

**FISCAL NOTE**  
**Requested by Legislative Council**  
**04/25/2019**

Amendment to: Engrossed SB 2315

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>				\$0		\$0
<b>Expenditures</b>				\$0		\$0
<b>Appropriations</b>				\$0		\$0

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
<b>Counties</b>			
<b>Cities</b>			
<b>School Districts</b>			
<b>Townships</b>			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill amends and reenacts sections of the NDCC relating to criminal trespass & hunting on private land; repeal section relating to prima facie evidence of hunting; provide a legis mgmt study; to provide a penalty.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 6 - legis management shall conduct a study. At direction of legis mgmt. before Aug. 1, 2020 ITD and Game and Fish shall establish a trial electronic posting and hunter access information system in up to 3 counties.

Section 7 provides for education and marketing regarding the changes to land access. It is unknown at this time how much this would cost.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The effect on revenue is unknown.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Section 6 - if determined by legis mgmt, establish a trial electronic posting and hunter access information system in up to 3 counties. Game and Fish funding can't be used for the development of the electronic posting system.

Section 7 - provides for education and marketing regarding the changes to land access. It is unknown at this time how much this would cost.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Unknown

**Name:** Kim Kary

**Agency:** Game & Fish

**Telephone:** 328-6605

**Date Prepared:** 04/25/2019

**FISCAL NOTE**  
**Requested by Legislative Council**  
**04/11/2019**

Amendment to: Engrossed SB 2315

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>				\$0		\$0
<b>Expenditures</b>				\$0		\$0
<b>Appropriations</b>				\$0		\$0

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
<b>Counties</b>			
<b>Cities</b>			
<b>School Districts</b>			
<b>Townships</b>			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill amends and reenacts sections of the NDCC relating to criminal trespass & hunting on private land; to provide a statement of legislative intent; and to provide a penalty.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 5 provides for education and marketing regarding the changes to land access. It is unknown at this time how much this would cost.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The effect on revenue is unknown.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Section 5 provides for education and marketing regarding the changes to land access. It is unknown at this time how much this would cost.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Unknown

**Name:** Kim Kary

**Agency:** Game & Fish

**Telephone:** 328-6605

**Date Prepared:** 04/12/2019

**FISCAL NOTE**  
**Requested by Legislative Council**  
**04/10/2019**

Amendment to: SB 2315

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>				\$0		\$0
<b>Expenditures</b>				\$0		\$0
<b>Appropriations</b>				\$0		\$0

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
<b>Counties</b>			
<b>Cities</b>			
<b>School Districts</b>			
<b>Townships</b>			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill amends sect. of the NDCC relating to criminal trespass&hunting on private land; provide a stmt of legis intent;provide for a study of access to land; repeal sect of NDCC;provide for a report to legislature;provide a penalty;provide a contingent effective & expire date;declare an emergency.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 11 provides for education and marketing regarding the changes to land access. It is unknown at this time how much this would cost.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The effect on revenue is unknown.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Section 11 provides for education and marketing regarding the changes to land access. It is unknown at this time how much this would cost.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Unknown

**Name:** Kim Kary

**Agency:** Game & Fish

**Telephone:** 328-6605

**Date Prepared:** 04/10/2019

**FISCAL NOTE**  
**Requested by Legislative Council**  
**02/19/2019**

Amendment to: SB 2315

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>				\$0		\$0
<b>Expenditures</b>				\$250,000		\$0
<b>Appropriations</b>				\$250,000		\$0

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
<b>Counties</b>			
<b>Cities</b>			
<b>School Districts</b>			
<b>Townships</b>			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill creates & enacts 20.1-18 relating to a database identifying whether private land is open to hunters; to amend & reenact sect of NDCC relating to criminal trespass & hunting on private land; to provide a statement of legis. intent; to provide for a legis. mgmt study; & to provide a penalty.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 6 of the proposed amendment requires the creation of a publicly accessible database to designate private land open to hunters, closed to hunters, or open to hunters with permission from the owner or lawful occupant. The database will be available to those counties that provide their geographic information system data to the information technology department (ITD).

The publicly accessible database and the mapping application would require approx. \$250K for IT programming. This database is contingent upon ITD's 2019-21 budget request for a GIS-Statewide Land Parcel system.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The effect on revenue is unknown.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The proposed amendment would not require additional game and fish staff. The publicly accessible database and the mapping application would require approx. \$250K for IT programming. This database is contingent upon ITD's 2019-21 budget request for a GIS-Statewide Land Parcel system.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Increase appropriation Operating line \$250,000.

**Name:** Kim Kary

**Agency:** Game & Fish

**Telephone:** 328-6605

**Date Prepared:** 02/19/2019



**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/18/2019**

Bill/Resolution No.: SB 2315

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>				\$0		\$0
<b>Expenditures</b>				\$1,142,000		\$892,000
<b>Appropriations</b>				\$1,142,000		\$892,000

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
<b>Counties</b>			
<b>Cities</b>			
<b>School Districts</b>			
<b>Townships</b>			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill creates and enacts a section of the NDCC relating to identifying private land open to hunters, amends and reenacts sections relating to criminal trespass and hunting on private land and repeals a section relating to posting land and penalties.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 5 of the bill requires the Dept. to create a publicly accessible application to be used by persons legally entitled to grant hunting permission to identify private lands open to hunting and present this information in an electronic format. This would require IT programming to develop a records management system, a mapping application to present the information electronically and the need for six (6) additional FTE. The proposed bill has a potential negative effect on revenue.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The effect on revenue is unknown. However, we anticipate the loss of huntable acres of unposted lands to be greater than our current available PLOTS acres. Additionally, we expect this bill to sever some landowner/lessee and hunter relationships due to the difficulty in establishing contact. Surveys show hunting access is a top issue for hunters. We conclude that any reduction in hunting access will contribute to loss of hunter participation and align ND with the nationwide decline in hunting participation.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The state of North Dakota has approximately 38 million acres of private lands. If 2.5% of landowners sought to open hunting access to their land, we estimate this to result in approx. 950,000 acres. The Dept. currently administers

approx. 768,000 acres annually in the Private Land Open to Sportsmen program (PLOTS). Private lands staff administer 200-500 PLOTS agreements per employee annually. We estimate that one staff could administer a maximum of 500 posting agreements annually. PLOTS agreements average approx. 300 acres per agreement. We estimate that 950,000 acres could result in 3,166 posting agreements. Based on the above, we will need approx. \$892,000 for six (6) additional FTE to administer landowners participating in posting agreements.

IT costs: We estimate it will cost approx. \$250K to construct a records management system and provide a mobile application to display the information. This does not provide an authentication solution to verify the landowner, lessee, partnership (trust, life estate, LLC/LLP). Total expenditures for 2019-21 is \$1,142,000.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Increase appropriation for Salaries line \$892,000 and Operating line \$250,000. The salaries amount includes a request for six (6) New FTE.

**Name:** Kim Kary

**Agency:** Game & Fish

**Telephone:** 328-6605

**Date Prepared:** 01/24/2019

**2019 SENATE AGRICULTURE**

**SB 2315**

# 2019 SENATE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Roosevelt Park Room, State Capitol

SB 2315  
1/25/2019  
31531

- Subcommittee  
 Conference Committee

Committee Clerk Signature Dan Johnston II/ Marne Johnson

## **Explanation or reason for introduction of bill/resolution:**

A bill relating to a database identifying whether private land is open to hunters; relating to criminal trespass and hunting on private land; to provide a statement of legislative intent; to provide for a legislative management study; and to provide a penalty.

## **Minutes:**

45 attachments

**Chairman Luick:** Opened hearing on SB 2315.

**Senator Erbele, District 28:** See attachment #1 for testimony in support of SB 2315.

**Senator Patten, District 39:** Voiced his agreement with Senator Erbele.

**Representative Schmidt, District 31:** See attachment #2 for testimony in support of SB 2315.

**Boe:** Asked for a favorable recommendation on SB 2315.

**Julie Ellingson, Stockman's Association:** See attachment #3 for testimony in support of SB 2315.

**Vice Chair Myrdal:** Can you briefly explain the difference between last session's law and this one?

**Julie Ellingson:** During last session, there were several renditions of the bill that was presented to you at that time. Originally, it was a bill to reverse the presumption of land being open to land being closed. Ultimately, the bill that was voted on had some database components and was going to be a pilot project. Ultimately, that was rejected through our conversations and over the course of the interim; we have again identified the needs of the landowners, focused strongly on the property rights components and the desires of sportsmen to have access. I hope that the package before you will address both of those needs in a fashion that is favorable.

**Vice Chair Myrdal:** Some of the concerns I have heard from the eastern part of the state are what if land is CRP or other programs were the state pays you to preserve that land but it is still your land. Can you comment to that?

**Julie Ellingson:** Nothing in SB 2315 changes anything with those programs. This simply provides the opportunity to landowners to receive consent.

**Keller: Urged a Do Pass.**

**Charlie Sorenson: See attachment #4 for testimony in support of SB 2315.**

**Senator Unruh, District 33: See attachment #5 for testimony in support of SB 2315.**

### Opposition

**Brian Shanilec: See attachment #6 for testimony in opposition of SB 2315.**

**Chairman Luick:** Is it possible on the app that is being proposed, for an operator to be listed, rather the owner?

**Brian Shanilec:** I would believe so. However, that is proprietary information.

**Darrell Belisle, President North Dakota Bowhunters Association: See attachment #7 for testimony in opposition of SB 2315.**

**Simonson:** I am here today recommending a Do Not Pass on SB 2315. We have heard a lot today already, and I am sure we will hear a lot more. We have heard stories about ghost hunters and flaming sticks, they are designed to invoke fear. However, it is not your job to deal with fear, your job is to deal with facts, and no one has addressed the facts. An important fact from my vantage point as an attorney, and yours as Senators, is “does this law work”? When you look at the sections in 12.1 and in chapter 20.1 that are amended by 2315, you have to ask yourself “does this law work”. My position is that it does. If you go to the Attorney General’s office website and look at the 2017 crime statistic, there were 1,000 trespass cases in North Dakota, for 750,000 people. 400 of those were the B misdemeanor trespass that are an issue today. Therefore, that is 400 for 750,000, less than ½ percent. On top of that, charges under 20.1, there were 59 tickets issued by the North Dakota Game and Fish, for a population of 140,000 licensed hunters in 2017. That is 4/100 of a percent of the population. Is you look at the amount of DUIs issued, compared to the driving population in North Dakota of roughly 500,000, there were 5,000. That is a law that is broken, this law is not. SB 2315 will not change that. What this tells me, as a former prosecutor and as an attorney, is that the law works, but that is because people on both sides of this room understand that it works. The landowners know how to post their land, and the sportsmen know when to ask. When the sportsmen see a sign that is beat up or faded or torn, or if it is a brand new shiny metal sign, they ask. You are going to hear many fear stories, but those are the facts. SB 2315 is trying to fix a law that is not broken; I will not deny that there is a rife, but this is not the solution, this is the nuclear option. However, when you compare it, the current law is working. Now if you look into the amendments in SB2315, you will see that with this drastic change,

the proponents recognize there is a serious impact to hunters, they say this is not an anti-hunting bill, and yet we spend a lot of time talking about hunting. Because they realize that over 1,000,000 acres of unposted land will be taken off the landscape for hunters all across this state. The solution they provide for this, compounds the problem; this proposed database is a dog that won't hunt. The creation of this database sounds great, doesn't it? Sounds familiar doesn't it? That is because we have had this database in North Dakota for over 20 years! In fact, they stopped short of naming it PLOTS and named it Private Land Open to Hunters. But the question I am asking you, what the proponents of this bill are telling me and you today, is that people who have not availed themselves of money, who have all this unposted land and have not enrolled it in PLOTS, some after this bill changes, are going to do it out of the goodness of their hearts. Like I said, that dog does not hunt, it does not even guard the farmyard. Therefore, I want you to consider these facts, and the ramifications that will happen if this change in the law takes place. I will not belabor the dollars that are at stake, but I touch upon them briefly, as I am sure my colleagues will get more in-depth. As access to 1,000,000 acres of unposted land, which is protected under our constitution, goes so go hunters. If I took 20% of the golf courses in North Dakota, I am guessing many people would golf a whole lot less. As access goes, so do hunters. However, unlike golfers, hunters generate money at three different levels, Federal level, State level and Local level. SB 2315 runs contrary to North Dakota's constitution, Article 11 section 27 preserves the right of hunting and fishing, and they are to be protected by law not attacked by proposed laws like SB 2315. I ask that you take your constitutional duties seriously, the oath you swore at the beginning of this session, to consider the public good, and that is to preserve the rights of sportsmen in this state. Now we have heard a lot about the burden and the work that goes into post land, along with my cousin, in the early 2000s, I would post my grandmothers land; it was 310 acres, spread out over about 5 miles. It took us about 45mins and about 30 dollars' worth of signs, gasoline, and staples.

That breaks down to about 10 cents per acre, and about 10 seconds per acre. Those are real numbers; I have not heard any real numbers as to how long it takes!! What is burden that you as Senators have to balance against this greater common good protected in the constitution? I ask today that you consider facts and not fear, and that your decision be one of hope for a better relationship. The nuclear option is on the table, I can propose multiple other solutions that can bring these parties together, including a jointly drafted hunter education model, between hunter groups, between landowner groups and the North Dakota Game and Fish, that is a part of every single hunter's curriculum from here on out. All we have to do is down and talk. This chasm is not so wide that we cannot build a bridge. For these reasons and for the possibility of solutions in the future, I ask you to consider a Do Not Pass on SB 2315.

**Senator Klein:** The article you quoted is in the constitution, but we also heard that we have the right to acquire and possess property. You are talking about a law; you are not talking about the original fact that it is the landowner's property. You're talking about a law that we created to allow people to hunt if it is not posted. Know, you were a bit animated there and I am just suggesting there are other issues and other ideas and other concerns that we have to sort here. We are not the jury, we are trying to figure out what the best method and how to protect individuals who believe this their property, they own this property, we would not have somebody sitting in your backyard shooting squirrels out of a tree that you would not be upset about and calling the police. That is where we weight this, there are a lot of

Agriculture groups out representing a lot of rural folks, so I am just suggesting that we have to tone this down a bit and that we can move forward that way.

**Simonson:** I agreed with you 100% Senator Klein, but the tone is one of fear and ghost stories and sticks on fire etc. We need to get beyond that, like I said, if you balance the facts here along with the issue that I presented with the constitution, and I agree with what Senator Unruh presented with all of these constitutional rights, remember that our rights are bond by the public good. If I owned a house and the situation you described transpired, certainly I would call the police and chase someone who had a firearm in my backyard that is base #1 right there. However, in Bismarck, my house is subject to the laws of the State of North Dakota, Bismarck, and the CCNRs that govern my neighborhood as well. I have to mow my grass; I have to shovel the walk that is for the public good. No one likes a blighted neighborhood, no one wants anybody slipping and falling on public access sidewalks. So, I agree with you 100%, you must balance these two.

**Paul Henderson:** See attachment #8 for testimony in opposition of SB 2315.

**Senator Klein:** Do you post your land?

**Henderson:** I do.

### Support

**Greg Daws:** See attachment #9 for testimony in support of SB 2315.

**John Weinand, North Dakota Grain Growers:** See attachment #10 for testimony in support of SB 2315.

**Senator Larsen:** There has been some discussion about increasing or fee hunting and you had said how you have been to other states and even out of the Country hunting, when you go to these places to hunt, are you required pay a fee to the landowners? I suppose if you have a guide that you're with, you pay fees to him.

**John Weinand:** In South Africa, the hunting is done on private land and generally, they have a fee per animal. However, in the western states where I have hunted, that is generally on public land.

**Clayton Pederson, Vice President, RAX Adventure Team:** See attachment #11 for testimony in support of SB 2315.

**Daryl Lies, North Dakota Farm Bureau:** Voice his support of SB 2315.

1:35:00

### Opposition

**Tom Bear:** Reemphasized testimony submitted by Simonson.

**John Bradley, North Dakota Wildlife Federation: See Attachment #12 for testimony in opposition of SB 2315.**

**Carmen Miller, Ducks Unlimited: See attachment #13 for testimony in opposition of SB 2315.**

**Mike McEnroe, North Dakota Wildlife Federation: See attachment #14 for testimony in opposition of SB 2315.**

**Bill Helphrey, North Dakota Bow Hunters Association: See attachment #15 for testimony in opposition of SB 2315.**

### **Support**

**Troy Coons, Chairman Northwest Landowners Association: See attachment #16 for testimony in support of SB 2315.**

**Tyler Lannoye: See attachment #17 for testimony in support of SB 2315.**

**Erika Kenner: See attachment #18 for testimony in support of SB 2315.**

**Joe Schettler: See attachment #19 for testimony in support of SB 2315.**

**Darrell Oswald: See attachment #20 for testimony in support of SB 2315.**

**Caleb Mehlhoff: See attachment #21 for testimony in support of SB 2315.**

**Paul Mathiason, Chairman, North Dakota Ag Coalition: See attachment #22 for testimony support of SB 2315.**

**Dan Rorvig: See attachment #23 for testimony in support of SB 2315.**

### **Opposition**

**John Devney, Delta Waterfowl: See attachment #24 for testimony in opposition of SB 2315.**

**Lloyd Jones: See attachment #25 for testimony in opposition of SB 2315.**

**Jack Paris:** Voiced his disagreement over the cost to post land, and his concern over declining access to hunting land.

### **Neutral**

**Kyle Kirchmeier, Morton County Sheriff:** I have dealt with a lot of trespassing issues over the last couple of years. The point I want to make is that law enforcement is caught in the middle. Landowners have rights, people like to go out and hunt. However, the current law is not working, in order for us to make an arrest; we have to prove that it was signed and that



the trespassers saw the signs. We have had cases where the signs are up one day, and taken down the next. Therefore, something needs to happen here to make the prosecution of trespassers easier.

**Vice Chair Myrdal:** How often do you see hunters enter posted land belligerently?

**Kyle Kirchmeier:** Most of the time hunters do not act belligerent when on posted land.

**Terry Steinwand, North Dakota Game and Fish:** Expressed the need for communication between landowners and hunters.

### **Opposition**

**D. Henderson:** reiterated what was already brought before the Committee

### **Support**

**Jeff Schafer:** See attachment #26 for testimony in support of SB 2315.

**Kayla Pulvermacher, North Dakota Farmer's Union:** See attachment #27 for testimony in support of SB 2315.

**Vice Chair Myrdal:** Are you aware of any Agriculture groups that oppose this?

**Kayla Pulvermacher:** I am not.

**Senator Hogan:** Do you know the circumstance surround the creation of this law 90 years ago.

**Kayla Pulvermacher:** I really could not speak to that.

**Roger and Becky Graner:** See attachment #28 for testimony in support of SB 2315.

**Randy Melvin, President North Dakota Corn Growers Association:** See attachment #29 for testimony in support of SB 2315.

**Levi Rue:** See attachment #30 for testimony in support of SB 2315.

### **Chairman Luick calls Julie Ellingson to the podium.**

**Vice Chair Myrdal:** You have heard some of the concerns we have over the app. Can you explain to us a little bit, about how that would work? What about if I want my land posted for one season, and open for another?

**Julie Ellingson:** So this has been a long discussion over the course of many years, even more so over the last 18 months. We have talked about some of the sit down with those on the other side of this issue and we have a subcommittee within our organization that has explored many ideas. Some of the details would have to be identified through administrative

rule or through policy making and such. The vision is to be able to provide easily assessable tool for sportsmen, to address some of the access issues and the knowledge about that.

**Chairman Luick:** Closed hearing on SB 2315.

Additional testimony was submitted to the committee.

**Please see attachment #31, testimony in support from Mary Graner.**

**Please see attachment #32, testimony in support from Mike Gerhart.**

**Please see attachment #33, testimony in support from Fremont Gruss.**

**Please see attachment #34, testimony in support from Craig Kemmet.**

**Please see attachment #35, testimony in support from Raheem Williams.**

**Please see attachment #36, testimony in support from Scott Nelson.**

**Please see attachment #37, testimony in support from Scott Bachmeier.**

**Please see attachment #38, testimony in support from Burdell Johnson.**

**Please see attachment #39, testimony in support from Wayne Gerbig.**

**Please see attachment #40, testimony in support from Brian Kadrmas.**

**Please see attachment #41, testimony in support from citizens of Amidon.**

**Please see attachment #42, testimony in support from Roger Kenner.**

**Please see attachment #43, testimony in support from Bret Weiland.**

**Please see attachment #44, excerpt from Duke Law Journal.**

**Please see attachment #45, testimony in opposition from Brian Morris.**

# 2019 SENATE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Roosevelt Park Room, State Capitol

SB 2315  
2/1/2019  
Job # 31942 (23:28 – 28:10)

- Subcommittee  
 Conference Committee

Committee Clerk: Carie Winings

## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact sections 12.1-22-03, 20.1-01-17, 20.1-01-18, and 20.1-03-42 of the North Dakota Century Code, relating to criminal trespass and hunting on private land; to repeal section 20.1-01-20 of the North Dakota Century Code, relating to prima facie evidence of hunting; to provide for a legislative management study; and to provide a penalty.

## Minutes:

No Attachments

**Chairman Luick:** Opened SB 2315 for committee discussion. We were talking; Game and Fish were up there, Senator Erbele, Senator Schaible, Senator Patton, ITD, and Claire Ness, and what they are floating around is the idea of a three tier type of a system. Everything would be considered closed with new language in a hog-house amendment. We are looking at bringing this to fruition in the next 2-3 years in phases. You would have installed information on an app that would say that you have green property (identification that it is open whenever), you would have yellow property (that says to be contacted), and you would have red (no hunting there). If you physically go out and post your land, it supersedes anything that is on the app. If you don't have time to get your app changed, you have the availability to go out there and post you land physically. Now, this is something that we are thinking that we want to incorporate slowly so that it does not come down to quickly. Game and Fish feels that this is much much better than what we have going on today. They are seeing a lot of problems with it. There is going to be a cost to it. That is also being looked at right now. I asked the question to Game and Fish as far as what they suspect this might change within 5 years, and their opinion is that it would look tremendously better than what it is today.

Senator Hogan: (Inaudible question.)

Chairman Luick: That would be treated the same as hunting. It is a right of property of ownership.

Senator Hogan: (Inaudible.)

**Chairman Luick:** Quite honestly, they had not even thought about it. One of the other meetings I was at, they hadn't even thought about bird watching, for example. That gives you an entirely different section of code if you are carrying a gun onto someone else's property. What I am hearing right now is that the urban area no trespassing laws are very strict compared to what we are looking at on rural property.

**Senator Hogan:** (Inaudible.)

**Senator Larsen:** Commented on bird watching.

**Chairman Luick:** Closed the discussion on SB 2315.

# 2019 SENATE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Roosevelt Park Room, State Capitol

SB 2315  
2/1/2019  
32456

- Subcommittee  
 Conference Committee

Committee Clerk Signature Dan Johnston II
---

## **Explanation or reason for introduction of bill/resolution:**

Relating to posting land; and to provide a penalty.

## **Minutes:**

**Chairman Luick:** Opened discussion on SB 2315.

**Senator Hogan:** (first part of discussion inaudible) Not looked at it at all, and he sent back a response saying that he has major concerns about the revisions in section #1 on the definition of trespass, as it impacts all the municipalities. So I then went to Legislative Council and had Samantha Kramer and Clara Ness, who is doing the draft amendment for Senator Erbele, ask if they had looked at that to see if there were any unintended consequences. They think that there might be unintended consequences of the way that is drafted; so they are looking at that now. I said to Senator Luick that I think we have done such good work and I do not want to kill the bill on this. So, a bunch of lawyers are in a room looking at this now, and one of the suggestions is that we keep sections #2-3 and cut section #1, because of the unintended consequences, or change that. So, I do not know what is happening, I just want the Committee to know what is going on.

**Chairman Luick:** So that will be next week some time.

**Chairman Luick:** Closed discussion on SB 2315.

# 2019 SENATE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Roosevelt Park Room, State Capitol

SB 2315  
2/15/2019  
Job Number 32825

Subcommittee  
 Conference Committee

Committee Clerk: Marne Johnson
--------------------------------

## Explanation or reason for introduction of bill/resolution:

A bill relating to identifying private land open to hunters; relating to criminal trespass and hunting on private land; relating to posting land; and to provide a penalty.

## Minutes:

1 Attachment
--------------

**Chairman Luick:** We've got amendments from the governor's office, and lots of other things. Let's look at version .01003 (**please see attachment #1**). In visiting with Senator Erbele, there are some things that he and Senator Wanzek agree about on what to leave in and take out. Where the x is, they prefer that that stay in. On the top of page 4, that is a continuation of it staying in. On pages 5 and 6, there are some changes where they've taken out the word 'database', which is fine with everybody. It is very distracting, and doesn't need to be in there. If you look at the top of page 6, 'database' is stricken and 'may' turned to 'shall'. If you could markup your copies and visit with your people. Senator Erbele couldn't make it today, we will go through this now, and come back tomorrow.

**Senator Hogan:** On page 5, lines 15-17, are we keeping the governor's recommendation on that?

**Chairman Luick:** They want that back in.

**Senator Hogan:** You think that's ok?

**Chairman Luick:** It sometimes doesn't matter. I ask you to study it and think about it yourself. Section 6; line 22-23 take out the 'database', Senator Erbele was basically saying he is comfortable with any of the changes they are suggesting, or leave it as is, it didn't matter to him. Think about who should be on that advisory group.

**Senator Hogan:** Are there any hunter's groups on this advisory committee? It looks like a state group.

**Chairman Luick:** That's a good point.

**Senator Hogan:** It seems like the hunters are missing from this group, if it's the hunter's access group.

**Chairman Luick:** I don't have a problem with that, if you think that we should include someone, what if we included the head of the Game and Fish Department?

**Senator Hogan:** It's all government entities, and if we're trying to build that collaboration, I was thinking more, is there a natural hunter's group?

**Vice-Chair Myrdal:** I agree with Senator Hogan, I don't see some of the parties that we're hearing from are landowners or stockman's, those are the ones we're hearing from, or the outdoorsman, outdoor sportsman, hunters. There's a lot of misunderstanding out there. In something that belongs to the people, like this, I think it would be wise to add some kind of representation from those two parties in this.

**Chairman Luick:** Bring me some suggestions tomorrow.

**Senator Klein:** Can we step back to that lines 15-17, why wouldn't we strike that? It almost seems like we're inviting trouble.

**Chairman Luick:** I thought the same thing. I don't know exactly why Senator Erbele asked to put that back in. I wanted to get your guys' opinions about that.

**Vice-Chair Myrdal:** Basically, you own the land, you don't post it, and you don't go on the database and put information in. Correct? There's no knowledge to the public except who owns it. According to this, that's automatically, you can't go. It's a little bit conflicting language to set on the database.

**Chairman Luick:** The effort here is to take the hunting guide and hunting outfitter completely out of the language. The presumption that there is a special set aside for guides and or the hunting outfitters.

**Senator Osland:** DO we have anything in the statutes on hunting guides in the state of North Dakota?

**Senator Hogan:** This section is guiding on prohibited lands.

**Senator Osland:** We don't have anything else?

**Chairman Luick:** I can't tell you that.

**Terry Steinwand, Director Game and Fish:** There is a whole pile of administrative rules authorized by century code. If you take out the proposed language, it goes back to, if you are guiding outfitting, you still need written permission on the land. We would recommend, similar to the governor take this out because even if it's not posted by regular sign or through the digital database, that guiding outfitter under current law would still need to have written permission from that landowner.

**Chairman Luick:** I would assume that they would have no more rights than any other hunter.

**Terry Steinwand:** That is absolutely correct. They have more responsibility, having to get that written permission.

**Senator Klein:** Those three lines should go away?

**Terry Steinwand:** That would correct.

**Senator Klein:** That would make it easier to understand more, they should still get permission

**Terry Steinwand:** Exactly, it would default to the existing language, that they would still have to have written permission.

**Senator Larsen:** With the new system that rolls out, that everything is presumed open to hunting, if that part wasn't there, then the outfitter would presume that it is open to all hunting.

**Chairman Luick:** Exactly.  
Should we decide on section 6? What are the thoughts right now?

**Vice-Chair Myrdal:** I think there has to be some additions, but I agree with Senator Hogan, we can't just leave the public out.

**Chairman Luick:** We are going to think of who and how many should be on that.

**Senator Klein:** Does anyone know why we would have left anybody out?

**Julie Ellingson, Stockman's Association:** In visiting with the sponsors, that was one question that we had posed too. It indicated we didn't know where to start and stop? Maybe the committee could identify some, we'd be happy to serve on that if we were selected.

**Senator Larsen:** With the Human Services Department, we had a huge task force, I don't know how many entities were a part of it, but we had a small amount of people at the table, but the people around the table were shoving the information to that. That kept that committee from being enormous. Everybody had input, but they just were officially recognized in the legislation.

**Chairman Luick:** That is exactly the way that I hope this room is right now. I welcome and appreciate the input that comes from you folks.

**Senator Hogan:** Perhaps it's language like two representatives from the ag coalition, because we have one established, they could pick. I don't know from the sportsman and the hunter's side if there's a similar kind of coordinating group. If we have two representatives from both sides, that might be best. The question is, who gets to pick them.

**Chairman Luick:** My question is on letter g; do we need a legislator from the chambers?



**Senator Osland:** Some years ago, you had advisory groups throughout the state, is that still true?

**Terry Steinwand:** Yes, by law it's a Game and Fish Advisory Board, it's the same as the judicial districts in North Dakota, we are mandated by law to hold two meetings in each district every year, once in the spring and once in the fall. We have some coming up the end of April.

**Senator Osland:** Does that group have any upper level management?

**Terry Steinwand:** No, they report to the governor.

**Senator Osland:** I know there's active people on there, somebody from that group would be someone to look at if we wanted to enhance some more.

**Terry Steinwand:** That's one option, but by law, it's made up by half sportsmen, half landowners. It's a mixture.

**Senator Larsen:** I went to an event with Mr. Gullickson, everybody was there, everybody purged their issue to these folks.

**Terry Steinwand:** That was an advisory board meeting, I remember it well.

**Senator Larsen:** To me that is what would work. All of these people come, and all of the ideas from that night become the new deal. We wouldn't have to have one of everybody, because everybody is already there.

**Senator Hogan:** Is there any statewide group that brings all of the various hunting and sportsman issues together?

**Terry Steinwand:** There is one, called United Sportsmen, they aren't nearly as involved as they have been, but North Dakota Wildlife Federation is a statewide organization. If you're going to have two on one side, you need two on the other to balance. Senator Erbele has been wonderful to work with, Senator Patten also. It's not perfect, but you have to get past the noise first.

**Chairman Luick:** Moving on to page 7, number 4, lines 3-5 to go back in. It seems to me that it should stay out.

**Senator Larsen:** Wasn't this the discussion about, it's going to take more than a day to build the database? So that the county that's done will use the electronic method, but if somebody is out there hunting and they're not in the database, then it reverts to the old rule? I think that's what this discussion is about. When I'm out there hunting and I turn on my app and the information is not there yet, that's what I think this is about. What I think will happen is folks will look on the app and just figure, everything is now open, regardless, statewide, unless they put information in. The counties are not ready yet, that's what this part is about.

**Vice-Chair Myrdal:** That defeats the whole purpose of the intent of the bill from the get-go. The original intent is that everything is closed, unless you get permission, there's no posting

anymore. What I'm hearing you say is the opposite. Let's say Pembina County is the last county two years from now. A hunter comes up there, there's no posting signs, he can't hunt unless he finds the owner to get permission. It's the original intent, correct?

**Chairman Luick:** No. It's open.

**Vice-Chair Myrdal:** In that county you have to have some provision that you can't just.

**Senator Klein:** What are we suggesting, leaving that crossed out? Maybe we could ask Terry to help with these tweaks.

**Chairman Luick:** Do you know what section 20.1 is?

**Terry Steinwand:** 20.1-17? That is what is legal posted for hunting. As an example, on unfenced land, every 880 yards, or if it's fenced, at the gate. Senator Myrdal, you are right, the original intent was automatically, everything closed to hunting. This is, it's complicated, it's complex, it's confusing at times, but the intent is, everything reverts back to the physical post, 20.1.01-17, meaning physical posting. Once we get into that database, then the landowner goes on and says, I want it closed to hunting, don't even bother me; I'll do it with permission, or I may not; and everything else is open. The automatic default is going to the posting as we know it now.

**Vice-Chair Myrdal:** What I'm concerned about is the in-between time, the next confusing 2 years.

**Terry Steinwand:** It is going to be challenging. It's going to take a lot of communication and probably going to be very confusing to the non-resident hunters, they're used to the way we've had it the last 70 years. My thought process is when you pull up the app if that county is black, they're not in the database, automatic veto. If you are in a county that is in the database, then it's a color scheme that indicates closed, closed without permission, or open. I would leave that to the advisory group, to formulate that communication plan. It is going to be confusing, at least for the first year.

**Vice-Chair Myrdal:** So basically, for the next 2 years, you have to post your land.

**Senator Klein:** That's in here.

**Senator Larsen:** Folks will be going to the database to see the results, will it be in the rule make up to decide if that result will be shown as percent complete, or all on line.

**Terry Steinwand:** That would be my understanding. 100% of this is contingent on ITD developing that baseline layer. Without that, this concept falls apart

**Chairman Luick:** So lines 3-5 back in.

**Terry Steinwand:** Page 3, lines 27-29, regarding trapping, for years it's been written permission required for trapping, that was a result of some non-residents. We request the written permission for trapping stay in there. This is a resident/non-resident issue, during the

muskrat wars, a lot of non-residents were coming in and going on the land that was unposted. The resident trappers requested that that stay in.

**Chairman Luick:** We have that marked to stay in.

**Terry Steinwand:** I met with a State's Attorney, he has an issue with the penalty phase or the electronically posted penalties. If there's a quarter of land, if I owned 80 acres and didn't care who hunted, but Senator Luick owned the other 80 and wanted it closed, somebody goes out on mine and wanders onto his, and Senator Luick wants him prosecuted. It automatically invokes a class B misdemeanor penalty and a mandatory suspension of one year's hunting, fishing and trapping privileges. He would recommend, at least for the initial phases of this, it be an infraction, let the investigatory branch figure out what it is and work out with the State's Attorney. This is not in the amendment you are looking at.

**Chairman Luick:** It must be identified here.

**Senator Hogan:** (inaudible) page 7, line 8.

**Terry Steinwand:** Yes, Senator Hogan, that would be a good place too.

**Chairman Luick:** Until we get this ironed out, maybe we should reduce that a little.

**Vice-Chair Myrdal:** That takes the teeth out of the whole thing, doesn't it?

**Chairman Luick:** Yes, it may.

**Vice-Chair Myrdal:** How many bad actors are going to be out there 100 yards in. Then there's nothing for the next two years.

**Senator Klein:** What happens now? You shoot a bird on posted land, you can't fetch them?

**Terry Steinwand:** Yes, you can.

**Senator Klein:** Is there a penalty then?

**Terry Steinwand:** No, in law you can enter that land to retrieve that game, you just can't carry a firearm with you.

**Senator Klein:** Isn't that what we were asking?

**Terry Steinwand:** No, this was something different. Under current law, if a landowner files a complaint, we go in, investigate, it's taken to the State's Attorney, the biggest problem they have is the State's Attorney most of the time plea it down to criminal trespass, which is a \$100 fine, they don't lose their hunting and fishing privilege, part of the issue is we belong to an interstate compact, if they lose their license in North Dakota, they lose it in 42 other states.

**Vice-Chair Myrdal:** We have people hunt on our land all the time. Sometimes they're not a good shot; you're going to follow that deer to put it down, that's just humane, you're not going

to go after them; it's the bad actors you go after. I think if you remove this, it gives a huge loophole. We have to leave some commonsense to the people on North Dakota, we're micromanaging it.

**Chairman Luick:** That is something I hear frequently, that the 5% bad actors aren't being spanked hard enough. This is an increasing infringement.

**Senator Klein:** Could we add 'knowingly' or 'intentionally' to make it better?

**Chairman Luick:** We'll have legislative council look at it. I think if we agreeing on putting some language like that in there, if they are intentionally going across property lines onto posted land or not is going to be at the mercy of the arresting officer. I think we've got to spend some time on that as well.

**Pete Hanebutt, North Dakota Farm Bureau:** we have a lot of anxiety because there are changes we haven't seen, and I'd like to look them over, I'm happy to volunteer as a hunter representative of a statewide farm organization to help with anything. We've been supportive of the concept of the original issue for years. I don't want to see it watered down to the point where it doesn't have any teeth, I also understand you get problems with local prosecution not willing to go after someone without enough consequence.

**Carmen Miller, Ducks Unlimited:** I wanted to clarify something, on page 5, the identification of the hunter access advisory group, the listing of folks there, the director or director's designee means the Director of Game and Fish. There are a couple of other things, it talked about legislator representation, and the non-penciled version includes three, if you look at the green penciled, then you've got four. The only other thing that you haven't discussed is on the top of page 6, the reference to the study. Basically charging the advisory group with studying this in the interim. I was hoping that you had seen that part.

**Senator Larsen:** We have studied that thing to death, I'm not into moving forward on that at all.

**Chairman Luick:** What are your thoughts on the study?

**Senator Hogan:** I like the study, my feeling is that we're getting all these emails, we don't have opportunity to give input, the interim would give lots of time.

**Vice-Chair Myrdal:** I'm a no study voter. If there is going to be this committee, then there is no reason to study it.

**Senator Osland:** No.

**Senator Klein:** I'm wishy washy. We're venturing onto uncharted territory, whether or not this advisory group, I'd like them to work on stuff and bring it to legislative committee, so we can understand how this works, what we need to tweak. I know we can do that without a study. I want to make sure this passes. If a study will help, I'm for it.

**Chairman Luick:** I would request a change of language to 'may' from 'shall'.

**Senator Hogan:** The other issue is you may want the hunter access advisory group to provide a report to legislative management on their findings, that report kind of stuff, so that there is a formal report.

**Senator Klein:** I don't think they had enough room to put what the study should require, just talking hunter advisory group, there has to be somebody from legislative management that's involved in that.

**Chairman Luick:** It does state on there with legislator required to implement the recommendations to the 67<sup>th</sup> Legislative Assembly.

**Senator Hogan:** This isn't really a legislative management study, it's the access to doing a study and doing a report to legislative management, that's why I like it.

**Senator Klein:** As you work through this, I'll remind you that we are wrapping up on the floor. We need to get this right.

**Chairman Luick:** I believe we can get it into a form that we can pass out, and then the hard copy may not come to us until Monday. Is that something we can do?

**Senator Klein:** I just want to stay within the sponsor's intent.

**Foster Ray Hager, Cass County Wildlife:** There's two main issues here, the rancher and farmer doesn't want to post his land. The hunter wants access, and if it isn't posted, it's a chore. In Washburn there's a family that owns a township, but not all in one block. I think my group could live with this bill. It's up to you to make it so it works. If the farmer and rancher doesn't want to go into the database, it's very simple, your land is open to hunting, or you have to post it. It's hard to convict someone for hunting on unposted land. But it's not hard to convict for criminal trespass. I hope that what comes out of this is understandable to a fifth-grader.

**Chairman Luick:** Closed the hearing.

# 2019 SENATE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Roosevelt Park Room, State Capitol

SB 2315  
2/15/2019  
32851

- Subcommittee  
 Conference Committee

Committee Clerk: Marne Johnson

## Explanation or reason for introduction of bill/resolution:

A bill relating to identifying private land open to hunters; relating to criminal trespass and hunting on private land; relating to posting land; and to provide a penalty.

## Minutes:

2 attachments

**Chairman Luick:** Opened the hearing.

**Claire Ness, Legislative Council:** (1:00-6:30) Walked through the amendment #19.0896.01004 (please see attachment #1).

**Senator Larsen:** What does GIS mean?

**Claire Ness:** Global Information System. (7:05–8:45) continued walking through amendment.

**Vice-Chair Myrdal:** It would be as is, but we can still physically post it, correct?

**Claire Ness:** That is correct. In section 20.1-18-03, that ability to physically post your land always trumps information in the database. If a hunter goes on to your land and he finds you've posted it as closed, it doesn't matter what the database has told him.

**Chairman Luick:** And you can do that anytime?

**Claire Ness:** Correct. (9:35-10:25) Continues walking through amendment.

**Senator Hogan:** I am a little concerned about the reason we took out all of the trespass issues on page 2 and the top of page 3, several people said they used sections of those that are not necessarily related to hunting, can you tell me what the thinking on that is?

**Claire Ness:** The way that subsection 3 was written provides several procedures, and the procedures were taken out, however the substance of prohibiting people from being where they aren't supposed to be was added to subsection 2, if you look at the way that subdivision

2 b has been rewritten, it includes somebody being in a building structure or any other place the individual is not licensed or privileged to be. That would encompass what used to be 3 a. However, you are correct that a lot of the procedures in the rest of subsection 3 have been removed.

**Senator Hogan:** Municipal courts do trespass issues, when they are infractions. That was a concern. I don't think it has anything to do with the hunting, but it has potential unintended consequence.

**Chairman Luick:** I believe there is a difference between trespassing and going onto people's property with a firearm.

**Senator Hogan:** Since we're taking that out, it's the trespass without a firearm that might have unintended consequence. That's my concern.

**Senator Larsen:** On page 1, line 18, it talks about occupied portion, do we need to have a piece of deeded property so that we know that that person is the owner or is that imbedded in the language, 12.1.-22-03, in the description of what property is. How do we know that that property is their property? Is that part explained in code?

**Claire Ness:** The prohibition in subsection 2 applies to any place that an individual is not licensed or privileged to be. If a person has an ownership interest, then they would not be caught up under this provision. On the other hand, if someone is, for example, in an open pasture, that person doesn't have a right to be there because they have no ownership interest, lease or permission. This would cover that.

**Senator Hogan:** On line 11, we are taking out non-criminal offence on posted property. I had an incident, the police asked if I had my property in downtown Fargo posted. In terms of this section, this would apply to all urban areas. Is it assumed in the database that all urban property is open?

**Claire Ness:** Typically, that is prohibited by municipal ordinances. The trespass provision would continue to apply. This exempts the hunter's ability to go onto private lands where hunting is authorized.

**Senator Klein:** Do you see unintended consequences?

**Claire Ness:** No, the procedures for dealing with trespass have been removed, but other than that, the general rules regarding who is a trespasser and who is not have not been changed; Except to the extent that we have that exemption for hunters, which is current law. It is setting up a different way of posting land. The exception creates an addition to the physical posting, a posting via database, is essentially what this amounts to.

**Senator Larsen:** As I look on page 4, I am curious about line 11, we put gun and firearm in there, I'm thinking we've got more, there are more tools to use besides a gun. Should it just be a hunting license and intent to hunt?

**Claire Ness:** If you look at lines 13-14, it says proof that an individual had a firearm or other weapon declared legal by governor's proclamation, and a valid license. That's what creates that prima facie evidence. That covers the various legal weapons you would use for hunting.

**Senator Hogan:** On page 5, when you talked about the hunting and guide outfitters, the same rules apply to them as to any private individual.

**Claire Ness:** Correct. What I tried to do is to separate this out a little, it is a cumbersome section, when you put it all together. When you look at subsection 2, that creates the same rules for hunting guides and outfitters as would apply to hunters.

**Senator Hogan:** Introduces her amendment #19.0896.01005 **(please see attachment #2)**

**Claire Ness:** Walks through amendment ending in .01005, starting on page 3, 20.1-18-03 (20:50-21:45)

**Senator Hogan:** My thinking on this is with the class B misdemeanor, a hunter who inadvertently went on posted land, and was charged, they would lose their hunting privileges in a number of other states.

**Senator Klein:** What is the penalty on infraction?

**Claire Ness:** \$1000.

**Senator Klein:** The B misdemeanor must be worse?

**Senator Hogan:** \$1000 and up to a year in jail.

**Vice-Chair Myrdal:** Clarify for us, let's say this stays as a misdemeanor, doesn't it have to be shown that there was intent?

**Claire Ness:** Generally, yes, a crime does require an intent provision. What I could offer would be to include the word intentionally or knowingly, in the penalty provisions.

**Chairman Luick:** What I've heard is there are a few bad actors out there wrecking it for everybody else. What the individuals are saying is make these fines stiffer, right now they aren't even being prosecuted to the point they need to be.

**Vice Chair Myrdal:** I would highly suggest that, bad actors are bad actors, I think that my concern is for good hunters with good intent. When you're out there hunting, it isn't easy to see that. I want to see that language in there.

**Chairman Luick:** Where would that language go?

**Claire Ness:** I would put a hunter is guilty of an infraction for a first knowing violation, and a class B misdemeanor for a second and subsequent knowing violation, or I might change the language somewhat, but to clarify the intent of the hunter would be required for there to be



the criminal penalties imposed. We have talked about a 'knowing' violation in other parts of the code. That phrase would most likely work.

**Senator Klein:** Would that help Senator Hogan's concern?

**Claire Ness:** Yes.

**Senator Myrdal:** There are cases where the trespasser won't leave, we're not going after the hunters who do it accidentally.

**Senator Klein:** Sticking with the Hogan amendments and adding 'knowingly' we're going to get the same effect; we'll certainly know if they're the ones they are the ones who refuse to leave. I'm wondering if that word will make any difference?

**Senator Hogan:** I think that issue of what's the appropriate consequence, I think it's interesting, people don't prosecute because they're concerned about unintended consequence. They might prosecute more if it were an infraction and there weren't those additional consequences.

**Senator Larsen:** I thought Senator Hogan's amendment had a reduction in the consequences. I can't support that.

**Senator Hogan:** I move to adopt the amendment ending in .01005. with the addition of 'knowingly'.

**Senator Klein:** I second.

**Senator Klein:** Right now we're concentrating on the Hogan amendment just to lower the violation of the person's second violation to an infraction from a class B misdemeanor and removing class A. There's a lot of work to be done here.

**A roll call vote was taken.**

**Motion fails 3-3-0.**

**Senator Larsen:** I thought we were going to add 'knowingly'?

**Chairman Luick:** We did. What we are considering here is whether the infraction should be there or the misdemeanor.

**Senator Larsen:** Would we be open to split that part out? Keep the knowingly in and leave the penalty as it is?

**Vice Chair Myrdal:** if we leave the penalties as they are, but putting the word knowingly in, then if you do knowingly do it, then we are dealing with bad actors, would that be ok? I move that the work 'knowingly' be added where it needs to be.

**Senator Larsen:** I believe that would be on page 7, line 1, where it says class B misdemeanor, if knowingly, or for first violation and then page 7, line 9, class B misdemeanor, if knowingly for first violation. I think that's where the insertion would be.

**Vice-Chair Myrdal: I move to add 'knowingly' to the amendment ending in .01004  
Senator Larsen: I second.**

**Senator Larsen:** I have a real problem easing up on some of these things. I also have a problem with studies.

The committee had a short discussion regarding misdemeanor levels, infraction levels, and penalties.

**Senator Klein:** This is new program, I'm kind of worried we're going a little hard on something we haven't even studied yet.

**Senator Larsen:** We survived ACA and the fines there. The judge can make the decision, if they don't have the latitude, they don't do anything.

**Senator Hogan:** The unintended consequence could be loss of hunting licenses for other kinds of cases. I was trying to listen to the hunters.

**Vice Chair Myrdal:** I tend to lean to Senator Larsen, loss of hunting license for a year isn't going to kill you. I think that people know we don't enforce the law, just a slap on the wrist. This will go through the wringer in the House.

**Senator Klein:** I would rather put the teeth in, in the House, and have it softer over here.

**A roll call vote was taken.  
Motion passes 4-2-0.**

**Senator Larsen:** Would there be any stomach to further amend out the page 5, line 29-30 and page 6. I want to take the legislators out of the advisory group. I want to keep that group small and active. I'm not a big government guy.

**Senator Klein: I move a do pass as amended.  
Senator Larsen: I second.**

**Chairman Luick:** My hope is that we get this to the House and continue to work on it. It is important that we get this resolved this session.

**Senator Hogan:** This is a hard vote, I appreciate the hard work, and I agree with you that we need to do that. But just looking at the bill as it is, I plan on voting no; because of the too strict penalties.

**Senator Klein:** I'm willing to retract my motion if we want to discuss this more, we need to get this out, and if reducing the penalties is what it takes, they are a minor part of this.

**Senator Osland:** The penalties are too strong, ok. I've hunted for my entire life. I'm looking at this from a purely hunting situation. A game warden is not going to press charges. He has this tool box available and they do need it from time to time. It isn't like these penalties are

going to be running rampant. That's one of the complaints we have, those people are out there trying to do their job, they find a bad actor and they get an infraction. I don't see a fear of those penalties.

**Senator Klein:** This is a new tool box, there are no tools in this box, we're moving forward on something we have not done. I'm suggesting, let's see what tools we need to fix the issue that's out there with the property rights of the landowners. We're bogged down on penalties, I don't think we need to be. We need to go lightly so we can get buy in from the urban areas. I understand Senator Osland, he knew what the rules were when he was hunting back in the day. The rules are going to be somewhat different now, that's why I think it's necessary to continue to go easy, that's why I was supportive of Senator Hogan, because we have to be careful to get this thing out of here. I'm going to ask committee members to vote no so we can start over.

**A roll call vote was taken.  
Motion fails 1-5-0.**

**Chairman Luick:** Now we have nothing.

**Senator Klein:** The emphasis is trying to get something past the Senate. Senator Hogan's amendment does somewhat limit the penalties; I think it's a start. There are also some concerns about membership on the advisory group. We'll need to craft something, I suggest we work off of Senator Hogan's amendments and see what we can come up with. It would be helpful if the committee had a unanimous do pass recommendation.

**Vice Chair Myrdal:** We spoke yesterday about adding landowners and or hunting entities, I'm supportive of that. Does that mean we leave legislators on there? Do we need a study and that committee, isn't that duplicative?

**Chairman Luick:** The clarification there is, on any study there is a shall or a may. We had the language changed in the last revision to shall consider on line 18, page 7 because I don't feel we need to do that, but it gives legislative management the option to not choose it.

**Senator Klein:** Would the committee be concerned if we removed legislators and added 2 members from the ag community and 2 members from the hunting community and took legislators off the hook.

**Chairman Luick:** I'm good with that

**Senator Klein:** I believe Senator Larsen didn't like the legislators on there, would this be helpful?

**Senator Larsen:** Yes.

**Senator Klein:** Could we refine that 2 members of agriculture community and 2 members from wildlife community? That's pretty broad.

**Chairman Luick:** Right now we have the Director or Director's designee. Sportsman and ag groups, how do we determine which group, or are we even going to consider that, just let them decide that.

Committee agrees to let them decide.

**Vice Chair Myrdal:** Page 5 section 6, strike e, f, and g, and add e, 2 members of ag community, and f, 2 members of sportsman community. I move to adopt that amendment.

**Senator Klein:** We are working off the .01005 amendment?

**Chairman Luick:** I am looking at my revised .01004 and then we are looking at the consideration of .01005. It would have to be a separate amendment?

**Vice Chair Myrdal:** Do the .01005 amendments still include the word knowingly?

**Chairman Luick:** Yes.

**Senator Klein:** If we choose to use the .01005 script, that we make sure the words knowingly are included, and that the changes Senator Myrdal suggested would be included. The .01005 version has the infraction class B in there.

**Chairman Luick:** Correct.

**Vice Chair Myrdal:** I move to adopt the .01005 version with knowingly, and on page 5 strike section 6, e, f, and g and replace with e, 2 members of ag community and f, 2 members of sportsman groups.

**Senator Hogan:** I second.

**Senator Osland:** That would include the amendments?

**Chairman Luick:** Yes.

**A roll call vote was taken.**

**Motion passes 5-1-0.**

**Senator Klein:** I think we've made a lot of changes. I move do pass as amended.

**Senator Osland:** I second.

**A roll call vote was taken.**

**Motion passes 5-1-0.**

Chairman Luick will carry.

Chairman Luick closed the hearing.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2315

Page 1, line 1, replace "section 20.1-02-33" with "chapter 20.1-18"

Page 1, line 2, after the first "to" insert "a database"

Page 1, line 2, after "identifying" insert "whether"

Page 1, line 2, after "land" insert "is"

Page 1, line 4, remove "repeal section 20.1-01-17 of the North"

Page 1, line 5, replace "Dakota Century Code, relating to posting land" with "provide a statement of legislative intent; to provide for a legislative management study"

Page 1, line 19, after "be" insert "except as provided in sections 20.1-01-18, 20.1-01-19, 20.1-03-42, and 20.1-18-03"

Page 3, line 21, overstrike "- Penalty"

Page 3, line 22, remove "not"

Page 3, line 24, remove "or verifying the land is open to hunters by"

Page 3, line 25, remove "complying with subsection 3 of section 20.1-02-03"

Page 3, line 25, overstrike the period

Page 3, line 25, remove "An individual"

Page 3, line 25, overstrike "may"

Page 3, line 25, remove "not"

Page 3, line 25, overstrike "enter upon"

Page 3, overstrike line 26

Page 3, line 27, overstrike "gaining the written permission of the owner or operator of that land."

Page 3, line 27, remove "An individual"

Page 3, line 27, overstrike "who"

Page 3, overstrike line 28

Page 3, line 29, overstrike "misdemeanor for a subsequent offense within a two-year period" and insert immediately thereafter "unless the land is designated as closed to hunters or open to hunters with permission under section 20.1-18-02 or the land is legally posted in accordance with section 20.1-01-17"

Page 4, line 6, after "with" insert "a hunting license and a"

Page 4, line 8, remove "an individual"

Page 4, line 8, overstrike "having" and insert immediately thereafter "an individual had"

Page 4, line 9, overstrike "in the person's"

Page 4, line 9, remove "individual's"

Page 4, line 9, overstrike "possession" and insert immediately thereafter "and a valid license to hunt game in the relevant area when the individual"

Page 4, remove lines 12 through 29

Page 5, after line 1, insert :

"1."

Page 5, line 5, after the comma insert "or"

Page 5, line 6, overstrike ", or" and insert immediately thereafter ".

2. A person may not act as a hunting guide or outfitter"

Page 5, line 6, after "lands" insert "that are"

Page 5, line 6, remove the overstrike over "~~posted against hunting or~~"

Page 5, line 7, remove the overstrike over "~~trespassing~~" and insert immediately thereafter "under section 20.1-01-17 or private lands that are designated as closed to hunters or open to hunters with permission under section 20.1-18-02."

Page 5, replace line 10 with:

**"SECTION 6.** Chapter 20.1-18 of the North Dakota Century Code is created and enacted as follows:

**20.1-18-01. Hunters access advisory group.**

1. The hunters access advisory group consists of:
  - a. The agriculture commissioner or the commissioner's designee;
  - b. The director or the director's designee;
  - c. The chief information officer or the officer's designee;
  - d. A representative of the association of counties;
  - e. One legislator appointed by the majority leader of the senate;
  - f. One legislator appointed by the majority leader of the house of representatives; and
  - g. One legislator from the minority party appointed by the legislative management.
2. The hunters access advisory group shall oversee the development of a database identifying private land in the state as open to hunters, closed to hunters, or open to hunters with permission from the owner or lawful occupant.
3. The hunters access advisory group shall establish guidelines for the development of the database and acceptance criteria for county data used to develop the database.

### **20.1-18-02. Hunters access database.**

1. The hunters access database must use color coding or other clear indicators to designate private land in the state as open to hunters, closed to hunters, or open to hunters with permission from the owner or lawful occupant.
2. A landowner or lawful occupant may designate which of the three categories in subsection 1 applies to the landowner's or occupant's land. Land for which a landowner or lawful occupant does not designate a category must be indicated in the database as open to hunters if the county in which the land is located is included in the database.
3. If a landowner or lawful occupant designates land as open to hunters with permission, the landowner or lawful occupant shall provide contact information to be included in the database for hunters to request permission to hunt on the land.
4. The database must be accessible electronically to the public and may be made available to the public through other means, including smartphone applications.
5. To be included in the database, a county shall provide geographic information system data or other data to the information technology department which meet the criteria established by the hunters access advisory group.

### **20.1-18-03. Noncompliance with database and posting - Penalty.**

1. Until the county in which private land is located is included in the hunters access database, the land is deemed open unless posted in accordance with section 20.1-01-17.
2. After a county is included in the database:
  - a. A hunter may not enter land in the county which is designated in the database as closed to hunters or open to hunters with permission unless the hunter has permission to enter the land or otherwise is entitled to enter the land. A hunter is guilty of an infraction for a first violation and a class B misdemeanor for a second and subsequent violation of this subdivision; and
  - b. A hunter without permission may enter land in the county which is not designated in the database as closed to hunters or open to hunters with permission, unless the land is posted in accordance with section 20.1-01-17.
3. A hunter may not enter land that is posted in accordance with section 20.1-01-17 unless the hunter has permission to enter the land or otherwise is entitled to enter the land, regardless of the designation of the land in the database. A hunter is guilty of an infraction for a first violation and a class B misdemeanor for a second and subsequent violation of this subsection.

**SECTION 7. LEGISLATIVE INTENT - TIMELINE FOR DATABASE DEVELOPMENT.** It is the intent of the legislative assembly that several counties will be

included in an operational hunters access database by the fall hunting season of 2020, and the operational database will include all counties whose data meet the specifications of the hunters access database advisory group by September 1, 2022.

**SECTION 8. LEGISLATIVE MANAGEMENT STUDY - ACCESS TO LANDS FOR HUNTING AND TRAPPING.** During the 2019-20 interim, the legislative management shall consider studying access to public and private lands for hunting, trapping, and related issues. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-seventh legislative assembly."

Renumber accordingly



February 15, 2019

PROPOSED AMENDMENTS TO SENATE BILL NO. 2315

- Page 1, line 1, replace "section 20.1-02-33" with "chapter 20.1-18"
- Page 1, line 2, after the first "to" insert "a database"
- Page 1, line 2, after "identifying" insert "whether"
- Page 1, line 2, after "land" insert "is"
- Page 1, line 4, remove "repeal section 20.1-01-17 of the North"
- Page 1, line 5, replace "Dakota Century Code, relating to posting land" with "provide a statement of legislative intent; to provide for a legislative management study"
- Page 1, line 19, after "be" insert ", except as provided in sections 20.1-01-18, 20.1-01-19, 20.1-03-42, and 20.1-18-03"
- Page 3, line 21, overstrike "- **Penalty**"
- Page 3, line 22, remove "not"
- Page 3, line 24, remove "or verifying the land is open to hunters by"
- Page 3, line 25, remove "complying with subsection 3 of section 20.1-02-03"
- Page 3, line 25, overstrike the period
- Page 3, line 25, remove "An individual"
- Page 3, line 25, overstrike "may"
- Page 3, line 25, remove "not"
- Page 3, line 25, overstrike "enter upon"
- Page 3, overstrike line 26
- Page 3, line 27, overstrike "gaining the written permission of the owner or operator of that land."
- Page 3, line 27, remove "An individual"
- Page 3, line 27, overstrike "who"
- Page 3, overstrike line 28
- Page 3, line 29, overstrike "misdemeanor for a subsequent offense within a two-year period" and insert immediately thereafter "unless the land is designated as closed to hunters or open to hunters with permission under section 20.1-18-02 or the land is legally posted in accordance with section 20.1-01-17"
- Page 4, line 6, after "**with**" insert "**a hunting license and a**"
- Page 4, line 8, remove "an individual"
- Page 4, line 8, overstrike "having" and insert immediately thereafter "an individual had"

Page 4, line 9, overstrike "in the person's"

Page 4, line 9, remove "individual's"

Page 4, line 9, overstrike "possession" and insert immediately thereafter "and a valid license to hunt game in the relevant area when the individual"

Page 4, remove lines 12 through 29

Page 5, after line 1, insert :

"1."

Page 5, line 5, after the comma insert "or"

Page 5, line 6, overstrike ", or" and insert immediately thereafter ".

2. A person may not act as a hunting guide or outfitter"

Page 5, line 6, after "lands" insert "that are"

Page 5, line 6, remove the overstrike over "~~posted against hunting or~~"

Page 5, line 7, remove the overstrike over "~~trespassing~~" and insert immediately thereafter "under section 20.1-01-17 or private lands that are designated as closed to hunters or open to hunters with permission under section 20.1-18-02."

Page 5, replace line 10 with:

**"SECTION 6.** Chapter 20.1-18 of the North Dakota Century Code is created and enacted as follows:

**20.1-18-01. Hunters access advisory group.**

1. The hunters access advisory group consists of:
  - a. The agriculture commissioner or the commissioner's designee;
  - b. The director or the director's designee;
  - c. The chief information officer or the officer's designee;
  - d. A representative of the association of counties;
  - e. One legislator appointed by the majority leader of the senate;
  - f. One legislator appointed by the majority leader of the house of representatives; and
  - g. One legislator from the minority party appointed by the legislative management.
2. The hunters access advisory group shall oversee the development of a database identifying private land in the state as open to hunters, closed to hunters, or open to hunters with permission from the owner or lawful occupant.
3. The hunters access advisory group shall establish guidelines for the development of the database and acceptance criteria for county data used to develop the database.

### **20.1-18-02. Hunters access database.**

1. The hunters access database must use color coding or other clear indicators to designate private land in the state as open to hunters, closed to hunters, or open to hunters with permission from the owner or lawful occupant.
2. A landowner or lawful occupant may designate which of the three categories in subsection 1 applies to the landowner's or occupant's land. Land for which a landowner or lawful occupant does not designate a category must be indicated in the database as open to hunters if the county in which the land is located is included in the database.
3. If a landowner or lawful occupant designates land as open to hunters with permission, the landowner or lawful occupant shall provide contact information to be included in the database for hunters to request permission to hunt on the land.
4. The database must be accessible electronically to the public and may be made available to the public through other means, including smartphone applications.
5. To be included in the database, a county shall provide geographic information system data or other data to the information technology department which meet the criteria established by the hunters access advisory group.

### **20.1-18-03. Noncompliance with database and posting - Penalty.**

1. Until the county in which private land is located is included in the hunters access database, the land is deemed open unless posted in accordance with section 20.1-01-17.
2. After a county is included in the database:
  - a. A hunter may not enter land in the county which is designated in the database as closed to hunters or open to hunters with permission unless the hunter has permission to enter the land or otherwise is entitled to enter the land. A hunter is guilty of a class B misdemeanor for a first violation and a class A misdemeanor for a second and subsequent violation of this subdivision; and
  - b. A hunter without permission may enter land in the county which is not designated in the database as closed to hunters or open to hunters with permission, unless the land is posted in accordance with section 20.1-01-17.
3. A hunter may not enter land that is posted in accordance with section 20.1-01-17 unless the hunter has permission to enter the land or otherwise is entitled to enter the land, regardless of the designation of the land in the database. A hunter is guilty of a class B misdemeanor for a first violation and a class A misdemeanor for a second and subsequent violation of this subsection.

**SECTION 7. LEGISLATIVE INTENT - TIMELINE FOR DATABASE DEVELOPMENT.** It is the intent of the legislative assembly that several counties will be included in an operational hunters access database by the fall hunting season of 2020, and the operational database will include all counties whose data meet the specifications of the hunters access database advisory group by September 1, 2022.

**SECTION 8. LEGISLATIVE MANAGEMENT STUDY - ACCESS TO LANDS FOR HUNTING AND TRAPPING.** During the 2019-20 interim, the legislative management shall consider studying access to public and private lands for hunting, trapping, and related issues. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-seventh legislative assembly."

Renumber accordingly

PROPOSED AMENDMENTS TO SENATE BILL NO. 2315

- Page 1, line 1, replace "section 20.1-02-33" with "chapter 20.1-18"
- Page 1, line 2, after the first "to" insert "a database"
- Page 1, line 2, after "identifying" insert "whether"
- Page 1, line 2, after "land" insert "is"
- Page 1, line 4, remove "repeal section 20.1-01-17 of the North"
- Page 1, line 5, replace "Dakota Century Code, relating to posting land" with "provide a statement of legislative intent; to provide for a legislative management study"
- Page 1, line 19, after "be" insert "except as provided in sections 20.1-01-18, 20.1-01-19, 20.1-03-42, and 20.1-18-03"
- Page 3, line 21, overstrike "- **Penalty**"
- Page 3, line 22, remove "not"
- Page 3, line 24, remove "or verifying the land is open to hunters by"
- Page 3, line 25, remove "complying with subsection 3 of section 20.1-02-03"
- Page 3, line 25, overstrike the period
- Page 3, line 25, remove "An individual"
- Page 3, line 25, overstrike "may"
- Page 3, line 25, remove "not"
- Page 3, line 25, overstrike "enter upon"
- Page 3, overstrike line 26
- Page 3, line 27, overstrike "gaining the written permission of the owner or operator of that land."
- Page 3, line 27, remove "An individual"
- Page 3, line 27, overstrike "who"
- Page 3, overstrike line 28
- Page 3, line 29, overstrike "misdemeanor for a subsequent offense within a two-year period" and insert immediately thereafter "unless the land is designated as closed to hunters or open to hunters with permission under section 20.1-18-02 or the land is legally posted in accordance with section 20.1-01-17"
- Page 4, line 6, after "**with**" insert "**a hunting license and a**"
- Page 4, line 8, remove "an individual"
- Page 4, line 8, overstrike "having" and insert immediately thereafter "an individual had"

ck  
2 of 4  
2/18/19

Page 4, line 9, overstrike "in the person's"

Page 4, line 9, remove "individual's"

Page 4, line 9, overstrike "possession" and insert immediately thereafter "and a valid license to hunt game in the relevant area when the individual"

Page 4, remove lines 12 through 29

Page 5, after line 1, insert:

"1."

Page 5, line 5, after the comma insert "or"

Page 5, line 6, overstrike ", or" and insert immediately thereafter "

2. A person may not act as a hunting guide or outfitter"

Page 5, line 6, after "lands" insert "that are"

Page 5, line 6, remove the overstrike over "~~posted against hunting or~~"

Page 5, line 7, remove the overstrike over "~~trespassing~~" and insert immediately thereafter "under section 20.1-01-17 or private lands that are designated as closed to hunters or open to hunters with permission under section 20.1-18-02."

Page 5, replace line 10 with:

**"SECTION 6.** Chapter 20.1-18 of the North Dakota Century Code is created and enacted as follows:

**20.1-18-01. Hunters access advisory group.**

1. The hunters access advisory group consists of:
  - a. The agriculture commissioner or the commissioner's designee;
  - b. The director or the director's designee;
  - c. The chief information officer or the officer's designee;
  - d. A representative of the North Dakota association of counties;
  - e. Two members of agriculture organizations; and
  - f. Two members of sportsmen organizations.
2. The hunters access advisory group shall oversee the development of the hunters access database identifying private land in the state as open to hunters, closed to hunters, or open to hunters with permission from the owner or lawful occupant.
3. The hunters access advisory group shall establish guidelines for the development of the database and acceptance criteria for county data used to develop the database.

CH  
3 of 4  
2/18/19

**20.1-18-02. Hunters access database.**

1. The hunters access database must use color coding or other clear indicators to designate private land in the state as open to hunters, closed to hunters, or open to hunters with permission from the owner or lawful occupant.
2. A landowner or lawful occupant may designate which of the three categories in subsection 1 applies to the landowner's or occupant's land. Land for which a landowner or lawful occupant does not designate a category must be indicated in the database as open to hunters if the county in which the land is located is included in the database.
3. If a landowner or lawful occupant designates land as open to hunters with permission, the landowner or lawful occupant shall provide contact information to be included in the database for hunters to request permission to hunt on the land.
4. The database must be accessible electronically to the public and may be made available to the public through other means, including smartphone applications.
5. To be included in the database, a county shall provide geographic information system data or other data to the information technology department which meets the criteria established by the hunters access advisory group.

**20.1-18-03. Noncompliance with database and posting - Penalty.**

1. Until the county in which private land is located is included in the hunters access database, the land is deemed open unless posted in accordance with section 20.1-01-17.
2. After a county is included in the database:
  - a. A hunter may not enter land in the county which is designated in the database as closed to hunters or open to hunters with permission unless the hunter has permission to enter the land or otherwise is entitled to enter the land. A hunter is guilty of an infraction for a first knowing violation and a class B misdemeanor for a second and subsequent knowing violation of this subdivision; and
  - b. A hunter without permission may enter land in the county which is not designated in the database as closed to hunters or open to hunters with permission, unless the land is posted in accordance with section 20.1-01-17.
3. A hunter may not enter land that is posted in accordance with section 20.1-01-17 unless the hunter has permission to enter the land or otherwise is entitled to enter the land, regardless of the designation of the land in the database. A hunter is guilty of an infraction for a first knowing violation and a class B misdemeanor for a second and subsequent knowing violation of this subsection.

OK  
4 of 4  
2/18/19

**SECTION 7. LEGISLATIVE INTENT - TIMELINE FOR DATABASE DEVELOPMENT.** It is the intent of the legislative assembly that several counties will be included in an operational hunters access database by the fall hunting season of 2020, and the operational database will include all counties whose data meet the specifications of the hunters access database advisory group by September 1, 2022.

**SECTION 8. LEGISLATIVE MANAGEMENT STUDY - ACCESS TO LANDS FOR HUNTING AND TRAPPING.** During the 2019-20 interim, the legislative management shall consider studying access to public and private lands for hunting, trapping, and related issues. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-seventh legislative assembly."

Renumber accordingly



Date: 2/15  
 Roll Call Vote #: 1

**2019 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2315**

Senate Agriculture Committee

Subcommittee

Amendment LC# or Description: 19.0896.01005 + 'knowingly'

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Sen. Hogan Seconded By Sen. Klein

Senators	Yes	No	Senators	Yes	No
Chairman Luick		✓	Senator Hogan	✓	
Vice Chair Myrdal		✓			
Senator Klein	✓				
Senator Larsen		✓			
Senator Osland	✓				

Total (Yes) 3 No 3

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: 2/15  
 Roll Call Vote #: 2

**2019 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2315**

Senate Agriculture Committee

Subcommittee

Amendment LC# or Description: add 'knowingly' to .01004

- Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Sen. Myrdal Seconded By Sen. Larsen

Senators	Yes	No	Senators	Yes	No
Chairman Luick		X	Senator Hogan	X	
Vice Chair Myrdal	X				
Senator Klein		X			
Senator Larsen	X				
Senator Osland	X				

Total (Yes) 4 No 2

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: 2/15  
 Roll Call Vote #: 3

**2019 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2315**

Senate Agriculture Committee

Subcommittee

Amendment LC# or Description: .01004 + 'Knowingly'

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Sen. Klein Seconded By Sen. Larsen

Senators	Yes	No	Senators	Yes	No
Chairman Luick		X	Senator Hogan		X
Vice Chair Myrdal		X			
Senator Klein		X			
Senator Larsen	X				
Senator Osland		X			

Total (Yes) 1 No 5

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

**2019 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2315**

Senate Agriculture Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

- Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Sen. Myrdal    Seconded By Sen. Hogan

Senators	Yes	No	Senators	Yes	No
Chairman Luick	X		Senator Hogan	X	
Vice Chair Myrdal	X				
Senator Klein	X				
Senator Larsen		X			
Senator Osland	X				

Total (Yes) 5    No 1

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

*.01005, strike section b e-g. replace with e. 2 members of ag community and f. 2 members of sportsmen community*

Date: 2/15  
 Roll Call Vote #: 5

**2019 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2315**

Senate Agriculture Committee

Subcommittee

Amendment LC# or Description: 19.0896.01006

- Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar
- Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Sen. Klein    Seconded By Sen. Osland

Senators	Yes	No	Senators	Yes	No
Chairman Luick	X		Senator Hogan	X	
Vice Chair Myrdal	X				
Senator Klein	X				
Senator Larsen		X			
Senator Osland	X				

Total (Yes) 5    No 1

Absent 0

Floor Assignment Sen. Luick

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2315: Agriculture Committee (Sen. Luick, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2315 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "section 20.1-02-33" with "chapter 20.1-18"

Page 1, line 2, after the first "to" insert "a database"

Page 1, line 2, after "identifying" insert "whether"

Page 1, line 2, after "land" insert "is"

Page 1, line 4, remove "repeal section 20.1-01-17 of the North"

Page 1, line 5, replace "Dakota Century Code, relating to posting land" with "provide a statement of legislative intent; to provide for a legislative management study"

Page 1, line 19, after "be" insert ", except as provided in sections 20.1-01-18, 20.1-01-19, 20.1-03-42, and 20.1-18-03"

Page 3, line 21, overstrike "- **Penalty**"

Page 3, line 22, remove "not"

Page 3, line 24, remove "or verifying the land is open to hunters by"

Page 3, line 25, remove "complying with subsection 3 of section 20.1-02-03"

Page 3, line 25, overstrike the period

Page 3, line 25, remove "An individual"

Page 3, line 25, overstrike "may"

Page 3, line 25, remove "not"

Page 3, line 25, overstrike "enter upon"

Page 3, overstrike line 26

Page 3, line 27, overstrike "gaining the written permission of the owner or operator of that land."

Page 3, line 27, remove "An individual"

Page 3, line 27, overstrike "who"

Page 3, overstrike line 28

Page 3, line 29, overstrike "misdemeanor for a subsequent offense within a two-year period" and insert immediately thereafter "unless the land is designated as closed to hunters or open to hunters with permission under section 20.1-18-02 or the land is legally posted in accordance with section 20.1-01-17"

Page 4, line 6, after "**with**" insert "**a hunting license and a**"

Page 4, line 8, remove "an individual"

Page 4, line 8, overstrike "having" and insert immediately thereafter "an individual had"

Page 4, line 9, overstrike "in the person's"

Page 4, line 9, remove "individual's"

Page 4, line 9, overstrike "possession" and insert immediately thereafter "and a valid license to hunt game in the relevant area when the individual"

Page 4, remove lines 12 through 29

Page 5, after line 1, insert:

"1."

Page 5, line 5, after the comma insert "or"

Page 5, line 6, overstrike ", or" and insert immediately thereafter " .

2. A person may not act as a hunting guide or outfitter"

Page 5, line 6, after "lands" insert "that are"

Page 5, line 6, remove the overstrike over "~~posted against hunting or~~"

Page 5, line 7, remove the overstrike over "~~trespassing~~" and insert immediately thereafter "under section 20.1-01-17 or private lands that are designated as closed to hunters or open to hunters with permission under section 20.1-18-02."

Page 5, replace line 10 with:

**"SECTION 6.** Chapter 20.1-18 of the North Dakota Century Code is created and enacted as follows:

**20.1-18-01. Hunters access advisory group.**

1. The hunters access advisory group consists of:
  - a. The agriculture commissioner or the commissioner's designee;
  - b. The director or the director's designee;
  - c. The chief information officer or the officer's designee;
  - d. A representative of the North Dakota association of counties;
  - e. Two members of agriculture organizations; and
  - f. Two members of sportsmen organizations.
2. The hunters access advisory group shall oversee the development of the hunters access database identifying private land in the state as open to hunters, closed to hunters, or open to hunters with permission from the owner or lawful occupant.
3. The hunters access advisory group shall establish guidelines for the development of the database and acceptance criteria for county data used to develop the database.

**20.1-18-02. Hunters access database.**

1. The hunters access database must use color coding or other clear indicators to designate private land in the state as open to hunters.

- closed to hunters, or open to hunters with permission from the owner or lawful occupant.
2. A landowner or lawful occupant may designate which of the three categories in subsection 1 applies to the landowner's or occupant's land. Land for which a landowner or lawful occupant does not designate a category must be indicated in the database as open to hunters if the county in which the land is located is included in the database.
  3. If a landowner or lawful occupant designates land as open to hunters with permission, the landowner or lawful occupant shall provide contact information to be included in the database for hunters to request permission to hunt on the land.
  4. The database must be accessible electronically to the public and may be made available to the public through other means, including smartphone applications.
  5. To be included in the database, a county shall provide geographic information system data or other data to the information technology department which meets the criteria established by the hunters access advisory group.

**20.1-18-03. Noncompliance with database and posting - Penalty.**

1. Until the county in which private land is located is included in the hunters access database, the land is deemed open unless posted in accordance with section 20.1-01-17.
2. After a county is included in the database:
  - a. A hunter may not enter land in the county which is designated in the database as closed to hunters or open to hunters with permission unless the hunter has permission to enter the land or otherwise is entitled to enter the land. A hunter is guilty of an infraction for a first knowing violation and a class B misdemeanor for a second and subsequent knowing violation of this subdivision; and
  - b. A hunter without permission may enter land in the county which is not designated in the database as closed to hunters or open to hunters with permission, unless the land is posted in accordance with section 20.1-01-17.
3. A hunter may not enter land that is posted in accordance with section 20.1-01-17 unless the hunter has permission to enter the land or otherwise is entitled to enter the land, regardless of the designation of the land in the database. A hunter is guilty of an infraction for a first knowing violation and a class B misdemeanor for a second and subsequent knowing violation of this subsection.

**SECTION 7. LEGISLATIVE INTENT - TIMELINE FOR DATABASE DEVELOPMENT.** It is the intent of the legislative assembly that several counties will be included in an operational hunters access database by the fall hunting season of 2020, and the operational database will include all counties whose data meet the specifications of the hunters access database advisory group by September 1, 2022.

**SECTION 8. LEGISLATIVE MANAGEMENT STUDY - ACCESS TO LANDS FOR HUNTING AND TRAPPING.** During the 2019-20 interim, the legislative management shall consider studying access to public and private lands for hunting, trapping, and related issues. The legislative management shall report its findings and



recommendations, together with any legislation required to implement the recommendations, to the sixty-seventh legislative assembly."

Renumber accordingly

**2019 HOUSE AGRICULTURE**

**SB 2315**

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Peace Garden Room, State Capitol

SB 2315  
3/14/2019—a.m.  
Job #33729

- Subcommittee  
 Conference Committee

Committee Clerk: ReMae Kuehn
------------------------------

## Explanation or reason for introduction of bill/resolution:

Relating to criminal trespass and hunting on private land; to provide a statement of legislative intent; to provide for a legislative management study; and to provide a penalty

## Minutes:

Attachments #1-9
------------------

**Senator Erbele, Co-Sponsor:** This has always come across as a property rights bills. The landowner has a right to know who is out there. The bill has turned into an anti-hunting bill. We are trying to move away from that. Every year this bill has been defeated, it has created an animosity that is not healthy for North Dakota.

I worked with some South Dakota people and used to live there. South Dakota has been closed to hunting for over 60 years. The people are used to it. Their largest income day is pheasant season. Find a way to connect the hunter to the landowner. With technology it is possible to do that. There is a lot of data out in the counties. Within the data base we can have lands designated closed, open with permission, and open.

This would be an expansion of the information like the PLATS program. If the colors don't work, make a different designation. It creates better hunter access. It helps the landowner by saving time. Every landowner has a frustrating story of someone on their land that didn't see the sign.

Section 1 closes the land to all activities. Many charged with protesting couldn't be charged because there was no way to prove that the land was posted. It also creates an exception for hunting.

Section 2 repeats that the land is open to hunters unless the land is physically posted or designated as closed or open only with permission in the database.

Section 3 doesn't change from current law. It is just the ability to retrieve your game.

Section 4 the only change is if you are hunting you need to have a license to prove that you have a right to be there.

Section 5 addresses the outfitters and guides. Nothing has changed from current law.

Section 6 is an advisory group. We have to have an advisory group for the implementation of the data base. The membership of the advisory group would be the Agriculture Commissioner, Game and Fish Director, Chief Information Officer (ITD), Association of Counties, two members from an agricultural group, two members from a sportsman group. I would still like legislators on the committee. The bill doesn't consider who will chair and run the group.

Section 7 gives legislative intent. The intent is to have several counties in one area of the state operational by the fall hunting season of 2020. Full implementation will be by 2022.

The oil patch already has data. For counties not in the database, landowners would still have to post.

**Representative Tveit:** Will the landowners still be able to change the designation during the hunting season?

**Senator Erbele:** The bill does say that signage will supersede. These are some of the things the advisory board has to wrestle with.

**Representative Headland:** Why do we have different penalties for individuals and hunters?

**Senator Erbele:** The Senate Agriculture committee did that. They wanted to soften the penalty until people got used to this.

**Representative Porter:** Inside of the system with listing both the landowner and the tenant having access to the database, how do you make sure the tenant has the right to post the land? That has to be contractually stated that they have the right to post someone else's property.

**Senator Erbele:** That would be an advisory committee workout. A tenant would have to have Power of Attorney. That is available on the county level. The landowner may want to maintain hunting rights. We want this system secure.

**Representative Porter:** That is one of my concerns for the electronic, it should only be the landowner that has access.

Are we being too aggressive with the date of the 2020 season with that many "what ifs"?

**Senator Erbele:** I don't think so. The landowner could just have another checkbox to give authority to a POA.

**Representative Porter:** There is a law against illegally posting land. Is that the same law that will go after the tenant that gets access to the database that doesn't have the right to do it.

**Senator Erbele:** If it is not legal, the penalty should apply.

**Representative Porter:** You are confident that 2020 is a good date for IT to get this done?

By putting it in the code that this will be operational by 2020, we are not saying it will be operational when it is perfected. We are giving them a date that it has to be operational. They may under pressure and roll something out that isn't operational just to comply with the law. Shouldn't we have some language in there that until it is perfected, it can't roll out and be the law?

**Senator Erbele:** The bill says legislative intent which is not law.

**Representative Tveit:** If the technical isn't running, doesn't the old signage take effect?

**Senator Erbele:** Current practice remains in effect until the county information is available.

**Representative Tveit:** If posted green, the physical signage would still take over?

**Representative Satrom:** How much will this cost?

**Senator Erbele:** That will be addressed by the IT people. There is GIS funding within the IT budget.

**Representative Schreiber-Beck:** Is there another state using a similar system?

**Senator Erbele;** Not to my knowledge. We are the most open state in terms of not having any restrictions. The state the closest is Pennsylvania with a hunter/landowner database with 60 some counties with 6 to 8 million acres.

**Representative Porter:** With the dual system, the physical sign would be the law. What if the app shows green but when the hunter gets there the next morning, a sign has been put up that he doesn't know about? Would he be in violation of the law?

**Senator Erbele:** We have discussed that. The advisory committee would address that. That happens now.

**Representative Skroch:** Will there be contact information available on the data base?

**Senator Erbele:** Yes. The system has to be secure so that the landowner information is secure to him only.

**Representative Skroch:** If the landowner chose the land as green, he would not be mandated to provide that information?

**Senator Erbele:** Doing nothing as a landowner says the land is open. Don't make the call.

**Senator Patten, Co-Sponsor:** This has been dealt with the last eight sessions with no resolution. This is not an anti-hunting bill. This is a relationship building bill. We have

landowners that have rights and hunters that have privileges. The advisory committee will be an asset. We have the 2021 session to do further adjusting.

**Representative Porter:** When there are criminal charges, we have to be perfectionists. The bill reads that we are going to do it with any county that is ready. It is not a pilot project. So we will have a checkerboard where the situation is working in one place and not in the next county. So we will have confused hunters that will be criminally liable.

**Senator Patten:** Eight sessions is not fast tracking. We could turn this into a study but that doesn't get us to where we need to be. There were 100 convictions in our state last year related to trespass.

**Representative Porter:** It is now a clear system. I have reservations about moving that fast. There wasn't a hearing on these amendments in the Senate. This is the first hearing on this version. When you charge a hunter with trespassing that affects them in 30 other states.

**Senator Patten:** I understand the concern.

**Representative Skroch:** A landowner discovers a person trespassing, the landowner talks to him. Wouldn't it be the landowner's discretion whether or not he files a complaint or if they come to an agreement?

**Senator Patten:** There is a provision about retrieval of game. That is not punishable.

**Representative Skroch:** If you had permission to hunt then you have permission to retrieve.

**Senator Patten:** If you shoot game off property and it goes onto the property, the law allows retrieval.

**Representative Skroch:** The colors changed. Isn't it still up to the landowner to file charges?

**Senator Patten:** That is correct. That is what happens now.

**Representative Kaiser:** Is it a privilege to hunt North Dakota game whether you are a landowner or not?

**Senator Patten:** Hunting is a privilege for everybody.

**Representative D. Anderson:** The landowner has to make the decision on posting. They are the one assuming the liability.

**Senator Patten:** In many lease agreements there is language for who has the ability to post.

**Representative D. Anderson:** Does that assign liability to the renter?

**Representative Kiefert:** The only time to give contact information is if it hunting for permission. That may be a deterrent due to the number of phone calls.

**Senator Patten:** We had that discussion also. Some landowners want hunting to decrease the destruction by wildlife.

**Senator Unruh, Co-Sponsor:** (Attachment #1)

**Representative Westlind, Co-Sponsor:** (Attachment #2)

(55:06)

**Representative Porter:** You talked about switching from all land is open unless posted to all land is posted. Are you satisfied with moving in this direction? Is this just the baby step to get to what you signed on to?

**Representative Westlind:** We are moving in the right direction. It was my original intent to have all land posted. In my area we post every year which takes a lot of time and energy to do that. I will list all of my land in the red zone. We have more local hunters than out-of-state.

**Representative D. Anderson:** My concern over time is that we are going to lose a generation of hunters. I would hope this bill will increase hunting because we have a problem with Canadian geese.

**Representative Westlind:** I see more young people hunting in our area. In Michigan everything is posted but there are a lot of open public lands to hunt. So they come to North Dakota to hunt.

**Representative D. Anderson:** So you are seeing more hunters coming on your land?

**Representative Westlind:** More local hunters.

**Representative Tveit:** Sometimes the seasons overlap. Will this allow two different colors to split for the seasons?

**Representative Westlind:** We would keep it totally red. I just want to know who is on my land.

**Representative Tveit:** Will the app allow you to say open for different seasons and closed for some?

**Representative Westlind:** I would think it would.

**Rep. Kaiser:** We really don't have "no hunting." You have "no hunting" that you post "with permission." You allow some hunters. Why do we even have the "no hunting" provision?

**Representative Westlind:** We post our land with "No Trespass" signs. I don't want people on my land without knowing. The hunters know how to get a hold of me to give

permission. I will keep posting as “No Trespass” because I want it year around. We have had too many instances where our signs are taken down and destroyed. I am hoping this bill will encourage a better relationship between the landowner and the hunter.

**Representative Porter:** Is it an intended consequence that it would stop all other forms of recreation on non-posted land. The bill only gives exception is hunting. The kid with the hunting license and gun can go on but the dad who is supposed to be there is illegally trespassing. I am wondering about snowmobiling and other uses of the land. If land is not posted that is only for hunting. Other activities are off limits and illegal. Is that your intention?

**Representative Westlind:** It is landowner rights. They would call for permission.

**Representative Porter:** Do you think that inside of the exceptions to when you use the system needs to also exclude other activities? Should it just be hunting and everything else is illegal.

**Representative Westlind:** You are right. It should just be hunting.

**Representative Porter:** You would be OK with having snowmobiling excepted out of the presumption that all land is posted?

**Representative Westlind:** Yes.

**Representative Skroch:** If someone is snowmobiling and runs into a fence line and is killed. Who would be liable?

**Representative Westlind:** Under current law, it depends on the rider. We have been advised to take extra caution with our liability insurance and to increase it. If all land was posted as “No Trespass”, then I am assuming that we would not be liable.

**Representative Kaiser:** Why do we need the category “No Trespass without Permission”?

**Representative Westlind;** If they get permission, then they can go on my land.

**Representative Tveit:** Is it harder for law enforcement if you are granting them permission?

**Representative Westlind:** I can’t answer that. When we post our land and someone is on the land, I can call the Game Warden or Sheriff and they can make the arrest.

