whose average daily production of oil during any preceding consecutive twelve-month period, excluding condensate recovered in nonassociated production, per well did not exceed ten barrels per day for wells of a depth of six thousand feet [1828.80 meters] or less, fifteen barrels per day for wells of a depth of more than six thousand feet [1828.80 meters] but not more than ten thousand feet [3048 meters], and thirty barrels per day for wells of a depth of more than ten thousand feet [3048 meters] outside the Bakken and Three Forks formations, and thirty-five barrels per day for wells of a depth of more than ten thousand feet [3048 meters] in the Bakken or Three Forks formation.

~~10.~~ 11. "Stripper well property" means wells drilled and completed, or a well re-entered and recompleted as a horizontal well, before July 1, 2013, on a "property" whose average daily production of oil, excluding condensate recovered in nonassociated production, per well did not exceed ten barrels per day for wells of a depth of six thousand feet [1828.80 meters] or less, fifteen barrels per day for wells of a depth of more than six thousand feet [1828.80 meters] but not more than ten thousand feet [3048 meters], and thirty barrels per day for wells of a depth of more than ten thousand feet [3048 meters] during any preceding consecutive twelve-month period. Wells which did not actually yield or produce oil during the qualifying twelve-month period, including

8 of 9

disposal wells, dry wells, spent wells, and shut-in wells, are not production wells for the purpose of determining whether the stripper well property exemption applies.

SECTION 4. A new subsection to section 57-51.1-03 of the North Dakota Century Code is created and enacted as follows:

a. The first two hundred fifty thousand barrels of oil produced during the first thirty-six months after completion from a development incentive well drilled and completed before July 1, 2028, and certified as a qualified well by the industrial commission, are exempt from the tax under section 57-51.1-02.

b. For purposes of the exemption under this subsection:

(1) An operator seeking certification of a well as a development incentive well shall meet the burden of demonstrating to the industrial commission that the well meets the criteria under subsection 2 of section 57-51.1-01.

(2) An operator seeking certification of a well as a development incentive well must be classified as one of the following:

(a) An operator with between forty and ninety-nine wells within the Bakken or Three Forks formations which have been:

[1] Drilled by the operator during the period beginning July 1, 2023, and ending June 30, 2025; or

[2] Drilled during the period beginning July 1, 2023, and ending June 30, 2025, and acquired by the operator.

(b) An operator with between one hundred and one hundred forty-nine wells within the Bakken or Three Forks formations which have been:

[1] Drilled by the operator during the period beginning July 1, 2023, and ending June 30, 2025; or

[2] Drilled during the period beginning July 1, 2023, and ending June 30, 2025, and acquired by the operator.

(c) An operator with one hundred fifty or more wells within the Bakken or Three Forks formations which have been:

[1] Drilled by the operator during the period beginning July 1, 2023, and ending June 30, 2025; or

9 of 9

[2] Drilled during the period beginning July 1, 2023, and ending June 30, 2025, and acquired by the operator.

(3) The industrial commission may not certify more than:

(a) Four development incentive wells for an operator classified under subparagraph a of paragraph 2 of subdivision b;

(b) Eight development incentive wells for an operator classified under subparagraph b of paragraph 2 of subdivision b; and

(c) Twelve development incentive wells for an operator classified under subparagraph c of paragraph 2 of subdivision b.

c. The tax exemption under this subsection does not apply to a well located within the exterior boundaries of a reservation, a well located on trust properties outside reservation boundaries as defined in section 57-51.2-02, or a straddle well as defined in section 57-51.1-07.10 located on reservation trust land, unless a tribe makes an irrevocable election to opt-in to the tax exemption by providing written notice to the tax commissioner. If a tribe provides notice of its election to opt-in to the tax exemption, the tax commissioner shall apply the tax exemption beginning in the month of production after the notice is received by the tax commissioner.

SECTION 5. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 2025.

SECTION 6. EXPIRATION DATE. Sections 3 and 4 of this Act are effective through June 30, 2031, and after that date are ineffective.

SB 2397 042825 1455 PM Roll Call Vote

Final Recommendation

SB 2397
Date Submitted: April 28, 2025, 2:55 p.m.
Recommendation: In Place Of
Amendment LC #: 25.1360.01008
Engrossed LC #: N/A
Description:
Motioned By: Porter, Todd
Seconded By: Rummel, Dean
House Carrier: Dockter, Jason
Senate Carrier: Patten, Dale
Emergency Clause: None
Vote Results: 6 - 0 - 0

Sen. Patten, Dale	Yea
Sen. Rummel, Dean	Yea
Sen. Sickler, Jonathan	Yea
Rep. Dockter, Jason	Yea
Rep. Porter, Todd	Yea
Rep. Olson, Jeremy	Yea

Insert LC: 25.1360.01008 Title: 03000
Senate Carrier: Patten
House Carrier: Dockter

REPORT OF CONFERENCE COMMITTEE
SB 2397

Your conference committee (Sens. Patten, Rummel, Sickler and Reps. Dockter, Porter, J. Olson) recommends that in place of amendment 25.1360.01005 adopted by the House, SB 2397 is amended by amendment 25.1360.01008.

