

**House committee
proceedings in
February 2013
on HB 1348**

2013 HOUSE STANDING COMMITTEE MINUTES

House Energy and Natural Resources

Pioneer Room, State Capital

HB 1348
February 8, 2013
18594

Conference Committee

Imireth

Relating to setbacks for oil and gas wells

Minutes:

1 Attachment

Rep. Porter: We have HB 1348 in front of us.

Rep. Nathe: HB 1348 comes to you with no amendments. We could not find any common ground. This bill deals with setbacks for oil and gas wells. I move this forward with no amendments.

Rep. Hunskor: I have amendments that I would present at this time. After our committee meeting I read this and as I see it this bill is as amended would be no different than current law. We are talking about 500 feet from an occupied dwelling. Current law says that an occupied dwelling can be no less than 500 feet from a well bore. This bill as amended says the same thing. The complaint that we had from the people did not have to do with the well bore it had to do with the flares. (Attachment 1) I move the amendment.

Rep. Porter: We have a motion from Rep. Hunskor and a second from Rep. Anderson for the proposed amendment that everyone has.

Rep. Nathe: A lot of this has been done already. I suggest that we leave this as it already is. I would resist this amendment.

Rep. Hunskor: Rep. Nathe what you say is true but about the case where the well bore is 800 feet? They also let those flares be at 600 feet or 500 feet, that is not what those people asked for. It makes no sense to disrupt folks in an occupied dwelling when the flare could just as well be on the other side of the well bore.

Rep. Nathe: I don't disagree with you but we received this amendment from one group of people and have another land owner group that says this is not a problem.

Rep. Mock: If the well bore is located at 550 and administrative rules require that the flare is 150 away from the well bore. Could that flare be located 400 or be any closer to the dwelling than the well?

Lynn Helms: The current administrative rule says that the well bore or any facilities association with the well bore have to be at least 500 feet from the occupied dwelling. If the flare was 500 feet away that would mean the well bore has to be 650 feet away. The absolute closest the production of that well can be is the 500 feet.

Rep. Anderson: Is there a problem when the well is 500 feet moving the flare 500 feet away?

Lynn Helms: They would have to.

Rep. Anderson: In the cases where you are able to do that I would recommend doing that.

Lynn Helms: I agree and under 19.3 the companies have to follow and get an approval of where they get locate the flare pit.

Rep. Mock: In the Hunskor amendment it has in cases where extenuating circumstances exists the way I read this is that the further setback within that quarter mile would not apply if the owner otherwise consents, or if the commission determines that its reasonably necessary for it. Wouldn't that issue already be addressed?

Lynn Helms: One problem with this amendment is it gives two reasons to overrule that landowner which is preventing waste and prevent relative rights.

Rep. Mock: Is this where we have to visit with Rep. Hunskor and some of the landowners. Couldn't we add in there "or to prevent population"?

Lynn Helms: I would agree and we do that through rule 18 because it is form in which we do all the back and forth in conversations.

Rep. Hunskor: Based on the testimony we heard and Rep. Mocks comments is it possible that this bill doesn't have appropriations in it that we can work further on this and work on it on Thursday?

Rep. Porter: My problem with that is all that you would back to us with is what is currently in the administrative code other than what is presented here.

Rep. Hunskor: If that is true if Mr. Helms can accommodate what Rep. Mock was talking about through administrative rules, then no this if fine. As I understand the amendment that is before us there isn't any problem from Mr. Helms with the way it is written since he can already do what was talked about in the administrative code.

Rep. Porter: Not that is incorrect, what you are doing is on the last line of the amendment is reducing the number of reasons that are currently used in the administrative code to site the facilities to just those two things "to prevent waster and to protect correlative rights".

They have many other reasons that they use that they use in that siting process this would make it more restrictive than the current code.

Rep. Nathe: The rule gives Mr. Helms a lot more flexibility in the amendment. I think that is the main reason why the senate killed Bill SB 2206.

Rep. Silbernagel: I think when this bill was put in from of us, the amendments were not clear as to the 500 foot setback and through this process I think it brought clarity to the landowners and to the committee as to what is currently there.

Rep. Damschen: The amendments would make it stricter than if it was rewritten to follow the code we would basically have the existing law?

Rep. Porter: That depend on how the amendment would read. We will do a voice vote on adopting the proposed amendment as presented by Rep. Hunskor. Motion is denied.

Rep. Mock: In visiting with some of the experts in the audience the Hunskor amendment if it fits ok I would ask Mr. Braaton repeat recommendation that he just made.

Rep. Porter: Before I am willing to open it up for the two group to do more testimony which is not part of where we are at; if we want to lie this to the side until next week to do work with that subcommittee I would do that. We will reassign this HB 1348 to Rep. Nathe, Rep. Silbernagel and Rep. Hunskor for next week.

2013 HOUSE STANDING COMMITTEE MINUTES

House Energy and Natural Resources

Pioneer Room, State Capital

HB 1348

February 14, 2013

18983

Conference Committee

Emipette

To provide for an retroactive application

Minutes:

Rep. Porter: We will open HB 1348.

Rep. Nathe: The subcommittee met this afternoon both parties got together and came up with this amendment. They both agree with this amendment you have the amendments on one page and on the other page you have the engrossed bill with the amendments on there.

On page 1 line 18 on the amendment where it says" on wells permitted on new pads built after August 1, 2013 including, upon request from landowners of any such occupied dwelling the location of all flares, tanks or theaters utilized in connection with the permitted well at a greater distance from the occupied dwelling than the oil and gas well bore as can reasonably be accommodated within the proposed pad location or"

What that means is the bill will move it from the 500 feet to 1000 feet so the industry gave up 1000 feet and the landowners came to 1000 feet.

Rep. Porter: We have a motion from Rep. Nathe and a second from Rep. Hunskor Motions carries We have a motion form Rep. Nathe and a second from Rep Hunskor for a do pass as amended to HB 1348. Motion Carried

Yes 11 NO 0 Absent 2 Carrier Rep. Nathe

February 14, 2013

2/15/13
JMC

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1348

Page 1, after line 6, insert:

"1."

Page 1, line 12, after the second period insert:

"2."