**Cody Schulz, Morton County:** (Attachment #3)

(1:14:08)

**Representative Porter:** The law you are citing was ineffective during the DAPL protests. It is an old law that was changed last session but has not been tested.

Did we fix it?



**Cody Schulz:** Based on our States Attorney, no it is not fixed. It is because of the issue of the burden of proof when signs are removed.

**Representative Porter:** Ladd Erickson who Morton County hired to do most of the prosecution is the one who wrote that bill to close the loop holes that he found while he was prosecuting DAPL people.

**Cody Schulz:** My understanding is the way it is interpreted by the judges is not what Ladd Erickson has intended.

**Representative D. Anderson:** You said there were 633 charges of criminal trespass dropped. Were you able to prosecute anyone.

**Cody Schulz:** Yes. Those convicted were because of body cameras and video tape with a posted sign in the area or someone with authority telling them to leave and then refusing. The percentage specific to trespass was small.

**Representative Richter:** I have been looking at a plat map on onX maps which is a hunting application where you can look at property. I see where there are different landowners with no designation where property ends. You could be walking on state property and not know you are on private land.

**Cody Schulz:** The GIS data base would use the parcel level data as the property tax parcels.

**Dorman Bazzell, Chief Information Technology Department Officer:** (Attachment #4)  
The application will be visible to hunters and anyone who can access the application. It will be visible to the county representatives and landowners who will need to identify themselves and validate they are landowners as well as the data platform that is responsible for capturing this data. There have been some questions about data privacy. The decisions will be made through an advisory group. The technology will enable those decisions. The acceptable use is the current PC enabled application that exists to view plot data. There is also a mobile app that already exists. The verification and authentication are forms. These are technologies that allow us to deploy forms that would allow county workers to adjust data from a landowner based on what the advisory group determines is acceptable data needed to verify that for a landowner. Then the data acquisition and integration is the actual data base. This will be the current GIS data base. It will pull in county data and will replace existing data in the GIS platform so the most current is available. How often it is updated will be determined by the advisory group.

The technology already exists and is already on mobile phones. When a landowner has authenticated they will have the right to go back in and adjust the parameters that the advisory group set up.

The cost will be balancing available data with the data quality and make it available for hunters and the public. We will be able to provide the most up-to-date data available.

**Representative D. Anderson:** I have had several calls from county auditors. They have concerns with time and cost. Have you talked to the counties?

**Dorman Bazzell:** This is where ITD would look to the advisory group.

**Representative D. Anderson:** Would it be possible to have a map of the land that is open to hunting at the county auditor's office?

**Dorman Bazzell:** The PLOTS books will still be available. This is extending current capabilities.

**Representative D. Anderson:** The colors will be published in the PLOTS book that the Game and Fish puts out?

**Dorman Bazzell:** That would be decisions by the advisory group.

**Representative D. Anderson:** I think those books are published once a year and may not be accurate.

**Representative Heinert:** You said you would be dependent on the counties' GIS systems. Does every county in the state have a current GIS system?

**Dorman Bazzell:** Any county not having one, we would help them. Those that have the data, we will work with them to enrich their data so it is good quality.

**Representative Heinert:** Do the counties that have current GIS data have the same platform?

**Dorman Bazzell:** We have a consolidated GIS platform that we host at ITD. I don't know how all of the counties manage their data. That will be part of the discovery.

**Representative Satrom:** The fiscal note mentions \$45,000 as far as the counties. What is the cost for the state?

**Dorman Bazzell:** There are two components. The GIS data base and the enhancements currently are in our ITD budget which is \$1.5 million. There is another fiscal note which manages the forms component and the data acquisition.

**Representative Lefor:** Has there been past experience with the state ITD working with different counties? The legislative intent is to have this running by 2020. Do you think it will be a difficult transition?

**Dorman Bazzell:** There is a lot of work to be done with the county data. I have been working with Game and Fish and the counties. This is where the advisory group will need to balance our available funds with the counties who are looking to pull data in.

**Representative Lefor:** Has the state IT worked with political subdivisions before?

**Dorman Bazzell:** There are projects with the Department of Human Services that works with the counties.

**Representative Heinert:** You mentioned \$1.5 million in the ITD budget. Is that general fund money?

**Dorman Bazzell:** That is special fund money.

The Game and Fish has a fiscal note for the verification and authentication portion.

**Representative Richter:** How do we address the spotty internet for cell phones?

**Dorman Bazzell:** The technology can make maps available off line. You can also print a map before going out.

**Representative Skroch:** The Fiscal Note is for \$250,000 per biennium. Do you see that cost decrease once the data is established?

**Dorman Bazzell:** There will be costs as we bring on additional counties. Once all counties are available, then we will go on operational costs.

**Representative Heinert:** We don't know how much we are going to spend until we know the requests?

**Dorman Bazzell:** The current Fiscal Notes and what is in the ITD budget covers the initial implementation that we are looking at. As to the cost of bringing in additional counties, I don't have numbers. There are unknowns like what kind of condition the data is in.

**Representative Heinert:** So we don't know how far the \$1.5 million is going to take us. We don't know how many counties are going on the system. We don't know how many locations will be identified in the color code system.

**Dorman Bazzell:** That is correct.

**Representative Kaiser:** The pressure on the county commissioners to get on this system will be overwhelming. How many can you do in this biennium?

**Dorman Bazzell:** I would defer to the advisory board to partner with the counties.

**Representative Kaiser:** How many counties can you do?

**Dorman Bazzell:** At that time it would be the available funds and the scope of the work.

**Representative Kaiser:** Do you have any idea how much a county will cost?

**Dorman Bazzell:** There are a lot of factors with cost. Is the data digitized and is it in good shape? We have to take this on a case by case basis.

**Representative McWilliams:** How difficult is it on the data base to expand and put in checkboxes for what is allowable on the land?

**Dorman Bazzell:** The technology will allow us to do that. The advisory board decides what to deploy out to the hunters.

**Representative Heinert:** Since you don't know what the advisory board wants, what the counties' GIS system is like, or how many counties are on GIS. Is this bill before its time?

**Dorman Bazzell:** There are counties with data available to begin. As to how far out in the future this needs to extend, I would leave that to the legislature and the advisory board.

**Representative Richter:** If I go on a walk, I have to print out a GIS map. Then I have to interpret the map as I am going. Correct?

**Dorman Bazzell:** That is why I am looking for a high level of data quality. If I had to print, I would use the hiking apps in coordination with this data. Technology will exist to the extent that the data is available.

**Representative Headland:** There is discussion with the cost of development. Is it possible that \$1.5 million will be adequate to complete the project?

**Dorman Bazzell:** There are some new components to this. One is the forms for landowners to authenticate and verify that they own property and for county workers to use. There are changes to be made to land parcel data. There are designations that need to be considered so the app and data is available to understand what is posted. Also we need to make sure of data privacy.

**Representative Headland:** That doesn't have to be redone for every county. If you do it once it should be able to be reapplied to every county in the same way.

**Dorman Bazzell:** Yes, in terms of application interface. The bigger challenge is always the data so it is usable.

**Representative Fisher:** Section 7--the timeline of 2020, are you comfortable in achieving that?

**Dorman Bazzell:** With the counties that do have data, I am comfortable. We won't be able to bring in every county in the state. There are counties that have data in good shape.

**Representative Skroch:** Would it be possible to list areas as "data unavailable"? Then the landowner would go back to the old methods.

**Dorman Bazzell:** There will be default values for which we have no parcel data. If it is not part of the data, it will be designated as open to hunters.

(1:48:15)

**Terry Steinwand, Director, Game and Fish Department:** (Attachment #5)

There are some issues with Section 1. I recommend consulting with a States Attorney. The solution to Section 1 is to only have one category. It is closed or it is open. We have to trust in IT. I believe the date September 2020 is aggressive.

**Representative Heinert:** How many licenses were issued last year?

**Terry Steinwand:** About 220,000 resident and non-resident fishing licenses. And about 160,000 resident and non-resident hunting licenses.

**Representative Heinert:** How many changes for hunting or fishing trespass?

**Terry Steinwand:** There were about 100 complaints. Of those actually prosecuted were about 6 or 8. Hunting trespass was pled down to criminal trespass.

**Representative Satrom:** What kind of economic impact do we have with hunting and fishing in our state?

**Terry Steinwand:** For 2017-18 the impact is \$2.1 billion a year. That is up from \$1.4 billion in 2012. That excludes license cost. The direct expenditures from hunting and fishing are close to a billion dollars.

**Representative D. Anderson:** Do you work with counties?

**Terry Steinwand:** The only time we do is with the PLOTS program. There are areas we have to go to the courthouse to make sure we have the right landowner.

**Representative D. Anderson:** The counties may have to hire another employee. I am thinking the fiscal note should be \$2.5 million.

**Terry Steinwand:** The \$1.1 million is for the base layer. That data port was recommended 10 years ago by a GIS committee. This would work on top of it. The \$250,000 was a guess.

**Representative D. Anderson:** We should get some input from county auditors.

**Chairman Dennis Johnson:** If the IT people don't know, I don't know if the county auditors would know.

**Representative Headland:** What about the cost to the property owners who have to post the land with a permanent sign? Has Game and Fish considered providing a permanent sign?

**Terry Steinwand:** The North Dakota Wildlife Federation does have permanent signs to give to landowners. They have been available for two or three years.

**Representative McWilliams:** You referenced a \$2.1 billion economic impact. Is that number comprised of a tourism dollar?

**Terry Steinwand:** It is purely hunting and fishing expenditures and rollover activity.

**Representative McWilliams:** I remember tourism is defined as any travel over 40 miles. I think we overinflate our numbers.

**Terry Steinwand:** We don't consider it tourism.

**Representative Satrom:** Have the sportsmen groups been approached for their input. Will this bill cause a positive economic impact?

**Terry Steinwand:** I will let the wildlife clubs address that. This bill has become confusing. If we can't clarify it, we will lose some hunters and anglers.

**Representative Schreiber-Beck:** Most opposition says this will destroy opportunity for young hunters. I don't see it that way.

**Terry Steinwand:** I agree with you. This is how young hunters communicate. It will be a recruiting and retention tool.

**Representative Damschen:** If the land is closed at the beginning, can it be changed?

**Terry Steinwand:** I would hope there will be the ability to change. I don't like that the red, green, and blue conflicts with the PLOTS maps.

**Representative Damschen:** The property rights issue is simple. Making the land available is complicated.

**Terry Steinwand:** The major cost of this bill is the GIS data layer. That was thought of before this bill.

**Representative Porter:** One of the concerns, if it is an open system that I can change any time I want, there are consequences of criminal charges against somebody. The choice would have to be prior to the start of the hunting season and continue throughout the season. How do you see the lock down of the data from the landowners' aspect?

**Terry Steinwand:** I agree. There shouldn't be a lot of switching during the season.

**Representative Porter:** Another area of confusion are the section lines and county ditches. This data base should be easy to show those areas as green.

**Terry Steinwand:** It is not as easy as you think. A lot of the roads are just easements. They are still private property. The farm-to-market roads are open.

**Representative Porter:** Our committee deals with water. Those creeks and streams that feed into the navigable parts of the river system are open to public access even though they are crossing private land. Are you going to be able to delineate those public areas on private lands?

**Terry Steinwand:** If it is navigable water, you are legal to be out there as long as you don't touch the bottom. I don't know how we can detail that.

**Representative Tveit:** Does this bill change anything for the ethical hunter?

**Terry Steinwand:** It still puts responsibility on the hunter to figure out who to contact.

I have issue with the unethical hunter in the bill. Now it is just an infraction which is alright with the electronic portion until people get used to it. For the physically posted it should be a larger penalty.

**Representative Tveit:** We talked about convictions and arrests. How hard is it to enforce current law when it comes to trespassing and hunter violations?

**Terry Steinwand:** If a landowner offers a complaint, it is investigated. If the evidence proves they were trespassing, we charge them and turn it over to the States Attorney who with the judge determines the penalty.

**Representative Tveit:** This bill was written as a landowner rights bill. Now we are trying to incorporate a hunter privilege bill. Do you have any suggestions?

**Terry Steinwand:** This has been contentious for years. I agree with Senator Erbele, we have to close this. Six out of the last seven sessions this has come up. I suggest a subcommittee of members from both committees.

**Representative Tveit:** The advisory committee included in this bill wouldn't help develop it?

**Terry Steinwand:** Yes, I think they would be adequate but it is after the fact.

**Chairman Dennis Johnson:** We have looked at this issue. This finally gets us going with a working group represented by all. 2020 may be aggressive but it gives us time to come back in 2021 to see how it is going.

**Terry Steinwand:** I would like to see the 2021 session and just talk about adjustments. Not start over.

**Chairman Dennis Johnson:** We don't want to kill the bill. What has been brought up are easy fix amendments.

**Julie Ellingson, North Dakota Stockmen's Association:** (Attachment #6)  
Also handed out for **Mike Gerhardt** (Attachment #7) not present

Suggests amending the penalties on page 6. (2:23:00)

**Daryl Lies, North Dakota Farm Bureau:** (Attachment #8)  
Private property rights are the basics and backbone to freedom in our country. Therefore, they should be inherent. Our antiquated posting law takes that private property right away.

There are not a lot of cases when it comes to hunting because many of us handle them ourselves because we can't get convictions.

To address change in the landowner app so a hunter doesn't make plans and the next day it is closed—we need to have a time delay. That happens now because the landowner didn't get a chance to post signs ahead of time. It taught me to ask even if it is posted.

There is a question about the penalties. The first time is only an infraction.

The categories are important. It doesn't matter what the colors are. We want to manage hunters so everyone has a successful hunting experience.

The question about boundaries is not clear, you can be on government land now and not know you are on it.

It won't get rid of the unethical hunter. It will allow us to get rid of the antiquated law to allow us to get a prosecution on them. There is more accountability for the unethical hunter.

Also handed out for **Roger and Becky Graner:** (Attachment #8) not present

**Roscoe Streyle, Minot:** Every industry has been helped by technology. Data is powerful. The data makes it easier. It won't hurt hunting

**Representative D. Anderson:** I am concerned with the cost to the counties.

**Roscoe Streyle, Sportsman, Minot:** Now you have to drive around and look for signs. I don't see the technology as that much of the cost. It will be an effective tool for the landowner and the hunter.

**Representative D. Anderson:** My concern is the cost to the counties.

**Roscoe Streyle:** Most of this land is in an FSA database already. The cost is not going to be millions of dollars. It will take time, but they are already on a salary.

**Representative Tveit:** You commented that other states have implemented this. Do you have an example?

**Roscoe Streyle:** The app where you look at available land. There are many apps to download and use in other states.

**Representative Tveit:** Now as the bill is proposed we would still be an open state to hunt. The eight states around are closed.

**Opposition:**

(2:40)

**Greg Schonert:** Gave example of trespasser (Attachment #9)



(2:48)

**Mike Liane, United Sportsman of North Dakota:** We have 600 members statewide. We keep them informed. Our membership thinks the proponents are a small percentage of the total landowners. I post my own land. There are landowners out there that are satisfied. The ones that never post are wonderful.

Fifteen years ago this same bill came to Montana and it passed. The ones that never posted were upset. Because now they have people contacting them. In Montana the bill was brought forward by the guides and outfitters.

The laws we had during the protests could have stopped them from day one, but there was concern for political correctness.

We have a small group of landowners that feel they shouldn't post.

There are areas of the state that don't have cell service. It penalizes the older generation that don't understand the technology. The cost could be spent on metal signs. Metal signs can be set up for 10 years. The data system is dependent on input.

United Sportsman does an annual survey of their membership. We asked them if a bill passed that posted the entire state of North Dakota, how much would it reduce your activity. The number totaled 75%. We have less public land than surrounding states. There is more posting now than ever. The loss of CRP has been devastating. We also have many acres tied up by guides and outfitters. It is harder to find a place to hunt.

Kill this bill and put it to an advisory committee. The sportsman would be more receptive.

**Representative Schreiber-Beck:** How does this bill affect youth hunting?

**Mike Liane:** That was the original bill in posting the entire state. That is what our membership reacted to. Under the new system using the app, they fear that it may be too easy to post their land. The one that didn't post before now has the whole world knowing that it is open.

**Representative McWilliams:** So we don't have data from the Sportsman Association on the current bill?

**Mike Liane:** Many of my comments are what we received from membership both a couple of months ago and recently. A lot of them had conversations with Senators when these amendments were made public. There have been changes since then. The general concept they are fearful of is because it looks complicated.

**Representative Tveit:** Most people have not read this bill. If we started it with "closed to hunt but open with permission", that would fall in line of the posted signs we use today. What would your sportsmen think of that option?

**Mike Liane:** I would think anything to simplify would be a way to get the sportsmen's confidence. Make it more user friendly.

**Representative Tveit:** If we pass this as a study only, that is where it will die.

**Mike Liane;** Our sportsman are against posting the entire state. If the data system is user friendly the sportsmen will buy into it. Rushing into it will be a disaster.

**Representative Tveit:** I don't see us rushing into it the way the bill is proposed. There is a group working on it. There is some potential if we work together.

**Representative Marschall:** Would you be in favor of splitting the bill and turn the hunting portion into a study. Then implement the trespassing portion now.

**Mike Liane:** No. Most law abiding sportsman aren't afraid of penalties. They are afraid that this gets so complicated that they can no longer differentiate property lines. The sportsman would be in favor. I wonder if it would satisfy landowners that insist on total posting.

**Representative McWilliams:** What timeline would you propose?

**Mike Liane:** I am not on the technology side. I don't have an idea.

**Representative McWilliams:** 5 years--10 years—20 years, how long do we want to keep pushing something off? Has an alternate timeline been presented for us to look at?

**Mike Liane:** I think if we could phase it in over 2, 3, or 4 years. How long will it take to get the counties on line?

**Representative Damschen:** Would you tell me what rights the property owner has?

**Mike Liane:** I am a property owner. The state dictates that I have to control noxious weeds. I can't shoot a deer out of season.

**Representative Damschen:** What rights do you feel a property owner has over his property?

**Mike Liane:** I am bound by all state laws.

**Representative Damschen:** Do you think a property owner has rights like access? Do you have control over who comes into your house?

**Mike Liane:** Absolutely. You have total control over access. If you post, no one can trespass there without asking you. If you don't post, you have the right to tell them to leave.

**Recess until after floor session after 2:00 p.m.**

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Peace Garden Room, State Capitol

SB 2315  
3/14/2019—p.m.  
Job #33770

- Subcommittee  
 Conference Committee

Committee Clerk: ReMae Kuehn
------------------------------

## Explanation or reason for introduction of bill/resolution:

Relating to criminal trespass and hunting on private land; to provide a statement of legislative intent; to provide for a legislative management study; and to provide a penalty

## Minutes:

Attachments #10-24
--------------------

## Opposition:

**John Bradley, Executive Director, North Dakota Wildlife Federation:** (Attachment #10)  
The number one reason for the decline of young people hunting is less access. The federation would like an agency study rather than a legislative study. Also a subcommittee to come to a middle solution.

**Representative Tveit:** Do you like the South Dakota pay to play?

**John Bradley:** No

**Representative Tveit:** Has this not been studied enough?

**John Bradley:** This bill has been discussed but not in the current form. We think ITD can get the job done, but there is not enough time to educate the sportsman. That is a heavy lift on Game and Fish.

**Representative Tveit:** I have asked those emailing me to read the bill. I have had three answers back after reading it and they have not changed their mind. I would like to hear more direct responses after reading the bill.

**John Bradley:** Thank you for contacting them.

**Representative Keiser:** Even with the three categories, won't it still be closed. What is your opinion?

**John Bradley:** I agree. Game and Fish is working on an amendment to remove the concerns of the sportsmen's community.

**Representative Satrom:** Were you consulted for the bill draft?

**John Bradley:** I came to the Federation in December. I have been following this since it was introduced. I have also tried to inform our membership.

**Representative D. Anderson:** Your concern on #5 is basically travel across private land for fishing. Is it a bigger problem than occasionally?

**John Bradley:** The North Dakota Wildlife Federation thinks it is going to impact the outdoor recreation numbers and hurt the smaller towns that rely on it.

**Representative D. Anderson:** If there isn't public access to a lake, would that stop restocking.

**Representative Headland:** I do believe if Game and Fish stocks on private property, you have to allow it to be open.

**Representative Tveit:** The Senate passed this on February 19 so there has been time to review this.

**John Bradley:** It was the time the amended version came on line before the Senate voted.

**Representative McWilliams:** Would you support a smaller implementation like a pilot program?

**John Bradley:** I would have to see the bill language.

**Representative McWilliams:** This is a work in progress. We can tweak it in 2021.

**John Bradley:** While those changes are being made you are making a criminal of a dad who is taking his son on a mentored hunt.

**Representative Damschen:** Is there anything that prohibits a father and son to get permission from the landowner?

**John Bradley:** No. I would recommend to always get permission. But as the bill is written, you need a license and can't go as a mentor.

**Representative Zubke:** How much federal land would be unavailable to hunting because it is surrounded by private land. I would be interested in that.

**John Bradley:** I don't have that information.

**Foster Ray Hager, Cass County Wildlife Club, Casselton, North Dakota:** The bill is confusing and contradicts itself. Would like to start over. I think you should pick members from each committee and develop a bill that law enforcement won't lose on a loop hole.

**Carmen Miller, Director of Public Policy, Ducks Unlimited:** (Attachment #11)

(35:15)

**Representative Tveit:** In response to page 6, the old fashioned posting method overrides everything else.

**Carmen Miller:** My point is they think they can rely with the online system and it might be the same as what is on the land.

**Bill Helphrey, North Dakota Bow Hunters' Association:** We think this is a two-part bill, posting and criminal trespass. They should be separate. This bill will cause more problems than it fixes. The landowner has the right to know who is going on their property. The word "hunting" has been mentioned 49 times in the bill. "Property rights" was not mentioned once. What happens when I go to the landowner's door to ask permission? Will I be trespassing?

If the land changes hands, how soon do we have to change the data base? What if the system goes down? We think this bill should be split. First deal with posting then trespass. Trespass is trespass regardless of the reason. You can't have situations where the advisory committee will work out later.

**Darrell Belisle, Turtle Lake, North Dakota Bow Hunters Association President:** Our group was not involved with the Senate amendments. The conviction rate is very poor. There are only 6 or 8 a year. That doesn't seem like a lot compared to the cost. Come up with something that works and we will support it.

**Representative Headland:** The sportsmen weren't keen on everything being posted. If you see property with a poster with no information, would you move to different property or would you find the owner? If it was labeled red and you wanted to hunt it, would you make a phone call. Isn't it workable?

**Darrell Belisle:** I even ask permission on land not posted. If it is marked red, there is no one to contact.

**Representative Headland:** I think I see many signs not signed. You still have to find the owner.

**Darrell Belisle:** The honest guy will find it out. But the questionable hunter will find excuses.

**Representative Headland:** Even if the data base is red, there is still the ability to find and contact the owner.

**Darrell Belisle:** If it is red, I might have to look at the plot book. Why did we just spend a million dollars on the data base?

**Representative Headland:** The solution to all of that is to go back to the original bill and pass it. That wouldn't cost anything.

**Darrell Belisle:** The landowner now has the right to post it.

**Representative Tveit:** This bill opens it up for both parties to try it out. In 2021 if it doesn't work, we can deal with it.

**Darrell Belisle:** It is not always clear with the technology because it can still be physically posted.

**Gary Masching, Bismarck:** This bill has far reaching implications for North Dakota. Have you talked to the Game Wardens, Sheriffs' Association, States Attorneys, landowners, etc.? They are the ones to enforce this. Talk to the farmers and ranchers. Don't trust technology. Take the time to study this.

**Representative Damschen:** The original bill wasn't drawn up to convict people of trespassing. The purpose of this bill is to have common courtesy so the landowner knows who is on the land. The technical part resulted from hunters wanting to know how to contact landowners. Maybe we should go back to the original bill and then work on the data base.

**Gary Masching:** Whatever you do, talk to all the necessary people.

**Vice Chair Wayne Trottier:** The landowners came with this because of property rights and problems. They wanted it all posted. They were willing to give up some of that when they heard from the hunters. The time I spent hunting, I was always building relationships with the landowner before the hunting season. Should that be the intent of all hunters?

**Gary Masching:** I go out in July and build a relationship with the landowner.

**Chairman Dennis Johnson:** These two committees are from all walks of life and we hear from our constituents.

**Representative Tveit:** I have responded to landowners, sheriffs and game wardens. The research is being done. This bill has potential.

**Gary Masching:** To me it just sounds like a lot of confusion.

**Mike McEnroe, North Dakota Chapter of the Wildlife Society:** (Attachment #12)

(1:15:00)

Lets' define what the problem is. Bring the study group together and come up with a solution.

**Proponents:**

(1:17:30)

**Mary Graner, Landowner in Morton County:** (Attachment #13)

Part of the thrill of the hunt is waiting for the game. What about the time to contact the landowner? We want to know who is on our land. I don't go and use someone else's boat just because I don't have a boat. It is their boat and they pay the taxes on it just like I do as a landowner.

Most of the DAPL cases were found not guilty. With stronger trespass laws we can get convictions. (Provided affidavits written by law enforcement.)

**Representative Porter:** When we dealt with the DAPL bills last session, we worked with Ladd Erickson to create a trespass law that has not yet been tested. Do you think we didn't get our criminal trespass law right from last session?

**Mary Graner:** I don't have the answer as to why the judges didn't uphold that.

**Representative Porter:** The new law was never tested. We felt that we fixed the concerns. This bill takes all of those fixes out.

**Mary Graner:** The only way they were convicted, is if they were on video or a photograph.

**Representative Skroch:** I have received emails saying that landowners are selfish. How do you respond to that? Do you have data on the number of landowners that were turned up-side down during the protests?

**Mary Graner:** I don't have that data. Calling ranchers "selfish", I would call the hunters "lazy." They can look up who owns the land. We want to know who is on our land.

**Representative Skroch:** Is this only addressing a problem with a few people. Is that true?

**Mary Graner:** Farming is the largest industry in North Dakota. Many farmers don't have time to come in to testify. We are also hunters. It is about safety in knowing who is on your land.

**Roger Kenner, Farmer and Rancher from Leeds:** (Attachment #14)

I ask that you restore the penalties originally in the bill for the hunting offenses.

(1:52)

**Representative D. Anderson:** Over the past 20 years are the number of hunters decreasing or the same?

**Roger Kenner:** In our area they are increasing. There also a lot coming from out of state.

**Representative D. Anderson:** How about snowmobile activity?

**Roger Kenner:** The scary part is we have electric wire around corn fields. We have to take it out for the winter so it isn't hit with a snowmobile.

**Representative D. Anderson:** How do you feel about access in the winter for snowmobiles. Can we find a place for them?

**Roger Kenner:** I have a lot of habitat for deer. I don't want snowmobiles bothering them. Most people know that, so they are staying away from those areas. I am always worried about the liability.

**Representative D. Anderson:** There have been several snowmobile accidents just from the drains.

Also handed out testimony for **Tyler Lannoye, Churchs Ferry Sportsman:**  
(Attachment #15) Not present.

(1:55)

**Paul Thomas, Vice President, North Dakota Corn Growers Association:**  
(Attachment #16) OnX app has the name of every landowner. The access is already there.

(2:02)

**JaCee Aaseth, Administrator, North Dakota Ag Coalition:** (Attachment #17)

(2:04)

**Kayla Pulvermacher, North Dakota Farmers Union:** (Attachment #18)  
We are looking to build relationships and communication.

**Darrell Oswald, Farmer and Rancher, North Dakota Grazing Lands Coalition:**  
(Attachment #19)

(2:10:10)

**Joe Schettler, Rancher by Killdeer:** (Attachment #20)

Being able to change the data base—there are quotas on the mountain lions. I check that website every morning. It is pretty simple to do that every day.

Snowmobilers do cause damage to native grasslands.

(2:14:17)

**Representative Skroch:** I have responded to emails by saying it is time consuming and inconvenient for property owners to post their land. Then the signs have to later be removed. Can you respond to that?

**Joe Schettler:** I post along roads. It is hard along the river because it floods in the spring and the water takes them away.

**Representative Skroch:** Do you have to remove those signs? Why not use metal signs?

**Joe Schettler:** I do not remove signs. Metal signs fade. Markers doesn't last. Oil traffic splashes mud on them. If you put them too far back, people don't see them.

**Tom Christensen, Farmer, Lamoure County:** There is more work to be done with the bill. This is a pro-property rights bill. Rural property owners should expect the same as urban.

**Dan Rorvig, McVillage:** (Attachment #21)

Also handed out testimony for **Burdell Johnson, Diamond J Livestock, Tuttle:**  
(Attachment #22) not present



(2:23:60)

**Dan Wogsland, Executive Director, North Dakota Grain Growers Association:**  
The Grain Growers think this is the way to go. In full support.

Also handed out testimony for **Tim Erbele, Streeter:** (Attachment #23) Not present

**Erika Kenner, Leeds:** We post 400 to 500 signs per year. We had them made with our names. They are in the way of implements so they have to be removed every year.

In answer to landowners vs. tenants posting on line, the absentee landowners would want their renters to be in charge. They can have the renters use a pass code.

Updating the online system, it would be just like online banking. It is in there automatically. It was a refreshing point that the IT department is working with the members of the committee.

I would argue who is the current law clearer for?

There are 48 counties that already have digitized GIS data.

I have talked to sportsmen in the Devils Lake area that are for this bill.

As far as having too many colors, look at the DOT map with the road conditions. Many groups attended with input for the bill.

I would ask to restore the penalties from the original bill.

**Justin Labar, District 2:** I have dealt with people on our property that didn't belong there. I believe in property rights. Maybe we should go back to the original bill.

We have lost some of that community feeling where people care about each other. Private property rights matters. You should not have to put up several hundred signs. We have a culture change.

**Chairman Dennis Johnson:** A lot of the "posted no hunting", is the guides and outfitters that tie up the land.

**Chairman Dennis Johnson:** We will continue taking testimony March 21, 2019 at about 3:00 p.m.

**Neutral:**

**Claire Ness, Legislative Council:** (Attachment #24) provided summary of the bill to the committee. Not present.

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Peace Garden Room, State Capitol

SB 2315--Continuation  
3/21/2019  
Job 34153

- Subcommittee  
 Conference Committee

Committee Clerk: Kathleen Davis for ReMae Kuehn
---

## Explanation or reason for introduction of bill/resolution:

Relating to criminal trespass and hunting on private land; to provide a statement of legislative intent; to provide for a legislative management study; and to provide a penalty

## Minutes:

Attachments 1 - 22
--------------------

## Proponents:

### **Jacee Haag, NDSU student, Carson ND:** (Attachment #1)

- Grew up hunting with family, always asked permission, build that relationship
- Economic benefit
- This database will become a tool of the 21<sup>st</sup> century
- Time to pass a no trespassing bill

### **Wyatt Kessel, Belfied:** (Attachment #2)

I am 12 years old. I am here to support SB 2315. I attended Hunter's Safety last spring and I learned to ask the landowner to hunt no matter if the land is posted or not. Asking permission is being respectful to the landowner.

I feel SB 2315 is good legislation. If you know who is on your land, then you can hold them accountable if there is litter or damages. Please Do Pass SB 2315.

### **Dennis Miller,** third generation farmer in prairie pothole (Attachment #3)

- Hunting is a privilege
- Without someone policing my farm, complaints are constant.
- Hunters claim they don't see signs and disregard them
- Unguided hunters and harvest don't mix

### **Kevin Smith,** Devils Lake (Attachment #4)

- Water is not public domain (16:40)
- They are not calling the game warden they are calling the sheriff who wrote a trespass ticket.

### **Matt Levik,** Landowner not present (Attachment #5)

23:10

**Clayton Pederson, retired Sr. National Rifle Association, VP of RAX Adventure Team, hunter, sportsman, rancher, landowner** (Attachment #6)

- This is a private property rights bill, this is not a hunting bill
- In SD you are suppose to get written permission that was amended to this bill
- Game and Fish require online applications
- There's a specific hunting exclusion that was amended to this bill in with the data base that's going along with it.
- The trespass is driving a wedge between harder and farther between landowners and hunters; forge those relationships
- Liability issue- statement from Steve Becker of the Professional Insurance Agents of ND, referenced liability in ND Century Code, his opinion is the law shows the landowners immunity for trespass injury but there is a difference between no duty of care and not being able to be sued as people can sue for anything and the landowner would need to prove they had no duty of care.
- This is a simple private property rights bill. Landowners have the expected right to not have people entering their land for any reason. This will put teeth into those prosecutions.
- This bill will help bridge that gap.

32:22

**Levi Rue, Landowner, Sheyenne:** (Attachment #7)

- People have paid for their land with blood, sweat and tears and have a reasonable right to privacy and safety on the land
- Backwards that we are required to post land, "No Trespassing".

36:00

**Scott Rising, North Dakota Soybean Growers** (Attachment #8)

Opposition:

**David Dewald, President, North Dakota Wildlife Federation & Lewis and Clark Wildlife Club:** (Attachment #9)

- I support online posting, signage for posting and private property rights
- Needs 3 amendments (1) contact information, (2) the Hunters Advisory Group need clarification and strengthening and (3) outfitters should not be able to make a private from private land without permission from the landowner or tenant

42:20

**David Voecks, Fargo:** (Attachment #10)

- Land isn't posted because owners are indifferent, the current system works. If you're apathetic, you don't have to do anything. Attempting to get apathetic people to act will result in losing access to hunting acres.

- Believes the database is essentially throwing software at a people problem. Even if it's implemented I don't believe it will remain reliable in the long term.
- Numbers of hunters is declining

47:09

**Patsy Crooke**, representing herself (North Dakota Chapter of the Wildlife Society):  
(Attachment #11)

- Believe most landowners will simply select "Closed to Hunting- Don't Ask"
- There should be just 2 online choices, opened or closed, to make the ap work effectively,
- Suggested 2 changes (1) allow landowners to post their land in the online database, (2) remove the criminal trespass portion of this bill

49:48

**Sheldon Cieslak, on his own behalf**, (State Chairman of the United Sportsmen of North Dakota): (Attachment #12)

- Sportsmen have had to compromise many times over the years from posting distance being change and land entirely enclosed by a fence being posted at the gates
- There will always be hunter landowner relations – there will always be issues
- There is no such thing as total property rights
- Criminal trespass needs to be removed

51:51

**Lloyd Jones**, Landowner, Burleigh County: (Attachment #13)

- Confusion and misinterpretation with this bill – change to a Resolution calling for a interim study
- Why jeopardize the UPS man and Girl Scout for coming into your yard and being charged with criminal trespass
- Spending millions on a data base where there's no info on how man landowners would participate
- Risking a billion dollar hunting and fishing industry in ND
- Why change what we have? Why rush to change?
- Current trespass legislation has been on the books for 50 years, for 90 years, for decades. It's well understood by landowners and sportsmen. Problems and impacts are minimal and there are ways to deal with those.

58:44

**Grady Thorsgard**, Farmer, Northwood: (Attachment #14)

- Initially opposed but likes the ap that gives landowner contact information
- Changes made to criminal trespass will be difficult to live with

**Rick Warhurst**, Past-President, North Dakota Wildlife Society: (Attachment #15)

- If this becomes law and most or all of the maps are red, no access, don't ask
- Should be 2 color, yellow to ask on land that is closed and green for access
- At 5:30 maps can't be read accurately in the dark, many people have trouble reading maps

**Bill Helphrey:** (Attachment #16)

- last session a bill was passed to take care of trespass
- what's the plan for contacting absentee landowners?
- A paper copy? Daily changes? Deadline for updates?

**Proponents again:**

Larry Knoblich, Jamestown

- I buy every license I can get, hunt by myself.
- Sometimes you don't know whose land it is; we have some townships that have 2 occupied farmsteads, with have townships without any farmsteads. The buck isn't going to stand there while I get on my laptop. The signage tells us who's land it is.

**Proponents again:**

**Troy Coons, NW Landowners Association:** (Attachment 17) urge a Do Pass

- Property owners pay the taxes and have the liability should be able to mitigate their risk by having control over who enters their property

**Ed Kessell, Dickinson, ND:** (Attachment 18)

- supports the restoration of private property rights, Do Pass
- This bill has brought out the fear. In the 1980's they said No Till couldn't be done, it'll never work, and now it's standard of modern agriculture.

**Ron Selzler, Benson County near Knox, ND:** (Attachment 19) in support of the bill

- I turn in 1-3 groups a year on my land, violators
- It's time to address this situation
- We need it done this year

**Doug Zink, Carrington, ND**

- We control a township worth of land in Foster, Eddy, Wells County.
- Lots of horror stories over the years, deer shot within 30 feet of our home in our yard.
- The good ones have always been welcome, we've never told anyone no. After testifying in the Senate, 3 people called and have hunted coyote. It's not that difficult.
- Pulling into a farmers land and not knowing who's land it is, I don't believe.
- The trespass- last fall was the first time ever we posted. When we went to harvest with 4 combines, 4 grain carts and a dozen trucks. We sit on the highway because a hunter parked on the approach to hunt across the road. We called the Sheriff, at 5 pm and got a recording, call 911 if this is an emergency. You sit and back up traffic and can't get into your property

**Pete Hanebutt**, North Dakota Farm Bureau, passed out **testimony from Sara Lovas**, Hillsboro farmer, in support (Attachment 20).

Additional written testimony submitted:

**James Odermann**, Billings County landowner in support (Attachment 21)

**Glenn Moen**, Grand Forks, in opposition (Attachment 22)

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Peace Garden Room, State Capitol

SB 2315  
3/26/2019  
34217

Subcommittee  
 Conference Committee

Committee Clerk: ReMae Kuehn by Ellen LeTang
--

## Explanation or reason for introduction of bill/resolution:

Relating to criminal trespass and hunting on private land; to provide a statement of legislative intent; to provide for a legislative management study; and to provide a penalty

## Minutes:

Attachments 1, 2
------------------

**Members present:** Representative Schreiber-Beck, Representative Tveit, Representative Dobervich, Representative Heinert, Representative Zubke

**Others present:** Senator Erbele, Senator Patten, Brian Hosek~ND Game & Fish, Mary Graner~Self, Julie Ellingson~NDSA, Troy Coons, NW Landowners Association.

**Representative Schreiber-Beck:** Opened the subcommittee on SB 2315. Roll call was taken. **Attachments 1 & 2** were submitted to the committee.

## TOPICS DISCUSSED

- Handouts included info & discussion on concerns of SB 2315
  1. Hunting app's~7 different apps
  2. State-by-state analysis of hunter trespass/land posting laws
  3. Criminal trespass
    - a. Premium-2017
    - b. 65<sup>th</sup> session, 2017
    - c. Current century code
  4. City ordinances
    - a. Intern is looking up how it may or not affect communities posting ordinances
    - b. Posting in non-rural communities
  5. Proposed amendments
    - a. Amendment at this time has not been adopted
- Updates on costs
  1. North Dakota Game and Fish Department~Terry Steinwand

- a. \$250,000 is a guess. Little as 10,000 or as high 250,000
  - b. GIS base layer is a partial system
- ND Game & Fish Department-GIS Committee-Brian Hoseck~3 pieces to the technology
    1. Few technology pieces to this project
      - a. Base information as a parcel layer
      - b. Placed in the technology budget-critical for this project to work.
      - c. It's been a priority project for over a decade
      - d. Coordination from the counties to pull in & build a tool for daily use
    2. Form landowner to get their information to allow a designation
    3. Mapping application & printing ability
  - Additional cost to the counties would be the coordination effort.
    1. Parcel GIS ITD to develop the tool
      - a. 1.1 million in development
      - b. 850,000 development
      - c. 172,000 initial maintenance
      - d. 127,000 project management
      - e. Money was for another purpose
      - f. Project pulled out of the house side
      - g. Delay effort
  - Benefit of state vs private company
    1. Number of applications out there
    2. G&F Dept & state agencies have similar applications used on mobile or computers
    3. Private-solicit the counties & user is at the mercy of how often they do that. Similar to plot books
    4. Limitation is the way they get the information
    5. User at the mercy of how often they do that
    6. Cost to the company getting more regular updates
    7. Coordination Assn of Counties
    8. State would be liable if not updated daily
  - Opportunity to work with companies if ITD is not funded
  - ITD Fiscal note
    1. Need to be updated budget to know the true cost
    2. Interaction with the counties with the GIS systems for additional fees for the state or individual counties programs in the fiscal note.
  - Explored onX app
    1. Demo on onX app
      - a. Go off line for no cell reception & work with it
      - b. Show private lands
      - c. Save your treks or way points to provide history, proves you didn't go onto private land & saves the history
      - d. \$30 for one year/one state, \$100 multi-state



- e. Map layer-ND Plots, ND Government's land, NDGNU, WMA, ND private lands & indicates specific species
- GIS system & development of a system
    1. FFA-GIS was backed up every day to a state office
    2. Can it be made interdepartmental or too much information for one system
    3. Fiscal note on the parcel project which has a completely different purpose.
    4. Consuming is the easy part
    5. Tough part is constructing it
    6. onX comes to the G & F every year that is managed
    7. Land owner validation to digital post
    8. onX would be happy to consume information & post but not everyday
    9. There are state agencies that have applications that can consume this information & post it with little effort
    10. Develop an online system, we have to be guaranteed that is accurate or we are liable
      - a. challenges with a third party or vendor with the data
    11. Data transmitted every time change was made
  - Need to take care of the landowner
    1. status of property can't be changed once hunting season has started
    2. a deadline just like applying for a license
    3. someone charged with trespass has to be proved, there has to be a certain date
      - a. A log of any changes
  - Land changes in a year
    1. Depends on what side of the state
    2. Lot of small acreages that change hands
  - 8 states don't have a database.
    1. Posted & let hunter find the landowner
    2. Go back to the original bill
    3. Protect the land
  - Need to move forward to connect landowner to the hunter
    1. Can't put every possible scenario into code
    2. Need to start
    3. Advisory board
      - a. Represent both sides
      - b. Clarity on advisory committee on who would chair, need leadership
      - c. Run committee as an official meeting, past the meeting broke down
      - d. G & F director or designee, Ag commissioner or designee, Land group & Hunter group. IT wouldn't have a bias
      - e. Work on a penalty
  - Amendment .02003
    1. Moves it back to the presumption that everything is open
    2. Senate appropriations for the IT

- Asked Lisa to explore what is the state liability

Adjourned at 8:50 a.m. Meet at 8:00 tomorrow morning the 27.

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Peace Garden Room, State Capitol

SB 2315  
3/27/2019  
Job 34249

Subcommittee  
 Conference Committee

Committee Clerk: ReMae Kuehn ~ Ellen LeTang
---

## Explanation or reason for introduction of bill/resolution:

Relating to criminal trespass and hunting on private land; to provide a statement of legislative intent; to provide for a legislative management study; and to provide a penalty

Attachment 1
--------------

**Members present:** Representative Schreiber-Beck, Chair; Representative Tveit, Representative Dobervich, Representative Heinert, Representative Zubke

**Others present:** Brian Hosek, North Dakota Game and Fish Department; Mary Graner, Self; Julie Ellingson, North Dakota Stockmen's Association; Dan Wogsland, North Dakota Grain Growers; Dorman Bazzell, ITD; Troy Coons, NW Landowner's Association; John Bradley, North Dakota Wildlife Federation; Carmen Miller, Ducks Unlimited; Emmerly Mehlhoff, North Dakota Farm Bureau; Pete Hanebutt, North Dakota Farm Bureau; Don Larson, Odney Public Affairs; Tag Anderson, Director of Risk Management, OMB; Mary Jensen, North Dakota Farmer's Union; Lance Gaebe, North Dakota Corn Growers' Association; Reice Haase, North Dakota Governor's Office; Terry Steinwand, North Dakota Game and Fish Department; JaCee Aaseth, Administrator, North Dakota Ag Coalition

## Topics Discussed

### ~ ND G&F-GIS Land Parcel Info-Trespass Registry Info (Attachment 1)

1. This is how the map will look
  - a. Work for the landowners that have DAPL issues
  - b. Work for landowners who don't want to physically post the cost & effort to sign
  - c. Meets the needs of landowners who don't want to deal with electronic posting
  - d. Meets the needs of landowners who don't want to post or electronic
  - e. Give them the opportunity to post
  - f. Worked on the penalties
  - g. New form for information of technology
  - h. Private company help construct app
  - i. Click on the squares to find the actual owner, perk for hunter
2. Shows owner history of ownership

3. Advisory board
4. Cost is minimal to create the form
5. Specify a window where they can change the color
  - a. That could be worked out by the advisory group
  - b. Things could be built in to post on line for dates open
  - c. It can date stamp when posted or want to post in the future

~ **Amendment 19.0896.02003**

1. Puts in place what we have today

~ **Game wardens & sheriffs**

1. Work with more boots on the ground
2. Does it give the prosecution more teeth
3. 34 wardens for the whole state
4. Every sheriff's department is different. Burleigh Co, which is the 2<sup>nd</sup> largest sheriff's department in ND, any given time, 6 people assign to patrol
5. Opening day, law enforcement is deluged
6. Landowner will call, complain but won't follow through with prosecution, which is frustrating
7. Law enforcement can arrest & deal trespass
8. Knowing that they won't press charges, will this bill change that
  - a. If you don't press charges, don't know any law that would automatically do it
  - b. Was discussions on the fines, that it wasn't enough teeth
  - c. Putting more teeth in it, that trespass is a trespass, would be more inclined to press charges
  - d. More teeth, perhaps they would

~ **Funding, cost & liability issues-Addressed by Director of Risk Management**

1. Who will fund it
2. No liability concerns with electronic posting, has to be blatantly obvious-like we knew there was an error & failed to correct it
3. You have to do the actual property owner who has the rights
4. Counties participating with the GIF information, not updated, hunter goes on that & sees something, goes & gets arrested.
5. Put the hunting piece aside and just look at the trespass

~ **Landowner responses**

1. Would like penalties returned to existing code
2. Prosecutions haven't happened or follow through
3. Opposed to everything open. Would like it closed
4. Landowners not listened to but they will respect a Game Warden
5. Landowners want to decide who & who can't be on the land, not an inherent right
6. Landowners are acceptable to give this a try
7. Mitigate the risk
8. Would like to go with the original bill, all posted but will work with you
9. OK with hunters on the land, just want to know who
10. Prosecute the habitual bad hunter

~ **Sportsmen responses**

1. Trying to find a way to compromise
2. Online posting resolves issue for time, money & keeps teeth in it for the landowner
3. Comfortable with the online with support from most
4. 1.1 or 1.5 million is on the ITD side
5. Not in favor for sportsmen assessed a fee for registry telling them where they can't go

~ **ND Game & Fish**

1. 1.1 has its own return on
2. There are existing applications out there, would make it available to hunters
3. Advisory group may have to figure out or address the money
4. Depends on the bells & whistles for the application, but it's still minimal
5. This is a working proto type of study
6. 48 counties have this information
7. 300,000 licenses purchased a year cumulatively
8. Can't use those funds, it would be a diversion of funds, original purpose of the IT project. We are an afterthought on this particular project. Tax dept, land dept, Dept of Environmental Equality, Oil & Gas & many agencies would use this besides the ND G&F
9. 50 CFR, 80.3 regulation. State may participate in the benefits of excise taxes of hunting & fishing equipment. There is a prohibition against the diversion of license fees paid by sportsmen to purpose other than administration of the F&W Agency. Can only be used for administration
10. 220,000 acres G&F manages. Don't own all but some of it is managed
11. 500,000 acres for Waterfowl production area & National Wildlife Refuges
12. 700,000 to 750,00 state school lands
13. Million acres of National Grasslands
14. Of the 45 million acres in ND, about 43 million are privately owned

~ **Subcommittee**

1. Be better to turn it into a study
2. Look for outside sources

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Peace Garden Room, State Capitol

SB 2315  
3/28/2019  
34304

Subcommittee  
 Conference Committee

Committee Clerk: ReMae Kuehn by Ellen LeTang

## Explanation or reason for introduction of bill/resolution:

Relating to criminal trespass and hunting on private land; to provide a statement of legislative intent; to provide for a legislative management study; and to provide a penalty

## Minutes:

**Members present:** Representative Schreiber-Beck, Representative Tveit, Representative Dobervich, Representative Heinert, Representative Zubke

## Others present:

Mary Graner~Landowner, Brian Hosek~ND G&F Dept, Julie Ellingson~ND Stockmen's Association, Troy Coons~NW Landowner's Association, John Bradley~ND Wildlife Federation, Carmen Miller~Ducks Unlimited, Don Larson~Odney Public Affairs, Mary Jensen~ND Farmer's Union, Reice Haase~ND Governor's Office, Terry Steinwand~ND G&F Dept, JaCee Aaset~Administrator~ND Ag Coalition, Dale Patten~Senator Dist 39, Robert Erbele~Dist 28

## Topics discussed

- ~ Additional amendments coming from Stockmen's Association
- ~ Why does a taxpayer have to pay someone's hobby
- ~ Lot of calls from friends and neighbors, they're tired of this, not going to let anyone on, their entitlement, it's my land
- ~ State shouldn't have to pay for any database
- ~ 10 hours in a tree stand, but don't want to take 10 minutes to call
- ~ Already existing data bases
- ~ Landowner is not going to approach hunter with a rifle when they are on your land
- ~ Just ask to hunt, all we ask
- ~ 2 categories ~ open or closed
- ~ 48 counties have the information already
- ~ ND G&F, a lot of good info already
- ~ Focus on advisory group, make sure the right leadership is on it, move forward not a study

- ~ Study not the way to go, been at this for 20 years & it needs to be addressed
- ~ Everyone knows we're like every other state; they'll know you have to ask

### **Funding**

- ~ Possible use of Heritage Fund
- ~ Looking for funds is not the issue
- ~ 2019, nothing changes, we have to work with Advisory Board
- ~ If we get the money into ITD, G&F has sources, money could come out of general fund
- ~ The cost shouldn't scare us because there is a lot of information out there
- ~ Don't think finding funding source is a problem
- ~ 2019 nothing changes

### **Advisory group**

- ~ Page 5, Advisory Group ~ need to identify who will lead
- ~ Amended version has some legislators added

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Peace Garden Room, State Capitol

SB 2315  
4/1/2019  
34418

Subcommittee  
 Conference Committee

Committee Clerk: ReMae Kuehn by Ellen LeTang
--

## Explanation or reason for introduction of bill/resolution:

Relating to criminal trespass and hunting on private land; to provide a statement of legislative intent; to provide for a legislative management study; & to provide a penalty

Attachment 1
--------------

**Members present:** Representative Schreiber-Beck, Chair; Representative Tveit, Representative Dobervich, Representative Heinert, Representative Zubke

**Others present:** Brian Hosek, North Dakota Game and Fish Department; Mary Graner, Mandan Landowner; Julie Ellingson, North Dakota Stockmen's Association; Dan Wogsland, North Dakota Grain Growers; Troy Coons, NW Landowner's Association; John Bradley, North Dakota Wildlife Federation; Carmen Miller, Ducks Unlimited; Emmery Mehlhoff, North Dakota Farm Bureau; Pete Hanebutt, North Dakota Farm Bureau; Mary Jensen, North Dakota Farmer's Union; Reice Haase, North Dakota Governor's Office; Terry Steinwand, North Dakota Game and Fish Department; JaCee Aaseth, Administrator, North Dakota Ag Coalition; Senator Erbele; Gaylynn Becker, Napoleon Landowner

Meeting called to order at 3:30 p.m.

**Senator Erbele:** Attachment 1, version 19.0896.02007.

- ~ Same as .0006 except for two words.
- ~ Front part of the bill looks like the bill that came from the senate in terms of criminal trespass, civil penalties & presumption of the land being closed.
- ~ Emphasis should be a property rights bill not a hunting bill.
  1. Fundamentally, to go on someone's property you should seek permission.
  2. Maintain the original intent & penalties remain in place as they currently are.
- ~ Penalties are reinstated.
- ~ Part of the bill had a study. Combine the advisory group with the study, make it a mandatory (will) study would be its own committee, a standalone committee.
  1. Already have legislative council staff.
  2. It's ok to have citizens on the committee.
  3. Study issues while developing the data base.



- ~ Advisory Committee Voting Members
  1. Have the staff in legislative council
  2. 2 members representing agriculture organizations.
  3. 2 members representing sportsmen organizations.
  4. 5 members of the legislative assembly, one of whom must be selected by the committee as chairman of the committee.
    - a. 1 member of the majority party in the house.
    - b. 1 member of the minority party in the house.
    - c. 1 member of the majority party in the senate.
    - d. 1 member of the minority party in the senate.
    - e. 1 member from either party in either chamber.
  5. Nonvoting members of the committee.
    - a. Representative of the ND association of counties.
    - b. Agriculture commissioner or the commissioner's designee.
    - c. Director of the game & fish department or the director's designee
    - d. Chief information officer or the officer's designee.
  6. Add a deadline for the data base.
  7. Have a timeline.
  8. Report to the next legislative session
  9. Want the committee run like an interim committee

**Representative Heinert:** Page 5, line 17, do we have an appropriation?

**Senator Erbele:** I believe so, this would be a minor portion of the whole GIS budget. So much of the data is already out there. We've sought out the necessity for a FN but have never come up for a necessity for one.

**Representative Heinert:** It's my understanding that the house appropriations committee has cut that section of the IT budget.

**Senator Erbele:** That probably would be a good question for Brian Hosek from F&G. So much of the data is already out there within the counties.

**Representative Heinert:** Are we taking criminal trespass out of statute, how will that affect let's say a convenience store where they are asked to leave?

**Senator Erbele:** This includes all properties closed to trespassing, they would be in violation if they refused to leave.

**Representative Dobervich:** Page 7, line 5, membership went from no legislators to legislators having majority vote. Also members are separated into voting and nonvoting? What is the thought process for the legislators having the majority vote?

**Senator Erbele:** When under legislative management you can use the council as a resource. We're all citizen legislators, we're citizens too.

**Rep Dobervich:** It is OK to have citizens with voting rights?

**Senator Erbele:** I asked Mr Bjornson if it was ok & he said yes.

**Rep Dobervich:** Attachment 2, amendment 19.0896.02004.

- ~ Bring up the penalties to what they were prior to.
- ~ Designate someone to lead the group—Director of Game and Fish—just to get us started.
- ~ Feels the advisory group is legislative heavy—allow them all the vote.

**Gaylynn Becker:** Landowner by Napoleon.

- ~ This is property rights bill, not hunting.
- ~ Law enforcement needs to have tools to keep the citizens of ND safe.
- ~ I hope you do something with this.
- ~ Safety of the citizens is important-physically & mentally.
- ~ Fine tune it so it works for law enforcement.

**Rep Heinert:** How do you feel about all the surrounding states closing to trespassers.

**Gaylynn Becker:** I'm concerned about the safety of the citizens of ND & those who enforce the laws of the state. This is much more important than my wanting the land open. If it weren't for the illegal activity which I experienced that feeling & I don't like it.

**Julie Ellingson, North Dakota Stockmen's Association:** These amendments are with our input that I was asked to bring forth. What Sen Erbele brought forward is a collaboration with us. This streamlines into one effort for a better path moving forward.

**Representative Heinert:** Why are you removing about 90% of trespass language?

**Julie Ellingson:** The idea is to create the reversal of open lands to all lands being closed with the exception of hunting component. This would require affirmative permission.

**Representative Heinert:** I'll ask the same question about refusal to leave when asked to leave.

**Julie Ellingson:** If there is the refusal to leave, the crime is commenced and they are subject to the penalties in the bill.

**Representative Heinert:** That answers that from your point of view. What are the wishes of the committee? About the citizen's point of view who doesn't live in the county or property, we are removing language that protects them, like the businesses & cities.

**Julie Ellingson:** We would like the same protections for private property rights for urban or rural. We don't want to see a disparity between the rural & urban properties.

**Representative Heinert:** We worked on the trespass last session in the Judiciary committee & I'm afraid that if we remove this language, we could be back to the same place we were again. That is not to be able to fulfill an obligation of getting somebody convicted of crime.

**Representative Schreiber-Beck:** I believe that is the point of research & we will work on that. Any other questions for Julie?

**Representative Tveit:** Can trespass concerns be worked on during the interim?

**Representative Heinert:** The way I look at this amendment now; that language is all stricken. We would have to go through the process once again.

**Representative Schreiber-Beck:** The thought I have looking at the language that was presented by Sen Erbele, if there are other ways, if we want to charge them with development of the access database, that the word develop is in there. If we want to use another term, so it would allow for a RFP. Any concerns of the outline to the committee on page 7?

**Rep Dobervich:** I believe that it's legislature heavy. I don't see why everyone could be a voting member.

**Representative Schreiber-Beck:** Included voting members?

**Rep Dobervich:** In version .02007, non-voting members are the ND Association of Counties, Ag Commissioner, Game & Fish & IT officers.

**Representative Schreiber-Beck:** You would prefer those also?

**Rep Dobervich:** Yes & also I would like to see who will be leading that group. Legislative management will be designating rules, who will chair it, just so that we have someone to assure that it's being convened & manage the meeting.

**John Bradley, North Dakota Wildlife Federation:** Page 5, line 17, the department shall maintain and hunter access database. Curious what the funding source will be? We have made it clear that hunters should not be tagged with responsibility of paying for a data base that tells them where they can't go. If the department is funding this, it's that that is put into question, the diversion of funds for them. I can't answer that.

**Representative Tveit:** I hear your concern but the \$100, that's not the only source of funding Game & Fish. Am I correct?

**John Bradley:** There are G&F people here to better answer that.

**Closed at 4:03 p.m.**

**Next meeting is Tuesday, April 2 at 3:30 pm.**

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Peace Garden Room, State Capitol

SB 2315  
4/2/2019  
Job #34464

- Subcommittee  
 Conference Committee

Committee Clerk: ReMae Kuehn

## Explanation or reason for introduction of bill/resolution:

Relating to criminal trespass and hunting on private land; to provide a statement of legislative intent; to provide for a legislative management study; and to provide a penalty

**Members present:** Representative Schreiber-Beck, Chair; Representative Tveit, Representative Dobervich, Representative Heinert, Representative Zubke

**Others present:** Brian Hosek, North Dakota Game and Fish Department; Terry Steinwand, North Dakota Game and Fish Department; Nicole Haase, Hunter and Landowner; Mary Graner, Mandan Landowner; Julie Ellingson, North Dakota Stockmen's Association; Dan Wogsland, North Dakota Grain Growers; Troy Coons, NW Landowner's Association; John Bradley, North Dakota Wildlife Federation; Carmen Miller, Ducks Unlimited; Emmery Mehlhoff, North Dakota Farm Bureau; Pete Hanebutt, North Dakota Farm Bureau; Mary Jensen, North Dakota Farmer's Union; Reice Haase, North Dakota Governor's Office; JaCee Aaseth, Administrator, North Dakota Ag Coalition and U.S. Durum Growers Association; Claire Ness, Legislative Council Attorney; Dorman Bazzell, ITD; Senator Erbele; Representative Skroh; Representative Fegley; Representative Fisher; Representative Johnson; Representative Westlind; Representative McWilliams; Chelsey Stoppleworth; Carel Two-Eagle

Meeting called to order at 3:30 p.m.

**Claire Ness, Legislative Council:** Version #.02003 was brought by North Dakota Game and Fish.

1. Private land is open to hunters
2. In addition to physical posting, it would also be electronically
  - a. Called trespass registry--run by trespass registry advisory group
3. Removal of several lines in Sections 3, 4, 5 of the original engrossed bill because they would no longer be changed—they would go back to what is currently in the Century Code.

Version #.02007 presumes private land is closed.

Section 1--provides for an exception for hunting activities. That is on page 1, lines 20 and 21. They allow someone to enter land to hunt unless land is posted physically or closed in the online data base. Subsections 3 & 4 are removed from the Century Code because they relate to violations of posting. When the land is presumed closed, you wouldn't need that prohibition.

Section 2--the hunting on posted land has been changed. It allows an individual to hunt without obtaining permission unless the land is designated as closed or open with permission on the online database.

Section 3--entering land to recover game if hunted on land where hunting is allowed. Similar to current law.

Section 4--need a valid license and weapon

Section 5—may not act as a hunting guide or outfitter on posted land

Section 6--advisory group is removed but still retain the hunter access data base which will designate land open, closed, or with permission

Penalties have been returned back to the levels in the Senate version.

Section 7--database operational by hunting season of 2020. Include all counties by September 1, 2022.

Section 8--study and report to legislative management

Members who would perform the study are listed as voting and nonvoting along with compensation.

**Representative Heinert:** If the owner of a store asked people to leave and they refused, what can law enforcement do if this bill passes.

**Claire Ness:** Could be charged with a class A misdemeanor

**Representative Tveit:** Also on page 3, lines 14-17 can both inside and outside be included-

**Claire Ness:** Yes. If they are asked to leave the first time it is a class B misdemeanor. For a second offense it is a class A misdemeanor.

**Representative Heinert:** In the building it is a class A misdemeanor. On the property outside it would be a class B misdemeanor.

**Representative Tveit:** Amend to included outside and inside for class B misdemeanor.

(18:00)

**Representative Tveit:** Addressing concerns with members of the committee with legislative representatives.

1. Fair mix of all parties concerned
2. The fifth person as a chair would only vote in a tie.

**Representative Dobervich:** Page 7, line 16 change nonvoting members to voting.

1. Likes the idea of the chair being a nonvoting member.

**Mary Graner, Landowner:** All of the issues would be taken care of if the land is closed.

1. "Closed" works for other states
  - a. Other groups like hikers, snowmobilers, etc. aren't asking for it to be open
2. Taxpayers shouldn't have to pay for this
3. There should be private landowners on advisory committee
4. We are the stewards of the land and are left out

**Representative Tveit:** Version #.02007 the land is closed.  
Need landowners to press charges

**Representative Zubke:** Snowmobilers have contacted him.

1. Don't see closed as the answer to all solutions.

**Carel Two-Eagle:**

1. Use permission slips—signed and dated
2. Land should be closed.

**Representative Fegley, District 4:**

1. Pressing charges doesn't always result in action
2. This bill may put more teeth in it
3. The data base is a good component in the future as a compromise
4. Can use other apps for landowner information

**Representative Tveit:** What would it take to reinstate the fiscal note?

**Representative Heinert:** The Game and Fish portion is on top of the platform that IT has to develop. The IT portion is about \$1.1 to \$1.3 million which will be used by several agencies in the state. Without that money Game and Fish has nothing to build upon. Maybe we don't need any state money. We could use other apps and the state doesn't spend any money

**Representative Tveit:** With Version #.02007 we could still use the old fashioned method of posting that would override any database.

**Senator Erbele:** The fiscal note is not dead. The hearing for the IT budget will be tomorrow. There is a likelihood for some dollars.

Check if agency people on the committee can vote?

**Nicole Haase, Landowner and Hunter:** Grew up in South Dakota where land is closed.

1. Never comfortable going on non-posted land in North Dakota
2. Without the landowner, the animals would not be there
3. Need to make contact with the landowner.
4. Animosity is because landowners don't feel respected
5. Expressed liability concerns

Closed at 4:22 p.m.

Next meeting 11:00 a.m. April 3--Peace Garden Room.

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Peace Garden Room, State Capitol

SB 2315  
4/3/2019—a.m.  
Job #34491

- Subcommittee  
 Conference Committee

Committee Clerk: ReMae Kuehn
------------------------------

## Explanation or reason for introduction of bill/resolution:

Relating to criminal trespass and hunting on private land; to provide a statement of legislative intent; to provide for a legislative management study; and to provide a penalty

Attachments #1 & 2
--------------------

**Members present:** Representative Schreiber-Beck, Chair; Representative Tveit, Representative Dobervich, Representative Heinert, Representative Zubke

**Others present:** Students from several schools, Brian Hosek, North Dakota Game and Fish Department; Terry Steinwand, North Dakota Game and Fish Department; Julie Ellingson, North Dakota Stockmen's Association; Dan Wogsland, North Dakota Grain Growers; Troy Coons, NW Landowner's Association; John Bradley, North Dakota Wildlife Federation; Carmen Miller, Ducks Unlimited; Emmery Mehlhoff, North Dakota Farm Bureau; Pete Hanebutt, North Dakota Farm Bureau; Mary Jensen, North Dakota Farmer's Union; JaCee Aaseth, Administrator, North Dakota Ag Coalition and U.S. Durum Growers Association; Dorman Bazzell, ITD; Representative Skroch; Representative Fisher; Representative Westlind; Carel Two-Eagle, Landowner; Lacey Anderson, Midco; Jason Horning, North Dakota Association of Counties

Meeting called to order at 11:00 a.m.

Representative Schreiber-Beck: Explained the bill to students

(7:00)

**Jason Horning, 911 Program Manager, North Dakota Association of Counties:**

Our responsibility is to build a GIS system for the modernization the 911 system in North Dakota. It is imperative that we have a state-wide system with all counties. I am the resident expert for GIS at the Association of Counties. The North Dakota Association of Assessing Officers has done some work in this area. By their account, there are about 20 to 23 counties that have county-wide GIS information, specifically parcel information, which would be important for this bill. About 25 counties have rural-only parcels which would be used for hunting purposes. There are 5 counties that don't have parcel information.



I understand this bill give counties the option of either participating or not, based on whether they have information.

**Representative Heinert:** Are the counties that have information on the same style platform?

**Jason Horning:** They are on different platforms. There are a number of counties that have the financial means to support a GIS shop or coordinator. There are counties that have less resources that outsource that development and maintenance. The last group are the counties that don't have the financial means to support such a system. That would be the 5 counties.

**Representative Heinert:** What kind of additional fees (if this bill were to pass) would there be for the counties to complete their work.

**Jason Horning:** If a county chose to do this, they would do it with their financial means. It wouldn't be a burden on them.

**Representative Heinert:** If not every county does this, we will not have a good system. How many counties right now would be able to provide us accurate current information to create this program for hunters and landowners?

**Jason Horning:** About 90% of the counties would have the information. I can't tell you how many would opt in.

**Representative Tveit:** Do you see a need to bring these platforms under one umbrella?

**Jason Horning:** We have seen the benefit of having all information in a common place. There are many more use cases across the county and state. It is easier to make a decision on a statewide basis.

**Representative Tveit:** Can you give examples of other uses for this app?

**Jason Horning:** We know there is interest in the State Tax Department, Census Division, and Voter Registration. There are more on the list which I don't have with me.

**Representative Tveit:** I would like that list.

**Representative Schreiber-Beck:** The counties need to be willing to provide the information. I thought this would be publicly available. But it is not?

**Jason Horning:** I am unclear about that. We understand the information is public. But the option is in the bill that if they are not willing to provide the data, they don't have to. They may get pushback from the public once some counties start providing the data.

**Representative Schreiber-Beck:** The common location of holding all the data is not available.

**Jason Horning:** Correct. Each county is like an island.

**Representative Schreiber-Beck:** How is the data accumulated?

**Jason Horning:** There are GIS people at some of the larger counties. If the counties have money but not enough money to support a GIS person, it will be outsourced to a third party.

**Representative Schreiber-Beck:** The cost is widely varied?

**Jason Horning:** Yes.

**Representative Tveit:** Do you see a problem getting them to talk to a central group?

**Jason Horning:** That is a challenge. The intent of this project isn't to get too deep. We know we need a statewide map. For us there are higher level priorities than a hunting database.

**Brian Hosek, North Dakota Game and Fish:** This information is different in each county. We would reach to each county and grab the information. IT would build the tool to automatically reach out to the counties.

**Representative Schreiber-Beck:** Do you have an update on the cost for Game and Fish?

**Brian Hosek:** That \$20,000 to \$30,000 concept for the registry form depends on how complicated it gets.

(20:19)

**Carel Two Eagle:** Searched for apps. Brought list (Attachment #1)

**Pete Hanebutt, North Dakota Farm Bureau:** We are supportive of what Senator Erbele has added. (Version #.02007) This bill will not hurt the legitimate hunter.

**John Bradley, North Dakota Wildlife Federation:** The Senate made the changes. We have a system called PLOTS that pays landowners.

**Representative Heinert:** How do you propose to do this with all the apps available? Why put the burden on the landowner? It should be on the hunter to get the companies to develop the apps that are needed.

**John Bradley:** They can physically post. They can tell the hunter. The Game and Fish would add the third option of online posting. onX maps doesn't include a phone number.

**Representative Tveit:** Can your sporting groups live without using the apps? Landowners are willing to have land open. However, we need to make it work. This is a landowners' rights bill. We have tried to include the hunters. Can you live with closed to hunting?

**John Bradley:** I don't think this bill helps with hunter relations. It is not that simple.

**Representative Schreiber-Beck:** It is a safety issue. When land is open I don't know who is out there, I become responsible. The hunters don't have the liability that the landowners

have. I have not heard that a hunter is satisfied with anything that we are doing. I don't think we can satisfy the hunter. How are you going to convey that to your membership?

**John Bradley:** Multiple versions are not seen by the hunters. We are doing our best to inform them.

If the Game and Fish amendment would come forward, there would be less angry emails.

**Representative Dobervich:** Of the 50 states, how many have a system like North Dakota where it is open?

**John Bradley:** I don't have the information for 50 states. Our neighbors are closed. That doesn't solve the trash problem. North Dakota has hard winters. What we had going for us was the access. I do what I can to build the relationships.

**Representative Tveit:** Page 6, lines 4-22 Version #.02007--old method of posting. Who is liable? We need to have land closed for the safety of the hunter.

**John Bradley:** Open has been current law.

**Representative Zubke:** Are you aware of cases where landowners have been held liable?

**John Bradley:** The liability questions should be studied.

**Lacee Anderson, Midco:** Supportive of version .02003. Allows access to lands for reasons other than hunting.

**Representative Schreiber-Beck:** If that amendment was on Version #.02007, would you be in support?

**Lacee Anderson:** Yes.

**Representative Schreiber-Beck:** Handed out a brief summary of options with explanation. (Attachment #2)

**Representative Tveit:** Favors option #1. Hunters already ask to hunt. Need to build the relationship.

Next meeting today (Wednesday, April 3) at 3:00 p.m.

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Peace Garden Room, State Capitol

SB 2315  
4/3/2019—p.m.  
Job #34499

Subcommittee  
 Conference Committee

Committee Clerk: ReMae Kuehn
------------------------------

## Explanation or reason for introduction of bill/resolution:

Relating to criminal trespass and hunting on private land; to provide a statement of legislative intent; to provide for a legislative management study; and to provide a penalty

Attachment #1
---------------

**Members present:** Representative Schreiber-Beck, Chair; Representative Tveit, Representative Dobervich, Representative Heinert, Representative Zubke

**Others present:** Brian Hosek, North Dakota Game and Fish Department; Julie Ellingson, North Dakota Stockmen's Association; Dan Wogsland, North Dakota Grain Growers; John Bradley, North Dakota Wildlife Federation; Emmery Mehlhoff, North Dakota Farm Bureau; Pete Hanebutt, North Dakota Farm Bureau; Kayla Pulvermacher, North Dakota Farmer's Union; JaCee Aaseth, Administrator, North Dakota Ag Coalition and U.S. Durum Growers Association; Dorman Bazzell, ITD; Representative Skroch; Representative Westlind; Colten Rall, Warden Dahlgren, and other high school students.

Meeting called to order at 3:00 p.m.

### **Colten Rall, Student, Hunter and Son of a Farmer, Warden Dahlgren, Student, Hunter and Son of a Game Warden**

Colton thinks the app is a great idea but it may not be for his grandfather. Can use signs but signs are knocked down or the name is forged on the signs.

Gave other examples of abuse of signs and land by hunters.

**Representative Tveit:** Do you favor all lands being posted and ask permission to hunt?

**Colton and Warden:** Yes.

**Warden Dahlgren:** My dad has taught me to always ask for permission.

**Representative Schreiber-Beck:** (Attachment #1) Three options

**Representative Tveit:** I am in favor of version .02007.

I am in favor of:

1. All property being closed to hunt
2. Redesign that version using the suggested committee on page 7, lines 5-20 leaving the chair without a vote except in a tie
3. Having this committee continue down the path to resolve relationships and study the potential online apps for the future
4. Put the database aside at this time with a deadline to have it done
5. Use physical signs now
6. Fix the conflict that Claire Ness sent us in an email between class A misdemeanor and class B on page 1, lines 14-19 and page 3, lines 14-17.

**Representative Heinert:**

1. I am going to resist all motions except the study motion.
2. We have heard so many thoughts and comments over the last few days.
3. A study is necessary because we don't have an answer.
4. We don't know if we have funding for the online app.
5. We know from our risk manager that if we do it wrong, we are putting the state at risk.
6. We are wrong to make the chairman a nonvoting member. You just make one of the legislators a chairman.
7. I like the concept of the committee with having 5 and 4 on it and having other people come in to talk like we have with other study committees
8. Very concerned even with the amended version
  - a. Until we put this past the attorneys that worked on it two years ago and they weigh in on it, we should not adjust the criminal trespass law.

**Representative Tveit:**

Lines 5-15, page 7--designates one of the five members of the legislative assembly will be selected as committee chair.

**Representative Heinert:** So we are putting a legislator on with no voting authority?

**Representative Dobervich:**

I would:

1. Like to scrap the whole thing and do an evaluation of the impact from last session's trespass bill. We don't know if that bill worked. Knowing that scrapping everything isn't going to happen—so then I would:
2. Be in support of all lands closed
3. Be in support of keeping the current trespassing laws
4. Do away with the advisory committee completely and have reports to the agriculture interim committee about how things are going along with some concrete measurements—both quantitative and qualitative--so we can evaluate.
5. Not pursue an app. There are other apps available. We don't have funding in place. After evaluation, if that is where we need to go, we can introduce legislation in the future

6. With option #1—marketing the change---put in the statute directing not just Game and Fish but also recreational groups and tourism groups so this change is known to all types of activities.
7. Keep the amendment for utilities so the companies can do their work without being charged with trespassing.

**Representative Zubke:**

1. The district I represent want the land to be closed. Personally, I want it open.
2. We have many acres of government land. There are portions of that land you can't get to without crossing someone's personal property. That is an issue with this bill.
3. I would be hesitant considering all the work that went into the criminal trespass laws last session.
4. I like the electronic posting. What landowners don't like is having to go out and post their land. We have to get started on the data base. I am a landowner and post some land.
5. Most of my landowners do not think that having all land closed is going to eliminate the problems.
6. I don't like the deterioration of relationships between landowners and sportsmen. The electronic posting is a way through it.

**Representative Tveit:** The electronic posting is ideal. We are just not there yet. I hesitate to take all the work we have put in and lay it aside. Can we take the trespass work from two years ago, put in the utility amendment and do a closed posting?

(18:54)

**Representative Dobervich:** With the access issues to public land, the Heritage Fund has money to provide access. Would that help?

**Representative Zubke:** In my area we hunt upland game and deer. I am not sure how that access could work?

**Representative Dobervich:** I don't know the details. The Heritage Fund could fund access across private land to public waterways and land.

**Representative Zubke:** There is a broad band of landowners in my area. Some are opposed to everything. Some are very gracious and will not say "no." Access to federal and state land is difficult when surrounded by private land.

**Representative Schreiber-Beck:**

1. I lean towards the closed option. This is a trespass law.
2. We are trying to appease hunters. I haven't heard from a hunter that is happy with anything that has been done.
3. The landowners seem to be more willing to do some modification from their first bill.
4. I don't think it is the state's responsibility to do an app at this point.
  - a. There are private companies.
  - b. What about liability?
  - c. Are we interfering with private enterprise?
5. We can put in the easement amendment.

6. I agree about marketing.
  - a. The majority of people ask permission anyway.
7. The landowners are not against the trespass law except the fact that they have to post and then signs are gone. How do we eliminate the loss of the signs?
8. Landowners would like the land closed.
9. The advisory group's existence depends on what we want them to do.
10. Do we need more teeth into what we would call the penalties? Do they lose their hunting license? How do we get people to respect this?

**Representative Heinert:** You can't take a license away. What about a trespasser who is not hunting? We are treating two people with the same crime with different results.

**Representative Zubke:** You can say this is a trespass bill but when you make a comment like that, it is about hunting.

**Representative Tveit:** As a trespass bill, the teeth in it are that the landowner needs to press charges to get results.

**Representative Dobervich:** It would be interesting to know if there was an increase in arrests/charges since last session. We put this into place but unless there is someone there to catch them, it won't work. Under the existing updated laws there was more teeth, you could convict them if caught.

**Representative Schreiber-Beck:** The necessity would be because the signs are always removed.

**Representative Tveit:** We also heard the landowners weren't willing to press charges even the last two years. Therefore, we don't have a record to say it works.

**Representative Schreiber-Beck:** I will present the amendments to the Agriculture Committee.

**Representative Heinert:** I would suggest Section 8 of version .02007.

**Representative Schreiber-Beck:** Section 8 is access to lands for hunting and trapping study—report to legislative management.

I don't like "and develop the hunters access database." If we have private companies developing the database, we can use those. Also the date August 1, 2020. They can just report the findings together with any legislation.

**Representative Heinert:** Whatever that group would identify for landowners is which way it would go. They would still have an opportunity to voice closed or open. Out of the emails I have received, there are as many for "closed" as there are for "open." It is not easy to say what is best.

**Representative Schreiber-Beck:** How do you feel about option 3 which is a hybrid of the other two?

**Representative Dobervich:** I feel option 3 embodies what Representative Heinert just said. We don't change anything. It starts as open and move to closed over a period of time. The electronic posting option could be over time. It is optional whether the state does the app or contracts it. With Section 8 it could be just changing that language on page 7, line 1, "and related issues" to "and make recommendations regarding electronic posting." We are not immediately posting everything. I still think there are a lot of legislators on that committee. The committee is a well-rounded group of people. We heard landowners are ready to start pressing charges. It would also give the opportunity to evaluate the efficacy of the trespass laws from last session. This committee could make recommendations if those need to be adjusted as well.

**Representative Heinert:** I don't like the language of start open and move towards closed. That should be part of the committee's decision. This was not going to happen in 2019 anyway. If we do it fast and do it wrong, we will be back to do it over anyway. Let's have a study.

**Representative Schreiber-Beck:** We could start closed and move to open once the app is developed.

**Representative Tveit:** I would like to start out closed. Every landowner that testified said if we leave this session without closing the land, they will close it to hunting. That is more drastic than anything we can do as a committee.

**Representative Schreiber-Beck:** The wedge is there. That will make it larger. It is a different time than it was five or ten years ago. We are dealing with a different type of individual.

**Representative Tveit:** (Speaking to Representative Heinert) Can we close hunting lands with the current law and add the utility portion without restructuring everything?

**Representative Schreiber-Beck:** If we close the land, we would rework the entire trespass section so it aligns and not get rid of it. It provides the backdrop for law officials to act.

The database would come with a fiscal note. I don't think appropriations wants us to come with a fiscal note.

**Representative Dobervich:** If we start out closed and that wasn't the best option, is it harder to repeal everything closed than keeping it the way it is where everything is open and we gradually go to more closed land?

**Representative Tveit:** Do you want to make Section 8 a study?

**Representative Heinert:** If we change anything, we have to change the trespassing law. I don't think we should change the trespass law because we don't know what we have to change. These amendments are not good with the trespass law. Changing that law would take more time. My fear is the trespass law may create a situation we didn't think of. The landowner or business owner in town should have the right to tell someone to leave.



**Representative Tveit:** Can we take the current trespass law and add the utility law amendment and close the land to hunting?

**Representative Schreiber-Beck:** I can have that answer in the morning.

**Representative Schreiber-Beck:** Adjourned at 4:00 p.m.

Next Meeting at **8:15 a.m. Thursday, April 4.** (If amendments are ready)

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Peace Garden Room, State Capitol

2315—Committee Work  
4/4/2019 p.m.  
Job #34542

- Subcommittee  
 Conference Committee

Committee Clerk: ReMae Kuehn
------------------------------

## Explanation or reason for introduction of bill/resolution:

Relating to criminal trespass and hunting on private land; to provide a statement of legislative intent; to provide for a legislative management study; and to provide a penalty

## Minutes:

Attachment #1
---------------

**Claire Ness, Legislative Council:** Version #.02008 (Attachment #1) Proposed by Representative Dobervich, Representative Tveit, Representative Schreiber-Beck

Section 1 changes the presumption of land to be closed unless you have a license or privilege to be there. Without a license or privilege, it is a class C felony. If you enter or remain in a dwelling or highly secured premises without a license or privilege, that is a class A misdemeanor. The exceptions are those open to the public unless asked to leave. The part added in blue is for law enforcement in citing and collecting fines. There is also an allowance to retrieve game that was hunted on nearby land. There is an exemption for law enforcement officers who are performing their duty. The amendment for those maintaining infrastructure either above ground or below ground is also an exemption.

Section 2 requires permission to hunt on private land not just posted land. That part is duplicative of Section 1. The other part of Section 2 requires an individual to get written permission to hunt on private. It also changes the penalty to a class A misdemeanor. That is to make it consistent with the trespass provision in Section 1.

Section 3 amends a provision of current law to retrieve game from private land not just posted land. Under current law we have a presumption that land is open.

Section 4 in order to be a hunter both a weapon and a valid license is needed.

Section 5 requires a hunting guide or outfitter to get permission to use private land not just posted land.

Section 6 establishes a land access committee to study issues and develop recommendations regarding electronic posting of land during the interim. A report would be submitted to Legislative Management, Energy and Natural Resources and Agriculture Interim

Committees before August 1, 2020. The membership of the land access committee would be split between citizen members and public officials. There is also reimbursement of expenses.

**Vice Chair Wayne Trottier:** Page 4, lines 10 -12, retrieving game, always brings problems. Is there a way to fix that?

**Claire Ness:** The committee is free to amend as needed.

**Representative Schreiber-Beck:** This is the land is closed. That would change what happens in our communities and city property.

**Representative McWilliams:** This does away with the three-color code system?

**Claire Ness:** It does not set up the database. It would allow recommendations from the committee.

#### **Version #.02003 proposed by Game and Fish.**

**Claire Ness:** This presumes that land is open. This puts back the provisions for law enforcement to enforce noncriminal penalties. It is similar to current law. It does allow individuals to post online. This version contains the electronic posting database. If it is not available, old signs would have to be used.

**Chairman Dennis Johnson:** That is something that could developed over the interim?

**Representative Schreiber-Beck:** Forty-eight counties have the GIS system for 911. Getting the counties on line for hunting is a bigger trick than we think. The counties opt in.

I talked to onX today to assist the state. They receive the information from the counties to put in the app. The cost could be \$300 up to \$20,000 per county. I don't think it is something the state should be doing due to liability.

**Representative Dobervich:** I agree. The app is an unfunded mandate.

#### **Version #.02007**

(18:17)

**Claire Ness:** This version presumes like #.02008 that land is closed.

Section 1 exceptions are for hunters.

Page 3, line 14-17 there is inconsistency with penalties. If land is presumed closed, they would be asked to leave, they are guilty of a class B misdemeanor for the first offense and a class A for second and subsequent offenses. If land is closed, then that wouldn't be operational because they wouldn't have to be asked to leave. They would fall under the provision on page 1, subsection 2. There is the inconsistency.

This section also doesn't have the carve out for a shop owner to ask someone to leave. Under Version #.02008 that was a noncriminal offense. The procedures are what you see overstruck on pages 2 and the top of page 3.

Section 2 is carving out the exception for hunters.

Section 3 is to recover game.

Section 4 an individual is presumed hunting with a valid license and weapon.

Section 5 treats hunting guides and outfitters the same as hunters.

Section 6 is the development of the database maintained by the Game and Fish Department.

Page 6 has the noncompliance with database—penalties are brought back to what was on the original bill.

Section 7 the database is operational by September 1, 2020. All counties who have data that meets the specifications by September 1, 2022.

Section 8 provides for a hunter access committee study with membership listed. The representative from the North Dakota Association of Counties would be a nonvoting member. It also entitles the members of the committee to reimbursement for mileage and expenses.

**Representative Richter:** One section says to use the database and the other section says you are going to develop a group to look into developing a database?

**Claire Ness:** The database will be maintained by Game and Fish. That would be effective this summer. During the interim the committee would be appointed to study it and further refine.

**Representative Dobervich:** Version #.02008 I am not finding the requirement for promotion of the new law.

**Claire Ness:** I can add that in for Tourism, Department of Transportation, and Game and Fish.

**Chairman Dennis Johnson:** Is the provision in for utilities?

**Representative Schreiber-Beck:** It is not in Version #.02007.

**Claire Ness:** You can see the language in Version #.02008 in subsection 4, page 3 toward the bottom.

**Representative Richter:** Version #.02004?

**Representative Dobervich:** The intent was that previous versions did not say who would serve as the chair person. This was reinstating the information from the former trespass law. It is in Version #.02008.

Continued discussing the apps that are available to use. Some cost \$100 for the entire United States or \$30 for the State of North Dakota.

**Pete Hanebutt, North Dakota Farm Bureau:** There are organizations that provide a free app with membership.

**Representative Skroch:** It will be difficult to have this ready for August of 2020.

**Chairman Dennis Johnson:** We had this bill previous sessions. We need to get something going now.

**Chairman Dennis Johnson:** Closed the meeting.

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Peace Garden Room, State Capitol

SB 2315—Committee Work  
4/5/2019  
Job #34578

- Subcommittee  
 Conference Committee

Committee Clerk: ReMae Kuehn
------------------------------

## Explanation or reason for introduction of bill/resolution:

Relating to criminal trespass and hunting on private land; to provide a statement of legislative intent; to provide for a legislative management study; and to provide a penalty

## Minutes:

Attachments #1-3
------------------

**Representative Schreiber-Beck:** There is misinformation put out by hunter groups that we have decided to close the total state. That is not true. Legislative council is working on amendments.

(Attachment #1—version #.02003)

**Representative Richter:** On version #.02003, is there an assumption in the trespass law that if a police officer says they have to leave, they can make them leave the property?

**Representative Schreiber-Beck:** I will check with Claire Ness so there is clarity for that.

**Representative Satrom:** I like the idea of open which is version #.02003. The database has good intention but it takes some time.

**Representative Tveit:** Both version #.02003 and .02007 are open to hunt.

**Representative Schreiber-Beck:** The problem has been if you have to post and the signs are removed, there is no way to prosecute. The land should be closed to trespass. Even in town you shouldn't have to post.

**Representative McWilliams:** I am more favorable to version #.02003. I don't like the idea that it is closed but open to hunters. They can't ride a snowmobile on my land but if they carry a gun and claim to be hunting, it is alright. If we pass anything, I would want it simplified. To try and ram something through as a complete system is irresponsible.

**Representative Schreiber-Beck:** We have been working with this intensely for about ten days. We are not ramming anything through. I am comfortable with what will be proposed.

**Representative Tveit:** This has had hours of testimony and work. A previous eight sessions have worked with the trespass bill. If we drop this, the landowners will post it solid. Landowners are tired. They want a solution.

**Representative Dobervich:** I echo the previous comments. Many avenues were explored. We even looked at implications for urban areas. We want to make sure the good hunters are not impacted. We have received many emails which shows the constituents are engaged and weighing in.

**Representative Headland:** Keep in mind many emails on one side of the issue are like a chain from a group. You have to realize the effort. If you look at the property owners, these are all personal emails. That carries a lot of weight.

**Representative Fisher:** I do get personal emails from fathers and sons who have hunted. They say this bill is confusing.

**Representative Schreiber-Beck:** I found from the hunting side, anything we have done is not palatable to them.

**Vice Chair Wayne Trottier:** Hunters don't like it closed. We have to respect the landowner whether it is in town or rural.