SB 2397 was placed on the Seventh order of business on the calendar.

#45270

North Dakota Spuds by Operator - July 1, 2023 to Current

Operators that would be eligible for "Development Well" incentive as of April 2025

OperatorName	
HESS BAKKEN INVESTMENTS II, LLC	242
CONTINENTAL RESOURCES, INC.	207
GRAYSON MILL OPERATING, LLC	136
MARATHON OIL COMPANY	134
OASIS PETROLEUM NORTH AMERICA LLC	131
ENERPLUS RESOURCES USA CORPORATION	122
BURLINGTON RESOURCES OIL & GAS COMPANY LP	114
Phoenix Operating LLC	62
HUNT OIL COMPANY	48
Silver Hill Energy Operating, LLC	44
KRAKEN OPERATING, LLC	42
KODA RESOURCES OPERATING, LLC	41
PETRO-HUNT, L.L.C.	40
WHITING OIL AND GAS CORPORATION	36
SLAWSON EXPLORATION COMPANY, INC.	35
NEPTUNE OPERATING LLC	28
EOG RESOURCES, INC.	25
ZAVANNA, LLC	18
WPX ENERGY WILLISTON, LLC	17
EMPIRE NORTH DAKOTA LLC	14
XTO ENERGY INC	13
SOGC, INC.	10
MUREX PETROLEUM CORPORATION	8
PETROSHALE (US) INC.	6
STEPHENS WILLISTON, LLC DBA SEG WILLISTON, LLC	6
ROCKPORT ENERGY SOLUTIONS LLC	5
TRUE OIL LLC	5
Murfin Drilling Company, Inc.	4
FIVE STATES OPERATING COMPANY, LLC	3
FORMENTERA OPERATIONS, LLC	3
IRON OIL OPERATING, LLC	3
PRIMA EXPLORATION, INC.	3
RAGNAR EXPLORATION, LLC	3
RESONANCE EXPLORATION (NORTH DAKOTA) LLC	3
ARGENT MIDSTREAM SOLUTIONS, LLC	2
EAGLE OPERATING, INC.	2
LIME ROCK RESOURCES V-A, LP	2
MORGAN E&P, LLC	2
WGO RESOURCES, LLC	2
ARGENT MIDSTREAM SOLUTIONS, LLC	1
MEDORA MINERALS, LLC	1
ST. CROIX OPERATING, INC	1
WESCO OPERATING, INC.	1

Chord Energy = Whiting, Oasis & Enerplus

Conoco Phillips = Burlington & Marathon

Neptune & Kraken Merged

25.1360.01007
Title.

Sixty-ninth
Legislative Assembly
of North Dakota

Prepared by the Legislative Council
staff for Representative Dockter
April 28, 2025

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2397

Introduced by

Senators Enget, Sorvaag, Sickler

Representative Kempenich

In place of amendment (25.1360.01005) adopted by the House, Senate Bill No. 2397 is amended by amendment (25.1360.01007) as follows:

A BILL ~~for an Act to amend and reenact subdivision f of subsection 4 of section 24-02-37.3, subsection 4 of section 54-27-19.4, subdivision c of subsection 4 of section 57-51.1-07.7, and subdivision b of subsection 6 of section 57-51.1-07.8 of the North Dakota Century Code, relating to the definition of non-oil-producing county for purposes of the flexible transportation fund, legacy earnings township aid fund, municipal infrastructure fund, and county and township infrastructure fund; to provide an effective date; and to declare an emergency.~~for an Act to create and enact a new subsection to section 57-51.1-03 of the North Dakota Century Code, relating to a limited exemption for development incentive wells; to amend and reenact sections 57-51-02.6, 57-51-05, and 57-51.1-01 of the North Dakota Century Code, relating to the temporary exemption for oil and gas wells employing a system to avoid flaring, an exemption from gross production tax for gas produced from certain enhanced oil recovery projects, and the definition of development incentive well; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

~~**SECTION 1. AMENDMENT.** Subdivision f of subsection 4 of section 24-02-37.3 of the North Dakota Century Code is amended and reenacted as follows:~~