Page 1, line 15, remove the overstrike over "five"

Page 1, line 15, remove "one thousand three"

Page 1, line 15, remove "twenty"

Page 1, line 15, remove the overstrike over "~~152.4~~"

Page 1, line 15, remove "402.34"

Page 1, line 17, remove "one thousand three"

Page 1, line 17, overstrike "hundred"

Page 1, line 17, remove "twenty" and insert immediately thereafter "one thousand"

Page 1, line 17, replace "402.34" with "300.48"

Page 1, line 18, overstrike "as" and insert immediately thereafter ":

- a. For wells permitted on new pads built after July 31, 2013, the conditions imposed under this subdivision may include, upon request of the landowner of the occupied dwelling, requiring that the location of all flares, tanks, and treaters utilized in connection with the permitted well be located at a greater distance from the occupied dwelling than the oil and gas well bore if the location can be accommodated reasonably within the proposed pad location; or

- b. As"

Page 1, line 19, after the second "the" insert "occupied"

Renumber accordingly

**Transcript of
March 28, 2013
Senate hearing
on HB 1348**

2013 SENATE STANDING COMMITTEE MINUTES

Senate Natural Resources Committee Fort Lincoln Room, State Capitol

HB 1348
March 28, 2013
Job Number 20655

Conference Committee

Veronica Spurling

Explanation or reason for introduction of bill/resolution:

Relating to setbacks for oil and gas wells

Minutes:

attachments

Chairman Lyson opened the hearing for HB 1348.

Myron Hanson, representing the Northwest Landowners, stood in support of HB 1348. See attachment #1. He introduced amendments. See attachment #2. (Ends at 06:35) He also left a copy of the prime sponsor's testimony. See attachment #3.

Frank Leppell presented a petition with 415 signatures in support of HB 1348. See attachment A. He also presented written testimony. See attachment #4. (Ends 18:55)

Mr. Leppell also read a testimony from his wife who could not attend the hearing. See attachment #5. (Ends at 22:34)

Marie Hoff, a member of Dakota Resource Council, presented a written testimony on behalf of Shelly Ventsch, a resident of New Town. See attachment #6. They would like to amend the bill to make the setback at least 1000 feet from a residence. (Ends at 25:30)

Sean Arithson, a staff member of the Dakota Resource Council, presented written testimony on behalf of Brenda Jorgenson a Dakota Resource Council member who could not attend the hearing. See attachment #7. She requested an amendment to increase the setback to 1000 feet from a residence. (Ends at 29:35)

Kristen Mesker, a farm wife from Powers Lake, ND presented written testimony. See attachment #8. (Ends at 32:18)

Wally Owen, a resident of Medora, spoke in favor of HB 1348. He mentioned he had been on the ambulance crew since 1983 and he had to get off because "he can't take it any more...people who are burned, crushed, soaked in oil... which is happening constantly". He feels 500 feet is too dangerous. See attachment #9. (Ends at 35:50)

Daryl Dukart, Dunn County Landowners organization, stood in support of HB 1348. It is a quality of life issue.

Senator Murphy asked if he would support the 1000 ft. setback.

Mr. Dukart answered the question. (36:36 to 37:48)

Cedar Gillett, a resident of New Town, stood in support of the bill as well as an amendment to increase the setback to 1000 feet. It is a safety issue. (Ends at 39:40)

Sharon Anderson, a rancher from Powers Lake, presented written testimony in favor of HB 1348. See attachment #10. Attachment #11 is a group of studies that back up the risks of health problems from living near an oil well. (Ends at 44:17)

Donna Bliss, a member of Dakota Resource Council, spoke in favor of the bill and commented that there are some mineral rights owners that object to these things.

Ron Ness, ND Petroleum Council, stood in support of engrossed HB 1348 as amended. They also support the amendments offered by Mr. Hanson from the Northwest Landowners and Representative Froseth.

Linda Weiss, a landowner from western ND, spoke in support of the bill and the 1000 foot amendment.

Ruth Malm, a Dakota Resource Council member from Belfield, spoke in support of the bill. Her concerns were the long-term health effects and the safety issues due to traffic on Highway 85.

Opposition: None

Neutral: None

Chairman Lyson closed the hearing for HB 1348.

**Selected
attachments
to transcript of
March 28, 2013
Senate hearing**

#1

Mr. Chairman, members of the committee:

For the record, Myron Hanson, representing the Northwest Landowners.

We stand in support of HB 1348.

Earlier in this session two bills were introduced, one here in the Senate and one in the House to change the distance between the well bore and an occupied home. It was felt that the current five hundred foot requirement was too close given the changing dynamics of the wells in the Bakken.

We were unable to make our cases for changing the setback . When it became apparent that changing the well bore wasn't possible, the question became, how do we provide some measure of relief to the farmers and ranchers living next to one these Bakken wells?

Moving the equipment downstream from the well bore was what came out of these discussions.

There is a T.V. commercial airing that says people from Grassy Butte to Grand Forks benefit from this activity. We don't disagree, but the burden of securing this benefit is carried by a small number of third and fourth generation farmers and ranchers living and working in the midst of this activity.

The Northwest Landowners sees HB 1348 as a means of providing some relief to those people and urges a do pass recommendation.

#2

PROPOSED AMENDMENT TO FIRST ENGROSSMENT HB 1348

March 25, 2013

Page 1, line 22 remove the word "~~landowner~~" and replace with "owner"

Page 1, line 23 before the word "occupied" insert the word "permanently"

Renumber accordingly.

#3

Froseth, Glen A.

To: Froseth, Glen A.
Subject: Re: HB 1348

HB 1348

Senator Lyson and members of the Senate Energy and Natural Resources committee, for the record I am Glen Froseth, Representative from District 4.

HB1348 deals with the setback spacing of an oil well located near an occupied dwelling.

As amended, HB1348, owners of permanently occupied dwellings must be notified if a well permit applicant proposes drilling within 1320 feet of the dwelling. *(Section 1, lines 11, 12, 13)*

A new oil or gas well must be sited 500 feet or more from the dwelling in order to be permitted. According to the engrossed version of HB1348, if the new well will be located within 1000 feet of the dwelling, the location of all flares, tanks and treaters used in connection with the well must be situated at a greater distance from the dwelling than the well bore itself, if that location can be reasonably accommodated. The owner of the dwelling must make this request. (In simpler terms, if the well is located closer than 1,000 feet, all auxiliary equipment such as flares, treaters, etc., must be located on the far side of the well, and not between the well and the dwelling.) *(Lines 21-24 Page 1 and lines 19-2 Page 2)*.

Mr. Chairman and committee, I respectfully ask for a Do Pass on HB1348. Thank you.

Setback Petition.

Chairman Lyson and the North Dakota Senate Natural Resource Committee,

We believe that, in the rush to get oil out of the ground as fast as possible, state officials are not protecting the lives and livelihoods of people who live and work in western North Dakota. The current oil well pad set back from a dwelling of 500 feet is not enough to protect residents from flares, grass fires, explosions, toxic smells and the safety and health hazards from increased traffic. For the safety and well being the citizens in western North Dakota, we ask the Senate Natural Resources Committee to please amend HB 1348 to increase the set back from 500 feet from a dwelling to 1,000 feet from a dwelling.

Petition Numbers:

Online: 252

Written: 163

TOTAL: 415

[Note: Signature pages
from the petition were
omitted.]