**Representative Tveit:** We need a product that will pass the house floor and get it to conference committee.

(Attachment #2—version #.02008)

**Representative Headland:** Version #.02008, setting up study, let's give the hunters some motivation to come to the table. Let's put a hammer on the end of the study that if they don't come up with a solution, then everything is posted.

**Representative McWilliams:** I have heard on the western side of the state there is a program to leave land open and get paid. Was the effectiveness discussed?

**Representative Schreiber-Beck:** That is the PLOTS (Private Land Open to Sportsmen) program. It is well published available land with payment back to the landowner.

**Representative McWilliams:** Is that more available on western side than eastern side of the state? Is there discussion in expanding that program?

**Representative Schreiber-Beck:** The eastern side is heavily farmed which may cause a difference. It is a separate program with federal funding.

**Representative Kiefert:** Landowners in my district had problems with the spring goose hunt. The township roads were getting ripped up. The hunters would go around the "road closed" signs.

**Chairman Dennis Johnson:** This is an issue that keeps coming up. I like version #.02003

open for hunting unless posted for two years. Having this group is our version of a study to get something resolved. I like the deadline if a resolution doesn't come from the committee.

**Representative Headland:** The one difference would be that it would be posted so they would have to come to the table with a solution.

**Chairman Dennis Johnson:** We have to address the property rights so this isn't an ongoing issue.

**Representative Schreiber-Beck:** My proposal is working from version #.02008. That started out to be totally closed.

1. In the next amendment you will have criminal trespass the same with the exception for hunting. The only way to eliminate the hunter from your land would be to physically post it.
2. If an app becomes available, electronic posting could be used.
3. There was concern on page 4, lines 15, an individual may be training someone to hunt and we only allowed the individual with the firearm. An adult is needed with a child or someone learning.
4. If it is posted land, then the penalty is more severe.
5. On page 7, line 6 change the word "develop" to "provide."
6. Include the number of things the access committee is looking at
  - a. How this law is going to work and if there are incidents, convictions, etc.
7. A citation can be issued by a game warden or a law enforcement officer immediately. There is no going to court.
8. We also need to consider tribal lands.
9. If by August 1, 2020 there is no agreement, then the land will be closed.
10. Page 7, line 17, instead of two members representing "agriculture organizations" we will say "landowners."
11. Add a game warden as a nonvoting member of the committee.

**Representative Headland:** Are you retaining the easement language for utilities?

**Representative Schreiber-Beck:** Yes. On version #.02008 it is on page 3, beginning on line 23.

**Representative McWilliams:** Is there consideration given to greater liability protection for landowners if someone is hurt on their property?

**Representative Schreiber-Beck:** We received information from Farm Bureau and Farmers Union. If your land is closed, because they were trespassing, the court will more likely dismiss it. It wouldn't be a reduced insurance, but the protection might be greater if your land was posted.

**Representative Richter:** Is the electronic posting going to get dropped if they don't meet the deadline?



**Representative Schreiber-Beck:** They have to have a recommendation. So it wouldn't get dropped if they recommend what can be done. I would rather see a private company develop the app rather than the state which would hold the liability.

**Representative Tveit:** The fact that they can issue a citation immediately—the problem of convictions in the past is the landowner would not press charges. Will this free up the landowner or does the landowner still have to get aggressive?

**Representative Schreiber-Beck:** The landowner would still have to call. From there it will free up the landowner.

**Representative Tveit:** We had a lot of discussion that anytime there was an arrest, the landowner backed off and wouldn't press charges. That is why you don't find a lot of history of arrests and citations even with the present law developed in the 2017 session.

**Representative Richter:** When comparing Section 1 to what is in Century Code now, it doesn't weaken the trespass law?

**Representative Schreiber-Beck:** No.

**Representative Tveit:** This is a landowner rights bill—not a hunting bill. We have tried to bring in the hunters.

**Version #19.0896.02009** (Attachment #3)

**Claire Ness, Legislative Council:** (38:03 minutes into audio file)

Overview:

This amendment closes land to everyone except for hunters. There is also a provision at the end with a study on the access to land. There is a requirement that the committee agree upon recommendations to be made to Legislative Management by August 1, 2020. If they are unable to provide those recommendations by that date, it triggers that land will be closed for hunters also.

Section 1 is revised so that land is presumed closed except for hunters. The last two lines of page 1 is where the exceptions for hunters are made. There is also an exemption on page 2, Line 18 for people who are asked to leave private property that is otherwise open to the public. For example, if somebody is shopping and they are asked to leave, it is a noncriminal offense. That is where we replace the language for peace officers to be able to cite those individuals and assess a fine. In addition, there is a change on line 22 of page 2 that allows a peace officer to assess a fine and engage in the same process if an individual is hunting on posted land under Century Code section 20.1-01-18. That is to make penalties the same for people who are asked to leave a store and those who are trespassing on land that is posted if they are a hunter. It allows a game warden or other peace officer to cite the hunter on posted land.

The trespass provisions are not applicable for peace officers or those working to maintain infrastructure either above ground or buried below the ground. That is toward the bottom of page 3.

Section 2 revises the same trespass provision differently. In this case it doesn't make the exceptions for hunters. The land is deemed closed for everyone under section 2. Section 1 and 2 would not be in effect at the same time. Section 2 also maintains that carve out for people who are working on infrastructure either above ground or below ground. You can see that at the top of page 6. Regardless of what happens with the recommendations and regardless of whether land is open or closed to hunters, that exception for people who want to access land for infrastructure access will be in place. That is because land is now presumed closed.

Section 3 is amending the Century Code that talks about how land can be posted. There are provisions here that say land may be posted physically or if there is a data base or electronic application that the state sets up for electronic posting, then landowners can post their land electronically.

Section 4 revises the hunting on posted land provision. Again under current law and initial provisions of this amendment, an individual may not hunt on posted land, but may hunt on private land that is not posted. This provision clarifies that and also says that a person who violates this section is guilty of a noncriminal offense subject to the fines and procedures in subsection 3 of section 12.1-22-03 which is where a peace officer may assess a fine.

Section 5 is the amendment that comes into play if those recommendations by the study committee are not made and land becomes closed to hunters. In that case hunters would not be able to access privately owned land without permission and to make the penalty consistent with other forms of trespass. A violation of that provision would be a class A misdemeanor. So somebody who is trespassing on private land to hunt would be penalized the same as somebody who would be trespassing on land for another purpose.

Section 6 would allow an individual to enter on private land to recover game regardless if land is open or closed to hunters. It would remain the same.

Section 7 is revising the presumption regarding when someone is presumed to be hunting. That only matters in case of the land being open for hunters. The person has to have a legal weapon and a valid license to hunt game in the relevant area where they are located. Also a group including the individual would be presumed hunting which would allow for families or hunting parties where only one person may have the license but the family unit is hunting together. The individuals who don't have the license would not be guilty of trespass.

Section 8 is the hunting guides and hunting outfitters provision. It requires a person to have permission to be a hunting guide or outfitter. If you look at the effective date, this only comes into play if land is deemed closed to hunters. Otherwise it stays the same as it is in current law.

We removed the provisions about the database and the advisory committee and the noncompliance previously placed in the Century Code. Those are taken out along with other amendments as well.

Section 9 repeal on page 10 is due to the trigger where hunters are not going to be able to access land without permission. Then we want to repeal different provisions to make sure the appropriate ones are in effect at the appropriate time.

Section 10 is the land access committee and requires them to provide their recommendations. We outlined the information they need to study. We require them to make those recommendations to legislative management and interim committees by August 1, 2020 at the bottom of page 10. We also included issues they need to study such as information about the number of hunting violations and where the violations are found. That will round out the information they can use for their study.

Section 11 makes information available by the Game and Fish Department, the Tourism Division of the Department of Commerce regarding the changes in this act.

Section 12 has the contingent effective date to make sure we don't have conflicting versions. The provision that requires land to be closed to hunters doesn't come into effect unless the recommendations are not received by August 1, 2020.

Section 13 has the contingent expiration date as the one that expires the provisions related to land being open to hunters if those conditions aren't met.

Section 14--The provisions of the act that are not subject to the contingent effective date in Section 12 are subject to an emergency. They will go into effect right away if it gets 2/3 affirmative votes in the House and Senate.

**Chairman Dennis Johnson:** Does the committee have the power to change the date of August 1, 2020?

**Claire Ness:** The deadline is for the committee to make recommendations. They can't extend the date.

**Representative Headland:** Clarify what needs a 2/3 vote?

**Claire Ness:** The 2/3 vote is for the emergency clause.

**Representative Richter:** On page 6, section 3, if they develop a database on time, the database gets used?

**Claire Ness:** Section 3 comes into play right away this summer. If a database happens to be developed, then a landowner can use it to electronically post their land.

**Representative Richter:** Who approves the database?

**Claire Ness:** There is no provision in the bill for a database to be created. If one is developed, this would allow landowners to use it.

**Representative McWilliams:** If the emergency clause doesn't carry, that committee would lose two months?

**Claire Ness:** Correct.

**Representative Headland:** Moved to adopt amendment #.02009.

**Representative Tveit:** Seconded the amendment

**A Roll Call vote was taken: Yes 12, No 0, Absent 2.**

**Amendment is adopted.**

**Representative Skroch:** Moved Do Pass as amended

**Representative Tveit:** Seconded the motion

**Representative Richter:** I still have a question about the database. If it is developed by an agency, then it goes into effect and that becomes how everything is posted. If it is developed by August 1, 2020, it is automatically in place? By approving this, we are approving using the database for posting land?

**Claire Ness:** There is no authority in this amendment for anybody to create the database. What we are doing is setting up the possibility of someone to use the database if one is developed in the future. But it would not take away from a landowner's right to post their land physically. The law would stay the same if a database is developed, the landowners can use it with the same effect as physically posting

**Chairman Dennis Johnson:** It would be an option when it is ready.

**Claire Ness:** Correct

**Representative McWilliams:** If this bill passes everything is posted, except if you are hunting?

**Claire Ness:** Correct. Under this amendment everything is presumed closed except to hunters. Unless the trigger is met and then everything is closed.

**Representative Skroch:** This is a workable solution. I hope it passes.

**Representative Headland:** In order to be a hunter, you have to have a proper license for the season?

**Claire Ness:** Yes. You need a license.

**Representative Headland:** What happens if somebody is hunting gophers in your pasture where it doesn't require a license?

**Representative Skroch:** They would need permission.

**Representative Headland:** If you don't have it posted then the trespass law covers it?

**Claire Ness:** Then it would be the same as under current law. If you look at 20.1-01-17 which is amended in Section 3 of the amendment, if it is obvious you shouldn't be on that land, then you are guilty of trespassing.

**Representative Tveit:** If there is a poacher that doesn't have a license, the trespass would apply?

**Claire Ness:** Correct

**Representative Schreiber-Beck:** The most important piece are the dates on page 12.

**A Roll Call vote was taken: Yes 9, No 3, Absent 2.**

**Do Pass as amended** carries.

**Representative Tveit** will carry the bill.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2315

- Page 1, line 1, remove "to create and enact chapter 20.1-18 of the North Dakota Century Code,"
- Page 1, line 2, remove "relating to a database identifying whether private land is open to hunters;"
- Page 1, line 3, after the first comma insert "20.1-01-17,"
- Page 1, line 5, remove "legislative management"
- Page 1, line 5, after "study" insert "of access to land"
- Page 1, line 5, replace "and to provide a penalty" with "to repeal sections 20.1-01-17 and 20.1-01-20; to provide for a report to the legislative management and interim legislative committees; to provide a penalty; to provide a contingent effective date; to provide a contingent expiration date; and to declare an emergency"
- Page 1, line 19, after "in" insert "subsection 3 and"
- Page 1, line 19, after the third underscored comma insert "and"
- Page 1, line 19, remove ", and" and
- Page 1, line 20, remove "20.1-18-03"
- Page 1, line 21, overstrike "a. An individual is guilty of a class B misdemeanor if, knowing that that individual is"
- Page 1, overstrike lines 22 through 24
- Page 2, overstrike lines 1 through 10
- Page 2, line 11, overstrike "4."
- Page 2, line 11, remove the overstrike over "a. An individual"
- Page 2, line 11, remove the overstrike over "may"
- Page 2, line 12, remove the overstrike over "not"
- Page 2, line 12, remove the overstrike over "remain"
- Page 2, line 13, after "intruders" insert "on property that is privately owned and open to the public after being requested to leave the property by a duly authorized individual"
- Page 2, line 13, remove the overstrike over ".A"
- Page 2, remove the overstrike over line 14
- Page 2, line 15, remove the overstrike over "b. A peace officer shall cite an individual who violates subdivision a" and insert immediately thereafter "or commits a noncriminal offense under section 20.1-01-18"
- Page 2, line 15, remove the overstrike over "with a fine of"

DO 4/5/19  
2 of 7

Page 2, remove the overstrike over lines 16 through 31

Page 3, remove the overstrike over lines 1 through 12

Page 3, line 13, overstrike "An individual is guilty of a class B misdemeanor if that individual remains upon the"

Page 3, overstrike lines 14 through 16

Page 3, line 17, overstrike "a" and insert immediately thereafter ":

a. A"

Page 3, line 18, after "duties" insert: "; or

b. An individual who enters land to access buried and aboveground infrastructure for operations, inspection, repair, or maintenance purposes, if the individual has a right to operate, inspect, repair, or maintain the infrastructure"

Page 3, after line 18, insert:

**"SECTION 2. AMENDMENT.** Section 12.1-22-03 of the North Dakota Century Code is amended and reenacted as follows:

**12.1-22-03. Criminal trespass - Noncriminal offense on posted property.**

1. An individual is guilty of a class C felony if, knowing that that individual is not licensed or privileged to do so, the individual enters or remains in a dwelling or in highly secured premises.
2. An individual is guilty of a class A misdemeanor if, knowing that that individual is not licensed or privileged to do so, the individual:
  - a. ~~Enters~~enters or remains in or on any building, occupied structure, or storage structure, or separately secured or occupied portion thereof; or
  - b. ~~Enters or remains in any place so enclosed as manifestly to exclude intruders of a building or structure, or any other place the individual is not licensed or privileged to be, except as provided in subsection 3.~~
3. ~~a. An individual is guilty of a class B misdemeanor if, knowing that that individual is not licensed or privileged to do so, the individual enters or remains in any place as to which notice against trespass is given by actual communication to the actor by the individual in charge of the premises or other authorized individual or by posting in a manner reasonably likely to come to the attention of intruders. The name of the person posting the premises must appear on each sign in legible characters.~~
  - b. ~~Even if the conduct of the owner, tenant, or individual authorized by the owner varies from the provisions of subdivision a, an individual may be found guilty of violating subdivision a if the owner, tenant, or individual authorized by the owner substantially complied with subdivision a and notice against trespass is clear from the circumstances.~~

DR 4/5/11  
3 of 7

- ~~e. An individual who violates subdivision a is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.~~
- 4.
  - a. An individual, knowing the individual is not licensed or privileged to do so, may not enter or remain in a place as to which notice against trespass is given by posting in a manner reasonably likely to come to the attention of intruders on property that is privately owned and open to the public after being requested to leave the property by a duly authorized individual. A violation of this subdivision is a noncriminal offense.
  - b. A peace officer shall cite an individual who violates subdivision a with a fine of two hundred fifty dollars for each violation.
  - c. The peace officer citing the individual shall:
    - (1) Take the name and address of the individual; and
    - (2) Notify the individual of the right to request a hearing if posting bond by mail.
  - d. The peace officer may not take the individual into custody or require the individual to proceed with the peace officer to any other location for the purpose of posting bond. The officer shall provide the individual with an envelope for use in mailing the bond.
  - e. An individual cited may appear before the designated official and pay the statutory fine for the violation at or before the time scheduled for hearing.
  - f. If the individual has posted bond, the individual may forfeit bond by not appearing at the designated time.
  - g. If the individual posts bond by mail, the bond must be submitted within fourteen days of the date of the citation and the individual cited shall indicate on the envelope or citation whether a hearing is requested. If the individual does not request a hearing within fourteen days of the date of the citation, the bond is deemed forfeited and the individual is deemed to have admitted to the violation and to have waived the right to a hearing on the issue of commission of the violation. If the individual requests a hearing, the court for the county in which the citation is issued shall issue a summons to the individual requesting the hearing notifying the individual of the date of the hearing before the designated official.
  - h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled at the individual's request, the individual may make a statement in explanation of the individual's action. The official may at that time waive or suspend the statutory fine or bond.
  - i. A citing peace officer may not receive the statutory fine or bond.
  - j. The bond required to secure appearance before the judge must be identical to the statutory fine established in subdivision b.
- 5. ~~An individual is guilty of a class B misdemeanor if that individual remains upon the property of another after being requested to leave the property by~~



DP 9/8/11  
4 of 7

~~a duly authorized individual. An individual who violates this subsection is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.~~

- 6.4. This section does not apply to a:
  - a. A peace officer in the course of discharging the peace officer's official duties; or
  - b. An individual who enters land to access buried and aboveground infrastructure for operations, inspection, repair, or maintenance purposes, if the individual has a right to operate, inspect, repair, or maintain the infrastructure.

**SECTION 3. AMENDMENT.** Section 20.1-01-17 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-01-17. Posting of lands by owner to prohibit hunting - How posted - Signs defaced.**

1. Only the owner or tenant or an individual authorized by the owner of land may post the land. Land may be posted by placing signs alongside the public highway or the land giving notice that hunting is not permitted on the land or by designating the land as closed to hunters in a database or other electronic application available to the public which is operated and maintained by the state for purposes of electronic posting. ~~The~~ land is physically posted, the name of the person posting the land must appear on each sign in legible characters. The signs must be readable from the outside of the land and must be placed conspicuously not more than eight hundred eighty yards [804.68 meters] apart. As to land entirely enclosed by a fence or other enclosure, posting of signs at or on all gates through the fence or enclosure constitutes a posting of all the enclosed land.
2. A person may not deface, take down, destroy posting signs, or post property without the permission of the owner or tenant or an individual authorized by the owner.
3. Even if the conduct of the owner, tenant, or individual authorized by the owner varies from the provisions of subsection 1, an individual may be found guilty of violating section 20.1-01-18 if the owner, tenant, or individual authorized by the owner substantially complied with subsection 1 and notice against hunting or trespassing is clear from the circumstances."

Page 3, line 21, remove the overstrike over "~~on-posted-land~~"

Page 3, line 25, after the underscored comma insert "unless the land is legally posted or the individual is requested to leave by a duly authorized person"

Page 3, line 25, after "~~person~~" insert "A person"

Page 3, line 25, remove the overstrike over "~~may~~" and insert immediately thereafter "not"

Page 3, line 25, remove the overstrike over "~~enter upon privately-owned-land-for-the~~"

Page 3, remove the overstrike over line 26

DB 4/3/11  
S of 7

Page 3, line 27, remove the overstrike over "~~the owner or operator of that land. A person who violates this section is guilty of a~~"

Page 3, line 28, after the first "~~misdemeanor~~" insert "noncriminal offense subject to the fines and procedures under subsection 3 of section 12.1-22-03"

Page 3, line 28, remove the overstrike over "~~for the first offense and a class A misdemeanor for a subsequent offense within a~~"

Page 3, line 29, remove the overstrike over "~~two-year period~~"

Page 3, line 29, remove "unless the land is designated as closed to hunters or open to hunters with"

Page 3, remove line 30

Page 3, line 31, remove "20.1-01-17"

Page 3, line 31, remove the overstrike over the overstruck period

Page 3, after line 31, insert:

**"SECTION 5. AMENDMENT.** Section 20.1-01-18 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-01-18. Hunting on posted land and trapping on private land without permission unlawful - Penalty.**

No person may hunt or pursue game, or enter for those purposes, upon legally ~~posted~~privately owned land belonging to another without first obtaining the permission of the person legally entitled to grant the same. No person may enter upon privately owned land for the purpose of trapping protected fur-bearing animals without first gaining the written permission of the owner or operator of that land. A person who violates this section is guilty of a ~~class B misdemeanor for the first offense and a class A misdemeanor for a subsequent offense within a two-year period.~~"

Page 4, line 12, after "individual" insert "or a group including the individual"

Page 4, line 12, overstrike "legally posted"

Page 4, line 13, after "individual" insert "or the group including the individual"

Page 4, line 24, remove "that are"

Page 4, line 25, overstrike "against hunting or trespassing"

Page 4, line 25, remove "under section 20.1-01-17 or private lands that are"

Page 4, remove line 26

Page 4, line 27, remove "20.1-18-02."

Page 4, remove lines 30 and 31

Page 5, remove lines 1 through 30

Page 6, replace lines 1 through 23 with:

**"SECTION 9. REPEAL.** Sections 20.1-01-17 and 20.1-01-20 of the North Dakota Century Code are repealed."

DE 9/3/19  
6287

Page 6, line 24, remove "**LEGISLATIVE MANAGEMENT**"

Page 6, line 24, remove "**FOR**"

Page 6, line 25, replace "**HUNTING AND TRAPPING**" with "**- REPORT TO LEGISLATIVE MANAGEMENT AND INTERIM LEGISLATIVE COMMITTEES**"

Page 6, line 25, after the boldfaced period insert:

"1."

Page 6, line 25, replace "legislative management" with "land access committee"

Page 6, line 26, replace "consider studying" with "study"

Page 6, line 26, remove "for hunting, trapping,"

Page 6, line 26, after "issues" insert "and shall provide recommendations regarding electronic posting of land. The study must include consideration of the numbers of calls to law enforcement regarding trespassers and hunting violations, the number of citations and convictions for trespass and hunting violations, the locations where trespass and hunting violations occur the most and least in the state, how sportsmen are impacted by legislation regarding access to land in the state, and whether and how state laws regarding land access affect tribal lands"

Page 6, line 27, replace "The legislative management" with "Before August 1, 2020, the land access committee"

Page 6, line 28, remove "sixty-seventh legislative"

Page 6, line 29, replace "assembly." with "legislative management, interim energy and natural resources committee, and interim agriculture committee."

2. a. The voting members of the committee, who must be appointed by the legislative management are:
  - (1) Two members representing landowners;
  - (2) Two members representing sportsmen;
  - (3) Four members of the legislative assembly, one of whom must be selected by the committee as chairman of the committee, including:
    - (a) One member of the majority party in the house of representatives;
    - (b) One member of the minority party in the house of representatives;
    - (c) One member of the majority party in the senate; and
    - (d) One member of the minority party in the senate; and
  - (4) A representative of the North Dakota association of counties.
- b. The nonvoting members of the committee are:
  - (1) The agriculture commissioner or the commissioner's designee;

DO 9/5/19  
7 of 7

- (2) The director of the game and fish department or the director's designee;
  - (3) The chief information officer or the officer's designee; and
  - (4) A game warden.
3. A member of the committee who is not a state employee is entitled to reimbursement for mileage and expenses as provided by law for state officers and employees, to be paid by the legislative council. A state employee who is a member of the committee is entitled to receive that employee's regular salary and is entitled to reimbursement for mileage and expenses to be paid by the employing agency. A member of the committee who is a member of the legislative assembly is entitled to receive per diem compensation at the rate provided under section 54-35-10 for each day performing official duties of the committee. The legislative council shall pay the per diem compensation and reimbursement for travel and expenses as provided by law for any member of the committee who is a member of the legislative assembly.

**SECTION 11. EDUCATION AND MARKETING.** The game and fish department and the tourism division of the department of commerce shall provide public education and marketing regarding the changes to land access in this Act.

**SECTION 12. CONTINGENT EFFECTIVE DATE.** If the legislative management does not receive agreed upon recommendations regarding electronic posting of land from the land access committee in section 9 of this Act before August 1, 2020, sections 2, 5, 6, 8, and 9 become effective on August 1, 2020.

**SECTION 13. CONTINGENT EXPIRATION DATE.** If the legislative management does not receive agreed upon recommendations regarding electronic posting of land from the land access committee in section 9 of this Act before August 1, 2020, sections 1, 3, 4, and 7 are effective until July 31, 2020, and after that date are ineffective.

**SECTION 14. EMERGENCY.** Sections 1, 3, 4, 7, 10, and 11 of this Act are declared to be an emergency measure."

Renumber accordingly

**2019 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2315**

House **Agriculture** Committee SubcommitteeAmendment LC# or Description: 19.0896.02009**Recommendation**

Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
**Other Actions:**     Reconsider     \_\_\_\_\_

Motion Made By Rep. Headland Seconded By Rep. Tveit

Representatives	Yes	No	Representatives	Yes	No
Chairman Dennis Johnson	X		Rep. Ruth Buffalo	X	
Vice Chairman Wayne Trottier	X		Rep. Gretchen Dobervich	X	
Rep. Jake Blum	AB				
Rep. Jay Fisher	AB				
Rep. Craig Headland	X				
Rep. Dwight Kiefert	X				
Rep. Aaron McWilliams	X				
Rep. David Richter	X				
Rep. Bernie Satrom	X				
Rep. Cynthia Schreiber Beck	X				
Rep. Kathy Skroch	X				
Rep. Bill Tveit	X				

**Total**    **Yes**    12    **No**    0

**Absent**    2

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

**2019 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2315**

House **Agriculture** Committee SubcommitteeAmendment LC# or Description: 19.0896.02009**Recommendation**

Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
**Other Actions:**     Reconsider     \_\_\_\_\_

Motion Made By Rep. Skroch Seconded By Rep. Tveit

Representatives	Yes	No	Representatives	Yes	No
Chairman Dennis Johnson	X		Rep. Ruth Buffalo	X	
Vice Chairman Wayne Trottier	X		Rep. Gretchen Dobervich	X	
Rep. Jake Blum	AB				
Rep. Jay Fisher	AB				
Rep. Craig Headland	X				
Rep. Dwight Kiefert		X			
Rep. Aaron McWilliams		X			
Rep. David Richter	X				
Rep. Bernie Satrom		X			
Rep. Cynthia Schreiber Beck	X				
Rep. Kathy Skroch	X				
Rep. Bill Tveit	X				

Total    Yes    9    No    3Absent    2Floor Assignment    Representative Tveit

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2315, as engrossed: Agriculture Committee (Rep. D. Johnson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 3 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2315 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "to create and enact chapter 20.1-18 of the North Dakota Century Code,"

Page 1, line 2, remove "relating to a database identifying whether private land is open to hunters;"

Page 1, line 3, after the first comma insert "20.1-01-17,"

Page 1, line 5, remove "legislative management"

Page 1, line 5, after "study" insert "of access to land"

Page 1, line 5, replace "and to provide a penalty" with "to repeal sections 20.1-01-17 and 20.1-01-20; to provide for a report to the legislative management and interim legislative committees; to provide a penalty; to provide a contingent effective date; to provide a contingent expiration date; and to declare an emergency"

Page 1, line 19, after "in" insert "subsection 3 and"

Page 1, line 19, after the third underscored comma insert "and"

Page 1, line 19, remove ", and" and

Page 1, line 20, remove "20.1-18-03"

Page 1, line 21, overstrike "a. An individual is guilty of a class B misdemeanor if, knowing that that individual is"

Page 1, overstrike lines 22 through 24

Page 2, overstrike lines 1 through 10

Page 2, line 11, overstrike "4."

Page 2, line 11, remove the overstrike over "a. An individual"

Page 2, line 11, remove the overstrike over "may"

Page 2, line 12, remove the overstrike over "not"

Page 2, line 12, remove the overstrike over "remain"

Page 2, line 13, after "intruders" insert "on property that is privately owned and open to the public after being requested to leave the property by a duly authorized individual"

Page 2, line 13, remove the overstrike over "-A"

Page 2, remove the overstrike over line 14

Page 2, line 15, remove the overstrike over "b. ~~A peace officer shall cite an individual who violates subdivision a~~" and insert immediately thereafter "or commits a noncriminal offense under section 20.1-01-18"

Page 2, line 15, remove the overstrike over "with a fine of"

Page 2, remove the overstrike over lines 16 through 31

Page 3, remove the overstrike over lines 1 through 12

Page 3, line 13, overstrike "An individual is guilty of a class B misdemeanor if that individual remains upon the"

Page 3, overstrike lines 14 through 16

Page 3, line 17, overstrike "a" and insert immediately thereafter ":

a. A"

Page 3, line 18, after "duties" insert: "; or

b. An individual who enters land to access buried and aboveground infrastructure for operations, inspection, repair, or maintenance purposes, if the individual has a right to operate, inspect, repair, or maintain the infrastructure"

Page 3, after line 18, insert:

**"SECTION 2. AMENDMENT.** Section 12.1-22-03 of the North Dakota Century Code is amended and reenacted as follows:

**12.1-22-03. Criminal trespass - Noncriminal offense on posted property.**

1. An individual is guilty of a class C felony if, knowing that that individual is not licensed or privileged to do so, the individual enters or remains in a dwelling or in highly secured premises.
2. An individual is guilty of a class A misdemeanor if, knowing that that individual is not licensed or privileged to do so, the individual:
  - a. ~~Enters~~enters or remains in or on any building, occupied structure, or storage structure, or separately secured or occupied portion thereof; ~~or~~
  - b. ~~Enters or remains in any place so enclosed as manifestly to exclude intruders of a building or structure, or any other place the individual is not licensed or privileged to be, except as provided in subsection 3.~~
3. ~~a. An individual is guilty of a class B misdemeanor if, knowing that that individual is not licensed or privileged to do so, the individual enters or remains in any place as to which notice against trespass is given by actual communication to the actor by the individual in charge of the premises or other authorized individual or by posting in a manner reasonably likely to come to the attention of intruders. The name of the person posting the premises must appear on each sign in legible characters.~~
  - b. ~~Even if the conduct of the owner, tenant, or individual authorized by the owner varies from the provisions of subdivision a, an individual may be found guilty of violating subdivision a if the owner, tenant, or individual authorized by the owner substantially complied with subdivision a and notice against trespass is clear from the circumstances.~~
  - e. ~~An individual who violates subdivision a is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.~~



4. a. ~~An individual, knowing the individual is not licensed or privileged to do so, may not enter or remain in a place as to which notice against trespass is given by posting in a manner reasonably likely to come to the attention of intruderson property that is privately owned and open to the public after being requested to leave the property by a duly authorized individual.~~ A violation of this subdivision is a noncriminal offense.
  - b. A peace officer shall cite an individual who violates subdivision a with a fine of two hundred fifty dollars for each violation.
  - c. The peace officer citing the individual shall:
    - (1) Take the name and address of the individual; and
    - (2) Notify the individual of the right to request a hearing if posting bond by mail.
  - d. The peace officer may not take the individual into custody or require the individual to proceed with the peace officer to any other location for the purpose of posting bond. The officer shall provide the individual with an envelope for use in mailing the bond.
  - e. An individual cited may appear before the designated official and pay the statutory fine for the violation at or before the time scheduled for hearing.
  - f. If the individual has posted bond, the individual may forfeit bond by not appearing at the designated time.
  - g. If the individual posts bond by mail, the bond must be submitted within fourteen days of the date of the citation and the individual cited shall indicate on the envelope or citation whether a hearing is requested. If the individual does not request a hearing within fourteen days of the date of the citation, the bond is deemed forfeited and the individual is deemed to have admitted to the violation and to have waived the right to a hearing on the issue of commission of the violation. If the individual requests a hearing, the court for the county in which the citation is issued shall issue a summons to the individual requesting the hearing notifying the individual of the date of the hearing before the designated official.
  - h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled at the individual's request, the individual may make a statement in explanation of the individual's action. The official may at that time waive or suspend the statutory fine or bond.
  - i. A citing peace officer may not receive the statutory fine or bond.
  - j. The bond required to secure appearance before the judge must be identical to the statutory fine established in subdivision b.
5. ~~An individual is guilty of a class B misdemeanor if that individual remains upon the property of another after being requested to leave the property by a duly authorized individual. An individual who violates this subsection is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.~~
- ~~6-4.~~ This section does not apply to a:

- a. A peace officer in the course of discharging the peace officer's official duties; or
- b. An individual who enters land to access buried and aboveground infrastructure for operations, inspection, repair, or maintenance purposes, if the individual has a right to operate, inspect, repair, or maintain the infrastructure.

**SECTION 3. AMENDMENT.** Section 20.1-01-17 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-01-17. Posting of lands by owner to prohibit hunting - How posted - Signs defaced.**

1. Only the owner or tenant or an individual authorized by the owner of land may post the land. Land may be posted by placing signs alongside the public highway or the land giving notice that hunting is not permitted on the land or by designating the land as closed to hunters in a database or other electronic application available to the public which is operated and maintained by the state for purposes of electronic posting. ~~The~~ land is physically posted, the name of the person posting the land must appear on each sign in legible characters. The signs must be readable from the outside of the land and must be placed conspicuously not more than eight hundred eighty yards [804.68 meters] apart. As to land entirely enclosed by a fence or other enclosure, posting of signs at or on all gates through the fence or enclosure constitutes a posting of all the enclosed land.
2. A person may not deface, take down, destroy posting signs, or post property without the permission of the owner or tenant or an individual authorized by the owner.
3. Even if the conduct of the owner, tenant, or individual authorized by the owner varies from the provisions of subsection 1, an individual may be found guilty of violating section 20.1-01-18 if the owner, tenant, or individual authorized by the owner substantially complied with subsection 1 and notice against hunting or trespassing is clear from the circumstances."

Page 3, line 21, remove the overstrike over "~~on-posted-land~~"

Page 3, line 25, after the underscored comma insert "unless the land is legally posted or the individual is requested to leave by a duly authorized person"

Page 3, line 25, after "~~person~~" insert "A person"

Page 3, line 25, remove the overstrike over "~~may~~" and insert immediately thereafter "not"

Page 3, line 25, remove the overstrike over "~~enter upon privately owned land for the~~"

Page 3, remove the overstrike over line 26

Page 3, line 27, remove the overstrike over "~~the owner or operator of that land. A person who violates this section is guilty of a~~"

Page 3, line 28, after the first "~~misdemeanor~~" insert "noncriminal offense subject to the fines and procedures under subsection 3 of section 12.1-22-03"

Page 3, line 28, remove the overstrike over "~~for the first offense and a class A misdemeanor for a subsequent offense within a~~"

Page 3, line 29, remove the overstrike over "~~two-year-period~~"

Page 3, line 29, remove "unless the land is designated as closed to hunters or open to hunters with"

Page 3, remove line 30

Page 3, line 31, remove "20.1-01-17"

Page 3, line 31, remove the overstrike over the overstruck period

Page 3, after line 31, insert:

**"SECTION 5. AMENDMENT.** Section 20.1-01-18 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-01-18. Hunting on posted land and trapping on private land without permission unlawful - Penalty.**

No person may hunt or pursue game, or enter for those purposes, upon ~~legally posted~~ privately owned land belonging to another without first obtaining the permission of the person legally entitled to grant the same. No person may enter upon privately owned land for the purpose of trapping protected fur-bearing animals without first gaining the written permission of the owner or operator of that land. A person who violates this section is guilty of a ~~class B misdemeanor for the first offense and a~~ class A misdemeanor ~~for a subsequent offense within a two-year period.~~

Page 4, line 12, after "individual" insert "or a group including the individual"

Page 4, line 12, overstrike "legally posted"

Page 4, line 13, after "individual" insert "or the group including the individual"

Page 4, line 24, remove "that are"

Page 4, line 25, overstrike "against hunting or trespassing"

Page 4, line 25, remove "under section 20.1-01-17 or private lands that are"

Page 4, remove line 26

Page 4, line 27, remove "20.1-18-02,"

Page 4, remove lines 30 and 31

Page 5, remove lines 1 through 30

Page 6, replace lines 1 through 23 with:

**"SECTION 9. REPEAL.** Sections 20.1-01-17 and 20.1-01-20 of the North Dakota Century Code are repealed."

Page 6, line 24, remove "**LEGISLATIVE MANAGEMENT**"

Page 6, line 24, remove "**FOR**"

Page 6, line 25, replace "**HUNTING AND TRAPPING**" with "**- REPORT TO LEGISLATIVE MANAGEMENT AND INTERIM LEGISLATIVE COMMITTEES**"

Page 6, line 25, after the boldfaced period insert:

"1."

Page 6, line 25, replace "legislative management" with "land access committee"

Page 6, line 26, replace "consider studying" with "study"

Page 6, line 26, remove "for hunting, trapping,"

Page 6, line 26, after "issues" insert "and shall provide recommendations regarding electronic posting of land. The study must include consideration of the numbers of calls to law enforcement regarding trespassers and hunting violations, the number of citations and convictions for trespass and hunting violations, the locations where trespass and hunting violations occur the most and least in the state, how sportsmen are impacted by legislation regarding access to land in the state, and whether and how state laws regarding land access affect tribal lands"

Page 6, line 27, replace "The legislative management" with "Before August 1, 2020, the land access committee"

Page 6, line 28, remove "sixty-seventh legislative"

Page 6, line 29, replace "assembly." with "legislative management, interim energy and natural resources committee, and interim agriculture committee."

2. a. The voting members of the committee, who must be appointed by the legislative management are:
  - (1) Two members representing landowners;
  - (2) Two members representing sportsmen;
  - (3) Four members of the legislative assembly, one of whom must be selected by the committee as chairman of the committee, including:
    - (a) One member of the majority party in the house of representatives;
    - (b) One member of the minority party in the house of representatives;
    - (c) One member of the majority party in the senate; and
    - (d) One member of the minority party in the senate; and
  - (4) A representative of the North Dakota association of counties.
- b. The nonvoting members of the committee are:
  - (1) The agriculture commissioner or the commissioner's designee;
  - (2) The director of the game and fish department or the director's designee;
  - (3) The chief information officer or the officer's designee; and
  - (4) A game warden.
3. A member of the committee who is not a state employee is entitled to reimbursement for mileage and expenses as provided by law for state officers and employees, to be paid by the legislative council. A state

employee who is a member of the committee is entitled to receive that employee's regular salary and is entitled to reimbursement for mileage and expenses to be paid by the employing agency. A member of the committee who is a member of the legislative assembly is entitled to receive per diem compensation at the rate provided under section 54-35-10 for each day performing official duties of the committee. The legislative council shall pay the per diem compensation and reimbursement for travel and expenses as provided by law for any member of the committee who is a member of the legislative assembly.

**SECTION 11. EDUCATION AND MARKETING.** The game and fish department and the tourism division of the department of commerce shall provide public education and marketing regarding the changes to land access in this Act.

**SECTION 12. CONTINGENT EFFECTIVE DATE.** If the legislative management does not receive agreed upon recommendations regarding electronic posting of land from the land access committee in section 9 of this Act before August 1, 2020, sections 2, 5, 6, 8, and 9 become effective on August 1, 2020.

**SECTION 13. CONTINGENT EXPIRATION DATE.** If the legislative management does not receive agreed upon recommendations regarding electronic posting of land from the land access committee in section 9 of this Act before August 1, 2020, sections 1, 3, 4, and 7 are effective until July 31, 2020, and after that date are ineffective.

**SECTION 14. EMERGENCY.** Sections 1, 3, 4, 7, 10, and 11 of this Act are declared to be an emergency measure."

Renumber accordingly

**2019 CONFERENCE COMMITTEE**

**SB 2315**

# 2019 SENATE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Roosevelt Park Room, State Capitol

SB 2315  
4/18/2019  
JOB # 34841

- Subcommittee  
 Conference Committee

Committee Clerk: Florence Mayer
---------------------------------

## Explanation or reason for introduction of bill/resolution:

A bill relating to a database identifying whether private land is open to hunters; relating to criminal trespass and hunting on private land; to provide a statement of legislative intent; to provide for a legislative management study; and to provide a penalty.

## Minutes:

Attachments #1 - 4
--------------------

**Chairman Luick:** Opened the Conference committee on SB 2315. Roll call was taken, all members were present. The conference committee consists of Senators Luick, Larsen, and Erbele; Representatives Schreiber-Beck, Tveit, and Heinert.

We are here to discuss SB 2315. We are anxious to find out what may have been controversial with our very nice bill. Representative Schreiber-Beck will you explain what your ideas were?

**Representative Schreiber-Beck: Attachment #1**, an email from Claire on the penalties for trespassing. We wanted to keep the trespass laws the same without the signage. The signage was part of the Senate bill. Then to come in and put some pressure on the hunters to come to the table with a committee that would look at land access. The only portion that passed is the portion you see in the bill now. That is the closed trespass without signage. I believe Claire provided us with the penalties that are in the bill currently. There is an exemption for hunting.

**Senator Erbele:** We probably have gotten the same thing from Claire. I will hand this out and I assume there will be duplications. We have Major General Alan S. Dohrmann some opinion shared by a state's attorney. I asked council to address those concerns. **Attachment #2.**

**Representative Schreiber-Beck:** All the parts were removed other than the exception for hunters. Some other definitions were changed. We tried to keep the penalty and the structure put in place for trespassing that was created in 2017. With removing the signage, there were a couple points that had to change in there. We had the section in there that the individual who enters land to access above ground infrastructure for operations, repair, and inspection and maintenance purposes. That was included. Hunting on posted land and trapping on

private land without permission, which was old language that we updated. If you had a firearm and valid license and you were ok to be there, you could still have another person with you as part of the hunting party. It was a concern that if a wife was teaching her husband to hunt, then that could be a problem. The guiding section remained the same in the bill. Then we had an education and marketing piece. If anything changes, we need those 2 things. That was done through Department of Commerce and the Game & Fish. We came up with a hybrid, part of that passed, part of it didn't.

**Chairman Luick:** I would ask we have Senator Erbele walk us through his rendition. Just to see what we can get out of all of this.

**Senator Erbele:** I've been in committees one after another, so I haven't been up to my desk to see if any amendments came down. I wanted to have an amendment drawn up that we could just start to work off of. Not to say it is a proposal, but just to work off of. There is one other sheet I would like to hand out. Passed out **Attachment #3**, titled "Conference Committee Issues". I have taken some time in the last 10 days to reach out to the sportsmen groups to see what we could do to address the landowners and the sportsmen's issues. What you have here is some of the things the sportsmen would like to see in the bill and how we can address that. I see a lot of reasonable ness coming forward. If we want to take a look at the marked up version, it says on the key up on top, the red was taken out of the Senate and the green is what the House added to the Senate version; the blue was removed in the Senate but replaced by the House, so it is current century code language. I talked with council, there is a note on bottom that item 3, on page 1 through B and Committee, those should be black. Representative Heinert and I visited about that and we are in agreement that those lines are necessary to be in. Other than the line that was taken off because your data base didn't make it, that was part of your take out when your bill was divided; I think we need some of that language back in. I think we need to drive forward. Everyone said let's do a study. I'm saying let's do both. In that study, let's develop the data base and move forward. As we go to page 2, there is the blue language. That addresses a lot of the violations. I believe the House added that section on page 3 in the green, just to address the buried cable and telephone man, that they are ok. Page 4, that we would need a valid license to hunt. All other activities are basically off limits. On page 5 we did clarify the guide thing and that is the way the code stands. The Senate idea of what the database should look like was struck. On page 6, there is the "if" language on top. "After the counties included in the data base and the hunter may not enter," I think going forward, logically that could be left out. That will be the work of the working group. We don't need to say what the counties need to do if they don't have a database. I envision what we are seeing on page 6 would be some of the bill proposals coming forward to the next session on how some of those things would be handled. I don't know if you have anything in your packet, but if you have your .2009 version which was the entire bill before it was divided. I believe Section 3 should come back onto the bill. It was taken out. That would replace all the language taken out on page 6. It says that, "only the owner or the tenant or individual authorized may post the land. Land may be posted by placing signs along the public highway or the land giving notice that hunting is not permitted on the land"; and new language "or by designating the land as closed to hunters in a database or other electronic application available to the public which is operated and maintained by the state for the purpose of electronic posting. If the land is physically posed, the name of the person....". It is saying that electronic posting and physical posting need to be the same. This language says that if the working group gets something up, it would allow a prototype



to happen before next session. It takes away the entire "if" language on page 6. It just shortens the bill, simplifies and brings a little more clarity. The working group study would be what I proposed in the "07" version. That is be a legislative management directed study. I think it is important to have legislative management involved in that. It gives us this place for hearings, access to legal counsel, code writers, proper minutes being taken, the recordings, plus you have the discipline of the legislative committee structure with everything goes through the chair. You eliminate that poking across the table. It is open to the public and transparent. I had proposed 2 members from each chamber, 1 from each party, with a 5<sup>th</sup> Legislator being picked as a Chair by the Legislative Management. That is open for discussion. Then the non-voting members would be citizens from sportsmen, the landowners, and the IT people from the agencies. The information officer from the IT department, the IT person from the counties, the IT person from Game & Fish. We word it as the director or their designee. If we are working with the GIS and doing database work, we would want their experts to be on that committee. I will stop for a bit

**Representative Schreiber-Beck:** Going back to section 3 that was in the House bill that references the electronic posting. Would you put the exact language in or would you alter that, so it isn't just a state only and electronic means? It is so specific to being a state owned one and I have some thoughts that if something is available elsewhere, I don't know why we would want it state owned.

**Senator Erbele:** I don't think we need to be hardcore on the language. I think it would be great to show some flexibility and for the committee to be able to seek out other options. If there is a private company willing to take it on and sign off on the liability, why wouldn't we look at that?

**Representative Schreiber-Beck:** Thank you. Additionally, when we were talking about the penalties under the trespassing. Maybe we should review how that is defined and how it changed due to the fact, there was no reason to tell someone to leave because they weren't supposed to be there in the first place. Some of that changed legally. I think it would be good to review that. Also review the state's attorney's comments, which were reviewed by Claire Ness as well. I don't know if you want to do that at this time or when you would want to.

**Chairman Luick:** If you want to go into that, then we can. I don't have any agenda on this. This is opening a new can here.

**Senator Erbele:** Would it be best to go to the mark-up version and wherever we see a penalty addressed, walk through it in order and discuss it. I think Representative Heinert is probably the expert on penalty. Thankfully, I have never had experience for any of those.

**Representative Schreiber-Beck:** Is that saying he has?

**Senator Erbele:** I think he's given out a few of them.

**Representative Schreiber-Beck:** On #6 of Attachment #1, Claire had made an error on the penalty under the "04" version, it is a non-criminal offense only. There was some other language that followed that. That needs to be corrected on your sheets if it wasn't.

**Senator Erbele:** So I'm clear, Attachment #1 where it says, "class A misdemeanor second or subsequent offenses"?

**Representative Schreiber-Beck:** Now go over to the one further to the right.  
(The committee decided Attachment #1 was not clear because it was cut off. They had copies made of another sheet from Representative Schreiber-Beck.)  
Handed out **Attachment #4**, another sheet detailing the penalties for trespassing.

**Senator Erbele:** Just the bottom line with the "Class A misdemeanor for a second....", that should come out of there?

**Representative Schreiber-Beck:** No, it would be the one over to the right. Under the penalty under 19.0896.04000, the last box would say it is only a noncriminal offense.

**Senator Larsen:** That is the new language that left the Senate? Where did we make that change?

**Representative Schreiber-Beck:** The penalty you see in the "04" version is the version that left the House, the most recent.

Read through Attachment #4 with the activity, penalty with current law and the penalty under the new law.

My question is, would a hunter be trespassing if he has a license, a gun, and comes in your dwelling or highly secured premise, either 1 or 2? I don't know the answer to that. I would assume they weren't hunting.

**Senator Larsen:** What comes to mind on #2 in a hunting situation, are these tree stands that are now mini apartments. No is there, but someone comes up and breaks in or the door is unlocked. That is a structure. It is confusing to me. In the testimony, there was a lot of discussion about why are we watering down and taking away these infractions? On #6 when it is a non-criminal offense and #5 if this bill passes. That is not at all the intention of the property rights people. I don't think the hunting groups want that either. When I am hunting and fishing, I read my proclamation and I know the rules. I don't know what that was stripped out anyway. I am not into that.

**Representative Heinert:** From a perspective of the trespass. We brought up in the House side, the 16-17 year old hanging around the market on a Friday night because they are bored, they are told to get out but they don't want to. The problem I think we are creating for law enforcement, moving that from a class B misdemeanor to a non-criminal infraction; the law enforcement officer have no authority to tell the kid to leave. They can issue them a citation and walk away. We are not solving anyone's problems. This goes farther than the 16 year old. Many communities utilize the trespassing bill as their town rules; they don't have individual town administrative rules or laws. We all know that every little town has a bar and probably someone in that bar too often, drinks too much and refuses to leave. Now we are telling law enforcement they can go in, write him a citation, but he doesn't probably even know the police were there at this point; but you can't remove them, there is no authority to remove them. They know who these people are; they know how to deal with them typically. That person also knows, if they don't pay attention they are going to get a free ride. Now we

are taking that away. That is one of the issues that law enforcement and state's attorneys see here.

**Senator Larsen:** That was, from the day I sat in the very first meeting of the committee, I was bombarded that the law enforcement want something to do, the land owners wanted something done and the hunting people know what they can and can't do. It is beyond me why we ever stripped that out. I think if we could make sure that is concrete before we leave, that it is going back in, I would feel very happy about that.

**Senator Erbele:** To Representative Heinert's point, that scenario outline has nothing to do with hunting. We are not affecting that portion at all so we shouldn't be lifting that part of the code is your point, correct?

**Representative Heinert:** Absolutely. That has been my perspective on the bill since we started the hearings. We need to touch the trespassing side if we are posting or not posting land anymore. That is all we should be touching on the trespassing bill. One session ago we spent a lot of time of this trespassing bill to make it correct for the state of North Dakota; to protect all of the citizens of North Dakota whether they live in the cities or whatever community they live in. This is somewhat eroding that protection that we just did 2 years ago. I can't support that end of it.

**Senator Larsen:** As I think about people in the field and the way the law is now, even the people doing the infractions, they know the law now. They know what will happen if they do this. I know there was discussion with the new process and they need to learn, adapt and grow. Maybe we give them a little break on that, maybe that is where that came from. If everyone knows the rules now, I don't think they are so egregious that we need to come back.

**Chairman Luick:** I know in committee, looking at this on the Senate side there were a lot of things flying at us. We were really concerned if we would be able to pass this to the House and whether it would pass the floor. I believe the purpose that we dropped and reduced the penalty was to make sure we kept this alive. I have gotten a lot of emails with the same type of concern. We don't want to go backwards on this. A hunter has no more rights than a trespasser if they are there by their own will and they are not acting accordingly, they should have the same penalties as what a trespasser should have. We are out of time.

**Representative Tveit:** I am troubled with section 3, page 4 of the markup bill. The proof of hunting, you just need to have a gun and a license. So if I want to do any other activity, which is all I have to do. It is pretty wide open. As we try to clean this up, that concerns me. If I want to go out and be a gold-digger and look for treasures in your iron pile, that is all I need. Or if I want to go demonstrate I can do that as long as I have those 2 items with me.

**Chairman Luick:** Excellent point. I think what we need to do is we need to compile all of this. Bring those topics back to us again and do a little research. We will dig into this deeper. I don't want this leaving here until we have it as best we can.

**Senator Erbele:** If the committee is willing, I would bring a draft that would compile what we talked about in both bills; knowing there are still mark-ups that need to happen. Then at least we can get away from the multiple papers and focus on one document.

**Chairman Luick:** Would you mind if I scheduled a 1-hour meeting? (Committee was ok with that.)

**Senator Larsen:** I've also been getting emails on the fishing. Hunting is being addressed but the fishers are out. I don't know if the fishing population is included in this or not. I don't know if it is an attempt for more pushback to try to kill the bill or if their issues are mentioned.

**Chairman Luick:** I will add the trappers into that as well.  
We will adjourn.

# 2019 SENATE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Roosevelt Park Room, State Capitol

SB 2315  
4/18/2019  
JOB # 34849

Subcommittee  
 Conference Committee

Committee Clerk: Florence Mayer
---------------------------------

## Explanation or reason for introduction of bill/resolution:

A bill relating to identifying private land open to hunters; relating to criminal trespass and hunting on private land; relating to posting land; and to provide a penalty.

## Minutes:

Attachment #1
---------------

**Chairman Luick:** Opened the hearing on SB 2315. Roll call was taken. Senators Luick, Erbele, and Larsen; Representatives Tveit and Heinert were present. A quorum was held.

**Senator Erbele:** Passed out Attachment #1, a new Christmas tree version .2011. There is an issue on the bottom of page 1, some feel that language needs to remain. Council says that is being addressed in subsection 2. A building or structure or any other place an individual is not licensed to be in, is provided in subsection 3 and sections of chapter 20, which also addresses the hunting violations. The argument of the council is that the wordage there where it says "a building or structure or any other place the individual is not licensed to be", should take care of the concern of the stores and that. I would entertain Representative Heinert to share his view of that.

**Representative Heinert:** I need to go up and sit with council, I still read this differently. Page 1, line 22 we are eliminating everything under the class B misdemeanor language. Then on page 3, line 17, we are eliminating everything under the class B misdemeanor language. To me that means we no longer have a class B misdemeanor for trespassing.

**Senator Erbele:** I would be happy to join you in that conversation just to be sure we are clear. If you look back at the top, it addresses posting on premises and such. Part of the whole jist of this, is to consider all lands closed with the hunting exception. Then the argument comes back that section B does take care of that. I don't know if that involves the class B misdemeanor or not. If it doesn't, we need to make sure that gets said.

**Representative Heinert:** On page 2 of your version, line 12; it talks about an individual may not remain on property that is privately owned and open to the public after being requested to leave the property. But it talks about a non-criminal offense. Then it goes into what the peace officer does. They issue the citation, \$250 fee and walks away.

**Senator Erbele:** We need to discuss where the misdemeanor falls and make sure that language comes back in here for the non-hunting issues. Is that correct?

**Representative Heinert:** I think what we need to do, is discuss with Legislative Council the whole topic of trespassing not just under a hunting scenario.

**Senator Erbele:** I agree. If we go on to those areas of concern with A, B, and C; are we ok with the rest of the language in the bill then? That blue language came from the House. I think it comes through clearly. There has been some concern about page 3 in the green, “an individual who enters land to access buried and above ground infrastructure for operation, inspection, repair or maintenance purposes”. This is more than just a telephone guy, this would be oilfield people and all of them.

**Representative Tveit:** Representative Heinert, going back to your trespass bill part on page 2, one of your concerns was being able to ask the individual to leave. Do we need to address that?

**Representative Heinert:** Under 3a, on page 2, line 15 it says “requested to leave the property by dually authorized”. I think that should cover that part.

**Senator Erbele:** On pages 3-4, “the posting of land by the owner to prohibit hunting”. That all remained the same. Adding the new language that “if the state develops or maintains an online database”. We will have to have a working group to develop that. If it happens, an online database or other electronic application available to the public, which identifies whether land is available to hunters. An owner, tenant or individual authorized by the owner may submit electric information for the database regarding availability of the land for hunting. That will allow the committee to do a prototype prior to next session if we need to.

**Chairman Luick:** On line 14, what if the state doesn’t maintain that or develop it and a private group does?

**Senator Erbele:** This is what encapsulated in the old .2009 version of section 3. We could add some words to say, allowing for, or an either-or language.

**Senator Larsen:** If it is stated here that the state develops and maintains an online database, isn’t that wide open? It could be private it could be governmental. Does it have to be narrowed into private or government?

**Chairman Luick:** Maybe the state could oversee it? Then the committee would have the right to put that in place.

**Representative Tveit:** The words “if the state, develops, accepts or endorses” would cover that.

**Senator Erbele:** My vision for the committee is that these companies would be invited to present what they know and can do at a hearing. You never know what can come out of

those things. On page 5, we discussed that this morning about a group or accompanying a youth hunter that you're okay with that. Our guide language stays the same.

**Chairman Luick:** It was brought to my attention on lines 15-17, the possibility of this happening. You have a licensed hunter who brings along another individual to help them hunt or a group or even bird watching. Do we need a limit on the size of that group? Here is why that was brought to my attention; you could have a protesting group following someone into a particular area for the purpose of protesting. Just a thought.

**Senator Erbele:** Are you suggesting we limit the size of the group or say something to the effect that it is a group engaged in hunting? Like if I gain permission from someone to hunt and I bring my 2 sons along, that you have that.

**Chairman Luick:** I think that could go for any type of activity. From butterfly watching to nature traipsing, or whatever else they want to do.

**Senator Erbele:** We are talking about entering private land with a hunting license and a fun is prima facie evidence of an intent to hunt game.

**Chairman Luick:** I apologize if for any other reason they are coming out any other place in this document. The size of the group is a concern to me now. In this case, they may only be out there for the purpose of hunting with a group. The thought came to me that there are other instance where you could have other activities going on.

**Senator Erbele:** The whole intent of the bill is to have land closed to all activities with a hunting exception.

**Chairman Luick:** We will adjourn for today.

# 2019 SENATE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Roosevelt Park Room, State Capitol

SB 2315  
4/19/2019  
JOB # 34862

Subcommittee  
 Conference Committee

Committee Clerk: Florence Mayer
---------------------------------

## Explanation or reason for introduction of bill/resolution:

A bill relating to identifying private land open to hunters; relating to criminal trespass and hunting on private land; relating to posting land; and to provide a penalty.

## Minutes:

None.
-------

**Chairman Luick:** Opened the conference committee on SB 2315. Roll call was taken, all members were present. The conference committee consists of Senators Luick, Larsen and Erbele; Representatives Schreiber-Beck, Heinert, and Tveit. Eventually the Attorney General will come down and guide us on some questions with trespassing. We won't be acting on this today. We have other amendments in the works.

**Senator Erbele:** Representative Heinert and I haven't been able to get up to council to discuss that. We are hoping to do that before noon today. We want to discuss the trespassing issues on page 1 and 2 on the .2011 version. The rest of the pages have moved along with more wordsmithing. Things with how to look at other agencies or companies that could do the database in addition to the state. For today, just because of the crunch time and our schedules, we could talk about the study group. Hopefully it is a mandatory study and if we want to spend a little time on that to agree possibly. Once have some of our legal trespass questions answered, we would be in good shape to move forward. That would be the sheet I handed out yesterday on committee makeup. It is a little different from the House and the Senate versions.

**Chairman Luick:** Didn't the House eliminate that?

**Senator Erbele:** Yes, it was taken out.

**Chairman Luick:** If you would like to continue and explain why the changes were made and how and why you hope that is digestible.

**Senator Erbele:** I felt it needed to be a Legislative Management study so we have access to the meeting rooms here, legislative staff, code writers, proper minutes, etc. You have a neutral group in Legislative Management that would select the members from the committee



in terms of the citizens. We are proposing 2 landowners and 2 sportsmen. They would submit the names to Legislative Management and they would pick. The same with the legislators. There would be 2 from each chamber, one from the minority and one from the majority. Then a 5<sup>th</sup> that would be chosen to be the Chair. That would essentially put 5 legislators on committee and 4 citizens that would be voting members. On the bottom of the bill it just allows them to be paid for their time and mileage to come to meetings. The issue on the table is are you ok with the makeup of the committee? We have non-voting members as well. I think someone should be there from the Association of Counties. Each of these associations has IT people. I think the county person is critical because that is where we will find the data information. Then I have the Agriculture commissioner or his designee just for another representative from Agriculture. Then the same for Game & Fish director or his designee. More so that there would be a non-voting members representing the sportsman side of it. Then IT itself would have to be there. They are the ones with the GIS information and how to proceed. The IT guy from Information Technology department and the county are the most critical to have at the table.

**Chairman Luick:** Representative Schreiber-Beck, would you fill us in on why the House doesn't think this was necessary?

**Representative Schreiber-Beck:** We think it is necessary but it was voted out when they divided the bill. We sincerely think it necessary, it was our other House members that didn't. I would like to see a voting person from the Association of Counties, it will affect them. We had added a game warden as a non-voting member, which is employed by the state. For non-voting members we agreed the Agriculture Commissioner, the Director of Game and Fish, IT chief information officer or designees. We eliminated one Legislative member in order to have an odd number of people when we added the representative of the Association of Counties. We don't disagree with having a committee formed. We called it land access because we are looking at land issues whether it be recreational or hunting. I think we can come to some agreement on this.

**Chairman Luick:** I understand some of you agreed, but some obviously didn't agree this was necessary. I am wondering why they didn't find it acceptable?

**Representative Schreiber-Beck:** Because they felt they were legislating.

**Representative Tveit:** That was my comment to. The general assembly felt we were allowing a committee to legislative the way the law was written. That was the pushback. They "had" to meet and therefore they were legislating and not our body. We are all on this committee, in agreement that it is imperative to have a study group. We can agree to agree on that.

**Senator Erbele:** I believe it was the perception of the hammer on it that was the negative in the House. As you look at my sheet I have before August of 2020 that we will report our findings. I don't know where that date comes from, because if it is a Legislative Management study, we would be presenting our reports to the November meeting. I think there is an October deadline for that. The only reason we would want to look at an August 20<sup>th</sup> deadline, is in case there was enough development that a couple counties could be on a prototype pilot run. If the electronic positing is even going to be possible by that date, you'd want to

have something in place well in advance of the hunting season. As far as legislation coming forward, I think we could abide by the other Legislative Council deadlines.

**Representative Heinert:** I voted against that amendment on the floor. It was more than just the drop-dead hammer date. It was the automatic posting of the land after that date. There was issues in there as to the database and the building of the database, who was going to build it, how it would be built. There was financial obligation that may have been implicated for the state of ND. Indirectly, we heard from risk management that initially the state would have no liability concerns, but if the state created the database and something proved wrong, we could be drawn into litigation over that. Those are some of the reasons that didn't come through the House in a positive manner.

**Chairman Luick:** The responsibility of whether we get the information correct or not; I think the state has some sort of insurance that says we cannot be held accountable for some of that. It is a good point.

**Representative Heinert:** We had the risk management office come in and talk to the sub-committee. They felt we were not at risk, but they also said if we knowingly didn't correct something we knew was wrong, we could be drawn into a risk situation.

**Senator Erbele:** I would address my question to Representative Heinert. As this is outlined, does it eliminate some of your concerns; is this something you could vote for? What do we need to do to make this better?

**Representative Heinert:** I am still of the same opinion of what I said before. I think we have a cart flying up and down the hills in the country, and no horses around it.

**Chairman Luick:** Explain it to me please; I don't have any cart or horses.

**Representative Heinert:** What I mean by that is, we always talk about putting the horse inform of the cart of vice-versa. I think we have a cart out there, but we don't even know where the horses are at. My opinion has been for a long time, a study should be conducted. I know neither the landowners nor hunters want that. I think we are trying to do many things in the middle here that aren't answered yet. We are trying to implement some sections of law that we don't even know what the answers are. A great point is what happened the last time we met with the information that was brought forward with what happens, and how many people can come hunting. There is an issue right there that creates problems for everybody. It creates problems on the trail, the landowners, and the hunters. We don't have those answers of how to fix that yet. That is why I still think we should turn this into a study. I don't have a problem with the committee makeup as long as there are more legislators on there. I think a group of more legislators would bring a bill that would make it through the session next time. My preference is, we do this right the first time and come back with a solid bill. I know landowners don't like that idea, they want to get something done. I also know we have been trying to do this for many years. This morning we passed a bill for the radio communications for the emergency services personnel in North Dakota, which has been going on for 5 sessions. We finally got it done this morning because we did it right this time.

**Chairman Luick:** I think a lot of pressure is coming from the fact that we have been looking at this for 8 sessions. I hope that we can get something passed that will benefit hunters and property owners as well. If we need to adjust it going forward, that is where I hope we can end up going, rather than to wait another 2-years.

**Senator Larsen:** In relation to the horses, I think we just talked about the horses in the group. The legislators, the sportsmen groups, the people that will have to pull this bill and make it usable. I think that is the part we need to move forward with and continue to have that tool there.

**Representative Tveit:** My concern is, I agree we don't want to push out something wrong, but in the interim we need to protect the land owners. I know there is a lot of push back on the posting like the states surrounding us. While we study this, could we put a temporary law in place that posts the land for that protection? Whether that is another pipeline or other issues. We need to protect our landowners, that is where I'm at. I'm all for studying this and doing it right, but how will we protect those people in the meantime?

**Chairman Luick:** As you look at the other states around us, they have everything closed. Ideally, that is the no-brainer. It is the simplest thing we can do, is just to close everything for hunting, trespassing, unless you have permission. We are trying to appease and go beyond. How do we put this together without going that distant?

**Representative Tveit:** While we are appeasing the hunters, we are also blocking everyone else out. Whether that is a photographer or someone, out for a hike. I have real concerns; we need to do something now for the protection of the landowners.

**Senator Erbele:** Not to be redundant, the whole idea when I presented this to the Senate was my friends who live in SD but used to live here; they don't mind the process, but they said "just find a way to connect the landowner to the hunter". That is the biggest difficulty. I think the direction of the database is the tool for that. There is a lot of information out there. If we improve on that and provide some protections to the landowners but information access to the hunters, is the other component that we need to mesh together.

**Representative Tveit:** I am getting a number of emails from landowners that don't want to be involved. They want hunters to be able to get in. In the interim, do we just allow them to put up a sign that says "Hunters Welcome"? We need to have a temporary fix.

**Senator Erbele:** Those that don't care if people come and hunt on their land, don't want to be bothered with putting up a sign. That is why we kind of flipped it, because of those landowners who are okay with it. They are the ones saying they don't want to do it. Whereas the guy who has something to protect their livestock or wants to know who's out there, there are a number of those folks who have been posting all along. They will continue to do that. We just want to give them an opportunity to do that electronically. The ones who don't want to or don't want to be bothered with signed; They don't even want to call in and say it's open. We will come down to one category. There will be those who want to post electronically and everything else is open. Then we come back to the other issues that you talked about yesterday, with the groups and protestors. That will be out assignment over the weekend, to see if we can address that.

**Chairman Luick:** Further dialog, ideas, thoughts, concerns?

**Representative Schreiber-Beck:** Do you want to go back to the committee format topic? I think there is minimal disagreement on the committee makeup.

**Chairman Luick:** Where are we sitting on that, where are the differences?

**Representative Schreiber-Beck:** The proposed legislation on the House side was a representative of the ND Association of Counties was a voting member and we had eliminated one legislator. To the non-voting members of the committee, added a game warden was the only changes. I think someone with boots on the ground, their information would be essential. Even with Game & Fish on there, I don't think anyone can relay what people actually sees. Another thing that was brought up, are there enough boots on the ground to make a difference into anything we are looking at? From a trespass issue or a hunter that isn't supposed to be there, authorities being called to have action against that. It is a very limited number of people employed in the law enforcement or game warden arena that are out there to do that work. No matter what we do, the enforcement isn't there. I am not blaming them, they are just far and few between.

**Chairman Luick:** I agree, but I think it is just like any other law we pass; if we have no awareness of it, if there isn't anything in code that says the law enforcement has the ability to enforce something. Why would anybody even bother thinking about the consequence to it?

**Representative Tveit:** I was paging through Senator Erbele's proposal, I couldn't find it. We had in the House version that the law enforcement had the right to issue a citation at that point. It didn't require the landowner to press charges. That is almost essential. As we went through all the committee hearing, numerous landowners decided not to press charges. It might have been the neighbor's grandchild that was trespassing. By having that little tidbit in law where law enforcement could issue that without the landowner pressing charges seems to be acceptable by landowners.

**Chairman Luick:** It will be a learning curve for sure. I think we have the responsibility to protect property rights. It is up to the property owner with what they wish to do.

**Senator Erbele:** I think that could be part of the work of the study group. That would be a specific change in law. I think we are too deep to be digging too deep in the code at this point. But if we need to bring a bill forward next session, that could come out of that group.

**Chairman Luick:** We can do whatever we think until hell freezes over, until we get things we think are perfect. Until we put this into practice, I don't think we will justifiably spend our time doing this. We have to have some time to let this work out. I ask that you continue. Erbele and Heinert will be working on amendments. The rest of us, continue to rest easy and have a great Easter. Continue to gather information and do your homework. We will come back on Monday. We will adjourn.

# 2019 SENATE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Roosevelt Park Room, State Capitol

SB 2315  
4/22/2019  
JOB # 34891

- Subcommittee  
 Conference Committee

Committee Clerk: Florence Mayer
---------------------------------

## Explanation or reason for introduction of bill/resolution:

A bill relating to a database identifying whether private land is open to hunters; relating to criminal trespass and hunting on private land; to provide a statement of legislative intent; to provide for a legislative management study; and to provide a penalty.

## Minutes:

Attachment # 1 - 3
--------------------

**Chairman Luick:** Opened the conference committee on SB 2315. Rollcall was taken, all members were present. The conference committee consists of Senators Luick, Larsen, and Erbele; Representatives Schreiber-Beck, Tveit, and Heinert.

When we had gaveled out on Friday we were looking at getting more information from Senator Erbele and Representative Heinert. I had also mentioned I would be visiting with the Attorney General on some opinion. He looked at it over the weekend, and he will hopefully come and visit us as well.

**Senator Erbele:** Handed out **Attachment #1**, a bullet point copy of the conversations between Representative Heinert, Claire and myself. The first page is penalties and the various classes of misdemeanors. I think Representative Heinert is more qualified to speak to the first couple bullet points. Claire Ness from Legislative Council is here to walk us through it.

**Chairman Luick:** Ms. Ness would you walk us through the changes?

**Claire Ness, Legislative Council:** I am speaking in a neutral capacity on SB 2315. Last week I had discussions with Senator Erbele and Representative Heinert of possible changes to the bill. One change we discussed was repealing ND Century Code section 20.101-20, which is the provision regarding prima facie evidence of hunting. The reason we discussed repealing that, under current law that provision works in a way that if a person is found on private property with a gun, there is a presumption they are hunting. If that property is posted, there is a presumption that the person is violating the provision against hunting on posted land. Under the bill as it is drafted, land is deemed closed except to hunters. There is a little bit of a flip with that presumption. The use of section 20.101-20 would be to act as a

presumption that someone is acting lawfully. There was discussion on whether or not someone could abuse that presumption.

**Senator Erbele:** The section she is referring to is found on page 5, which would be a repealing of that language.

**Claire Ness:** The concern that was raised in the discussion was that if a person met the qualifications of the prima facie evidence of hunting, even though they were not hunting, there would be the presumption they were acting lawfully. It might be easy for someone to acquire a lawful weapon and a valid hunting permit, have those on them and then the individuals with them would be presumed to be acting lawfully even if they were engaged in unlawful behavior. The discussion was whether you should repeal that section, since it no longer serves the function it does under current law and has the potential for misuse. If that is something the committee could like to do, we can change that. There was another discussion regarding the penalties for trespass. I prepared some charts so that people can see what the penalties look like under the current version of the bill and under that you can see there are various levels of penalties for various offenses. The discussion was whether or not the violation of a trespass law, other than the page 1 entering a dwelling which is a class C felony; other than that, there was discussion of making the penalties for the trespass violations the same. Presumably a Class B misdemeanor for a first offense and a class A misdemeanor for a second or subsequent offense within 2-years, which is consistent with several of the provisions under current law for trespass. If that were the case, we would end up eliminating the provisions on pages 2 and 3 for non-criminal offenses. Questions were raised if someone would lose their hunting privileges for trespassing. I believe that is the case under current law. If we made these criminal penalties consistent and eliminated the non-criminal offense provisions; then yes, they would possibly lose their hunting privileges for a trespass violations. Those hunting privileges can be revoked for criminal offenses.

**Senator Larsen:** That is the original language before this bill, that if you're hunting on property, that is a criminal trespass if you're not allowed to be there?

**Claire Ness:** Yes, if you look at page 4, section 20.1-01-18 is the provision in current law for hunting on posted land. If you look at the bottom of page 4, it says a person who violates the section is guilty of a class B misdemeanor for the first offense and a class A misdemeanor for a subsequent offense in a 2-year period. The current language without this bill is exactly that. We also discussed on the bottom of page 1 and top of 2, whether or not subsection 3 of section 12.1-2203 should be replaced or if it serves a function. The presumption in the bill is that land is closed except to hunters. This provision would not function it would be redundant. This talks about someone who is committing trespassing, those who enter or remain in a place where they have been given notice of trespass by actual communication or posting. The provisions regarding hunting on posted land are in 20.1-01-18, the discussion of posting in in 20.1-01-17. Having the subsection 3 put back in the bill wouldn't make sense, since only posting and trespassing on land is only applicable to hunters and those provisions are already included in current law in the bill. The determination was that subsection 3 could remain out of the bill. There was also discussion of subsection 4, which is the provision put into the most recent version of the bill on pages 3-4. That is the provision talking about how you post land and if subsection 4 was added to provide for electronic posting. The way it currently reads is "if the state develops or maintains an online database or other electronic

application which identifies whether land is available to hunters, an owner or tenant or someone authorized could post that land in the database”. The issue was raised as to if the state could contract out for that database. The language in subsection 4 could be changed, to say the state or someone on behalf of the state could maintain and develop that database. The state wouldn’t have to do that directly. That can be changed to make it broader so the state could hire someone to do that.

**Chairman Luick:** On that subsection, does that have to read, “if the state develops ‘and/or’ maintains”? Or is that different language you’re proposing?

**Claire Ness:** I would change the language slightly to say the state or someone on behalf of the state. We can make the wording flexible. Going on to the last point. There is a study provision on pages 7-8. There was a question whether or not there were members of the committee identified. There was more specificity on who would serve on the committee and whether those individuals should be identified again or if you wanted to leave it open to the legislative management. That raises a policy decision for the committee to make. I also have a brief summary. If these changes were to take place, I have a bullet point list of what would happen. (Reading from Attachment #1, page 2, bullet point list.)

**Representative Tveit:** Under the proposed changes would a landowner be required to press charges or does the law enforcement have the authority to press charges as they see fit?

**Claire Ness:** It is the same as any other criminal provision. A landowner could press charges but the law enforcement would have the discretion.

**Representative Tveit:** That seems to be the hang-up in previous law that is kept from accumulating violations and so on because the landowner was required to press the charges or else all charges were dropped.

**Representative Heinert:** I think what you’re getting to the Class B misdemeanor part. Where the crime has to be committed in front of the office before they can actually press the charges. If the person is no longer on the land hunting, but the landowner saw them and had the identification marks, then the land owner would have to be willing to come testify. The law enforcement officer did not see the actual crime happen.

**Chairman Luick:** Thank you. Troy will you come up please?

**Troy Seibel, Chief Deputy Attorney General:** I am available for questions.

**Chairman Luick:** Did you hear all the trespass part where it deals with people in a mob?

**Troy Seibel:** I don’t think I heard any questions about the mob. We had visited Friday afternoon about a guide bringing a group of people onto a property. I looked at the bill after we spoke, under current law; if land is posted then a guide would have to get permission to bring people onto that land. That would remain the same under the current version of the bill.

**Representative Tveit:** I think a question is more of if a mentor could help people along and how many could do that?

**Troy Seibel:** A possibility would be to limit the number of individuals a mentor could bring. There may be an issue with a mentor bringing on a large group of people. In the event that happens, that might be something the committee would want to consider if there is concern about that happening down the road.

**Representative Schreiber-Beck:** None of what we have spoken about has been proposed in an amendment correct? (Correct) I suppose a discussion could revolve around that. Handed out **Attachment #2**, language to consider for the study that would be access to lands. That is similar to what was contained in the House version of the bill. Possibly one change is a Representative of the ND Sheriffs and Deputies Association was added as a non-voting member of the committee. That would be the last line. When I looked it up that is still existing.

**Chairman Luick:** The new version of this has it on it? (Yes.) Any questions committee?

**Senator Erbele:** ND Sheriffs and Deputies Association would select a representative. Representative Heinert is retired, but a member of the association, would it be possible for you to serve in that capacity?

**Representative Heinert:** I believe the bylaws state it has to be an active member.

**Chairman Luick:** Should that be stated in the language here? (No, it's in their bylaws.)

**Senator Erbele:** If we would just lay Representative Schreiber-Beck's committee portion of it aside and go back to the bullet points, I would be interested in hearing the committee's view on those points. If you're in agreement then we can go upstairs and get that portion put into the amendments. Then the only thing would be to flush out the back page and the duties of the committee. I would like to talk about the points first.

**Chairman Luick:** Let's turn to the second page of Attachment #1 to look at the bullet points. As Ms. Ness was reading this, was there anything we had objections to?

**Representative Tveit:** I think it answered a lot of our questions. In the first bullet point, I struggle with the land being closed except to hunters. I would personally like to see us close it until the 2021 session as we play around with the database. Close it with the end date of March of 2021. That is the only other addition. Just close it for everything until we resolve this.

**Senator Erbele:** I feel that would be a deal breaker because that is a radical shift. I think landowners and hunters would be comfortable enough moving forward in the next biennium. Then let the work of the committee bring the specific bills forward. I think that would put us on a bridge too far, for this particular session if we really want to pass and move this forward.

**Representative Tveit:** My only concern is the Keystone pipeline during the interim. Hopefully the other bullet points would take care of it.



**Senator Erbele:** I believe that removing the presumption does give the law enforcement the ability to determine the circumstances why you are there. Can Representative Heinert confirm that? (It was confirmed.)

**Senator Larsen:** On the 7<sup>th</sup> bullet point with the database and the development of that. Is that going to have the discussion that until it is available electronically, it is business as usual? Is it just the presumption of the committee that's going to say and make up the rules as it progresses per county. We aren't looking to see that in the bill?

**Senator Erbele:** I think section 4, on page 4 addresses that. If they can roll the database out and select counties before the next session, there would be an opportunity to do a prototype. We could add that language above the committee's duties as well if we needed to clarify that. We are getting to commitment time. Do we have consensus to put the points as outlined here with the discussion into bill form? If we do then we would have committee directive and membership. The meat of the bill is in these points here. Do we have consensus to bring an amendment down as it is read here? We will need a reading of it in bill form.

**Chairman Luick:** From what I've been hearing we do have that consensus. I think we have the ability, need and desire to move forward with the amended version of the bullet points as what we had presented.

**Senator Erbele:** Can we take a voice vote on it?

**Chairman Luick:** Yes.

#### **All in favor of the proposal of creating an amendment?**

**Senator Larsen:** Is that with the addition of the game warden and those folks or just the sheet?

**Senator Erbele:** Just the sheet, we will discuss that separately.

**A Voice Vote Was Taken.  
Motion Carried.**

**Chairman Luick:** Will you let us know what is the issue?

**Representative Heinert:** I am okay with the trespassing part of it. I am not okay with the posting/non-posting of land at this time. I don't think we should put the study after the fact. I think the study should be before the fact. I will oppose it based on that.

**Chairman Luick:** I am not following.

**Representative Heinert:** We are proposing a study, we are also proposing that we are closing land. We are opening it for hunting but closing it for everything else. We are proposing a study to look at that further and develop other portions of this. I think we are doing things before we know what we are doing again. Just how this will happen with landowners, sportsmen and anyone who want to go wander around in the country.

**Chairman Luick:** What do you propose we do for the next 2 years?

**Representative Heinert:** I've said it a couple times. I think the study is important, I think that needs to be put together. I think if we are going to electronically post, we need to know exactly how we're going to do it prior to saying we are authorizing them to do it. I am concerned we don't have a platform in ND to put this checking of land off or on. We don't know if any of the sports groups are going to grab this and run or liability to the state. We have a lot of unanswered questions, especially costs and how it's going to operate. Therefore I am opposing it.

**Representative Tveit:** If that database project remained part of the study and not allowing them to utilize it in the interim, are you comfortable with that?

**Representative Heinert:** I am not comfortable because we don't know how it will come out of the study. We don't know what proposals are going to be a part of that. We don't know the costs to the state and the taxpayers. I don't think they should be paying for a platform for a specific function that is outside of the realm of the normal taxpayers area. This is not normal government operations. If this is developed for multiple agencies across the state, then I can understand that. Right now, that is not the case. The platform is being developed for posting land and hunting purposes only. I don't think the taxpayer in the state of North Dakota should have to pay for that. Especially those who don't have land outside of the city or who aren't hunters. We are asking people to pay for this who have no involvement.

**Chairman Luick:** We have taxpayers paying for things across the state that they aren't involved with, in many, many cases.

**I am asking another voice vote, with regard to what Representative Heinert has said, are we still a majority vote on having this amendment crafted?**

**Representative Schreiber-Beck:** From what the landowners had wanted from a trespass standpoint of removing having to have a sign, which is not visible. That is what we're looking at, at this point. In my mind moving forward and with the penalty phase in place, that is doing one point of what we were asked to do by a lot of people. I don't know how Representative Heinert feels about removing the signs for trespassing.

**Senator Erbele:** Addressing Representative Heinert, I really don't see anything changing between now and the next biennium. That study is the land groups doing exactly that. We are going to find out costs, which will be the work of the study group. We can pull the prototype language off and let the electronic thing happen next time or whatever. That needs to be apart of the direction we are going. The GIS platform is utilized for so many more things than just hunting. That will be a small, small piece of the whole GIS. They've been at this for

10 or more years. Most counties have a very sophisticated GIS platform we can build off of. I don't mean to belabor the point, but I don't think it's as serious as you feel it is, but that is your right.

**A Voice Vote Was Taken to confirm that drafting an amendment was still the majority wish of the committee.**

**Motion Carried.**

**Chairman Luick:** Get it crafted please and I will set up a new meeting. We are adjourned.

An article from the Bismarck Tribune, **Attachment #3**, was passed out by Representative Tveit.

# 2019 SENATE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Roosevelt Park Room, State Capitol

SB 2315  
4/23/2019  
JOB # 34924

- Subcommittee  
 Conference Committee

Committee Clerk: Florence Mayer
---------------------------------

## Explanation or reason for introduction of bill/resolution:

A bill relating to a database identifying whether private land is open to hunters; relating to criminal trespass and hunting on private land; to provide a statement of legislative intent; to provide for a legislative management study; and to provide a penalty.

## Minutes:

Attachments # 1 - 2
---------------------

**Chairman Luick:** Called the conference committee on SB 2315 to order. Roll call was taken, all members were present. The conference committee consists of Senators Luick, Erbele and Larsen; Representatives Schreiber-Beck, Tveit, and Heinert.

We have a few hand outs and additions to a couple amendments.

**Senator Erbele:** Presented **Attachment #1** and read through the section of the proposed amendment. The items we talked about yesterday have been sent up to legislative council and the bill draft has begun with that, holding the last part open so we can finish up the wording for the study and makeup of the committee. I handed out some language, it is open for discussion. We chose the August date so it would be before any hunting seasons. We would also list the members as we talked about before. Yesterday we had looked at a proposal of having someone from the Sheriffs and Deputies association. After talking with people in the hall, it might be better to substitute that with someone from the State's Attorneys Association, so you have someone who deals with that from a prosecutor's side. I would leave that open for discussion. The membership are the ones we had talked about: A member from the majority and minority in both the House and Senate, then a member of either party or chamber that would be selected by Legislative Management to be a chairman. The non-voting members would be a representative of the ND Association of Counties, the Agriculture commissioner or designee, the Game & Fish Director or designee, Chief Information Officer or designee, then the state's attorneys. Also included are 2 citizen members representing Agricultural land owners and 2 members representing sportsmen. They would also be voting members, but non-legislative. There is also the language that discusses that payment for those citizen legislators that we added as well. That would be my draft version for us to consider if there is anything we want to add or take out.

**Representative Schreiber-Beck:** I would like a little different rewording, but my main question is if the working committee may establish a trial electronic posting hunter access information system, would there be a cost to that? How do you look at that?

**Senator Erbele:** I think that is the work of the committee. If there is a cost and we don't have the money to do it, then we don't do it. I don't think we need to worry about it at this point. That is the work of the committee to determine the associated costs. If a trial can't happen without some funding, then it doesn't happen is the way I view it.

**Representative Tveit:** Presented **Attachment #2**, a proposed landowner protection during the interim amendment. It is on the .2011 version on page 4, line 24. I would like to insert the word "not" after the word "may". (Read through the proposed amendment.) I would also like to line through on lines 26-27, "unless the land is legally posted or the individual is request to leave by a dually authorized person". Then put a sunset clause of March 15<sup>th</sup> of 2021, when the session is meeting again. That date is up for discussion. This gives the landowner protection while we are studying this for the next 2 years. It would put the hunter in the same category as a hiker, trapper, and photographer, that they would not have access to private land without seeking permission. I bring that to this committee, to see if it would fly through the floor in both chambers, I would entertain that as a proposal.

**Chairman Luick:** On line 24 it has "no person"; Basically you are reversing the open and closed category here for the hunter aspect of this. (Correct.)

**Representative Tveit:** On line 26, I lined out "unless it's legally posted", which wouldn't have to be in there if you put the word "not" in. You're not giving them permission to hunt. By lining that out, everything is posted so to speak for the hunter and anyone else walking around there.

**Senator Erbele:** Do you want to have discussion before we have a motion?

**Chairman Luick:** I'll have an open quorum here.

**Senator Erbele:** I would resist that proposal. I think it is important to keep the situation for hunting as it is now. For those who chose to have their land open I don't think they should be asked to do this in the interim. The real work of the committee and the database would be to create the open and closed situation. To move this forward with any success at all, I don't think we can change current practice.

**Chairman Luick:** Other opinions? On Representative Tveit's amendment, do we have a motion?

**Representative Tveit:** I would move to adopt my proposed amendment.

**Chairman Luick:** Do we have a second? If we do not, the motion dies for the lack of a second.

We are now back to the original. Anything else in communication on the consideration of the languages or additions?

**Representative Schreiber-Beck:** On the 3<sup>rd</sup> line after the word “and”, I would prefer language that provide recommendations regarding “an access base with the capability of electronic posting”.

**Senator Erbele:** Could you read it in context then? With a couple words leading up to that.

**Representative Schreiber-Beck:** It would read on line 2, “including trespass violations and penalties and provide recommendations regarding an access database with the capability of electronic posting.”

**Chairman Luick:** You are adding 3 words?

**Representative Schreiber-Beck:** I am eliminating “works towards the development of a hunters...”. I think far beyond the state providing this there are opportunities elsewhere; therefore, that would open that up.

**Senator Erbele:** We do address those other opportunities though back in subsection 4 on section 2 on page 4. As we gave the instructions to Council yesterday that there be wording added “excepts and endorses.” Read it one more time please?

**Representative Schreiber-Beck:** “provide recommendations regarding an access database”.

**Senator Erbele:** Just so we are aware, we are not the legal wordsmiths. Legislative Council does have a template they use for studies, it may look a little different, but if we can capture the concepts, I am ok with that. Just so, we understand it may not be word for word, as we agree on it this morning.

**Chairman Luick:** I would like to see a consensus so that Legislative Council doesn’t have to rewrite this many times.

**Senator Erbele:** The overstrike and the addition of the words is okay with me and something I can run up.

**Representative Tveit:** Looking at page 4, line 14, where it says, “if the state develops”; did that get included? (Yes.)

**Chairman Luick:** Is there anything else anyone has a desire to bring forward? We are on schedule to meet again this afternoon at 3:30pm; we will hopefully have a processed amendment at that time.

**Senator Erbele:** I would like to see the committee being on record as supporting this so I can take it up to Council.

**Representative Schreiber-Beck:** Looking at the access to lands, page 7 of .02011 edition, you had struck trapping out of there since that is covered so differently. From my standpoint that could stay in there. How do you want the section to read? Should it just say, “A legislative

management study access to lands”? Without the “for hunting and trapping”? I do that because of all the recreational activities included in this piece.

**Chairman Luick:** I am wondering why we are splitting hunting and trapping? I see the benefit of trappers going out there the same as hunter to control wildlife. I don't know that there is a big issue with that?