~~f. For purposes of this subsection, "non-oil-producing county" means a county that received no allocation of funding or a total allocation of less than five million dollars under subsection 2 of section 57-51-15 inhad average annual oil production of fewer than ten million barrels based on the average annual oil~~

~~production in the three-year period ending with the most recently completed even-numbered fiscal year before the start of each biennium.~~

~~**SECTION 2. AMENDMENT.** Subsection 4 of section 54-27-19.4 of the North Dakota Century Code is amended and reenacted as follows:~~

~~4. For purposes of this section, "non-oil-producing county" means a county that received no allocation of funding or a total allocation of less than five million dollars under subsection 2 of section 57-51-15 inhad average annual oil production of fewer than ten million barrels based on the average annual oil production in the three-year period ending with the most recently completed even-numbered fiscal year before the start of each biennium.~~

~~**SECTION 3. AMENDMENT.** Subdivision c of subsection 4 of section 57-51.1-07.7 of the North Dakota Century Code is amended and reenacted as follows:~~

~~c. "Non-oil-producing county" means a county that received no allocation of funding or a total allocation of less than five million dollars under subsection 2 of section 57-51-15 inhad average annual oil production of fewer than ten million barrels based on the average annual oil production in the three-year period ending with the most recently completed even-numbered fiscal year before the start of each biennium.~~

~~**SECTION 4. AMENDMENT.** Subdivision b of subsection 6 of section 57-51.1-07.8 of the North Dakota Century Code is amended and reenacted as follows:~~

~~b. "Non-oil-producing county" means a county that received no allocation of funding or a total allocation of less than five million dollars under subsection 2 of section 57-51-15 inhad average annual oil production of fewer than ten million barrels based on the average annual oil production in the three-year period ending with the most recently completed even-numbered fiscal year before the start of each biennium.~~

~~**SECTION 5. EFFECTIVE DATE.** This Act becomes effective on July 1, 2025.~~

~~**SECTION 6. EMERGENCY.** This Act is declared to be an emergency measure.~~

SECTION 1. AMENDMENT. Section 57-51-02.6 of the North Dakota Century Code is amended and reenacted as follows:

57-51-02.6. Temporary exemption for oil and gas wells employing a system to avoid flaring.

Gas is exempt from the tax under section 57-51-02.2 for a period of two years and thirty days from the time of first production if the gas is:

1. Collected and used at the well site to power an electrical generator that consumes ~~at least seventy-five percent of the~~ gas from the well; or
2. Collected at the well site by a system that intakes at least seventy-five percent of the gas and natural gas liquids volume from the well for beneficial consumption by means of compression to liquid for use as fuel, transport to a processing facility, production of petrochemicals or fertilizer, conversion to liquid fuels, separating and collecting over fifty percent of the propane and heavier hydrocarbons, or other value-added processes as approved by the industrial commission.

SECTION 2. AMENDMENT. Section 57-51-05 of the North Dakota Century Code is amended and reenacted as follows:

57-51-05. Payment of tax on monthly basis - When tax due - When delinquent - Payment by purchaser - By producer - How casinghead gas taxed - Exemptions.

1. The gross production tax on oil or gas~~, as herein provided,~~ must be paid on a monthly basis. The tax on oil is due and payable on the twenty-fifth day of the month succeeding the month of production. The tax on gas is due and payable on the fifteenth day of the second month succeeding the month of production. If the tax is not paid as required by this section, it becomes delinquent and must be collected as provided in this chapter. The penalty does not apply if ninety percent of the tax due has been paid with the monthly return and the taxpayer files an amended monthly return and pays the total tax due within sixty days from the original due date. The commissioner, upon request and a proper showing of the necessity ~~therefor~~for an extension, may grant an extension of time, not to exceed fifteen days, for paying the tax and when the request is granted the tax is not delinquent until the extended period has expired. Any taxpayer who requests and is granted an extension of time for filing a return shall pay, with the tax, interest at the rate of twelve percent per annum from the date the tax was due to the date the tax is paid.

2. On oil or gas produced and sold, the gross production tax ~~thereon~~ must be paid by the purchaser, and the purchaser is authorized to deduct in making settlement with the producer or royalty owner, the amount of tax paid; provided, ~~that~~ in the event oil produced is not sold but is retained by the producer, the tax on the oil not sold must be paid by the producer, including the tax due on royalty oil not sold; provided further, that in settlement with the royalty owner the producer has the right to deduct the amount of the tax paid on royalty oil or to deduct therefrom royalty oil equivalent in value at the time the tax becomes due with the amount of the tax paid.