#4

18

In support of HB 1348 only if it can be amended: Lines ~~16 and 17~~ 500ft to 1,000ft, and the way this part of the bill is worded, it looks to me like the N Dak Industrial Commission can put the footage down to anything they feel like even if the dwelling owner don't agree and line #21 needs to be amended from July 31 to May 1st, this way we will not have a surge of new well pads built to beat the dead line.

I testified in support of the SB 2206 bill. At the hearing, the ND Petroleum Council made the argument that if you get setbacks to 1000 feet or more, it will cost the surface owner the most! The reality is this would be the most effective way to make the oil companies use the new technology and build multi-well pads instead of single well pads. Refer to map 1

Ron Ness of the Petroleum Council stated that 500 foot setbacks affect 18 acres of farmland and 1000 foot setbacks affect 72 acres. This is something that I apparently don't understand. I know a single well pad uses 6 acres and a multi-pad with 3 wells uses the same acreage. Then, we get 6 to 8 well pads that use approximately 12 acres. Do the math: 8 single well pads use 48 acres versus 12 acres for multi-well pads. Refer to map 2

What the people in the counties of the Bakken oil fields don't realize is the facts of what is intended with this new technology of horizontal drilling to produce the Bakken wells and to cover all the mineral interests (look at map # 3). These wells are being drilled so the horizontal bore of each well is approximately 660 feet apart for a length of 1 to 2 miles, so this way they need to drill seven or eight across the end of a 640 acre section 2 miles long for their 1280 spacing. With this new technology they can and have built multi-pad well sites with 6 to 12 wells and still get the well bores approximately 660 feet apart.

I know this can be done. I have helped build multi-well pad sites. Some of these sites were built on private land to drill into federal or US Forest Service controlled lands because of the new road less rules for these lands, plus the regulations for federal lands are very strict compared to state regulations. This also needs to be fixed.

At the SB 2206 hearing Ron Ness testified that (there is a perception that the distance from a well to a building is determined only by the oil and gas company. That is simply false). Okay if that statement is true than who is placing their wells next to your house? Is it the ND Petroleum Council or the ND Industrial Commission?

On safety issues, flares are starting fires off the sites. Testimony at the hearing bragged that in 62 years of oil production we have not burnt down a resident's house. That might be the case, but being on a rural fire department I have helped put out fires that if left unchecked would have burnt a house or an entire ranch down. Thanks to area residents and first responders, the fires got put out. We have just been lucky!

Testimony was also given that oil companies can shut-in a well via phone or computer. The whole story is "shut in" means the valves at the well head are shutoff. There are some flowing wells that this can be

done on, but this is expensive to set up and most Bakken wells don't flow very long. The wells with pumping units rely on two different valves at the well head. One is called a radigan which seals around the polish rod. The second valve is called a blinds valve. If the polish rod breaks and falls into the well you can shut this valve. The point is these valves have to be shut manually and you tend to get really wet with oil and water when you do this. All these types of valves rely on rubber seals and this is not foolproof. Closed valves tend to leak and sometimes don't hold at all. Ask Dave Drovdal about the blowout that oil soaked his neighbor's house. Truth be known the N Dak Industrial Commission does very little to protect dwelling owner's. I don't think they ever look at the devastation and the acreage that is being completely destroyed (when they permit these wells) or if it is in someone's feed lot or calving area, if you aren't part of the oil business they don't care.

Salt Water

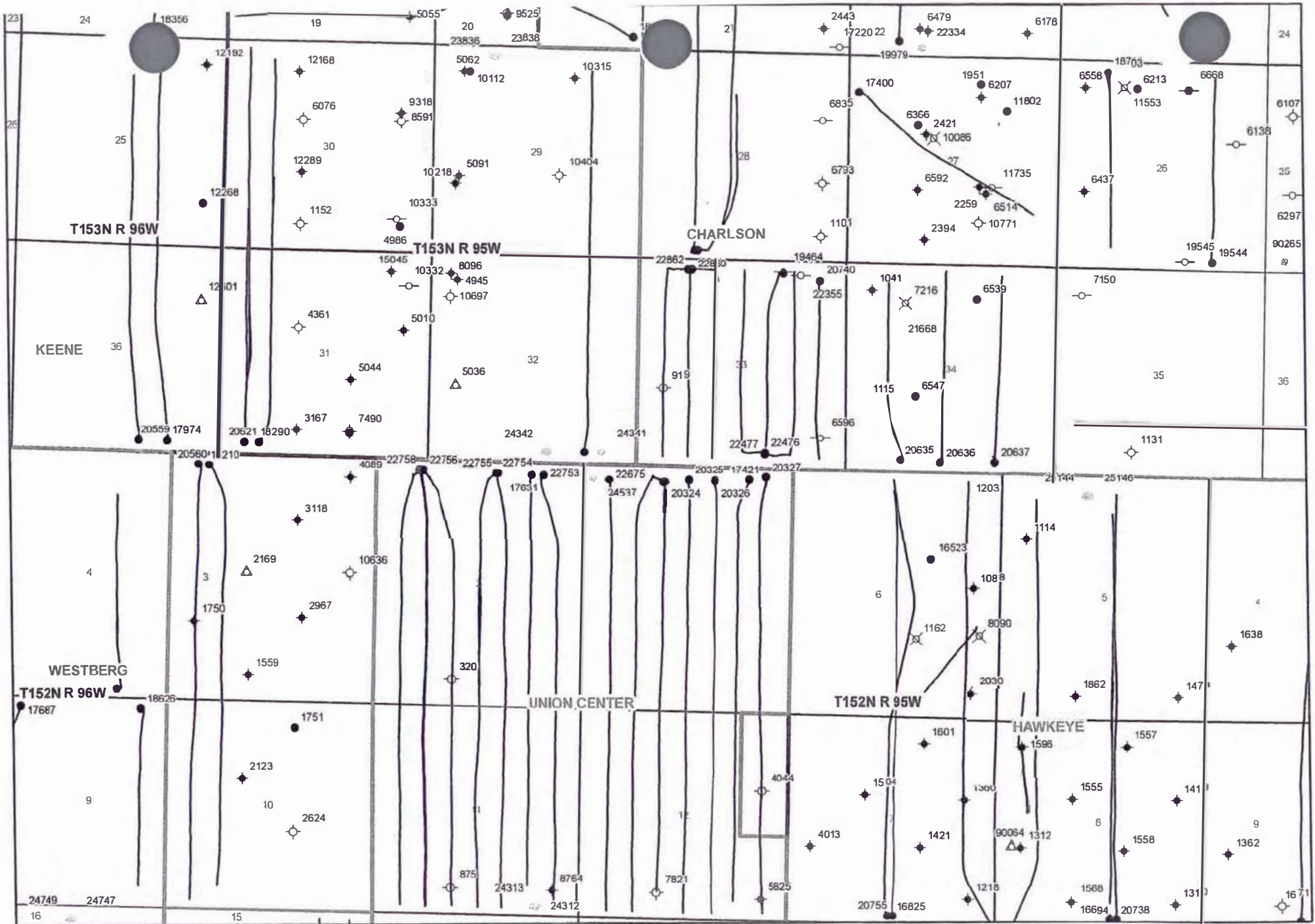
A good example is a homestead I lived on for 10 years. They want to put a SW disposal well on this place. We wrote a letter to the N Dak Industrial Commission this is ½ mile from my place to the N West (Refer to map 4). The site is 500ft from the house I used to live in, the water wells on this place is 6ft deep and 30ft deep, the area is full of gravel veins, so there is a live spring 150ft from the house. My problem is if there is a spill here it will be in the ground water, and my water well is not that deep so it could get into my water source. It has been approved by ND industrial commission.