**Senator Erbele:** I would agree, I think we could leave that in. In visiting with sportsmen, I put the words hunting, trapping and fishing in there so we discuss all of that. They have this vision if this database could be such that the landowner could post that they are open for deer but also trapping coyotes and that sort of thing. So that all of those things could be instantaneously listed electronically so that these different activities could be a part of the things they can see on the App. I think that should be part of the committee discussion. All of the maybes and possibilities. That is why we have the committee.

**Chairman Luick:** I will be a devil's advocate here, does this need to be changed throughout the rest of the bill? I am not legal, but are we opening a door for something else to happen? Should it all be read as hunters and trappers?

**Senator Erbele:** In my opinion, the rest of the bill is going into code. This is just the study. Let the study determine whether we need something else in code relative to that.

**Senator Larsen:** On section 6, talking about access to lands and then cutting it out. Is this study proposed here going to be the section 6 or added at the end in addition?

**Chairman Luick:** Senator Erbele's portion will become section 6 I believe? (Correct.)

**Representative Schreiber-Beck:** If you're going to be all inclusive, after fishing on line 2, with your proposed language “recreational activities”; you have “related issues” but that has been snowmobiling and other activities brought up numerous times in discussions. Hiking, snowmobiling, it is endless ways people want to use land.

**Chairman Luick:** Wouldn't “related issues” cover that? There is bird watching, nature walks, lots of different things.

**Representative Schreiber-Beck:** Either that or you don't list anything.

**Representative Tveit:** My concern, which is probably up to the committee to study, trapping is different than hunting as you are leaving a device on the property. You may deal with a pet or critter you are raising could step into these traps. I am fine with them studying the trapping portion, I would hesitate to put it in law now.

**Senator Larsen:** So then on page 7, line 27, where it says “access to lands” and are we striking hunting and trapping? So the title would be just “Access to Lands”?

**Chairman Luick:** I would guess so. Senator Erbele you will take care of that then?

**Senator Erbele:** We will hopefully have something down at 3:30 to do a final reading. If it isn't right, we won't carve it in stone yet.

**The committee agreed to have an amendment drafted, except for Representative Heinert.**

**Chairman Luick:** We will stand in recess until 3:30.



# 2019 SENATE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Roosevelt Park Room, State Capitol

SB 2315  
4/23/2019  
JOB # 34953

Subcommittee  
 Conference Committee

Committee Clerk: Florence Mayer
---------------------------------

## Explanation or reason for introduction of bill/resolution:

A bill relating to a database identifying whether private land is open to hunters; relating to criminal trespass and hunting on private land; to provide a statement of legislative intent; to provide for a legislative management study; and to provide a penalty.

## Minutes:

Attachment # 1 - 2
--------------------

**Chairman Luick:** Called the conference committee on SB 2315 back to order.

**Senator Erbele:** Handed out **Attachment #1**, proposed amendment .02012 **and Attachment #2**, the Christmas tree version of that amendment.

**Chairman Luick:** I have a question to bring to the committee immediately. Does the Governor have the authority to declare a “no trespassing” emergency and declare no hunting on any property?

**Senator Erbele:** I don’t know. I would think there would be certain executive powers, but in the case of the situation 2 years ago, that was on federal land so it wouldn’t apply anyways. Maybe Representative Heinert knows more?

**Representative Heinert:** I won’t think he has that authority on private property. I don’t remember specifically in the command center over there that we are asking for that. We were on private property other than federal or county property. I don’t think he could. We never ran across that.

**Chairman Luick:** Do we want Jayla to get ahold of Legislative Council to see if he has that authority? It would take time to search that out. Do we want to have her do that?

**Senator Erbele:** If I may address Representative Heinert, with the way we changed it now, law enforcement has better teeth. They don’t have the excuse they didn’t see the sign, we’ve changed the penalty structure too so you could remove a person. Would I be correct in saying we have better teeth in it than what we experienced a couple years ago? In addition to what we did last session with addressing protest things.

**Representative Heinert:** I don't think this is any better than what we had in law after last session. It is much better than what we had in law 2 years ago before last session.

**Chairman Luick:** What are the wishes of the committee?

**Senator Larsen:** I am for just moving forward with this.

**Chairman Luick:** Senator Erbele would you like to walk us through the new language?

**Senator Erbele:** This is pretty much just the way we have looked at it. It coincides with the bullet points we looked at yesterday in changing the green numbers with the Class B misdemeanor and class A for the second offense. We are dealing with a lot of overstruck language, which dealt with posting and so on. On page 3, we still address your buried cable and above ground infrastructure operations, telephones, oil people, that sort of thing. We did put in the language on page 4, subsection 4, "directly or through a third party, develops, operates, or maintains an online database or other electronic application". That was language Representative Schreiber-Beck felt we needed and I agree. We don't need to look to the state if there is someone else who can do it. I've had numerous eyes on both sides from sportsmen and landowners that say this looks okay. Once the bill is passed, then all of the overstruck stuff goes away and we'll see the most pure form. The back page, the land access study committee, has come together real well. It is permissive, there is no hammer, we are not closing lands, business will continue as usual through the next biennium. We have better protections for the landowners for all other events. That is huge. That is the one for property owners and rights and we still maintain the respect of our hunting community to have access. If the study committee gets something done, it's a "may" providing all the pieces fall together, start to develop a prototype before next session. The main work of the committee is to see if electronic posting can happen and how we create that system for hunters to gain better access and information on land. I've talked to millennials who are very excited about this, that this is something ND is doing that isn't happening anywhere else. The millennials are tied to their devices; it is interesting to see that they are interested and excited about this as well

**Senator Erbele: Moved the amended bill of 19.0896.02012.**

**Senator Larsen: Seconded.**

**Erbele:** I think the wording would have to be as it is on top of the amendments the House received. Recede from their amendments and further amend.

**Representative Tveit:** On line 6, page 8, they have asked us to consider dropping the word "several" out of there, and put in a limited amount like "two" for the experimental counties. So it doesn't get too large that the hunters can't work within it. They felt leaving the numbers too large would be difficult to follow through. Even if we took 3 counties, we would be more comfortable passing it.

**Senator Erbele:** I didn't have a word for "three", that's why I went with "several", thinking 3 would be logical.

**Representative Schreiber-Beck** Another comment from the House is that they have a problem with any recommending legislation. Even though there are legislators appointed to the committee. That would be the other thing. I did some talking between meetings and that would be another point of concern when it goes to the House floor. That is lines 7-8.

**Senator Erbele:** This is a legislative management study, it is no different than any other study that brings bills forwards. We do that the whole time. It's not a working group made up of a bunch of citizens and agencies. This is a legislative management study now.

**Representative Schreiber-Beck:** I understand that, I have 94 others to convince. I've watched it multiples times on the floor, it is always a concern when someone other than legislators are making recommendations. I am sorry; I am just stating the obvious to me.

**Senator Erbele:** The obvious in this, is that the legislators do have the majority of the voting in the committee.

**Representative Tveit:** I think she is suggesting is to drop the "Together with any legislation required to implement the recommendations". Change that to, "report the findings to the 67<sup>th</sup> legislature". Drop the center part between the 2 commas. Can we live with that?

**Senator Larsen:** I see bills on this that say from legislative assemble or human services folks. We were given this information in a bullet point format; we talked about having this drawn up. We all had the consensus it is good, now we're changing a couple words. I'm ready to go with it. I don't think making those little changes will matter.

**Chairman Luick:** Does the content change?

**Representative Tveit:** It really doesn't change the content. I think the word "required" is pretty strong there. Anything within those 2 commas, seem to be a negative when we talk with those on the floor.

**Representative Schreiber-Beck:** We saw the language this morning so we talked to the opposition to this, which I feel is our duty. Just to reply to Senator Larsen, we had it this morning and went back and talked about it.

**Chairman Luick:** I will read through this and you think about it. (Read through page 8 with the different option of language.)  
Without that portion, I don't know how "wordsmithing" we need to be.

**Senator Erbele:** I don't think it changes the content or the intent.

**I would amend my motion to strike the words between the commas on lines 7 and 8.**

**Representative Tveit:** I would be okay with that as long as we get the number “three” in place of “several” as well.

**Senator Erbele:** I would further amend to add up to three instead of several.

**Senator Larsen:** I retract my original second and motion to second the said changes.

**Representative Tveit:** Just wondering if Representative Heinert is on board with what we have in front of us.

**Representative Heinert:** I am not. In the House, this section was amended out and did not pass the House for the study committee. I will be opposing this because of the study committee.

**Representative Tveit:** In response, I went directly to the person who carried it to the floor and split the bill. He was okay with this as a study without a hammer on it. Speaking for Representative Schreiber-Beck, she also spoke to another involved in the split of the bill. They are okay as long as the hammer wasn't in there.

**Chairman Luick:** We have a motion and second for the amended amendment to recede from the House amendments and further amend.

**Roll Call Vote Was Taken: 5 yea, 1 nay, 0 absent.  
Motion Carried.**

**Senator Erbele will carry in the Senate.  
Representative Tveit will carry in the House.**

**Chairman Luick:** We have a winning vote here. I appreciate all the work that went into this. It's a big load to tow, I appreciate the patience, thoughts and help getting information. We know that it will be visited again and again. I think today we have a start.

**Erbele:** I would echo your comment. To the House I would say, this has probably been one of the most collaborative conference committees I've ever been on. Even though Representative Heinert voted no, I'm still grateful for the work we were able to do together on it. Thank you for that.

**Chairman Luick:** We are adjourned.

# 2019 SENATE STANDING COMMITTEE MINUTES

**Agriculture Committee**  
Roosevelt Park Room, State Capitol

SB 2315  
4/24/2019  
JOB # 34993

Subcommittee  
 Conference Committee

Committee Clerk: Florence Mayer
---------------------------------

## Explanation or reason for introduction of bill/resolution:

A bill relating to a database identifying whether private land is open to hunters; relating to criminal trespass and hunting on private land; to provide a statement of legislative intent; to provide for a legislative management study; and to provide a penalty.

## Minutes:

Attachment # 1 - 2
--------------------

**Chairman Luick:** Called the conference committee on SB 2315 to order. Roll call was taken, all members were present. The conference committee consist of Senators Luick, Erbele, and Larsen; Representatives Schreiber-Beck, Heinert, and Tveit.

And let the record show the lost has been found.

**Senator Erbele:** I apologize for being tardy, but we did finish the human service budget. Passed out **Attachment #1** proposed amendment version .02015 and **Attachment #2** the Christmas tree version of that. We got flagged this morning, I didn't have time to get my notebook and see why we're changing it. In visiting with the House this morning, apparently something was flagged in regards to being able to go on land to retrieve it. When I talked to Council, they said it was overstruck because it wasn't amended so it's in there. Rather than trying to explain it, we would try to put it in there. The language still isn't in there but I'm assuming at the bottom of the page, that by taking a line off, that the retrieval part is in.

**Representative Schreiber-Beck:** Yes. The current language in 20.1-01-19 is recovering game. 20.1-01-18 is the hunting and trapping on posted or private land without permission.

**Senator Erbele:** Getting that line out of there means it is not overstruck; it is still in the code. The language about going out for retrieval will stay as it is in code. We removed the cloud hanging over that.

**Representative Schreiber-Beck:** The "- 42" is actually the guiding on prohibited lands, which should obviously be struck. The 20.1-18-03 was new language put in that is no longer contained. That would be why that is struck.

**Senator Erbele:** On page 4, will be the reflection of the language we talked about leaving there with adding the up to 3 counties.

**Chairman Luick:** What page is that?

**Senator Erbele:** Page 4 line 19. As long as we are working with that, after we passed this out, on line 19 on page 8 it was felt it needed to say "Agriculture land owners". We made that change. Another wrinkle that came up in consult with the House and Council, they raised the concern that if they are staffing it, they won't be able to develop the database. We have bill drafts coming forward and we need to proper people in the system to do that. Picking up on page 8, line 10, we clarify they don't have to develop it. The ITD and Game & Fish may contract with a 3<sup>rd</sup> party to assist with the electronic posting and hunter access information system development and operation. It clears it for Council. They don't have to be the ones in charge of developing that, but the committee and it's work could charge either ITD, Game & Fish or a 3<sup>rd</sup> party vendor to work on the database. That way we maintain the expertise of the Council and still have reporting mechanisms. If we did have bill drafts, the chairman of the committee would present it in November when we have our legislative management meetings. Then council would present those bills as well to our organizational meeting at the beginning of next session. That is all I know.

**Representative Heinert:** On page 8, line 7 we changed the language where it now says "At the direction of legislative management before August 1<sup>st</sup>, 2020". That is new language from the prior draft?

**Senator Erbele:** This was handed to me as I was walking 10 mph walking down the hall, I haven't read this yet. Prior to that, I had been up to Council and I wanted it worded so it works for them. I think it is just a shifting around of the words. I believe we are saying at the direction of the legislative management, which we are a legislative management committee, that if we are going to do something, we need to do it before August 1<sup>st</sup>, 2020. If it needs to be readjusted, I guess we do that now.

**Chairman Luick:** It comes back to Legislative Management on line 9, on the .02012 version. They are putting Legislative management at the beginning of that sentence rather than the end. If you look at line 9 of the .02012 version.

**Representative Heinert:** In .02012 it says "Legislative Management" is crossed off and it has the study committee establishing a trial. So this is new language directed back at Legislative Management.

**Representative Schreiber-Beck:** There is a reason for that, and I can't recall the reasoning. It had to do with if an agency was in charge, which it is not, it is still Legislative Management. There was consideration of whether to put Game & Fish in there. Apparently, the wording is proper but maybe we should contact Claire. If the county commissioners don't want the pilot in their county, that is a consideration I think.

**Senator Erbele:** We won't be dictators in that committee. We will go with willing vendors and we don't have the authority to make a county do that. Having said that, if it is developed and

the counties have their land available; that's not to say in a future legislative session you say "shall" be a part of the data base. We are far away from that language.

**Representative Tveit:** The one thing I'm looking at is we removed the overstrike on line 22 of the 20.1-01-19 Do we need them to remove the overstrike on page 5 lines 10-12? I am on version .02015.

**Senator Erbele:** The fact that it is taken off on the first, restored that session. Instead of opening it up and rewriting it, because it is current law, they don't need to put it back in. By removing the overstrike on page 1, leaves it the way it is.

**Representative Schreiber-Beck:** After reading through here and doing a comparison, the noncriminal offense was removed so the ability to make the \$250 is to site someone. Page 2, section 4, a peace officer would be able to site an individual with a \$250 fine. I had the question asked to me if the intention was to remove that? It exists in code today and obviously, we removed the need for signage, but it was left in the .02009 version to mirror the existing code. That is a question I can't answer.

**Representative Heinert:** When Senator Erbele and I met with Legislative Council, it was determined local law enforcement could issue the \$250 fine but they couldn't remove the person from the property because it was just a civil sanction, nothing criminal. They could issue the citation but then walk away. They couldn't tell the person they have to leave.

**Representative Schreiber-Beck:** The change with now you can remove the person, would it be pertinent to put that back into code in the form it needed to be with what we have going on or not? It was very important because it occurred in existing code. That is why I'm asking if it needs to remain in code as altered as it needs to be with the removing of the signs.

**Representative Heinert:** The discussion was the removal of the person the location where they were; versus just issuing them a \$250 citation. Without the class B misdemeanor that was impossible for local law enforcement or Game & Fish. They need the criminal charge to physically remove the person.

**Representative Schreiber-Beck:** But now the criminal charge exists.

**Representative Heinert:** But then you would be double charging the person. You'd be charging them with a civil sanction and a criminal sanction.

**Senator Erbele:** In our discussion, it was just to be consistent on the misdemeanors.

**Claire Ness, Legislative Council:** I am here in a neutral capacity.

**Chairman Luick:** The changes made on page 8, lines 7-10, could you address those please?

**Claire Ness:** In order for this to be legislative management study, as we do in every interim, the legislative management would talk our Council office to provide support. We are not able to create a database. Legislative Management would select the members as denoted in subsection 2. We would staff the committee, then at the direction of Legislative Management

through the committee, they could task ITD and the Game & Fish to develop the trial posting information system. There is authority for the departments to contract with a 3<sup>rd</sup> party to assist with that posting. Then, as with any Legislative Management study, there would be a final report prepared at the end of the interim. It would be presented to Legislative Management. Then Legislative Management would present it to the Legislative Assembly. It would be like any other interim committee.

**Representative Heinert:** On line 9, on page 8, "Game and Fish shall establish" does that mandate that they have to do it by August 1, 2020?

**Claire Ness:** Only if the study group, acting on behalf of legislative management, tells them they have to. It is at the direction of that group. They will be bound to do what the group directs them to do.

**Representative Schreiber-Beck:** I had emailed you my question about putting back into place the \$250 fine piece. On page 2, line 4 is where it is struck. It can't be done, correct? Or it muddies the waters?

**Claire Ness:** There are a few downstream affects from switching back and forth between criminal and noncriminal. If you have a noncriminal penalty, one of the things that flows from that is that someone who is committing a violation subject to the noncriminal fine would not be subject to also having their hunting rights revoked. I know that was something the committee had talked about. Just as you're aware, if the noncriminal fine is in there the individual would maintain their hunting rights. Also if there is a noncriminal penalty the officer is not able to remove the trespasser from the location. There were questions about if you have someone trespassing on private property, how do you make them leave if it is a noncriminal fine only.

**Representative Schreiber-Beck:** So I'm at the mall and I need to be removed, they can remove me and charge me with one of the misdemeanors. Is that correct?

**Claire Ness:** Correct. Under the .02015 version, you would not have to be charged with a criminal offense, there is still discretion over that.

**Representative Tveit:** On page 5, line 2, it talks about trapping of the protected furbearing animals; do we have to leave that in there? I'm getting out in the weeds a little bit, but it was asked of me on the floor. So I can trap a skunk because it's not a protected animal.

**Claire Ness:** I can make that change; we would have to re-amend the bill. I'm not sure what your timing is looking like, but we can change that to take out the word "Protected". I have no researched what implications that would have.

**Representative Tveit:** You couldn't simply strike it?

**Claire Ness:** I would need to regenerate a new amendment. You could verbally make that change, approve it, then we would regenerate it upstairs to match the motion in committee.

**Representative Tveit:** I don't know that it is important, but it was a point brought up to me.



**Representative Schreiber-Beck:** Page 4, lines 28-31; when I look at original code, it is easier to understand the original code then when the wording has been changed around. It almost says the same thing, but it is almost convoluted to make sense of what it states.

**Claire Ness:** There are 2 issues with that. Wherever possible we are changing the “person” to an “individual”. The reason it looks a little different is because the presumption of land being closed or open has changed. We are now saying “an individual affirmatively may hunt on private land” as opposed to “may not hunt on posted land”. We are giving them that affirmative right under this bill, unless the land is posted or they are asked to leave. That is why you see that looking a little bit different than it does under current code language. There are 2 excepts to a hunter hunting on private land. That is why we have the “unless” language.

**Chairman Luick:** Further questions? Thank you Claire. Are there any other issues with what the new amendment entails or concerns.

**Representative Schreiber-Beck:** On page 8, I would like to amend to add after “counties” on line 10, “With county permission”. We’ve been approached with that. We are trying to get this passed. “Up to 3 counties in agreement or with county permission.” I don’t know what the language should say.

**Senator Larsen:** I thought we cleaned it up from the 7 counties down to the 3. I had heard we have all this information in the cue except for 5 counties that don’t have any electronic information. I’m happy with where it is at.

**Senator Erbele:** I can’t imagine the committee forcing this on anyone, especially on the trial side of it.

**Senator Erbele:** I move we reconsider our actions we passed out on .02013 and that now the House recede from House amendments and amend further with version .02015.

**Senator Larsen: Seconded.**

**A Roll Call Vote Was Taken: 5 yea, 1 nay, 0 absent.**

**Senator Erbele will carry in the Senate.**

**Representative Tveit will carry in the House.**

**Representative Heinert:** I understood that wrong, I would rescind my vote, and change it to a “nay” vote.

**Chairman Luick:** Hopefully we have a go ahead. We are adjourned.

April 23, 2019

5/26  
4/23/19  
6/4

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2315

That the House recede from its amendments as printed on pages 1451-1453 of the Senate Journal and pages 1714-1721 and page 1732 of the House Journal and that Engrossed Senate Bill No. 2315 be amended as follows:

Page 1, line 1, remove "to create and enact chapter 20.1-18 of the North Dakota Century Code,"

Page 1, line 2, remove "relating to a database identifying whether private land is open to hunters;"

Page 1, line 3, after the first comma insert "20.1-01-17,"

Page 1, line 3, remove "20.1-01-19, 20.1-01-20,"

Page 1, line 4, remove "to provide a statement"

Page 1, line 5, replace "of legislative intent;" with "to repeal section 20.1-01-20 of the North Dakota Century Code, relating to prima facie evidence of hunting;"

Page 1, line 13, after "a" insert "class B misdemeanor for a first offense and a"

Page 1, line 13, after "misdemeanor" insert "for a second or subsequent offense"

Page 1, line 15, remove the overstrike of "a. ~~Enters~~"

Page 1, line 15, remove "enters"

Page 1, line 19, replace "sections" with "section"

Page 1, line 19, remove ", 20.1-01-19, 20.1-03-42, and"

Page 1, line 20, replace "20.1-18-03" with "; or"

b. Remains on property that is privately owned and open to the public after being requested to leave the property by a duly authorized individual"

Page 3, line 13, overstrike "An individual is guilty of a class B misdemeanor if that individual remains upon the"

Page 3, overstrike lines 14 through 16

Page 3, line 17, replace "4." with "3."

Page 3, line 17, overstrike "a" and insert immediately thereafter ":

a. A"

Page 3, line 18, after "duties" insert "; or"

b. An individual who enters land to access buried and aboveground infrastructure for operations, inspection, repair, or maintenance purposes, if the individual has a right to operate, inspect, repair, or maintain the infrastructure"

2/2/2

Page 3, after line 18, insert:

**"SECTION 2. AMENDMENT.** Section 20.1-01-17 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-01-17. Posting of lands by owner to prohibit hunting - How posted - Signs defaced.**

1. Only the owner or tenant or an individual authorized by the owner of land may post the land by placing signs alongside the public highway or the land giving notice that hunting is not permitted on the land. The name of the person posting the land must appear on each sign in legible characters. The signs must be readable from the outside of the land and must be placed conspicuously not more than eight hundred eighty yards [804.68 meters] apart. As to land entirely enclosed by a fence or other enclosure, posting of signs at or on all gates through the fence or enclosure constitutes a posting of all the enclosed land.
2. A person may not deface, take down, destroy posting signs, or post property without the permission of the owner or tenant or an individual authorized by the owner.
3. Even if the conduct of the owner, tenant, or individual authorized by the owner varies from the provisions of subsection 1, an individual may be found guilty of violating section 20.1-01-18 if the owner, tenant, or individual authorized by the owner substantially complied with subsection 1 and notice against hunting or trespassing is clear from the circumstances.
4. If the state, either directly or through a third party, develops, operates, or maintains an online database or other electronic application available to the public which identifies whether land is available to hunters, an owner or tenant or individual authorized by the owner of land may submit electronic information for the database or application regarding the availability of the land for hunting. Land designated as posted or closed to hunters in the database or application under this subsection is deemed posted land.

Page 3, line 21, remove the overstrike over "~~on posted land and trapping~~"

Page 3, line 21, remove the overstrike over "~~without permission~~"

Page 3, line 22, remove the overstrike over "~~unlawful - Penalty~~"

Page 3, line 25, after the underscored comma insert "unless the land is legally posted or the individual is requested to leave by a duly authorized person"

Page 3, line 25, remove the overstrike over the overstruck period

Page 3, line 25, after "person" insert "A person"

Page 3, line 25, remove the overstrike over "may" and insert immediately thereafter "not"

Page 3, line 25, remove the overstrike over "~~enter upon privately-owned land for the~~"

Page 3, remove the overstrike over lines 26 through 28

Page 3, line 29, remove the overstrike over "~~two-year period~~"

3/24

Page 3, line 29, remove "unless the land is designated as closed to hunters or open to hunters with"

Page 3, remove line 30

Page 3, line 31, remove "20.1-01-17"

Page 4, remove lines 1 through 14

Page 4, line 24, remove "that are"

Page 4, line 24, overstrike "posted"

Page 4, line 25, overstrike "against hunting or trespassing"

Page 4, line 25, remove "under section 20.1-01-17 or private lands that are"

Page 4, remove line 26

Page 4, line 27, remove "20.1-18-02,"

Page 4, remove lines 30 and 31

Page 5, remove lines 1 through 30

Page 6, replace lines 1 through 23 with:

**"SECTION 5. REPEAL.** Section 20.1-01-20 of the North Dakota Century Code is repealed."

Page 6, line 24, remove "FOR"

Page 6, line 25, remove "**HUNTING AND TRAPPING**"

Page 6, line 25, after the boldfaced period, insert:

"1."

Page 6, line 25, replace "the legislative management" with "a land access study committee"

Page 6, line 26, replace "consider studying" with "study"

Page 6, line 26, after the second comma insert "fishing,"

Page 6, line 26, after "issues" insert ", including trespass violations and penalties, and provide recommendations regarding a land access database with the capability of electronic posting"

Page 6, line 27, replace "legislative management" with "study committee may establish a trial electronic posting and hunter access information system in up to three counties prior to August 1, 2020, and"

Page 6, line 27, remove ", together with any"

Page 6, line 28, remove "legislation required to implement the recommendations,"

Page 6, line 29, after "assembly" insert "at a time appointed by the legislative management"

Page 6, after line 29, insert:

484

- "2. a. The voting members of the committee, who must be appointed by the legislative management, are:
  - (1) Two members representing agriculture organizations;
  - (2) Two members representing sportsmen organizations; and
  - (3) Five members of the legislative assembly, including:
    - (a) One member of the majority party in the house of representatives;
    - (b) One member of the minority party in the house of representatives;
    - (c) One member of the majority party in the senate;
    - (d) One member of the minority party in the senate; and
    - (e) One member from either party in either chamber to serve as the committee chairman.
- b. The nonvoting members of the committee are:
  - (1) A representative of the North Dakota association of counties;
  - (2) The agriculture commissioner or the commissioner's designee;
  - (3) The director of the game and fish department or the director's designee;
  - (4) The chief information officer or the officer's designee; and
  - (5) A representative of the North Dakota state's attorneys' association.
- 3. A member of the committee who is not a state employee is entitled to reimbursement for mileage and expenses as provided by law for state officers and employees, to be paid by the legislative council. A state employee who is a member of the committee is entitled to receive that employee's regular salary and is entitled to reimbursement for mileage and expenses to be paid by the employing agency. A member of the committee who is a member of the legislative assembly is entitled to receive per diem compensation at the rate provided under section 54-35-10 for each day performing official duties of the committee. The legislative council shall pay the per diem compensation and reimbursement for travel and expenses as provided by law for any member of the committee who is a member of the legislative assembly.

**SECTION 7. EDUCATION AND MARKETING.** The game and fish department and the tourism division of the department of commerce shall provide public education and marketing regarding the changes to land access in this Act."

Renumber accordingly

April 24, 2019

5/10  
4/24/19  
10/4

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2315

That the House recede from its amendments as printed on pages 1451-1453 of the Senate Journal and pages 1714-1721 and page 1732 of the House Journal and that Engrossed Senate Bill No. 2315 be amended as follows:

Page 1, line 1, remove "to create and enact chapter 20.1-18 of the North Dakota Century Code,"

Page 1, line 2, remove "relating to a database identifying whether private land is open to hunters;"

Page 1, line 3, after the first comma insert "20.1-01-17,"

Page 1, line 3, remove "20.1-01-19, 20.1-01-20,"

Page 1, line 4, remove "to provide a statement"

Page 1, line 5, replace "of legislative intent" with "to repeal section 20.1-01-20 of the North Dakota Century Code, relating to prima facie evidence of hunting"

Page 1, line 13, after "a" insert "class B misdemeanor for a first offense and a"

Page 1, line 13, after "misdemeanor" insert "for a second or subsequent offense"

Page 1, line 15, remove the overstrike of "a. Enters"

Page 1, line 15, remove "enters"

Page 1, line 19, replace the second underscored comma with "and"

Page 1, line 19, remove ", 20.1-03-42, and"

Page 1, line 20, replace "20.1-18-03" with "; or

- b. Remains on property that is privately owned and open to the public after being requested to leave the property by a duly authorized individual"

Page 3, line 13, overstrike "An individual is guilty of a class B misdemeanor if that individual remains upon the"

Page 3, overstrike lines 14 through 16

Page 3, line 17, replace "4." with "3."

Page 3, line 17, overstrike "a" and insert immediately thereafter ":

- a. A"

Page 3, line 18, after "duties" insert "; or

- b. An individual who enters land to access buried and aboveground infrastructure for operations, inspection, repair, or maintenance purposes, if the individual has a right to operate, inspect, repair, or maintain the infrastructure

2024

Page 3, after line 18, insert:

"SECTION 2. AMENDMENT. Section 20.1-01-17 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-01-17. Posting of lands by owner to prohibit hunting - How posted - Signs defaced.**

1. Only the owner or tenant or an individual authorized by the owner of land may post the land by placing signs alongside the public highway or the land giving notice that hunting is not permitted on the land. The name of the person posting the land must appear on each sign in legible characters. The signs must be readable from the outside of the land and must be placed conspicuously not more than eight hundred eighty yards [804.68 meters] apart. As to land entirely enclosed by a fence or other enclosure, posting of signs at or on all gates through the fence or enclosure constitutes a posting of all the enclosed land.
2. A person may not deface, take down, destroy posting signs, or post property without the permission of the owner or tenant or an individual authorized by the owner.
3. Even if the conduct of the owner, tenant, or individual authorized by the owner varies from the provisions of subsection 1, an individual may be found guilty of violating section 20.1-01-18 if the owner, tenant, or individual authorized by the owner substantially complied with subsection 1 and notice against hunting or trespassing is clear from the circumstances.
4. If the state, either directly or through a third party, develops, operates, or maintains an online database or other electronic application for up to three counties which is available to the public and identifies whether land in the counties is available to hunters, an owner or tenant or individual authorized by the owner of land in the counties may submit electronic information for the database or application regarding the availability of the land for hunting. Land designated as posted or closed to hunters in the database or application under this subsection is deemed posted land.

Page 3, line 21, remove the overstrike over "~~on posted land and trapping~~"

Page 3, line 21, remove the overstrike over "~~without permission~~"

Page 3, line 22, remove the overstrike over "~~unlawful - Penalty~~"

Page 3, line 25, after the underscored comma insert "unless the land is legally posted or the individual is requested to leave by a duly authorized person"

Page 3, line 25, after "person" insert "A person"

Page 3, line 25, remove the overstrike over "may" and insert immediately thereafter "not"

Page 3, line 25, remove the overstrike over "~~enter upon privately owned land for the~~"

Page 3, remove the overstrike over lines 26 through 28

Page 3, line 29, remove the overstrike over "~~two-year period~~"

384

Page 3, line 29, remove "unless the land is designated as closed to hunters or open to hunters with"

Page 3, remove line 30

Page 3, line 31, remove "20.1-01-17"

Page 4, remove lines 1 through 14

Page 4, line 24, remove "that are"

Page 4, line 24, overstrike "posted"

Page 4, line 25, overstrike "against hunting or trespassing"

Page 4, line 25, remove "under section 20.1-01-17 or private lands that are"

Page 4, remove line 26

Page 4, line 27, remove "20.1-18-02,"

Page 4, remove lines 30 and 31

Page 5, remove lines 1 through 30

Page 6, replace lines 1 through 23 with:

**"SECTION 5. REPEAL.** Section 20.1-01-20 of the North Dakota Century Code is repealed."

Page 6, line 24, remove "FOR"

Page 6, line 25, remove "HUNTING AND TRAPPING"

Page 6, line 25, after the boldfaced period, insert:

"1."

Page 6, line 26, replace "consider studying" with "study"

Page 6, line 26, after the second comma insert "fishing,"

Page 6, line 26, after "issues" insert ", including trespass violations and penalties, and provide recommendations regarding a land access database with the capability of electronic posting. At the direction of the legislative management, before August 1, 2020, the information technology department and game and fish department shall establish a trial electronic posting and hunter access information system in up to three counties. The information technology department and game and fish department may contract with a third party to assist with the electronic posting and hunter access information system development and operation."

Page 6, after line 29, insert:

- "2. The legislative management shall appoint a committee for this study as follows:
  - a. The voting members of the committee, who must be appointed by the legislative management, are:
    - (1) Two members representing agriculture landowners;



4084

- (2) Two members representing sportsmen organizations; and
- (3) Five members of the legislative assembly, including:
  - (a) One member of the majority party in the house of representatives;
  - (b) One member of the minority party in the house of representatives;
  - (c) One member of the majority party in the senate;
  - (d) One member of the minority party in the senate; and
  - (e) One member from either party in either chamber to serve as the committee chairman.
- b. The nonvoting members of the committee are:
  - (1) A representative of the North Dakota association of counties;
  - (2) The agriculture commissioner or the commissioner's designee;
  - (3) The director of the game and fish department or the director's designee;
  - (4) The chief information officer or the officer's designee; and
  - (5) A representative of the North Dakota state's attorneys' association.
- 3. A member of the committee who is not a state employee is entitled to reimbursement for mileage and expenses as provided by law for state officers and employees, to be paid by the legislative council. A state employee who is a member of the committee is entitled to receive that employee's regular salary and is entitled to reimbursement for mileage and expenses to be paid by the employing agency. A member of the committee who is a member of the legislative assembly is entitled to receive per diem compensation at the rate provided under section 54-35-10 for each day performing official duties of the committee. The legislative council shall pay the per diem compensation and reimbursement for travel and expenses as provided by law for any member of the committee who is a member of the legislative assembly.

**SECTION 7. EDUCATION AND MARKETING.** The game and fish department and the tourism division of the department of commerce shall provide public education and marketing regarding the changes to land access in this Act."

Renumber accordingly

**2019 SENATE CONFERENCE COMMITTEE  
ROLL CALL VOTES**

SENATE BILL # 2315 as engrossed

**Senate Agriculture Committee**

VOICE VOTE to see if there was a majority consensus to have a formal proposed amendment drafted by Legislative Council.

Senators				Yes	No	Representatives				Yes	No
Luick, Chair						Schreiber-Beck, Chair					
Erbele						Heinert					
O. Larsen						Tveit					
Total Senate Vote						Total Rep. Vote					

**MOTION CARRIED.**

**2019 SENATE CONFERENCE COMMITTEE  
 ROLL CALL VOTES**

SENATE BILL # 2315 as engrossed

**Senate Agriculture Committee**

VOICE VOTE to see if there was a majority consensus to have a formal proposed amendment drafted by Legislative Council.

Senators				Yes	No	Representatives				Yes	No
Luick, Chair						Schreiber-Beck, Chair					
Erbele						Heinert					
O. Larsen						Tveit					
Total Senate Vote						Total Rep. Vote					

**MOTION CARRIED.**

2019 SENATE CONFERENCE COMMITTEE  
 ROLL CALL VOTES

SENATE BILL 2315 as engrossed

Senate Agriculture Committee

- Action Taken
- SENATE accede to House Amendments
  - SENATE accede to House Amendments and further amend
  - HOUSE recede from House amendments
  - HOUSE recede from House amendments and amend as follows
  - Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Erbele Seconded by: Larsen

Senators	4/18 am	4/18 pm	4/19 am	Yes	No	Representatives	4/18 am	4/18 pm	4/19	Yes	No
Luick, chair	✓	✓	✓	✓		Schreiber-Beck, chair	✓	✓	✓	✓	
Erbele	✓	✓	✓	✓		Heinert	✓	✓	✓		✓
Larsen	✓	✓	✓	✓		Tveit	✓	✓	✓	✓	
Total Senate Vote				3	-	Total Rep. Vote				2	1

Vote Count Yes: 5 No: 1 Absent: 0

Senate Carrier Erbele House Carrier Tveit

LC Number 19.0896 . .02013 of amendment

LC Number \_\_\_\_\_ . .05000 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

19.0896.02012 amendment with the addition of the word "three" in replacement of "several"; also the striking of "together with any legislation required to implement the recommendations" between the commas on lines 7+8.



**REPORT OF CONFERENCE COMMITTEE**

**SB 2315, as engrossed:** Your conference committee (Sens. Luick, Erbele, O. Larsen and Reps. Schreiber-Beck, Heinert, Tveit) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 1451-1453, adopt amendments as follows, and place SB 2315 on the Seventh order:

That the House recede from its amendments as printed on pages 1451-1453 of the Senate Journal and pages 1714-1721 and page 1732 of the House Journal and that Engrossed Senate Bill No. 2315 be amended as follows:

Page 1, line 1, remove "to create and enact chapter 20.1-18 of the North Dakota Century Code,"

Page 1, line 2, remove "relating to a database identifying whether private land is open to hunters;"

Page 1, line 3, after the first comma insert "20.1-01-17,"

Page 1, line 3, remove "20.1-01-19, 20.1-01-20,"

Page 1, line 4, remove "to provide a statement"

Page 1, line 5, replace "of legislative intent" with "to repeal section 20.1-01-20 of the North Dakota Century Code, relating to prima facie evidence of hunting"

Page 1, line 13, after "a" insert "class B misdemeanor for a first offense and a"

Page 1, line 13, after "misdemeanor" insert "for a second or subsequent offense"

Page 1, line 15, remove the overstrike of "a.—Enters"

Page 1, line 15, remove "enters"

Page 1, line 19, replace the second underscored comma with "and"

Page 1, line 19, remove ", 20.1-03-42, and"

Page 1, line 20, replace "20.1-18-03" with "; or

b. Remains on property that is privately owned and open to the public after being requested to leave the property by a duly authorized individual"

Page 3, line 13, overstrike "An individual is guilty of a class B misdemeanor if that individual remains upon the"

Page 3, overstrike lines 14 through 16

Page 3, line 17, replace "4." with "3."

Page 3, line 17, overstrike "a" and insert immediately thereafter ":

a. A"

Page 3, line 18, after "duties" insert "; or

b. An individual who enters land to access buried and aboveground infrastructure for operations, inspection, repair, or maintenance

purposes, if the individual has a right to operate, inspect, repair, or maintain the infrastructure

Page 3, after line 18, insert:

"**SECTION 2. AMENDMENT.** Section 20.1-01-17 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-01-17. Posting of lands by owner to prohibit hunting - How posted - Signs defaced.**

1. Only the owner or tenant or an individual authorized by the owner of land may post the land by placing signs alongside the public highway or the land giving notice that hunting is not permitted on the land. The name of the person posting the land must appear on each sign in legible characters. The signs must be readable from the outside of the land and must be placed conspicuously not more than eight hundred eighty yards [804.68 meters] apart. As to land entirely enclosed by a fence or other enclosure, posting of signs at or on all gates through the fence or enclosure constitutes a posting of all the enclosed land.
2. A person may not deface, take down, destroy posting signs, or post property without the permission of the owner or tenant or an individual authorized by the owner.
3. Even if the conduct of the owner, tenant, or individual authorized by the owner varies from the provisions of subsection 1, an individual may be found guilty of violating section 20.1-01-18 if the owner, tenant, or individual authorized by the owner substantially complied with subsection 1 and notice against hunting or trespassing is clear from the circumstances.
4. If the state, either directly or through a third party, develops, operates, or maintains an online database or other electronic application for up to three counties which is available to the public and identifies whether land in the counties is available to hunters, an owner or tenant or individual authorized by the owner of land in the counties may submit electronic information for the database or application regarding the availability of the land for hunting. Land designated as posted or closed to hunters in the database or application under this subsection is deemed posted land.

Page 3, line 21, remove the overstrike over "~~on-posted land and trapping~~"

Page 3, line 21, remove the overstrike over "~~without permission~~"

Page 3, line 22, remove the overstrike over "~~unlawful - Penalty~~"

Page 3, line 25, after the underscored comma insert "unless the land is legally posted or the individual is requested to leave by a duly authorized person"

Page 3, line 25, after "~~person~~" insert "A person"

Page 3, line 25, remove the overstrike over "~~may~~" and insert immediately thereafter "not"

Page 3, line 25, remove the overstrike over "~~enter upon privately-owned land for the~~"

Page 3, remove the overstrike over lines 26 through 28

Page 3, line 29, remove the overstrike over "~~two-year period~~"

Page 3, line 29, remove "unless the land is designated as closed to hunters or open to hunters with"

Page 3, remove line 30

Page 3, line 31, remove "20.1-01-17"

Page 4, remove lines 1 through 14

Page 4, line 24, remove "that are"

Page 4, line 24, overstrike "posted"

Page 4, line 25, overstrike "against hunting or trespassing"

Page 4, line 25, remove "under section 20.1-01-17 or private lands that are"

Page 4, remove line 26

Page 4, line 27, remove "20.1-18-02,"

Page 4, remove lines 30 and 31

Page 5, remove lines 1 through 30

Page 6, replace lines 1 through 23 with:

**"SECTION 5. REPEAL.** Section 20.1-01-20 of the North Dakota Century Code is repealed."

Page 6, line 24, remove "**FOR**"

Page 6, line 25, remove "**HUNTING AND TRAPPING**"

Page 6, line 25, after the boldfaced period, insert:

"1."

Page 6, line 26, replace "consider studying" with "study"

Page 6, line 26, after the second comma insert "fishing,"

Page 6, line 26, after "issues" insert ", including trespass violations and penalties, and provide recommendations regarding a land access database with the capability of electronic posting. At the direction of the legislative management, before August 1, 2020, the information technology department and game and fish department shall establish a trial electronic posting and hunter access information system in up to three counties. The information technology department and game and fish department may contract with a third party to assist with the electronic posting and hunter access information system development and operation."

Page 6, after line 29, insert:

"2. The legislative management shall appoint a committee for this study as follows:



- a. The voting members of the committee, who must be appointed by the legislative management, are:
  - (1) Two members representing agriculture landowners;
  - (2) Two members representing sportsmen organizations; and
  - (3) Five members of the legislative assembly, including:
    - (a) One member of the majority party in the house of representatives;
    - (b) One member of the minority party in the house of representatives;
    - (c) One member of the majority party in the senate;
    - (d) One member of the minority party in the senate; and
    - (e) One member from either party in either chamber to serve as the committee chairman.
- b. The nonvoting members of the committee are:
  - (1) A representative of the North Dakota association of counties;
  - (2) The agriculture commissioner or the commissioner's designee;
  - (3) The director of the game and fish department or the director's designee;
  - (4) The chief information officer or the officer's designee; and
  - (5) A representative of the North Dakota state's attorneys' association.
3. A member of the committee who is not a state employee is entitled to reimbursement for mileage and expenses as provided by law for state officers and employees, to be paid by the legislative council. A state employee who is a member of the committee is entitled to receive that employee's regular salary and is entitled to reimbursement for mileage and expenses to be paid by the employing agency. A member of the committee who is a member of the legislative assembly is entitled to receive per diem compensation at the rate provided under section 54-35-10 for each day performing official duties of the committee. The legislative council shall pay the per diem compensation and reimbursement for travel and expenses as provided by law for any member of the committee who is a member of the legislative assembly.

**SECTION 7. EDUCATION AND MARKETING.** The game and fish department and the tourism division of the department of commerce shall provide public education and marketing regarding the changes to land access in this Act."

Renumber accordingly

Engrossed SB 2315 was placed on the Seventh order of business on the calendar.

**2019 TESTIMONY**

**SB 2315**

Chairman Luick and members of the Senate Agriculture Committee. For the record my name is Robert Erbele, Senator from District 28. I am honored today to introduce SB 2315. This bill is nothing more and nothing less than a statement about the private property rights of the landowners of North Dakota both urban and rural. It is a bill that is supported by all of the North Dakota farm organizations that have for many years had this property rights legislation as one of the major resolutions that they support.

Please allow me to speak from the perspective of the landowners. They have earned the right to have their property rights protected. They are the ones that pay the mortgage, pay the taxes, are stewards of the land's resources, and make their homes and living on the land. Most are sportsmen and women themselves.

This is NOT an anti- hunting bill, nor does it seek to limit access to anyone who does not have land of their own. This bill is here because our current system is failing. There is an increasing frustration among the ag community regarding our current law as it places a burden on the owner to protect what is rightfully his to control,, but more than that is the fact that when an infraction occurs the onus of proof is on the owner to prove that he posted properly, which you see in the overstruck language.

This is not an anti hunting issue . It is more of an anti-posting issue. Farmers are increasingly busy in the fall and taking the time and resources to post has become burdensome, and then frustration sets in when the signs are ignored, taken down, or shot up. The vast majority of landowners are willing to let others hunt their land if they are shown the courtesy of being asked. All they want to know is who is out there and when they will be there. That simple act will not destroy our North Dakota hunting heritage.

Chairman Luick and committee members we have a serious issue before us. We have dealt with this issue before and the defeat of this bill is not a victory for anyone. I implore you that in our deliberation of this bill that our conversation be centered around how can we best connect the hunter to the landowner. Our desired outcome should be that the landowner's property rights are

acknowledged and respected and that the hunter has access to good hunting land. It is time for some give and take for everyone

This bill has a provision in it to move towards hunter access. Beginning on page 4 and line 15 of the bill there is the opportunity to create a database of land that is open for hunters. Owners who are willing to have their land declared open can list their land on this database. With today's technology this can be easily accomplished much like the PLOTS program that the Game and Fish Dept. currently has. The PLOTS program has over 710,000 program acres of private land open to sportsmen and another 57,000 acres of Access Lands that they don't pay anything for that private land owners have given them to put in the plots book. This information is easily found on their website and if you go to the MAPS link you can download an app that will give you all the PLOTS locations on your phone. I envision something like this for owners to list their land so hunters can find tracts readily available for hunting. Many of the members of our ag groups have said that they would have land that they would enter into the database to be declared open. The few minutes it would take to list their open property on a website would be a small sacrifice compared to the days it takes to post. The subtitle on the plots site is called the Private Land Initiative. I strongly believe that this should be the goal of the landowners and sportsmen to come together and have a sincere dialogue about working together. If properly promoted and encouraged we could build an extensive database of open lands, but everyone needs to take a part in working together to get it done. That doesn't mean that land that is not in the database is closed, one can still ask permission. That will help create dialogue and fortify relationships and strengthen our state.

In closing I would like to encourage the committee to focus on connecting the landowner to the hunter using the tools of the 21<sup>st</sup> century. The rights of rural property owners should be the same as for all other property owners.



## North Dakota Game and Fish Department Private Land Initiative 2018 PLOTS Program Acreage

12/27/2018

<u>Program Type</u>	<u>Total Acres</u>	<u>Program Acres</u>	<u>Access Acres</u>
Beginning Farmer Program	2,520	2,520	0
GREP II	646	381	265
GREP/Coverlocks	12,935	1,703	11,231
CRP Access Program	239,865	215,945	23,920
Habitat Plots	106,329	89,081	17,285
Other	7,217	7,123	95
Private Forest Conservation Program	10,293	7,374	2,919
Tree Planting Cost Share Program	238	16	223
Working Lands Program	363,874	383,767	107
WRP Incentive Program	24,462	22,792	1,670
<b>Totals</b>	<b>768,379</b>	<b>710,701</b>	<b>57,714</b>



11

1-25-19  
#1 P23 SB2315

1-25-19

**OFFICE OF THE STATE'S ATTORNEY**  
**MORTON COUNTY, NORTH DAKOTA**

---

210 SECOND AVENUE NW • MANDAN, NORTH DAKOTA, 58554 • PHONE 701-667-3350

---

January 24, 2019

Jim Schmidt  
Representative, North Dakota State Legislature  
[jeschmidt@nd.gov](mailto:jeschmidt@nd.gov)

Re: Criminal Trespass prosecutions, No-DAPL 2016-2017

Dear Representative Schmidt,

Our hope is to respond as meaningfully as possible to your inquiry about prosecution related to the No-DAPL protest 2016-2017. During the course of the matter, there were well over 800 arrests. The offenses charged ranged from Disorderly Conduct to Reckless Endangerment. In some form or another, all of the charges were related to trespass. For example, The Reckless Endangerment charges involved protesters accessing a work site and chaining themselves to equipment.

In the actual Criminal Trespass prosecutions, the notice element of proof was a constant problem. In the areas that were posted, the signs prohibiting trespass were consistently removed. On this basis, those defending criminal trespass charges would consistently claim they had no warning against trespass.

The source of the attachment is the Clerk of Court, Morton County. The attachment sorts by offense and is limited to the Criminal Trespass charges. By our rough count, there were 245 Criminal Trespass charges of which there were 42 convictions.

Thank you for your patience.

Sincerely,

*/s/Allen Koppy*  
Allen Koppy  
State's Attorney

*/s/Brian Grosinger*  
Brian Grosinger  
Assistant State's Attorney

1-25-19

**North Dakota Stockmen's Association**  
**Testimony to the Senate Agriculture Committee on SB 2315**  
**Jan. 25, 2019**

Good morning, Chairman Luick and members of the Senate Agriculture Committee. For the record, my name is Julie Ellingson and I represent the North Dakota Stockmen's Association, an 89-year-old beef cattle trade organization representing 3,000 cattle-ranching families.

We rise in enthusiastic support of SB 2315, which would reassert the private property rights of North Dakota landowners. Our organization is founded on the principle that the right to own and enjoy the use of private property is the cornerstone to a free society and is firmly opposed to any infringement of its lawful use. North Dakota's current posting law infringes on property rights – requiring those who own, care for and pay taxes on their land to post it in order to keep others off or even just to know who is accessing it. The time and cost burden of posting signs is placed squarely on the landowner and, if the signs don't follow the strictly prescribed protocol – or when the signs mysteriously disappear – their property rights protection is breached.

This is not a new issue. Many of you will remember this same discussion two years ago and a few years before that and a few years before that. Unfortunately, the problems with our current law have not gone away and were underscored even more during the No-DAPL protest.

Landowners were especially frustrated after the bill on this topic failed during the last session. Instead of throwing in the towel or lashing out, our group sat down with those on the other side of this issue in a couple face-to-face meetings to gain a better understanding of their concerns. Simply put, landowners said they want to be able to decide who does and does not come on their land without having to post and sportsmen want to make sure they have access.

The bill before you aims to accomplish both of those objectives and is offered in a spirit of compromise. First, it reverses the presumption that all land is considered open and gives landowners the right to deny or grant access without having to post. At the same time, for those who want to keep their land open and don't want to be bothered with

1-25-19

§132351

calls or other interruptions, it provides a mechanism for them to report that information to the Game and Fish Department to be added to a modern, publicly available database and related resources that will serve as useful tools for hunters and others to identify what is available and whom to contact, similar to the many commercially available hunting apps commonly used by sportsmen today. It is a win-win for everyone involved.

SB 2315 will not only preserve the state's hunting heritage, but enhance it, as stronger relationships will be forged with better communication and mutual respect and understanding.

Landowners are often sportsmen too and want them to be successful for a variety of reasons, including ensuring that there is an adequate harvest of animals to help keep disease issues in check and limit depredation problems stemming from an overpopulation of wildlife. Closer interactions will yield better relationships and opportunities for property owners to give good advice about where to go to be most successful, where to avoid in order to be safe and other important details.

The concept we are discussing in SB 2315 is not a novel one. Each of our neighboring states have similar laws on the books already and continue to have robust hunting opportunities. In fact, each of our neighbors hosts more hunters and generates more revenue from hunting than North Dakota.

In all the meetings I've been to on this issue over my career, I have never ever heard a landowner say that, in pursuing a no-posting law, their goal was to negatively impact hunting. They simply want to be asked, and just because you have to ask doesn't mean the answer is no.

Remember, the land we are talking about is more than a piece of land. It's our home, our heritage, our place of business – our storefront if you will – and the source of \$11 billion worth of economic activity for our state. This is not an unreasonable request.

SB 2315 reaffirms our private property rights, addresses the most commonly expressed concerns about this issue and is long overdue. Thank you for the opportunity to testify. We urge your favorable recommendation on this bill.



#3 SB 2315  
1-25-19

# Our view: North Dakota land should be assumed closed

By **Herald editorial board** on Jan 13, 2019 at 6:10 a.m.

Herald editorial board

North Dakota homeowners, be sure to post "no trespassing" signs on your front door, lest would-be intruders feel it's OK to make themselves welcome in your parlor. Same goes for your businesses and vehicles.

Actually, don't bother, because everybody knows it's wrong to enter someone's home without an invitation, or a store after business hours. Signs, therefore, are unnecessary and would be an inconvenience to the property owner.

Why, then, must North Dakota landowners spend the time and money to post signs on private rural acres to declare trespassers are similarly unwelcome?

All of that might change if legislation is — as expected — introduced during the current session of the state Legislature. That's good, because creating an environment of assumed closed land is a common-sense proposal that is overdue.

Here's the problem: Openness is assumed on North Dakota private lands unless otherwise posted. That means hunters may access, without permission, any land on which the property owner has not erected actual signs declaring it closed.

That's directly the opposite of laws in many other states, including neighboring Minnesota and South Dakota. There, all private land is closed to hunting without permission of the landowner. For example, in South Dakota, unapproved access on land by a hunter is only allowed in the case where game has been shot legally on adjacent land and the hunter needs access to retrieve the game. The hunter must make a beeline to the game and must do it unarmed.

1-25-19

As reported recently in the Herald, farmers and other proponents of a trespass bill believe the current North Dakota rule puts an unfair burden on landowners, who are forced to spend time and money placing signs and, later, making sure the signs remain in place. We agree — that is an unfair burden.

This isn't the opening salvo of a new debate. It's been discussed in the past, too, including in 2017 when a bill was introduced and prompted heated conversation. The 2017 bill died in the Senate, 28-17.

Sportsmen's groups say a new trespass law won't solve the problem of hunters inappropriately accessing land. They're probably right, since trespassing still happens in Minnesota and South Dakota, where openness is not assumed and where permission is required for all land entry.

There also are concerns about tracking down property owners to seek permission. We understand that inconvenience, but it's not one that cannot be overcome, as evidenced in other states.

However, use of private land really shouldn't be a sportsmen's decision. It should rest solely with the landowner.

Further, any landowner who currently allows hunting probably will allow access in the future. And the landowners who take the time now to post their land probably won't allow hunting if a new law is passed. So, again, how will a new law adversely affect hunters in a common-sense world?

What should happen is this: The Legislature should indeed create a law that assumes private land is closed to hunting and all other entry. Then, North Dakota sportsmen should do what all responsible hunters do — visit with landowners, politely ask for access and develop relationships that result in hunting opportunities.

Landowners deserve this courtesy.

SB2315

#4

Pg. 1

#131342

COMMERCIAL

1-25-19

Charlie R Sorenson  
5850 94 AVE NW  
ROSS, ND 58776  
Mountrail

Applicator

Class	Expiration	Class	Expiration
Ground Core	04/01/2019	Ag Pest Control	04/01/2019
Right Of Way	04/01/2019	Seed Treatment	04/01/2019

**Pesticide  
Certificate**



**State of North Dakota  
Department of Agriculture**

I certify the person named on the reverse side has complied with the provisions of Chapter 4.35.08 and or 4.35.12 of the North Dakota Century Code by satisfactorily completing the standards required and is qualified as an applicator and or dealer of Restricted Use and General Use Pesticides in the classes indicated.

**NDSU** EXTENSION  
SERVICE

*Andrew A. Thostenson*  
North Dakota State University Extension Service

Issue Date: 02/26/2016

SB2315 #4

1-3

1-25-19

# Understanding your Perils and Loss Settlements

The information listed below will provide you with detailed information regarding the coverages provided by Nodak Insurance Company, related to dwellings, farm buildings and structures. Please review the **Perils Insured Against** section of your policy, along with the **Perils and the Loss Settlement** shown on your declarations to ensure they reflect the coverages you requested. Below is an illustration showing where the Perils (A) and Loss Settlement (B) are located on your declarations. **This is an illustration only.** Please locate and review these sections on your Farm and Ranch Declarations (next page) for which Perils and Loss Settlement are applicable to your specific policy.

## SECTION I - PROPERTY COVERAGES (EXAMPLE)

UNIT-006  
DWELLING-LOC.#001-OWNER OCCUPIED  
\$1,000 DEDUCTIBLE WITH \$2,000 WIND/HAIL DEDUCTIBLE INFLATION GUARD 3.5%  
YEAR RENOVATED: 06/2009 ROOF YEAR: 2012 FRAME  
DISCOUNTS APPLIED -- AGE OF HOME DISCOUNT -- DEADBOLT LOCKS -- SMOKE DETECTOR & FIRE EXTING.

A - Perils		Loss Settlement		B - Loss Settlements		Total Limits	Premium
Type	Perils	Settlement	Loc#	Property Covered			
1	19	2		Coverage A - Dwelling		\$ 154,771	\$ 838.00
	1-17	1		Coverage B - Household Personal Property		\$ 116,078	Included
				Coverage C - Loss of Use		\$ 46,431	Included

## COVERAGE G - BUILDINGS AND STRUCTURES (EXAMPLE)

A - Perils		Loss Settlement		B - Loss Settlements		Total Limits	Premium
Unit	Type Perils	Settlement	Loc#	Property Covered			
007	1-1-11	1	001	GARAGE-24X40--1978		\$ 15,000	\$ 94.00
				\$1,000 Deductible with \$2,000 Wind/Hail Deductible Inflation Guard 3.5%			

### A - Perils

1. Fire/Lightning
2. Windstorm/Hail
3. Explosion
4. Riot or Civil Commotion
5. Aircraft
6. Vehicles
7. Smoke
8. Vandalism or Malicious Mischief
9. Theft
10. Collision
11. Freezing
12. Falling Objects
13. Weight of ice, snow or sleet
14. Accidental Discharge or Overflow of Water or Steam
15. Sudden and Accidental Tearing Apart, Cracking, Burning or Bulging

16. Sudden and Accidental Damage from Artificially Generated Electrical Current
17. Volcanic Eruption
18. Collapse (For Coverage A and G only)
19. Special Perils – Coverage A dwelling
20. Special Perils – Coverage B Contents
21. Electrocution
22. Loading and Unloading
23. Attack by dogs or wild animals
24. Accidental Shooting
25. Drowning
26. Special Perils – Buildings and Structures
27. Special Perils – D1 Machinery and Equipment

### B - Loss Settlements

**Loss Settlement 1** - Actual Cash Value (Coverage A-Dwellings or Coverage G-Buildings and Structures, Coverage B-Contents or Coverage D, E & F-Farm Personal Property)

**Loss Settlement 2** - 80% Insurance Requirement (Replacement Cost for Coverages A-Dwellings and G-Buildings and Structures only)

**Loss Settlement 3** - 80% Insurance Requirement with Actual Cash Value Loss Settlement for Windstorm or Hail Losses to Roof Surfacing (\*Replacement Cost except Windstorm/Hail on roof surfacing for Coverage A-Dwellings only)



SB2315

#4

Fig 3

1-25-19

This page intentionally left blank.



To report a claim call 1-800-42-NODAK (1-800-426-6325) available 24 hours.

Named Insured:

**CHARLIE R SORENSON**  
**5850 94TH AVE NW**  
**ROSS ND 58776-9035**

**FARM AND RANCH DECLARATIONS**

1-25-19

**Policy Number: FRND000017340**  
Client Number: 000000019033

**POLICY CHANGE**

Change Effective: 01/07/2019  
Policy Period From: 03/08/2018  
To: 03/08/2019

12:01 A. M. Standard Time at the Address of the Named Insured

Agent: AUSTIN HOOVER SERVICE/PH  
Phone # 701-628-3565 Agent # 331 330004 330003120  
Payment Plan: CLIENT 2-PAY

Insured Phone# (H)701-629-1654

Any change in premium will be reflected on your next Client Account Bill statement.

**Designated Premise:**

- Loc# 001 640 ACRES @ SEC 9-155-93, MOUNTRAIL COUNTY, ND
- Loc# 002 160 ACRES @ SEC 17-154-94, MOUNTRAIL COUNTY, ND
- Loc# 003 160 ACRES @ SEC 7-154-93, MOUNTRAIL COUNTY, ND
- Loc# 004 160 ACRES @ SEC 28-155-92, MOUNTRAIL COUNTY, ND
- Loc# 005 160 ACRES @ SEC 34-155-92, MOUNTRAIL COUNTY, ND
- Loc# 006 463 ACRES @ SEC 8-154-94, MOUNTRAIL COUNTY, ND
- Loc# 007 240 ACRES @ SEC 29-155-92, MOUNTRAIL COUNTY, ND
- Loc# 008 230 ACRES @ SEC 28-155-91, MOUNTRAIL COUNTY, ND
- Loc# 009 640 ACRES @ SEC 1-154-95, WILLIAMS COUNTY, ND
- Loc# 010 120 ACRES @ SEC 2-154-95, WILLIAMS COUNTY, ND
- Loc# 011 88 ACRES @ SEC 11-154-95, WILLIAMS COUNTY, ND
- Loc# 012 320 ACRES @ SEC 12-154-95, WILLIAMS COUNTY, ND
- Loc# 013 440 ACRES @ SEC 8-155-93, MOUNTRAIL COUNTY, ND
- Loc# 014 426 ACRES @ SEC 36-155-95, WILLIAMS COUNTY, ND
- Loc# 015 120 ACRES @ SEC 1-154-94, MOUNTRAIL COUNTY, ND
- Loc# 016 181 ACRES @ SEC 4-154-94, MOUNTRAIL COUNTY, ND
- Loc# 017 400 ACRES @ SEC 12-154-94, MOUNTRAIL COUNTY, ND
- Loc# 018 105 ACRES @ SEC 34-155-94, MOUNTRAIL COUNTY, ND
- Loc# 019 262 ACRES @ SEC 35-155-94, MOUNTRAIL COUNTY, ND
- Loc# 020 348 ACRES @ SEC 3-154-94, MOUNTRAIL COUNTY, ND
- Loc# 021 32 ACRES @ SEC 5-154-94, MOUNTRAIL COUNTY, ND
- Loc# 022 220 ACRES @ SEC 6-154-94, MOUNTRAIL COUNTY, ND
- Loc# 023 136 ACRES @ SEC 7-154-94, MOUNTRAIL COUNTY, ND
- Loc# 024 320 ACRES @ SEC 9-154-94, MOUNTRAIL COUNTY, ND
- Loc# 025 94 ACRES @ SEC 30-155-94, MOUNTRAIL COUNTY, ND
- Loc# 026 517 ACRES @ SEC 31-155-94, MOUNTRAIL COUNTY, ND
- Loc# 027 430 ACRES @ SEC 32-155-94, MOUNTRAIL COUNTY, ND
- Loc# 028 123 ACRES @ SEC 35-155-95, WILLIAMS COUNTY, ND
- Loc# 032 28 ACRES @ SEC 5-155-93, MOUNTRAIL COUNTY, ND
- Loc# 033 165 ACRES @ SEC 32-156-93, MOUNTRAIL COUNTY, ND
- Loc# 034 120 ACRES @ SEC 2-154-94, MOUNTRAIL COUNTY, ND
- Loc# 035 520 ACRES @ SEC 10-154-94, MOUNTRAIL COUNTY, ND
- Loc# 036 520 ACRES @ SEC 11-154-94, MOUNTRAIL COUNTY, ND
- Loc# 037 40 ACRES @ SEC 14-154-94, MOUNTRAIL COUNTY, ND
- Loc# 038 40 ACRES @ SEC 15-154-94, MOUNTRAIL COUNTY, ND
- Loc# 039 160 ACRES @ SEC 20-156-93, MOUNTRAIL COUNTY, ND
- Loc# 040 120 ACRES @ SEC 14-156-93, MOUNTRAIL COUNTY, ND
- Loc# 041 40 ACRES @ SEC 15-156-93, MOUNTRAIL COUNTY, ND
- Loc# 042 160 ACRES @ SEC 28-156-93, MOUNTRAIL COUNTY, ND
- Loc# 043 160 ACRES @ SEC 11-156-93, MOUNTRAIL COUNTY, ND
- Loc# 044 DITCH MOWING ACRES
- Loc# 045 170 ACRES @ SEC 33-155-94, MOUNTRAIL COUNTY, ND
- Loc# 046 80 ACRES @ SEC 34-155-94, MOUNTRAIL COUNTY, ND

**Nodak Insurance Company**

SB 2315 #4

Pg. 5

1-25-19

**CHARLIE R SORENSON**  
 EFF. DATE: 03/08/2018

EXP. DATE: 03/08/2019

**POLICY NUMBER: FRND000017340**  
**CLIENT NUMBER: 00000019033**

(Continued)

Unit	Type	Perils	Loss Settlement	Loc#	Property Covered	Total Limits	Premium
004	2	1-11	1	001	\$1,000 Deductible \$2,000 Wind/Hail Deductible Inflation Guard 4.2% POLE SHOP #2/TIN COATED-36X47--1982	\$ 14,704	\$ 87.00
005	2	1-11	1	001	\$1,000 Deductible \$2,000 Wind/Hail Deductible Inflation Guard 1.2% GARAGE/TIN COAT-24X36--1950	\$ 12,900	\$ 76.00
006	1	1-11	1	001	\$1,000 Deductible \$2,000 Wind/Hail Deductible Inflation Guard 1.2% CLEANING BUILDING/ TIN COAT-12X23--1955	\$ 5,320	\$ 24.00
010	1	1-11	1	001	\$1,000 Deductible \$2,000 Wind/Hail Deductible Inflation Guard 1.2% 1-2400 BU WESTEEL STEEL BIN #4--1980	\$ 7,691	\$ 34.00
011	1	1-11	1	001	\$1,000 Deductible \$2,000 Wind/Hail Deductible Inflation Guard 4.2% 1-3200 BU BUTLER STEEL BIN #5 W/AERATION--1985	\$ 10,010	\$ 44.00
014	3	1-11	1	001	\$1,000 Deductible \$2,000 Wind/Hail Deductible Inflation Guard 4.2% LAWN STORAGE SHED/ TIN COAT-10X12--1990	\$ 1,832	\$ 15.00
015	3	1-11	1	001	\$1,000 Deductible \$2,000 Wind/Hail Deductible Inflation Guard 4.2% 1-2600 BU WESTEEL HOPPER BIN #6 W/AIR DRYER--2001	\$ 9,155	\$ 76.00
016	8	1-11	1	001	\$1,000 Deductible \$2,000 Wind/Hail Deductible Inflation Guard 4.2% POLE & OUTDOOR WIRING	\$ 2,000	\$ 4.00
017	1	1-11,18	1	001	\$1,000 Deductible \$2,000 Wind/Hail Deductible Inflation Guard 1.2% POLE SHOP-81X150--2008-ELECTRIC HEAT	\$ 512,000	\$ 2,431.00
018	1	1-11,18	1	001	\$1,000 Deductible \$2,000 Wind/Hail Deductible Inflation Guard 4.2% 1-62523 BU SUPERIOR STEEL BIN W/AERATION--2009	\$ 97,657	\$ 464.00
021	3	1-11	1	001	\$1,000 Deductible \$2,000 Wind/Hail Deductible Inflation Guard 4.2% 1-4000 BU STORKING HOPPER BOTTOM BIN--2012	\$ 17,090	\$ 143.00
022	1	1-11,18	1	001	\$1,000 Deductible \$2,000 Wind/Hail Deductible Inflation Guard 4.2% 1-62,523 BU SUKUP STEEL BIN W/AERATION--2006	\$ 81,381	\$ 386.00
023	1	1-11,18	1	001	\$1,000 Deductible \$2,000 Wind/Hail Deductible Inflation Guard 4.2% 1-62,523 BU SUKUP STEEL BIN W/AERATION--2006	\$ 81,381	\$ 386.00
024	1	1-11,18	1	001	\$1,000 Deductible \$2,000 Wind/Hail Deductible Inflation Guard 4.2% 1-65,000 BU SUKUP STEEL BIN W/AERATION--2012	\$ 99,450	\$ 472.00
025	1	1-11,18	1	001	\$1,000 Deductible \$2,000 Wind/Hail Deductible Inflation Guard 1.2% 1-65,000 BU SUKUP STEEL BIN W/AERATION--2012	\$ 99,450	\$ 472.00
026	3	1-11	1	001	\$1,000 Deductible \$2,000 Wind/Hail Deductible Inflation Guard 1.2% 1-4200 BU MERIDIAN HOPPER BIN--2012	\$ 13,721	\$ 114.00
027	3	1-11	1	001	\$1,000 Deductible \$2,000 Wind/Hail Deductible Inflation Guard 1.2% 1-4200 BU MERIDIAN HOPPER BIN--2012	\$ 13,721	\$ 114.00
028	3	1-11	1	001	\$1,000 Deductible \$2,000 Wind/Hail Deductible Inflation Guard 1.2% 1-4200 BU MERIDIAN HOPPER BIN--2012	\$ 13,721	\$ 114.00
029	1	1-11,18	1	001	\$1,000 Deductible \$2,000 Wind/Hail Deductible Inflation Guard 1.2% 1-65000 BU SUKUP STEEL BIN W/AERATION--2013	\$ 95,940	\$ 456.00
030	1	1-11,18	1	001	\$1,000 Deductible \$2,000 Wind/Hail Deductible Inflation Guard 1.2% 1-65000 BU SUKUP STEEL BIN W/AERATION--2013	\$ 95,940	\$ 456.00
032	2	1-11,18	2	001	\$1,000 Deductible \$2,000 Wind/Hail Deductible Inflation Guard 1.2% ELECTRICAL BUILDING(RUNS BINS)-10X20--2014	\$ 364,700	\$ 2,339.00
033	1	1 - 10	1	050	\$1,000 Deductible \$2,000 Wind/Hail Deductible Inflation Guard 4.2% QUONSET-44X80--1980	\$ 52,100	\$ 228.00
034	1	1-11,18	2	001	\$1,000 Deductible \$2,000 Wind/Hail Deductible Inflation Guard 4.2% SUPERIOR-62523--2007	\$ 96,500	\$ 462.00
035	1	1-11,18	2	001	\$1,000 Deductible \$2,000 Wind/Hail Deductible Inflation Guard 4.2% SUPERIOR BIN-62523--2007	\$ 96,500	\$ 462.00
036	3	1 - 10	1	001	\$1,000 Deductible \$2,000 Wind/Hail Deductible Inflation Guard 4.2% MERIDIAN HOPPER BOTTOM-4200--2015	\$ 16,672	\$ 139.00

**Nodak Insurance Company**

502315 #4

12.6

1-25-19

**CHARLIE R SORENSON**  
EFF. DATE: 03/08/2018

EXP. DATE: 03/08/2019

**POLICY NUMBER: FRND000017340**  
**CLIENT NUMBER: 000000019033**

(Continued)

Unit Type	Perils	Settlement	Loss Loc#	Property Covered	Total Limits	Premium
038	2	1-11,18	2 001	\$1,000 Deductible \$2,000 Wind/Hail Deductible Inflation Guard 4.2% MORTON BARN-36X70--2013	\$ 118,500	\$ 762.00
039	3	1-11	1 001	\$1,000 Deductible \$2,000 Wind/Hail Deductible Inflation Guard 2.5% MERIDIAN HOPPER BIN-4200 BU--2013	\$ 16,000	\$ 134.00
				\$1,000 Deductible \$2,000 Wind/Hail Deductible Inflation Guard 2.5%		

**COVERAGE D - SCHEDULED FARM PERSONAL PROPERTY**

D.2. Scheduled Grain

Perils	Settlement	Deductible	Value	Property Covered	Total Limits	Premium
1 - 10	1	\$1,000				
			\$ 5,000	10,000 GALLONS OF FERTILIZER @ LOC #1		
			\$ 5,000	1,000 GALLONS OF CHEMICALS/HERBICIDES @ LOC #1		
					\$ 10,000	\$ 17.00

**COVERAGE E - UNSCHEDULED FARM PERSONAL PROPERTY**

E.1. Unscheduled Machinery and Implements

Perils	Settlement	Deductible	Value	Property Covered	Total Limits	Premium
1 - 10	1	\$1,000				
			\$ 150,000	CASE/IH 225 TRACTOR #H01667 W/CASE/IH LX780 LOADER		
			\$ 45,000	2003 JD 4106 BACKHOE TRACTOR #923367		
			\$ 200,000	2012 JD 9560R TRACTOR		
			\$ 60,000	TRACTOR: 2012 JD 7130		
			\$ 250,000	TRACTOR: 2012 CASE/IH 500 QUAD TRAC		
			\$ 365,000	COMBINE: 2018 JOHN DEERE S780 S#801006		
			\$ 365,000	COMBINE: 2018 JOHN DEERE S780 S#801020		
			\$ 60,000	2000 VOLVO PAYLOADER #D63009		
			\$ 10,000	1996 TORO 580D 16' FRONT MOUNT CUT MOWER		
			\$ 60,000	2012 SPEED KING TRUCK MOUNTED SEED TENDER BOX		
			\$ 30,000	2-2000 GAL 2013 CIRCLE K ANHYDROUS TANKS		
			\$ 7,500	BULK TANK: 2000 NH3 12000 GAL - 1/2 INTEREST		
			\$ 250,000	SPRAYER: 2010 JD 4930		
			\$ 22,000	GRAIN AUGER: 2011 WESTFIELD MK130-111 S#230423		
			\$ 300,000	SEEDER: 2012 SEED HAWK SH8414 W/2012 SEED HAWK 800TBH CART \$12105 S#121054		
			\$ 28,000	GRAIN CONVEYOR: 2016 MERIDIAN 20-45 S#36-06932		
			\$ 7,500	SNOW BLOWER: 2016 FARMKING 1200		
			\$ 175,000	GRAIN CART: 2012 BRENT 2096 S#340127		
			\$ 30,000	AUGER: 2012 WESTFIELD SEED TREATER		
			\$ 50,000	AUGER: 2013 WESTFIELD MKX160 125'		
			\$ 22,000	ROCK PICKER: 2018 DEGELMAN 7200		
			\$ 54,000	LAND ROLLER: 2018 MANDAKO 75'		
			\$ 50,000	HARROW: 2017 BRANDT 8200 82'		
			\$ 20,000	SHOP TOOLS & SHOP EQUIPMENT		
			\$ 15,000	MISC EQUIPMENT & MACHINERY		
					\$ 2,626,000	\$ 6,972.00



1-25-19

**CHARLIE R SORENSON**

EFF. DATE: 03/08/2018

EXP. DATE: 03/08/2019

**POLICY NUMBER: FRND000017340**

**CLIENT NUMBER: 000000019033**

(Continued)

**Additional Forms and Endorsements Attached**

	Total Limits	Premium Included
FR ND Equipment Breakdown		
Minimum \$500 Deductible		
FR 10B Section I - Farm Machinery and Implements - Foreign Object Ingestion		\$ 1,021.00
Deductible: 10% of loss		
\$ 50,000 2018 JOHN DEERE S780 S#801006 W/HEADER		
\$ 50,000 2018 JOHN DEERE S780 S#801020 W/HEADER		
FR 013 Section I - Special Coverages		\$ 19.00
FR 016 Farm Machinery Rental Reimbursement	\$ 5,000	\$ 29.00
\$1,000 Deductible		
FR 055 Identity Fraud Expense Coverage		\$ 10.00
\$250 Deductible 1-Exposures		
FR 120 Limitation of Cosmetic Loss Metal Roof		No Charge

**SECTION II - LIABILITY COVERAGES**

	Total Limits	Premium
10658 Total Acres With Livestock		
Coverage L - Personal Liability \$1,000,000 Each Occurrence	\$	394.00
Coverage M - Medical Payments to Others \$5,000 Each Person/\$25,000 Each Occurrence	\$	59.00

**Additional Forms and Endorsements Attached**

	Total Limits	Premium
FR 082 Personal Injury		\$ 14.00

**Total Annual Policy Premium: \$ 23,904.00**

**MORTGAGEE/ADDITIONAL INTEREST INFORMATION:**

FARM CREDIT SERVICES OF ND  
PCA  
PO BOX 70  
MINOT ND 58702

LOSS PAYEE - E1 - ALL MACHINERY

ALERUS FINANCIAL NA  
PO BOX 6001  
GRAND FORKS ND 58206-6001

LOSS PAYEE - E1 - All Machinery

UNITED LEASE & FINANCE INC  
1121 WESTRAC DR STE 108  
PO BOX 9020  
FARGO ND 58106-9020

FR 045 ADDITIONAL INTEREST - EQUIPMENT  
E1 - All Machinery

HARWOOD STATE BANK  
PO BOX 5  
HARWOOD ND 58042

LOSS PAYEE - CASE/IH 225 TRACTOR #H01667 W/  
2003 JD 4106 BACKHOE TRACTOR #  
2012 JD 9560R TRACTOR  
TRACTOR: 2012 JD 7130  
TRACTOR: 2012 CASE/IH 500 QUAD  
COMBINE: 2018 JOHN DEERE S780

1-25-14

**CHARLIE R SORENSON**  
EFF. DATE: 03/08/2018

EXP. DATE: 03/08/2019

**POLICY NUMBER: FRND000017340**  
**CLIENT NUMBER: 000000019033**

(Continued)

2000 VOLVO PAYLOADER #D63009  
1996 TORO 580D 16' FRONT MOUNT  
2012 SPEED KING TRUCK MOUNTED  
2-2000 GAL 2013 CIRCLE K ANHYD  
BULK TANK: 2000 NH3 12000 GAL  
SPRAYER: 2010 JD 4930  
GRAIN AUGER: 2011 WESTFIELD MK  
SEEDER: 2012 SEED HAWK SH8414  
GRAIN CONVEYOR: 2016 MERIDIAN  
SNOW BLOWER: 2016 FARMKING 120  
GRAIN CART: 2012 BRENT 2096 S#  
AUGER: 2012 WESTFIELD SEED TRE  
AUGER: 2013 WESTFIELD MKX160 1  
ROCK PICKER: 2018 DEGELMAN 720  
LAND ROLLER: 2018 MANDAKO 75'  
HARROW: 2017 BRANDT 8200 82'  
SHOP TOOLS & SHOP EQUIPMENT  
MISC EQUIPMENT & MACHINERY

CNH INDUSTRIAL CAPITAL AMERICA  
LLC  
PO BOX 3800  
LANCASTER PA 17604

LOSS PAYEE - TRACTOR: 2012 CASE/IH 500 QUAD

SORENSON INC  
9039 59TH ST NW  
ROSS ND 58776

Interest: Self  
FR 036 ADDITIONAL INSURED - INSURED LOCATION ONLY

UNITED LEASE & FINANCE INC  
PO BOX 9020  
FARGO ND 57204

FR 045 ADDITIONAL INTEREST - EQUIPMENT  
COMBINE: 2018 JOHN DEERE S780  
COMBINE: 2018 JOHN DEERE S780

DACOTAH BANK  
PO BOX 997  
VALLEY CITY ND 58072

LOSS PAYEE - COMBINE: 2018 JOHN DEERE S780

**MESSAGES:**

CHANGED LOSS PAYEE - HARWOOD STATE BANK  
Policy: Deleted Loss Payee-UNITED LEASE & FINANCE INC  
Added Addl Interest-Equipment-UNITED LEASE & FINANCE INC  
Added Loss Payee-DACOTAH BANK

**FORMS APPLICABLE:**

FR 001 11 15	FR 200 01 07	FR 003 09 14	FR ND EB 09 14	FR 020 09 14	FR 028 09 14	FR 090 01 07
FR 10B 07 11	FR 013 01 07	FR 016 01 07	FR 055 09 08	FR 100 01 07	FR 120 01 18	FR 121 01 18
FR 082 09 14	FR 045 01 07					



**PESTICIDE APPLICATION RECORD**  
 NORTH DAKOTA DEPARTMENT OF AGRICULTURE  
 PESTICIDE AND FERTILIZER DIVISION  
 SFN 53456 (2-2013)

SB2315

#4

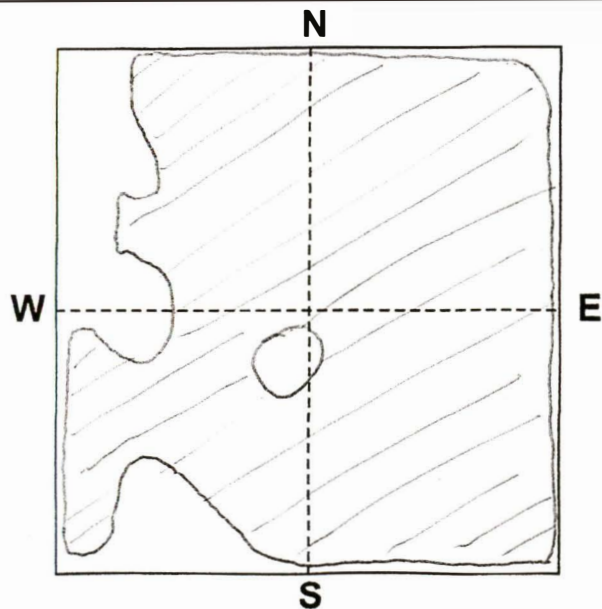
1-25-19

Page 9

Name <i>Charlie Sorenson</i>		Date <i>9-29-18</i>	
Address <i>5850 94th Ave NW</i>		City <i>Ross</i>	State <i>ND</i>
		ZIP Code <i>58776</i>	
Equipment Used <i>John Deere 4930 - 120 Boom w/ Vert target nozzles</i>			

PRODUCT	EPA NUMBER	RATE
<i>Buccaneer 5</i>	<i>71368-43-55467</i>	<i>32oz/acre</i>
<i>Banvel</i>	<i>66330-276</i>	<i>4oz/acre</i>
<i>Class Act NG</i>	<i>—</i>	<i>24gal/lead (290)</i>
<i>Prefer 90</i>	<i>—</i>	<i>1.5gal/lead</i>

PPE Requirements <i>long sleeve shirt, long pants, chem resistant gloves, shoes plus socks, protective eyewear</i>	R.E.I. <i>—</i>
Commodity Applied To <i>Post Harvest Burndown</i>	Pest Controlled <i>Canada Thistle, Grasses, Wild Buckwheat</i>
Notification: Name	Water/Acre <i>5</i>
Date	Pesticide Supplier <i>CHS</i>



Acres <i>126.2</i>		
Legal Description <i>SW 1/4 155 92</i>		
Application Date (Day/Month/Year) <i>9-24-18</i>		
Wind Speed <i>5</i>	Wind Direction <i>345° NNW</i>	
Temperature <i>52°</i>		
Applicants Certification Number <i>131342</i>		
Applicant's Signature <i>Charlie Sorenson</i>		
Time of Day <i>morning</i>	Start Time <i>8:04 AM</i>	Stop Time <i>9:30 AM</i>

**PROTECTIVE CLOTHING REQUIRED**

- |   |   |
|---|---|
| 1. Long-sleeved shirt and long pants      | 9. Respirator DM = dust/mist (MSHA/HIOSH # #TC-21C<br>OV = organic vapor (MSHA/NIOSH #TC-23C or TC-14G) |
| 2. Shoes plus socks                       | 10. Coveralls over short-sleeved shirt and short pants  |
| 3. Waterproof gloves                      | 11. Coveralls over long-sleeved shirt and long pants  |
| 4. Chemical resistant gloves              | 12. Chemical resistant headgear for overhead exposure, if applicable                                    |
| 5. Chemical resistant footwear plus socks | 13. Chemical resistant coveralls  |
| 6. Coveralls                              | 14. Cotton Gloves (Fumigation)  |
| 7. Protective eyewear                     |   |
| 8. Chemical resistant apron               |   |

SB2315 #4 Pg. 10  
1-25-19

**CHAPTER 4.1-33  
PESTICIDE CONTROL**

**4.1-33-01. Definitions.**

As used in this chapter:

1. "Animal" means all vertebrate and invertebrate species, including humans and other mammals, birds, fish, and shellfish.
2. "Applicator" means any person who applies a pesticide to land.
3. "Certified applicator" means any individual who is certified under this chapter to purchase or use a restricted use pesticide.
4. "Commercial applicator" means a person who, by contract or for hire, engages in the business of applying pesticides for compensation.
5. "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant, with or without causing abscission.
6. "Desiccant" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissue.
7. "Device" means any instrument or contrivance, other than a firearm, which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life, other than human and other than bacteria, virus, or other micro-organism on or in living humans or other living animals, but not including equipment used for the application of pesticides when sold separately from pesticide.
8. "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver, or supply pesticides in this state.
9. "Environment" includes water, air, land, and all plants and humans and other animals living therein, and the interrelationships that exist among them.
10. "Equipment" means any type of ground, water, or aerial equipment or contrivance using motorized, mechanical, or pressurized power and used to apply any pesticide on land and anything that may be growing, inhabiting, or stored on or in that land. The term does not include any pressurized hand-held household apparatus used to apply any pesticide, or any equipment or contrivance of which the individual who is applying the pesticide is the source of power or energy to make the pesticide application.
11. "Fungus" means any non-chlorophyll-bearing thallophytes, that is, any non-chlorophyll-bearing plant of a lower order than mosses and liverworts as, for example, rust, smut, mildew, mold, yeast, and bacteria, except those on or in living humans or other living animals, and except those on or in processed food, beverages, or pharmaceuticals.
12. "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class of insecta, comprising six-legged, usually winged forms, and to other allied classes of arthropods whose members are wingless and usually have more than six legs.
13. "Label" means the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.
14. "Labeling" means the label and all other written, printed, or graphic matter:
  - a. Accompanying the pesticide or device; or
  - b. To which reference is made on the label or in literature accompanying or referring to the pesticide, except when accurate nonmisleading references are made to current official publications of the board, the United States environmental protection agency, the United States departments of agriculture and interior, the United States department of health and human services, state agricultural colleges, and other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.
15. "Land" means all land and water areas, including airspace, and all plants, animals, structures, buildings, contrivances, and machinery, appurtenant to or situated on land, fixed or mobile, including any used for transportation.
16. "Nematode" means invertebrate animals of the phylum nemathelminthes, and class nematoda, i.e., unsegmented round worms with elongated, fusiform, or saclike bodies

- covered with cuticle, and inhabiting soil, water, plants, or plant parts, may also be called nemas or eelworms.
17. "Pest" means any insect, rodent, nematode, fungus, or weed; or any other form of terrestrial or aquatic plant or animal life, viruses, bacteria, or other micro-organism, except viruses, bacteria, or other micro-organisms on or in living humans or other living animals.
  18. "Pesticide" means:
    - a. Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest; and
    - b. Any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.
  19. "Pesticide dealer" means any person, other than a pesticide wholesaler, distributing pesticides.
  20. "Plant regulator" means any substance or mixture of substances intended, through physiological action, to accelerate or retard the rate of growth or rate of maturation, or to otherwise alter the behavior of plants or the produce thereof, but does not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments.
  21. "Private applicator" means an individual who is required to be a certified applicator to buy or use a restricted use pesticide on property owned or rented by the applicator or the applicator's employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.
  22. "Public applicator" means an applicator who applies pesticides, other than ready-to-use pesticides, as an employee of:
    - a. A governmental agency, municipal corporation, or public utility; or
    - b. A hospital, privately owned golf course, nursery, or greenhouse.
  23. "Ready-to-use pesticide" means a pesticide other than a restricted use pesticide which is applied directly from its original container consistent with label directions, and includes aerosol spray cans, ready-to-use spray containers, bait packs, and other types of containers that do not require mixing or loading before application.
  24. "Restricted use pesticide" means any pesticide formulation that is classified as restricted use by the United States environmental protection agency or the agriculture commissioner under section 4.1-34-06.
  25. "Rinsate" means a diluted mixture of pesticide obtained from triple rinsing or pressure rinsing pesticide containers or from rinsing the inside and outside of spray equipment.
  26. "Tank mix" means any pesticidal formulation used alone or in combination with another pesticide and mixed with a liquid carrier prior to application.
  27. "Unreasonable adverse effects on the environment" means any unreasonable risk to humans or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.
  28. "Weed" means any plant that grows where not wanted.
  29. "Wildlife" means all living things that are neither human, domesticated, nor, as defined in this chapter, pests, including mammals, birds, and aquatic life.