3. Gas when produced and utilized in any manner~~, except when used for fuel or otherwise used in the operation of any lease or premises in the drilling for or production of oil or gas therefrom, or for repressuring thereon,~~ must be considered for the purpose of this chapter, as to the amount utilized, as gas actually produced and saved, except gas:

   a. Used for fuel or otherwise used in the operation of any lease or premises in the drilling for or production of oil or gas from the lease or premises, including repressuring on the lease or premises; and

   b. Produced from an enhanced oil recovery project utilizing the injection of gas, either alone or in combination with other fluids, for the purpose of testing the feasibility of enhanced oil recovery operations on a temporary basis for one or more spacing units or employing enhanced oil recovery operations for an extended or indefinite period of time on a fieldwide basis through unitization of the reservoir that produces oil and gas. The exemption under this subdivision applies to all enhanced oil recovery projects created and established by the industrial commission after June 30, 2025, and for any gas produced after the date of first production following initial injection of gas until all gas injected as part of the enhanced oil recovery project has been recovered from the reservoir being tested or unitized.

4. All calculations of the gross production tax on oil or gas, including production, distribution, and claims for credit or refund, are based on the month of production and must be credited to that month.

SECTION 3. AMENDMENT. Section 57-51.1-01 of the North Dakota Century Code is amended and reenacted as follows:

57-51.1-01. Definitions for oil extraction tax.

For the purposes of this chapter:

1. "Average daily production" of a well means the qualified maximum total production of oil from the well during a calendar month period divided by the number of calendar days in that period, and "qualified maximum total production" of a well means that the well must have been maintained at the maximum efficient rate of production as defined and determined by rule adopted by the industrial commission in furtherance of its authority under chapter 38-08.
2. "Development incentive well" means, as determined and certified by the industrial commission, a well spud after June 30, 2025, which:
   a. Utilizes a new or innovative drilling or completion technique that constitutes a technical advancement that has not been previously utilized with demonstrated success by the operator within the specific formation targeted for development by that operator;
   b. Demonstrates the capability to develop reserves within the target formation that would otherwise remain underdeveloped or undeveloped under existing drilling or completion techniques; and
   c. Is designed and anticipated to, more likely than not, increase the number of new wells, additional production, or the ultimate recovery of oil or gas within the target formation.
3. "Horizontal well" means a well with a horizontal displacement of the well bore drilled at an angle of at least eighty degrees within the productive formation of at least three hundred feet [91.44 meters].

~~3.~~4. "Oil" means petroleum, crude oil, mineral oil, casinghead gasoline, and all liquid hydrocarbons that are recovered from gas on the lease incidental to the production of the gas.

~~4.~~5. "Property" means the right which arises from a lease or fee interest, as a whole or any designated portion thereof, to produce oil. A producer shall treat as a separate property each separate and distinct producing reservoir subject to the same right to

produce crude oil; provided, that such reservoir is recognized by the industrial commission as a producing formation that is separate and distinct from, and not in communication with, any other producing formation.

~~5.~~6. "Qualifying secondary recovery project" means a project employing water flooding. To be eligible for the tax exemption provided under section 57-51.1-03, a secondary recovery project must be certified as qualifying by the industrial commission and the project operator must have obtained incremental production as defined in subsection 3 of section 57-51.1-03.

~~6.~~7. "Qualifying tertiary recovery project" means a project for enhancing recovery of oil which meets the requirements of section 4993(c), Internal Revenue Code of 1954, as amended through December 31, 1986, and includes the following methods for recovery:

a. Miscible fluid displacement.
b. Steam drive injection.
c. Microemulsion.
d. In situ combustion.
e. Polymer augmented water flooding.
f. Cyclic steam injection.
g. Alkaline flooding.
h. Carbonated water flooding.
i. Immiscible carbon dioxide displacement.
j. New tertiary recovery methods certified by the industrial commission.

It does not include water flooding, unless the water flooding is used as an element of one of the qualifying tertiary recovery techniques described in this subsection, or immiscible natural gas injection. To be eligible for the tax exemption provided under section 57-51.1-03, a tertiary recovery project must be certified as qualifying by the industrial commission, the project operator must continue to operate the unit as a qualifying tertiary recovery project, and the project operator must have obtained incremental production as defined in subsection 3 of section 57-51.1-03.