Food for thought. This type of drilling covers all of the mineral interest and they can drill from 1 mile away and turn 90 degrees and drill another 1 to 2 miles and multi-well pads can save countless amounts of acres, then why are oil companies being allowed to destroy western North Dakota with single well pads and making the largest foot print in North Dakota history. I will answer any questions.

Thank you

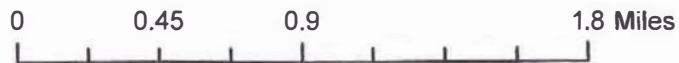
Frank Leppell

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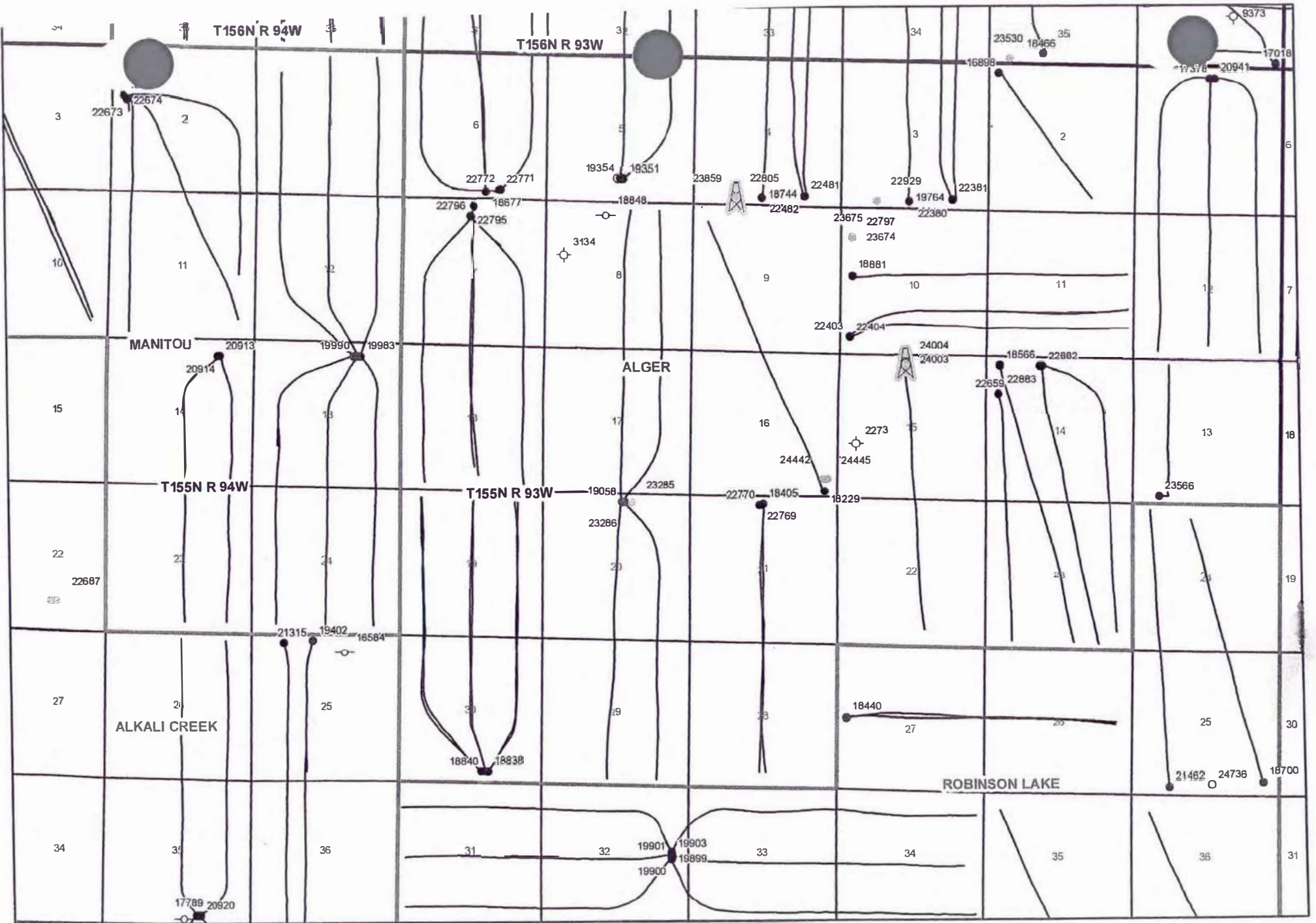
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Oil and Gas Division