#### **4.1-33-02. Pesticide control board - Enforcement by agriculture commissioner.**

1. The pesticide control board consists of the agriculture commissioner, the director of the cooperative extension division of the North Dakota state university of agriculture and applied science, and the director of the agricultural experiment station at North Dakota state university of agriculture and applied science. The agriculture commissioner is chairman of the board. The board shall meet at the call of the chairman.
2. The agriculture commissioner is responsible for the enforcement of this chapter. Any authority of the commissioner under this chapter may be executed by such employees or agents designated by the commissioner.

3. The members of the board must be compensated for their expenses in performing their duties under this chapter at the same rate as other state officials and the board's expenses must be paid from funds provided to the agriculture commissioner for the administration of this chapter. The board may act through the office of the agriculture commissioner and the commissioner's staff shall provide staff services for the board as directed by the commissioner.

**4.1-33-03. Pesticide control board to administer chapter and adopt rules.**

1. a. The pesticide control board shall administer this chapter and may adopt rules under chapter 28-32 to implement this chapter. The rules may prescribe methods to be used in the application of pesticides. The rules may relate to the time, place, manner, methods, materials, and amounts and concentrations, in connection with the application of the pesticide, and may restrict or prohibit use of pesticides in designated areas during specified periods of time and shall encompass all reasonable factors which the board deems necessary to prevent damage or injury by drift or misapplication to:
  - (1) Plants, including forage plants, on adjacent or nearby lands.
  - (2) Wildlife in the adjoining or nearby areas.
  - (3) Fish and other aquatic life in waters in proximity to the area to be treated.
  - (4) Persons, animals, or beneficial insects.
- b. In adopting rules, the board shall give consideration to pertinent research findings and recommendations of other agencies of this state, the federal government, or other reliable sources.
2. In adopting rules under this chapter, the board shall prescribe standards and requirements for the certification of applicators of pesticides. These standards and requirements must relate to the use and handling of pesticides. In determining these standards and requirements, the board shall take into consideration standards and requirements prescribed by the United States environmental protection agency.
3. Rules adopted under this chapter may not permit any pesticide use that is prohibited by the Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136 et seq.] or regulations or orders issued thereunder.
4. To comply with the Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136 et seq.], the board may make reports to the United States environmental protection agency in the form and containing the information as that agency requires.
5. Rules to implement this chapter may provide for:
  - a. The collection, examination, and reporting of samples of pesticides.
  - b. The safe handling, transportation, storage, display, distribution, and disposal of pesticides and pesticides containers.
  - c. The identification of pests under this chapter when the board finds particular organisms to be annoying or otherwise injurious or harmful to agriculture, health, and the environment.

**4.1-33-04. Limitation on authority of political subdivisions regarding pesticides.**

A political subdivision, including a home rule city or county, may not adopt or continue in effect any ordinance, resolution, or home rule charter provision regarding the registration, labeling, distribution, sale, handling, use, application, transportation, or disposal of pesticides. This section does not apply to city zoning ordinances.

**4.1-33-05. Application to governmental entities and public utilities.**

All governmental agencies and public utilities are subject to this chapter and rules adopted under this chapter.

**4.1-33-06. Classification of commercial certificates.**

The board may classify commercial certificates to be issued under this chapter. The classifications may include pest control operators, wood treaters, ornamental or agricultural

pesticide applicators, or right-of-way pesticide applicators. Separate classifications may be specified as to ground, aerial, or manual methods used by any applicator to apply pesticides or to the use of pesticides to control insects and plant diseases, rodents, or weeds. Each classification of certification may be subject to separate testing procedures and training requirements. A person may be required to pay an additional fee if the person desires to be certified in one or more of the classifications provided for by the board under this section.

**4.1-33-07. Commercial and public applicator's certification.**

1. A commercial or public applicator may not purchase, use, or supervise the use of a pesticide without first complying with the certification standards and requirements of this chapter, or other restrictions as may be determined by the board.
2. An individual may be certified as a commercial or public applicator within a classification if the individual successfully completes an examination for the classification as prescribed by the board and administered by the North Dakota state university extension service or the service's designee. An application for certification must be on a form prescribed by the board and accompanied by a reasonable examination fee set by the board.
3. If the North Dakota state university extension service, or its designee, finds, after examination as the board requires, the applicant qualified to apply pesticides in the classifications for which the applicant has applied and the applicant meets all other requirements of this chapter, the North Dakota state university extension service shall issue a commercial or a public applicator's certificate limited to the classifications in which the applicant is qualified.
4. If certification is not to be issued as applied for, the North Dakota state university extension service, or its designee, shall inform the applicant in writing of the reasons for not issuing the certification.

**4.1-33-08. Expiration of certification - Renewal.**

A certificate issued under section 4.1-33-07 expires as of the first day of April following two years from the date of issuance. A certificate is renewable every three years on April first. A certificate may be renewed upon completion of a seminar approved by the board or upon successfully completing an examination required by the board, or both, if required by the board. The board shall require a person holding a current valid certificate to take an examination within the three-year period if the board determines additional knowledge related to classifications for which the applicant has applied makes a new examination necessary or that a new evaluation is necessary to assure a continuing level of competence and ability to safely and properly use pesticides.

**4.1-33-09. Nonresident application - Designation of agent for service of process.**

1. A nonresident applying for certification as an applicator or dealer under this chapter shall file a written power of attorney in a form as to render effective the jurisdiction of the courts of this state over the nonresident applicant designating either:
  - a. North Dakota state university extension service or its designee as the nonresident's agent upon whom service of process may be had in the event of any suit against that nonresident person; or
  - b. The duly appointed nonresident person's resident agent upon whom process may be served as provided by law.
2. The extension service is allowed such fees for service as a registered agent as provided by law for designating resident agents. The nonresident must be furnished with a copy of the designation of the extension service or of a resident agent. The copy must be duly certified by the extension service.

**4.1-33-10. Proof of financial responsibility - Exceptions.**

1. A commercial applicator certificate may not be issued unless the applicant furnishes proof of financial responsibility. Financial responsibility must be maintained in the

1-25-19

amount of one hundred thousand dollars. Financial responsibility may be demonstrated by a notarized letter from an officer of a financial institution or from a certified public accountant attesting to the existence of net assets equal to at least one hundred thousand dollars, a performance bond, or a general liability insurance policy. The performance bond or insurance policy must contain a provision requiring the issuing company to notify the agriculture commissioner at least ten days before the effective date of cancellation, termination, or other modification of the bond or insurance policy. When requested by the agriculture commissioner, a commercial applicator immediately shall furnish proof of compliance with this section. If the applicator is unable to furnish the required proof, the commissioner may stop a pesticide application and not allow resumption until the applicator furnishes proof of compliance. The agriculture commissioner shall immediately suspend the certification of a commercial applicator who fails to maintain the financial responsibility standards of this section. If there is any recovery against the commercial applicator, the applicator shall demonstrate continued compliance with the requirements of this section. An application for reinstatement of a certificate suspended under this section must be accompanied by proof that any judgment previously rendered against the applicant has been satisfied.

2. This section does not apply to:
  - a. A rancher who must obtain a commercial applicator certificate for controlling noxious weeds on the leased federal acreage as a condition of a federal grasslands lease.
  - b. A grazing association and its members if either the association or any member must obtain a commercial applicator certificate for controlling noxious weeds on the leased federal acreage as a condition of a federal grasslands lease.
  - c. A person who must be certified in the right-of-way category.
  - d. A commercial applicator who controls noxious weeds on grassland, land producing tame hay, or other lands not devoted to the production of an annual crop.
  - e. An employee of a commercial applicator if the commercial applicator complies with this section.

#### **4.1-33-11. Pesticide dealer certification - Employees - Requirements for purchase.**

1. A pesticide dealer may not distribute restricted use pesticides or act as a restricted use pesticide dealer, without first having obtained certification from the North Dakota state university extension service, or the service's designee. During hours the business is open, a certified person must be at any location or outlet from which restricted use pesticides are distributed. Any manufacturer or distributor that has no pesticide dealer outlet within this state and which distributes such pesticides directly into this state shall obtain a pesticide dealer certificate for its principal out-of-state location or outlet.
2. Application for a certificate must be on a form prescribed by the board accompanied by an examination fee set by the board. The application must include the address of each outlet, the principal business address of the applicant, the name of a person domiciled in this state authorized to receive and accept service of summons of legal notices of all kinds for the applicant, and any other necessary information prescribed by the board.
3. The board shall require each pesticide dealer to demonstrate to the North Dakota state university extension service or the service's designee knowledge of pesticide laws and regulations; pesticide hazards to humans, animals, and the environment; and the safe distribution, disposal, and use and application of pesticides by satisfactorily passing an examination or meeting other requirements as prescribed by the board within each classification for which certification is sought.
4. Each pesticide dealer is responsible for the acts of each individual employed by the dealer in the solicitation and sale of restricted use pesticides and all claims and recommendations for use of such pesticides. The dealer's certification is subject to



1-25-19

suspension or revocation, after a hearing, for any violation of this chapter committed by the dealer or by the dealer's officer, agent, or employee.

- 5. A certificate issued under this section expires on the first day of April following two years from the date of issuance. A certificate is renewable every three years on April first. The board may condition renewal of a certificate upon completion of a seminar approved by the board or successful completion of an examination required by the board, or both. The board may require any person holding a current valid certificate to take an examination within the three-year period if the board determines additional knowledge related to pesticides makes an additional examination necessary or that a new evaluation is necessary to assure a continuing level of competence and ability to safely and properly distribute pesticides.
- 6. Restricted use pesticides may be sold only to:
  - a. Persons certified as applicators by this state; and
  - b. Persons certified to use restricted use pesticides by another state, provided the pesticide control board determines the certifying state's requirements are substantially similar to those of this state and that the person does not use the restricted use pesticide in this state.

**4.1-33-12. Private applicators - Certification.**

- 1. a. An individual who would be a private applicator, if certified, may not buy any restricted use pesticide unless the individual first complies with the certification requirements established by the board.
- b. An individual who would be a private applicator, if certified, may not use any restricted use pesticide unless the individual:
  - (1) Complies with the certification requirements established by the board; or
  - (2) Is under the direct supervision of a certified applicator.
- 2. Certification standards to determine the individual's competency with respect to the use and handling of the pesticide or class of pesticides the private applicator is to be certified to use must be determined by the board. In determining these standards, the board shall consider similar standards of the United States environmental protection agency. The North Dakota state university extension service, or its designee, shall issue a certificate to any private applicator who has qualified as prescribed by the board. The North Dakota state university extension service, or its designee, may require any applicant required to be certified under this section to pay a reasonable fee, not greater than the cost to the North Dakota state university extension service, for materials provided to the applicant for training and education.

**4.1-33-13. Unlawful acts - Grounds for denial, suspension, or revocation of a certification.**

It is a violation of this chapter for any person to:

- 1. Make false or fraudulent claims through any media, misrepresenting the effect of materials or methods to be utilized, or advertise a pesticide without reference to its classification.
- 2. Make a pesticide recommendation, application, or use inconsistent with the labeling or other restrictions prescribed by the board.
- 3. Apply materials known by that person to be ineffective or improper.
- 4. Operate faulty or unsafe equipment.
- 5. Operate in a faulty, careless, or negligent manner.
- 6. Neglect or, after notice, refuse to comply with this chapter, the rules adopted to implement this chapter, or any lawful order of the commissioner.
- 7. Refuse or neglect to keep and maintain the records required by this chapter or to make reports when and as required.
- 8. Make false or fraudulent records, invoices, or reports.
- 9. Apply pesticide to the property of another, without the permission of the owner or lessee, unless the application is made under the direction of a governmental entity.

10. Use fraud or misrepresentation in making an application for, or for renewal of, certification.
11. Refuse or neglect to comply with any limitations or restrictions on or in a duly issued certification.
12. Aid or abet a person to evade this chapter, conspire with a person to evade this chapter, or allow the person's certification to be used by another person.
13. Knowingly make false statements during or after an inspection or an investigation.
14. Impersonate a federal, state, county, or city inspector or official.
15. Distribute any restricted use pesticide to any person who is not properly certified to use or purchase the pesticide.
16. Buy, use, or supervise the use of any pesticide without first complying with the certification requirements of this chapter, unless otherwise exempted.
17. Apply any pesticide that is not registered under chapter 4.1-34.

**4.1-33-14. Records - Retention - Submission to commissioner.**

The board shall require pesticide dealers, commercial applicators, and public applicators to maintain records of sales and purchases of restricted use and special exemption pesticides. The board shall require commercial applicators and public applicators to maintain records of all applications of pesticides. The board may require restricted use pesticide application records of private applicators. The records must be kept for a period of three years from the date of the application, sale, or purchase of the pesticide. Upon request, all or any requested part of these records must be submitted to the commissioner.

**4.1-33-15. Reciprocal agreement.**

The North Dakota state university extension service, or its designee, may issue a certification on a reciprocal basis, without examination, to a nonresident who is certified to buy, distribute, or use restricted use pesticides under a plan substantially similar to this chapter and after the applicant has paid a fee, set by the board, not greater than the fee or charge authorized under section 4.1-33-07, 4.1-33-11, or 4.1-33-12 if the applicant would have taken the appropriate examination. Such a certification may be suspended or revoked in the same manner and on the same grounds as certifications under this chapter, and must be suspended or revoked if the nonresident's home state certification is suspended or revoked.

**4.1-33-16. Certification exemptions.**

1. The certification requirements of this chapter do not apply to an individual applying nonrestricted use pesticides under the direct supervision of a commercial applicator, unless the pesticide label requires that a certified applicator personally apply the pesticide. A pesticide is applied under the direct supervision of a commercial applicator if the pesticide is applied by an individual acting under the instruction and control of a certified applicator who is physically available if needed. The certified applicator need not be present when the pesticide is applied. Direct supervision with respect to applications using aircraft requires that the pilot of the aircraft be appropriately certified. The certification requirements of this chapter do not apply to a competent person applying restricted use pesticides under the direct supervision of a private applicator, unless the pesticide label requires that a certified applicator personally apply the particular pesticide. A pesticide is deemed to be applied under the direct supervision of a private applicator if it is applied by a competent person acting under the instruction and control of a private applicator who is available if and when needed, even though the private applicator is not physically present at the time and place that the pesticide is applied.
2. The certification requirements of this chapter do not apply to any person conducting laboratory-type research using restricted use pesticides or to a doctor of medicine or a doctor of veterinary medicine applying a pesticide as a drug or as medication during the course of normal practice.

**4.1-33-17. Discarding and storing of pesticides, pesticide containers, and rinsate.**

A person may not discard, store, display, or permit the disposal of surplus pesticides, empty pesticide containers and devices, or rinsate in such a manner as to endanger the environment or to endanger food, feed, or any other products that may be stored, displayed, or distributed with such pesticides. The board shall adopt rules governing the discarding, storage, display, or disposal of any pesticide, rinsate, pesticide containers, or devices.

**4.1-33-18. Pesticide application - Alleged property damage - Notification of applicator.**

1. a. Before a person may file a civil action seeking reimbursement for property damage allegedly stemming from the application of a pesticide, the person shall notify by certified mail the pesticide applicator of the alleged damage within the earlier of:
  - (1) Twenty-eight days from the date the person first knew or should have known of the alleged damage; or
  - (2) Before twenty percent of the crop or field allegedly damaged is harvested or destroyed.
- b. Subdivision a does not apply if the person seeking reimbursement for property damage was the applicator of the pesticide.
2. Upon notifying the applicator as required under subsection 1, the person seeking reimbursement for the alleged property damage shall permit the applicator and up to four representatives of the applicator to enter the person's property for the purpose of observing and examining the alleged damage. If the person fails to allow entry, the person is barred from asserting a claim against the applicator.

**4.1-33-19. Subpoenas.**

In any hearing to enforce this chapter, the commissioner may issue subpoenas to compel the attendance of witnesses or production of books, documents, and records pertaining to pesticide applications, sales, and purchases in the state.

**4.1-33-20. Penalties.**

1. Any person other than a private applicator who knowingly violates this chapter is guilty of a class A misdemeanor.
2. Any private applicator who knowingly violates this chapter is guilty of a class B misdemeanor.
3. When construing and enforcing the provisions of this chapter, the act, omission, or failure of any officer, agent, or other person acting for or employed by any person must in every case be also deemed to be the act, omission, or failure of such person as well as that of the person employed.
4. A person who violates this chapter or the rules adopted under this chapter is subject to a civil penalty not to exceed five thousand dollars for each violation. The civil penalty may be imposed by a court in a civil proceeding or by the agriculture commissioner through an adjudicative proceeding pursuant to chapter 28-32. The assessment of a civil penalty does not preclude the imposition of other sanctions authorized by law, this chapter, or rules adopted under this chapter.
5. After providing an opportunity for a hearing, the commissioner may deny, suspend, revoke, or modify the provision of any certification issued under this chapter, if the commissioner determines that the applicant for certification or the holder of a certificate has violated this chapter or any rules adopted under this chapter.

**4.1-33-21. Enforcement.**

1. The commissioner shall enforce the requirements of this chapter and any rules adopted under this chapter.
2. The commissioner may bring an action to enjoin the violation or threatened violation of this chapter, or any rule adopted under this chapter, in the district court of the county in which the violation occurs or is about to occur.

3. If any person violates this chapter, the commissioner may issue an order requiring the person to cease and desist from the unlawful activity. If the violator fails to obey, the commissioner shall cause the appropriate criminal complaint to be filed.
4. The commissioner may enter upon any public or private premises at reasonable times, to:
  - a. Inspect any equipment subject to this chapter and the premises on which the equipment is stored or used.
  - b. Inspect or sample lands actually or reported to be exposed to pesticides.
  - c. Inspect storage or disposal areas.
  - d. Inspect or investigate complaints of injury to humans or land.
  - e. Draw samples of a reasonable amount of tank mix pesticides and tank mixes without compensation to the owner for values less than three dollars.
  - f. Observe the use and application of a pesticide.
  - g. Inspect any place where pesticides or devices are stored or held for distribution, sale, or use, and obtain samples of any pesticides packaged, labeled, and released for shipment and samples of any containers or labeling for the pesticides.
5.
  - a. At any reasonable time, the commissioner may access records pertaining to the pesticide application, sales, purchases, and repackaging by any person. The commissioner may copy or make copies of the records for the purpose of this chapter. These records are confidential. However, the commissioner may use these records in any way to enforce this chapter. Any record the commissioner uses as an exhibit in an enforcement action is no longer a confidential record.
  - b. If an individual alleges exposure to pesticides and if the individual's medical provider requests that the commissioner reveal the name of the pesticide, the commissioner may reveal the name of the pesticide to the individual making the request, together with the registration number assigned by the United States environmental protection agency. The commissioner may require a request under this section be made in writing.
6. If access is refused or if the commissioner determines critical enforcement documentation may be lost, the commissioner may apply to any court for a search warrant authorizing access to land or records. Upon compliance with chapter 29-29.1, the court may issue the search warrant for the purposes requested.
7. The commissioner may suspend or revoke a certification issued under this chapter for failure to pay a civil penalty within thirty days after a final determination is made that the civil penalty is owed.

#### **4.1-33-22. Stop-sale orders.**

If the commissioner has reason to believe on the basis of inspection or tests that any pesticide or device is in violation of any provision of this chapter, or if the registration of the pesticide has been canceled or suspended by the state or United States environmental protection agency, the commissioner may issue a written or printed "stop-sale, use, or removal" order to any person who owns, controls, or has custody of the pesticide or device. After receipt of the order, a person may not sell, use, or remove the pesticide or device described in the order except in accordance with the provisions of the order.

#### **4.1-33-23. Information and instruction.**

In cooperation with private, local, state, or federal agencies, the board may publish information and conduct short courses of instruction in the areas of knowledge required by this chapter.

#### **4.1-33-24. Cooperation by the board with other entities.**

The board may cooperate, receive grants-in-aid, and enter cooperative agreements with any agency of the federal government, of this state or its subdivisions, or with any agency of another state, to:

1-25-19

1. Secure uniformity of regulations.
2. Enter cooperative agreements with and submit plans to the United States environmental protection agency for approval to issue experimental use permits under the authority of this chapter and the Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136 et seq.].
3. Cooperate in the enforcement of the federal pesticide control laws and state laws through the use of state or federal personnel and facilities and to implement cooperative enforcement programs.
4. Enter contracts with other agencies, including federal agencies, for the purpose of training pesticide applicators, managers, dealers, and pesticide consultants.
5. Gain assistance in implementation of this chapter.
6. Regulate certified applicators.
7. Comply with other purposes prescribed by rules of the commissioner.

**4.1-33-25. Disposition of funds - Certification and training fund.**

All moneys received by the pesticide control board under this chapter must be deposited to the credit of the certification and training fund under the control of the board.

SBZ315

#4 Pg. 20

1-25-19

# BUCCANEER 5<sup>®</sup>

## glyphosate herbicide

### TENKÖZ

For Use in Certain Cropping Systems, Including Roundup Ready<sup>®</sup> Alfalfa Canola, Corn, Cotton, Soybeans and Sugar Beets; for Reduced Tillage and Fallow Systems; and Many Noncrop Areas.

**ACTIVE INGREDIENT:**

Glyphosate, N-(phosphonomethyl) glycine, in the form of its isopropylamine salt\* ..... 50.6%

**OTHER INGREDIENTS:** ..... 49.4%

**TOTAL:** ..... 100.0%

\*Contains 600 grams per litre or 5 pounds per U.S. gallon of the active ingredient glyphosate, in the form of its isopropylamine salt.

## KEEP OUT OF REACH OF CHILDREN CAUTION / PRECAUCIÓN

Si usted no entiende la etiqueta, busque a alguien para que se la explique a usted en detalle.  
(If you do not understand the label, find someone to explain it to you in detail.)

See inside booklet for **FIRST AID** and **ADDITIONAL PRECAUTIONARY STATEMENTS**

**For Chemical Spill, Leak, Fire, or Exposure, Call CHEMTREC (800) 424-9300  
For Medical Emergencies Only, Call (877) 325-1840**

Read "LIMIT OF WARRANTY AND LIABILITY" before buying or using.

If terms are not acceptable, return at once unopened.

**Nonrefillable container. Do not reuse or refill this container.**

AVOID CONTACT WITH FOLIAGE, GREEN STEMS, EXPOSED NON-WOODY ROOTS OR FRUIT OF CROPS,  
DESIRABLE PLANTS AND TREES, SINCE SEVERE INJURY OR DESTRUCTION MAY RESULT.

EPA REG. NO. 71368-43-55467

EPA EST. NO. 228-IL-001

Distributed by:  
Tenkoz, Inc.

725 Windward Concourse  
Suite 410  
Alpharetta, GA 30005 U.S.A.

## NET CONTENTS: 2.5 Gal. (9.46 L)

1-25-19

**FIRST AID**

<b>IF IN EYES</b>	<ul style="list-style-type: none"> <li>• Hold eye open and rinse slowly and gently with water for 15-20 minutes.</li> <li>• Remove contact lenses, if present, after the first 5 minutes, then continue rinsing eye.</li> <li>• Call a poison control center or doctor for treatment advice.</li> </ul>
<b>IF ON SKIN OR CLOTHING</b>	<ul style="list-style-type: none"> <li>• Take off contaminated clothing.</li> <li>• Rinse skin immediately with plenty of water for 15-20 minutes.</li> <li>• Call a poison control center or doctor for treatment advice.</li> </ul>
<b>IF INHALED</b>	<ul style="list-style-type: none"> <li>• Move person to fresh air.</li> <li>• If person is not breathing, call 911 or an ambulance, then give artificial respiration, preferably by mouth-to-mouth, if possible.</li> <li>• Call a poison control center or doctor for further treatment advice.</li> </ul>
<b>IF SWALLOWED</b>	<ul style="list-style-type: none"> <li>• Call poison control center or doctor immediately for treatment advice.</li> <li>• Have person sip a glass of water if able to swallow.</li> <li>• Do not induce vomiting unless told to do so by the poison control center or doctor.</li> <li>• Do not give anything by mouth to an unconscious person.</li> </ul>

**HOT LINE NUMBER**

Have the product container or label with you when calling a poison control center or doctor, or going for treatment. You may also contact 1-877-325-1840 for emergency medical treatment information.

**PRECAUTIONARY STATEMENTS  
HAZARDS TO HUMANS AND DOMESTIC ANIMALS  
CAUTION/PRECAUCIÓN**

Causes moderate eye irritation. Harmful if absorbed through the skin. Avoid contact with eyes, skin or clothing. Harmful if inhaled or swallowed. Avoid breathing spray mist.

**PERSONAL PROTECTIVE EQUIPMENT:** Some of the materials that are chemical resistant to this product are listed below. If you want more options, follow the instructions for category A on an EPA chemical-resistant category selection chart. Applicators and other handlers must wear long-sleeved shirt and long pants, shoes, socks, chemical-resistant gloves made of any waterproof material such as polyethylene or polyvinylchloride. Discard clothing and absorbent materials that have been drenched or heavily contaminated with this product's concentrate. Do not reuse them. Follow manufacturer's instructions for cleaning/maintaining PPE. If no such instructions for washables exist, use detergent and hot water. Keep and wash PPE separately from other laundry.

**ENGINEERING CONTROL STATEMENTS:** When handlers use closed systems, enclosed cabs, or aircraft in a manner that meets the requirements listed in Worker Protection Standard (WPS) for agricultural pesticides [40 CFR 170.240(d)(4-6)], the handler PPE requirements may be reduced or modified as specified in the WPS.

**USER SAFETY RECOMMENDATIONS**

**Users Should:**

- Wash hands before eating, drinking, chewing gum, using tobacco, or using the toilet.
- Remove clothing/PPE immediately if pesticide gets inside. Then wash thoroughly and put on clean clothing.
- Remove PPE immediately after handling this product. Wash the outside of gloves before removing. As soon as possible, wash thoroughly and change into clean clothing.

**ENVIRONMENTAL HAZARDS**

Do not apply directly to water, to areas where surface water is present or to intertidal areas below the mean high water mark. Do not contaminate water when cleaning of equipment or disposing of equipment washwaters.

**PHYSICAL OR CHEMICAL HAZARDS**

Spray solutions of this product should be mixed, stored and applied using only stainless steel, aluminum, fiberglass, plastic or plastic-lined steel containers. **DO NOT MIX, STORE OR APPLY THIS PRODUCT OR SPRAY SOLUTIONS OF THIS PRODUCT IN GALVANIZED STEEL OR UNLINED STEEL (EXCEPT STAINLESS STEEL) CONTAINERS OR SPRAY TANKS.** This product or spray solutions of this product react with such containers and tanks to produce hydrogen gas which may form a highly combustible gas mixture. This gas mixture could flash or explode, causing serious personal injury, if ignited by open flame, spark, welder's torch, lighted cigarette or other ignition source.

**DIRECTIONS FOR USE**

It Is A Violation Of Federal Law To Use This Product In Any Manner Inconsistent With Its Labeling. Do not apply this product in a way that will contact workers or other persons, either directly or through drift. Only protected handlers may be in the area during application. For any requirements specific to your State or Tribe, consult the agency responsible for pesticide regulations.

**AGRICULTURAL USE REQUIREMENTS**

Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR part 170. This Standard contains requirements for the protection of agricultural workers on farms, forests, nurseries, and greenhouses, and handlers of agricultural pesticides. It contains requirements for training, decontamination, notification, and emergency assistance. It also contains specific instructions and exceptions pertaining to the statements on this label about personal protective equipment (PPE) and restricted entry interval. The requirements in this box only apply to uses of this product that are covered by the Worker Protection Standard.

Do not enter or allow worker entry into treated areas during the restricted entry interval (REI) of 12 hours.

PPE required for early entry to treated areas that is permitted under the Worker Protection Standard and that involves contact with anything that has been treated, such as plants, soil, or water, is: Coveralls, chemical-resistant gloves made of any waterproof material and shoes plus socks.

S B2315 #4 12 22

1-25-19

### NON-AGRICULTURAL USE REQUIREMENTS

The requirements in this box apply to uses of this product that are NOT within the scope of the Worker Protection Standard for agricultural pesticides (40 CFR Part 170). The WPS applies when this product is used to produce agricultural plants on farms, forests, nurseries or greenhouses.

Keep people and pets off treated areas until spray solution has dried.

### PRODUCT INFORMATION

DO NOT APPLY THIS PRODUCT USING AERIAL SPRAY EQUIPMENT EXCEPT UNDER CONDITIONS AS SPECIFIED WITHIN THIS LABEL OR CURRENT SUPPLEMENTAL LABELING ISSUED BY MANUFACTURER.

This product, a water soluble liquid, mixes readily with water to be applied as a foliar spray for the control or destruction of most herbaceous plants. It may be applied through most standard industrial or field-type sprayers after dilution and thorough mixing with water in accordance with label instructions. Hand-held sprayers may also be used.

This product moves through the plant from the point of foliage contact to and into the root system. Visible effects on most annual weeds occur within 2 to 4 days, but on most perennial weeds may not occur for 7 days or more. Extremely cool or cloudy weather following treatment may slow activity of this product and delay visual effects of control. Visible effects are a gradual wilting and yellowing of the plant which advances to complete browning of above-ground growth and deterioration of underground plant parts.

Unless otherwise specified on this label, delay application until vegetation has emerged and reached the stages described for control of such vegetation under the "WEEDS CONTROLLED" section of this label. Unemerged plants arising from unattached underground rhizomes or root stocks of perennials will not be affected by the herbicide and will continue to grow. For this reason, best control of most perennial weeds is obtained when treatment is made at late growth stages approaching maturity.

Always use the higher rate of this product per acre within the specified range when (1) weed growth is heavy or dense, or (2) weeds are growing in an undisturbed (noncultivated) area.

Reduced or unacceptable control may result if weeds or brush are treated under poor growing conditions such as drought stress, disease or insect damage. Reduced results may also occur when treating weeds or brush heavily covered with dust.

Reduced control may result when applications are made to annual or perennial weeds that have been mowed, grazed, or cut, and have not been allowed to regrow to the recommended stage for treatment.

Rainfall or irrigation occurring within 6 hours after application may reduce effectiveness. Heavy rainfall or irrigation within 2 hours after application may wash the chemical off the foliage and a repeat treatment may be required.

This product does not provide residual weed control. For subsequent residual weed control, it is recommended that a residual herbicide program specified on this label be used. Read and carefully observe the precautionary statements and all other information appearing on the labels of all herbicides used.

Mixing this product with herbicides or other materials not recommended in this label may result in reduced performance. However, unless otherwise prohibited on this label or the label of an intended tank mix product, this product may be applied in combination with any herbicide

registered for the same site, timing, and method of application. Observe the most restrictive label statements of various tank mix products used. LIABILITY FOR CROP INJURY, HERBICIDE NONPERFORMANCE OR OTHER LOSS OR DAMAGE RESULTING FROM A TANK MIXTURE NOT SPECIFIED ON THIS LABEL, OR SUPPLEMENTAL LABELING DISTRIBUTED FOR THIS PRODUCT, IS SPECIFICALLY DISCLAIMED BY MANUFACTURER. BUYER AND ALL USERS ARE RESPONSIBLE FOR ALL LOSS OR DAMAGE IN CONNECTION WITH THE USE OR HANDLING OF MIXTURES OF THIS PRODUCT OR OTHER MATERIALS THAT ARE NOT EXPRESSLY RECOMMENDED IN THIS LABEL.

For best results, spray coverage should be uniform and complete. Do not spray weed foliage to the point of runoff.

DOMESTIC ANIMALS: This product is considered to be relatively nontoxic to dogs and other domestic animals; however, ingestion of this product or large amounts of freshly sprayed vegetation may result in temporary gastrointestinal irritation (vomiting, diarrhea, colic, etc.). If such symptoms are observed, provide the animal with plenty of fluids to prevent dehydration. Call a veterinarian if symptoms persist for more than 24 hours.

### WEED RESISTANCE

Any weed population may contain plants that are naturally resistant to glyphosate, the active ingredient in this product, and to other herbicides with the same mode of action. ATTENTION: These resistant weed biotypes will not be controlled by this product. Consult advisors such as your local agricultural extension service for agronomic management practices to minimize the occurrence of glyphosate resistance and considerations for supplemental control measures.

#### Weed Management

To minimize the occurrence of glyphosate-resistant biotypes, observe the following general weed management recommendations:

- Scout your fields before and after herbicide applications.
- Start with a clean field, using either a burndown herbicide application or tillage.
- Control weeds early when they are relatively small.
- Add other herbicides (e.g. a selective and/or a residual herbicide) and cultural practices (e.g. tillage or crop rotation) where appropriate.
- One method for adding other herbicides into a continuous Roundup Ready system is to rotate to other Roundup Ready crops.
- Utilize the specified label rate for the most difficult to control weed in your field. Avoid tank mixtures with other herbicides that reduce this product's efficacy (through antagonism), or tank mixture recommendations that encourage application rates of this product below the label recommendations.
- Control weed escapes and prevent weeds from setting seeds.
- Clean equipment before moving from field to field to minimize the spread of weed seed or plant parts.
- Use new commercial seed that is as free of weed seed as possible.
- Report any incidence of repeated non-performance of this product on a particular weed to your local retailer or county extension agent.

#### Management of Glyphosate-Resistant Biotypes

Since the occurrence of new glyphosate-resistant weeds cannot be determined until after product use and scientific confirmation, manufacturer is not responsible for any losses that may result from the failure of this product to control glyphosate-resistant weed biotypes.

The following good agronomic practices are recommended to reduce the spread of confirmed glyphosate-resistant biotypes:



1-25-19

If a naturally occurring resistant biotype is present in your field, this product should be tank-mixed or applied sequentially with an appropriately labeled herbicide with a different mode of action to achieve control.

- Cultural and mechanical control practices (e.g. crop rotation or tillage) may also be used as appropriate.
- One method for adding other herbicides into a continuous Roundup Ready system is to rotate to other Roundup Ready crops.
- Scout treated fields after herbicide applications and control escaping weeds including resistant biotypes before they set seed.
- Thoroughly clean equipment before leaving fields known to contain resistant biotypes.

### ATTENTION

**AVOID DRIFT. EXTREME CARE MUST BE USED WHEN APPLYING THIS PRODUCT TO PREVENT INJURY TO DESIRABLE PLANTS AND CROPS.**

Do not allow the herbicide solution to mist, drip, drift or splash onto desirable vegetation since minute quantities of this product can cause severe damage or destruction to the crop, plants or other areas on which treatment was not intended. The likelihood of injury occurring from the use of this product is greatest when winds are gusty or in excess of 5 miles per hour or when other conditions, including lesser wind velocities, will allow spray drift to occur. When spraying, avoid combinations of pressure and nozzle type that will result in splatter or fine particles (mist) which are likely to drift. **AVOID APPLYING AT EXCESSIVE SPEED OR PRESSURE.**

**NOTE:** Use of this product in any manner not consistent with this label may result in injury to persons, animals or crops, or other unintended consequences. When not in use, keep container closed to prevent spills and contamination.

### MIXING, ADDITIVES AND APPLICATION INSTRUCTIONS

APPLY THESE SPRAY SOLUTIONS IN PROPERLY MAINTAINED AND CALIBRATED EQUIPMENT CAPABLE OF DELIVERING DESIRED VOLUMES. DO NOT APPLY WHEN WIND OR OTHER CONDITIONS FAVOR DRIFT. HAND-GUN APPLICATIONS SHOULD BE PROPERLY DIRECTED TO AVOID SPRAYING DESIRABLE PLANTS.

**NOTE:** REDUCED RESULTS MAY OCCUR IF WATER CONTAINING SOIL IS USED, SUCH AS WATER FROM PONDS AND UNLINED DITCHES.

### MIXING

This product mixes readily with water. Mix spray solutions of this product as follows: Fill the mixing or spray tank with the required amount of water. Add the specified amount of this product (see the "DIRECTIONS FOR USE" and "WEEDS CONTROLLED" sections of this label) near the end of the filling process and mix well. Use caution to avoid siphoning back into the carrier source. Use approved anti-back-siphoning devices where required by state or local regulations. During mixing and application, foaming of the spray solution may occur. To prevent or minimize foam, avoid the use of mechanical agitators, terminate by-pass and return lines at the bottom of the tank and, if needed, use an approved anti-foam or defoaming agent.

### TANK MIXTURES

Always predetermine the compatibility of labeled tank mixtures of this product with water carrier by mixing small proportional quantities in advance.

Mix labeled tank mixtures of this product with water as follows:

1. Place a 20 to 35 mesh screen or wetting basket over filling port.
2. Through the screen, fill the spray tank one-half full with water and start agitation.
3. If a wettable powder is used, make a slurry with the water carrier, and add it SLOWLY through the screen into the tank. Continue agitation.
4. If a flowable formulation is used, premix one part flowable with one part water. Add diluted mixture SLOWLY through the screen into the tank. Continue agitation.
5. If an emulsifiable concentrate formulation is used, premix one part emulsifiable concentrate with two parts water. Add diluted mixture slowly through the screen into the tank. Continue agitation.
6. Continue filling the spray tank with water and add the required amount of this product near the end of the filling process.
7. Where nonionic surfactant is recommended, add this to the spray tank before completing the filling process.
8. Add individual formulations to the spray tank as follows: wettable powder, flowable, emulsifiable concentrate, drift control additive, water soluble liquid followed by surfactant.

Maintain good agitation at all times until the contents of the tank are sprayed. If the spray mixture is allowed to settle, thorough agitation is required to resuspend the mixture before spraying is resumed.

Keep by-pass line on or near bottom of tank to minimize foaming. Screen size in nozzle or line strainers should be no finer than 50 mesh.

Carefully select proper nozzle to avoid spraying a fine mist. For best results with conventional ground application equipment, use flat fan nozzles.

Clean sprayer and parts immediately after using this product by thoroughly flushing with water.

### ADDITIVES

#### SURFACTANTS

Nonionic surfactants which are labeled for use with herbicides may be used. The surfactant must contain 80% or more active ingredient. Avoid a surfactant if its label does not adequately define the active surfactant content. When adding surfactant, use 0.375% concentration (1.5 quarts per 100 gallons of spray solution). Read and carefully observe surfactant precautionary statements and other information appearing on the surfactant label.

#### AMMONIUM SULFATE

The addition of 1 to 2 percent dry ammonium sulfate by weight or 8.5 to 17 pounds per 100 gallons of water may increase the performance of this product, and this product plus 2,4-D, Banvel, dicamba or residual herbicide tank mixtures on annual and perennial weeds. The improvement in performance may be apparent where environmental stress is a concern. Low-quality ammonium sulfate may contain material that will not readily dissolve, which could result in nozzle tip plugging. To determine quality, perform a jar test by adding 1/3 cup of ammonium sulfate to 1 gallon of water and agitate for 1 minute. If undissolved sediment is observed, predissolve the ammonium sulfate in water and filter prior to addition to the spray tank. If ammonium sulfate is added directly to the spray tank, add slowly with agitation. Adding too quickly may clog outlet line. Ensure that ammonium sulfate is completely dissolved in the spray tank before adding herbicides or surfactant. Thoroughly rinse the spray system with clean water after use to reduce corrosion. Agriculturally-approved adjuvants containing equivalent amounts of ammonium sulfate may be used instead of dry ammonium sulfate.

**NOTE:** The use of ammonium sulfate as an additive does not fulfill the need for adding nonionic surfactant to the herbicide mixture.

SD2315

#4 172 24

1-25-19

## MAXIMUM USE RATE

The maximum use rates stated throughout this labeling apply to this product combined with the use of all other herbicides containing glyphosate or sulfosate as the active ingredient, whether applied as mixtures or separately. Calculate the application rates and ensure that the total use of this and other glyphosate or sulfosate containing products does not exceed stated maximum use rates.

## COLORANTS OR DYES

Agriculturally-approved colorants or marking dyes may be added to this product. Colorants or dyes used in spray solutions of this product may reduce performance, especially at lower rates or dilutions. Use colorants or dyes according to the manufacturer's instructions.

## APPLICATION EQUIPMENT AND TECHNIQUES

Do not apply this product through any type of irrigation system.

This product may be applied with the following application equipment:

**Aerial** – Fixed Wing and Helicopter

**Broadcast Spray**

**Controlled Droplet Applicator (CDA)** – Hand-held or boom-mounted applicators which produce a spray consisting of a narrow range of droplet sizes.

**Hand-Held and High-Volume Spray Equipment** – Knapsack and backpack sprayers, pump-up pressure sprayers, handguns, handwands, mistblowers\*, lances and other hand-held and motorized spray equipment used to direct the spray onto weed foliage.

\*This product is not registered in California or Arizona for use in mistblowers.

**Selective equipment** – Recirculating sprayers, shielded sprayers and wiper applicators. See the appropriate part of this section for specific instructions and rates of application.

## AERIAL EQUIPMENT

Use the specified rates of this herbicide in 3 to 15 gallons of water per acre unless otherwise specified on this label. See the "WEEDS CONTROLLED" section of this label for specific rates. Unless otherwise specified, do not exceed 1 quart per acre. **Aerial applications of this product may be made in annual cropping conventional tillage systems, fallow and reduced tillage systems, Roundup Ready crops, noncrop areas and preharvest applications. Refer to the individual use area sections of this label for specified volumes and application rates. For specific state information, consult following section and state pesticide regulatory agency.**

## STATE INFORMATION ON AERIAL APPLICATIONS

### ARKANSAS:

AVOID DRIFT. DO NOT APPLY INTO STILL AIR WHERE THERE IS A TEMPERATURE INVERSION LAYER LOW ENOUGH FOR FINE SPRAY PARTICLES TO BECOME SUSPENDED AND MOVE OUTSIDE THE TARGET AREA WHEN THE INVERSION LAYER MOVES.

DO NOT APPLY WHEN WINDS ARE GUSTY OR UNDER ANY OTHER CONDITION THAT FAVORS DRIFT. DRIFT IS LIKELY TO CAUSE DAMAGE TO ANY VEGETATION CONTACTED. TO PREVENT INJURY TO ADJACENT DESIRABLE VEGETATION, APPROPRIATE BUFFER ZONES MUST BE MAINTAINED.

Use the specified rate of this product in 3 to 15 gallons of water per acre. Use sufficient carrier volume and appropriate equipment set-up to form droplets large enough to avoid drift potential. Coarse droplets in the 300 to 500 (VMD) micron range are recommended.

Applications should typically be made with the nozzle release point at 8 to 15 feet above the top of the target plants unless a greater height is required for aircraft safety.

The distance of the outermost nozzles on the boom must not exceed 75% of the length of the wingspan or rotor. In many cases, reducing this distance to 65% of the length of the wingspan or rotor will improve drift control without affecting the swath width.

Nozzles must always discharge backward parallel with the air stream and never discharge downwards more than 45 degrees on fixed wing aircraft or forward of the prevailing air flow on rotary winged aircraft. Avoid the use of nozzles with wide angle discharge.

Do not apply this product when winds are in excess of 10 miles per hour.

Do not apply when there is a low-level inversion where fine spray particles could be suspended in still air and move outside the target area when the inversion layer moves. These conditions may occur when wind speeds are less than 2 mph.

Use the following guidelines when applications are made near crops or other desirable vegetation:

1. Do not apply within 100 feet of any desirable vegetation or crops.
2. If wind up to 5 miles per hour is blowing toward desirable vegetation or crops, do not apply within 500 feet of the desirable vegetation or crops.
3. Winds blowing from 5 to 10 miles per hour toward desirable vegetation or crops will likely require buffer zones in excess of 500 feet.

### CALIFORNIA – Statewide:

Aerial applications of this product are allowed in the following situations:

1. In fallow and reduced tillage systems prior to the emergence or transplanting of labeled crops.
2. In cotton, prior to harvest. Refer to the specific preharvest application instructions.

Do not plant subsequent crops other than those listed in the label booklet for this product for 30 days following application.

When applied as directed, under the conditions described, this product controls annual and perennial weeds listed in the label.

DO NOT EXCEED A MAXIMUM RATE OF 52 OUNCES PER ACRE OF THIS PRODUCT WHEN MAKING APPLICATIONS BY AIR IN FALLOW AND REDUCED TILLAGE SYSTEMS.

DO NOT EXCEED A MAXIMUM RATE OF 26 OUNCES PER ACRE OF THIS PRODUCT WHEN MAKING APPLICATIONS BY AIR IN COTTON, PRIOR TO HARVEST.

Use the specified rates of this product in 3 to 15 gallons of water per acre.

Do not apply directly to water, to areas where surface water is present or to intertidal areas below the mean high water mark. Do not contaminate water when disposing of equipment washwaters.

AVOID DRIFT – DO NOT APPLY WHEN WINDS ARE GUSTY OR UNDER ANY OTHER CONDITION WHICH WILL ALLOW DRIFT. DRIFT MAY CAUSE DAMAGE TO ANY VEGETATION CONTACTED TO WHICH TREATMENT IS NOT INTENDED. TO PREVENT INJURY TO ADJACENT DESIRABLE VEGETATION, APPROPRIATE BUFFER ZONES MUST BE MAINTAINED.

Use the following guidelines when aerial applications are made near crops or desirable perennial vegetation after bud break and before total leaf drop, and/or near other desirable vegetation or annual crops.

1. Do not apply within 100 feet of all desirable vegetation or crop(s).
2. If wind up to 5 miles per hour is blowing toward desirable vegetation or crop(s), do not apply within 500 feet of the desirable vegetation or crop(s).

(continued)

Winds blowing from 5 to 10 miles per hour toward desirable vegetation or crop(s) may require buffer zones in excess of 500 feet.

- 4. Do not apply when winds are in excess of 10 miles per hour or when inversion conditions exist. Coarse sprays are less likely to drift; therefore, do not use nozzles or nozzle configurations which dispense spray as fine spray droplets. Do not angle nozzles forward into the airstream and do not increase nozzle pressure.

Drift control additives may be used. When a drift control additive is used, read and carefully observe the cautionary statements and all other information appearing on the additive label.

Ensure uniform application – To avoid streaked, uneven or overlapped application, use appropriate marking devices.

**CALIFORNIA – Fresno County:** This section applies to aerial applications in Fresno County from February 15 through March 31 only.

For aerial application outside of these dates, refer to the "CALIFORNIA – Statewide" section.

**APPLICABLE AREA:** This supplement only applies to the area contained inside the following boundaries within Fresno County, California only. North: Fresno County line, South: Fresno County line, East: State Highway 99, West: Fresno County line.

**PRODUCT INFORMATION:** Always read and follow the label directions and precautionary statements for all products used in the aerial application. Observe the following directions to minimize off-site movement during aerial application of this herbicide. Minimization of off-site movement is the responsibility of the grower, Pest Control Advisor, and aerial applicator.

**WRITTEN RECOMMENDATIONS:** A written recommendation MUST be submitted by or on behalf of the applicator to the Fresno County Agricultural Commissioner 24 hours prior to the application. This written recommendation MUST state the proximity of surrounding crops, and that conditions of each manufacturer's applicable product label(s) and this label have been satisfied.

**AERIAL APPLICATOR TRAINING AND EQUIPMENT:** Aerial application of this herbicide is limited to pilots who have successfully completed a Fresno County Agricultural Commissioner and California Department of Pesticide Regulation approved training program for aerial application of herbicides. All aircraft must be inspected, critiqued in flight, and certified at a Fresno County Agricultural Commissioner approved fly-in. Test and calibrate spray equipment at intervals sufficient to insure that proper rates of herbicides and adjuvants are being applied during commercial use. Applicator must document such calibrations and testing. Demonstration of performance at Fresno County Agricultural Commissioner approved "fly-ins" constitutes such documentation, or other written records showing calculations and measurements of flight and spray parameters acceptable to the Fresno County Agricultural Commissioner.

**APPLICATION AT NIGHT:** Do not apply this product by air earlier than 30 minutes prior to sunrise and/or later than 30 minutes after sunset without prior permission from the Fresno County Agricultural Commissioner.

To report known or suspected misuse of this product, or for additional information on the proper aerial application of this product, call 1-800-852-5234.

Avoid direct application to any body of water.

**AVOID DRIFT – DO NOT APPLY DURING LOW-LEVEL INVERSION CONDITIONS, WHEN WINDS ARE GUSTY OR UNDER ANY OTHER CONDITION WHICH FAVORS DRIFT. DRIFT MAY CAUSE DAMAGE TO ANY VEGETATION CONTACTED TO WHICH TREATMENT IS NOT INTENDED. TO PREVENT INJURY TO ADJACENT DESIRABLE VEGETATION, APPROPRIATE BUFFER ZONES MUST BE MAINTAINED.**

Coarse sprays are less likely to drift; therefore, do not use nozzles or nozzle configurations which dispense spray as fine spray droplets.

Do not angle nozzles forward into the airstream and do not increase spray volume by increasing nozzle pressure above the manufacturer's recommendation.

Drift control additives may be used. When a drift control additive is used, read and carefully observe the precautionary statements and all other information appearing on the additive label.

**SPRAY DRIFT MANAGEMENT**

Avoiding spray drift at the application site is the responsibility of the applicator. The interaction of many equipment-and-weather-related factors determine the potential for spray drift. The applicator and the grower are responsible for considering all these factors when making decisions. The following drift management requirements must be followed to avoid off-target drift movement from aerial applications to agricultural field crops. These requirements do not apply to forestry applications, public health uses or to applications using dry formulations.

- 1. The distance of the outer most nozzles on the boom must not exceed 3/4 the length of the wingspan or rotor.
- 2. Nozzles must always point backward parallel with the air stream and never be pointed downwards more than 45 degrees. Where states have more stringent regulations, they must be observed.

**Importance of Droplet Size**

The most effective way to reduce drift potential is to apply large droplets. The best drift management strategy is to apply the largest droplets that provide sufficient coverage and control. Applying larger droplets reduces drift potential, but will not prevent drift if applications are made improperly, or under unfavorable environmental conditions (see Wind, Temperature and Humidity, and Temperature Inversion section of this label).

**Controlling Droplet Size**

**Volume:** Use high flow rate nozzles to apply the highest practical spray volume. Nozzles with higher rated flows produce larger droplets.

**Pressure:** Use the lower spray pressures recommended for the nozzle. Higher pressure reduces droplet size and does not improve canopy penetration. When higher flow rates are needed, use higher flow rate nozzles instead of increasing pressure.

**Number of Nozzles:** Use the minimum number of nozzles that provide uniform coverage.

**Nozzle Orientation:** Orienting nozzles so that the spray is released backwards, parallel to the airstream will produce larger droplets than other orientations. Significant deflection from the horizontal will reduce droplet size and increase drift potential.

**Nozzle Type:** Use a nozzle type that is designed for the intended application. With most nozzle types, narrower spray angles produce larger droplets. Consider using low-drift nozzles. Solid stream nozzles oriented straight back produce larger droplets than other nozzle types.

**Boom Length:** For some use patterns, reducing the effective boom length to less than 3/4 of the wingspan or rotor length may further reduce drift without reducing swath width.

**Application:** Applications should not be made at a height greater than 10 feet above the top of the largest plants unless a greater height is required for aircraft safety. Making applications at the lowest height that is safe reduces exposure of droplets to evaporation and wind.

*(continued)*

H-25-19

**SPRAY DRIFT MANAGEMENT (cont.)****Swath Adjustment**

When applications are made with a cross-wind, the swath will be displaced downwind. Therefore, on the up and downwind edges of the field, the applicator must compensate for this displacement by adjusting the path of the aircraft upwind. Swath adjustment distance should increase, with increasing drift potential (higher wind, smaller drops, etc.).

**Wind**

Drift potential is lowest between wind speeds of 2 to 10 mph. However, many factors, including droplet size and equipment type determine drift potential at any given speed. Application must be avoided below 2 mph due to variable wind direction and high inversion potential. **NOTE:** Local terrain can influence wind patterns. Every applicator must be familiar with local wind patterns and how they affect drift.

**Temperature and Humidity**

When making applications in low relative humidity, set up equipment to produce larger droplets to compensate for evaporation. Droplet evaporation is most severe when conditions are both hot and dry.

**Temperature Inversions**

Applications must not occur during a temperature inversion, because drift potential is high. Temperature inversions restrict vertical air mixing, which causes small suspended droplets to remain in a concentrated cloud. This cloud can move in unpredictable directions due to the light variable winds common during inversions. Temperature inversions are characterized by increasing temperatures with altitude and are common on nights with limited cloud cover and light to no wind. They begin to form as the sun sets and often continue into the morning. Their presence can be indicated by ground fog; however, if fog is not present, inversions can also be identified by the movement of smoke from a ground source or an aircraft smoke generator. Smoke that layers and moves laterally in a connected cloud (under low wind conditions) indicates an inversion, while smoke that moves upwards and rapidly dissipates indicates good vertical air mixing.

**Sensitive Areas**

The pesticide must only be applied when the potential for drift to adjacent sensitive areas (e.g., residential areas, bodies of water, known habitat for threatened or endangered species, non-target crops) is minimal (e.g. when wind is blowing away from the sensitive areas).

**Ensure uniform application** – To avoid streaked, uneven or overlapped application, use appropriate marking devices.

Thoroughly wash aircraft, especially landing gear, after each day of spraying to remove residues of this product accumulated during spraying or from spills. **PROLONGED EXPOSURE OF THIS PRODUCT TO UNCOATED STEEL SURFACES MAY RESULT IN CORROSION AND POSSIBLE FAILURE OF THE PART. LANDING GEAR ARE MOST SUSCEPTIBLE.** The maintenance of an organic coating (paint), which meets aerospace specification MIL-C-38413, may prevent corrosion.

This product plus Oust®, Banvel®, dicamba or 2,4-D tank mixtures may not be applied by air in California.

**BROADCAST EQUIPMENT**

**For control of annual or perennial weeds listed on this label using broadcast equipment** – Use the specified rates of this product in 3 to 40 gallons of water per acre as a broadcast spray unless otherwise specified on this label. See the "WEEDS CONTROLLED" section of this label for

specific rates. As density of weeds increases, spray volume should be increased within the specified range to ensure complete coverage. Carefully select proper nozzle to avoid spraying a fine mist. For best results with ground application equipment, use flat fan nozzles. Check for even distribution of spray droplets.

**CONTROLLED DROPLET APPLICATION (CDA)**

The rate of this product applied per acre by vehicle-mounted CDA equipment must not be less than the amount specified in this label when applied by conventional broadcast equipment. For vehicle-mounted CDA equipment, apply 3 to 15 gallons of water per acre.

For the control of labeled annual weeds with hand-held CDA units, apply a 20 percent solution of this product at a flow rate of 2 fluid ounces per minute and a walking speed of 1.5 MPH (1 quart per acre). For the control of labeled perennial weeds, apply a 20 to 40 percent solution of this product at a flow rate of 2 fluid ounces per minute and a walking speed of 0.75 mph (2 to 4 quarts per acre).

Controlled droplet application equipment produces a spray pattern which is not easily visible. Extreme care must be exercised to avoid spray or drift contacting the foliage or any other green tissue of desirable vegetation, as damage or destruction may result.

**HAND-HELD AND HIGH-VOLUME EQUIPMENT****Use Coarse Sprays Only.**

Mix this product in clean water and apply to foliage of vegetation to be controlled. For applications made on a spray-to-wet basis, spray coverage should be uniform and complete. Do not spray to the point of runoff.

For control of annual weeds listed on this label, apply a 0.5 percent solution of this product plus nonionic surfactant to weeds less than 6 inches in height or runner length. Apply prior to seedhead formation in grass or bud formation in broadleaf weeds. Allow three or more days before tillage or mowing.

For annual weeds over 6 inches tall, or when not using additional surfactant, or unless otherwise specified, use a 1 percent solution. For best results, use a 2 percent solution on harder-to-control perennials, such as bermudagrass, dock, field bindweed, hemp dogbane, milkweed and Canada thistle.

When using application methods which result in less than complete coverage, use a 5 percent solution for annual and perennial weeds and a 5 to 10 percent solution for woody brush and trees.

Prepare the desired volume of spray solution by mixing the amount of this product in water as shown in the following table:

**Spray Solution**

AMOUNT OF BUCCANEER 5 HERBICIDE						
Desired Volume	1/2%	1%	1-1/2%	2%	5%	10%
1 Gallon	2/3 oz.	1-1/3 oz.	2 oz.	2-2/3 oz.	6-1/2 oz.	13 oz.
25 Gallons	1 pt.	1 qt.	1-1/2 qt.	2 qt.	5 qt.	10 qt.
100 Gallons	2 qt.	1 gal.	1-1/2 gal.	2 gal.	5 gal.	10 gal.

2 tablespoons = 1 fluid ounce

For use in knapsack sprayers, it is suggested that the specified amount of this product be mixed with water in a larger container. Fill sprayer with the mixed solution.

1-25-19

**SELECTIVE EQUIPMENT**

This product may be applied through a recirculating spray system, a shielded applicator, or a wiper applicator after dilution and thorough mixing with water to listed weeds growing in any noncrop site specified on this label and only when specifically directed in cropping systems.

- A recirculating spray system directs the spray solution onto weeds growing above desirable vegetation, while spray solution not intercepted by weeds is collected and returned to the spray tank for reuse.
- A shielded applicator directs the herbicide solution onto weeds, while shielding desirable vegetation from the herbicide.
- A wiper applicator applies the herbicide solution onto weeds by rubbing the weed with an absorbent material containing the herbicide solution.

**AVOID CONTACT WITH DESIRABLE VEGETATION.**

Contact of the herbicide solution with the desirable vegetation may result in damage or destruction. Applicators used above desired vegetation should be adjusted so that the lowest spray stream or wiper contact point is at least 2 inches above the desirable vegetation.

Droplets, mist, foam, or splatter of the herbicide solution settling on desirable vegetation may result in discoloration, stunting or destruction.

Applications made above the crops (such as wiper applications) should be made when the weeds are a minimum of 6 inches above the desirable vegetation. Better results may be obtained when more of the weed is exposed to the herbicide solution. Weeds not contacted by the herbicide solution will not be affected. This may occur in dense clumps, severe infestations or when the height of the weeds varies so that not all weeds are contacted. In these instances, repeat treatment may be necessary.

**SHIELDED APPLICATORS**

When applied as directed under conditions described for shielded applicators, this product will control those weeds listed in the "WEEDS CONTROLLED" section of this label.

Use the following equation to convert from a broadcast rate per acre to a band rate per acre.

$\frac{\text{Band width in inches}}{\text{Row width in inches}}$	X	Herbicide Broadcast RATE per acre	=	Herbicide Band RATE per acre
$\frac{\text{Band width in inches}}{\text{Row width in inches}}$	X	Broadcast VOLUME of solution per acre	=	Band VOLUME of solution per acre

Use nozzles that provide uniform coverage within the treated area. Keep shields on shielded sprayers adjusted to protect desirable vegetation. **EXTREME CARE MUST BE EXERCISED TO AVOID CONTACT WITH DESIRABLE VEGETATION.**

For specific rates of application and instructions for control of various annual and perennial weeds, see the "WEEDS CONTROLLED" section of this label.

**WIPER APPLICATORS**

Wiper applicators are devices that physically wipe appropriate amounts of this product directly onto the weed.

Equipment must be designed, maintained and operated to prevent the herbicide solution from contacting desirable vegetation. Operate this equipment at ground speeds no greater than 5 mph. Performance may be

improved by reducing speed in areas of heavy weed infestations to ensure adequate wiper saturation. Better results may be obtained if 2 applications are made in opposite directions.

Avoid leakage or dripping onto desirable vegetation. Adjust height of applicator to ensure adequate contact with weeds. Keep wiping surfaces clean. Be aware that, on sloping ground, the herbicide solution may migrate, causing dripping on the lower end and drying of the wicks on the upper end of a wiper applicator.

Do not use wiper equipment when weeds are wet.

Mix only the amount of solution to be used during a 1-day period, as reduced activity may result from use of leftover solutions. Clean wiper parts immediately after using this product by thoroughly flushing with water.

Do not add surfactant to the herbicide solution.

**For Rope or Sponge wick Applicators** – Mix 0.8 gallons of this product in 1.6 gallons of water to prepare a 33 percent solution. Apply this solution to weeds listed in this "WIPER APPLICATORS" section.

**For Porous-Plastic Applicators** – Solutions ranging from 33 to 100 percent of this product in water may be used in porous plastic wiper applicators.

When applied as directed under the conditions described for "WIPER APPLICATORS", this product controls the following weeds:

**ANNUAL GRASSES**

- |   |  |
|---|--|
| <b>Corn</b><br><i>Zea mays</i>                  | <b>Rye, common</b><br><i>Secale cereale</i>  |
| <b>Panicum, Texas</b><br><i>Panicum texanum</i> | <b>Shattercane</b><br><i>Sorghum bicolor</i> |

**ANNUAL BROADLEAVES**

- |   |  |   |
|---|--|---|
| <b>Sicklepod</b><br><i>Cassia obtusifolia</i> | <b>Spanishneedles</b><br><i>Bidens bipinnata</i> | <b>Starbur, bristly</b><br><i>Acanthospermum hispidum</i> |
|---|--|---|

When applied as directed under the conditions described for "WIPER APPLICATORS", this product SUPPRESSES the following weeds:

**ANNUAL BROADLEAVES**

- |  |  |  |
|--|--|--|
| <b>Beggarweed, Florida</b><br><i>Desmodium tortuosum</i> | <b>Ragweed, common</b><br><i>Ambrosia artemisiifolia</i> | <b>Thistle, musk</b><br><i>Carduus nutans</i>    |
| <b>Dogfennel</b><br><i>Eupatorium capilliflorum</i>      | <b>Ragweed, giant</b><br><i>Ambrosia trifida</i>         | <b>Velvetleaf</b><br><i>Abutilon theophrasti</i> |
| <b>Pigweed, redroot</b><br><i>Amaranthus retroflexus</i> | <b>Sunflower</b><br><i>Helianthus annuus</i>             |  |

**PERENNIAL GRASSES**

- |  |   |   |
|--|---|---|
| <b>Bermudagrass</b><br><i>Cynodon dactylon</i> | <b>Johnsongrass</b><br><i>Sorghum halepense</i> | <b>Vaseygrass</b><br><i>Paspalum urvillei</i> |
| <b>Guineagrass</b><br><i>Panicum maximum</i>   | <b>Smutgrass</b><br><i>Sporobolus poiretii</i>  |   |

**PERENNIAL BROADLEAVES**

- |  |  |
|--|--|
| <b>Dogbane, hemp</b><br><i>Apocynum cannabinum</i> | <b>Nightshade, silverleaf</b><br><i>Solanum elaeagnifolium</i> |
| <b>Milkweed</b><br><i>Asclepias syriaca</i>        | <b>Thistle, Canada</b><br><i>Cirsium arvense</i>               |

1-25-19

**WEEDS CONTROLLED**

This herbicide controls many annual and perennial grasses and broadleaf weeds.

**ANNUAL WEEDS**

- Apply to actively growing grass and broadleaf weeds.
- Allow at least 3 days after treatment before tillage.
- For maximum agronomic benefit, apply when weeds are 6 inches or less in height.
- To prevent seed production, applications should be made prior to seedhead formation.
- This product does not provide residual control; therefore, delay application until maximum weed emergence. Repeat treatments may be necessary to control later germinating weeds.

**LOW-VOLUME BROADCAST APPLICATION  
(LOW-RATE TECHNOLOGY)**

When applied as directed under the conditions described, this product will control the weeds listed below when:

1. Water carrier volumes of 3 to 10 gallons per acre for ground applications and 3 to 5 gallons per acre for aerial applications are recommended. (See the "AERIAL APPLICATION" section of this label for approved sites.)
2. A nonionic surfactant is added at 0.375 percent by total spray volume.

**NOTE**

- The addition of 2 percent dry ammonium sulfate by weight or 17 pounds per 100 gallons of water may increase the performance of this product on annual weeds. The improvement in performance may be apparent where environmental stress is a concern. Refer to the "MIXING, ADDITIVES and APPLICATION INSTRUCTIONS" section of this label.
- Do not tank-mix with soil residual herbicides when using these rates unless otherwise specified.
- For weeds that have been mowed, grazed or cut, allow regrowth to occur prior to treatment.
- Refer to the "TANK MIXTURES" portion of this section for control of additional broadleaf weeds.

WEED SPECIES	MAXIMUM HEIGHT/LENGTH	RATE PER ACRE* (Fluid Ounces)
<b>Foxtail</b> <i>Setaria</i> spp.	12"	7 oz.
<b>Barnyardgrass</b> <i>Echinochloa crus-galli</i>	6" (0 to 4")	10 oz. 14 oz. <sup>1)</sup>
<b>Bluegrass, annual</b> <i>Poa annua</i>	(4 to 6")	20 oz. <sup>1)</sup>
<b>Brome, downy**</b> <i>Bromus tectorum</i>		
<b>Mustard, blue</b> <i>Chorispora tenella</i>		
<b>Mustard, tansy</b> <i>Descurainia pinnata</i>		
<b>Mustard, tumble</b> <i>Sisymbrium altissimum</i>		
<b>Mustard, wild</b> <i>Sinapis arvensis</i>		
<b>Spurry, umbrella</b> <i>Holosteum umbellatum</i>		

(continued)

WEED SPECIES	MAXIMUM HEIGHT/LENGTH	RATE PER ACRE* (Fluid Ounces)
<b>Barley</b> <i>Hordeum vulgare</i>	12"	
<b>Rye</b> <i>Secale cereale</i>		
<b>Shattercane</b> <i>Sorghum bicolor</i>		
<b>Stinkgrass</b> <i>Eragrostis ciliaris</i>		
<b>Wheat</b> <i>Triticum aestivum</i>	18"	
<b>Morningglory</b> <i>Ipomoea</i> spp.	2"	14 oz.
<b>Sicklepod</b> <i>Cassia obtusifolia</i>		
<b>Bluegrass, bulbous</b> <i>Poa bulbosa</i>	6"	
<b>Cheat</b> <i>Bromus secalinus</i>		
<b>Chickweed, common</b> <i>Stellaria media</i>		
<b>Chickweed, mouseear</b> <i>Cerastium vulgatum</i>		
<b>Corn</b> <i>Zea mays</i>		
<b>Goatgrass, jointed</b> <i>Aegilops cylindrica</i>		
<b>Groundsel, common</b> <i>Senecio vulgaris</i>		
<b>Henbit</b> <i>Lamium amplexicaule</i>		
<b>Horseweed/Marestail</b> <i>Conyza canadensis</i>		
<b>Lambsquarters, common</b> <i>Chenopodium album</i>		
<b>Pennycress, field</b> <i>Fanweed</i> <i>Thlaspi arvense</i>		
<b>Rocket, London</b> <i>Sisymbrium irio</i>		
<b>Ryegrass, Italian</b> <i>Lolium multiflorum</i>		
<b>Shepherdspurse</b> <i>Capsella bursa-pastoris</i>		
<b>Spurge, annual</b> <i>Euphorbia</i> spp.		

(continued)

1-25-19

WEED SPECIES	MAXIMUM HEIGHT/LENGTH	RATE PER ACRE* (Fluid Ounces)
<b>Buttercup</b> <i>Ranunculus</i> spp.	12"	
<b>Cocklebur</b> <i>Xanthium strumarium</i>		
<b>Crabgrass</b> <i>Digitaria</i> spp.		
<b>Dwarf dandelion</b> <i>Krigia cespitosa</i>		
<b>Falseflax, smallseed</b> <i>Camelina microcarpa</i>		
<b>Foxtail, Carolina</b> <i>Alopecurus carolinianus</i>		
<b>Johnsongrass, seedling</b> <i>Sorghum halepense</i>		
<b>Oats, wild</b> <i>Avena fatua</i>		
<b>Panicum, fall</b> <i>Panicum dichotomiflorum</i>		
<b>Panicum, Texas</b> <i>Panicum texanum</i>		
<b>Pigweed, redroot</b> <i>Amaranthus retroflexus</i>		
<b>Pigweed, smooth</b> <i>Amaranthus hybridus</i>		
<b>Witchgrass</b> <i>Panicum capillare</i>		
<b>Sicklepod</b> <i>Cassia obtusifolia</i>	3 to 4"	20 oz.
<b>Signalgrass, broadleaf</b> <i>Brachiaria platyphylla</i>	4"	
<b>Horseweed/Marestail</b> <i>Conyza canadensis</i>	7 to 12"	20 oz.
<b>Lambsquarters, common</b> <i>Chenopodium album</i>		
<b>Spurge, annual</b> <i>Euphorbia</i> spp.		
<b>Rice, red</b> <i>Oryza sativa</i>	4"	26 oz.
<b>Teaweed</b> <i>Sida spinosa</i>		
<b>Sprangletop</b> <i>Leptochloa</i> spp.	6"	
<b>Geranium, Carolina</b> <i>Geranium carolinianum</i>	12"	
<b>Goosegrass</b> <i>Eleusine indica</i>		
<b>Primrose, cutleaf evening</b> <i>Oenothera laciniata</i>		
<b>Pusley, Florida</b> <i>Richardia scabra</i>		
<b>Sicklepod</b> <i>Cassia obtusifolia</i>	5 to 12"	
<b>Spanishneedles</b> <i>Bidens bipinnata</i>		

WEED SPECIES	MAXIMUM HEIGHT/LENGTH	RATE PER ACRE* (Fluid Ounces)
<b>Filaree</b> <i>Erodium</i> spp.	12"	40 oz.
<b>Sprangletop</b> <i>Leptochloa</i> spp.		

<sup>1</sup>Use these rates to control barnyardgrass in Alabama, Arkansas, Mississippi, Missouri, Louisiana, and Texas for preplant treatments.  
 \*For those rates less than 27 fluid ounces per acre, this product at rates up to 27 fluid ounces per acre may be used where heavy weed densities exist.  
 \*\*For control in no-till systems, use 16 fluid ounces per acre.

**TANK MIXTURES**  
**Buccaneer 5 Herbicide plus BANVEL or dicamba plus NONIONIC SURFACTANT**

**Buccaneer 5 Herbicide plus 2,4-D plus NONIONIC SURFACTANT**

DO NOT APPLY BANVEL, DICAMBA OR 2,4-D TANK MIXTURES BY AIR IN CALIFORNIA.

This product may be tank-mixed with the listed herbicides provided the specific product is registered for use on these sites.

These tank mixtures may be used for use in fallow and reduced tillage areas only. Follow use directions as given in the "LOW-VOLUME BROADCAST APPLICATION" section.

This product plus Banvel, dicamba or 2,4-D will control the annual grasses and broadleaf weeds listed for this product alone at the indicated heights (except 8 fluid ounces per acre applications), plus the following broadleaf weeds. For those weeds previously listed at 8 fluid ounces of this product alone per acre, use 10 fluid ounces in these tank mixtures.

**NOTE:** Refer to the specific product labels for crop rotation restrictions and precautionary statements of all products used in tank mixtures. Some crop injury may occur if Banvel or dicamba is applied within 45 days of planting. The addition of Banvel or dicamba in a mixture with this product may provide short-term residual control of selected weed species.

Apply 10 to 13 fluid ounces of this product plus 0.25 pound a.i. of Banvel or dicamba or 0.5 pound a.i. of 2,4-D, plus 0.375 percent nonionic surfactant by total spray volume per acre to control dense populations of the following annual broadleaf weeds when less than the height indicated:

- |   |  |
|---|--|
| <b>Cocklebur (12")</b><br><i>Xanthium strumarium</i>        | <b>Morningglory (6")</b><br><i>Ipomoea</i> spp.                |
| <b>Kochia* (6")</b><br><i>Kochia scoparia</i>               | <b>Pigweed, redroot (12")</b><br><i>Amaranthus retroflexus</i> |
| <b>Lambsquarters (12")</b><br><i>Chenopodium album</i>      | <b>Pigweed, smooth (12")</b><br><i>Amaranthus hybridus</i>     |
| <b>Lettuce, prickly (6")</b><br><i>Lactuca serriola</i>     | <b>Thistle, Russian (12")</b><br><i>Salsola kali</i>           |
| <b>Marestail/Horseweed (6")</b><br><i>Conyza canadensis</i> |  |

\*Controlled with Banvel or dicamba tank mixture only.

Apply 14 fluid ounces of this product plus 0.5 pound a.i. of 2,4-D, plus 0.375 percent nonionic surfactant by total spray volume per acre to control the following annual broadleaf weeds when less than 6 inches in height:

- |  |  |
|--|--|
| <b>Ragweed, common</b><br><i>Ambrosia artemisiifolia</i> | <b>Smartweed, Pennsylvania</b><br><i>Polygonum pensylvanicum</i> |
| <b>Ragweed, giant</b><br><i>Ambrosia trifida</i>         | <b>Velvetleaf</b><br><i>Abutilon theophrasti</i>                 |

SB2315

#4 4/30

1-25-19

**HIGH-VOLUME BROADCAST APPLICATIONS**

When applied as directed under the conditions described, this product will control the weeds listed below when water carrier volumes are 10 to 40 gallons per acre for ground applications.

Apply 1 to 1.5 quarts of this product per acre plus 0.375 percent nonionic surfactant by total spray volume. Use 26 ounces per acre if weeds are less than 6 inches tall and 40 ounces per acre if weeds are over 6 inches tall. If weeds have been mowed, grazed or cut, allow adequate time for new growth to reach recommended stages prior to treatment. These rates will also provide control of weeds listed in the "LOW-VOLUME BROADCAST APPLICATION" section.

**WEED SPECIES**

- |   |  |
|---|--|
| <b>Balsamapple*</b><br><i>Momordica charantia</i>     | <b>Panicum</b><br><i>Panicum</i> spp.                            |
| <b>Bassia, fivehook</b><br><i>Bassia hyssopifolia</i> | <b>Ragweed, common</b><br><i>Ambrosia artemisiifolia</i>         |
| <b>Brome</b><br><i>Bromus</i> spp.                    | <b>Ragweed, giant</b><br><i>Ambrosia trifida</i>                 |
| <b>Fiddleneck</b><br><i>Amsinckia</i> spp.            | <b>Smartweed, Pennsylvania</b><br><i>Polygonum pensylvanicum</i> |
| <b>Fleabane, hairy</b><br><i>onyza bonariensis</i>    | <b>Sowthistle, annual</b><br><i>Sonchus oleraceus</i>            |
| <b>Fleabane</b><br><i>Erigeron</i> spp.               | <b>Sunflower</b><br><i>Helianthus annuus</i>                     |
| <b>Kochia</b><br><i>Kochia scoparia</i>               | <b>Thistle, Russian</b><br><i>Salsola kali</i>                   |
| <b>Lettuce, prickly</b><br><i>Lactuca serriola</i>    | <b>Velvetleaf</b><br><i>Abutilon theophrasti</i>                 |

Apply with hand-held equipment only.

**PERENNIAL WEEDS**

Apply this product as follows to control or destroy most perennial weeds.

**NOTE:** If weeds have been mowed or tilled, do not treat until plants have resumed active growth and have reached the recommended stages.

Repeat treatments may be necessary to control weeds regenerating from underground parts or seed. Repeat treatments must be made prior to crop emergence.

The addition of 1 to 2 percent dry ammonium sulfate by weight or 8.5 to 17 pounds per 100 gallons of water may increase the performance of this product on perennial weeds. The improvement in performance may be apparent where environmental stress is a concern. Refer to the "MIXING, ADDITIVES and APPLICATION INSTRUCTIONS" section of this label.

When applied as directed under the conditions described, this product WILL CONTROL the following PERENNIAL WEEDS:

- |   |   |
|---|---|
| <b>Alfalfa</b><br><i>Medicago sativa</i>                    | <b>Bermudagrass, water (knotgrass)</b><br><i>Paspalum distichum</i> |
| <b>Alligatorweed*</b><br><i>Alternanthera philoxeroides</i> | <b>Bindweed, field</b><br><i>Convolvulus arvensis</i>               |
| <b>Anise (fennel)</b><br><i>Foeniculum vulgare</i>          | <b>Bluegrass, Kentucky</b><br><i>Poa</i> spp.                       |
| <b>Artichoke, Jerusalem</b><br><i>Helianthus tuberosus</i>  | <b>Blueweed, Texas</b><br><i>Helianthus ciliaris</i>                |
| <b>Bahiagrass</b><br><i>Paspalum notatum</i>                | <b>Brackenfern</b><br><i>Pteridium aquilinum</i>                    |
| <b>Bentgrass</b><br><i>Agrostis</i> spp.                    | <b>Bromegrass, smooth</b><br><i>Bromus inermis</i>                  |
| <b>Bermudagrass</b><br><i>Cynodon dactylon</i>              |   |

(continued)

- |  |  |
|--|--|
| <b>Bursage, woollyleaf</b><br><i>Franseria tomentosa</i> | <b>Napierrgrass</b><br><i>Pennisetum purpureum</i>                                       |
| <b>Canarygrass, reed</b><br><i>Phalaris arundinacea</i>  | <b>Nightshade, silverleaf</b><br><i>Solanum elaeagnifolium</i>                           |
| <b>Cattail</b><br><i>Typha</i> spp.                      | <b>Nutsedge; purple, yellow</b><br><i>Cyperus rotundus/</i><br><i>Cyperus esculentus</i> |
| <b>Clover, red</b><br><i>Trifolium pratense</i>          | <b>Orchardgrass</b><br><i>Dactylis glomerata</i>   |
| <b>Clover, white</b><br><i>Trifolium repens</i>          | <b>Pampasgrass</b><br><i>Cortaderia</i> spp.   |
| <b>Cogongrass</b><br><i>Imperata cylindrica</i>          | <b>Paragrass</b><br><i>Brachiaria mutica</i>   |
| <b>Dallisgrass</b><br><i>Paspalum dilatatum</i>          | <b>Phragmites*</b><br><i>Phragmites</i> spp.   |
| <b>Dandelion</b><br><i>Taraxacum officinale</i>          | <b>Poison hemlock</b><br><i>Conium maculatum</i>   |
| <b>Dock, curly</b><br><i>Rumex crispus</i>               | <b>Quackgrass</b><br><i>Agropyron repens</i>   |
| <b>Dogbane, hemp</b><br><i>Apocynum cannabinum</i>       | <b>Redvine*</b><br><i>Brunnichia ovata</i>   |
| <b>Fescues</b><br><i>Festuca</i> spp.                    | <b>Reed, giant</b><br><i>Arundo donax</i>  |
| <b>Fescue, tall</b><br><i>Festuca arundinacea</i>        | <b>Ryegrass, perennial</b><br><i>Lolium perenne</i>                                      |
| <b>Guineagrass</b><br><i>Panicum maximum</i>             | <b>Smartweed, swamp</b><br><i>Polygonum coccineum</i>                                    |
| <b>Horsenettle</b><br><i>Solanum carolinense</i>         | <b>Spurge, leafy*</b><br><i>Euphorbia esula</i>  |
| <b>Horseradish</b><br><i>Armoracia rusticana</i>         | <b>Starthistle, yellow</b><br><i>Centaurea solstitialis</i>                              |
| <b>Ice plant</b><br><i>Mesembryanthemum crystallinum</i> | <b>Sweet potato, wild*</b><br><i>Ipomoea pandurata</i>                                   |
| <b>Johnsongrass</b><br><i>Sorghum halepense</i>          | <b>Thistle, Canada</b><br><i>Cirsium arvense</i>   |
| <b>Kikuyugrass</b><br><i>Pennisetum clandestinum</i>     | <b>Thistle, artichoke</b><br><i>Cynara cardunculus</i>                                   |
| <b>Knapweed</b><br><i>Centaurea repens</i>               | <b>Timothy</b><br><i>Phleum pratense</i>   |
| <b>Lantana</b><br><i>Lantana camara</i>                  | <b>Torpedograss*</b><br><i>Panicum repens</i>  |
| <b>Lespedeza</b><br><i>Lespedeza</i> spp.                | <b>Trumpetcreeper*</b><br><i>Campsis radicans</i>  |
| <b>Milkweed</b><br><i>Asclepias</i> spp.                 | <b>Vaseygrass</b><br><i>Paspalum urvillei</i>  |
| <b>Muhly, wirestem</b><br><i>Muhlenbergia frondosa</i>   | <b>Velvetgrass</b><br><i>Holcus</i> spp.   |
| <b>Mullein, common</b><br><i>Verbascum thapsus</i>       | <b>Wheatgrass, western</b><br><i>Agropyron smithii</i>                                   |

\*Partial Control



SB2315

#4 Eg : 31

1-25-19

See "DIRECTIONS FOR USE" and "MIXING, ADDITIVES and APPLICATION INSTRUCTIONS" sections of this label for labeled uses and specific application instructions.

**Alfalfa** – Apply 1 quart of this product per acre plus 0.375 percent nonionic surfactant by total spray volume in 3 to 10 gallons of water per acre. Make application after the last hay cutting in the fall. Allow alfalfa to regrow to a height of 6 to 8 inches or more prior to treatment. Applications should be followed with deep tillage at least 7 days after treatment, but before soil freeze-up.

**Alligatorweed** – Apply 3.2 quarts of this product per acre or apply a 1.5 percent solution with hand-held equipment to provide partial control. Apply when most of the plants are in bloom. Repeat applications will be required to maintain such control.

**Anise (fennel)/Poison hemlock** – Apply a 0.8 to 1.6 percent solution of this product as a spray-to-wet treatment. Optimum results are obtained when plants are treated at the bud to full-bloom stage of growth. Repeat applications may be needed in succeeding years to control plants arising from seeds.

**Bentgrass** – For suppression in grass seed production areas. For ground applications only, apply 1.25 quarts of this product plus 0.375 percent nonionic surfactant by total spray volume in 10 to 20 gallons of water per acre. Ensure entire crown area has resumed growth prior to a fall application. Bentgrass should be actively growing and have at least 3 inches of growth. Tillage prior to treatment should be avoided. Tillage 7 to 10 days after application is recommended for best results. Failure to use tillage after treatment may result in unacceptable control.

**Bermudagrass** – For control, apply 4 quarts of this product per acre. For partial control, apply 2.5 quarts per acre. Treat when bermudagrass is actively growing and seedheads are present. Retreatment may be necessary to maintain control. Allow 7 or more days after application before tillage.

**Bermudagrass, water (knotgrass)** – Apply 1.25 quarts of this product plus 0.375 percent nonionic surfactant by total spray volume in 5 to 10 gallons of water per acre. Apply when water bermudagrass is actively growing and 12 to 18 inches in length. Allow 7 or more days before tilling, flushing or flooding the field.

Fall applications only – Apply 1 quart of this product plus 0.375 percent nonionic surfactant by total spray volume in 5 to 10 gallons of water per acre. Fallow fields should be tilled prior to application. Apply prior to frost on water bermudagrass that is actively growing and 12 to 18 inches in length. Allow 7 or more days before tillage.

**Bindweed, field** – For control, apply 3.3 to 4 quarts of this product per acre west of the Mississippi River and 3 to 4 quarts east of the Mississippi River. Apply when the weeds are actively growing and are at or beyond full bloom. Do not treat when weed is under drought stress as good soil moisture is necessary for active growth. For best results, apply in late summer or fall. Fall treatments must be applied before a killing frost. Allow 7 or more days after application before tillage.

Also for control, apply 1.6 quarts of this product plus 0.5 pound a.i. of Banvel or dicamba in 10 to 20 gallons of water per acre. At these rates, apply using ground application only.

The following tank mixtures with 2,4-D may be applied using aerial application equipment (except in California) in fallow and reduced tillage systems only.

For suppression on irrigated agricultural land, apply 1 to 1.5 quarts of this product plus 1 pound a.i. of 2,4-D in 10 to 20 gallons of water per acre

with ground equipment only. Applications should be made following harvest or in fall fallow ground when the bindweed is actively growing and the majority of runners are 12 inches or more in length. The use of at least one irrigation will promote active bindweed growth.

For suppression, apply 13 fluid ounces of this product plus 0.5 pound a.i. of 2,4-D plus 0.375 percent nonionic surfactant by total spray volume in 3 to 10 gallons of water per acre for ground applications and 3 to 5 gallons of water per acre for aerial applications. Applications should be delayed until maximum emergence has occurred and when vines are between 6 to 18 inches in length.

**In California only**, apply 1 to 4 quarts of this product per acre. Actual rate needed for suppression or control will vary within this range depending on local conditions.

For suppression on irrigated land where annual tillage is performed, apply 1 quart of this product plus 0.375 percent nonionic surfactant by total spray volume in 3 to 10 gallons of water per acre. Apply to actively growing bindweed that has reached a length of 12 inches or greater. Allow maximum weed emergence and runner growth. Do not treat when weeds are under drought stress as good soil moisture is necessary for active growth. Allow 3 or more days after application before tillage.

**Bluegrass, Kentucky/Bromegrass, smooth/Orchardgrass** – Apply 1.5 quarts of this product in 10 to 40 gallons of water per acre when the grasses are actively growing and most plants have reached boot-to-early seedhead stage of development. For partial control in pasture or hay crop renovation, apply 1 to 1.25 quarts of this product plus 0.375 percent nonionic surfactant by total spray volume in 3 to 10 gallons of water per acre. Apply to actively growing plants when most have reached 4 to 12 inches in height. Allow 7 or more days after application before tillage.

**Orchardgrass (sods going to no-till corn)** – Apply 1 to 1.25 quarts of this product per acre plus 0.375 percent non-ionic surfactant by total spray volume in 3 to 10 gallons of water per acre. Apply to orchardgrass that is a minimum of 12 inches tall for spring applications and 6 inches tall for fall applications. Allow at least 3 days following application before planting. A sequential application of atrazine will be necessary for optimum results.

**Blueweed, Texas** – Apply 3 to 4.2 quarts of this product per acre west of the Mississippi River and 2.5 to 3 quarts per acre east of the Mississippi River. Apply when weed is actively growing and is at or beyond full bloom. Do not treat when weed is under drought stress as good soil moisture is necessary for active growth. New leaf development indicates active growth. For best results, apply in late summer or fall. Fall treatments must be applied before a killing frost. Allow 7 or more days after application before tillage.

**Brackenfern** – Apply 2.5 to 3 quarts of this product per acre as a broadcast spray or as a 1 to 1.5 percent solution with handheld equipment. Apply to fully expanded fronds which are at least 18 inches long.

**Bursage, woollyleaf** – For control, apply 1.6 quarts of this product plus 0.5 lb. a. i. of Banvel or dicamba per acre. For partial control, apply 1 quart of this product plus 0.5 lb. a. i. of Banvel or dicamba per acre. Add 0.375 percent nonionic surfactant by total spray volume and apply in 3 to 20 gallons of water per acre. Apply when plants are producing new active growth which has been initiated by moisture for at least 2 weeks and when plants are at or beyond flowering.

**Canarygrass, reed/Timothy/wheatgrass, western** – Apply 1.6 to 2.5 quarts of this product per acre. For best results, apply to actively growing plants when most have reached the boot-to-head stage of growth. Allow 7 or more days after application before tillage.

1-25-19

**Cogongrass** – Apply 2.5 to 4 quarts of this product plus 0.375 percent nonionic surfactant in 10 to 40 gallons of water per acre. Apply when Cogongrass is at least 18 inches tall and actively growing in late summer or fall. Allow 7 or more days after application before tillage or mowing. Due to uneven stages of growth and the dense nature of vegetation preventing good spray coverage, repeat treatments may be necessary to maintain control.