~~7.~~8. "Restimulation well" means a previously completed oil or gas well that, following completion and production of oil, has been treated with an application of fluid under

pressure for the purpose of initiating or propagating fractures in a target geologic formation to enhance production of oil. The term does not include a well that:

a. Has less than sixty months of production or is producing more than one hundred and twenty-five barrels of oil per day reported to the industrial commission before completion of the restimulation treatment;

b. Is part of a qualifying secondary recovery project, qualifying tertiary recovery project, or stripper well or stripper well property as defined under this section; or

c. Is drilled but not completed and does not have a record of oil production reported to the industrial commission.

~~8.~~9. "Royalty owner" means an owner of what is commonly known as the royalty interest and shall not include the owner of any overriding royalty or other payment carved out of the working interest.

~~9.~~10. "Stripper well" means a well drilled and completed, or re-entered and recompleted as a horizontal well, after June 30, 2013, whose average daily production of oil during any preceding consecutive twelve-month period, excluding condensate recovered in nonassociated production, per well did not exceed ten barrels per day for wells of a depth of six thousand feet [1828.80 meters] or less, fifteen barrels per day for wells of a depth of more than six thousand feet [1828.80 meters] but not more than ten thousand feet [3048 meters], and thirty barrels per day for wells of a depth of more than ten thousand feet [3048 meters] outside the Bakken and Three Forks formations, and thirty-five barrels per day for wells of a depth of more than ten thousand feet [3048 meters] in the Bakken or Three Forks formation.

~~10.~~11. "Stripper well property" means wells drilled and completed, or a well re-entered and recompleted as a horizontal well, before July 1, 2013, on a "property" whose average daily production of oil, excluding condensate recovered in nonassociated production, per well did not exceed ten barrels per day for wells of a depth of six thousand feet [1828.80 meters] or less, fifteen barrels per day for wells of a depth of more than six thousand feet [1828.80 meters] but not more than ten thousand feet [3048 meters], and thirty barrels per day for wells of a depth of more than ten thousand feet [3048 meters] during any preceding consecutive twelve-month period. Wells which did not actually yield or produce oil during the qualifying twelve-month period, including

disposal wells, dry wells, spent wells, and shut-in wells, are not production wells for the purpose of determining whether the stripper well property exemption applies.

SECTION 4. A new subsection to section 57-51.1-03 of the North Dakota Century Code is created and enacted as follows:

a. The first two hundred fifty thousand barrels of oil produced during the first thirty-six months after completion from a development incentive well drilled and completed before July 1, 2028, and certified as a qualified well by the industrial commission, are exempt from the tax under section 57-51.1-02.

b. For purposes of the exemption under this subsection:

(1) An operator seeking certification of a well as a development incentive well shall meet the burden of demonstrating to the industrial commission that the well meets the criteria under subsection 2 of section 57-51.1-01.

(2) An operator seeking certification of a well as a development incentive well must be classified as one of the following:

(a) An operator with between fifty and ninety-nine wells within the Bakken or Three Forks formations which have been:

[1] Drilled by the operator during the period beginning July 1, 2023, and ending June 30, 2025; or

[2] Drilled during the period beginning July 1, 2023, and ending June 30, 2025, and acquired by the operator.

(b) An operator with between one hundred and one hundred forty-nine wells within the Bakken or Three Forks formations which have been:

[1] Drilled by the operator during the period beginning July 1, 2023, and ending June 30, 2025; or

[2] Drilled during the period beginning July 1, 2023, and ending June 30, 2025, and acquired by the operator.

(c) An operator with one hundred fifty or more wells within the Bakken or Three Forks formations which have been:

[1] Drilled by the operator during the period beginning July 1, 2023, and ending June 30, 2025; or

[2] Drilled during the period beginning July 1, 2023, and ending June 30, 2025, and acquired by the operator.

(3) The industrial commission may not certify more than:

(a) Four development incentive wells for an operator classified under subparagraph a of paragraph 2 of subdivision b;

(b) Eight development incentive wells for an operator classified under subparagraph b of paragraph 2 of subdivision b; and

(c) Twelve development incentive wells for an operator classified under subparagraph c of paragraph 2 of subdivision b.

c. The tax exemption under this subsection does not apply to a well located within the exterior boundaries of a reservation, a well located on trust properties outside reservation boundaries as defined in section 57-51.2-02, or a straddle well as defined in section 57-51.1-07.10 located on reservation trust land, unless a tribe makes an irrevocable election to opt-in to the tax exemption by providing written notice to the tax commissioner. If a tribe provides notice of its election to opt-in to the tax exemption, the tax commissioner shall apply the tax exemption beginning in the month of production after the notice is received by the tax commissioner.

SECTION 5. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 2025.

SECTION 6. EXPIRATION DATE. Sections 3 and 4 of this Act are effective through June 30, 2031, and after that date are ineffective.