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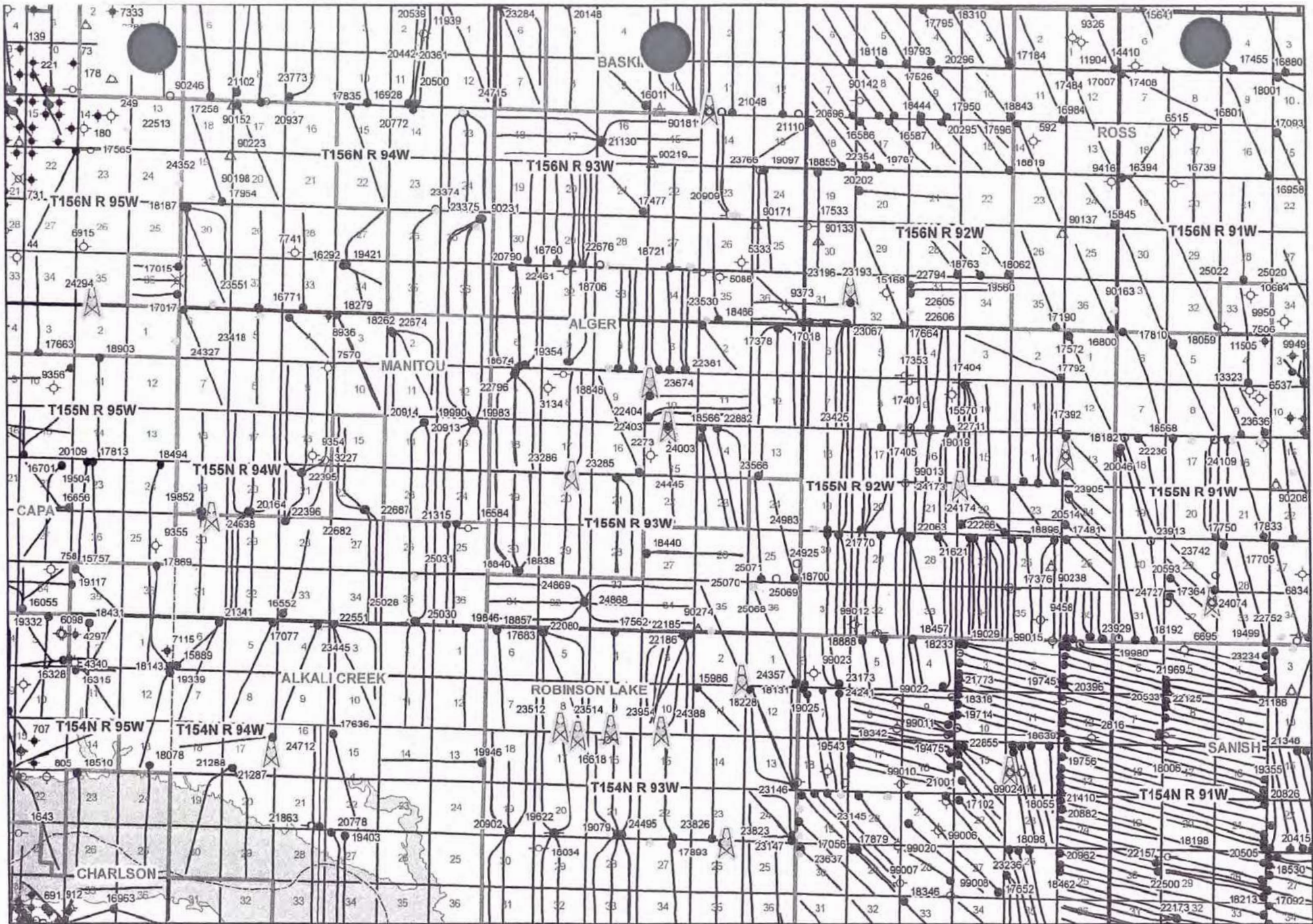
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Prepared by N.D.I.C.
Oil and Gas Division

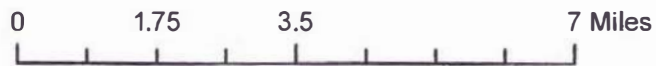
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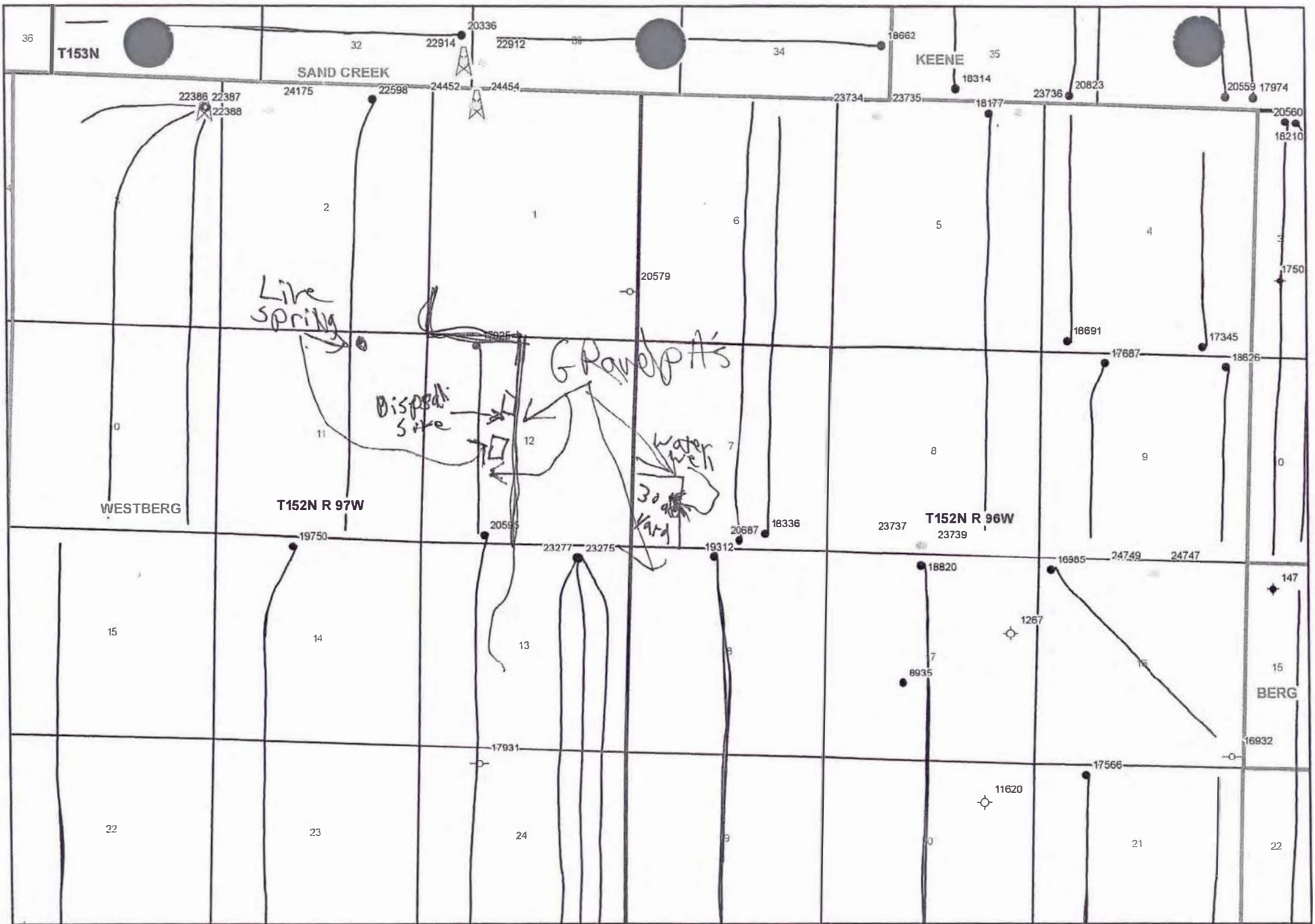
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Oil and Gas Division

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Wanda Leppell

#5

In support of bill HB1348 1/4 mile setback.

I am a rancher and farmer that lives in the middle of the oil boom. Yes I do believe we need the oil development, but somehow we need to coexist. The oil and gas wells should have to be a quarter of a mile or more from an occupied dwelling. The reasons are.