**Dandelion/Dock, curly** – Apply 2.5 to 4 quarts of this product per acre when plants are actively growing and most have reached the early bud stage of growth. Allow 7 or more days after application before tillage.

Also for control, apply 13 fluid ounces of this product plus 0.5 pound a.i. 2,4-D plus 0.375 percent nonionic surfactant by total spray volume in 3 to 10 gallons of water per acre.

**Dogbane, hemp** – Apply 3.5 quarts of this product per acre. Apply when actively growing and when most weeds have reached the late bud to flower stage of growth. Following crop harvest or mowing, allow weeds to regrow to a mature stage prior to treatment. For best results, apply in late summer or fall. Allow 7 or more days after application before tillage.

For suppression, apply 13 fluid ounces of this product plus 0.5 pound a.i. of 2,4-D plus 0.375 percent nonionic surfactant by total spray volume in 3 to 10 gallons of water per acre for ground applications and 3 to 5 gallons of water per acre for aerial applications. Delay applications until maximum emergence of dogbane has occurred.

**Fescue, tall** – Apply 2.5 quarts of this product in 10 to 40 gallons of water per acre to actively growing plants when most have reached boot-to-early seedhead stage of development.

Fall applications only – Apply 0.8 quarts of this product plus 0.375 percent nonionic surfactant by total spray volume in 3 to 10 gallons of water per acre. Apply to fescue in the fall when actively growing and plants have 6 to 12 inches of new growth. Allow 7 or more days after application before tillage. A sequential application of 0.8 pints per acre of this product plus nonionic surfactant will improve long-term control and control seedlings germinating after fall treatments or the following spring.

**Guineagrass** – Apply 2.5 quarts of this product per acre or use a 1 percent solution with hand-held equipment. Apply to actively growing guineagrass when most has reached at least the 7-leaf stage of growth. Ensure thorough coverage when using handheld equipment. Allow 7 or more days after application before tillage.

**Johnsongrass/Ryegrass, perennial** – Apply 1 to 2.5 quarts of this product per acre. In annual cropping systems apply 1 to 2 quarts of this product per acre. Apply 1 quart of this product plus 0.375 percent nonionic surfactant by total spray volume in 3 to 10 gallons of water per acre. Use 2 quarts of this product when applying 10 to 40 gallons of water per acre. In noncrop, or areas where annual tillage (no-till) is not performed, apply 2 to 2.5 quarts of this product in 10 to 40 gallons of water per acre.

For best results, apply to actively growing plants when most have reached the boot-to-head stage of growth or in the fall prior to frost. Allow 7 or more days after application before tillage. Do not tank-mix with residual herbicides when using the 1 quart per acre rate.

For burndown of Johnsongrass, apply 1 pint per acre plus 0.375 percent nonionic surfactant in 3 to 10 gallons of water per acre before the plants reach a height of 12 inches. For this use, allow at least 3 days after treatment before tillage.

Spot treatment (partial control or suppression) – Apply a 1 percent solution of this product plus 0.375 percent nonionic surfactant by total spray volume when Johnsongrass is 12 to 18 inches in height. Coverage should be uniform and complete.

**Kikuyugrass** – Apply 1.5 to 2.5 quarts of this product per acre. Spray when most kikuyugrass is at least 8 inches in height (3- or 4-leaf stage of growth) and actively growing. Allow 3 or more days after application before tillage.

**Knapweed/Horseradish** – Apply 3.5 quarts of this product per acre. Apply when actively growing and when most weeds have reached the late bud to flower stage of growth. Following crop harvest or mowing, allow weeds to regrow to a mature stage prior to treatment. For best results, apply in late summer or fall. Allow 7 or more days after application before tillage.

**Lantana** – Apply this product as a 1 to 1.25 percent solution using hand-held equipment only. Apply to actively growing lantana at or beyond the bloom stage of growth. Use the higher application rate for plants that have reached the woody stage of growth. Allow 7 or more days after application before tillage.

**Milkweed, common** – Apply 2.5 quarts of this product per acre. Apply when actively growing and most of the milkweed has reached the late bud to flower stage of growth. Following small grain harvest or mowing, allow milkweed to regrow to a mature stage prior to treatment. Allow 7 or more days after application before tillage.

**Muhly, wirestem** – Apply 1 to 1.75 quarts of this product per acre. Use 1 quart of this product plus 0.375 percent nonionic surfactant by total spray volume in 3 to 10 gallons of water per acre. Use 1.75 quarts of this product when applying 10 to 40 gallons of water per acre or in pasture, sod, or noncrop areas. Spray when the wirestem muhly is 8 inches or more in height and actively growing. Do not till between harvest and fall applications or in the fall or spring prior to spring applications. Allow 3 or more days after application before tillage. This product will not provide residual control of wirestem muhly from seeds which germinate after application of this product. Do not tank mix with residual herbicides when using the 1 quart per acre rate.

**Nightshade, silverleaf** – For control, apply 1.75 quarts of this product plus 0.375 percent nonionic surfactant by total spray volume in 3 to 10 gallons of water per acre. Applications should be made when at least 60 percent of the plants have berries. Fall treatments must be applied before a killing frost. Allow 7 or more days after application before tillage. Do not treat when weed is under drought stress as good soil moisture is necessary for active growth.

**Nutsedge; purple, yellow** – Apply 2.5 quarts of this product per acre as a broadcast spray, or apply a 1 to 2 percent solution from hand-held equipment to control existing nutsedge plants and immature nutlets attached to treated plants. Treat when plants are in flower or when new nutlets can be found at rhizome tips. Nutlets which have not germinated will not be controlled and may germinate following treatment. Repeat treatments will be required for long-term control of ungerminated tubers.

Sequential applications of 1 to 1.75 quarts of this product plus 0.375 percent nonionic surfactant by total spray volume in 3 to 10 gallons of water per acre will provide control. Make applications when a majority of the plants are in the 3- to 5-leaf stage (less than 6 inches tall). Repeat this application, as necessary, when newly emerging plants reach the 3 to 5-leaf stage. Subsequent applications will be necessary for long-term control.

For suppression to partial control of existing plants, apply 1 pint to 1.75 quarts of this product per acre, plus 0.375 percent nonionic surfactant in 3 to 40 gallons of water per acre. Treat when plants have 3 to 5 leaves and most are less than 6 inches tall. Repeat treatments will be required to control subsequent emerging plants or regrowth of existing plants. Wait 7 days after treatment before tillage or mowing.

1-25-19

**Pampasgrass/Ice plant** – Apply this product as a 1.5 to 2 percent solution using hand-held equipment. Apply to plants that are actively growing. Pampasgrass should be at or beyond the boot stage of growth. Thorough coverage is necessary for best control.

**Phragmites** – For partial control of phragmites in Florida and the counties of other states bordering the Gulf of Mexico, apply 4 quarts per acre as a broadcast spray or apply a 2 percent solution from hand-held equipment. In other areas of the U.S., apply 2.5 quarts per acre as a broadcast spray or apply a 1 percent solution from hand-held equipment for partial control. For best results, treat during late summer or fall months or when plants are actively growing and in full bloom. Treatment before or after this stage may lead to reduced control. Due to the dense nature of the vegetation, which may prevent good spray coverage or uneven stages of growth, repeat treatments may be necessary to maintain control. Visual control symptoms will be slow to develop.

**Quackgrass – In Annual Cropping Systems, or in Pastures and Sods Followed by Deep Tillage:** Apply 1 to 2 quarts of this product per acre. For the 1 quart rate, apply 0.375 percent nonionic surfactant by total spray volume in 3 to 10 gallons of water per acre. For the 2 quart rate, apply in 10 to 40 gallons of water per acre. Do not tank mix with residual herbicides when using the 1 quart rate. Spray when quackgrass is 6 to 8 inches in height and actively growing. Do not till between harvest and fall applications or in fall or spring prior to spring application. Allow 3 or more days after application before tillage. In pastures or sods, for best results use a moldboard plow.

**Quackgrass – Pasture or Sod or Other Noncrop Areas where Deep Tillage is Not Planned Following Application:** Apply 1.75 to 2.5 quarts in 10 to 40 gallons of water per acre. Spray when the quackgrass is greater than 8 inches tall and actively growing. Do not till between harvest and fall application or in fall or spring prior to spring application. Allow 3 or more days after application before tillage.

**Redvine** – For suppression, apply 20 fluid ounces of this product per acre at each of two applications 7 to 14 days apart or a single application of 2 quarts per acre. Apply specified rates in 5 to 10 gallons of water per acre plus 0.375 percent nonionic surfactant by total volume. Apply in late September or early October to actively growing plants, which are at least 18 inches tall and have been growing 45 to 60 days since the last tillage operation. Make applications at least 1 week before a killing frost.

**Reed, giant** – For control of giant reed, apply a 2 percent solution of this product when plants are actively growing. Best results are obtained when applications are made in late summer to fall.

**Smartweed, swamp** – Apply 2.5 to 4 quarts of this product per acre when plants are actively growing and most have reached the early bud stage of growth. Allow 7 or more days after application before tillage.

Also for control, apply 13 fluid ounces of this product plus 0.5 pound active ingredient of 2,4-D plus 0.375 percent nonionic surfactant by total volume in 3 to 10 gallons of water per acre in the late summer or fall. Apply when plants are actively growing and most have reached the early bud stage of growth. Allow 7 or more days after application before tillage.

**Spurge, leafy** – For suppression, apply 13 fluid ounces of this product plus 0.5 pound active ingredient 2,4-D plus 0.375 percent nonionic surfactant by total spray volume in 3 to 10 gallons of water per acre in the late summer or fall. Apply when plants are actively growing. If mowing has occurred prior to treatment, apply when most of the plants are 12 inches tall. Allow 7 or more days after application before tillage.

**Starthistle, yellow** – Best results are obtained when applications are made during periods of active growth, including the rosette, bolting and early flower stages. For spray-to-wet applications, apply this product as a 2 percent solution. For broadcast applications, apply 1.75 quarts per acre in 10 to 40 gallons per acre of water carrier.

**Sweet Potato, wild/Thistle, artichoke** – Apply this product as a 2 percent solution using hand-held equipment. Apply to actively growing weeds that are at or beyond the bloom stage of growth. Repeat applications may be required. Allow the plant to reach the recommended stage of growth before retreatment. Allow 7 or more days before tillage.

**Thistle, Canada** – Apply 1.75 to 2.5 quarts of this product per acre. Apply to actively growing thistles when most are at or beyond the bud stage of growth. After harvest, mowing or tillage in the late summer or fall, allow at least 4 weeks for initiation of active growth and rosette development prior to the application of this product. Fall treatments must be applied before a killing frost. Allow 3 or more days after application before tillage.

For suppression of Canada thistle, apply 1 quart per acre of this product, or 1 pint of this product plus 0.5 pound a.i. 2,4-D per acre, plus 0.375 percent nonionic surfactant by total spray volume in 3 to 10 gallons of water per acre in the late summer or fall after harvest, mowing or tillage. Allow rosette regrowth to a minimum of 6 inches in diameter before treating. Applications can be made as long as leaves are still green and plants are actively growing at the time of application. Allow 3 or more days after application before tillage.

**Torpedograss** – Apply 3.25 to 4 quarts of this product per acre to provide partial control of torpedograss. Apply to actively growing torpedograss when most plants are at or beyond the seedhead stage of growth. Repeat applications will be required to maintain control. Fall treatments must be applied before frost. Allow 7 or more days after application before tillage.

**Trumpet creeper** – For control, apply 1.75 quarts of this product per acre in 5 to 10 gallons of water per acre. Apply to actively growing plants in late September or October, which are at least 18 inches tall and have been growing 45 to 60 days since the last tillage operation. Make applications at least 1 week before a killing frost.

**Other perennials listed on this label** – Apply 2.5 to 4 quarts of this product per acre. Apply when actively growing and most have reached early head or early bud stage of growth. Allow 7 or more days after application before tillage.

## WOODY BRUSH AND TREES

When applied as specified under the conditions described, this product CONTROLS or PARTIALLY CONTROLS the following woody brush, plants and trees:

### Alder

*Alnus* spp.

### Ash\*

*Fraxinus* spp.

### Aspen, quaking

*Populus tremuloides*

### Bearmat (Bearclover)

*Chamaebatia foliolosa*

### Beech

*Fagus grandifolia*

### Birch

*Betula* spp.

### Blackberry

*Rubus* spp.

### Blackgum

*Nyssa* spp.

### Bracken

*Peridium* spp.

### Broom:

#### French

*Cytisus monspessulanus*

#### Scotch

*Cytisus scoparius*

### Buckwheat, California\*

*Eriogonum fasciculatum*

### Cascara\*

*Rhamnus purshiana*

(continued)

1-25-19

**Catsclaw\***  
*Acacia greggi*

**Ceanothus\***  
*Ceanothus* spp.

**Chamise**  
*Adenostoma fasciculatum*

**Cherry:**

**Bitter**  
*Prunus emarginata*

**Black**  
*Prunus serotina*

**Pin**  
*Prunus pensylvanica*

**Coyote brush**  
*Baccharis consanguinea*

**Creepers, Virginia\***  
*Parthenocissus quinquefolia*

**Dewberry**  
*Rubus trivialis*

**Dogwood\***  
*Cornus* spp.

**Elderberry**  
*Sambucus* spp.

**Elm\***  
*Ulmus* spp.

**Eucalyptus**  
*Eucalyptus* spp.

**Gorse**  
*Ulex europaeus*

**Gasardia\***  
*Haplopappus squamosus*

**Hawthorn**  
*Crataegus* spp.

**Hazel**  
*Corylus* spp.

**Hickory\***  
*Carya* spp.

**Holly, Florida/Brazilian**

**Peppertree\***  
*Schinus terebinthifolius*

**Honeysuckle**  
*Lonicera* spp.

**Hornbeam, American\***  
*Carpinus caroliniana*

**Kudzu**  
*Pueraria lobata*

**Locust, black\***  
*Robinia pseudoacacia*

**Madrone**  
*Arbutus menziesii*

**Manzanita**  
*Arctostaphylos* spp.

**Maple:**

**Red\*\***  
*Acer rubrum*

**Sugar**  
*Acer saccharum*

**Vine\***  
*Acer circinatum*

**Monkey Flower\***  
*Mimulus guttatus*

**Oak:**

**Black\***  
*Quercus velutina*

**Northern Pin**  
*Quercus palustris*

**Post**  
*Quercus stellata*

**Red**  
*Quercus rubra*

**Southern Red**  
*Quercus falcata*

**White\***  
*Quercus alba*

**Persimmon\***  
*Diospyros* spp.

**Pine**  
*Pinus* spp.

**Poison Ivy**  
*Rhus radicans*

**Poison Oak**  
*Rhus toxicodendron*

**Poplar, yellow\***  
*Liriodendron tulipifera*

**Raspberry**  
*Rubus* spp.

**Redbud, eastern**  
*Cercis canadensis*

**Rose, multiflora**  
*Rosa multiflora*

**Russian-olive**  
*Elaeagnus angustifolia*

**Sage; black, white**  
*Salvia* spp.

**Sagebrush, California**  
*Artemisia californica*

**Salmonberry**  
*Rubus spectabilis*

**Salt cedar**  
*Tamarix* spp.

**Sassafras**  
*Sassafras aibidum*

**Sourwood**  
*Oxydendrum arboreum*

**Sumac:**

**Poison\***  
*Rhus vernix*

**Smooth\***  
*Rhus glabra*

**Winged\***  
*Rhus copallina*

**Sweetgum**  
*Liquidambar styraciflua*

**Swordfern\***  
*Polystichum munitum*

**Tallowtree, Chinese**  
*Sapium sebiferum*

(continued)

**Tan Oak**  
*Lithocarpus densiflorus*

**Thimbleberry**  
*Rubus parviflorus*

**Tobacco, tree\***  
*Nicotiana glauca*

\*Partial control

\*\*See below for control or partial control instructions.

**NOTE:** If brush has been mowed or tilled or trees have been cut, treatment will not be effective until regrowth has reached the recommended stages of growth.

Apply this product when plants are actively growing and, unless otherwise directed, after full leaf expansion. Use the higher rate for larger plants and/or dense areas of growth. On vines, use the higher rate for plants that have reached the woody stage of growth. Best results are obtained when application is made in late summer or fall after fruit formation.

In arid areas, best results are obtained when application is made in the spring to early summer when brush species are at high moisture content and are flowering.

Ensure thorough coverage when using hand-held equipment. Symptoms may not appear prior to frost or senescence with fall treatments.

Allow 7 or more days after application before tillage, mowing or removal. Repeat treatments may be necessary to control plants regenerating from underground parts or seed. Some autumn colors on undesirable deciduous species are acceptable provided no major leaf drop has occurred. Reduced performance may result if fall treatments are made following a frost.

See "DIRECTIONS FOR USE" and "MIXING, ADDITIVES and APPLICATION INSTRUCTIONS" sections of this label for labeled uses and specific application instructions.

Apply this product as follows to control or partially control the following woody brush and trees:

**Alder/Dewberry/Honeysuckle/Post Oak/Raspberry** – For control, apply 2.5 to 3.25 quarts per acre of this product as a broadcast spray or as a 1 to 1.5 percent solution with hand-held equipment.

**Aspen, quaking/Cherry: bitter, black, pin/Hawthorn/Oak, southern red/Sweetgum/Trumpet creeper** – For control, apply 1.75 to 2.5 quarts of this product per acre as a broadcast spray or as a 1 to 1.5 percent solution with hand-held equipment.

**Birch/Elderberry/Hazel/Salmonberry/Thimbleberry** – For control, apply 1.75 quarts per acre of this product as a broadcast spray or as a 1 percent solution with hand-held equipment.

**Blackberry** – For control, apply 2.5 to 3.25 quarts per acre of this product as a broadcast spray, or 1 to 1.5 percent solution with hand-held equipment. Make application after plants have reached full leaf maturity. Best results are obtained when applications are made in late summer or fall. After berries have set or dropped in late fall, blackberry can be controlled by applying a 3/4 percent solution of this product plus 0.375 percent nonionic surfactant by total spray volume with hand-held equipment. For control of blackberries after leaf drop and until killing frost or as long as stems are green, apply 2.5 to 3.25 quarts of this product in 10 to 40 gallons of water per acre.

**Broom: French, Scotch** – For control, apply a 1.25 to 1.75 percent solution with hand-held equipment.

(continued)

1-25-19

**Buckwheat, California/Hasardia/Monkey Flower/Tobacco, tree** – For partial control of these species, apply a 1 to 2 percent solution of this product as a foliar spray with hand-held equipment. Thorough coverage of foliage is necessary for best results.

**Catsclaw** – For partial control, apply as a 1 to 1.5 percent solution with hand-held equipment.

**Coyote Brush** – For control, apply a 1.5 to 2 percent solution with hand-held equipment when at least 50 percent of the new leaves are fully developed.

**Eucalyptus** – For control of eucalyptus resprouts, apply a 2 percent solution of this product with hand-held equipment when resprouts are 6 to 12 feet tall. Ensure complete coverage. Apply when plants are growing actively. Avoid application to drought-stressed plants.

**Kudzu** – For control, apply 3.25 quarts of this product per acre as a broadcast spray or as a 2 percent solution with hand-held equipment. Repeat applications will be required to maintain control.

**Madrone resprouts** – For suppression or partial control, apply a 2 percent solution of this product to resprouts less than 3 to 6 feet tall. Best results are obtained with spring/early summer treatments.

**Maple, red** – For control, apply as a 1 to 1.5 percent solution with hand-held equipment when at least 50 percent of the new leaves are fully developed. For partial control, apply 1.75 to 3.25 quarts of this product per acre as a broadcast spray.

**Maple, sugar/Oak, northern pin/Oak, red** – For control, apply as a 1 to 1.5 percent solution with hand-held equipment when at least 50 percent of the new leaves are fully developed.

**Poison Ivy/Poison Oak** – For control, apply 3.25 to 4 quarts of this product per acre as a broadcast spray or as a 2 percent solution with hand-held equipment. Repeat applications may be required to maintain control. Fall treatments must be applied before leaves lose green color.

**Rose, multiflora** – For control, apply 1.75 quarts of this product per acre as a broadcast spray or as a 1 percent solution with hand-held equipment. Treatments should be made prior to leaf deterioration by leaf-feeding insects.

**Sage, black/Sagebrush, California/Chamise/Tallowtree, Chinese** – For control of these species, apply a 1 percent solution of this product as a foliar spray with hand-held equipment. Thorough coverage of foliage is necessary for best results.

**Tan oak resprouts** – For suppression or partial control, apply a 2 percent solution of this product to resprouts less than 3 to 6 feet tall.

Best results are obtained with fall applications.

**Willow** – For control, apply 2.5 quarts of this product per acre as a broadcast spray or as a 1 percent solution with hand-held equipment.

**Other woody Brush and Trees listed on this label** – For partial control, apply 1.75 to 4 quarts of this product per acre as a broadcast spray or as a 1 to 2 percent solution with hand-held equipment.

### NONCROP USES

See "PRODUCT INFORMATION" and "MIXING, ADDITIVES and APPLICATION INSTRUCTIONS" sections of this label for essential product performance information and the following "NONCROP" sections for specific uses.

EXTREME CARE MUST BE EXERCISED TO AVOID CONTACT OF SPRAY WITH FOLIAGE, GREEN STEMS, EXPOSED NON-WOODY ROOTS OR

FRUIT OF CROPS, DESIRABLE TURF GRASSES, TREES, SHRUBS OR OTHER DESIRABLE VEGETATION SINCE SEVERE DAMAGE OR DESTRUCTION MAY RESULT.

Repeat treatments may be necessary to control weeds regenerating from underground parts or seeds.

Where repeat applications are necessary, do not exceed 8.5 quarts of this product per acre per year.

This product does not provide residual weed control. For subsequent residual weed control, it is recommended that a residual herbicide program specified on this label be used. Read and carefully observe the precautionary statements and all other information appearing on the labels of all herbicides used.

### INDUSTRIAL, RECREATIONAL AND PUBLIC AREAS

When applied as directed for "NONCROP USES", under conditions described, this product controls annual and perennial weeds listed on this label growing in the following areas:

Airports	Lumberyards
Around Farm, Ranch, Commercial or Industrial Structures	Parking Areas
Around Ornamental Gardens	Parks
Around Ornamental Trees & Shrubs	Petroleum & Other Tank Farms
Ditch Banks	Pumping Installations
Driveways & Ramps	Pipeline, Power, Telephone & Utility Rights-of-Way
Dry Ditches & Canals	Preplant to Turf & Ornamental Plants
Fences & Fencerows	Railroads
Golf Courses	Schools
Gravel or Ground Bark Mulches	Sidewalks
Habitat Restoration & Management Areas	Similar Sites
Highways & Roadsides (including aprons, medians & guardrails)	Storage Areas
Industrial Plant Sites	Uncropped Farmstead Areas
Lanes, Trails & Access Roads	Utility Substations
	Vacant Lots & Wastelands

For specific rates of application and instructions for control of particular annual weeds, perennial weeds, woody brush and trees, see the "WEEDS CONTROLLED" section of this label. These applications may be made to large affected areas or as spot treatments. For general use in small areas, see alternative instructions below under "Small Area Treatment With Hand-held Sprayers".

This product is a nonselective herbicide that is diluted and applied to the foliage of actively growing weeds as a spot or broadcast application. It is absorbed by the leaves and moves throughout the stem and roots to control the entire plant. Visible symptoms may require a week or more to appear, with burndown usually occurring in 2 to 4 weeks. Symptoms are a gradual wilting and yellowing of the sprayed plant followed by deterioration of both shoots and roots. This product has no herbicidal activity in the soil and will not wash or leach to affect nearby vegetation. Any ornamental species may be planted in treated areas 7 days or more after application. For most effective results, delay mowing, clipping, tilling, planting or sodding of treated areas for at least 7 days after application. This allows time for this product to move within the plant.

Unless the "Agricultural Use Requirements" on this label are observed, the following restrictions apply:

(continued)

1-25-19

Not for use on plants being grown for sale or other commercial use, or for commercial seed production, or for research purposes. For use on plants intended for aesthetic purposes or climatic modification and being grown in ornamental gardens or parks, or on golf courses or lawns and grounds.

THIS PRODUCT CAN INJURE OR DESTROY ALL VEGETATION CONTACTED. WHEN USED AS A SPOT TREATMENT IN LAWNS, ALL VEGETATION CONTACTED WILL BE DAMAGED. AVOID SPRAY DRIFT CONTACT WITH DESIRABLE LAWN GRASSES, FLOWERS, VEGETABLES, SHRUBS OR TREES. DO NOT CONTACT GREEN BARK OF TREES OR SHRUBS. IF DESIRABLE VEGETATION IS CONTACTED, WASH IMMEDIATELY WITH WATER.

Depending on the type of noncrop application, this product may be applied with boom equipment, high-volume spray equipment and hand-held sprayers as described in the respective portions of the "APPLICATION EQUIPMENT and TECHNIQUES" section of the label. Additionally, the product may be applied with recirculating sprayers, shielded applicators, or wiper applicators in any noncrop site specified on this label. See the "Selective Equipment" part of "APPLICATION EQUIPMENT and TECHNIQUES" section of this label for information on proper use and calibration of this equipment.

**Small Area Treatment with Hand-held Sprayers** – Add 3 to 6 fluid ounces of this product plus 0.5 fluid ounce of nonionic surfactant to 1 gallon of clean water. Use the lower rate for many grasses and annual weeds. Use the higher specified rate for control of perennials and brush. Use pump-up sprayer, backpack sprayer or other sprayer suitable for small areas. Adjust equipment to deliver a coarse spray pattern. USE OF HOSE-END SPRAYERS OR SPRINKLER-TYPE DEVICES MAY RESULT IN POOR AND/OR ERRATIC RESULTS.

### TANK MIXTURES FOR INDUSTRIAL SITES AND FORESTRY SITE PREPARATIONS

#### Buccaneer 5 Herbicide plus OUST™

Use on industrial sites including airports, industrial plants, lumberyards, petroleum tank farms, pumping stations, railroads, roadsides, storage areas or other similar sites where bare ground is desired. This tank mixture may also be used as a site preparation treatment for sites to be planted to jack pine, loblolly pine, red pine, slash pine and Virginia pine. When applied as directed for "NONCROP USES" under the conditions described, this product plus Oust provides control of annual weeds listed in the "WEEDS CONTROLLED" section of the label for this product and Oust, and control or partial control of the perennial weeds listed below.

Apply 1 to 1.75 quarts of this product with 2 to 4 ounces of Oust in 10 to 40 gallons of spray solution per acre as a broadcast spray to actively growing weeds.

This mixture may be applied by aerial equipment in site prep operations. When applied by air, use the specified rates in 5 to 15 gallons of spray solution per acre.

This product plus Oust tank mixtures may not be applied by air in California.

For control of annual weeds, use the lower rates of these products.

For control of the listed perennial weeds, use the higher specified rates of both products. For partial control, use the lower rates.

#### Bahiagrass

*Paspalum notatum*

#### Bermudagrass\*

*Cynodon dactylon*

#### Broomsedge

*Andropogon virginicus*

#### Dock, curly

*Rumex crispus*

#### Dogfennel

*Eupatorium capilliflorum*

#### Fescue, tall

*Festuca arundinacea*

#### Johnsongrass\*\*

*Sorghum halepense*

#### Poorjoe\*\*

*Diodia teres*

#### Quackgrass

*Agropyron repens*

#### Trumpetcreeper\*

*Campsis radicans*

#### Vaseygrass

*Paspalum urvillei*

#### Vervain, blue

*Verbena hastata*

\*Suppression at the higher specified rates only.

\*\*Control at the lower rates.

Read and carefully observe the precautionary statements and all other information appearing on the labels of all herbicides used.

### TANK MIXTURES NONCROP SITES

When applied as a tank mixture, this product provides control of the emerged annual weeds and partial control of the emerged perennial weeds listed in this label. When applied as a tank mixture, the following residual herbicides will provide preemergence control of the weeds listed in the individual product labels:

**Buccaneer 5 Herbicide plus DIURON**

**Buccaneer 5 Herbicide plus KROVAR\* I**

**Buccaneer 5 Herbicide plus KROVAR II**

**Buccaneer 5 Herbicide plus RONSTAR\* 50wP**

**Buccaneer 5 Herbicide plus PRINCEP\* CALIBER\* 90**

**Buccaneer 5 Herbicide plus SIMAZINE 4L, 80w or 90DF**

**Buccaneer 5 Herbicide plus SURFLAN\* 75w or AS**

When tank mixing with residual herbicides, add an agriculturally approved nonionic surfactant at 0.375 percent by volume of spray solution. See the "MIXING, ADDITIVES and APPLICATION INSTRUCTIONS" section of this label before preparing these tank mixtures.

Read and carefully observe the label claims, precautionary statements, specified use rates and all other information on the labels of all products used in these tank mixtures. Use according to the most restrictive label directions for each product in the mixture.

### CONTROL OF EMERGED WEEDS

**Note:** For backpack sprayer and handgun applications, see the "HAND-HELD AND HIGH VOLUME EQUIPMENT" section for specified rates.

**Annual weeds** – Apply 1 quart per acre of this product in these tank mixtures when weeds are less than 6 inches tall and 1.25 quarts per acre when weeds are more than 6 inches tall.

**Perennial weeds** – For partial control of perennial weeds using these tank mixtures, apply 1.75 to 4 quarts per acre of this product.

Follow the instructions in the "WEEDS CONTROLLED" section of this label for stage of growth and rate of application for specific perennial weeds.

### PREEMERGENCE WEED CONTROL

For preemergence weed control, refer to the individual product labels for specific noncrop sites, rates, carrier volumes and precautionary statements.

Mix only the quantity of spray solution which can be used during the same day. Do not allow these tank mixtures to stand overnight as this may result in reduced weed control.

L25-19

## FARMSTEAD WEED CONTROL

When applied as directed for "NONCROP USES", under conditions described, this product controls undesirable vegetation listed on this label around areas such as farmstead building foundations, along and in fences, shelterbelts and for general nonselective farmstead weed control.

For specific rates of application and instructions for control of various annual and perennial weeds, see the "WEEDS CONTROLLED" section of this label.

### FARM DITCHES

This product will suppress perennial grasses along farm ditches. Apply this product at a rate of 5 to 6.75 fluid ounces per acre. Use 6.75 fluid ounces per acre when treating tall (coarse) fescue, fine fescue, orchardgrass or quackgrass covers. For best suppression of these species, add ammonium sulfate at a rate of 1.7 pounds per 10 gallons of spray solution. Use 5 fluid ounces per acre without ammonium sulfate when treating Kentucky bluegrass.

Apply treatments in 10 to 20 gallons of spray solution per acre to actively growing perennial grass covers. For best spray distribution and coverage, use flat fan nozzles.

Add a nonionic surfactant at a rate of 0.375 percent of the spray solution.

Where broadleaf weed control or suppression is desired, tank mix this product with an appropriate, labeled broadleaf weed herbicide.

### CONSERVATION RESERVE PROGRAM (CRP ACRES)

This product can be used to control undesirable vegetation when rotating out of CRP acres or to suppress competitive growth and seed production of undesirable vegetation in CRP acres.

For specific rates of application for various annual and perennial weeds, see the "WEEDS CONTROLLED" section of this label. CRP applications may be made with wiper applicators or conventional spray equipment.

For selective applications with broadcast spray equipment, apply 10 to 13 ounces per acre of this product in early spring before desirable CRP grasses, such as crested and tall wheatgrass, break dormancy and initiate green growth. Late fall applications can be made after desirable perennial grasses have reached dormancy. Some stunting of CRP perennial grasses will occur if applications are made when plants are not dormant.

### DORMANT RANGELAND

This product will control or suppress many weeds, including downy brome, cheat grass, cereal rye, medusahead rye and jointed goatgrass in dormant rangeland.

Apply 6.75 to 13 ounces per acre of this product in the early spring when the weeds have greened up, but desirable grasses, such as crested and tall wheatgrass are still truly dormant.

Slight discoloration of the desirable grasses may occur, but they will regreen and regrow under moist soil conditions as effects of this product wear off.

Do not use additional surfactant or ammonium sulfate when spraying dormant rangeland grasses with this product.

### HABITAT MANAGEMENT

This product may be used for the restoration and/or maintenance of native habitats and in wildlife management areas. Apply as specified in the "NONCROP USES" section of this label.

**Habitat Restoration and Maintenance** – When applied as directed, exotic and other undesirable vegetation may be controlled in habitat management areas. Applications can be made to allow recovery of native plant species, prior to planting desirable native species, and for similar broadspectrum vegetation control requirements in habitat management areas. Spot treatments can be made to selectively remove unwanted plants for habitat maintenance and enhancement. For spot treatments, care should be exercised to keep spray off of desirable plants.

**Wildlife Food Plots** – This product may be used as a site preparation treatment prior to planting wildlife food plots. Any wildlife food species may be planted after applying this product, or native species may be allowed to repopulate the area. If tillage is needed to prepare a seedbed, wait 7 days after applying this product before tilling.

### ORNAMENTALS, TREE NURSERIES AND CHRISTMAS TREES

DO NOT USE THIS PRODUCT FOR USE AS AN OVER-THE-TOP BROADCAST SPRAY IN ORNAMENTALS AND CHRISTMAS TREES.

**Note:** Desirable plants may be protected from the spray solution by using shields or coverings made of cardboard or other impermeable material.

When applied as instructed for the conditions described for "NONCROP USES", this product controls undesirable vegetation listed on this label prior to planting, within and around greenhouses and shadehouses, and as a postdirected spray around established ornamentals and Christmas trees.

For specific rates of application and instructions for control of various annual and perennial weeds, see the "WEEDS CONTROLLED" section of this label.

Where repeat applications are necessary, do not exceed 8.5 quarts of this product per acre per year.

**Site Preparation** – Following preplant applications of this product, any ornamental, nursery species or Christmas tree species may be planted. Precautions should be taken to protect nontarget plants during site preparation applications.

**Greenhouse/Shadehouse Use** – This product may be used to control weeds listed on this label which are growing in greenhouses. Desirable vegetation must not be present during application and air circulation fans must be turned off.

**Postdirected Spray** – Use as a postdirected spray around established woody ornamental species, nursery species or Christmas trees such as those listed below. Care must be exercised to avoid contact of spray, drift or mist with foliage of or green bark of established ornamental species.

#### Arborvitae

*Thuja* spp.

#### Azalea

*Rhododendron* spp.

#### Crabapple

*Malus* spp.

#### Euonymus

*Euonymus* spp.

#### Fir

*Abies* spp.

*Pseudotsuga* spp.

#### Hollies

*Ilex* spp.

#### Jojoba

*Simmondsia chinensis*

#### Lilac

*Syringa* spp.

#### Magnolia

*Magnolia* spp.

#### Maple

*Acer* spp.

#### Oak

*Quercus* spp.

#### Pine

*Pinus* spp.

#### Privet

*Ligustrum* spp.

#### Spruce

*Picea* spp.

#### Yew

*Taxus* spp.

## SILVICULTURAL SITES AND RIGHTS-OF-WAY

**NOTE: DO NOT USE THIS PRODUCT AS AN OVER-THE-TOP BROADCAST SPRAY IN SILVICULTURAL NURSERIES.**

When applied as directed for "NONCROP USES" under conditions described, this product controls undesirable vegetation listed on this label. This product also suppresses or controls undesirable vegetation listed on this label when applied at specified rates for release of established coniferous species listed on this label.

For specific rates of application and instructions for control of various brush, annual and perennial weeds, see the "WEEDS CONTROLLED" section of this label. For specific rates of application for release of listed coniferous species, see the "CONIFER RELEASE" part of this section of the label.

Where repeat applications are necessary, do not exceed 8.5 quarts of this product per acre per year.

**Aerial Application** – This product may be applied using aerial spray equipment for silvicultural site preparation, conifer release and rights-of-way treatments. See the "APPLICATION EQUIPMENT and TECHNIQUES" part of the "MIXING, ADDITIVES and APPLICATION INSTRUCTIONS" section of this label for information on how to apply this product by air. **DO NOT APPLY THIS PRODUCT BY AIR TO RIGHTS-OF-WAY SITES IN THE STATE OF CALIFORNIA.**

### SITE PREPARATION

Following preplant applications of this product, any silvicultural species may be planted.

### POSTDIRECTED SPRAY

In established silvicultural sites, use as a spray on the foliage of undesirable vegetation. Care must be exercised to avoid contact of spray, drift or mist with foliage or green bark of desirable species.

### CONIFER RELEASE

For release, apply only where conifers have been established for more than one year. Vegetation should not be disturbed prior to treatment or until visual symptoms appear after treatment. Symptoms of treatment are slow to appear, especially in woody species treated in late fall. Injury may occur to conifers treated for release, especially where spray patterns overlap or the higher rates are applied or when applications are made during periods of active conifer growth. **Do not use additional surfactant with conifer release applications.**

Applications must be made after formation of final conifer resting buds in the fall or prior to initial bud swelling in spring. Some autumn colors on undesirable deciduous species are acceptable provided no major leaf drop has occurred. Use the following rates for conifer release to control or partially control the weeds listed in the "WEEDS CONTROLLED" section of this label.

**For release of the following conifer species:**

<b>Douglas fir</b> <i>Pseudotsuga menziesii</i>	<b>Hemlock</b> <i>Tsuga</i> spp.	<b>Spruce</b> <i>Picea</i> spp.
<b>Fir</b> <i>Abies</i> spp.	<b>Pines*</b> <i>Pinus</i> spp.	

\*Includes all species except eastern white, loblolly, shortleaf, longleaf or slash pines.

Apply 1 to 1.75 quarts of this product per acre except in Washington and Oregon, west of the crest of the Cascade Mountains. For spring treatments west of the crest of the Cascade Mountains, apply 1 quart of

this product per acre before conifer bud swell for control of annual weeds. For fall treatments in Washington and Oregon, west of the crest of the Cascade Mountains, apply 1 to 1.25 quarts of this product per acre before any major leaf drop of deciduous species.

For release of western hemlock, apply 1 quart of this product per acre.

**For release of the following conifer species:**

<b>Loblolly pine</b> <i>Pinus taeda</i>	<b>Eastern white pine</b> <i>Pinus strobus</i>	<b>Slash pine</b> <i>Pinus elliottii</i>
--	---	---

**Late Season Application** – Apply 1 to 1.75 quarts of this product in a minimum of 5 gallons of spray solution per acre during early autumn. Applications made prior to September 1 or when conditions are conducive to rapid growth of conifers will create the potential for increased injury in the form of tip and/or needle burn. Injury may decrease with later applications. Some autumn colors are acceptable at time of application. Apply prior to frost or leaf drop of undesirable plants.

Applications made according to label directions will release loblolly pine, eastern white pine and slash pine by reducing competition from the following species:

Apply only to those sites where woody brush and trees listed in this label constitute the majority of the undesirable species.

<b>Ash</b> <i>Fraxinus</i> spp.	<b>Oak:</b>	<b>Sourwood</b> <i>Oxydendrum</i> <i>arboreum</i>
<b>Cherry:</b>	<b>Black</b> <i>Quercus velutina</i>	<b>Sumac:</b>
<b>Black</b> <i>Prunus serotina</i>	<b>Post</b> <i>Quercus stellata</i>	<b>Poison</b> <i>Rhus vernix</i>
<b>Pin</b> <i>Prunus pensylvanica</i>	<b>Southern Red</b> <i>Quercus falcata</i>	<b>Smooth</b> <i>Rhus glabra</i>
<b>Elm</b> <i>Ulmus</i> spp.	<b>White</b> <i>Quercus alba</i>	<b>Winged</b> <i>Rhus copallina</i>
<b>Hawthorn</b> <i>Crataegus</i> spp.	<b>Persimmon</b> <i>Diospyros</i> spp.	<b>Sweetgum</b> <i>Liquidambar</i> <i>styraciflua</i>
<b>Locust, black</b> <i>Robinia pseudoacacia</i>	<b>Poplar, yellow</b> <i>Liriodendron tulipifera</i>	
<b>Maple, red</b> <i>Acer rubrum</i>	<b>Sassafras</b> <i>Sassafras albidum</i>	

### Buccaneer 5 Herbicide plus Oust Tank Mixtures for Conifer Release from Herbaceous Weeds

To release loblolly pines from herbaceous weeds, tank mixtures of this product with Oust will provide control of annual weeds listed in the "WEEDS CONTROLLED" section of this and the Oust label, and partial control of the perennial weeds listed below.

Apply 13 to 20 fluid ounces of this product with 2 to 4 ounces of Oust in 10 to 30 gallons of spray solution per acre. Make application to actively growing weeds as a broadcast spray over the top of the young loblolly pines.

This product plus Oust tank mixtures may not be applied by air in California.

This tank mixture may be applied using aerial equipment. When applying by air, use the specified rate in 5 to 15 gallons of spray solution per acre.

For control of annual weeds below 12 inches in height (or runner length on annual vines), use the lower rates of both products. Use the higher rates of both products when annual weeds are in more advanced stages of growth and approaching flower or seed formation.

(continued)



1-25-19

Use the higher rates of both products for partial control of the following perennial weeds. Use the lower rates for suppression of growth.

<b>Bahiagrass</b> <i>Paspalum notatum</i>	<b>Johnsongrass*</b> <i>Sorghum halepense</i>
<b>Broomsedge</b> <i>Andropogon virginicus</i>	<b>Poorjoe*</b> <i>Diodia teres</i>
<b>Dock, curly</b> <i>Rumex crispus</i>	<b>Trumpet creeper**</b> <i>Campsis radicans</i>
<b>Dogfennel</b> <i>Eupatorium capilliflorum</i>	<b>Vaseygrass</b> <i>Paspalum urvillei</i>
<b>Fescue, tall</b> <i>Festuca arundinacea</i>	<b>Vervain, blue</b> <i>Verbena hastata</i>

\*Control at the higher rates.

\*\*Suppression at the higher rates only.

Pine damage may occur or can be accentuated if treatment takes place when young trees are under stress from drought, flood water, insects or disease.

Read and observe the cautionary statements and all other information appearing on the labels of all herbicides used.

#### NOTE TO USER

This product must not be used in areas where adverse impact on federally designated endangered/threatened plant or aquatic species is likely.

Prior to making applications, the user of this product must determine that no such species are located in or immediately adjacent to the area to be treated.

#### CUT STUMP TREATMENTS

Woody vegetation may be controlled by treating freshly cut stumps of trees and resprouts with this product. Apply this product using suitable equipment to ensure coverage of the entire cambium. Cut vegetation close to the soil surface. Apply a 50 to 100 percent solution of this product to the freshly-cut surface immediately after cutting. Delays in application may result in reduced performance. For best results, applications should be made during periods of active growth and full leaf expansion.

When used according to directions for cut stump application, this product will CONTROL, PARTIALLY CONTROL or SUPPRESS many types of woody brush and tree species, some of which are listed below:

<b>Alder</b> <i>Alnus</i> spp.	<b>Saltcedar</b> <i>Tamarisk</i> spp.
<b>Eucalyptus</b> <i>Eucalyptus</i> spp.	<b>Sweetgum</b> <i>Liquidambar styraciflua</i>
<b>Madrone</b> <i>Arbutus menziesii</i>	<b>Tan Oak</b> <i>Lithocarpus densiflorus</i>
<b>Oak</b> <i>Quercus</i> spp.	<b>Willow</b> <i>Salix</i> spp.
<b>Reed, giant</b> <i>Arundo donax</i>	

#### INJECTION AND FRILL APPLICATIONS

Woody vegetation may be controlled by injection or frill application of this product. Apply this product using suitable equipment which must penetrate into the living tissue. Apply the equivalent of 1 ml of this product per each 2 to 3 inches of trunk diameter (DBH). This is best achieved by applying a 50 to 100 percent concentration of this material either to a

continuous frill around the tree or as cuts evenly spaced around the tree below all branches. As tree diameter increases in size, better results are achieved by applying diluted material to a continuous frill or more closely spaced cuttings. Avoid application techniques that allow runoff to occur from frill or cut areas in species that exude sap freely after frills or cutting. In species such as this, make frill or cut at an oblique angle so as to produce a cupping effect and use undiluted material. For best results, application should be made during periods of active growth and after full leaf expansion.

This treatment WILL CONTROL the following woody species:

<b>Oak</b> <i>Quercus</i> spp.	<b>Sweetgum</b> <i>Liquidambar styraciflua</i>
<b>Poplar</b> <i>Populus</i> spp.	<b>Sycamore</b> <i>Platanus occidentalis</i>

This treatment WILL SUPPRESS the following woody species:

<b>Black gum</b> <i>Nyssa sylvatica</i>	<b>Hickory</b> <i>Carya</i> spp.
<b>Dogwood</b> <i>Cornus</i> spp.	<b>Maple, red</b> <i>Acer rubrum</i>

#### TURFGRASSES AND GRASSES FOR SEED PRODUCTION

##### PREPLANT AND RENOVATION

When applied as directed for "NONCROP USES", under conditions described, this product controls most existing vegetation prior to the planting or renovation of either TURFGRASSES or grass seed production areas.

For specific rates of application and instructions for control of various annual and perennial weeds, and woody brush and trees, see the "WEEDS CONTROLLED" section of this label.

For maximum control of existing vegetation, delay planting to determine if any regrowth from escaped underground plant parts occurs. Where repeat treatments are necessary, sufficient regrowth must be attained prior to application. For warm-season grasses, such as bermudagrass, summer or fall applications provide best control.

DO NOT DISTURB SOIL OR UNDERGROUND PLANT PARTS BEFORE TREATMENT. Tillage or renovation techniques such as vertical mowing, coring or slicing should be delayed for 7 days after application to allow proper translocation into underground plant parts.

##### TURFGRASSES

Where existing vegetation is growing in a field or unmowed situation, apply this product to actively growing weeds at the stages of growth listed in the "WEEDS CONTROLLED" section of this label.

Where existing vegetation is growing under mowed turfgrass management, apply this product after omitting at least one regular mowing to allow sufficient growth for good interception of the spray.

Desirable turfgrasses may be planted following the above procedures.

##### GRASSES FOR SEED PRODUCTION

Apply this product to actively growing weeds at the stages of growth recommended in the "WEEDS CONTROLLED" section of this label prior to planting or renovation of turf or forage grass areas grown for seed production.

DO NOT feed or graze treated areas within 8 weeks after application.

1-25-19

**ANNUAL WEED CONTROL IN DORMANT BERMUDAGRASS AND BAHIAGRASS TURF**

When applied as directed for "NONCROP USES" under the conditions described, this product will provide control or suppression of many winter annual weeds and tall fescue for effective release of dormant bermudagrass and bahiagrass turf. Refer to the rate table for this product alone under the "RELEASE OF BERMUDAGRASS and BAHIAGRASS" section of this label for specified rates and volumes on the species to be suppressed or controlled. Treat only when turf is dormant and prior to spring greenup. Spot treatments or broadcast applications of this product in excess of 13 fluid ounces per acre may result in injury or delayed greenup in highly maintained turfgrass areas; i.e., golf courses, lawns, etc. DO NOT APPLY TANK MIXTURES of this product plus Oust in highly maintained turfgrass areas.

**RELEASE OF BERMUDAGRASS OR BAHIAGRASS**

**NOTE:** Use only in areas where bermudagrass or bahiagrass are desirable ground covers and where some temporary injury or discoloration can be tolerated. Use tank mixtures of this product plus Oust only on railroads, highways, utility plant sites, or other right-of-way areas.

When applied as directed for "NONCROP USES" under the conditions described, this product will provide control or suppression of many winter annual weeds and tall fescue for effective release of dormant bermudagrass or bahiagrass. This product may be tank-mixed with Oust as directed for residual control. Make applications to dormant bermudagrass or bahiagrass. Tank mixtures of this product plus Oust may delay greenup. To avoid delays in greenup and minimize injury, do not add more than 1 ounce per acre of Oust on bermudagrass or more than 0.5 ounce per acre on bahiagrass, or treat when these grasses are in a semi-dormant condition.

For best results on winter annuals, treat when plants are in an early growth stage (below 6 inches in height) after most have germinated. For best results on tall fescue, treat when fescue is in or beyond the 4- to 6-leaf stage.

**WEEDS CONTROLLED**

Rates for control or suppression of winter annuals and tall fescue are listed below:

Apply the specified rates of this product alone or as a tank mixture in 10 to 25 gallons of water, plus 0.375 percent nonionic surfactant by total spray volume per acre.

**WEEDS CONTROLLED OR SUPPRESSED WITH BUCCANEER 5 ALONE\***

**NOTE:** C = Control  
S = Suppression

WEED SPECIES	BUCCANEER 5 FLUID OZ/ACRE					
	6.75	10	13	20	26	53
<b>Barley, little</b> <i>Hordeum pusillum</i>	S	C	C	C	C	C
<b>Bedstraw, catchweed</b> <i>Galium aparine</i>	S	C	C	C	C	C
<b>Bluegrass, annual</b> <i>Poa annua</i>	S	C	C	C	C	C
<b>Chervil</b> <i>Chaerophyllum tainturieri</i>	S	C	C	C	C	C
<b>Chickweed, common</b> <i>Stellaria media</i>	S	C	C	C	C	C

(continued)

WEED SPECIES	BUCCANEER 5 FLUID OZ/ACRE					
	6.75	10	13	20	26	53
<b>Clover, crimson</b> <i>Trifolium incarnatum</i>	•	S	S	C	C	C
<b>Clover, large hop</b> <i>Trifolium campestre</i>	•	S	S	C	C	C
<b>Fescue, tall</b> <i>Festuca arundinaceae</i>	•	•	•	•	S	S
<b>Geranium, Carolina</b> <i>Geranium carolinianum</i>	•	•	S	S	C	C
<b>Henbit</b> <i>Lamium amplexicaule</i>	•	S	C	C	C	C
<b>Ryegrass Italian</b> <i>Lolium multiflorum</i>	•	•	S	C	C	C
<b>Speedwell, corn</b> <i>Veronica arvensis</i>	S	C	C	C	C	C
<b>Vetch, common</b> <i>Vicia sativa</i>	•	•	S	C	C	C

\*These rates apply only to sites where an established competitive turf is present.

**WEEDS CONTROLLED OR SUPPRESSED WITH BUCCANEER 5 PLUS OUST™**

**NOTE:** C = Control  
S = Suppression

WEED SPECIES	BUCCANEER 5 (FL OZ/A) + OUST™ (Oz/A)						
	6.75	10	10	13	13	10	13
	+	+	+	+	+	+	+
<b>Barley, little</b> <i>Hordeum pusillum</i>	1/4	1/4	1/2	1/4	1/2	1	1
<b>Bedstraw, catchweed</b> <i>Galium aparine</i>	C	C	C	C	C	C	C
<b>Bluegrass, annual</b> <i>Poa annua</i>	S	C	C	C	C	C	C
<b>Chervil</b> <i>Chaerophyllum tainturieri</i>	C	C	C	C	C	C	C
<b>Chickweed, common</b> <i>Stellaria media</i>	S	C	C	C	C	C	C
<b>Clover, crimson</b> <i>Trifolium incarnatum</i>	S	S	S	S	C	C	C
<b>Clover, large hop</b> <i>Trifolium campestre</i>	•	•	S	S	S	C	C
<b>Fescue, tall</b> <i>Festuca arundinaceae</i>	•	•	•	•	•	S	S
<b>Geranium, Carolina</b> <i>Geranium carolinianum</i>	•	S	S	C	C	C	C
<b>Henbit</b> <i>Lamium amplexicaule</i>	•	S	C	C	C	C	C
<b>Ryegrass, Italian</b> <i>Lolium multiflorum</i>	•	S	S	C	C	C	C
<b>Speedwell, corn</b> <i>Veronica arvensis</i>	S	C	C	C	C	C	C
<b>Vetch, common</b> <i>Vicia sativa</i>	C	C	C	C	C	C	C

\*These rates or mixtures of rates apply only to sites where an established competitive turf is present.

L-25-19

**RELEASE OF ACTIVELY GROWING BERMUDAGRASS**

When applied as directed, this product will aid in the release of bermudagrass by providing control of annual species listed in the "WEEDS CONTROLLED" section of this and the Oust label, and suppression or partial control of certain perennial weeds.

For control or suppression of those annual species listed on this label, use 1 to 2.5 pints of this product as a broadcast spray in 10 to 25 gallons of spray solution per acre. Use the lower rate when treating annual weeds below 6 inches in height (or length of runner in annual vines). Use the higher rate as weeds increase in size or as they approach flower or seedhead formation.

Use the higher rate of this product for partial control of the following perennial species. Use the lower rates for suppression of growth. For best results, see the "WEEDS CONTROLLED" section of this label for proper stage of growth.

**Bahiagrass***Paspalum notatum***Bluestem, silver***Andropogon saccharoides***Fescue, tall***Festuca arundinacea***Johnsongrass\****Sorghum halepense***Trumpet creeper\*\****Campsis radicans***Vaseygrass***Paspalum urvillei*

\*Control at the higher rates.

\*\*Suppression at higher rates only.

This product may be tank-mixed with Oust. If tank-mixed, use no more than 1 to 1.75 pints per acre of this product with 1 to 2 ounces of Oust per acre.

Use the lower rates of both mixtures to control annual weeds below 6 inches in height (or runner length in annual vines) that are listed in the "WEEDS CONTROLLED" section of this booklet and the Oust label. Use the higher rates as annual weeds increase in size and approach the flower or seedhead stages.

Use the higher rates of this product to provide partial control of the following perennial weeds. Use the lower rates for suppression of growth.

**Bahiagrass***Paspalum notatum***Bluestem, silver***Andropogon saccharoides***Broomsedge***Andropogon virginicus***Dock, curly***Rumex crispus***Dogfennel***Eupatorium capilliflorum***Fescue, tall***Festuca arundinacea*

\*Suppression at higher rates only.

\*\*Control at the higher rates.

Use only on well-established bermudagrass. Bermudagrass injury may result from the treatment but regrowth will occur under moist conditions.

Repeat applications in the same season are not recommended, since severe injury may result.

Read and carefully observe the precautionary statements and all other information appearing on the labels of all herbicides used.

**COOL-SEASON TURF GROWTH REGULATION**

When applied as directed, this product will suppress growth and seedhead development of listed turf species in industrial sites.

This product may be used for management of coarse turf on roadside rights-of-way or other industrial areas. Do not use on high-quality turf or other areas where some turf color changes cannot be tolerated. Slight turf discoloration may occur but turf will regreen and regrow under moist conditions as effects of this product wear off.

Apply 3.75 to 5 fluid ounces of this product per acre alone or in a recommended tank mixture. Spray volumes of 10 to 40 gallons per acre are recommended.

When using this product, mix 1-1/2 quarts of a nonionic surfactant per 100 gallons of spray solution.

This product can be used for growth and seedhead suppression of:

**TALL FESCUE, SMOOTH BROME**

For best results, apply this product in a recommended tank mixture to actively growing turfgrasses after greenup in the spring of the year. For suppression of seedheads, applications must be made before boot-to-seedhead stage of development. Applications made from seedhead emergence until maturity may result in turf discoloration or injury.

After mowing or removal of seedheads, this product in a recommended tank mixture may also be used to suppress the growth of certain turfgrasses. Allow turf to recover from stress caused by heat, drought or mowing before making applications. Applications made to turf under stress may increase the potential for discoloration or injury.

**ANNUAL GRASSES**

For growth suppression of some annual grasses such as annual ryegrass, wild barley and wild oats, apply 2.5 to 3.5 fluid ounces of this product in 10 to 40 gallons of spray solution per acre. Applications should be made when annual grasses are actively growing and before the seedheads are in the boot stage of development. Treatments made after seedhead emergence may cause injury to the desired grasses.

**TANK MIXTURES**

For the following tank mixtures, consult each product label for weeds controlled and the correct stage of application. Do not treat turf under stress.

**TANK MIXTURES PLUS 2,4-D AMINE**

For additional weed control benefits, up to 1 pound a.i. per acre of 2,4-D amine may be added to the following tank mixtures. Consult the label for 2,4-D amine for weeds controlled.

This product may be tank-mixed with the listed herbicides provided the specific product is registered for use on these sites.

**TALL FESCUE****Buccaneer 5 plus Telar®**

For suppression of tall fescue growth and seedheads, and control or partial control of some annual weeds, apply this tank mixture after greenup and prior to boot-to-seedhead stage of development. Use up to 0.5 ounce of Telar per acre.

This tank mixture can also be applied after mowing or removal of tall fescue seedheads for turf growth suppression. Make only one of the above applications per growing season.

**Buccaneer 5 plus Oust®**

For suppression of tall fescue growth and seedheads, and control or partial control of some annual weeds, apply this tank mixture after greenup and prior to boot-to-seedhead stage of development. Use up to 0.25 ounce of Oust per acre.

6-25-19

**Buccaneer 5 plus Escort®**

This tank mixture can be applied after mowing or removal of tall fescue seedheads for turf growth suppression and control or partial control of some annual weeds. Use up to 1/3 ounce of Escort per acre.

**NOTE:** This product is not registered for use with Escort in California.

**SMOOTH BROME****Buccaneer 5 plus Oust®**

For suppression of smooth brome growth and seedheads and control or partial control of some annual weeds, apply this tank mixture after greenup and prior to boot-to-seedhead stage of development. Use up to 0.25 ounce of Oust per acre.

**BAHIAGRASS SEEDHEAD AND VEGETATIVE SUPPRESSION**

When applied as directed in the indicated noncrop areas (roadsides, airports, golf course roughs, plant sites that are not high quality turfgrasses), this product will provide significant inhibition of seedhead emergence and will suppress vegetative growth for a period of approximately 45 days with single applications and approximately 120 days with sequential applications.

Apply this product 1 to 2 weeks after full greenup of bahiagrass or after the bahiagrass has been mowed to a uniform height of 3 to 4 inches. Applications must be made prior to seedhead emergence. Apply 5 fluid ounces per acre of this product plus 0.375 percent nonionic surfactant by total spray volume in 10 to 25 gallons of water per acre.

Sequential applications of this product plus 0.375 percent nonionic surfactant by total spray volume may be made at approximately 45 day intervals to extend the period of seedhead and vegetative growth suppression. For continued seedhead suppression, sequential applications must be made prior to seedhead emergence. Apply no more than 2 sequential applications per year. As a first sequential application, apply 4 fluid ounces of this product per acre plus nonionic surfactant. A second sequential application of 1.75 to 3.5 fluid ounces per acre plus nonionic surfactant may be made approximately 45 days after the last application.

A tank mixture of this product plus Oust **may be applied only on roadsides** for seedhead inhibition and vegetative suppression. Apply 5 fluid ounces per acre of this product plus 0.25 ounce per acre of Oust, plus 0.375 percent nonionic surfactant by total spray volume 1 to 2 weeks following an initial spring mowing. When using this product plus Oust for suppression of bahiagrass, make only 1 application per year.

**CROPPING SYSTEMS**

When applied as directed for "CROPPING SYSTEMS", under the conditions described, this product controls annual and perennial weeds listed on this label, prior to the emergence of direct seeded crops or prior to transplanting of crops listed on this label. In-crop application to Roundup Ready alfalfa, canola, corn, cotton and soybeans may be made according to the directions given in those respective sections below.

See "PRODUCT INFORMATION" and "MIXING, ADDITIVES and APPLICATION INSTRUCTIONS" sections of this label for essential product performance information.

See the following "CROPPING SYSTEMS" sections for specific uses.

**EXTREME CARE MUST BE EXERCISED TO AVOID CONTACT OF SPRAY WITH FOLIAGE, GREEN STEMS OR FRUIT OF DESIRABLE CROPS, PLANTS, TREES OR OTHER DESIRABLE VEGETATION SINCE SEVERE DAMAGE OR DESTRUCTION MAY RESULT.**

Repeat treatments may be necessary to control weeds regenerating from underground parts or seed. Except as otherwise specified on this label, repeat treatments must be made before the crop emerges in accordance with the instructions of this label.

Except as otherwise specified in a crop section of this label, the combined total of all treatments must not exceed 6.5 quarts per acre of this product per year.

For any crop not listed below, applications must be made at least 30 days prior to planting.

Do not harvest or feed treated vegetation for 8 weeks following application. Following spot treatment or selective equipment use, allow 14 days before grazing domestic livestock or harvesting forage grasses and legumes.

**ROW CROPS**

CORN (ALL)\*  
COTTON\*  
PEANUTS  
SORGHUM (MILO)\*  
SOYBEANS\*  
SUGARCANE\*

**CITRUS**

CALAMONDIN  
CHIRONJA  
CITRON  
GRAPEFRUIT  
KUMQUAT  
LEMON  
LIME  
MANDARIN ORANGE  
ORANGE (ALL)  
PUMMELO  
TANGELO  
TANGERINE  
TANGORS

**CEREAL GRAINS**

BARLEY\*  
BUCKWHEAT\*  
MILLET (PEARL, PROSO)\*  
OATS\*  
RICE\*\*  
RYE\*  
TRITICALE\*  
WHEAT (ALL)\*  
WILD RICE\*

**SMALL FRUITS AND BERRIES**

BLACKBERRY  
BLUEBERRY  
BOYSENBERRY  
CRANBERRY  
CURRANT  
DEWBERRY  
ELDERBERRY  
GOOSEBERRY  
HUCKLEBERRY  
LOGANBERRY  
OLALLIEBERRY  
RASPBERRY (BLACK, RED)

**TREE NUTS**

ALMOND

**TREE NUTS (cont.)**

BEECHNUT  
BRAZIL NUT  
BUTTERNUT  
CASHEW  
CHESTNUT  
CHINQUAPIN  
FILBERT (HAZELNUT)  
HICKORY NUT  
MACADAMIA  
PECAN  
PISTACHIO  
WALNUT (BLACK, ENGLISH)

**TREE FRUITS**

APPLE  
APRICOTS  
CHERRY (SWEET, SOUR)  
LOQUAT  
MAYHAW  
NECTARINE  
OLIVE  
PEACH  
PEAR  
PLUM/PRUNE (ALL)  
QUINCE

**VEGETABLES**

ARTICHOKE, JERUSALEM  
ASPARAGUS\*  
BEANS (ALL)  
BEET GREENS  
BEETS (RED, SUGAR)  
BROCCOLI (ALL)  
BRUSSELS SPROUTS  
CABBAGE (ALL)  
CABBAGE, CHINESE  
CANTALOUPE\*\*\*  
CARROT  
CAULIFLOWER  
CASABA MELON\*\*\*  
CELERIAC  
CELERY  
CHARD, SWISS  
CHICORY  
COLLARDS  
CRENSHAW MELON\*\*\*

(continued)

**VEGETABLES (cont.)**

- CUCUMBER\*\*\*
- EGGPLANT\*\*\*
- ENDIVE
- GARLIC\*\*\*
- GOURDS\*\*\*
- GROUND CHERRY\*\*\*
- HONEYDEW MELON\*\*\*
- HONEY BALL MELON\*\*\*
- HORSERADISH
- KALE
- KOHLRABI
- LEEK
- LENTILS
- LETTUCE
- MANGO MELON\*\*\*
- MELONS (ALL)\*\*\*
- MUSKMELON\*\*\*
- MUSTARD GREENS
- OKRA
- ONION
- PARSLEY
- PARSNIPS
- PEAS (ALL)
- PEPPER (ALL)\*\*\*
- PERSIAN MELON\*\*\*
- POTATO (IRISH, SWEET)
- PUMPKIN\*\*\*
- RADISH
- RAPE GREENS
- RHUBARB
- RUTABAGA
- SHALLOT
- SPINACH (ALL)
- SQUASH  
(SUMMER, WINTER)\*\*\*
- TOMATILLO\*\*\*
- TOMATO\*\*\*†
- TURNIP
- WATERCRESS\*\*\*
- WATERMELON\*\*\*
- YAMS

**VINE CROPS**

- GRAPES
- KIWI FRUIT

**FORAGE CROPS AND LEGUMES**

- ALFALFA\*
- FORAGE GRASSES\*
- FORAGE LEGUMES\*

**TROPICAL CROPS**

- ACEROLA
- ATEMOYA
- AVOCADO
- BANANA (PLANTAINS)
- BREADFRUIT
- CANISTEL
- CARAMBOLA
- CHERIMOYA
- COCOA BEANS
- COFFEE
- DATES
- FIGS
- GENIP
- GUAVA
- JABOTICABA
- JACKFRUIT
- LONGAN
- LYCHEE
- MANGO
- PAPAYA
- PASSION FRUIT
- PERSIMMONS
- PINEAPPLE\*\*\*\*
- POMEGRANATE
- SAPODILLA
- SAPOTE  
(BLACK, MAMEY, WHITE)
- SOURSOP
- SUGAR APPLE
- TAMARIND
- TEA

For dilution and rates of application using boom or hand-held equipment, see "MIXING, ADDITIVES and APPLICATION INSTRUCTIONS" and "WEEDS CONTROLLED" sections of this label.

**NOTE:** FOR FORAGE GRASSES AND FORAGE LEGUMES, NO MORE THAN ONE-TENTH OF ANY ACRE SHOULD BE TREATED AT ONE TIME. FOR ALL OTHER CROPS, DO NOT TREAT MORE THAN 10 PERCENT OF THE TOTAL FIELD AREA TO BE HARVESTED.

THE CROP RECEIVING SPRAY IN TREATED AREA WILL BE KILLED. TAKE CARE TO AVOID DRIFT OR SPRAY OUTSIDE TARGET AREA FOR THE SAME REASON.

**Selective Equipment** – This product may be applied through recirculating sprayers, shielded applicators or wiper applicators in cotton and soybeans. Shielded and wiper applicators may also be used in tree crops and grapes. Wiper applicators may be used in wheat, rutabagas, forage grasses and forage legumes, including pasture sites and grain sorghum (milo).

See the "SELECTIVE EQUIPMENT" part of the "APPLICATION EQUIPMENT and TECHNIQUES" section of this label for information on proper use and calibration of this equipment.

Allow at least the following time intervals between application and harvest:

Cotton, Soybeans	7 days
Apples, Citrus, Pear	1 day
Atemoya, Avocado, Breadfruit, Canistel, Carambola, Cherry, Grapes, Dates, Jaboticaba, Jackfruit, Longan, Lychee, Passion Fruit, Persimmons, Rutabagas, Sapodilla, Sapote, Soursop, Sugar Apple, Tamarind	14 days
Stone Fruit	17 days
Nut Crops	3 days
Wheat <sup>1</sup>	35 days
Sorghum (milo) <sup>1,2</sup>	40 days

<sup>1</sup> Do not use roller applicators.

<sup>2</sup> Do not feed or graze treated milo fodder. Do not ensile treated vegetation.

**ROUNDUP® READY CROPS  
RESTRICTIONS AND LIMITATIONS**

USE THIS PRODUCT FOR POSTEMERGENCE APPLICATION ONLY ON CROP VARIETIES DESIGNATED AS CONTAINING A ROUNDUP READY GENE.

Applying this product to crop varieties that are not designated as Roundup Ready will result in severe crop injury and yield loss. Avoid contact with foliage, green stems, or fruit of crops, or any desirable plants that do not contain a Roundup Ready gene, since severe injury or destruction will result.

The Roundup Ready designation indicates that the crop variety contains a patented gene that provides tolerance to this product. Information on Roundup Ready crop varieties may be obtained from your seed supplier. Roundup Ready crop varieties must be purchased from an authorized licensed seed supplier.

**For Ground Applications:** Use the required rates of this product in 5 to 20 gallons of spray solution per acre as a broadcast spray. Carefully select correct nozzles and spray pressure to avoid spraying a fine mist. Check for even distribution of spray droplets.

- \* Spot treatments may be applied in these crops.
- \*\* Do not treat rice fields or levees when the fields contain flood water.
- \*\*\* Apply only prior to planting. Allow at least 3 days between application and planting.
- \*\*\*\* Do not feed or graze treated pineapple forage following application.
- † Use is restricted to direct seeded crops only.

When applying this product prior to transplanting crops into plastic mulch, care must be taken to remove residues of this product from the plastic prior to transplanting. Residues can be removed by 0.5 inch natural rainfall or by applying water via a sprinkler irrigation system.

**Spot Treatment** (Only those crops with " \* " can be spot treated.) – Applications in growing crops must be made prior to heading of small grains and milo, initial pod set in soybeans, silking of corn, or boll opening on cotton.

For forage grasses and forage legumes see "SPOT TREATMENT" in the "PASTURES" section of "CROPPING SYSTEMS" in this label.

SB2315

#4 Pg 44

F-25-19

**or Aerial Applications:** Use the required rates of this product in 3 to 15 gallons of spray solution per acre. See "Application Equipment and Techniques" section of this label for procedures to avoid spray drift that may cause injury to any vegetation not intended for treatment. Use of appropriate buffer zones will help prevent injury to adjacent vegetation.

**AVOID DRIFT. EXTREME CARE MUST BE USED WHEN APPLYING THIS PRODUCT TO PREVENT INJURY TO DESIRABLE PLANTS AND CROPS WHICH DO NOT CONTAIN THE ROUNDUP READY GENE.**

See the "Mixing, Additives and Application Instructions" sections of the label for additional directions and restrictions on the application of this product.

Tank mixtures with other herbicides, insecticides, fungicides, micronutrients or foliar fertilizers may result in reduced weed control or crop injury and are NOT for over-the-top applications of this product unless otherwise noted on this product label, supplemental labeling or fact sheets published separately.

Ammonium sulfate may be mixed with this product for applications to Roundup Ready crops. Refer to the "Mixing" section for use instructions for ammonium sulfate.

**Sprayer Preparation:** It is important that sprayer and mixing equipment be clean and free of pesticide residue before making applications of this product. Follow the cleaning procedures specified on the label of the product(s) previously used. **THOROUGHLY CLEAN THE SPRAY TANK AND ALL LINES AND FILTERS TO ELIMINATE POTENTIAL CONTAMINATION FROM OTHER HERBICIDES PRIOR TO MIXING AND APPLYING THIS PRODUCT.**

**NOTE:** The following directions are based on a clean start at planting by using a burndown application or tillage to control existing weeds before crop emergence. In no-till and stale seedbed systems, a replant burndown treatment of this product may be needed to control existing weeds prior to crop emergence. Some weeds, such as black nightshade, broadleaf signalgrass, sicklepod, Texas panicum, sandbur, annual morningglory, woolly cupgrass, shattercane, wild proso millet, burcucumber, and giant ragweed with multiple germination times or suppressed (stunted) weeds may require a second application of this product for complete control. The second application should be made after some regrowth has occurred and at least 10 days after a previous application of this product.

**APPLICATIONS TO ALFALFA WITH THE ROUNDUP READY GENE**

**TYPES OF APPLICATIONS:** Preplant, At-planting, Preemergence, Post-emergence (In-crop)

**USE INSTRUCTIONS:** Refer to the following table for the maximum application rates of this product.

Maximum Application Rates	
Combined total per year for all applications, including Preplant during year of establishment	6.4 quarts per acre
Combined total per year for in-crop applications for newly established and established stands	4.8 quarts per acre (153 fluid ounces per acre)
Preplant, At-Planting and Preemergence single applications	51 fluid ounces per acre

**PRECAUTIONS AND RESTRICTIONS:** See label for general precautionary instructions for use in Roundup Ready crops. Refer to other applicable sections of the label for more information on Maximum Application Rates.

**Preplant, At-Planting, Preemergence**

**USE INSTRUCTIONS:** This product may be applied before, during or after planting Roundup Ready alfalfa.

**Postemergence (In-crop)**

**USE INSTRUCTIONS:** Applications of this product may be made over the top of Roundup Ready alfalfa (in-crop) from emergence until 5 days prior to cutting. To maximize crop yield and quality potential of forage and hay, applications of this product should be made after weeds have emerged but before alfalfa growth or re-growth interferes with spray coverage of the target weeds.

Refer to the "Annual Weeds Rate Section" and "Perennial Weeds Rate Section" in the label for specified rates for specific weeds. When applied as directed, this product will control these annual and perennial grasses and broadleaf weeds. In addition to those weeds listed in these sections, this product will suppress or control the parasitic weed Dodder (*Cuscuta* spp.) in Roundup Ready alfalfa. Repeat applications may be necessary for complete control.

**New Stand Establishment (Seeding Year):** Due to the biology and breeding constraints of alfalfa, up to 10 percent of the seedlings may not contain a Roundup Ready gene and will not survive after the first application of this product. To eliminate the undesirable effects of stand gaps created by this loss of plants, a single application of at least 25 fluid ounces per acre of this product should be applied at or before the 4-trifoliolate growth stage. Refer to the following table for application rates during stand establishment (seeding year).

NEW STAND ESTABLISHMENT (Seeding Year) Application Rates	
<b>Prior to First Cutting</b>	
From emergence up to 4 trifoliolate leaves	25 to 51 fluid ounces per acre
From 5 trifoliolate leaves before first cutting	Up to 51 fluid ounces per acre
<b>After First Cutting</b>	
In-crop application, per cutting up to 5 days before cutting	Up to 51 fluid ounces per acre

**Established Stands (Non-seeding Year):** Refer to the following table for directions and application rates for in-crop applications to established stands of alfalfa non-seeding year.

ESTABLISHMENT (Non-Seeding Year) Application Rates	
In-crop applications, per cutting, up to 5 days before cutting	Up to 51 fluid ounces per acre

**PRECAUTIONS, RESTRICTIONS:** Where Roundup Ready alfalfa is grown with a companion or cover crop, or is overseeded with a second species, in-crop (over-the-top) applications of this product will eliminate the non-Roundup Ready (non-glyphosate tolerant) species. Any single in-crop application of this product should not exceed 51 fluid ounces per acre. Sequential applications of this product should be at least 7 days apart. The combined total per year for all in-crop applications in both newly established (seeding year) and established stands (non-seeding year) must not exceed 4.8 quarts (153 fluid ounces) per acre. Remove domestic livestock before application. Wait a minimum of 5 days after last application before grazing, or cutting and feeding of forage and hay.

SB2315

#4

45

1-25-19

**ROUNDUP READY CANOLA (SPRING VARIETIES)**

Roundup Ready spring canola is defined as those Roundup Ready canola varieties that are seeded in the spring and harvested in the fall and do not enter a winter dormancy period.

DO NOT USE THIS PRODUCT ON SPRING CANOLA WITH A ROUNDUP READY GENE PLANTED IN THE FOLLOWING STATES: ALABAMA, DELAWARE, FLORIDA, GEORGIA, KENTUCKY, MARYLAND, NEW JERSEY, NORTH CAROLINA, SOUTH CAROLINA, TENNESSEE, VIRGINIA AND WEST VIRGINIA, EXCEPT FOR USES IN WILDLIFE FOOD PLOTS THAT WILL NOT BE HARVESTED FOR HUMAN OR LIVESTOCK FOOD.

TYPES OF APPLICATIONS: Preplant, At-Planting, Preemergence, Postemergence (In-crop).

USE INSTRUCTIONS: Refer to the following table for the maximum application rates for this product with Roundup Ready canola (spring varieties).

Maximum Application Rates	
Total of all Preplant, At-Planting, Preemergence applications	51 fluid ounces per acre
Total of all In-crop applications from emergence to 6-leaf stage	25 fluid ounces per acre

PRECAUTIONS, RESTRICTIONS: See label for general precautionary instructions for use in Roundup Ready crops. Refer to other applicable sections of the label for more information on Maximum Application Rates.

**Preplant, At-Planting, Preemergence**

USE INSTRUCTIONS: This product may be applied before, during or after planting Roundup Ready spring canola.

PRECAUTIONS, RESTRICTIONS: Maximum quantity of this product that may be applied for all preplant, at-planting and preemergence applications combined is 51 fluid ounces per acre per season.

**Postemergence (In-crop)**

USE INSTRUCTIONS: This product may be applied postemergence to Roundup Ready spring canola from emergence through the 6-leaf stage of development. Applications made during bolting or flowering may result in crop injury and yield loss. To maximize yield potential, make applications early to eliminate competing weeds.

Single Application: Apply 12 to 19 fluid ounces of this product per acre no later than the 6-leaf stage for the control of annual weeds. Avoid overlapping applications as this may result in temporary yellowing, delayed flowering, and/or growth reduction. Similar crop injury may result when applications of more than 12 fluid ounces per acre are applied after the 4-leaf stage.

Sequential Applications: Apply 12 fluid ounces of this product per acre to 1- to 3-leaf canola followed by a sequential application at a minimum interval of 10 days, but no later than the 6-leaf stage. Sequential applications are recommended for early emerging annual weeds and perennial weeds such as Canada thistle and quackgrass, or when multiple applications are needed for adequate weed control.

PRECAUTIONS, RESTRICTIONS: No more than two in-crop (over-the-top) broadcast applications may be made from crop emergence through the 6-leaf stage of development, and the total of all in-crop applications should not exceed 25 fluid ounces of this product per acre. Allow a minimum of 60 days between last application and canola harvest.

**ROUNDUP READY CANOLA (WINTER VARIETIES)**

Roundup Ready winter canola is defined as those Roundup Ready canola varieties that are seeded in early fall and harvested the following spring or summer. Winter canola varieties are intended to enter a cold period dormancy in the winter.

TYPES OF APPLICATIONS: Preplant, At-Planting, Preemergence, Postemergence (In-crop).

USE INSTRUCTIONS: Refer to the following table for the maximum application rates of this product with Roundup Ready canola (winter varieties).

Maximum Application Rates	
Total of all Preplant, At-Planting, Preemergence applications	51 fluid ounces per acre
Total of all In-crop applications from emergence to canopy closure or prior to bolting in the spring	51 fluid ounces per acre

PRECAUTIONS, RESTRICTIONS: See label for general precautionary instructions for use in Roundup Ready crops. Refer to other applicable sections of the label for more information on Maximum Application Rates.

**Preplant, At-Planting, Preemergence**

USE INSTRUCTIONS: This product may be applied before, during or after planting Roundup Ready winter canola.

PRECAUTIONS, RESTRICTIONS: Maximum quantity of this product that may be applied for all preplant, at-planting and preemergence applications combined is 51 fluid ounces per acre per season.

**Postemergence (In-crop)**

USE INSTRUCTIONS: This product may be applied to Roundup Ready winter canola varieties from emergence to canopy closure in the fall and prior to bolting in the spring. Applications made during or after bolting may result in crop injury and yield loss. To maximize yield potential, make applications early to eliminate competing weeds.

Some weeds with multiple germination times, or suppressed (stunted) weeds, or weeds that have overwintered may require sequential applications of this product for control. The second application should be made after some regrowth has occurred and at least 60 days after a previous application of this product.

Single Application: Apply 19 to 25 fluid ounces of this product per acre in the fall. Applications in the fall should be made when weeds are small and actively growing. Use the higher rate in the recommended range when weed densities are high, when weeds have overwintered or when weeds become large and well established. Applications of greater than 17 fluid ounces per acre prior to the 6-leaf stage may result in reduced crop growth in the fall. Avoid spray overlaps. Spray overlaps may result in temporary yellowing and/or growth reduction.

Sequential Applications: Apply 12 to 25 fluid ounces of this product per acre to 2-leaf or larger canola in the fall, followed by a sequential application at the same rate and at a minimum interval of 60 days, but before bolting in the spring. Sequential applications are recommended for early emerging annual weeds and winter emerging weeds such as downy brome, jointed goatgrass and ryegrass, and for weeds that have overwintered. This product will control or suppress most perennial weeds. For some perennial weeds, sequential applications may be required to reduce competition with the crop.

(continued)

1-25-19

**PRECAUTIONS, RESTRICTIONS:** No more than two over-the-top broadcast applications may be made from crop emergence up to the onset of bolting, and the total in-crop application must not exceed 48 fluid ounces of this product per acre. Applications of greater than 19 fluid ounces per acre prior to the 6-leaf stage may result in reduced crop growth in the fall. Allow a minimum of 60 days between last application and harvest of canola grain. No waiting period is required between application and open grazing of livestock.

## POSTEMERGENCE APPLICATIONS TO CORN WITH THE ROUNDUP READY GENE

### PRODUCT INFORMATION

- Applying this product to corn hybrids which are not designated as Roundup Ready will result in severe crop injury and yield loss.
- The Roundup Ready designation indicates that the corn contains a patented gene which provides tolerance to this herbicide.

Information on Roundup Ready corn may be obtained from your seed supplier. This product may be applied postemergence to Roundup Ready corn from emergence through the V8 stage (8 leaves with collars) or until corn height reaches 30 inches, whichever comes first. Single in-crop applications of this product are not to exceed 0.8 quarts per acre. Sequential in-crop applications of this product from emergence through the V8 stage or 30 inches must not exceed 1.6 quarts per acre per growing season.

### APPLICATION INSTRUCTIONS

#### Maximum Allowable Yearly Rates:

- **Preplant:** Maximum amount of this product which can be applied prior to crop emergence is 4 quarts per acre.
- **In-crop:** Maximum combined total of multiple in-crop applications from emergence through the V8 stage or 30 inches is 1.6 quarts per acre.
- **Preharvest:** Maximum amount of this product that can be applied after maximum kernel fill is complete and the crop is physiologically mature (black layer formation) until 7 days before harvest is 0.8 quarts per acre.
- **Cropping Season:** Combined total per year for all applications may not exceed 6.5 quarts per acre.

When applied as directed, this product controls labeled annual grass and broadleaf weeds in Roundup Ready corn. Many perennial grasses and broadleaf weeds will be controlled or suppressed with one or more applications of this product. Applications should be made to actively growing weeds before they reach the maximum size listed in the label booklet. Refer to the label booklet for proper use instructions.

The addition of 1 to 2 percent dry ammonium sulfate by weight or 8.5 to 17 pounds per 100 gallons of water may increase the performance of this product under hard water conditions, drought conditions or when tank mixed with Bullet®, Micro-Tech® or Partner® herbicides. Ensure that ammonium sulfate is completely dissolved in the spray tank before adding herbicides. Thoroughly rinse the spray system with clean water after use to reduce corrosion. The addition of other additives, including fertilizers and micronutrients is not recommended with this product since they may result in increased potential for crop injury.

Allow a minimum of 50 days between application of the product and harvest of corn forage and 7 days between application and harvest of corn grain.

Allow a minimum of 10 days between in-crop applications of this product. There are no rotational crop restrictions following applications of this product.

**ATTENTION: AVOID DRIFT. EXTREME CARE MUST BE USED WHEN APPLYING THIS PRODUCT TO PREVENT INJURY TO DESIRABLE PLANTS AND CROPS WHICH DO NOT CONTAIN THE ROUNDUP READY GENE. THOROUGHLY CLEAN THE SPRAY TANK AND ALL LINES AND FILTERS TO ELIMINATE POTENTIAL CONTAMINATION FROM OTHER HERBICIDES PRIOR TO MIXING AND APPLYING THIS PRODUCT.**

**For ground applications:** Use the specified rates of this product in 5 to 20 gallons of spray solution per acre as a broadcast spray. Carefully select correct nozzles and spray pressure to avoid spraying a fine mist. Check for even distribution of spray droplets.

**For aerial applications:** Use the specified rates of this product in 3 to 15 gallons of spray solution per acre but do not exceed 0.8 quarts of product per acre. Refer to label booklet for weeds controlled or suppressed. **AVOID DRIFT – DO NOT APPLY DURING INVERSION CONDITIONS, WHEN WINDS ARE GUSTY OR UNDER ANY OTHER CONDITIONS WHICH FAVOR DRIFT. DRIFT MAY CAUSE DAMAGE TO ANY VEGETATION CONTACTED TO WHICH TREATMENT IS NOT INTENDED. TO PREVENT INJURY TO ADJACENT VEGETATION, APPROPRIATE BUFFER ZONES MUST BE MAINTAINED.**

### WEED CONTROL INFORMATION

Apply 20 to 26 fluid ounce of this herbicide per acre for control of labeled grasses and broadleaf weeds in conventional and no-till corn production systems. Refer to the label booklet for rates for specific annual weeds. Up to 0.8 quarts per acre will control or suppress the growth of perennial weeds such as: bermudagrass, Canada thistle, common milkweed, field bindweed, hemp dogbane, horsenettle, nutsedge, quackgrass, rhizome johnsongrass, redvine, trumpetcreeper, swamp smartweed, and wirestem muhly. For additional information on perennial weeds, see the label booklet.

#### Preemergence followed by Postemergence Weed Control Program:

This product may be applied postemergence in-crop following any labeled preemergence herbicide application. The post application of this product should be made before the weeds reach a height and/or density that the weeds become competitive with the crop. A single in-crop application of this product at the specified rate will provide control of emerged weeds listed on the label. This product may be applied postemergence to Roundup Ready corn from emergence through the V8 stage (8 leaves with collars) or until corn height reaches 30 inches (free standing), whichever comes first.

**Postemergence Only Weed Control Program:** This product may be applied alone as a postemergence in-crop application to provide control of emerged weeds listed on the label. The postemergence application of this product should be made before the weeds reach a height and/or density that the weeds become competitive with the crop. If new flushes of weeds occur, a sequential application of this product at 20 to 26 fluid ounces per acre will control the labeled grasses and broadleaf weeds. This product may be applied postemergence to Roundup Ready corn from emergence through the V8 stage or until corn height reaches 30 inches (free standing), whichever comes first.

This product may be applied in a tank mixture with a labeled rate of Harness®, Harness Xtra, Harness Xtra 5.6L, Micro-Tech, Bullet, Partner, Permit® or atrazine. Refer to the specific product label and observe all precautions and limitations on the labels for all products used in tank mixtures, including application timing restrictions, soil restrictions, minimum re-cropping interval and rotational guidelines – the more restrictive requirements apply. Tank mixtures with other products may result in increased potential for crop injury and/or weed antagonism. Refer to the table below for height limitation for tank mix partner.



Tank Mix Partner	Maximum Height Of Corn For Application
Harness Harness Xtra Harness Xtra 5.6L	11 inches
Bullet* Micro-Tech* Partner*	5 inches
Permit	24 inches
atrazine	12 inches

\*Bullet, Micro-Tech and Partner are not registered for use as a postemergence application in Texas.

**CORN HYBRIDS WITH ROUNDUP READY 2 TECHNOLOGY**

(Corn hybrids with Roundup Ready 2 Technology include Roundup Ready Corn 2 and seed products displaying the Roundup Ready 2 Technology logo)

TYPES OF APPLICATIONS: Preplant, At-Planting, Preemergence, Postemergence (In-crop), Spot Treatment, Preharvest, Post-Harvest.

USE INSTRUCTIONS: Refer to the following table for maximum application rates of this product with corn hybrids with Roundup Ready 2 Technology.

Maximum Application Rates	
Combined total per year for all applications	6.5 quarts per acre
Total of all Preplant, At-Planting, Preemergence applications	4 quarts per acre
Total of all in-crop applications from emergence through 48-inch corn	78 fluid ounces per acre (39 fluid ounces per acre per application)
Maximum preharvest application rate after maximum kernel fill is complete and the crop is physiologically mature (black layer formation) until 7 days before harvest*	26 fluid ounces per acre

\*See PRECAUTIONS, RESTRICTIONS section for Preharvest applications.

PRECAUTION, RESTRICTIONS: See "ROUNDUP READY CROPS" section of the label for general precautionary instructions for use in Roundup Ready crops. The maximum combined total amount of this product that may be applied per year is 6.5 quarts per acre. See "PRODUCT INFORMATION" section of the label for information on Maximum Application Rates. **The use of the in-crop (over-the-top) rates described in these instructions on other than corn hybrids with Roundup Ready 2 Technology, including Roundup Ready Corn 2 and products displaying the Roundup Ready 2 Technology logo may cause crop injury and reduced yields.**

**Preplant, At-Planting, Preemergence**

USE INSTRUCTIONS: This product may be applied alone or in a tank mixture before, during or after planting.