1. My neighbors who are land owners with some or all the mineral rights have a lease with the oil companies. Two have a lease with 1,000 feet from dwelling and two others have 1,500 feet from a dwelling. The oil companies have no problems with these setbacks in their leases. Now we can't get a setback for more than 500 feet because we don't own the land or minerals on land 400 feet from our house. So why should the mineral right owners have all the power to set the setback footage and home owners have no rights and just have to put up with it, while we watch our property values go in the trash.
2. So far a house has not been burned down is what I've been told, but it's not because the oil companies have never had a fire. My husband has been out on many fire calls he was the fire chief for 20 years and still continues to go out on calls and help when he can. They had fires get very close to a house many times, but between the locals and the fire department they got it shut down. It is hard to compare this boom to the ones in the past. If the wells go in that there predicting we will have many more wells than the past.
3. Why should wells be allowed so close to a house. Most ranchers have their carrels and calving areas right by their home. Some of the wells they put in are by or in the middle of their calving facilities. Why do they have the right to affect the way we make our income? What! We have to change occupations or sell out and move and start over somewhere else. Just remember where you get your food from. Do you want to rely on other countries for that?
4. We raise kids to be independent out here. It really doesn't take a kid long to get 500 feet from the house so now we have to worry about them getting killed or hurt on the oil well site

I'm really starting to wonder if farming and ranching will be obsolete in western ND. A lot of people I know have sold out and left here already. It's hard to tell because of all the new people coming in.

I wish you all could come and spend some time (like a month) to really see what it is like to live here and to understand both sides a little better. Instead of reading about it or being told about it is not the same as living with it (but you would get to go home) that would be the difference. My house is open and you're sure welcome to stay.

Thank You

Wanda Leppell

March 28, 2013

HB 1348

Mr. Chairman, Members of the Committee:

I am Shelly Ventsch from New Town. A well blowout happens because "something went wrong." A blowout shoots oil, gases, and produced water high up into the air, spraying a mist which is easily carried by even a slight breeze, onto everything. These can last for days. Two recent blowouts reached 1/4 mile (1320 ft.) and a half mile (2640 ft.) and yet 500 ft. is considered a safe distance from residences. Proper cleanup requires washing or removing vegetation and removal of all the contaminated soil. Imagine the people and their homes, pets, plants, and wildlife in the path of the contents of an unexpected blowout. The workers doing the cleanup all seem to be wearing protective clothing/gear. Most residents wouldn't have hazmat suits, goggles, and respirators on hand, should a blowout occur. With more wells being put on existing pads and western North Dakota being a sparsely-populated area, a setback of 1000 feet would not affect every new well. Considering the number of wells being planned, in comparison to the number of residents in those locations, I believe it would affect only a small percentage of new wells. To help the people living around oil activity, I would like to see this bill amended to increase the setback to 1000 ft. from a residence. Thank you.

Chairman Lyson, Committee members,

I am Sean Arithson, a staff member of the Dakota Resource Council, here today to speak for one of our members, Brenda Jorgenson, who is not able to be here today.

Brenda writes,

Chairman Lyson and Committee members,

My name is Brenda Jorgenson. We moved to the Box J Ranch in the beautiful White Earth River Valley in 1979 to continue the farm/ranch Richard's grandfather started.

Most people can go home and feel safe. I want to tell you what it's like living next to an oil well. I am just one of many farmers and ranchers who are dealing with this. It's my sincere hope we can do better. I am urging you to amend and pass HB 1348 to move the current pad setback from 500 feet from a dwelling, to no less than 1000 feet from a dwelling.

With all of the oil activity in the area the past few years, we could always count on our own home as a safe haven from noise, traffic and toxic smells. Now, the same reasons I have mentioned to you are now starting to surround us in the White Earth Valley.

Since September 2010, we have had to deal with the negative effects with having an oil pad next to our home.

While out for an evening walk on April 10, 2011, Richard and I encountered strong chemical smells from the location ½ mile west of our house. We learned later that our granddaughter (6) couldn't stop coughing, after checking out the spring run-off with us on the 4-wheeler earlier that afternoon.

So the next day, April 11, 2011, I was very careful to check the wind before I went for a walk. When I returned home my eyes were burning and stinging and my voice was very distorted and scratchy for over two hours! That evening our son-in-law came over to our house and was in the yard rubbing his eyes, complaining and wondering what that was from. There was no obvious smell that day, but there were obvious reactions.

On May 23, 2012, the flare was out during the night. I was up since 3:00 a.m. because of strong propane smells in the house. Todd Peterson in the State Health Department, Air Quality, was called. He will talk to Petro Hunt LLC about location #20975. That flare's been out three times and my husband Richard has called PHLLC about that each time. I had a sore throat for a week now.

On Saturday, Aug 25, 2012, the house was full of gas when we returned from a funeral of a dear friend. The flare was out before we left mid-morning and was still out four hours later. Who do we call? What do we do? I got the horses moved out of the pasture right after making several calls. We are not given any emergency numbers.

These are just a few of the troubles we have encountered with having an oil well near our home. We have had many more instances that have affected the way we live on our farm and ranch.

I ask you to please, amend this bill to have a setback of 1000 feet and give it a do pass to help make life for farmers and ranchers a little bit better.

#8

Kristen Nesker
SB 1348 Hearing
Senate Natural Resources Committee
March 28, 2013

The backbone of North Dakota has always been the farming and ranching industry. I grew up on a ranch in northwest North Dakota. Now my husband and I own a ranch. My husband has to work multiple jobs to support the ranch and our growing family. We are just like so many others in our area.

We established good grazing techniques with the help of NRCS and friends to help benefit our land. Now most of our land we graze has oil wells on it. We have dealt with spills and other problems. I fear for the well-being of our family's health as well as the health of our livestock. We bought our ranch with the intention of our kids and their kids having the option to continue ranching.

With the increase of oil wells and activity around our area, I fear for our future. With this activity there is an increase in problems such as oil spills, salt water spills, H₂S, water contamination, health hazards, and increase dust from truck traffic. Having all of this just 500ft from your home is too close.

When I look into our future with the possibility of this happening, I see trucking in water for us and for our cattle because ours is contaminated, having land we can't graze due to salt water spills or fracking chemicals, sick cattle we can't sell, and health problems with our children. I think of the money we will be offered from companies to compensate for these problems. It won't be enough. There will be no future here for our kids; we will be pushed out of this state.

Let's start protecting our future by pushing back oil sites to 1000ft from our homes.

#9

You are faced with deciding whether you will protect the citizens, private property and a way of life or enhance profits for the oil companies with your decision on setbacks for oil wells from homes. HB 1348 will reasonably increase setbacks from the current unreasonable 500 feet.

For the oil industry to be truly successful in North Dakota BALANCE is required. It is simply FAIRNESS, the oil companies have the technology today to increase the setbacks at little cost compared to their profits. Their costs are mainly one of inconvenience. For the property owner the cost are significant safety and health risks, significant property depreciation and total disruption in their way of life.

Empathies with the people having an oil well within 500 feet of their home, the traffic, noise, smell, fumes and view. You are not restricting drilling but require the oil companies to be reasonable at an insignificant cost.

Support of increasing setbacks for oil drilling would help balance the impact of the oil intrusions. It would be fair and balanced and protect North Dakota's way of life, its citizen's health and safety and private property rights. No one can reasonably feel that this is not the right thing to do.

Thank You

Wally Owen

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Mr. Chairmen and members of the committee. I am Sharon Anderson and my husband and I ranch near Powers Lake. I am here supporting a setback of 1320 ft. mainly because I fear for the health risks associated with those living in close proximity to an oil well.

I've researched studies conducted by both government and private agencies and would like to briefly share a few of their findings.

- The Colorado School of Public Health states that there has been a growing body of scientific studies linking emissions from oil and gas operations to air pollution issues and fracking and flowback risks. Studies have shown levels of volatile organic chemicals within a half of a mile of the drill site. Elevated levels of hazardous chemicals are present when a well is hydrofractured. Studies have shown that the many petroleum hydrocarbons present at a well site can cause an increased risk of lung problems, birth defects, blood disorders as well as the potential risk of developing cancer and other acute non-cancer health effects.
- An EPA article determined that a number of sites in the Midwest contain concentrations of naturally occurring radioactive waste, another byproduct of our oil and gas development that I wonder if oil companies are left to self-regulate.
- This winter the federal agency NOAA (The National Oceanic and Atmospheric Administration) are measuring wintertime OZONE, they are finding huge amounts of methane and other chemicals coming out of the natural-gas fields. This winter phenomenon appears to be created when heavy snow cover, acts as a reflector enhancing the sunlight and heat in the atmosphere, this helps to form an inversion that holds the emissions in a confined area, this can exacerbate asthma and other respiratory diseases.
- At least one thousand truck trips are required to frack a single well. These trucks along with other equipment create soot, volatile organic compounds, and ozone. Exposure to this kind of air pollution has demonstrated links to asthma. Cancers and preterm birth.

Standards for most contaminants are established based on the health impacts on adults, so current standards may not suffice to protect children. Children's bodies take in proportionately greater amounts of toxins than adults. Their rapid development places them at greater risk to toxins. A resting infant takes in twice as much air per pound of body weight than an adult. Children may also be more susceptible to some toxins because their livers and kidneys are not fully mature and cannot detoxify substances as readily as an adult.

1320 ← as per 45:00 on audio tape

Please consider a setback of ~~1350~~ 1320 ft. The State of Maryland requires 1,000 ft. setbacks without exception and several towns in the heart of North Texas require setbacks of 1,500 ft.

The study I mentioned from the School of Health stated that residents living less than 1/2 mile from a well were at the greatest risk for health effects. We are asking for half that distance for the setback, ~~1350~~ ¹³²⁰ ft. this is not an unreasonable request. Every child has the right to a healthy environment, it's our social responsibility.

Please don't make our children the canaries in our environmental oil mine.

#11

Erie Rising

Elevating the way we live

Human Health Risk Assessment of Air Emissions from Development of Unconventional Natural Gas Resources

Posted on [March 19, 2012](#) by [erierising](#)

by:

Lisa M. McKenzie, Roxana Z. Witter, Lee S. Newman, John L. Adgate

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Abstract Background: Technological advances (e.g. directional drilling, hydraulic fracturing), have led to increases in unconventional natural gas development (NGD), raising questions about health impacts.

Objectives: We estimated health risks for exposures to air emissions from a NGD project in Garfield County, Colorado with the objective of supporting risk prevention recommendations in a health impact assessment (HIA).

Methods: We used EPA guidance to estimate chronic and subchronic non-cancer hazard indices and cancer risks from exposure to hydrocarbons for two populations: (1) residents living > 1/2 mile from wells and (2) residents living ≤ 1/2 mile from wells.

Results: Residents living ≤ 1/2 mile from wells are at greater risk for health effects from NGD than are residents living > 1/2 mile from wells. Subchronic exposures to air pollutants during well completion activities present the greatest potential for health effects. The subchronic non-cancer hazard index (HI) of 5 for residents ≤ 1/2 mile from wells was driven primarily by exposure to trimethylbenzenes, xylenes, and aliphatic hydrocarbons. Chronic HIs were 1 and 0.4 for residents ≤ 1/2 mile from wells and > 1/2 mile from wells, respectively. Cumulative cancer risks were 10 in a million and 6 in a million for residents living ≤ 1/2 mile and > 1/2 mile from wells, respectively, with benzene as the major contributor to the risk.

Conclusions: Risk assessment can be used in HIAs to direct health risk prevention strategies. Risk management approaches should focus on reducing exposures to emissions during well completions. These preliminary results indicate that health effects resulting from air emissions during unconventional NGD warrant further study. Prospective studies should focus on health effects associated with air pollution.

Key Words: natural gas development; risk assessment; air pollution; hydrocarbon emissions

This study was supported by the Garfield County Board of County Commissioners and the Colorado School of Public Health.

The Balance Sheet — Blogs — The Denver Post

MARCH 22, 2012, 10:56 AM

A whiff of a potential problem in Colorado with fracking and drilling

By **MARK JAFFE** |  5 Comments

[The Denver Post](#),

In the spring of 2010, odors coming from an Antero Resources drilling rig not far from homes in Battlement Mesa, in western [Colorado](#), drove residents to shut their windows and at least one to bury her head in a pillow.

The Colorado [Oil](#) and Gas Commission issued a notice of alleged violation and Antero took steps to address the problem.

Even as the odors vanished many residents in the Garfield County development wonder whether there was more to the fumes than just a bad smell.

A University of [Colorado-Denver School of Public Health study released this week](#) tried to offer at least a partial answer based on air samples taken in Battlement Mesas and concluded that there appear to be elevated levels of some potentially hazardous chemicals when a well is hydrofractured.

When it comes to the impacts oil and gas drilling near developed areas [Battlement Mesa may be a test case](#). Antero had proposed drilling 200 wells of nine pads in Battlement Mesa and two other companies are drilling within a half of mile of the 5,000-resident development.

That sparked a push for a health assessment by residents of Battlement Mesa and while the Garfield County commissioners eventually voted to kill the project, much of its data lives on, such as the air samples used in the School of Public Health study.

There has been [a growing body of scientific studies linking emissions from oil and gas operations to air pollution](#) issues, but the current study focuses on one point — well completions, which involve [fracking](#) and flowback.