TANK MIXTURES: This product may be tank-mixed with the products listed below. Ensure that the specific product being used is labeled for application prior to emergence of corn. Read and follow label directions

for all products in the tank mixture. Apply these tank mixtures in 10 to 20 gallons of water, or 10 to 60 gallons of nitrogen solution, per acre.

Bullet	acetochlor	Distinct
Lariat	Bicep Magnum	Epic
Micro-Tech	Bicep II Magnum	Guardzman
alachlor	Bicep Lite II Magnum	Leadoff
Degree	Dual II Magnum	Guardzman Max
Degree Xtra	metolachlor	Hornet
Harness	2,4-D	Linex
Harness Xtra	Aim	Lorox
Harness Xtra 5.6L	Aim EC	Marksman
Frontier	atrazine	pendimethalin
Outlook	Axiom	Python
FulTime	Balance Pro	Python II
Keystone	Banvel	Radius
Keystone LA	Clarity	Resolve
TopNotch	Define	Resource

PRECAUTIONS, RESTRICTIONS: Maximum quantity of this product that may be applied for all preplant, at-planting and preemergence applications combined is 4 quarts per acre per season. Refer to individual tank mixture product label for restrictions and precautions; use according to the most restrictive precautionary statements for each product in the tank mixture.

NOTE: For maximum weed control, a postemergence (in-crop) application of this product should be applied following the use of the preemergence residual products listed above.

**Postemergence (In-crop)**

USE INSTRUCTIONS: This product may be applied alone or in tank mixtures over the top of corn hybrids with Roundup Ready 2 Technology from emergence through the V8 stage (8 leaves with collars), or until corn height reaches 30 inches (free standing), whichever comes first. Drop nozzles are recommended for optimum spray coverage and weed control when corn height is 24 to 30 inches. For corn heights 30 to 48 inches (free standing), apply this product only using ground application equipped with drop nozzles aligned to avoid spraying into the whorls of the corn plants. Single in-crop applications of this product up to 48 inch corn must not exceed 39 fluid ounces per acre. Sequential in-crop applications of this product from emergence through 48 inches in height must not exceed 78 fluid ounces per acre per growing season.

When applied as directed, this product will control annual grasses and broadleaf weeds listed on the label. Many perennial grasses and broadleaf weeds will be controlled or suppressed with one or more application of this product. A postemergence application of 19 to 26 fluid ounces of this product per acre should be made before weeds exceed 4 inches in height, or, generally, before they become competitive with the crop. If new flushes of weeds occur, a sequential application of this product at 19 to 26 fluid ounces per acre should be made before weeds exceed 4 inches in height.

TANK MIXTURES: This product may be tank-mixed with the following products. Ensure that the specific product being used in the tank mixture is registered for application postemergence (in-crop) to corn. Read and follow label directions of all products in the tank mixture.

Bullet	acetochlor	Distinct
Micro-Tech	2,4-D	Equip
alachlor	Aim EC	Hornet
Degree	atrazine	Marksman
Degree Xtra	Banvel	Option
Harness	Basis	Resolve
Harness Xtra	Basis Gold	Resource
Harness Xtra 5.6L	Clarity	

1-25-19

Tank Mix Partner	Maximum Height of Corn For Application (Inches)
Degree Degree Xtra Harness Harness Xtra Harness Xtra 5.6L	11
Bullet* Micro-Tech*	5
atrazine	12

\*Bullet and Micro-Tech are not registered for use as a postemergence application in Texas.

**PRECAUTIONS, RESTRICTIONS:** Allow a minimum of 10 days between in-crop applications of this product. Allow a minimum of 50 days between application of this product and harvest of corn forage or grain. Refer to individual tank mixture product label for restrictions and precautions, use according to the most restrictive precautionary statements for each product in the tank mixture.

#### Preharvest

**USE INSTRUCTIONS:** This product may be applied for annual and perennial weed control prior to harvest at use rates up to 26 fluid ounces per acre. Make applications at 35 percent grain moisture or less. Ensure that maximum kernel fill is complete and the corn is physiologically mature (black layer formed).

**PRECAUTIONS, RESTRICTIONS:** Allow a minimum of 7 days between application and harvest or feeding of corn stover or grain. A preharvest application may only be made if the combined total of previously applied over-the-top or drop nozzle applications does not exceed 52 fluid ounces of this product per acre.

#### Post-Harvest

**USE INSTRUCTIONS:** This product may be applied for weed control after crop harvest. Higher rates may be required for control of large weeds that were growing in the crop at the time of harvest. Tank mixtures with 2,4-D or dicamba may be used.

**PRECAUTIONS, RESTRICTIONS:** Allow a minimum of 7 days between treatment and harvest or feeding of treated vegetation.

### POSTEMERGENCE APPLICATIONS TO COTTON WITH THE ROUNDUP READY GENE

#### PRODUCT INFORMATION

FOR USE ONLY OVER-THE-TOP OF OR DIRECTED ONTO IMPROVED COTTON VARIETIES THAT ARE DESIGNATED AS COTTON WITH THE ROUNDUP READY GENE.

- Severe injury or death of cotton will result if any cotton varieties not properly designated as having the Roundup Ready gene are sprayed with this product. Avoid contact of herbicide with foliage, green stems, or fruit of crops, or any desirable plants and trees, other than crops with the Roundup Ready gene, since severe injury or destruction will result.
- The Roundup Ready designation indicates that the cotton contains a patented gene which provides tolerance to glyphosate herbicides. Information on Roundup Ready cotton may be obtained from your seed supplier.

### APPLICATION INSTRUCTIONS

This product will control many troublesome weeds with over-the-top, post-directed, hooded sprayer, or preharvest applications in Roundup Ready cotton.

#### Maximum Allowable Yearly Rates:

- Combined total per year for all applications: 6.5 quarts per acre
- Preplant, Preemergence applications: 4.0 quarts per acre
- Total in-crop applications from cracking to layby: 3.2 quarts per acre
- Maximum preharvest application rate: 1.6 quarts per acre

**For ground applications** with broadcast equipment, apply this product in 5 to 20 gallons of spray solution per acre. Carefully select proper nozzle and spray pressure to avoid spraying a fine mist. For best results with ground application equipment, use flat fan nozzles. Check for even distribution of spray droplets.

**For aerial applications**, apply this product in 3 to 15 gallons of water per acre.

DO NOT EXCEED A MAXIMUM RATE OF 0.8 QUARTS PER ACRE OF THIS PRODUCT WHEN MAKING APPLICATIONS BY AIR. AVOID DRIFT. EXTREME CARE MUST BE USED WHEN APPLYING THIS PRODUCT TO PREVENT INJURY TO DESIRABLE PLANTS AND CROPS WHICH DO NOT CONTAIN THE ROUNDUP READY GENE. Do not apply during low-level inversion conditions, when winds are gusty or under any other conditions which favor drift. Drift may cause damage to any vegetation contacted to which treatment is not intended. To prevent injury to adjacent desirable vegetation, appropriate buffer zones must be maintained.

There are no rotational crop restrictions following applications of this product.

**Sprayer Preparation:** It is important that sprayer and mixing equipment be clean and free of pesticide residue before making applications of this product to Roundup Ready cotton. Follow the cleaning procedures specified on the label of the product(s) previously used. Cotton is very sensitive to many herbicides at extremely low concentrations and care should be taken to thoroughly clean all equipment prior to use.

#### Types of Applications to Roundup Ready Cotton:

**Preplant Burndown:** Always plant into a weed free seedbed. In no-till and stale seedbed systems, always burn down existing weeds before cotton emerges. Apply a preplant burndown treatment of 13 to 40 fluid ounces per acre of this product.

**Over-the-top applications:** This product may be applied by aerial or ground application equipment postemergence to Roundup Ready cotton from the ground cracking stage until the four leaf (node) stage of development (until the fifth true leaf reaches the size of a quarter). Over-the-top applications made after the four leaf (node) stage of development may result in boll loss, delayed maturity and/or yield loss. Any single over-the-top broadcast application must not exceed 0.8 quarts per acre. No more than two over-the-top broadcast applications may be made from crop emergence through the four leaf (node) stage of development. Sequential over-the-top applications of this product must be at least 10 days apart and cotton must have at least two nodes of incremental growth between applications.

(continued)

1-25-19

**Post-directed or hooded applications:** This product may be applied using precision post-directed or hooded sprayers to Roundup Ready cotton through layby. At this stage, post-directed equipment should be used which directs the spray to the base of the cotton plants. Contact of the spray with cotton leaves should be avoided to the maximum extent possible. To minimize spray onto the leaves of the cotton plants, place nozzles in a low position directing a horizontal spray pattern under the cotton leaves to contact weeds in the row, and maintain low spray pressure (less than 30 PSI). For best results, make applications while weeds are small (less than 3 inches).

Any single post-directed application must not exceed 0.8 quarts per acre of this product. No more than two applications should be made from the fifth leaf through layby. Sequential in-crop applications of this product must be at least 10 days apart and cotton must have at least two nodes of incremental growth between applications.

**ATTENTION: USE OF BUCCANEER 5 IN ACCORDANCE WITH LABEL DIRECTIONS IS EXPECTED TO RESULT IN NORMAL GROWTH OF ROUNDUP READY COTTON. HOWEVER, VARIOUS ENVIRONMENTAL CONDITIONS, AGRONOMIC PRACTICES AND OTHER FACTORS MAKE IT IMPOSSIBLE TO ELIMINATE ALL RISKS ASSOCIATED WITH THIS PRODUCT, EVEN WHEN APPLICATIONS ARE MADE IN CONFORMANCE WITH THE LABEL SPECIFICATIONS. IN SOME CASES, THESE FACTORS CAN RESULT IN BOLL LOSS, DELAYED MATURITY AND/OR YIELD LOSS.**

**Salvage Treatment:** This treatment may be used after the four leaf stage of development and should only be used where weeds threaten to cause the loss of the crop. One quart per acre may be applied either as an over-the-top application or as a postdirected treatment sprayed higher on the cotton plants and over the weeds.

**NOTE: SALVAGE TREATMENTS WILL RESULT IN SIGNIFICANT BOLL LOSS, DELAYED MATURITY AND/OR YIELD LOSS. NO MORE THAN ONE SALVAGE TREATMENT SHOULD BE USED PER GROWING SEASON.**

**Weeds controlled:** For specific rates of application and instructions for control of various annual and perennial weeds, refer to "ANNUAL WEEDS RATE TABLE" section of this booklet. Buccaneer 5 Herbicide applied at 0.8 quarts per acre will burndown or suppress the growth of the following perennial weeds and reduce crop competition from yellow and purple nutsedge rhizome johnsongrass, common bermudagrass, silverleaf nightshade, trumpet creeper, and redvine. Fall preharvest applications may be required for control of these perennial weeds.

Tank mixtures with other herbicides may result in reduced weed control or crop injury and are not recommended for over-the-top applications of this product.

Some weeds with multiple germination times or suppressed (stunted) weeds may require sequential applications of this product for control.

**Preharvest applications:** This product may be applied for preharvest annual and perennial weed control as a broadcast treatment to Roundup Ready cotton after 20% boll crack. Allow a minimum of 7 days between application and harvest. **NOTE:** Buccaneer 5 Herbicide will not enhance performance of harvest aids when applied to Roundup Ready cotton. DO NOT APPLY THIS HERBICIDE PREHARVEST TO CROPS GROWN FOR SEED.

**Read the "Limit of Warranty and Liability" in this label booklet for Buccaneer 5 Herbicide before using. For over-the-top uses on Roundup Ready crop varieties, crop safety and weed control performance are not warranted by Tenkoz, Inc. when this product is used in conjunction with "brown bag" or "bin-run" seed saved from previous year's production and replanted. If these terms are not acceptable, return the product unopened at once.**

## POSTEMERGENCE APPLICATIONS TO SOYBEANS WITH THE ROUNDUP READY GENE

### PRODUCT INFORMATION

TENKOZ INC. INTENDS USE OF THIS PRODUCT FOR POSTEMERGENCE APPLICATION ONLY ON SOYBEAN VARIETIES DESIGNATED AS CONTAINING THE ROUNDUP READY GENE.

- Applying this product to soybean varieties which are not designated as Roundup Ready will result in severe crop injury and yield loss. Avoid contact with foliage, green stems, or fruit of crops, or any desirable plants which do not contain the Roundup Ready gene, since severe injury or destruction will result.
- The Roundup Ready designation indicates that the soybean contains a patented gene which provides tolerance to glyphosate herbicides. Information on Roundup Ready soybeans may be obtained from your seed supplier.

### APPLICATION INSTRUCTIONS

This product may be applied postemergence to Roundup Ready soybeans from the cracking stage throughout flowering. Allow a minimum of 14 days between application and harvest of soybeans.

#### Maximum Allowable Application Rates:

- |  |                     |
|--|---------------------|
| • Combined total per year for all applications:                  | 6.5 quarts per acre |
| • Preplant, Preemergence applications:                           | 4.0 quarts per acre |
| • Total in-crop applications from cracking throughout flowering: | 2.4 quarts per acre |
| • Maximum preharvest application rate:                           | 0.8 quart per acre  |

When applied as directed, this product will control labeled annual grasses and broadleaf weeds in Roundup Ready soybeans. Many perennial grasses and broadleaf weeds will be controlled or suppressed with one or more applications of this product.

**PRECAUTIONS/RESTRICTIONS:** The combined total application from crop emergence through harvest must not exceed 2.4 quarts per acre. The maximum rate for any single in crop application is 1.6 quarts per acre. The maximum combined total of this product which can be applied during flowering is 1.25 quarts per acre. Allow a minimum of 14 days between final application and harvest of soybeans.

There are no rotational crop restrictions following applications of this product.

**For ground applications:** Use the specified rates of this product in 5 to 20 gallons of spray solution per acre as a broadcast spray.

Carefully select proper nozzle and spray pressure to avoid spraying a fine mist. For best results with ground application equipment, use nozzles which provide a flat fan pattern. Check for even distribution of spray droplets.

**For aerial applications:** Use the specified rates of this product in 3 to 15 gallons of spray solution per acre. Do not exceed 0.8 quarts of this product per acre. DO NOT APPLY DURING LOW LEVEL INVERSION CONDITIONS, WHEN WINDS ARE GUSTY OR UNDER ANY OTHER CONDITIONS WHICH FAVOR DRIFT. DRIFT MAY CAUSE DAMAGE TO ANY VEGETATION CONTACTED TO WHICH TREATMENT IS NOT INTENDED. MAINTAIN APPROPRIATE BUFFER ZONES TO PREVENT INJURY TO ADJACENT DESIRABLE VEGETATION.

AERIAL APPLICATIONS ON ROUNDUP READY SOYBEANS, MAY BE MADE ONLY IN THE FOLLOWING STATES: ALABAMA, ARKANSAS, COLORADO, FLORIDA, GEORGIA, KANSAS, LOUISIANA, MISSISSIPPI, MISSOURI (BOOT HEEL ONLY), NEBRASKA, NORTH CAROLINA, NORTH DAKOTA, OKLAHOMA, SOUTH CAROLINA, SOUTH DAKOTA, TENNESSEE, TEXAS, VIRGINIA, AND WYOMING.

**ANNUAL WEED RATE DIRECTIONS**

The following rate directions will provide control of labeled grasses and broadleaf weeds in conventional and no-till soybean production systems. Refer to the rate directions for specific annual weeds in the "ANNUAL WEEDS" section of the label.

Tenkoz, Inc. will not warrant crop safety or weed control when Roundup Ready soybeans are treated with herbicides not specified on this label. Because of the potential for; 1) crop injury, 2) poor weed control from antagonism, and/or 3) rotational crop restrictions; herbicides not specified on this label (or current supplemental label) **ARE APPLIED AT THE SOLE RISK OF THE BUYER AND USER**, whether applied preemergence or applied postemergence as a tank mixture with Buccaneer 5 Herbicide.

This product may be used up to 1.6 quarts per acre in any single application for control of annual weeds, where heavy weed densities exist.

**Preplant Burndown:** The following instructions are based on a clean start at planting by using a burndown application or tillage to control existing weeds before crop emergence. In no-till and stale seedbed systems, a preplant burn-down treatment of 13 to 52 fluid ounces per acre of this product can be used to control existing weeds prior to crop emergence.

**MIDWEST/MID-ATLANTIC DIRECTIONS**

**Narrow row or drilled soybeans:** A single in-crop application of this product will provide effective control of labeled weeds. For best results, apply an initial application of 0.8 quarts per acre on 4 to 8" weeds. Weeds will generally be 4 to 8" tall 3 to 5 weeks after planting. If the initial application is delayed and weeds are 8 to 18" tall, use 48 ounces per acre for best results.

Under adverse growing conditions such as drought, hail, wind damage or a poor soybean stand that slows or delays canopy closure, a sequential application of this product at 20 to 26 fluid ounces per acre may be necessary to control late flushes of weeds.

**Wide row soybeans:** An in-crop application of this product will provide effective control of the initial stand of labeled weeds. For best results, apply an initial application of 0.8 quarts per acre on 4 to 8" weeds. Weeds will generally be 4 to 8" tall 3 to 5 weeks after planting. If new flushes of weeds occur, they can be controlled by sequential applications of this product.

**Initial and Sequential (if needed) Applications**

<u>Weed Height (inches)</u>	<u>Rate (fluid ounces per acre)</u>
1 to 3	20
4 to 8	26
8 to 18	40

**Giant ragweed:** Apply 0.8 quarts per acre when the weed is 8 to 12" tall to avoid the need for sequential application.

**Black nightshade, Pennsylvania smartweed, velvetleaf, and waterhemp:** Apply 0.8 quarts per acre to weeds 3 to 6" tall, and 40 fluid ounces per acre when weeds are up to 12" tall.

**Morningglory species:** Apply 0.8 quarts when weeds are up to 4" tall and 40 fl oz per acre when weeds are up to 6" tall.

**Sequential Application for Certain weeds:** Some weeds, such as black nightshade, woolly cupgrass, shattercane, wild proso millet, burcumber, and giant ragweed, with multiple germination times may require a sequential application of this product. Suppressed or stunted weeds may also require sequential applications. Sequential applications should be made after some regrowth has occurred. Use a minimum of 20 fluid ounces of this product per acre for sequential applications.

**SOUTHEAST DIRECTIONS**

**Narrow row, drilled, or wide-row soybeans:** An in-crop application of this product will provide effective control of the initial stand of labeled weeds. For best results, apply an initial application of 0.8 quarts per acre on 3 to 6" weeds. Weeds will generally be 3 to 6" tall 2 to 3 weeks after planting.

<u>Weed Height (inches)</u>	<u>Rate (fluid ounces per acre)</u>
3 to 6	26
6 to 12	40

Under adverse growing conditions such as drought, hail, wind damage or a poor soybean stand that slows or delays canopy closure, a sequential application of this product at 13 to 26 fluid ounces per acre may be necessary to control late flushes of weeds.

**Sequential Application (if needed)**

<u>Weed Height (inches)</u>	<u>Rate (fluid ounces per acre)</u>
2 to 3	13
3 to 6	20
6 to 12	26

**Florida pusley, hemp sesbania and spurred anoda:** Apply 0.8 quarts per acre to weeds 2 to 4" tall for the initial application. Apply 0.8 quarts per acre when these weeds are 3 to 6" tall if a sequential application is necessary.

**Morningglory, black nightshade, groundcherry, and Pennsylvania smartweed:** Apply 20 fluid ounces per acre on 1 to 3" weeds, 26 fluid ounces per acre on 3 to 6" weeds, or 40 fluid ounces per acre on 6 to 12" weeds for the initial application.

**Sequential Application for Certain Weeds:** Some weeds, such as black nightshade, broadleaf signalgrass, Texas panicum, burcumber, and sicklepod, with multiple germination times may require a sequential application of this product. Suppressed or stunted weeds may also require sequential applications. Sequential applications should be made after some regrowth has occurred. Use a minimum of 13 fluid ounces of this product per acre for sequential applications. The combined total of all in-crop postemergence treatments must not exceed 2.4 quarts per acre.

**DELTA/MID-SOUTH DIRECTIONS**

**Narrow row, drilled, or wide row soybeans:** An in-crop application of this product will provide effective control of the initial stand of labeled weeds. A sequential application will be required to control new flushes of weeds. For best results, apply an initial application of 26 fluid ounces per acre on 2 to 4" weeds. Weeds will generally be 2 to 4" tall 2 to 3 weeks after planting.

**Initial Treatment**

<u>Weed Height (inches)</u>	<u>Rate (fluid ounces per acre)</u>
2 to 4	26
5 to 12	40

**Sequential Application**

<u>Weed Height (inches)</u>	<u>Rate (fluid ounces per acre)</u>
2 to 3	13
3 to 6	20
6 to 12	26

**Hemp sesbania and spurred anoda:** Apply a sequential treatment of 26 fluid ounces per acre on 3" to 6" weeds if necessary.

(continued)

**Sequential Application for Certain Weeds:** Some weeds, such as black nightshade, broadleaf signalgrass, Texas panicum, burcumber, and sicklepod, with multiple germination times may require a sequential application of this product. Suppressed or stunted weeds may also require sequential applications. Sequential applications should be made after some regrowth has occurred. Use a minimum of 13 fluid ounces of this product per acre for sequential applications.

**PERENNIAL WEEDS RATE DIRECTIONS**

At the rate of 1 to 1.6 quarts per acre (single or multiple applications), this product will control or suppress perennial weeds such as: bermudagrass, Canada thistle, common milkweed, field bindweed, hemp dogbane, horsenettle, marestail (horseweed), nutsedge, quackgrass, rhizome johnsongrass, redvine, trumpetcreeper, swamp smartweed, and wirestem muhly.

For best results, allow perennial weed species to achieve at least 6" of growth before spraying with this herbicide. For additional information on perennial weeds, see the "PERENNIAL WEEDS" section of this label. For some perennial species, repeat application may be required to eliminate crop competition throughout the growing season.

**ROUNDUP READY® 2 YIELD SOYBEANS**

**TYPES OF APPLICATIONS:** Preplant, At-Planting, Preemergence, Postemergence (In-crop), Preharvest, Post-Harvest.

**USE INSTRUCTIONS:** Refer to the following table for maximum application rates of this product with corn hybrids with Roundup Ready 2 Yield soybeans.

Maximum Application Rates	
Combined total per year for all applications	6.4 quarts per acre
Total of all Preplant, At-Planting, Preemergence applications	4 quarts per acre
Total of all in-crop applications from cracking through flowering (R2 stage soybeans)	76 fluid ounces per acre
Maximum preharvest application rate	25 fluid ounces per acre

**PRECAUTIONS, RESTRICTIONS:** See label for general precautionary instructions for use in Roundup Ready crops. The maximum combined total quantity of this product for all applications in a season is 6.4 quarts per acre. Refer to other applicable sections of the label for more information on Maximum Application Rates.

**Preplant, At-Planting, Preemergence**

**USE INSTRUCTIONS:** This product may be applied before, during or after planting Roundup Ready 2 Yield soybeans.

**TANK MIXTURES:** This product may be tank-mixed with 2,4-D, Banvel or Clarity and applied prior to planting only. This product may be tank-mixed with the following products and applied prior to crop emergence. Ensure that the specific product being used in the tank mixture is registered for application prior to emergence of soybeans. Read and follow label directions of all products in the tank mixture.

Aim	Frontier	Pursuit Plus
Assure II	Fusion	Python
Axiom	Gangster	Reflex
Blanket	INTRRO	Resource
Boundary	Lexone	Scepter
Canopy	Linex	Select
Classic	Lorox	Select MAX
Cobra	metolachlor	Sencor
Command	s-metolachlor	Spartan
Command Xtra	Me-Too-Lachlor	Squadron
Damain	Micro-Tech	Steel
Dual MAGNUM	Outlook	Treflan
Dual II MAGNUM	Pendimax	Valor
FirstRate	pendimethalin	2,4-D
Flexstar	Pursuit	

**PRECAUTIONS, RESTRICTIONS:** Maximum quantity of this product that may be applied for all preplant, at-planting and preemergence applications combined is 4 quarts per acre per season. Refer to individual tank mixture product label for restrictions and precautions; use according to the most restrictive precautionary statements for each product in the tank mixture.

**Postemergence (In-crop)**

**USE INSTRUCTIONS:** This product may be used to control annual grasses and broadleaf weeds in Roundup Ready 2 Yield soybeans. Applications of this product can be made in Roundup Ready 2 Yield soybeans from emergence (cracking) through flowering (R2 stage soybeans). R2 stage soybeans end when a pod 5 millimeters (3/16 inch) long appears at one of the four uppermost nodes on the main stem with a fully developed leaf (R3 stage). Refer to the "ANNUAL WEEDS RATE SECTION" of the label for this product for application rates for specific annual weeds. In general, apply an initial application of 25 fluid ounces per acre on 2 to 8 inch tall weeds. Weeds will generally be 2 to 8 inches tall, 2 to 5 weeks after planting. If the initial application is delayed and weeds are larger, apply a higher rate of this product. This product may be applied up to 51 fluid ounces per acre as a single, in-crop application for control of annual weeds and where dense weed populations exist.

A 25 to 51 fluid ounce per acre rate (single or multiple applications) of this product will control or suppress perennial weeds, such as, Bermudagrass, Canada thistle, common milkweed, field bindweed, hemp dogbane, horsenettle, marestail (horseweed), nutsedge, quackgrass, rhizome johnsongrass, redvine, trumpetcreeper, swamp smartweed and wirestem muhly. For best results, allow perennial weed species to achieve at least 6 inches of growth before spraying with this product.

Under adverse growing conditions, such as drought, hail, wind damage or a poor soybean stand that slows or delays canopy closure, a sequential application of this product may be necessary to control late flushes of weeds. IN THE SOUTHERN STATES, A SEQUENTIAL APPLICATION OF THIS PRODUCT WILL BE REQUIRED TO CONTROL NEW FLUSHES OF WEEDS IN THE ROUNDUP READY 2 YIELD SOYBEAN CROP. To control giant ragweed, apply 25 fluid ounces of this product per acre when the weed is 8 to 12 inches tall to increase control and possibly avoid the need for a sequential application.

**TANK MIXTURES:** This product may be tank-mixed with the following products and applied postemergence (in-crop) over the top of Roundup Ready 2 Yield soybeans. Ensure that the specific product being used in the tank mixture is registered for application postemergence (in-crop) to soybeans. Read and follow label directions of all products in the tank mixture.

SB2315

#4 Ag

52

1-25-19

Arrow	Fusilade DX	Raptor
Assure II	Fusion	Reflex
Basagran	Harmony GT XP	Select
Classic	Poast	Select MAX
Cobra	Poast Plus	Synchrony STS
Extreme	Pursuit	Targa
FirstRate	Pursuit Plus	Ultra Blazer
Flexstar		

**Early Season Disease Suppression**

Postemergence applications of this product made within the application rates and timings described above for weed control may provide suppression of the following soybean fungal diseases: Brown Stem Rot (*Phialophora gregata*), Charcoal Rot (*Macrophomina phaseolina*), Stem Canker (*Diaporthe phaseolorum* var. *meridionalis*), and Sudden Death Syndrome (*Fusarium virguliforme*). Suppression of these diseases, which may result in improved plant health and protection of yield, may occur with applications of this product made during labeled timings for weed control. The level of activity against these labeled fungal diseases is not sufficient to provide complete disease prevention or control. The amount of disease suppression will be reduced with high disease pressure or environmental conditions that favor disease development. Any potential for yield protection in Roundup Ready 2 Yield soybeans provided by suppression of labeled diseases would occur only as a complement to the normal weed control applications. Therefore, always determine application rates and timings of this product based on size and species of weeds to be controlled, not on presence or absence of disease.

U.S. Patent pending for the use of glyphosate as a method for suppressing early-season soybean diseases in Roundup Ready and Roundup Ready 2 Yield Soybeans.

**PRECAUTIONS, RESTRICTIONS:** This combined total application from crop emergence through harvest must not exceed 76 fluid ounces per acre. The maximum rate for any single in-crop application is 51 fluid ounces per acre. The maximum combined total of this product that can be applied during flowering (R2 stage soybeans) is 51 fluid ounces per acre. Refer to individual tank mixture product labels for restrictions and precautions; use according to the most restrictive precautionary statements for each product in the tank mixture. In some cases, these tank-mix products will cause visual soybean injury.

**Preharvest**

**USE INSTRUCTIONS:** This product may be applied to Roundup Ready 2 Yield soybeans for weed control prior to harvest. Apply up to 25 fluid ounces of this product per acre after pods have set and lost all green color.

**PRECAUTIONS, RESTRICTIONS:** Care should be taken to avoid excessive seed shatter loss due to ground application equipment. Allow a minimum of 14 days between final application and harvest of soybean grain or feeding of soybean grain, forage or hay.

**Post-Harvest**

**USE INSTRUCTIONS:** This product may be applied for weed control after harvest of Roundup Ready 2 Yield soybeans. Higher rates may be required for control of large weeds that were growing in the crop at the time of harvest. Tank mixtures with 2,4-D or dicamba may be used.

**ROUNDUP READY® SUGAR BEETS**

**TYPES OF APPLICATIONS:** Preplant, Preemergence, At-Planting, Postemergence.

**Preplant, Preemergence, At-Planting**

**USE INSTRUCTIONS:** This product may be applied before, during or after planting of Roundup Ready sugar beets.

**Postemergence**

**USE INSTRUCTIONS:** This product may be applied postemergent over-the-top to Roundup Ready sugar beets from emergence to 30 days prior to harvest. To maximize yield potential spray sugar beets early to eliminate competing weeds. Up to 4 sequential applications of this product may be made with at least 10 days between applications. Refer to the "ANNUAL WEEDS RATE SECTION" in the label booklet for rate specifications for specific annual weeds. This product will control or suppress, most perennial weeds. For some perennial weeds, repeat applications may be required to eliminate crop competition throughout the growing season.

The combined total application rate from crop emergence through harvest must not exceed 6.4 quarts per acre. The maximum rate for any single application from crop emergence until the 8-leaf stage is 38 fluid ounces per acre. The maximum rate for any single application between the 8-leaf stage and canopy closure is 26 fluid ounces per acre. Allow a minimum of 30 days between last application and sugar beet harvest.

Maximum Allowable Combined Application Quantities Per Season	
Combined total per year for all applications	6.4 quarts per acre
Preplant, At-Planting, Preemergence applications	3.9 quarts per acre
Emergence to 8-leaf stage	67 fluid ounces per acre
Between 8-leaf stage and canopy closure	53 fluid ounces per acre

**ASPARAGUS**

When applied as directed for "CROPPING SYSTEMS" under the conditions described, this product controls weeds listed on this label in asparagus.

For specific rates of applications and instructions for control of various annual and perennial weeds, see the "WEEDS CONTROLLED" section of this label.

**Prior to Crop Emergence** – Apply this product prior to crop emergence for the control of emerged labeled annual and perennial weeds. **DO NOT APPLY WITHIN A WEEK BEFORE THE FIRST SPEARS EMERGE.**

**Spot Treatment** – Apply this product immediately after cutting, but prior to the emergence of new spears. Do not treat more than 10 percent of the total field area to be harvested. Do not harvest within 5 days of treatment.

**Postharvest** – Apply this product after the last harvest and all spears have been removed. If spears are allowed to regrow, delay application until ferns have developed. Delayed treatments should be applied as directed or shielded spray in order to avoid contact of the spray with ferns, stems or spears. Direct contact of the spray with the asparagus may result in serious crop injury.

(continued)

SB2315

#4 E 53

1-25-19

**NOTE:** Select and use specified types of spray equipment for postemergence postharvest applications. A directed spray is any application where the spray pattern is aligned in such a way as to avoid direct contact of the spray with the crop. A shielded spray is any application where a physical barrier is positioned and maintained between the spray and the crop to prevent contact of spray with the crop.

### BERRIES AND SMALL FRUITS

Wiper applicators may be used in cranberries in accordance with instructions in this section.

For other berries, apply as a preplant broadcast application, or as a directed spray or wiper application post-planting.

See "PRODUCT INFORMATION" and "MIXING, ADDITIVES and APPLICATION INSTRUCTIONS" sections of this label for essential product performance information.

See the "SELECTIVE EQUIPMENT" part of the "APPLICATION EQUIPMENT and TECHNIQUES" section of this label for information on recommended use and calibration of this equipment.

Allow a minimum of 30 days between last application and harvest of cranberries. For other small fruits and berries, allow a minimum of 14 days between last application and harvest.

**For wick or other wiper Applicators** – Mix 1 gallon of this product in 4 gallons of water to prepare a 20 percent solution. In severe infestations, reduce equipment ground speed to ensure that adequate amounts of this product are wiped on the weeds. A second treatment in the opposite direction may be beneficial.

Do not permit herbicide solution to contact desirable vegetation, including green shoots, canes or foliage.

### CORN

**TYPES OF CORN:** Field corn, seed corn, sweet corn and popcorn.

**TYPES OF APPLICATIONS:** Preplant, preemergence, at-planting, hooded sprayers, spot treatment, preharvest, post-harvest.

Add an agriculturally approved nonionic surfactant at 0.375 percent by volume of spray solution. Adding 1 to 2 percent by weight of dry ammonium sulfate (or equivalent from other formulations) may increase the performance of this product.

**Preplant, Preemergence and At-planting** – This product may be applied before, during or after planting corn. Applications must be made prior to emergence of the crop.

Subject to any limitations stated on labeling of specific products, the following tank mixtures may be applied before, during or after planting in conventional tillage systems, into a cover crop, established sod or in previous crop residue. Apply these tank mixtures in 10 to 20 gallons of water or 10 to 60 gallons of nitrogen solution per acre.

ATRAZINE	HARNESS®/Acetochlor	MICRO-TECH®
BANVEL®/Dicamba	HARNESS XTRA	PARTNER®
BICEP®	HARNESS XTRA 5.6L	PROWL®/
BICEP II	LARIAT®	Pendimethalin
BROADSTRIKE®	LASSO®/Alachlor	SIMAZINE
BULLET®	LINEX®	SURPASS®/
DUAL®	LOROX®/Linuron	Acetochlor
DUAL II	MARKSMAN®/Atrazine	SURPASS 100
FRONTIER®	Dicamba	TOPNOTCH®
GUARDSMAN®		



This product may be tank-mixed with the listed herbicides provided the specific product is registered for use on these sites.

For Southern states (see map as a guide), do not apply in nitrogen solutions to tough-to-control grasses such as barnyardgrass, fall panicum, broadleaf signalgrass, annual ryegrass and any perennial weeds. For improved burndown, this product may be tank mixed with 2,4-D (Weedar®, Weedone® and others) or dicamba.

For difficult-to-control annual weeds such as fall panicum, barnyardgrass, crabgrass, shattercane and broadleaf signalgrass up to 2 inches tall, and Pennsylvania smartweed up to 6 inches tall, apply this product at 2 pints per acre in these tank mixtures. For other labeled annual weeds, apply 1 to 1.25 pints of this product per acre when weeds are less than 6 inches tall, and 1.75 to 2.5 pints when weeds are over 6 inches tall.

Do not plant corn until at least 7 days after application of 2,4-D or dicamba.

The tank mix recommendations in this section are not registered in California.

**Hooded Sprayers** – This product may be used through hooded sprayers for weed control between the rows of corn. Only hooded sprayers that completely enclose the spray pattern may be used.

A hooded sprayer is a type of shielded applicator. The spray pattern is completely enclosed on the top and all 4 sides by a hood, thereby shielding the crop from the spray solution. This equipment must be set up and operated in a manner that avoids bouncing or raising the hoods off the ground in any way. If the hoods are raised, spray particles may escape and come into contact with the crop, causing damage or destruction of the crop. The spray hoods must be operated on the ground or skimming across the ground. Tractor speed must be adjusted to avoid bouncing of the spray hoods. Avoid operation on rough or sloping ground where the spray hoods might be raised off the ground.

When applying to corn that is grown on raised beds, ensure that the hood is designed to completely enclose the spray solution. If necessary, extend the front and rear flaps of the hoods to reach the ground in deep furrows.

Follow these requirements:

- The spray hoods must be operated on the ground or skimming across the ground.
- Do not apply more than 0.8 quarts of this product per acre per application.
- Corn must be at least 12 inches tall, measured without extending leaves.

(continued)

1-25-19

Leave at least an 8 inch untreated strip over the drill row. For example, if the crop row width is 38 inches, the maximum width of the spray hood should be 30 inches.

- Maximum tractor speed: 5 mph.
- Maximum wind speed: 10 mph.
- Use low-drift nozzles.

Crop injury may occur when the foliage of treated weeds comes into direct contact with leaves of the crop. Do not apply this product when the leaves of the crop are growing in direct contact with weeds to be treated. Droplets, mist, foam or splatter of the herbicide solution may contact the crop and cause discoloration, stunting or destruction.

Contact of this product in any manner to any vegetation to which treatment is not intended may cause damage. Such damage shall be the sole responsibility of the applicator.

For specific rates of application and instructions for control of various annual and perennial weeds, see the "WEEDS CONTROLLED" Section of the label booklet.

Do not graze or feed corn forage or fodder following applications of this product through hooded sprayers. Do not apply more than 2.4 quarts of this product per acre per year for hooded sprayer applications.

**Spot treatment** – For spot treatments, apply this product prior to silking of corn.

Do not treat more than 10 percent of the total field area to be harvested. The crop receiving spray in the treated area will be killed. Take care to avoid drift or spray outside target area for the same reason.

**Preharvest** – Make applications at 35 percent grain moisture or less. Ensure that maximum kernel fill is complete and the corn is physiologically mature (black layer formed). For ground applications, apply up to 2.4 quarts of this product per acre. For aerial applications, apply up to 0.8 quarts of this product per acre.

Allow a minimum of 7 days between application and harvest. It is not recommended that corn grown for seed be treated preharvest because a reduction in germination or vigor may result.

**Post-harvest** – This product may be applied after harvest of corn. Higher specified rates may be required for control of large weeds which were growing in the crop at the time of harvest. Tank mixtures with 2,4-D or dicamba may be used.

Do not harvest or feed treated vegetation for 8 weeks following application. TENKOZ, INC. INTENDS USE OF THIS PRODUCT ONLY ON CORN HYBRIDS DESIGNATED AS CONTAINING THE ROUNDUP READY GENE.

**FALLOW AND REDUCED TILLAGE SYSTEMS**

Use this product in fallow and reduced tillage systems for control of annual weeds prior to emergence of crops listed in this label. Refer to the "WEEDS CONTROLLED" section of this label for specific rates and instructions. This product may be applied using ground or aerial spray equipment. See the "APPLICATION EQUIPMENT and TECHNIQUES" section of this label for instructions.

**TANK MIXTURES**

**BUCCANEER 5 plus BANVEL or dicamba plus NONIONIC SURFACTANT**  
**BUCCANEER 5 plus 2,4-D plus NONIONIC SURFACTANT**  
**BUCCANEER 5 plus GOAL\* plus NONIONIC SURFACTANT**

DO NOT APPLY BANVEL, DICAMBA OR 2,4-D TANK MIXTURES BY AIR IN CALIFORNIA.

Applications of 2,4-D, Banvel or dicamba must be made at least 7 days prior to planting corn.

The addition of Banvel or dicamba in a mixture with this product may provide short-term residual control of selected weed species. Some crop injury may occur if Banvel or dicamba is applied within 45 days of planting. Refer to the Banvel, dicamba or 2,4-D labels for cropping restrictions and other use instructions.

This product may be tank-mixed with the listed herbicides provided the specific product is registered for use on these sites.

**BUCCANEER 5 plus GOAL TANK MIXTURES**

This product alone or in tank mixtures with Goal plus 0.375 percent nonionic surfactant by total spray volume will provide control of those weeds listed below.

Make applications when weeds are actively growing and at the recommended stages of growth. Avoid spraying when weeds are subject to moisture stress, when dust is on the foliage or when straw canopy covers the weeds.

BUCCANEER 5 10 fluid oz/acre		BUCCANEER 5 13 fluid oz/acre	
Wheat	18"	Ryegrass, annual	6"
Barley	12"	Chickweed	6"
Bluegrass, annual	6"	Groundsel	6"
Barnyardgrass	6"	Marestail	6"
Rye	6"	Rocket, London	6"
		Shepherdspurse	6"
		Crabgrass	12"
		Johnsongrass, seedling	12"
		Lambsquarters	12"
		Oats, wild	12"
		Pigweed, redroot	12"
		Mustards	12"

**NOTE:** Use 32 fluid ounces of this product per acre where heavy weed densities exist.

Buccaneer 5: 10 fluid oz/acre + GOAL **: 2 to 4 fluid oz/acre		Buccaneer 5: 13 fluid oz/acre + GOAL **: 2 to 4 fluid oz/acre	
Annual grasses above plus:		Annual weeds above plus:	
Cheeseweed, common	3"	Cheeseweed, common	6"
Chickweed	3"	Groundsel	6"
Groundsel	3"	Chickweed	12"
Rocket, London	6"	Rocket, London	12"
Shepherdspurse	6"	Shepherdspurse	12"

**NOTE:** Use 26 fluid ounces of this product per acre in mixtures with 2 to 4 fluid ounces of Goal per acre where heavy weed densities exist.

\*Maximum height or length in inches.  
 \*\*Use the higher rate of Goal when weeds approach maximum recommended height or stands are dense.

These recommended tank mixtures may be applied using ground or aerial spray equipment. Refer to the "WEEDS CONTROLLED" section of this label for specific rates and instructions.



1-25-19

## ECOFARMING SYSTEMS

The instructions made in this section are not registered for use in California.

The Ecofarming System consists of the following rotation: winter wheat, corn/sorghum, ecofallow.

Use the following tank mixtures for control of emerged annual weeds before planting corn or sorghum in the Ecofarming System.

**Buccaneer 5 at 13 to 17 fluid ounces per acre  
plus  
2,4-D at 0.375 to 0.5 pound a.i. per acre  
plus  
Atrazine at 0.75 to 1 pound a.i. per acre  
plus  
Lasso® at 2.5 to 3 quarts per acre**

The above tank mixture should be applied in 28-0-0 or 32-0-0 liquid fertilizer carrier at 20 to 30 gallons per acre. The liquid fertilizer may be diluted with water to achieve the desired carrier volume.

This product may be tank-mixed with the listed herbicides provided the specific product is registered for use on these sites.

**WEEDS CONTROLLED** – The following weeds, up to a maximum height of 4 inches, will be controlled:

### Brome, downy

*Bromus tectorum*

### Cheat

*Bromus secalinus*

### Foxtail, green

*Setaria viridis*

### Foxtail, yellow

*Setaria lutescens*

### Kochia\*

*Kochia scoparia*

### Lettuce, prickly

*Lactuca serriola*

### Pigweed, redroot

*Amaranthus retroflexus*

### Thistle, Russian

*Salsola kali*

### Wheat, volunteer

*Triticum aestivum*

\*For improved control of kochia, add 4 fluid ounces per acre (0.125 pound a.i. per acre) of Banvel or dicamba to the above tank mixture.

Risk of crop injury from 2,4-D, Banvel or dicamba can be reduced by applying this treatment 7 to 14 days before planting. Refer to the label booklet for Lasso herbicide for preemergence weed control achieved by this tank mixture.

Refer to the specific product labels for crop rotation restrictions and cautionary statements for all products used in these tank mixtures.

## AID TO TILLAGE

This product, when used in conjunction with preplant tillage practices, will provide control of downy brome, cheat, volunteer wheat, tansy mustard and foxtail. Apply 6.5 fluid ounces of this product plus 0.375 percent nonionic surfactant by total spray volume in 3 to 10 gallons of water per acre. Make applications when weeds are actively growing and before they are 6 inches in height. Application must be followed by conventional tillage practices no later than 15 days after treatment and before regrowth occurs. Allow at least 1 day after application before tillage. Tank mixtures with residual herbicides may result in reduced performance.

## POSTHARVEST GRAIN SORGHUM, SORGHUM REGROWTH CONTROL

This product may be applied to grain sorghum (milo) stubble following harvest to suppress or control regrowth. Apply 0.8 quarts of this product per acre for control, or 1.25 pints of this product per acre for suppression. Use 0.375 percent nonionic surfactant in 3 to 10 gallons of spray solution per acre.

## PASTURES

Apply this product prior to planting forage grasses and legumes.

**Pasture or Hay Crop Renovation** – When applied as a broadcast spray, this product controls the annual and perennial weeds listed in this label prior to planting forage grasses or legumes. Remove domestic livestock before application and wait 8 weeks after application before grazing or harvesting.

**Spot Treatment** – When applied as a spot treatment as specified, this product controls annual and perennial weeds listed in this label which are growing in pastures, forage grasses and forage legumes composed of bahiagrass, bermudagrass, bluegrass, brome, fescue, orchardgrass, ryegrass, timothy, wheatgrass, alfalfa or clover.

**Wiper Application** – When applied as directed, this product controls or suppresses the weeds listed under “WIPER APPLICATORS” in the “SELECTIVE EQUIPMENT” section of this label.

For spot treatment and wiper application, apply in areas where the movement of domestic livestock can be controlled. No more than one-tenth of any acre should be treated at one time. Further applications may be made in the same area at 30-day intervals. Remove domestic livestock before application and wait 14 days after application before grazing livestock or harvesting.

## SUGARCANE

When applied as directed for “CROPPING SYSTEMS”, under the conditions described, this product controls those emerged annual and perennial weeds listed on this label growing in or around sugarcane or in fields prior to the emergence of plant cane. This product will also control undesirable sugarcane.

**NOTE:** Where repeat treatments are necessary, do not exceed a total of 8.5 quarts of this product per acre per year. Do not apply to vegetation in or around ditches, canals or ponds containing water to be used for irrigation.

**Broadcast Treatment** – Apply this product in 10 to 40 gallons of water per acre on emerged weeds prior to the emergence of plant cane.

For specific rates of application and instructions for control of various annual and perennial weeds, see the “WEEDS CONTROLLED” section of this label.

For removal of last stubble or ratoon cane, apply 3.5 to 4 quarts of this product in 10 to 40 gallons of water per acre to new growth having at least 7 or more new leaves. Allow 7 or more days after application before tillage.

**Spot Treatment in or Around Sugarcane Fields** – For dilution and rates of application using hand-held equipment, see “MIXING, ADDITIVES and APPLICATION INSTRUCTIONS” and “WEEDS CONTROLLED” sections of this label.

(continued)

1-25-19

For control of volunteer or diseased sugarcane, make a 1 percent solution of this product in water and spray to wet the foliage of vegetation to be controlled.

**NOTE:** When spraying volunteer or diseased sugarcane, the plants should have at least 7 new leaves.

Avoid spray contact with healthy cane plants since severe damage or destruction may result.

Do not feed or graze treated sugarcane forage following application.

### CONSERVATION TILLAGE, MINIMUM TILLAGE AND NO-TILL SYSTEMS CORN AND SOYBEANS TANK MIXTURES

The instructions made in this section are not registered for use in California.

When applied as directed under the conditions described, the tank mixtures listed in this section control many emerged weeds, and give preemergence control of many annual weeds where corn or soybeans will be planted directly into a cover crop, established sod or in previous crop residues.

Refer to specific product labels for crop rotation restrictions and precautionary statements of all products used in these tank mixtures. For mixing instructions, see the "MIXING, ADDITIVES and APPLICATION INSTRUCTIONS" section of this label.

Apply these tank mixtures in 10 to 20 gallons of water or 10 to 60 gallons of nitrogen solution per acre before, during or after planting.

Do not apply these mixtures after crop emergence.

When tank mixing with residual herbicides, add an agriculturally approved nonionic surfactant at 0.375 percent by volume of spray solution. The addition of 1 to 2 percent dry ammonium sulfate by weight may increase the performance of this product.

**NOTE:** When using these tank mixtures, do not exceed 3.2 quarts of this product per acre.

#### SOYBEANS

For residual control, this product may be tank-mixed with the following herbicides or combination of herbicides:

CANOPY®	LINURON®	PURSUIT®
COMMAND®	LOROX® PLUS	PURSUIT PLUS®
DUAL®	MICRO-TECH®	SCEPTER®
GEMINI®	PARTNER®	SENCOR®
LASSO®/ALACHLOR	PREVIEW®	SQUADRON®
LEXONE®	PROWL®	TURBO®

For improved burndown, this product may be tank-mixed with the following herbicides:

This product may be tank-mixed with the listed herbicides provided the specific product is registered for use on these sites.

2,4-DB

2,4-D\* (WEEDONE® 638, WEEDAR® 64, others)

\*See the label for 2,4-D for intervals between application and planting.

#### CORN AND SOYBEANS

**Annual weeds** – For difficult-to-control weeds such as fall panicum, barnyardgrass, crabgrass, shattercane and broadleaf signalgrass up to 2 inches tall, and Pennsylvania smartweed up to 6 inches tall, apply this product at 2 pints per acre in these tank mixtures. For other labeled annual weeds, apply 1 to 1.25 pints of this product per acre when weeds are less

than 6 inches tall, and 1.75 to 2.5 pints when weeds are over 6 inches tall. For a complete list of annual weeds controlled, see the "WEEDS CONTROLLED" section of this label.

**Perennial weeds** – At normal application times in minimum tillage systems, perennial weeds may not be at the proper stage of growth for control. See the "WEEDS CONTROLLED" section of this label for the proper stage of growth for perennial weeds.

Use of 1.75 to 3.5 quarts of this product per acre in the tank mixtures mentioned above, under these conditions provides top kill and reduces competition from many emerged perennial grass and broadleaf weeds. For emerged perennial weeds controlled, see the "WEEDS CONTROLLED" section of this label.

To obtain the desired stage of growth, it may be necessary to apply this product alone in the late summer or fall and then follow with a label-approved, seedling weed-control program at planting.

#### CORN

For residual control, this product may be tank-mixed with the following herbicides or combination of herbicides:

ATRAZINE	LARIAT®	PROWL® or
BICEP®	LASSO®/ALACHLOR	pendimethalin
BULLET®	MICRO-TECH®	SIMAZINE
DUAL®	PARTNER®*	

\*Partner herbicide is not registered in California.

For improved burndown, this product may be tank-mixed with 2,4-D or dicamba. Applications of 2,4-D or dicamba must be made at least 7 days prior to planting corn. See the "WEEDS CONTROLLED" section for specific rate information.

**DO NOT USE THESE TANK MIXTURES FOR BERMUDAGRASS OR JOHNSONGRASS CONTROL IN MINIMUM TILLAGE SYSTEMS.** For bermudagrass control, follow the instructions under "CONTROL OF PERENNIAL WEEDS" section of this label and then use a label approved, seedling weed-control program in a minimum tillage or conventional tillage system. For Johnsongrass control, follow instructions under "CONTROL OF PERENNIAL WEEDS" section of this label, and then use a label-approved, seedling weed-control program with conventional tillage.

### PREHARVEST APPLICATIONS ON ALFALFA, COTTON, GRAIN SORGHUM, SOYBEANS AND WHEAT

When applied as directed under the conditions described, this product controls annual and perennial weeds listed on this label prior to the harvest of cotton, grain sorghum, soybeans and wheat.

For specific rates and application instructions for control of various annual and perennial weeds, see the "WEEDS CONTROLLED" section of this label.

This product may be applied by both ground and aerial application equipment. **DO NOT APPLY MORE THAN 1 QUART PER ACRE OF THIS PRODUCT BY AIR.** See the "APPLICATION EQUIPMENT AND TECHNIQUES" section of this label for instructions for ground and aerial applications.

**NOTE:** Do not apply to crops grown for seed unless the likelihood of a reduction in germination and/or vigor is acceptable. Reduction in germination or vigor may occur.

The use of this product for preharvest grain sorghum (Milo) is not registered in California.

1-25-19

**SOYBEANS**

Apply after pods have set and lost all green color. Allow a minimum of 7 days between application and harvest of soybeans. Care should be taken to avoid excessive seed shatter loss due to ground application equipment.

Do not graze or harvest treated crop for livestock feed within 25 days of last preharvest application.

DO NOT APPLY MORE THAN 4.8 QUARTS PER ACRE OF THIS PRODUCT FOR PREHARVEST APPLICATIONS.

**ALFALFA**

This product may be used in declining alfalfa stands or any stand of alfalfa where crop destruction is acceptable. This application will severely injure or destroy the stand of alfalfa. The application rate of 0.8 quarts per acre will control most annual and perennial weeds, including quackgrass, when applied prior to the harvest of alfalfa.

The treated crop can be harvested and fed to livestock after 36 hours. Allow a minimum of 36 hours between application and harvest. For best results, harvest within 7 days of spraying.

Applications may be made at any time of year. Make only one preharvest application to an existing stand of alfalfa per year. For control of quackgrass, apply in the spring, late summer or fall when quackgrass is actively growing and at the proper growth stage (6 to 8 inches or more in height). Treatments for quackgrass must be followed by deep tillage for complete control.

DO NOT APPLY MORE THAN 26 OUNCES OF THIS PRODUCT PER ACRE AS A PREHARVEST TREATMENT TO ALFALFA.

**COTTON**

**Broadcast Applications** – This product may be applied using either aerial or ground spray equipment. For ground applications with broadcast equipment, apply this product in 10 to 20 gallons of water per acre. For aerial applications, apply this product in 3 to 10 gallons of water per acre.

This product provides weed control and cotton regrowth inhibition when applied prior to the harvest of cotton. Apply 1 to 1.6 quarts of this product in 3 to 10 gallons of water per acre for cotton regrowth inhibition. Do not apply more than 1.6 quarts of this product per acre for preharvest applications. THE USE OF ADDITIVES FOR PREHARVEST APPLICATION TO COTTON IS PROHIBITED.

This product may be tank mixed with DEF® 6, Folex® or Prep® to provide additional enhancement of cotton leaf drop.

Allow a minimum of 7 days between application and harvest of cotton.

Apply after sufficient bolls have developed to produce the desired yield of cotton. Applications made prior to this time could affect maximum yield potential.

Do not feed or graze treated cotton forage or hay following preharvest applications.

**GRAIN SORGHUM (MILO)**

Make applications at 30% grain moisture or less and at least 7 days prior to harvest.

Apply up to 1.6 quarts of this product per acre.

**WHEAT**

Apply after the hard-dough stage of grain (30% or less grain moisture) and at least 7 days prior to harvest.

DO NOT APPLY MORE THAN 0.8 QUARTS PER ACRE OF THIS PRODUCT FOR PREHARVEST APPLICATIONS TO WHEAT.

**PREHARVEST AND SPOT TREATMENTS OF WEEDS IN DRY BEANS**

**BROADCAST SPRAY:** This product may be applied as an over the top broadcast spray to control labeled weeds prior to the harvest of dry beans. Apply up to 22 fluid ounces in 3 to 20 gallons of water per acre at the hard dough stage of the legume seed (30 percent grain moisture or less). Either ground broadcast or aerial applications may be made.

**PRECAUTIONS, RESTRICTIONS:**

- Apply at least 7 days before harvest.
- Only one application per year may be made; do not combine a preharvest spray with a spot treatment on the same crop area.
- Employ at least a 30-day plant-back interval between treatment and replanting for any crop not listed in this label.
- Preharvest application is not recommended for dry beans grown for seed, as a reduction in germination or vigor may occur.
- Do not feed treated vines and hay from these crops to livestock. Do not apply this product through any type of irrigation system.
- Do not treat field cowpeas, since these are considered to be grown as livestock feed.

**SPOT TREATMENTS:** This product may be applied as a spot treatment to control troublesome weeds such as Canada thistle, quackgrass, mayweed (dog fennel), and milkweed in dry beans. Apply up to 22 fluid ounces in 10 to 20 gallons of water through ground spray equipment or use a 2 percent solution in a handheld sprayer. For best results, applications should be made at or beyond the bud stage of growth. The crop receiving spray in treated areas will be killed.

**PRECAUTIONS, RESTRICTIONS:**

- Apply at least 7 days before harvest.
- Only one application per year may be made; do not combine a preharvest spray with a spot treatment on the same crop area.
- Employ at least a 30-day plant-back interval between treatment and replanting for any crop not listed in this label.
- Do not feed treated vines and hay from these crops to livestock. Do not apply this product through any type of irrigation system.
- Do not treat field (feed) peas, since these are considered to be grown as livestock feed.

**PREHARVEST AND SPOT TREATMENTS OF WEEDS IN DRY PEAS, LENTILS AND CHICKPEAS**

This product may be applied as an over-the-top to control labeled weeds prior to the harvest to dry peas, lentils, and chickpeas. Apply up to 78 fluid ounces of product per acre in dry peas, lentils and chickpeas, in 3 to 20 gallons of water per acre at the hard dough stage of the legume seed (30 percent grain moisture or less). Either ground or aerial applications may be made.

**PRECAUTIONS AND RESTRICTIONS:**

- Apply at least 7 days before harvest.
- Only one application per year may be made; do not combine a preharvest spray with a spot treatment on the same crop area.
- Employ at least a 30 day plant-back interval between treatment and replanting for any crop not listed on this product label.
- Preharvest application is not recommended for legumes grown for seed, as a reduction in germination or vigor may occur.
- Do not feed treated vines and hay from these crops to livestock.
- Do not apply this product through any type of irrigation system.
- Do not treat cowpeas or field (feed) peas, since these are considered to be grown as livestock feed.

SB2315

#4

B

58

1-25-19

**SPOT TREATMENTS**

This product may be applied as a spot treatment to control troublesome weeds such as Canada thistle, quackgrass, mayweed (dog fennel) and milkweed in dry peas, lentils, and chickpeas. Apply up to 78 fluid ounces of product per acre in dry peas, lentils and chickpeas in, 10 to 20 gallons of water through ground spray equipment or use a 2 percent solution in a handheld sprayer. For best results, applications should be made at or beyond the bud state of growth. The crop receiving spray in treated areas will be killed.

**PRECAUTIONS AND RESTRICTIONS:**

- Apply at least 7 days before harvest.
- Only one application per year may be made; do not combine a preharvest spray with a stop treatment on the same crop area.
- Employ at least 30 day plant-back interval between treatment and replanting for any crop not listed in this product label.
- Do not feed treated vines and hay from these crops to livestock.
- Do not treat cowpeas or field (feed) peas, since these are considered to be grown as livestock feed.

**TREE AND VINE CROPS**

This product may be used for weed control in established groves, vineyards, and orchards, or for site preparation prior to transplanting crops listed in this section. Applications may be made with boom equipment, CDA, shielded sprayers, hand-held and high-volume wands, lances, orchard guns or with wiper applicator equipment, except as directed in this section. See the "APPLICATION EQUIPMENT AND TECHNIQUES" section of this label for specific information on use of equipment.

When applying this product, refer to the "WEEDS CONTROLLED" section of this label and to specific directions in this section for rates to be used.

**NOTE**

Repeat treatments may be necessary to control weeds originating from underground parts of untreated weeds or from seeds. This product does not provide residual weed control. For subsequent weed control, use repeated applications of this product. Do not apply more than 8.5 quarts of this product per acre per year.

EXTREME CARE MUST BE EXERCISED TO AVOID CONTACT OF HERBICIDE SOLUTION, SPRAY, DRIFT OR MIST WITH FOLIAGE OR GREEN BARK OF TRUNK, BRANCHES, SUCKERS, FRUIT OR OTHER PARTS OF TREES OR VINES. CONTACT OF THIS PRODUCT WITH OTHER THAN MATURED BROWN BARK CAN RESULT IN SERIOUS CROP DAMAGE.

AVOID PAINTING OUT STUMPS WITH THIS PRODUCT AS INJURY RESULTING FROM ROOT GRAFTING MAY OCCUR IN ADJACENT TREES. Reduced control may result when applications are made to annual or perennial weeds that have been mowed, grazed or cut and have not been allowed to regrow to the recommended stage for treatment.

For specific rates of applications and instructions, see the "WEEDS CONTROLLED" section of this label, and to specific directions which follow.

**MIDDLES MANAGEMENT**

FOR ANNUAL WEEDS IN MIDDLES BETWEEN ROWS OF TREE AND VINE CROPS For citrus crops, treat uniformly between trees.

**BUCCANEER 5  
BUCCANEER 5 plus GOAL**

This product alone or in mixtures with Goal will control or suppress the annual weeds listed below.

Apply the specified rates of this product, either alone or in mixtures with Goal, plus 0.375 percent nonionic surfactant by spray volume in 3 to 10 gallons of water per acre. Apply when weeds are actively growing and less than 6 inches in height or diameter. If weeds are under drought stress, irrigate prior to application. Reduced control may occur if weeds have been mowed prior to application. Up to 40 fluid ounces per acre of this product may be used to control weeds, which have been mowed, are stressed or are growing in dense populations.

WEED SPECIES	MAXIMUM HEIGHT/DIAMETER (INCHES)	RATE PER ACRE	
		BUCCANEER 5 (FL OZ)	GOAL (FL OZ)
<b>Barley</b> <i>Hordeum vulgare</i>	6	6.75	-
<b>Bluegrass, annual</b> <i>Poa annua</i>			
<b>Barnyardgrass</b> <i>Echinochloa crus-galli</i>	6	10	-
<b>Chickweed, common</b> <i>Stellaria media</i>			
<b>Red Maids</b> <i>Calandrinia ciliata</i>			
<b>Crabgrass</b> <i>Digitaria</i> spp.	6	13	-
<b>Fleabane, hairy</b> <i>Conyza bonariensis</i>			or
<b>Groundsel, common</b> <i>Senecio vulgaris</i>			
<b>Junglerice</b> <i>Echinochloa colonum</i>		13 to 26	+ 4 to 16**
<b>Lambsquarters, common</b> <i>Chenopodium album</i>			
<b>Pigweed, redroot</b> <i>Amaranthus retroflexus</i>			
<b>Rocket, London</b> <i>Sisymbrium irio</i>			
<b>Ryegrass, common</b> <i>Lolium multiflorum</i>			
<b>Shepherdspurse</b> <i>Capsella bursa-pastoris</i>			
<b>Sowthistle, annual</b> <i>Sonchus oleraceus</i>			
<b>Cheeseweed, common</b> <i>Malva</i> spp.	3	10 to 26	+ 4 to 16
<b>Cheeseweed, common</b> <i>Malva</i> spp.	6	13 to 26	+ 4 to 16
<b>Filaree*</b> <i>Erodium</i> spp.			
<b>Horseweed/Marestail</b> <i>Conyza canadensis</i>	6	13 to 26	+ 4 to 16
<b>Nettle, stinging</b> <i>Urtica dioica</i>			
<b>Purslane, common*</b> <i>Portulaca oleracea</i>			

\*Suppression only.

\*\*The mixture of this product plus Goal is recommended when weeds are stressed or growing in dense populations.

1-25-19

**STRIPS**

FOR ANNUAL AND PERENNIAL WEEDS IN STRIPS OF TREE AND VINE CROPS

**TANK MIXTURES WITH RESIDUAL HERBICIDES**

When applied as a tank mixture, this product provides control of the emerged annual weeds and control or suppression of emerged perennial weeds listed in this label. The following residual herbicides will provide preemergence control of those weeds listed in the individual product labels.

**BUCCANEER 5 plus GOAL 2XL**

**BUCCANEER 5 plus KARMEX® DF**

**BUCCANEER 5 plus KROVAR I**

**BUCCANEER 5 plus KROVAR II**

**BUCCANEER 5 plus PRINCEP CALIBER 90**

**BUCCANEER 5 plus SIMAZINE 4L, 80w or 90DF**

**BUCCANEER 5 plus SOLICAM® 80DF**

**BUCCANEER 5 plus SURFLAN AS or 75w**

**BUCCANEER 5 plus PRINCEP CALIBER 90, SIMAZINE 4L, 80w or 90DF plus SURFLAN AS or 75w**

**BUCCANEER 5 plus GOAL 2XL plus SURFLAN AS or 75w**

**BUCCANEER 5 plus GOAL 2XL plus PRINCEP CALIBER 90, SIMAZINE 4L, 80w or 90DF**

**BUCCANEER 5 plus GOAL 2XL plus SURFLAN AS or 75w plus PRINCEP CALIBER 90, SIMAZINE 4L, 80w or 90DF**

Do not apply these tank mixtures in Puerto Rico.

When tank-mixing with residual herbicides, add an agriculturally approved nonionic surfactant at 0.375 percent by volume of spray solution.

Refer to the individual product labels for specific crops, rates, geographical restrictions and precautionary statements.

Read and carefully observe the label claims, cautionary statements, rates and all other information on the labels of all products.

**SPECIFIED RATES**

**Annual weeds** – Apply 1 to 4 quarts per acre of this product in these tank mixtures. Use rates at the higher end of the specified range when weeds are stressed, growing in dense populations or are greater than 12 inches tall.

**Perennial weeds** – Apply 1 pint to 4 quarts per acre of this product in these tank mixtures to control or suppress perennial weeds. Follow the directions in the "WEEDS CONTROLLED" section of this label for stage of growth and application rates for specific perennial weeds.

**BUCCANEER 5 plus GOAL plus SIMAZINE/SURFLAN**

This product plus low rates of Goal in 3-way or 4-way mixtures with simazine and/or Surflan will provide postemergence control of the weeds listed below.

Refer to the individual simazine and Surflan labels for preemergence rates, weeds controlled, precautionary statements and other important information.

Apply these tank mixtures in 3 to 40 gallons of water. Add 0.375 percent nonionic surfactant by total spray volume to the spray solution.

Apply 1 to 4 quarts per acre of this product plus 4 to 48 fluid ounces per acre of Goal plus labeled rates of simazine and/or Surflan to control the following weeds:

**Barley, wild**

*Hordeum leporinum*

**Bluegrass, annual**

*Poa annua*

**Cheeseweed, common**

*Malva* spp.

**Chickweed, common**

*Stellaria media*

**Filaree\***

*Erodium* spp.

**Fleabane, hairy**

*Conyza bonariensis*

**Groundsel, common**

*Senecio vulgaris*

**Horseweed/Marestail**

*Conyza canadensis*

**Nettle, stinging**

*Urtica dioica*

**Pineappleweed**

*Matricaria matricariodes*

**Rocket, London**

*Sisymbrium irio*

**Shepherdspurse**

*Capsella bursa-pastoris*

**Sowthistle, annual**

*Sonchus oleraceus*

\*Use a minimum of 1.25 quarts of this product in these mixtures.

**NOTE:** These directions do not preclude the use of Goal in these mixtures at higher, labeled rates for preemergence weed control.

**PERENNIAL GRASS SUPPRESSION ON ORCHARD FLOORS**

When applied as directed, this product will suppress vegetative growth as indicated below.

**Bahiagrass**

This product will provide significant inhibition of seedhead emergence and will suppress vegetative growth for a period of approximately 45 days with a single application and approximately 120 days with sequential applications. Apply this product 1 to 2 weeks after full green-up or after mowing to a uniform height of 3 to 4 inches. Applications must be made prior to seedhead emergence. Apply 5 fluid ounces of this product plus 0.375 percent nonionic surfactant by total spray volume in 10 to 25 gallons of water per acre.

Sequential applications of this product plus nonionic surfactant may be made at approximately 45-day intervals to extend the period of seedhead and vegetative growth suppression. For continued seedhead suppression, sequential applications must be made prior to seedhead emergence. Apply no more than 2 sequential applications per year. As a first sequential application, apply 3.5 fluid ounces of this product plus nonionic surfactant. A second sequential application of 1.75 to 3.30 fluid ounces may be made approximately 45 days after the last application.

**Bermudagrass**

For burndown, apply 0.8 to 1.75 quarts of this product plus 0.375 percent nonionic surfactant by total spray volume in 3 to 20 gallons of water per acre. Use 0.8 quarts of this product in 3 to 20 gallons of water per acre east of the Rocky Mountains. Use 1 to 1.75 quarts of this product in 3 to 10 gallons of water per acre west of the Rocky Mountains. Use this treatment only if reduction of the bermudagrass stand can be tolerated. When burndown is required prior to harvest, allow at least 21 days to ensure sufficient time for burndown to occur.

**Suppression only (east of the Rocky Mountains)** – Apply 6 to 13 fluid ounces of this product plus 0.375 percent nonionic surfactant by total spray volume in 3 to 20 gallons of water per acre no sooner than 1 to 2 weeks after full green-up. Mowing prior to application may occur provided a minimum height of 3 inches is maintained. Rates of 5 to 8.5 fluid ounces of this product plus nonionic surfactant should be used in shaded conditions or where a lesser degree of suppression is desired. Sequential applications may be made when regrowth occurs and bermudagrass injury and stand reduction can be tolerated.

(continued)

**Suppression only (west of the Rocky Mountains)** – Apply 13 fluid ounces of this product plus 0.375 percent nonionic surfactant by total spray volume in 3 to 10 gallons of water per acre to bermudagrass up to 6 inches in height and no sooner than 1 to 2 weeks after full green-up. Mowing prior to application may occur provided a minimum height of 3 inches is maintained. Sequential applications may be made when regrowth occurs and bermudagrass injury and stand reduction can be tolerated.

**Cool-Season Grass Covers**

For suppression of tall fescue, fine fescue, orchardgrass and quackgrass, apply 6.75 fluid ounces of this product plus 0.375 percent nonionic surfactant by total spray volume in 10 to 20 gallons of water per acre. For best suppression, add ammonium sulfate to the spray solution at a rate of 2 percent by weight or 17 pounds per 100 gallons of spray solution.

For suppression of Kentucky bluegrass covers, apply 5 fluid ounces of this product plus 0.375 percent nonionic surfactant. Do not add ammonium sulfate.

For best results, mow cool-season grass covers in the spring to even their height and apply the specified rate of this product 3 to 4 days after mowing. Avoid treating cool season grass covers under poor growing conditions, such as drought stress (drip irrigation), disease or insect damage.

**LOW VOLUME APPLICATION (FLORIDA AND TEXAS)**

For burndown or control of the weeds listed, apply the specified rates of this product plus 0.375 percent nonionic surfactant by total spray volume in 3 to 30 gallons of water per acre. Where weed foliage is dense, use 10 to 30 gallons of water per acre.

**Annual weeds**

**Goatweed** – Apply 1.75 to 2.5 quarts per acre of this product plus 17 pounds of ammonium sulfate per 100 gallons of water plus 0.375 percent nonionic surfactant by total spray volume. Apply in 20 to 30 gallons of water per acre when plants are actively growing. Use 1.75 quarts per acre when plants are less than 8 inches tall and 2.5 quarts per acre when plants are greater than 8 inches. If goatweed is greater than 8 inches tall, the addition of Krovar II or Karmex may improve control. Use labeled rates for these residual products.

Read and carefully observe the label claims, cautionary statements, rates and all other information on the Krovar II and Karmex labels.

**Perennial weeds**

Apply when weeds are actively growing and at the growth stages listed in the “PERENNIAL WEEDS CONTROLLED” section of this label. If perennial weeds are mowed, allow weeds to regrow to the recommended stage of growth.

S = Suppression                      B = Burndown  
PC = Partial control                  C = Control

WEED SPECIES	BUCCANEER 5 RATE PER ACRE			
	0.8 qt.	1.75 qts.	2.5 qts.	4 qts.
Bermudagrass	B	•	PC	C
Guineagrass				
Texas and Florida Ridge	B	C	C	C
Florida Flatwoods	•	B	C	C
Paragrass	B	C	C	C
Torpedograss	S	•	PC	C

**TREE CROPS**

**Citrus\*\*\*\*\*:** calamondin, chironja, citron, grapefruit, kumquat, lemon, lime, mandarin orange, orange, pummelo, tangelo, tangerine, tangors.

**Nuts\*\*:** almond, beechnut, Brazil nut, butternut, cashew, chestnuts, chinquapin, filbert, hazel nut, hickory nut, macadamia, pecan, pistachio, walnut.

**Pome Fruit\*\*\*\*\*:** apple, loquat, mayhaw, pear, quince.

**Stone Fruit\*\*\*:** apricots, cherries, nectarines, olives, peaches, plums/prunes.

For cherries, any application equipment listed in this section may be used in all states.

For citron and olives, apply as a directed spray only.

Any application equipment listed in this section may be used in apricots, peaches and plums/prunes growing in Arizona, California, Colorado, Idaho, Kansas, Kentucky, New Jersey, North Dakota, Oklahoma, Oregon, Texas, Utah and Washington, except for peaches grown in the states specified in the following paragraph. In all other states use wiper equipment only.

For PEACHES grown in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee only, apply with a shielded boom sprayer or shielded wiper applicator, which prevents any contact of this product with the foliage or bark of trees. Apply no later than 90 days after first bloom. Applications made after this time may result in severe damage. Remove suckers and low-hanging limbs at least 10 days prior to application. Avoid applications near trees with recent pruning wounds or other mechanical injury. Apply only near trees which have been planted in the orchard for 2 or more years. **EXTREME CARE MUST BE TAKEN TO ENSURE NO PART OF THE PEACH TREE IS CONTACTED.**

**Tropical Fruit:** acerola\*, atemoya\*, avocado\*, banana\*\*\*\*\*, (plantains)\*\*\*\*, breadfruit\*, canistel\*, carambola\*, cherimoya\*, cocoa beans\*, coffee\*\*\*\*, dates\*, figs\*, genip\*, guava\*\*\*\*\*, jaboticaba\*, jackfruit\*, longan\*, lychee\*, mango\*, mayhaw\*, papaya\*\*\*\*, passion fruit\*, persimmons\*, pomegranate\*, sapodilla\*, sapote\*, soursop\*, sugar apple\*, tamarind\*, tea\*. In coffee and banana, delay applications 3 months after transplanting to allow the new coffee or banana plant to become established.

**NOTE**

- \* Allow a minimum of 14 days between last application and harvest.
- \*\* Allow a minimum of 3 days between last application and harvest of these crops.
- \*\*\* Allow a minimum of 17 days between last application and harvest.
- \*\*\*\* Allow a minimum of 28 days between last application and harvest.
- \*\*\*\*\* Allow a minimum of 1 day between last application and harvest.

**VEGETABLES (Peppers)**

**Hooded Sprayers** – This product may be used through hooded sprayers for weed control between the rows of peppers. Only hooded sprayers that completely enclose the spray pattern may be used. A hooded sprayer is a type of shielded applicator. The spray pattern is completely enclosed on the top and all 4 sides by a hood, thereby shielding the crop from the spray solution. This equipment must be set up and operated in a manner that avoids bouncing or raising the hoods off the ground in any way. If the hoods are raised, spray particles may escape and come into contact with the crop, causing damage or destruction of the crop. The spray hoods must be operated on the ground or skimming across the ground. Tractor speed must be adjusted to avoid bouncing of the spray hoods. Avoid operation on rough or sloping ground where the spray hoods might be raised off the ground.

SB2315

#4 B3 61

1-25-19

Follow these requirements:

- The spray hoods must be operated on the ground or skimming across the ground.
- Leave at least an 8 inch untreated strip over the drill row. For example, if the crop row width is 38 inches, the maximum width of the spray hood should be 30 inches.
- Maximum tractor speed: 5 mph
- Maximum wind speed: 10 mph
- Use low-drift nozzles.

### VINE CROPS

#### (Kiwi Fruit, Grapes, Hops and Passion Fruit)

This product may be used for weed control in established groves, vineyards, and orchards, or for site preparation prior to transplanting crops listed in this section. Applications may be made with boom equipment, CDA, shielded sprayers, hand-held and high-volume wands, lances, orchard guns or with wiper applicator equipment, except as directed in this section. See the "APPLICATION EQUIPMENT AND TECHNIQUES" section of the label booklet for this product for specific information on use of equipment and directions. When applying this product, refer to the "WEEDS CONTROLLED" section of the label booklet for this product and to specifications in that section for rates to be used.

Applications should not be made when green shoots, canes, or foliage are in the spray zone.

Any variety of table, wine or raisin grape may be treated with any equipment listed in this section. In the northeast and Great Lakes regions, applications must be made prior to the end of bloom stage of grapes to avoid injury.

Allow a minimum of 14 days between last application and harvest.

## STORAGE AND DISPOSAL

Do not contaminate water, foodstuffs, feed or seed by storage or disposal.

**PESTICIDE STORAGE:** STORE ABOVE 10°F (-12°C) TO KEEP PRODUCT FROM CRYSTALLIZING. Crystals will settle to the bottom. If allowed to crystallize, place in a warm room 68°F (20°C) for several days to redissolve and shake or roll to mix well before using.

**PESTICIDE DISPOSAL:** Wastes resulting from the use of this product that cannot be used or chemically reprocessed should be disposed of in a landfill approved for pesticide disposal or in accordance with applicable Federal, state or local procedures. Emptied container retains vapor and product residue. Observe all label safeguards until container is destroyed.

### CONTAINER HANDLING:

Nonrefillable container. Do not reuse or refill this container. Offer for recycling if available. Triple rinse container (or equivalent) promptly after emptying. Triple rinse as follows: Empty the remaining contents into application equipment or a mix tank and drain for 10 seconds after the flow begins to drip. Fill the container 1/4 full with water and recap. Shake for 10 seconds. Pour rinsate into application equipment or a mix tank or store rinsate for later use or disposal. Drain for 10 seconds after the flow begins to drip. Repeat this procedure two more times. Then offer for recycling or reconditioning, or puncture and dispose of in a sanitary landfill, or by other procedures approved by State and local authorities. Plastic containers are also disposable by incineration, or, if allowed by State and local authorities, by burning. If burned stay out of smoke.

1-25-19

**WARRANTY DISCLAIMER**

The directions for use of this product must be followed carefully. TO THE EXTENT CONSISTENT WITH APPLICABLE LAW, (1) THE GOODS DELIVERED TO YOU ARE FURNISHED "AS IS" BY MANUFACTURER OR SELLER AND (2) MANUFACTURER AND SELLER MAKE NO WARRANTIES, GUARANTEES, OR REPRESENTATIONS OF ANY KIND TO BUYER OR USER, EITHER EXPRESS OR IMPLIED, OR BY USAGE OF TRADE, STATUTORY OR OTHERWISE, WITH REGARD TO THE PRODUCT SOLD, INCLUDING, BUT NOT LIMITED TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, USE, OR ELIGIBILITY OF THE PRODUCT FOR ANY PARTICULAR TRADE USAGE. UNINTENDED CONSEQUENCES, INCLUDING BUT NOT LIMITED TO INEFFECTIVENESS, MAY RESULT BECAUSE OF SUCH FACTORS AS THE PRESENCE OR ABSENCE OF OTHER MATERIALS USED IN COMBINATION WITH THE GOODS, OR THE MANNER OF USE OR APPLICATION, INCLUDING WEATHER, ALL OF WHICH ARE BEYOND THE CONTROL OF MANUFACTURER OR SELLER AND ASSUMED BY BUYER OR USER. THIS WRITING CONTAINS ALL OF THE REPRESENTATIONS AND AGREEMENTS BETWEEN BUYER, MANUFACTURER AND SELLER, AND NO PERSON OR AGENT OF MANUFACTURER OR SELLER HAS ANY AUTHORITY TO MAKE ANY REPRESENTATION OR WARRANTY OR AGREEMENT RELATING IN ANY WAY TO THESE GOODS.

**LIMITATION OF LIABILITY**

TO THE EXTENT CONSISTENT WITH APPLICABLE LAW, MANUFACTURER OR SELLER SHALL NOT BE LIABLE FOR SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, OR FOR DAMAGES IN THEIR NATURE OF PENALTIES RELATING TO THE GOODS SOLD, INCLUDING USE, APPLICATION, HANDLING, AND DISPOSAL. TO THE EXTENT CONSISTENT WITH APPLICABLE LAW, MANUFACTURER OR SELLER SHALL NOT BE LIABLE TO BUYER OR USER BY WAY OF INDEMNIFICATION TO BUYER OR TO CUSTOMERS OF BUYER, IF ANY, OR FOR ANY DAMAGES OR SUMS OF MONEY, CLAIMS OR DEMANDS WHATSOEVER, RESULTING FROM OR BY REASON OF, OR ARISING OUT OF THE MISUSE, OR FAILURE TO FOLLOW LABEL WARNINGS OR INSTRUCTIONS FOR USE, OF THE GOODS SOLD BY MANUFACTURER OR SELLER TO BUYER. ALL SUCH RISKS SHALL BE ASSUMED BY THE BUYER, USER, OR ITS CUSTOMERS. TO THE EXTENT CONSISTENT WITH APPLICABLE LAW, BUYER'S OR USER'S EXCLUSIVE REMEDY, AND MANUFACTURER'S OR SELLER'S TOTAL LIABILITY SHALL BE FOR DAMAGES NOT EXCEEDING THE COST OF THE PRODUCT.

**If you do not agree with or do not accept any of the directions for use, the warranty disclaimers, or limitations on liability, do not use the product, and return it unopened to the Seller, and the purchase price will be refunded.**

(RV060413-3)

Buccaneer is a registered trademark of Tenkoz, Inc.  
All other trademarks are the property of their respective owners.

SPECIMEN



SB23L5

#4 Pg 103

1-25-19



# CLASS ACT® NG®

## WATER CONDITIONING AGENT/NONIONIC SURFACTANT BLEND

Protected by U.S. Patent Nos. 5,945,377 and RE 36,149

With

CornSorb® Technology

### PRINCIPAL FUNCTIONING AGENTS:

Ammonium sulfate, corn syrup, alkyl polyglucoside.....	50.5%
CONSTITUENTS INEFFECTIVE AS SPRAY ADJUVANT.....	49.5%
TOTAL.....	100%

Surfactant content 10% (note the use rate of 2.5% v/v compensates for the low surfactant %)

All ingredients are exempt from the requirements of a tolerance in 40 CFR 180.

### KEEP OUT OF REACH OF CHILDREN WARNING

Causes eye irritation.

### PRECAUTIONARY STATEMENTS

Wash hands thoroughly after handling.

### FIRST AID

**IF IN EYES:** Rinse cautiously with water for 15 minutes. Remove contact lenses, if present, and easy to do so. Continue rinsing. If eye irritation persists get medical attention.

FOR EMERGENCY, SPILL, LEAK, FIRE, EXPOSURE, OR ACCIDENT, CALL: CHEMTREC 1-800-424-9300

### STORAGE AND DISPOSAL

Keep product in original container. Do not contaminate water, food, or feed by storage or disposal. Do not reuse empty container. Triple rinse (or equivalent) during mixing and loading. Recycling decontaminated containers is the best option of container disposal. The Agricultural Container Recycling Council (ACRC) operates the national recycling program. Contact your state and local ACRC recycler or visit the ACRC web page at [www.acrecycle.org](http://www.acrecycle.org). Decontaminated containers may also be disposed of in a sanitary landfill.

### GENERAL INFORMATION

CLASS ACT® NG®, a water conditioning agent (Ammonium Sulfate)/Nonionic Surfactant Blend, is a low foam formula for use with pesticides that are labeled for agricultural, aquatic, forestry, non-cropland, and right-of-way uses. CLASS ACT® NG® is formulated to meet the surfactant and ammonium sulfate recommendation for many glyphosate, glufosinate, paraquat, and diquat products or other herbicides requiring the addition of nonionic surfactant and ammonium sulfate. CLASS ACT® NG® reduces potential antagonism and improves uptake of most nutrients in foliar applications. This patented formulation contains 1.3 pounds of sugar per gallon.

**Approved for Aquatic Use With Pesticides Labeled for Aquatic Use**

CA Reg. No. 1381-50014-AA

WA Reg. No. 1381-01004

Distributed by:  
Winfield Solutions, LLC  
P.O. Box 64589  
St. Paul, MN 55164-0589

NET CONTENTS      2½ GALLONS

**WINFIELD**

1/0216/5  
**AgriSOLUTIONS**  
TM

SB2315

#4 Pg 04

1-25-19

**DIRECTIONS FOR USE**

**Shake well before using**

CLASS ACT® NG® may be used at a rate of 2.5-5.0% v/v (2.5-5.0 gallons per 100 gallons of spray solution). This meets Roundup® Original, Cornerstone® and similar product label requirements for 0.5-1.0% v/v nonionic surfactant plus 8.5-17 pounds of dry ammonium sulfate per 100 gallons of water. Follow herbicide label for specific rates, mixing instructions and other precautionary instructions. Do not mix CLASS ACT® NG® with INTERLOCK® in an induction system or container when both products are undiluted. Once mixed in water, both products are compatible in either mixing order.

Amounts of nonionic surfactant and dry ammonium sulfate in CLASS ACT® NG®.

<b>Gallons of CLASS ACT® N.G.® Per 100 Gallons of Water</b>		<b>Equivalent Quarts of Nonionic Surfactant</b>		<b>Pounds of Dry Ammonium Sulfate</b>
2.5	=	2	=	8.5
5.0	=	4	=	17.0

**Notice of Warranty**

Seller warrants that the product conforms to its chemical description and is reasonably fit for the purposes stated on the label when used in accordance with directions under normal conditions of use. SELLER MAKES NO OTHER EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, NOR IS ANY REPRESENTATIVE OF SELLER AUTHORIZED TO MAKE ANY SUCH WARRANTY OR MODIFY THESE TERMS. This warranty does not extend to the storage, handling or use of this product contrary to label instructions, or under abnormal conditions, or under conditions not reasonably foreseeable to Seller, and Buyer assumes the risk of any such storage, handling or use. Seller shall not be responsible for incidental or consequential damages, if any, resulting from a breach of warranty.

AgriSolutions™ is a trademark and Class Act®, Cornerstone®, CornSorb®, InterLock® and NG® are registered trademarks of Winfield Solutions, LLC .  
Roundup® is a registered trademark of Monsanto Technology, LLC.

SB2315

#4 Pg 65

1-25-19

# Banvel<sup>®</sup>

## Herbicide

PEEL HERE ►  
TO OPEN

FOR WEED CONTROL IN CORN, SORGHUM, SMALL GRAINS,  
PASTURE, HAY, RANGELAND, FARMSTEAD (NON-CROPLAND), FALLOW,  
SUGARCANE, ASPARAGUS, TURF AND GRASS SEED CROPS.

ACTIVE INGREDIENT	By Weight
Dimethylamine salt of dicamba (3,6-dichloro-o-anisic acid)*	49.4%
<b>OTHER INGREDIENTS</b>	50.6%
<b>TOTAL</b>	100.0%

\* This product contains 41.0% 3,6-dichloro-o-anisic acid (dicamba) or 4 pounds per gallon (480 g/L).

### KEEP OUT OF REACH OF CHILDREN

## CAUTION/PRECAUCIÓN

Si usted no entiende la etiqueta, busque a alguien para que se la explique a usted en detalle. (If you do not understand the label, find someone to explain it to you in detail.)

See inside of booklet for complete Precautionary Statements and Directions For Use.

Manufactured for:

**ARYSTA LIFESCIENCE NORTH AMERICA, LLC**

15401 Weston Parkway, Suite 150

Cary, North Carolina 27513

For Product Information: 1-866-761-9397

EPA Registration No. 66330-276

EPA Establishment No. 68323-TX-001

AD091109

2040549-081110



Arysta LifeScience

Product of U.S.A.