In the fracking process a mixture of water, sand and trace chemicals are pumped into a well under pressure to fracture the rocks and release more oil and gas.

The fracking fluid, water from the rock strata and hydrocarbons then start flowing back out of the well. It is this process that chemical fumes can escape.

Using air samples collected from 2008 through 2010, the study analyzed emissions and tried to calculate the potential health risk.

There are a lot of aspects of the study that have been questioned by industry – the calculated cancer risk, the exposure – and the lead author Lisa McKenzie also stresses that more study is needed.

One element, however, that can be pulled from the study is that levels of volatile organic chemicals associated with fracking and flowback were high within a half of a mile of the drill site.

The federal Environmental Protection Agency has developed a Hazard Index – it isn't a legal standard just a tool – in which "1" is the level at which no health effects would be expected.

The levels at half-mile from the well pads in Battlement Mesa were at "5," according to the study.

The chemicals contributing to that elevated rate were to trimethylbenzenes, xylenes, and aliphatic hydrocarbons, the study said. The chemicals have been linked to neurological and respiratory problems.

Whether people are exposed to the chemicals for a long enough period to create health problems is an unresolved issue – but it raises a question that needs an answer.

And what of Battlement Mesas?

"Those initial odor complaints were in a section called Watson Ranch that was close to the Antero well," said Bob Arrington, a member of Battlement Concerned Citizens. "Now we've had complaints in Tamarisk Village which is about a half-mile from an Encana well."

The Encana well is on a rise above the development and as part of its drilling permit, the company is using sound walls to dampen noise, and low-noise, low-visibility flares with air emissions controls.

The fumes from the rig tend to gather in a gully and flow down hill, Arrington said. Once the Encana community representative was notified, she got on the phone to the drill site. "They fired up a combustor and took care of it," Arrington said. "What we've seen is that operators have a lot of discretion in how they handle their rigs."

ARTICLE PRINTED FROM THE BALANCE SHEET

<http://blogs.denverpost.com/thebalancesheet/2012/03/22/whiff-potential-problem-fracking-drilling/3346/>

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Like Wyoming, Utah finds high wintertime ozone pollution near oil, gas wells

By Mark Jaffe
The Denver Post

POSTED: 02/26/2012 01:00:00 AM MST
UPDATED: 02/26/2012 11:29:27 AM MST

PRINT EMAIL
38 COMMENTS

2

High levels of winter ozone air pollution have been recorded in a Utah oil and gas field — after the phenomenon was seen in Wyoming — raising concerns that such pollution could become more widespread.

A team of scientists is combing the Uintah Basin to determine the link between the area's 10,000 oil and gas wells and ozone levels, which in 2011 were higher in eastern Utah than in New York City.

"What we are seeing in the Uintah Basin and (Wyoming's) upper Green River (Basin) has implications for the entire West," said Brock LeBaron, the Utah Department of Environmental Quality's manager of the Uintah study.

Ozone pollution — which can impair breathing — has been an urban and summertime problem, but in the West, it has emerged as a rural winter issue.

As drilling picks up, particularly in areas such as Colorado where shale oil has been discovered, the concern is that the problem could grow.

The Piceance Basin in northwest Colorado, for example, is an area that could be susceptible to the snowy conditions that created winter ozone in the Utah and Wyoming incidents, researchers say.

A recent study of the Denver-Julesburg Basin in northeastern Colorado by the National Oceanic and Atmospheric Administration found elevated levels of methane coming from well sites. NOAA scientists say initial results from another study show high concentrations of butane, ethane and propane in Erie, east of Boulder, where hundreds of natural-gas wells are operating.

"We are finding a huge amount of methane and other chemicals coming out of the natural-gas fields," said Russell Schnell, a NOAA scientist in Boulder.

"It still has to be confirmed," Schnell said. "But we may have to take a closer look at all oil fields."

Industry groups **Today's Promotion** issue.

"There is a lot we don't understand about wintertime ozone; we need this research," said Kathleen Sgamma, vice president for government affairs at the trade group Western Energy Alliance.

The industry is participating in the Utah study. "We've gotten great cooperation," said Gabrielle Petron, a NOAA researcher driving around the basin in a truck equipped with a mobile lab.

Pollution linked to drilling

High levels of ozone were found in Wyoming's Green River Basin and Utah's Uintah Basin, raising concerns about air quality in Colorado oil fields including the Piceance Basin. Methane and propane were found in high levels close to the Denver-Julesburg Basin in Colorado.



Click on image to enlarge (The Denver Post)

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- Magpul says move out of state "underway," and others will follow 175

[Note: 26 of 30 pages of
Attachment #11 were
omitted.]

HB 1348
as passed

**Sixty-third Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 8, 2013**

HOUSE BILL NO. 1348
(Representatives Froseth, Drovdal, Hunskor, Kempenich, Monson)
(Senators Andrist, Laffen)

AN ACT to amend and reenact section 38-08-05 of the North Dakota Century Code, relating to setbacks for oil and gas wells.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 38-08-05 of the North Dakota Century Code is amended and reenacted as follows:

38-08-05. Drilling permit required.

1. ~~It is unlawful to~~ A person may not commence operations for the drilling of a well for oil or gas without first obtaining a permit from the industrial commission under ~~such~~ rules as may be ~~prescribed~~ adopted by the commission and paying to the commission a fee for each ~~such~~ well in an amount to be ~~prescribed~~ determined by the commission. The applicant shall provide notice to the owner of any permanently occupied dwelling located ~~within one-quarter mile~~ one thousand three hundred twenty feet [402.34 meters] of the proposed oil or gas well.
2. Unless waived by the owner or if the commission determines that the well location is reasonably necessary to prevent waste or to protect correlative rights, the commission may not issue a drilling permit for an oil or gas well that will be located within five hundred feet [152.4 meters] of an occupied dwelling. If the commission issues a drilling permit for a location within ~~five hundred~~ one thousand feet [~~152.4~~ 300.48 meters] of an occupied dwelling, the commission may impose ~~such~~ conditions on the permit as:
 - a. For wells permitted on new pads built after July 31, 2013, the conditions imposed under this subdivision may include, upon request of the owner of the permanently occupied dwelling, requiring that the location of all flares, tanks, and treaters utilized in connection with the permitted well be located at a greater distance from the occupied dwelling than the oil and gas well bore if the location can be accommodated reasonably within the proposed pad location; or
 - b. As the commission determines reasonably necessary to minimize impact to the owner of the occupied dwelling.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-third Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1348.

House Vote: Yeas 93 Nays 0 Absent 1

Senate Vote: Yeas 47 Nays 0 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2013.

Approved at _____ M. on _____, 2013.

Governor

Filed in this office this _____ day of _____, 2013,

at _____ o'clock _____ M.

Secretary of State