**Net Contents: 2.5 gallons**

SB2315

#4 Pg 66

1-25-19

<b>FIRST AID</b>	
<b>IF IN EYES</b>	<ul style="list-style-type: none"> <li>• Hold eye open and rinse slowly and gently with water for 15-20 minutes.</li> <li>• Remove contact lenses, if present after the first 5 minutes, then continue rinsing eye.</li> <li>• Call a poison control center or doctor for treatment advice.</li> </ul>
<b>IF ON SKIN OR CLOTHING</b>	<ul style="list-style-type: none"> <li>• Take off contaminated clothing.</li> <li>• Rinse skin immediately with plenty of water for 15-20 minutes.</li> <li>• Call a poison control center or doctor for treatment advice.</li> </ul>
<b>IF SWALLOWED</b>	<ul style="list-style-type: none"> <li>• Call a poison control center or doctor immediately for treatment advice.</li> <li>• Have person sip a glass of water if able to swallow.</li> <li>• Do not induce vomiting unless told to do so by a poison control center or doctor.</li> <li>• Do not give anything by mouth to an unconscious person.</li> </ul>
<p><b>EMERGENCY TELEPHONE NUMBERS:</b> Have the product container or label with you when calling a poison control center or doctor, or going for treatment.</p> <p><b>FOR 24-HOUR EMERGENCY MEDICAL ASSISTANCE CALL:</b> 1-866-303-6952</p> <p><b>FOR CHEMICAL EMERGENCY:</b> Spill, leak, fire, exposure, or accident call CHEMTREC 1-800-424-9300</p>	

## PRECAUTIONARY STATEMENTS

### HAZARDS TO HUMANS AND DOMESTIC ANIMALS

**Caution:** Harmful if swallowed. Harmful if absorbed through skin. Causes moderate eye irritation. Avoid contact with skin, eyes or clothing.

### PERSONAL PROTECTIVE EQUIPMENT (PPE)

Some materials that are chemical-resistant to this product are butyl rubber and nitrile rubber. If you want more options, follow the instructions for **Category A** on an EPA chemical-resistance category selection chart.

All mixers, loaders, and applicators and other handlers must wear:

- Long-sleeved shirt and long pants
- Chemical-resistant gloves (except for pilots)
- Shoes plus socks

See engineering controls for additional requirements and exceptions. Discard clothing and other absorbent materials that have been drenched or heavily contaminated with this product's concentrate. **DO NOT** reuse them. Follow manufacturer's instructions for cleaning/maintaining PPE. If no such instructions for washables exist, use detergent and hot water. Keep and wash PPE separately from other laundry.

### ENGINEERING CONTROLS STATEMENTS

When handlers use closed systems, enclosed cabs, or aircraft in a manner that meets the requirements listed in the Worker Protection Standard (WPS) for agricultural pesticides [40 CFR 170.240 (d) (4-6)], the handler PPE requirements may be reduced or modified as specified in the WPS. Pilots must use cockpits in a manner that meets the requirements listed in the Worker Protection Standard (WPS) for agricultural pesticides (40 CFR 170.240(d)(4-6)).

### USER SAFETY RECOMMENDATIONS

Users should:

- Wash hands before eating, drinking, chewing gum, using tobacco or using the toilet.
- Remove clothing/PPE immediately if pesticide gets inside. Then wash thoroughly and put on clean clothing.
- Remove PPE immediately after handling this product. Wash the outside of gloves before removing. As soon as possible, wash thoroughly and change into clean clothing.

### ENVIRONMENTAL HAZARDS

**DO NOT** apply directly to water, or to areas where surface water is present or to intertidal areas below the mean high water mark. **DO NOT** contaminate water when disposing of equipment washwaters or rinseate.

Apply this product only as directed on label.

1-25-19

**PHYSICAL OR CHEMICAL HAZARDS**

Keep away from strong oxidizers.

**DIRECTIONS FOR USE**

It is a violation of Federal law to use this product in a manner inconsistent with its labeling.

**DO NOT** apply this product in a way that will contact workers or other persons, either directly or through drift. Only protected handlers may be in the area during application. For any requirements specific to your State or Tribe, consult the agency responsible for pesticide regulation.

**AGRICULTURAL USE REQUIREMENTS**

Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR part 170. This standard contains requirements for the protection of agricultural workers on farms, forests, nurseries, and greenhouses, and handlers of agricultural pesticides. It contains requirements for training, decontamination, notification, and emergency assistance. It also contains specific instructions and exceptions pertaining to the statements on this label about personal protective equipment (PPE), and restricted-entry interval. The requirements in this box only apply to uses of this product that are covered by the Worker Protection Standard.

**DO NOT** enter or allow worker entry into treated areas during the restricted entry interval (REI) of 24 hours.

PPE required for early entry to treated areas that is permitted under the Worker Protection Standard and that involves contact with anything that has been treated, such as plants, soil, or water is:

- Coveralls worn over short-sleeve shirt and short pants
- Chemical-resistant footwear plus socks
- Chemical-resistant gloves made of any waterproof material
- Chemical-resistant headgear for overhead exposure
- Protective eyewear

**NON-AGRICULTURAL USE REQUIREMENTS**

The requirements in this box apply to the uses of this product that are NOT within the scope of the Worker Protection Standard for agricultural pesticides (40 CFR Part 170) The WPS applies when this product is used to produce agricultural plants on farms, in nurseries, in forests, or in greenhouses.

- **DO NOT allow others to enter the treated areas until the spray has dried.**

Before applying **BANVEL**, read all directions and precautions appearing on the container label and in this booklet. Failure to follow all directions and precautions may result in unsatisfactory weed control, crop injury, or illegal residues.

**PRODUCT INFORMATION**

The following directions apply to all uses of BANVEL. Additional precautions and restrictions will be found in each specific use section.

**DO NOT** treat irrigation ditches or water used for crop irrigation or domestic uses.

**DO NOT** apply this product through any type of irrigation system.

**MIXING AND APPLICATION**

UNLESS OTHERWISE SPECIFIED UNDER THE INDIVIDUAL USE HEADINGS OF THIS BOOKLET, THE FOLLOWING DIRECTIONS APPLY TO ALL CROP AND NON-CROP USES OF BANVEL. REFER TO INDIVIDUAL USE SECTIONS FOR ADDITIONAL PRECAUTIONS, RESTRICTIONS, APPLICATION RATES AND TIMINGS.

BANVEL is a water-soluble formulation that can be **applied using water or sprayable fluid fertilizer as the carrier. If a fluid fertilizer is to be used, a compatibility test (See COMPATIBILITY TEST) should be made prior to tank mixing.**

**DO NOT** apply more than 2 pt of BANVEL (1 lb dicamba) per acre for any single application.

**DO NOT** exceed more than 4 pt of BANVEL (2 lb dicamba) per acre per year.

Ground or aerial application equipment, which will give good spray coverage of weed foliage, should be used. **HOWEVER, DO NOT USE AERIAL APPLICATION EQUIPMENT IF SPRAY PARTICLES CAN BE CARRIED BY WIND INTO AREAS WHERE SENSITIVE CROPS OR PLANTS ARE GROWING OR WHEN TEMPERATURE INVERSIONS EXIST.**

Apply 3 to 50 gallons of diluted spray per treated acre when using ground application equipment or 1 to 10 gallons of diluted spray per treated acre (2 to 20 gallons of diluted spray per acre for preharvest uses) in a water-based carrier when using aerial application equipment. Use the higher level of the listed spray volumes when treating dense or tall vegetation. Use coarse sprays.

Select nozzles designed to produce minimal amounts of fine spray particles. Spray with nozzles as close to the weeds as is practical for good weed coverage.

To avoid uneven spray coverage, BANVEL should not be applied during periods of gusty wind or when wind is in excess of 15 mph.

Avoid disturbing (e.g., cultivating or mowing) treated areas for at least 7 days following application.

SB2315

#4 Pg 68

1-25-19

## BEST STEWARDSHIP PRACTICES

BANVEL provides effective broadleaf weed and brush control when properly applied. Best stewardship practices in all mixing, loading, and application operations not only maximize weed control, but also protect ground and surface waters and minimize off-target movement.

This chemical is known to leach through the soil into ground water under certain conditions as a result of agricultural use. Use of this chemical in areas where soils are permeable, particularly where the water table is shallow, may result in ground-water contamination.

### GROUND AND SURFACE WATERS PROTECTION

1) Point source contamination—To prevent point source contamination, **DO NOT** mix, load this pesticide product within 50 feet of wells (including abandoned wells and drainage wells), sink holes, perennial or intermittent streams and rivers, and natural or impounded lakes and reservoirs. **DO NOT** apply pesticide product within 50 feet of wells. This setback does not apply to properly capped or plugged abandoned wells and does not apply to impervious pad or properly diked mixing/loading areas as described below.

Mixing, loading, rinsing, or washing operations performed within 50 feet of a well are allowed only when conducted on an impervious pad constructed to withstand the weight of the heaviest load that may be on or moved across the pad. The pad must be self-contained to prevent surface water flow over or from the pad. The pad capacity must be maintained at 110% that of the largest pesticide container or application equipment used on the pad and have sufficient capacity to contain all product spills, equipment or container leaks, equipment wash waters, and rainwater that may fall on the pad. The containment capacity does not apply to vehicles delivering pesticide shipments to the mixing/loading site. States may have in effect additional requirements regarding wellhead setbacks and operational containment.

Care must be taken when using this product to prevent: a) back siphoning into wells, b) spills or c) improper disposal of excess pesticide, spray mixtures or rinsates. Check valves or anti-siphoning devices must be used on all mixing equipment.

2) Movement by surface runoff or through soil—**DO NOT** apply under conditions which favor runoff. **DO NOT** apply to impervious substrates such as paved or highly compacted surfaces in areas with high potential for ground water contamination. Ground water contamination may occur in areas where soils are permeable or coarse and ground water is near the surface. **DO NOT** apply to soils classified as sand with less than 3% organic matter and where ground water depth is shallow (less than 8 feet in Arizona). To minimize the possibility of ground water contamination, carefully follow specified application rates as affected by soil type in the product information section of this label.

3) Movement by water erosion of treated soil—**DO NOT** apply or incorporate this product through any type of irrigation equipment nor by flood or furrow irrigation. Ensure treated areas have received at least one-half inch rainfall (or irrigation) before using tailwater for subsequent irrigation of other fields.

### SENSITIVE CROP PRECAUTIONS

BANVEL may cause injury to desirable trees and plants, particularly beans, cotton, flowers, fruit trees, grapes, ornamentals, peas, potatoes, soybeans, sunflowers, tobacco, tomatoes, and other broadleaf plants when contacting their roots, stems or foliage. These plants are most sensitive to BANVEL during their development or growing stage. FOLLOW THE PRECAUTIONS LISTED BELOW WHEN USING BANVEL.

- **DO NOT** treat areas where either possible downward movement into the soil or surface washing may cause contact of BANVEL with the roots of desirable plants such as trees and shrubs.
- Avoid making applications when air currents may carry spray particles to areas where sensitive crops and plants are growing, or when temperature inversions exist. **DO NOT** spray near sensitive plants if wind is gusty or in excess of 5 mph and moving in the direction of adjacent sensitive crops. Leave an adequate buffer zone between area to be treated and sensitive plants. Coarse sprays are less likely to drift out of the target area than fine sprays.
- Use coarse sprays to avoid potential herbicide drift. Select nozzles, which are designed to produce minimal amounts of fine spray particles. Examples of nozzles designed to produce coarse sprays via ground application are Delavan Raindrops, Spraying Systems XR flat fans, or large capacity flood nozzles such as D10, TK10, or greater capacity tips. Keep the spray pressure at or below 20 psi and the spray volume at or above 20 GPA, unless otherwise required by the manufacturer of drift-reducing nozzles. Consult your spray nozzle supplier concerning the choice of drift-reducing nozzles.
- Agriculturally approved drift-reducing additives may be used.
- **DO NOT** apply BANVEL adjacent to sensitive crops when the temperature on the day of application is expected to exceed 85°F as drift is more likely to occur.
- **To avoid injury to desirable plants, equipment used** to apply BANVEL should be thoroughly cleaned (See PROCEDURE FOR CLEANING SPRAY EQUIPMENT) before reusing to apply any other chemicals.

All crop uses of BANVEL are intended for a normal growing interval between planting and harvest. No crop rotation restrictions exist if normal harvest of treated crop has occurred. If this interval is shortened, such as in cover crops that will be plowed under, do not follow up with the planting of a sensitive crop.

Crops growing under stress conditions such as drought, poor fertility, or foliar damage due to hail, wind or insects, can exhibit various injury symptoms that may be more pronounced if herbicides are applied.

Consult your local or state authorities for possible application restrictions and advice concerning these and other special local use situations. Tank mix recommendations are for use only in states where the tank mix product and application site are registered.

SB 2315

#4

Bg

69

1-25-19

### BAND TREATMENTS

BANVEL may be applied as a band treatment. Use the formulas below to determine the appropriate rate and volume per treated acre.

$$\frac{\text{Band width in inches}}{\text{Row width in inches}} \times \text{Broadcast RATE per treated acre} = \text{Band RATE per treated acre}$$

$$\frac{\text{Band width in inches}}{\text{Row width in inches}} \times \text{Broadcast VOLUME per treated acre} = \text{Band VOLUME per treated acre}$$

### COMPATIBILITY TEST

Before mixing in the spray tank, it is advisable to test compatibility by mixing all components in a small container in proportionate quantities (see following table).

Amount of Herbicide to Add to One Pt of Spray Carrier  
(Assuming Volume is 25 Gallons per Acre)

Herbicide Formulations	Rate Per Acre	Level Teaspoons
Dry	1 lb	1 1/2
Liquid	1 pt	1/2

If herbicide(s) do not ball-up or form flakes, sludge, gels, oily films or layers, or other precipitates, then the tested spray mix is compatible. Usually, incompatibility in any of the above-described forms will occur with 5 minutes after mixing.

If components are incompatible, the use of a compatibility agent is recommended. Rerun the above COMPATIBILITY TEST with a suitable compatibility agent (1/4 teaspoon is equivalent to 2 pt per 100 gallons of fluid fertilizer).

### PROCEDURE FOR CLEANING SPRAY EQUIPMENT

The steps listed below are suggested for thorough cleaning of spray equipment following applications of BANVEL or tank mixes of BANVEL or tank mixes of BANVEL plus 2,4-D amine.

- 1) Hose down thoroughly the inside as well as outside surfaces of equipment while filling the spray tank half full of water. Flush by operating sprayer until the system is purged of the rinse water.
- 2) Fill tank with water while adding 1 quart of household ammonia for every 25 gallons of water. Operate the pump to circulate the ammonia solution through the sprayer system for 15 to 20 minutes and discharge a small amount of the ammonia solution through the boom and nozzles. Let the solution stand for several hours, preferably overnight.
- 3) Flush the solution out of the spray tank through the boom.
- 4) Remove the nozzles and screens and flush the system with two full tanks of water.

The steps listed below are suggested for thorough cleaning of spray equipment used to apply BANVEL as a tank mix with wettable powders (WP), emulsifiable concentrates (EC), or other types of water-dispersible formulations. BANVEL tank mixes with water-dispersible formulations require the use of a water/detergent rinse.

- 5) Complete step 1.
- 6) Fill tank with water while adding 2 lb of detergent for every 40 gallons of water. Operate the pump to circulate the detergent solution through the sprayer system for 5 to 10 minutes and discharge a small amount of the solution through the boom and nozzles. Let the solution stand for several hours, preferably overnight.
- 7) Flush the detergent solution out of the spray tank through the boom.
- 8) Repeat step 1, and follow with steps 2, 3 and 4.

### WEED LIST

This is a general list of weeds which may be treated with BANVEL in accordance with this label as specified under the rates and timing sections of the Individual Use headings. Proper usage of this product will give control or growth suppression of many ANNUAL, BIENNIAL, and PERENNIAL broadleaf weeds, and many WOODY brush and vine species including:

SB2315

#4 Pg 70

1-25-19

<b>ANNUALS</b>			
Amaranth, Spiny (Spiny Pigweed)	Evening Primrose, Cutleaf	Pennycress, Field (Fanweed,	Sicklepod
Aster, Slender	Fleabane, Annual	Frenchweed, Stinkweed)	Sida, Prickly (Teaweed)
Bedstraw	Goosefoot, Nettleleaf	Pepperweed, Virginia	Smartweed, Green
Beggarweed, Florida	Henbit	(Peppergrass)	Smartweed, Pennsylvania
Broomweed, Common	Jimsonweed	Pigweed, Prostrate	Sneezeweed, Bitter
Buckwheat, Wild	Knotweed	Pigweed, Redroot	Sowthistle, Annual
Buffalobur	Kochia	(Carelessweed)	Sowthistle, Spiny
Burclover, California	Ladysthumb	Pigweed, Rough	Spikeweed, Common
Burcucumber	Lambsquarters Common	Pigweed, Smooth	Spurge, Prostrate
Buttercup, Roughseed	Lambsquarters (triazine resistant)	Pigweed (triazine resistant)	Spurry, Corn
Carpetweed	Lettuce, Prickly	Pigweed, Tumble	Starbur, Bristly
Catchfly, Nightflowering	Mallow, Common	Poorjoe	Sumpweed, Rough
Chamomile, Corn	Mallow, Venice	Puncturevine	Sunflower, Common (Wild)
Chickweed, Common	Mare's Tail (Horseweed)	Purslane, Common	Sunflower, Volunteer
Clovers (Annual)	Mayweed	Pusley, Florida	Thistle, Russian
Cockle, Corn	Morningglory, Ivyleaf	Radish, Wild	Velvetleaf
Cockle, Cow	Morningglory, Tall	Ragweed, Common	Waterhemp
Cocklebur, Common	Mustard, Tansy	Ragweed, Giant (Buffalowed)	Waterprimrose, Winged
Croton, Tropic	Mustard, Wild	Ragweed, Lance-Leaf	Wormwood, Annual
Croton, Woolly	Mustard (Yellowtops)	Rubberweed, Bitter (Bitterweed)	
Daisy, English	Nightshade, Black	Sesbania, Hemp	
		Shepherdspurse	
<b>BIENNIALS</b>			
Burdock, Common	Geranium, Carolina	Plantain, Bracted	Thistle, Bull
Carrot, Wild	Gromwell	Ragwort, Tansy	Thistle, Milk
(Queen Anne's Lace)	Knapweed, Diffuse	Starthistle, Yellow	Thistle, Musk
Cockle, White	Knapweed, Spotted	Sweetclover	Thistle, Plumeless
Evening Primrose, Common	Mallow, Dwarf	Teasel	



1-25-19

PERENNIALS			
*Alfalfa Artichoke, Jerusalem Aster, Spiny Aster, Whiteheath Beadstraw, Smooth Bindweed, Field Bindweed, Hedge Blueweed, Texas *Bursage, (Bur Ragweed, Lakeweed, Povertyweed) Bursage, Woollyleaf (Lakeweed) Buttercup, Tall Campion, Bladder Chickweed, Field Chickweed (Mouseear, Canada) Chicory *Clover, Hop *Dandelion, Common	*Dock Broadleaf (Bitterdock) *Dock, Curly Dogbane, Hemp *Dogfennel (Cypressweed) Fern, Bracken Garlic, Wild Goldenrod, Canada Goldenrod, Missouri Goldenweed, Common Hawkweed Henbane, Black Horsenettle, Carolina Ironweed Knapweed, Black Knapweed, Russian Milkweed, Climbing Milkweed, Common Milkweed, Honeyvine	Milkweed, Western Whorled Nettle, Stinging Nightshade, Silverleaf (White Horsenettle) Onion, Wild *Plantain, Broadleaf *Plantain, Buckhorn Pokeweed Ragweed, Western Redvine Sericia Lespedeza Smartweed, Swamp Snakeweed, Broom *Sorrel, Red (Sheep Sorrel) Sowthistle Sowthistle, Perennial Spurge, Leafy	Sundrop, Halfshrub (Evening Primrose) Thistle, Canada Toadflex, Dalmation Tropical Soda Apple Trumpet creeper (Buckvine) Vetch Waterhemlock Waterprimrose, Creeping *Woodsorrel, Creeping Common Yellow Wormwood, Common Wormwood, Louisiana *Yankee weed Yarrow, Common

\*Noted perennials may be controlled using BANVEL at rates lower than those directed for other listed perennial weeds. (See application rates and timing sections in this label.)

WOODY			
Alder Ash Aspen Basswood Beech Birch *Blackberry *Blackgum *Cedar Cherry Chinquapin Cottonwood *Creosotebush Cucumbertree	*Dewberry *Dogwood Elm Grape *Hawthorn (Thornapple) Hemlock Hickory Honeylocust Honeysuckle Hornbeam Huckleberry Huisache Ivy, Poison Kudzu	Locust, Black Maple Mesquite Oak Oak, Poison Olive, Russian Persimmon, Eastern Pine *Plum, Sand (Wild Plum) Poplar Rabbitbrush *Redcedar, Eastern *Rose, McCartney *Rose, Multiflora	Sagebrush, Fringed Sassafras Serviceberry Spicebush Spruce Sumac *Sweetgum Syacamore Tarbush Willow Witchhazel *Yaupon *Yucca

\*Growth suppression

### FIELD, SEED\*, POPCORN\* AND SILAGE CORN

Observe all precautions, mixing, and application instructions as well as the following:

\* **DO NOT** apply BANVEL to seed corn or popcorn without first verifying with your local seed corn company (supplier) the Dicamba selectivity on your inbred line or variety of popcorn. This precaution will help avoid potential injury of sensitive varieties.

BANVEL is not registered for use on sweet corn.

Direct contact of BANVEL with corn seed must be avoided. If corn seeds are less than 1 1/2 inches below the surface, delay application until corn has emerged.

Up to 2 applications of BANVEL may be made during a growing season. **DO NOT** exceed a total of 1 1/2 pt of BANVEL per treated acre per crop year. Allow two weeks or more between applications of BANVEL. See appropriate section for rate information. For combination options or sequential treatments, refer to appropriate section.

SB2315

#4 Pg

72

1-25-19

Applications of BANVEL to corn during periods of rapid growth may result in temporary leaning. Corn will usually become erect within 3 to 7 days. Cultivation should be delayed until after corn is growing normally to avoid breakage.

Agriculturally approved surfactants or sprayable fertilizers (1/2 to 1 gallon per acre of 28%, 30% or 32% urea ammonium nitrate or 2.5 pounds per acre spray grade ammonium sulfate<sup>1</sup> may be added to the spray mixture to improve postemergence weed control, particularly in dry growing conditions.

Do not use adjuvants containing penetrants such as petroleum-based oils after crop emergence or crop injury may result.

Corn may be harvested or grazed for feed once the crop has reached the ensilage (milk) stage or later in maturity.

Several synthetic pyrethroid insecticides are labeled for tank mix applications of dicamba. Refer to their label for specific recommendations.

**WEEDS CONTROLLED**

BANVEL will control many ANNUAL broadleaf weeds or give growth suppression of many PERENNIAL broadleaf weeds commonly found in corn. (Refer to the WEED LIST).

For best performance, make application when weeds have emerged and are actively growing.

Preemergence control of cocklebur, velvetleaf, and jimsonweed may be reduced if conditions such as low temperature or lack of soil moisture cause delayed or deep germination of weeds.

<sup>1</sup>Not for use in California.

**PREPLANT/PREEMERGENCE IN NO-TILLAGE CORN**

Applications of BANVEL may be made before, during, or after planting to emerged and actively growing broadleaf weeds. Apply BANVEL at 1 pt per treated acre on medium or fine textured soils containing 2% or greater organic matter. Use 1/2 pt per treated acre on coarse textured soils (sand, sandy loam, and loamy sand) or medium and fine textured soils with less than 2% organic matter.

When planting into a legume sod (e.g., alfalfa or clover), apply BANVEL after 4 to 6 inches of regrowth has occurred.

**PREEMERGENCE IN CONVENTIONAL OR REDUCED TILLAGE CORN**

BANVEL may be applied after planting and prior to corn emergence. Application at 1 pt per treated acre may be made to medium or fine textured soils, which contain 2% or greater organic matter. **DO NOT** apply to coarse textured soils (sand, sandy loam, and loamy sand) until after crop emergence (see Early Postemergence uses below).

Preemergence application of BANVEL does not require mechanical incorporation to become active. A shallow mechanical incorporation is recommended if application is not followed by adequate rainfall or sprinkler irrigation. Avoid tillage equipment (e.g., drags, harrows) which concentrates treated soil over seed furrow.

**EARLY POSTEMERGENCE (ALL TILLAGE SYSTEMS)**

**(Spike through 8-inch tall corn)**

BANVEL at 1 pt per treated acre may be applied during the period from corn emergence through the five leaf stage or 8 inches tall, whichever comes first. Reduce the rate to 1/2 pt per treated acre if corn is growing on coarse textured soils (sand, sandy loam, and loamy sand). See LATE POSTEMERGENCE APPLICATIONS given below if the 6th true leaf is emerging from whorl or corn is greater than 8 inches tall.

**LATE POSTEMERGENCE (ALL TILLAGE SYSTEMS)**

**(8 to 36 inch tall corn)**

Application of BANVEL at 1/2 pt per treated acre may be made from 8 to 36 inch tall corn or 15 days before tassel emergence, whichever comes first. For best performance, make applications when weeds are less than 3 inches tall.

Make directed spray application when (1) corn leaves prevent proper spray coverage; (2) sensitive crops are growing nearby; (3) tank mixing with 2,4-D.

**DO NOT** apply BANVEL when soybeans are growing nearby if any of these conditions exist:

- corn is more than 24 inches tall
- soybeans are more than 10 inches tall
- soybeans have begun to bloom

**OVERLAY (SEQUENTIAL) TREATMENTS**

BANVEL may be applied to ground previously treated with one or more of the following herbicides registered for use in corn:

acetochlor (Surpass®, Harness® Plus) alachlor (Lasso®, Lasso MT®, Partner®) atrazine Bicep® Broadstrike® + Dual® Broadstrike® Plus Bronco® Bullet® butylate (Sutan® +/-Genate™)	Clarity® cyanazine (Bladex®) dimethenamid (Frontier®) EPTC (Eradicane®) Extrazine® II glyphosate (Roundup®) Guardsman® halosulfuron (Battalion®, Permit®) Lariat®	Marksman® metolachlor (Dual®) paraquat (Gramoxone®) pendimethalin (Prowl®) propachlor (Ramrod®) simazine (Princep®) Surpass® 100
---	---	--

SB2315

#4

Pg 73

1-25-19

Apply BANVEL at 1/2 pt per treated acre to ground previously treated with full rates of Clarity or Marksman herbicides. Allow at least 2 weeks between applications.

READ AND FOLLOW LABEL DIRECTIONS FOR EACH OF THE ABOVE PRODUCTS.

### TANK MIX TREATMENTS FOR CORN

BANVEL may be tank mixed with one or more of the following herbicides for control of grasses or additional broadleaf weeds. Read and follow the label of each tank mix product used for precautionary statements, directions for use, rates and timings, and other restrictions.

### RATES AND TIMINGS

BANVEL Plus	Preplant/Preemergent (No Tillage Corn)	Pre-emergent (Conventional or Reduced Tillage Corn)	Early Post-Emergent (All Tillage Systems)	Late Post-Emergent (All Tillage Systems)	Additional Directions
Accent® (nicosulfuron)	—	—	1/2–1 oz ai/A	1/2–1 oz ai/A (To improve spray coverage of weeds and reduce risk of corn injury, use drop pipes to direct spray beneath corn leaves when corn is greater than 8 inches tall)	Application may be made to emerged weeds before corn is greater than 24 inches tall. Use non-ionic surfactant at .25% (v/v) with this tank mixture.
Atrazine	1 1/4–2 lb ai/A	1 1/4–2 lb ai/A	1 1/4–2 lb ai/A Crop oil concentrates may be used with this mixture if corn is 5 inches or less in height.	1 1/4–2 lb ai/A Do not apply if corn is greater than 12 inches tall.	Application may be made before grasses are 1 1/2 inches tall. Follow all state and Federal restrictions pertaining to atrazine applications.
Beacon® (primisulfuron)	—	—	0.31–0.62 oz ai/A	0.31–0.62 oz a.i/A (To improve spray coverage of weeds and reduce risk of corn injury, use drop pipes to direct spray beneath corn leaves when corn is greater than 8 inches tall.)	Application may be made to emerged weeds when corn is 4 to 24 inches tall. Use non-ionic surfactant at .25 (v/v) with this tank mixture.
Bladex® (cyanazine)	1 1/4–4.0 lb ai/A	1 1/4–4 lb ai/A	1/4–2 lb ai/A (Use the 90DF formulation only, after corn emergence.)	—	Application may be made before grasses are 1 1/2 inches tall, and before corn is beyond the 4 leaf stage.
Dual® (metolachlor)	1 1/2–3.0 lb ai/A	1 1/2–3 lb ai/A (Use only on fine or medium textured soils with 2.5 or greater organic matter.)	1 1/2–3 lb ai/A	—	Application may be made before grasses reach the 2 leaf stage and before corn is greater than 3 inches tall.

SB2315

#4 Pg 74

1-25-19

BANVEL Plus	Preplant/Preemergent (No Tillage Corn)	Pre-emergent (Conventional or Reduced Tillage Corn)	Early Post-Emergent (All Tillage Systems)	Late Post-Emergent (All Tillage Systems)	Additional Directions
Frontier® (dimethenamid)	13–25 fl oz/A	13–25 fl oz/A (Use only on fine or medium textured soils with 2.5% or greater organic matter.)	13–25 fl oz/A	—	Application may be made up to 8 inch tall corn. This treatment must be combined with a herbicide that provides post-emergence control of grass weeds if they are greater than 1 inch tall at the time of application.
Frontier® 6.0 (dimethenamid)	16–32 fl oz/A	16–32 fl oz/A (use only on fine or medium textured soils with 2.5% or greater organic matter.)	—	—	Application may be made up to 8 inch tall corn. This treatment must be combined with a herbicide that provides postemergence control of grass weeds if they are greater than 1 inch tall at the time of application.
Gramoxone® (paraquat)	1/4–1 lb ai/A	1/4–1 lb ai/A	—	—	Application may be made to emerged weeds but prior to corn emergence.
Harness® Plus or Surpass® (acetochlor)	1 1/2–3 lb ai/A	1 1/2–3 lb ai/A (Use only on fine or medium textured soils with 2.5% or greater organic matter)	—	—	Application should be made prior to corn emergence.
Lasso® (alachlor)	1 1/2–4 lb ai/A	1 1/2–4 lb ai/A (Use only on fine textured soils with greater than 2.5% organic matter.)	1 1/2–4 lb ai/A	—	Application may be made before grasses reach the 2 leaf stage and before corn is greater than 3 inches tall. If microencapsulated forms of alachlor are used (Lasso MT Partner), applications must be made prior to grass emergence.
Princep® (simazine)	2.0–3.0 lb ai/A	2.0–3.0 lb ai/A	—	—	Application may be made prior to corn or weed emergence.
Prowl® (pendimethalin)	—	3/4–1 1/2 lb ai/A (Use only on fine or medium textured soils with 2 1/2% or greater organic matter.)	3/4–1 1/2 lb ai/A	—	Application may be made immediately after planting but prior to weed emergence. Corn should not be beyond the 2 leaf stage of growth.
Roundup® (glyphosate)	1.0–3.0 lb ai/A	1.0–3.0 lb ai/A	—	—	Application may be made to emerged weeds but prior to corn emergence.

1-25-19

BANVEL Plus	Preplant/Preemergent (No Tillage Corn)	Pre-emergent (Conventional or Reduced Tillage Corn)	Early Post-Emergent (All Tillage Systems)	Late Post-Emergent (All Tillage Systems)	Additional Directions
Stinger® (clopyralid)	—	—	0.035–0.07 lb ai/A	0.035–0.07 lb ai/A	Applications may be made any time after corn emergence through 24 inch tall corn. Use drop nozzles to direct spray after corn exceeds the 8 inch stage. Apply when the majority of the thistle-plants have emerged and are at least 4 inches in height, but before bud stage. Use higher rates listed for stand reduction of larger thistle plants or heavier infestations. Lower rates listed may provide seasonal thistle suppression only.
Tough® 3.75EC (pyridate)	—	—	0.47 lb ai/A	0.47–0.94 lb ai/A	Applications may be made to emerged, actively growing weeds. Directed applications are recommended when corn is large enough to prevent proper spray coverage.
2,4-D	1/4–1/2 lb ai/A	1/4–1/2 lb ai/A	Not recommended	1/8 lb ai/A	Drop pipes are to be used when corn height is 8 inches or greater. Keeping the spray off the corn leaves and out of the whorl will reduce the likelihood of crop injury and improve spray coverage of weed foliage.

### SORGHUM (MILO)

Observe all precautions, including the reference to crops growing under stress.

Read and follow mixing and application instructions.

Applications of BANVEL to sorghum during periods of rapid growth may result in temporary leaning of plants or rolling of leaves. These effects are usually outgrown within 10 to 14 days.

**DO NOT** graze or feed treated sorghum forage or silage prior to mature grain stage. If sorghum is grown for pasture or hay, refer to the pasture use section of this label. **DO NOT** apply BANVEL to sorghum grown for seed production.

Make no more than one application per growing season.

#### WEEDS CONTROLLED

BANVEL, when applied at the specified rate for sorghum, will control many actively growing ANNUAL broadleaf weeds and will reduce competition from established PERENNIAL broadleaf weeds as well as control their seedlings. (Refer to WEED LIST).

#### RATES AND TIMINGS

BANVEL may be applied to emerged and actively growing weeds at least 15 days prior to planting. Postemergence application of BANVEL must be made after sorghum is in the spike stage (all sorghum emerged) but before sorghum is 15 inches tall. For best performance, make applications when sorghum is in the 3 to 5 leaf stage and weeds are small (less than 3 inches tall). Use drop pipes (drop nozzles) if sorghum is taller than 8 inches. Keeping the spray off the sorghum leaves and out of the whorl will reduce the likelihood of crop injury and improve spray coverage of weed foliage.

#### Broadcast rate per treated acre:

1/2 pt (1/4 lb ai)

832315

#4 B 76

1-25-19

**TANK MIX TREATMENTS**

**BANVEL plus Atrazine:**

For improved control of emerged, actively growing broadleaf weeds including triazine resistant species and added suppression of perennial broadleaf weeds, tank mix 1/2 pt BANVEL with 0.5 to 1.25 lb ai atrazine per treated acre. For control of grasses (less than 1.5 inches tall), tank mix 1/2 pt BANVEL with 2 lb ai atrazine per treated acre. For best performance and minimal crop injury, make application when sorghum is 3-8 inches tall and when broadleaf weeds are small (less than 6 inches tall). Application of atrazine must be made before sorghum is beyond 12 inches tall. The atrazine rate will depend upon soil texture and length of residual weed control desired. Follow all state and Federal restrictions pertaining to atrazine applications.

**BANVEL plus Buctril®:**

For improved control of broadleaf weeds, tank mix 1/2 pt BANVEL with 1-1 1/2 pt Buctril® herbicide per treated acre. Make application at 4 leaf to 15-inch tall sorghum. Use drop nozzles to direct spray beneath sorghum leaves when sorghum is greater than 8 inches tall.

READ AND FOLLOW THE LABEL OF EACH TANK MIX PRODUCT USED FOR PRECAUTIONARY STATEMENTS, DIRECTIONS FOR USE, APPLICATION RATES AND TIMINGS, AND OTHER RESTRICTIONS.

**OVERLAY (SEQUENTIAL) TREATMENTS**

BANVEL may be applied to ground previously treated with one or more of the following herbicides:

Herbicide	Maximum Rate Per Treated Acre (lb ai)
alachlor (Lasso®) (Screen®-treated seed)	4.0
atrazine <sup>1</sup>	2.5
metolachlor (Dual®) (Concep®-treated seed)	2.5
propachlor (Ramrod®)	5.0

1. Maximum use rate for atrazine is determined by soil type, tillage practices used, surface residue, and state or local restrictions. Follow the more restrictive requirements when determining the maximum use rate for atrazine.

**PREHARVEST USES**

FOR USE ONLY IN THE STATES OF TEXAS AND OKLAHOMA

BANVEL may be applied for weed suppression anytime after the sorghum has reached the soft dough stage. An agriculturally approved surfactant may be used to improve performance. For aerial applications use at least 2 gallons of water-based carrier per treated acre.

Delay harvest until 30 days after treatment.

**Broadcast rate per treated acre:**

1/2 pt (1/4 lb ai)

**SMALL GRAINS (WHEAT, BARLEY AND OATS) NOT UNDERSEED TO LEGUMES  
IMPORTANT**

Observe all PRECAUTIONS. Read and follow CLEANING, MIXING AND APPLICATION instructions.

The Pre-Harvest Interval (PHI) for Barley, Oats and Wheat is 7 days. If small grains are used for pasture or hay, the following restrictions apply:

- Animals cannot be removed from treated area for slaughter prior to 30 days after last application.
- There is no waiting period between treatment and grazing for non-lactating dairy animals.
- Treated areas may not be grazed by lactating dairy animals before 7 days after treatment.
- **DO NOT** harvest hay from treated areas before 37 days after treatment.

**NOTE:** Observe all precautions and restrictions on the labels of products used in tank mix treatments.

**WEEDS CONTROLLED**

BANVEL or combinations with listed tank mix partners will provide control or suppression of the annual broadleaf weeds listed below. For improved control of listed weeds, it is recommended that BANVEL be applied in a tank mix with other herbicides. Refer to specific crop for tank mix options.

1-25-19

Alkane <sup>1</sup>	Evening Primrose,	Lettuce, Prickly	Pennycress, Field	Rocket, London <sup>1</sup>
Bedstraw, Catchweed <sup>1</sup>	Cutleaf <sup>1</sup>	Mallow, Common	(Fanweed, Frenchweed,	Rocket, Yellow <sup>1</sup>
Bindweed, Field <sup>2</sup>	Falseflax Smallseeded <sup>1</sup>	Mayweed, Chamomile	Stinkweed)	Salsify (Goatsbeard) <sup>1</sup>
Buckwheat Tartary	Fiddleneck, (Tarweed) <sup>1</sup>	(Dogfennel) <sup>1</sup>	Pepperweed,	Shepherdspurse <sup>1</sup>
Buckwheat, Wild	Flixweed <sup>1</sup>	Mustard, Blue	Peppergrass <sup>1</sup>	Smartweed, Green
Carpetweed <sup>1</sup>	Fumitory <sup>1</sup>	(Purple)	Pigweed, Redroot	Smartweed,
Chamomile, Corn	Gromwell, Corn <sup>1</sup>	Mustard, Tansy	(Carelessweed)	Pennsylvania
Chervil, Bur	Groundsel, Common <sup>1</sup>	Mustard Treacle <sup>1</sup>	Pigweed, Rough	Sorrel, Red
Chickweed, Common <sup>1</sup>	Hempnettle <sup>1</sup>	Mustard, Tumble	Pigweed, Tumble	(Sheep Sorrel) <sup>1</sup>
Cockle, Corn	Henbit	(Jim Hill) <sup>1</sup>	Pineappleweed <sup>1</sup>	Sowthistle, Annual
Cockle, Cow	Jacobs Ladder <sup>1</sup>	Mustard, Wild <sup>1</sup>	Plantain, Broadleaf <sup>2</sup>	Starthistle, Yellow <sup>1</sup>
Cocklebur, Common	Knawel (German Moss)	Nightshade, Black	Poppy, Red Horned <sup>1</sup>	Sunflower, Com-
Cornflower	Knotweed, Prostrate	Nightshade, Cutleaf <sup>1</sup>	Puncturevine <sup>1</sup>	mon (Wild)
(Bachelorbutton) <sup>1</sup>	Kochia	Nightshade Silverleaf <sup>2</sup>	Purslane, Common <sup>1</sup>	Thistle, Canada <sup>2</sup>
Dandelion, Common <sup>2</sup>	Ladysthumb	(White Horsenettle)	Radish, Wild <sup>1</sup>	Thistle, Russian
Dock, Curly <sup>2</sup>	Lambsquarters, Common		Ragweed, Common <sup>1</sup>	Velvetleaf
Dragonhead, American <sup>1</sup>	Lettuce, Miners <sup>1</sup>		Ragweed, Giant	Vetch <sup>1</sup>
			(Buffaloweed) <sup>1</sup>	Yarrow, Common <sup>2</sup>

1. These weeds will be controlled with BANVEL tank mixtures.
2. Refer to tank mix label for specific weeds controlled. BANVEL tank mixes will provide suppression of established broadleaf weeds and control their seedlings.

**RATES AND TIMINGS**

Application of BANVEL may be made before, during or after planting small grains. For best performance, make applications when weeds are in the 2-3 leaf stage and rosettes are less than 2 inches across. Application of BANVEL to small grains during periods of rapid growth may result in crop leaning. This condition is temporary and will not reduce crop yields.

Use BANVEL at 2 to 4 fl oz per treated acre in wheat, fall seeded barley, and oats, and at 2 to 3 fl oz per treated acre in spring seeded barley. Use the higher level of listed rate ranges when treating difficult to control weeds such as kochia, wild buckwheat, cow cockle, prostrate knotweed, Russian thistle, and prickly lettuce or when dense vegetative growth occurs.

BANVEL used in a tank mix with other herbicides offers the best spectrum of weed control and herbicide tolerant or resistant weed management. Refer to specific crop for BANVEL rate and application timing.

For applications prior to the emergence of weeds or when sulfonylurea resistant weeds are present or suspected, use a minimum of 3 fl oz per treated acre of BANVEL with a tank mix herbicide. Non-sulfonylurea herbicides such as 2,4-D or MCPA tank mixed with BANVEL will offer more consistent control of sulfonylurea resistant weeds.

When tank mixing with sulfonylurea herbicides, such as Ally®, Amber®, Express®, Finesse®, Glean® and Harmony® Extra, use an agriculturally approved surfactant of at least 80% active ingredient at the rate of 1-4 pt/100 gallons of spray or not more than 0.25-0.5% by volume. Use the highest rate of surfactant when using the lower rate ranges of the tank mix and/or when treating more mature and difficult to control weeds or dense vegetative growth.

**FALL AND SPRING SEEDED WHEAT**

BANVEL MUST BE APPLIED TO FALL SEEDED WHEAT PRIOR TO THE JOINTING STAGE. APPLICATIONS TO SPRING SEEDED WHEAT MUST BE MADE BEFORE WHEAT REACHES THE 6 LEAF STAGE.

**TANK MIX TREATMENTS**

BANVEL may be tank mixed with one or more of the following herbicides. Read and follow the label of each tank mix product used for precautionary statements, directions for use, weeds controlled, geographic and other restrictions.

**BROADCAST RATE PER TREATED ACRE:**

1. Apply 2 to 4 fl oz BANVEL with:

Product	Active Ingredient	Formulation	Amount of Product Per Acre
2,4-D Amine or Ester	2,4-D	4.0 lb/gal	8.0-12.0 fl oz (.25-.375 lb ai/A) <sup>2</sup>
MCPA Amine or Ester	MCPA	4.0 lb/gal	8.0-12.0 fl oz (.25-.375 lb ai/A) <sup>2</sup>
Ally®	metsulfuron-methyl	60% DF	1/10 oz
Amber®	triasulfuron	75% DF	0.28 oz

SB2315

#4

Pg

78

1-25-19

Product	Active Ingredient	Formulation	Amount of Product Per Acre
Express®	thifensulfuron + tribenuron-methyl	75% DF	1/6 oz
Finesse®	chlorsulfuron + metsulfuron-methyl	75% DF	1/3 oz
Glean®	chlorsulfuron	75% DF	1/6 oz
Harmony® Extra	thifensulfuron + tribenuron-methyl	75% DF	1/3 oz
Buctril®	bromoxynil <sup>3</sup>	2.0 lb/gal	1.0–1.5 pt
Bronate®	bromoxynil + MCPA	4.0 lb/gal	1.0–2.0 pt
Curtail®	clopyralid + 2,4-D	2.38 lb/gal	2.0–2 2/3 pt
Stinger®	clopyralid	3.0 lb/gal	1/4–1/3 pt
Karmex® <sup>4</sup>	diuron <sup>3</sup>	80% DF	1/2–1.5 lb
Sencor® <sup>4</sup>	metribuzin <sup>3</sup>	75% DF	1–10 oz
Dakota® <sup>5</sup>	fenoxaprop-ethyl + MCPA	3.1 lb/gal	16 fl oz
Tiller® <sup>5</sup>	fenoxaprop-ethyl + MCPA + 2,4-D	2.7 lb/gal	1.0–1.7 pt

1. Early developing wheat varieties such as TAM 107, MADISON, or WAKEFIELD must receive application between early tillering and the jointing stage. Care should be taken in staging these varieties to be certain that the application occurs prior to the jointing stage.
2. When using formulations other than 4 lb/gal use pounds active/acre listed.
3. Herbicides with the same active ingredient and/or different formulation may be used.
4. Tank mixtures for fall seeded wheat only.
5. Use 2 fl oz of BANVEL **only**. **DO NOT** use if wild oats is the target weed. **DO NOT** use BANVEL as a tank mix treatment with Dakota® or Tiller® on Durum wheat.

### SPECIAL USE TANK MIXES FOR SPRING AND FALL SEEDING WHEAT

(See Footnotes for Applicable Uses)

#### BROADCAST RATE PER TREATED ACRE:

Apply 3–4<sup>1</sup> fl oz BANVEL with:

Product <sup>2</sup>	Active Ingredient	Formulation	Amount of Product Per Acre
2,4-D or MCPA Amine	2,4-D or MCPA	4.0 lb/gal	1.0–2.0 pt <sup>3</sup> (.5–1.0 lb ai/A) <sup>4</sup>
2,4-D or MCPA Ester	2,4-D or MCPA	4.0 lb/gal	1.0–1.5 pt <sup>3</sup> (.5–.75 lb ai/A) <sup>4</sup>
Ally®	metsulfuron-methyl	60% DF	1/20–1/10 oz
Amber®	triasulfuron	75% DF	0.14–0.28 oz
Express®	thifensulfuron + tribenuron-methyl	75% DF	1/12–1/4 oz
Finesse®	chlorsulfuron + metsulfuron-methyl	75% DF	1/6–1/3 oz
Glean®	chlorsulfuron	75% DF	1/6 oz
Harmony® Extra	thifensulfuron + tribenuron-methyl	75% DF	1/6–1/3 oz
Ally® + 2,4-D Amine or Ester <sup>5</sup>	metsulfuron-methyl + 2,4-D	60% DF + 4 lb/gal	1/20–1/10 oz + 8 fl oz
Amber® + 2,4-D Amine or Ester <sup>5</sup>	triasulfuron + 2,4-D	75% DF + 4 lb/gal	0.14–0.28 oz + 8 fl oz



1-25-19

Product <sup>2</sup>	Active Ingredient	Formulation	Amount of Product Per Acre
Express <sup>®</sup> + 2,4-D Amine or Ester <sup>5</sup>	(thifensulfuron + tribenuron-methyl) + 2,4-D	75% DF + 4.0 lb/gal	1/12–1/6 oz + 8.0 fl oz
Finesse <sup>®</sup> + 2,4-D Amine or Ester <sup>5</sup>	(chlorsulfuron + metsulfuron-methyl) + 2,4-D	75% DF + 4.0 lb/gal	1/6–1/3 oz + 8.0 fl oz
Glean <sup>®</sup> + 2,4-D Amine or Ester <sup>5</sup>	chlorsulfuron + 2,4-D	75% DF + 4.0 lb/gal	1/6 oz + 8.0 fl oz
Harmony <sup>®</sup> Extra + 2,4-D Amine or Ester <sup>5</sup>	(thifensulfuron + tribenuron-methyl) + 2,4-D	75% DF + 4.0 lb/gal	1/6–1/3 oz + 8.0 fl oz
Roundup <sup>®</sup> RT <sup>6</sup>	glyphosate	3.0 lb/gal	12.0–16.0 fl oz

- BANVEL may be used at 6 fl oz on fall seeded wheat in Western Oregon as a spring application only. In CO, KS, NM, OK and TX up to 8 fl oz of BANVEL may be applied on fall seeded wheat after it exceeds the 3 leaf stage for suppression of perennial weeds, such as field bindweed. Applications may be made in the fall following a frost but before a killing freeze. BANVEL may be tank mixed with 2,4-D amine at 8 fl oz after wheat begins to tiller. Periods of extended stress such as cold and wet weather may enhance the possibility of crop injury. For fall applications only, do not use if the potential for crop injury is not acceptable.
- Do not use low rates of sulfonyleurea herbicides, such as Ally, Amber, Express, Finesse, Glean, and Harmony Extra on more mature weeds and/or on dense vegetative growth.
- NOTE: For use on Fall Seeded Wheat Only, Do Not Use unless potential crop injury will be acceptable.
- When using formulations other than 4 lb/gal use pounds active/acre listed.
- Use for improved control of Russian thistle, flixweed, gromwell, mayweed and fiddleneck.
- BANVEL may be applied at 2 fl oz with Roundup<sup>®</sup> RT or any glyphosate formulation labeled for use as a preplant application to small grains with no waiting period prior to planting. Read and follow label directions of the tank mix product for adjuvant use recommendations.

### FALL SEEDED BARLEY

BANVEL MUST BE APPLIED TO FALL SEEDED BARLEY PRIOR TO THE JOINTING STAGE.

**NOTE:** For spring barley varieties that are seeded during the winter months or later, follow the rates and timings given for Spring Seeded Barley.

#### TANK MIX TREATMENTS

BANVEL may be tank mixed with one or more, but not limited to, the following herbicides. Read and follow the label of each tank mix product used for precautionary statements, directions for use, weeds controlled and geographic and other restrictions.

#### Broadcast rate per treated acre:

Apply 2-4 fl oz BANVEL with:

Product <sup>1</sup>	Active Ingredient	Formulation	Amount of Product Per Acre
2,4-D Amine or Ester	2,4-D	4.0 lb/gal	8.0 fl oz (.25 lb ai/A) <sup>2</sup>
MCPA Amine or Ester	MCPA	4.0 lb/gal	8.0–12.0 fl oz (.25–.375 lb ai/A)
Ally <sup>®</sup>	metsulfuron-methyl	60% DF	1/20–1/10 oz
Amber <sup>®</sup>	triasulfuron	75% DF	0.14–0.28 oz
Express <sup>®</sup>	thifensulfuron + tribenuron-methyl	75% DF	1/12–1/6 oz
Finesse <sup>®</sup>	chlorsulfuron + metsulfuron-methyl	75% DF	1/6–1/3 oz
Glean <sup>®</sup>	chlorsulfuron	75% DF	1/6 oz
Harmony <sup>®</sup> Extra	thifensulfuron + tribenuron-methyl	75% DF	1/6–1/3 oz
Sencor <sup>®</sup>	metribuzin <sup>3</sup>	75% DF	1–10 oz
Buctril <sup>®</sup>	bromoxynil	2.0 lb/gal	1–1 1/2 pt

SB2315

#4

80

1-25-19

Product <sup>1</sup>	Active Ingredient	Formulation	Amount of Product Per Acre
Bronate®	bromoxynil + MCPA	4 lb/gal	3/4-1 1/2 pt

- DO NOT** use low rates of sulfonylureas (Ally®, Amber®, Express®, Finesse®, Glean®, and Harmony® Extra) on more mature weeds and/or on dense vegetative growth.
- When using formulations other than 4 lb/gal use pounds active/acre listed.
- Herbicides with the same active ingredient and/or different formulations may be used.

### SPRING SEEDED BARLEY

BANVEL MUST BE APPLIED BEFORE SPRING SEEDED BARLEY EXCEEDS THE 4 LEAF STAGE.

#### TANK MIX TREATMENTS

BANVEL may be mixed with one or more of the following herbicides. Read and follow the label of each tank mix product used for precautionary statements, directions for use, weeds controlled and geographic and other restrictions.

#### Broadcast rate per treated acre:

Apply 2.0-3.0 fl oz BANVEL with:

Product <sup>1</sup>	Active Ingredient	Formulation	Amount of Product Per Acre
MCPA Amine or Ester	MCPA	4.0 lb/gal	8.0-12.0 fl oz (.25-.375 lb ai/A) <sup>2</sup>
Ally®	metsulfuron-methyl	60% DF	1/20-1/10 oz
Amber®	triasulfuron	75% DF	0.14-0.28 oz
Express®	thifensulfuron + tribenuron-methyl	75% DF	1/12-1/6 oz
Finesse®	chlorsulfuron + metsulfuron-methyl	75% DF	1/6-1/3 oz
Glean®	chlorsulfuron	75% DF	1/6 oz
Harmony® Extra	thifensulfuron + tribenuron-methyl	75% DF	1/6-1/3 oz
Sencor®	metribuzin <sup>3</sup>	75% DF	1.0-10.0 oz
Buctril®	bromoxynil	2.0 lb/gal	1.0-1 1/2 pt
Bronate®	bromoxynil + MCPA	4.0 lb/gal	3/4-1 1/2 pt

- DO NOT** use low rates of sulfonylureas (Ally®, Amber®, Express®, Finesse®, Glean®, and Harmony® Extra) on more mature weeds and/or on dense vegetative growth.
- When using formulations other than 4.0 lb/gal use pounds active/acre listed.
- Herbicides with the same active ingredient and/or different formulations may be used.

### FALL AND SPRING SEEDED OATS

BANVEL MUST BE APPLIED BEFORE SPRING SEEDED OATS EXCEED THE 5 LEAF STAGE. APPLICATIONS TO FALL SEEDED OATS MUST BE MADE PRIOR TO THE JOINTING STAGE.

#### TANK MIX TREATMENTS

BANVEL may be tank mixed with one or more of the following herbicides. Read and follow the label of each tank mix product used for precautionary statements, directions for use, weeds controlled, geographic and other restrictions.

#### Broadcast rate per treated acre:

Apply 2-4 fl oz BANVEL with:

Product	Active Ingredient	Formulation	Amount of Product Per A
MCPA Amine or Ester	MCPA	4 lb/gal	8-12 fl oz (.25-.375 lb ai/A) <sup>1</sup>

- When using formulations other than 4 lb/gal use pounds active/acre listed.

572315

#4 Pg 81

1-25-19

**FALL AND SPRING SEEDED TRITICALE  
EXCEPT CALIFORNIA**

**EARLY SEASON APPLICATIONS**

Apply 2-4 fl oz of BANVEL to triticale.

Early season applications to fall-seeded triticale must be made prior to jointing stage.

Early season applications to spring-seeded triticale must be made before triticale reaches the 6-leaf stage.

**TANK MIXES**

For best performance, should be used in tank mix combination with bromoxynil.

**SUGARCANE**

Observe all precautions. Read and follow mixing and application instructions.

Consult your local or state authorities for possible application restrictions, especially concerning aerial applications and advice concerning special local use situations.

The Pre-Harvest Interval (PHI) for Sugarcane is 87 days.

**WEEDS CONTROLLED**

BANVEL, when applied at specified rates, will control many ANNUAL, BIENNIAL and PERENNIAL broadleaf weeds commonly found in sugarcane. (Refer to WEED LIST).

**RATES AND TIMINGS**

Application of BANVEL may be made any time after weeds have emerged and are actively growing but before the close-in stage of sugarcane. Application rates and timing of BANVEL are given below. Use the higher level of listed rate ranges when treating dense vegetative growth.

Weed Stage & Type	Broadcast Rate Per Treated Acre	
	Product Amount	lb ai
Annual - Small, actively growing - Established weed growth	1/2-1.0 pt	1/4-1/2
	1.0-1 1/2 pt	1/2-3/4
Biennial	1.0-2.0 pt	1/2-1.0
Perennial	2.0 pt	1.0*

\* Application made over the top of actively growing sugarcane may result in crop injury.

When possible, direct the spray beneath the sugarcane canopy in order to minimize the likelihood of crop injury. The use of directed sprays will also aid in maximizing spray coverage of weed foliage.

Retreatments may be made as needed; however, **DO NOT** exceed a total of 4 pt (2 lb ai) of BANVEL per treated acre during a growing season.

**TANK MIX TREATMENTS**

BANVEL may be tank mixed with one or more of the following herbicides for control of grasses or additional broadleaf weeds. Read and follow the label of each tank mix product used for precautionary statements, directions for use, rates and timings, weeds controlled, geographic and other restrictions.

Herbicide	Rate Per Treated Acre (lb ai)
ametryn (Evik®)	2/5-8.0
asulam (Asulox®)	2.0-3 1/3
atrazine	2/5-4.0
2,4-D	1/2-3.0*

\* Application of BANVEL plus 2,4-D tank mix at the higher listed rate ranges may result in crop injury.

**PASTURE, HAY, RANGELAND, AND FARMSTEAD (Non-Cropland)**

The pre-harvest interval (PHI) for grass forage is 0 days.

The pre-harvest interval (PHI) for grass hay is 7 days.

SB2315

#4 Pg 82

1-25-19

BANVEL is recommended for use for pasture, hay, rangeland, farmstead (non-cropland) (including fence rows and non-irrigation ditchbanks) for broadleaf weed and brush control. BANVEL may also be applied to non-cropland areas for the control of broadleaf weeds in Noxious Weed Control Programs, Districts or Areas including broadcast or spot treatment of roadsides and highways, utilities, railroad and pipeline rights-of-way. Noxious weeds must be recognized at the state level but programs may be administered at state, county or other level.

Observe all PRECAUTIONS. Read and follow MIXING AND APPLICATION instructions.

BANVEL uses described in this section also pertain to small grains (such as barley, forage sorghum, oats, rye, sudangrass or wheat) grown for pasture use only.

NEWLY SEEDED AREAS, including small grains grown for pasture may be severely injured if rates are greater than 1 pt/A.

ESTABLISHED GRASS CROPS growing under stress can exhibit various injury symptoms that may be more pronounced if herbicides are applied. Bentgrass, carpetgrass, buffalograss and St. Augustine grass may be injured at rates exceeding 1 pt BANVEL (1/2 lb ai) per treated acre. Usually colonial bentgrasses are more tolerant than creeping types. Velvetgrasses are most easily injured. Treatments will kill or injure alfalfa, clovers, lespedeza, wild winter peas, vetch and other legumes.

**TIMING RESTRICTIONS FOR LACTATING DAIRY ANIMALS FOLLOWING TREATMENT:**

BANVEL Rate per Treated Acre	Days Before Grazing	Days Before Hay Harvest
Up to 1 pt (1/2 lb ai)	7 days	37 days
Up to 1 quart (1 lb ai)	21 days	51 days

NOTE: Observe all precautions and restrictions on labels of products used in tank mixtures.

**MIXING AND APPLICATION**

BANVEL can be applied using water, oil in water emulsions including invert systems, or sprayable fluid fertilizer as a carrier. A COMPATIBILITY TEST (see COMPATIBILITY TEST section) should be made prior to tank mixing.

To prepare oil in water emulsions, half-fill spray tank with water, then add appropriate amount of emulsifier. With continuous agitation, slowly add the herbicide and then the oil (such as diesel oil or fuel oil) or a premix of oil plus additional emulsifier to spray tank. Complete filling of spray tank with water. Maintain vigorous agitation during spray operation to prevent oil and water from forming separate layers.

BANVEL may be applied broadcast using either ground or aerial application equipment. When using ground equipment, apply 3 to 600 gallons of diluted spray per treated acre. Volume of spray applied will depend on the height, density, and type of weeds or brush being treated and on the type of equipment being used. When using aerial equipment apply 2 to 40 gallons of diluted spray per treated acre in a water-based carrier.

BANVEL may be applied to individual clumps or small areas (SPOT TREATMENT) of undesirable vegetation using handgun or similar types of application equipment. Apply diluted sprays to allow complete wetting (up to run off) of foliage and stems.

Herbicide adjuvants or other spray additives (emulsifiers, surfactants, wetting agents, drift control agents, or penetrants) may be used for wetting, penetration, or drift control. Spray additives must be agriculturally approved when used in pasture applications. If spray additives are used, read and follow all use directions and precautions on product label.

**WEEDS CONTROLLED**

BANVEL, when applied at specified rates, will give control many ANNUAL, BIENNIAL, and PERENNIAL broadleaf weeds, and many WOODY brush and vine species commonly found in pasture, hay, rangeland, and general farmstead (non-cropland) areas. (Refer to WEED LIST). Noted (\*) PERENNIAL weeds may be controlled with lower rates of either BANVEL or BANVEL plus 2,4-D. See the following RATES AND TIMINGS section.

**RATES AND TIMINGS**

Application rates and timing of BANVEL are given below. Use the higher level of listed rate ranges when treating dense or tall vegetative growth.

Weed Stage & Type	Broadcast Rate Per Treated Acre	
	Product Amount	lb ai
<b>Annual</b> Small, actively growing Established weed growth	1/2-1.0 pt 1.0-1 1/2 pt	1/4-1/2 1/2-3/4
<b>Biennial<sup>1</sup></b> Rosette diameter Less than 3 inches 3 inches or more Bolting	1/2-1.0 pt 1.0-2.0 pt 2.0 pt	1/4-1/2 1/2-1.0 1.0

SB2315

#4 Pg 83

1-25-19

Weed Stage & Type	Broadcast Rate Per Treated Acre	
	Product Amount	lb ai
Perennial Suppression or top growth control Perennials	1/2–1.0 pt 2.0 pt	1/2–1.0 1.0
Woody Brush & Vines Top growth Suppression Top growth control <sup>2</sup>	1.0–2.0 pt 2.0 pt	1/2–1.0 1.0*

- For best performance, make application when BIENNIAL WEEDS are in the rosette stage.
- Species noted in WEED LIST section will require tank mixtures for adequate control.
  - DO NOT** broadcast apply more than 1 lb ai/A.

Retreatments may be made as needed; however, **DO NOT** exceed a total of 4 pt (2 lb ai) of BANVEL per treated acre during a growing season.

#### TANK MIX TREATMENTS

READ AND FOLLOW THE LABEL OF EACH TANK MIX PRODUCT USED FOR PRECAUTIONARY STATEMENTS, DIRECTIONS FOR USE, APPLICATION RATES AND OTHER RESTRICTIONS.

BANVEL may be tank mixed with one or more of the following herbicides for control of grasses, additional broadleaf weeds, and woody brush and vines.

Herbicide	Rate Per Treated Acre (lb ai)
Pasture, hay, rangeland, and general farmstead (non-cropland) use:	
glyphosate (Roundup <sup>®</sup> )	3/4–3 3/4
metsulfuron methyl (Ally <sup>®</sup> )	0.0038–0.011
paraquat (Gramoxone <sup>®</sup> )	1/2–1.0
picloram (Tordon <sup>®</sup> )	1/8–3.0
triclopyr (Garlon <sup>®</sup> )	3/4–9.0
2,4-D	1/4–6.0

Due to the variations that may occur in formulated products and specific use ingredients (e.g. water supplies), a COMPATIBILITY TEST is recommended prior to actual tank mixing.

#### CUT SURFACE TREE TREATMENTS

BANVEL may be applied as a cut surface treatment for control of unwanted trees and prevention of sprouts of cut trees. A mix of 1 part BANVEL with 1 to 3 parts water should be used in application. Use the lower dilution when treating difficult-to-control species.

**FRILL OR GIRDLE TREATMENTS:** Make a continuous cut or a series of overlapping cuts using an axe to girdle tree trunk. Spray or paint cut surface with the BANVEL/water mix.

**STUMP TREATMENTS:** Spray or paint freshly cut surface with the water mix. The area adjacent to the bark should be thoroughly wet.

Note: For more rapid foliar effects, 2,4-D may be added to the BANVEL/water mix.

#### DORMANT APPLICATIONS FOR CONTROL OF MULTIFLORA ROSE

BANVEL can be applied when plants are dormant as an undiluted SPOT-CONCENTRATE directly to the soil or as a LO-OIL BASAL BARK treatment using an oil-water emulsion solution.

SPOT-CONCENTRATE applications of BANVEL should be applied directly to the soil as close as possible to the root crown but within 6-8 inches of the crown. On sloping terrain, application should be made to the uphill side of the crown. Do not make application when snow or water prevents applying BANVEL directly to the soil. The use rate of BANVEL is dependent on the canopy diameter of the multiflora rose. Examples: Use BANVEL at 1/4, 1 or 2 1/4 fl oz of product respectively, for 5, 10 or 15 feet canopy diameters. **DO NOT** exceed a total of 4 pt BANVEL per acre per year.

LO-OIL BASAL BARK applications of BANVEL should be applied to the basal stem region from the ground line up to a height of 12 to 18 inches. Spray until runoff, with special emphasis on covering the root crown. For best results, make application when plants are dormant. **DO NOT** make application after bud break or when plants are showing signs of active growth. Do not make application when snow or water prevents applying BANVEL to the ground line. Refer to Mixing and Applications above in this section for method of preparing oil-in-water emulsion. Example for making approximately 2 gallons of a LO-OIL spray solution mixture: combine 1 1/2 gallons water plus 1 ounce emulsifier plus 1 pt BANVEL plus 2 1/2 pt of No. 2 diesel fuel. Adjust amounts of materials used proportionately to the amount of final spray solution desired. **DO NOT** exceed 8 gallons of spray solution mix applied per acre per year.

SB2315

#4 Pg

84

6-25-19

## CONSERVATION RESERVE PROGRAM (CRP) ACRES

BANVEL is recommended for use on both newly seeded and established grasses grown in Conservation Reserve or Federal Set-Aside Programs. Observe all precautions, mixing and application directions.

BANVEL treatment will injure or may kill alfalfa, clovers, lespedeza, wild winter peas, vetch, and other legumes.

Agriculturally approved surfactants may be added to the spray mixture to improve postemergence weed control, particularly in dry growing conditions.

**DO NOT** use adjuvants containing penetrants such as petroleum based oils after grass emergence on newly seeded grasses.

### NEWLY SEEDED AREAS

BANVEL may be applied either preplant or postemergence to newly seeded grasses or small grains such as barley, oats, rye, sudangrass, wheat, or other grain species grown as a cover crop. Postemergence applications may be made after seedling grasses exceed the 3-leaf stage. Rates of BANVEL greater than 1 pt per treated acre may severely injure newly seeded grasses. Preplant applications—injury to new seedlings may occur if intervals between application and grass planting is less than 45 days per pt of BANVEL per treated acre West of the Mississippi River or 20 days per pt East of the Mississippi River.

### ESTABLISHED GRASS STANDS

Established grass stands are perennial grasses planted one or more seasons prior to treatment. Certain species: bentgrass, carpetgrass, smooth brome, buffalograss or St. Augustine grass may be injured when treated with BANVEL at rates exceeding 1 pt per treated acre.

### WEEDS CONTROLLED

BANVEL, when applied at specified rates, will control many annual and biennial weeds and provide control or suppression of many perennial weeds. (Refer to WEED LIST).

### RATES AND TIMINGS

Application rates and timing of BANVEL treatment are given below. Use the higher rate of the rate range when vegetation is either dense or tall, or when weeds are growing under stressed conditions such as drought or cool temperature.

Weed Stage & Type*	Broadcast Rate Per Treated Acre	
	Amount of Formulated BANVEL (pt)	Equivalent lb ai
<b>Annuals</b>		
Small, actively growing	1/4–1.0	1/8–1/2
Established weed growth	1.0	1/2
<b>Biennials**</b>		
Rosette diameter	1/2–1.0	1/4–1/2
a) Less than 3 inches	1.0–2.0	1/2–1.0
b) 3 inches or greater	2.0–3.0	1.0–1 1/2
c) Bolting biennial		
<b>Perennials**</b>		
Suppression/Control	2.0–4.0	1.0–2.0

\* For best results, treat Biennial weeds with BANVEL when they are in the rosette stage of growth. Retreatments may be made as needed; however, **DO NOT EXCEED A TOTAL OF 2 QUARTS** (2 lb ai) of BANVEL per treated acre during a growing season.

\*\* Biennial and Perennial weeds will require follow-up (sequential) treatments for seedling control and escapes.

### TANK MIX TREATMENTS

To control grasses and additional broadleaf weeds, BANVEL may be tank mixed with other herbicides registered for use in Conservation Reserve Programs such as 2,4-D, glyphosate (Roundup), paraquat (Gramoxone), metsulfuron (Ally) and others.

**READ AND FOLLOW THE LABEL OF EACH TANK MIX PRODUCT USED FOR PRECAUTIONARY STATEMENTS, DIRECTIONS FOR USE, APPLICATION RATES, AND OTHER RESTRICTIONS.**

SB 2315

#4 EG 85

1-25-19

**ASPARAGUS**

FOR USE ONLY IN THE STATES OF CALIFORNIA, OREGON, AND WASHINGTON

Observe all PRECAUTIONS. Read and follow mixing and application instructions.

If spray contacts emerged spears, crooking (twisting) of some spears may result. If such crooking occurs, discard affected spears.

**DO NOT** harvest prior to 24 hours after treatment. **DO NOT** use in the Coachella Valley of California.Multiple applications may be made per growing season. **DO NOT** exceed a total of 1 pt of BANVEL per treated acre per crop year.**RATES AND TIMINGS**

Apply BANVEL to emerged and actively growing weeds in 40 to 60 gallons of diluted spray per treated acre immediately after cutting the field, but at least 24 hours before the next cutting.

Weeds	Rate Per Treated Acre
Mustard, Black Pigweed, Redroot (Carelessweed) Sowthistle, Annual * Thistle, Canada Thistle, Russian	1/2-1.0 pt (1/4-1/2 lb ai)
* Bindweed, Field Chickweed, Common Goosefoot, Nettleleaf Radish, Wild Thistle, Milk	1.0 pt (1/2 lb ai)

BANVEL may be applied in a tank mixture with either 2,4-D or Roundup herbicide for improved control of noted (\*) weeds. READ AND FOLLOW 2,4-D OR Roundup Herbicide PRODUCT LABELING FOR PRECAUTIONARY STATEMENTS, DIRECTIONS FOR USE, APPLICATION RATES AND TIMINGS, AND OTHER RESTRICTIONS.

**TURF AND LAWNS**

FOR USE IN FARMSTEAD (NON-CROPLAND) AND SOD FARMS

**IMPORTANT**

Observe all precautions. Read and follow mixing and application instructions.

To avoid injury to newly seeded grasses, application of BANVEL should be delayed until after the second mowing. Furthermore, application rates in excess of 1 pt (1/2 lb ai) per treated acre may cause noticeable stunting or discoloration of sensitive grass species such as bentgrass, carpetgrass, buffalograss, and St. Augustine grass.

**In areas where roots of sensitive plants extend, do not** apply in excess of 1/4 pt (1/8 lb ai) of BANVEL per treated acre on coarse textured (sandy-type) soils, or in excess of 1/2 pt (1/4 lb ai) per treated acre on fine textured (clayey-type) soils. **DO NOT** make repeat applications in these areas for 30 days and until previous applications of BANVEL have been activated in the soil by rain or irrigation.

**WEEDS CONTROLLED**

BANVEL, when applied at specified rates, will give control of many ANNUAL, BIENNIAL, and noted (\*) PERENNIAL broadleaf weeds commonly found in turf. BANVEL will also give growth suppression of many other listed PERENNIAL broadleaf weeds and WOODY brush and vine species. (Refer to WEED LIST).

**MIXING AND APPLICATION**

Apply 30 to 200 gallons of diluted spray per treated acre (3 qts. to 4 1/4 gals. per 1,000 sq. ft.), depending on density or height of weeds treated and on the type of equipment used.

**RATES AND TIMINGS**

Use the higher level of listed rate ranges when treating dense vegetative growth.

Weed Stage & Type	BANVEL Herbicide		
	pt per treated acre	lb ai per treated acre	teaspoons per 1000 sq. ft.
<b>Annual</b>			
Small, actively growing	1/2-1.0	1/4-1/2	1.0-2 1/4
Established weed growth	1.0-1 1/2	1/2-3/4	2 1/4-3 1/4

SB2315

#4 Pg 86

1-25-19

Weed Stage & Type	BANVEL Herbicide		
	pt per treated acre	lb ai per treated acre	teaspoons per 1000 sq. ft.
<b>Biennial Rosette diameter</b>			
Less than 3 inches	1/2-1.0	1/4-1/2	1.0-2 1/4
3 inches or more	1.0-2.0	1/2-1.0	2 1/4-4 1/2
<b>Perennials and Woody</b>			
Brush and Vines	1.0-2.0	1/2-1.0	2 1/4-4 1/2

For best performance, apply when weeds are emerged and actively growing.

Retreatments may be made as needed; however, do not exceed a total of 4 pt (2 lb ai) BANVEL per treated acre during a growing season.

#### TANK MIX TREATMENTS

READ AND FOLLOW THE LABEL OF EACH TANK MIX PRODUCT USED FOR PRECAUTIONARY STATEMENTS, DIRECTIONS FOR USE, APPLICATION RATES AND TIMINGS AND OTHER RESTRICTIONS.

Tank mix treatments of BANVEL may be made with 2,4-D, MCPA, MCPP, or bromoxynil for control of additional weeds listed on the tank mix product label.

Apply 1/5 to 1/2 pt (1/10 to 1/4 lb ai) of BANVEL per treated acre with 1/2 to 1 1/2 lb acid equivalent of 2,4-D, MCPA, or MCPP, or with 3/8 to 1/2 lb ai of bromoxynil. Use the higher level of the listed rate ranges when treating established weeds. Repeat treatments may be made as needed; however, **DO NOT** exceed 4 pt (2 lb ai) of BANVEL per treated acre per year.

#### GRASS SEED CROPS

GRASSES GROWN FOR SEED SUCH AS BERMUDA GRASS, BLUEGRASS, FESCUE AND RYEGRASS

#### IMPORTANT

Observe all precautions. Read and follow mixing and application instructions.

**The Pre-Harvest Interval (PHI) for grass forage is 0 days.**

**The Pre-Harvest Interval (PHI) for grass hay is 7 days.**

Refer to the PASTURE, HAY, RANGELAND, AND FARMSTEAD (NONCROPLAND AREAS) section for possible grazing and feeding restrictions.

**DO NOT** use on bentgrass unless possible crop injury can be tolerated.

#### WEEDS CONTROLLED

BANVEL will provide control or suppression of annual broadleaf weeds listed below. For improved control of listed weeds plus additional weeds, it is recommended that BANVEL be applied in a tank mix with other herbicides.

Alfalfa <sup>1</sup>	Catchfly, Nightflowering	Dock, Broadleaf	Knotweed, Prostrate	Sorrel, Red (Sheep Sorrel)
Bedstraw, Catchweed	Chamomile, Corn	Dock, Curly	Ladysthumb	Sowthistle, Annual
Bindweed, Field	Chickweed, Common	Hemlock, Poison	Lambsquarters, Common	Starwort, Little
Buttercup, Corn	Chickweed, Mouseear	Knapweed, Russia <sup>1</sup>	Lettuce, Prickly	Thistle, Canad <sup>1</sup>
Buttercup, Creeping	Clover	Knawel	Mayweed (Dogfennel)	
Buttercup, Western Field	Cockle, White	Kochia	Ragwort, Tansy	

1. Top growth control only.

#### RATES AND TIMINGS

Apply 1/2 to 1 pt of BANVEL per treated acre on SEEDLING GRASS after the crop reaches the 3-5 leaf stage. Apply up to 2 pt of BANVEL on well-established Perennial grass. **DO NOT APPLY AFTER THE GRASS SEED CROP BEGINS TO JOINT.** For best performance, make applications when weeds are in the 2-4 leaf stage and rosettes are less than 2 inches across. Use the higher level of listed rate ranges when treating more mature weeds or dense vegetative growth.

#### TANK MIX TREATMENTS

For control of grasses or additional broadleaf weeds, BANVEL may be tank mixed with all broadleaf herbicides registered for use in Grass Seed Production. Read and follow the label of each tank mix product used for precautionary statements, directions for use, weeds controlled and geographic and other restrictions.

#### BROADCAST RATE PER TREATED ACRE:

Apply 1/2 to 2 pt BANVEL with:



SB2315

#4 Pg 87

1-25-19

Product	Active Ingredient	Formulation	Amount of Product Per Acre
2,4-D Amine or Ester	2,4-D	4 lb/gal	1-4 pt (.5-2.0 lb ai/A) <sup>1</sup>
MCPA Amine	MCPA	4 lb/gal	1-2 pt (.5-1.0 lb ai/A) <sup>1</sup>
Buctril®	bromoxynil <sup>2</sup>	2 lb/gal	1-2 pt
Curtail®	clopyralid + 2,4-D	2.38 lb/gal	1 3/4-4 pt
Karmex®	diuron <sup>2</sup>	80% DF	2-4 lb
Stinger®	clopyralid	3 lb/gal	1/4-1 pt

1. When using formulations other than 4 lb/gal use pounds active/acre listed.
2. Herbicides with the same common name and/or different formulations may be used.

#### ANNUAL GRASS CONTROL

For suppression of ANNUAL GRASS WEEDS such as:

Brome, Downy (Cheatgrass)  
 Brome, Rippgut  
 Fescue, Rattail  
 Windgrass

Apply up to 4 pt of BANVEL per treated acre in the fall or late summer after harvest and burning of established grass seed crops. Applications should be made immediately following first irrigation when the soil is moist and before weeds have more than 2 leaves.

#### PREPLANT DIRECTIONS (POST HARVEST/FALLOW/CROP STUBBLE/SET-A-SIDE) FOR BROADLEAF WEED CONTROL BEFORE WHEAT, CORN, SORGHUM, SOYBEANS IMPORTANT

Observe all precautions. Read and follow mixing and application instructions.

#### WEEDS CONTROLLED

BANVEL may be applied alone or in tank mix combinations with other herbicides registered for this use.

BANVEL can be applied either POST HARVEST in the fall, spring or summer during the FALLOW period or to CROP STUBBLE/SET-A-SIDE acres. BANVEL, when applied at the specified rates, will control many ANNUAL broadleaf weeds; see the WEEDS CONTROLLED section under small grains. In addition, BANVEL will control or suppress the following BIENNIAL and PERENNIAL broadleaf weeds:

Alfalfa <sup>1</sup>	Bursage	Dogbane, Hemp	Redvine	Thistle, Milk
Artichoke, Jerusalem	(Bur Ragweed)	Garlic, Wild <sup>2</sup>	Smartweed, Swamp	Thistle, Musk
Bindweed, Field	(Povertyweed)	Horsenettle, Carolina	Sowthistle, perennial <sup>1</sup>	Thistle, Plumeless
Bindweed, Hedge	(Lakeweed) <sup>1</sup>	Knapweed, Diffuse	Spurge, Leafy	Thistle, Scotch
Blueweed, Texas	Dandelion, Common <sup>1</sup>	Knapweed, Spotted	Thistle, Bull	Trumpet creeper
	Dock, Curly <sup>1</sup>	Nightshade, Silverleaf	Thistle, Canada <sup>2</sup>	(Buckvine)

1. Perennials may be controlled using BANVEL at rates lower than those recommended for other listed perennial weeds. (See RATES AND TIMINGS under this heading.)
2. See the SPECIAL TANK MIX TREATMENTS section under this heading for specific control programs for these weeds.

#### RATES AND TIMINGS

Apply BANVEL as a broadcast or spot treatment to emerged and actively growing weeds after crop harvest (post harvest) and before a killing frost or in the fallow cropland or crop stubble the following spring or summer. Agriculturally approved spray additives, such as surfactants or oils, may be used to enhance spray coverage and the herbicide's penetration of weed foliage. See CROPPING RESTRICTIONS for specified interval between application and planting to prevent crop injury.

For best performance, make application when ANNUAL weeds are less than 6 inches tall, when BIENNIAL weeds are in the rosette stage and to PERENNIAL weed regrowth in late summer or fall following a mowing or tillage treatment. Most effective control of upright perennial broadleaf weeds, such as Canada thistle and Jerusalem artichoke, occurs if application is made when the majority of weeds, such as field bindweed and hedge bindweed, are best controlled when weeds are in or beyond the full bloom stage.

Avoid disturbing treated areas following application. Treatments may not kill weeds which develop from seed or underground plant parts, such as rhizomes or bulblets, after the effective period for BANVEL. For seedling control, a follow-up program or other cultural practices could be instituted. For small grain in-crop uses of BANVEL, see the RATE AND TIMINGS section under the SMALL GRAINS heading for details.

552315

#4 Pg 88

1-25-19

**BANVEL RATES PER TREATED ACRE**

WEED TYPE	AMOUNT OF PRODUCT PER ACRE
Annual	1/2-1 pt (8-16 fl. oz)
Biennial	1-2 pt (16-32 fl. oz)
Perennial	1-4 pt (16-64 fl. oz)
Perennial suppression	1-2 pt (16-32 fl. oz)
Noted <sup>1</sup> perennials	2-4 pt (32-64 fl. oz)
Other perennials	4 pt (64 fl. oz)

Retreatments may be made as needed; however, **DO NOT** exceed a total of 4 pt of BANVEL per treated acre during any given fallow period.

**TANK MIX TREATMENTS**

BANVEL may be tank mixed with one or more of the following herbicides for control of grasses or additional broadleaf weeds. Read and follow the label of each tank mix product used for precautionary statements, directions for use, rates and timings, weeds controlled, geographic and other restrictions.

**BANVEL BROADCAST RATE PER TREATED ACRE FOR ANNUAL WEED CONTROL:**

Apply 1/4 to 1 pt BANVEL with:

Product	Active Ingredient	Formulation	Amount of Product Per Acre
Aatrex <sup>®</sup> 4 <sup>1</sup>	atrazine	4.0 lb/gal	1/2-6.0 pt
Aatrex <sup>®</sup> Nine-O <sup>®1</sup>	atrazine	90% DF	1/2-3.3 lb
Ally <sup>®2</sup>	metsulfuron-methyl	75% DF	0.1 oz
Amber <sup>®2</sup>	triasulfuron	75% DF	0.28-0.35 oz
Bladex <sup>®1</sup>	cyanazine	90% DF	2.7-3.6 lb
Cyclone <sup>®</sup>	paraquat	2.0 lb/gal	1.0-2.0 pt
Fallow Master <sup>®</sup>	glyphosate + dicamba	1.6 lb/gal	22.0-44.0 fl oz
Finesse <sup>®2</sup>	chlorsulfuron + metsulfuron-methyl	75% DF	0.2 oz
Gramoxone <sup>®</sup> Extra	paraquat	2.5 lb/gal	1.5 pt
Kerb <sup>®1</sup>	pronamide	50-W	1/2-1.0 lb
Landmaster <sup>®</sup> BW	glyphosate + 2,4-D	2.4 lb/gal	27.0-54.0 fl oz
Roundup <sup>®</sup> or Roundup <sup>®</sup> RT	glyphosate	3.0 lb/gal	8.0-48.0 fl oz
Sencor <sup>®</sup> DF <sup>1</sup>	metribuzin	75% DF	1/2-1.0 lb
Sencor <sup>®</sup> 4 <sup>1</sup>	metribuzin	4.0 lb/gal	3/4-1 1/2 pt
2,4-D	2,4-D	4.0 lb/gal	1.0-2.0 pt (0.5-1.0 lb ai/A) <sup>3</sup>

1. Tank mixes of BANVEL with these products may be subject to special restrictions. See the Product Label of the tank mix partner for intended use rates, restrictions and other precautions.
2. When tank mixing with sulfonylurea herbicides, refer to the product label for rates and restrictions. Use a surfactant of at least 80% active ingredient at the rate of 1-2 quarts/100 gallons of spray or not more than 0.25-0.5% by volume. Use the highest rate of surfactant when using the lower rate ranges of the tank mix and/or when treating more mature weeds or dense vegetative growth. Sulfonylurea resistant weeds may not be controlled by tank mixes of BANVEL and a sulfonylurea. Refer to the BANVEL tank mix section for alternative tank mixes.

SB2315

#4 EG 89

1-25-19

3. When using formulations other than 4 lb/gal use pounds active/acre listed.

**BANVEL BROADCAST RATE PER TREATED ACRE FOR BIENNIAL AND PERENNIAL WEED CONTROL:**

Apply 1 to 4 pt of BANVEL with:

Product	Active Ingredient	Formulation	Amount of Product Per Acre
Curtail®	clopyralid + 2,4-D	2.38 lb/gal	2.0–4.0 pt
2,4-D	2,4-D	4.0 lb/gal	2.0–6.0 pt (1.0–3.0 lb ai/A) <sup>1</sup>
Landmaster® BW	glyphosate + 2,4-D	2.4 lb/gal	54.0 fl oz
Roundup®	glyphosate	3.0 lb/gal	1.0–5.0 qts
Roundup® RT	glyphosate	3.0 lb/gal	1.0–5.0 qts
Tordon® 22K	picloram	2.0 lb/gal	1/2–1.0 pt

1. When using formulation other than 4.0 lb/gal use pounds active/acre listed.

**SPECIAL TANK MIX TREATMENTS**

For suppression of perennial weeds, apply 1/2-1 pt of BANVEL with 8-16 fl oz of Roundup® herbicide or Roundup® RT herbicide per treated acre.

For wild garlic control, apply 1 pt BANVEL with 3 pt of 2,4-D LV Ester (4 lb/gal) per treated acre. Apply when wild garlic is 4 to 8 inches tall.

For Canada thistle control, use BANVEL, or BANVEL plus Curtail® or BANVEL plus Roundup® herbicide or Roundup® RT tank mix treatments.

Application may be made during fallow periods for control of volunteer barley, bulbous bluegrass, downy brome, jointed goatgrass, common rye and volunteer wheat when they are actively growing. Use 1 pt BANVEL with 1/2-1 lb Kerb® 50W. Fall seeded wheat may be planted 9 months or more after application. For best performance, make application between mid-October and mid-December, prior to soil freeze up.

During fallow periods, apply BANVEL plus Landmaster® BW or Fallow Master® herbicide to give improved control of kochia, wild buckwheat, prickly lettuce, field bindweed and Canada thistle. Use 1/8-1/4 pt of BANVEL plus 22 to 54 fl oz of Landmaster® BW or Fallow Master® herbicide for annual weed control or 1/4 to 1/2 pt BANVEL plus 22 to 54 fl oz of Landmaster® BW or Fallow Master® herbicide for perennial weed suppression.

**CROPPING RESTRICTIONS**

The following recommendations are based on BANVEL use rates up to 2 pt per treated acre.

CORN, SORGHUM and SOYBEANS may be planted in the spring following applications made during the previous year. If less than 1 inch of rainfall occurs between application and first killing frost, treated areas should be cultivated to allow herbicide to come in contact with moist soil. Cultivation may take place before or immediately after ground thaw.

NOTE: THE MINIMUM INTERVAL BETWEEN BANVEL APPLICATIONS AND PLANTING SOYBEANS IS 30 DAYS. Soybean injury may occur if the interval between application and planting is less than what is specified. In areas with greater than 30 inches of rainfall, delay planting for 30 days per pt of BANVEL per treated acre. In areas with less than 30 inches of rainfall, delay planting for 45 days per pt of BANVEL per treated acre. Exclude days when ground is frozen.

WHEAT may be planted in the fall or spring following applications. Also, spot applications may be made any time prior to crop emergence if crop injury can be tolerated in treated areas. Wheat injury may occur if the interval between application and planting is less than specified.

East of the Mississippi River, the interval is 20 days per pt of BANVEL per treated acre or 1.25 days per 1 ounce. Moisture is essential for BANVEL degradation. Exclude days when ground is frozen.

West of the Mississippi River, the interval is 45 days per pt of BANVEL per treated acre or 3 days per ounce. Moisture is essential for BANVEL degradation. Exclude days when ground is frozen.

Following a normal harvest of barley, oats, or wheat, any rotation crop may be planted. If the interval before harvest is shortened, such as when cover crops will be plowed under, do not follow up with the planting of a sensitive crop.

**CONTROL OF PERENNIAL BROADLEAF WEEDS IN CROPLAND  
(SPOT APPLICATION ONLY)**

FOR USE ONLY IN THE STATES OF IDAHO, MONTANA, NEVADA, OREGON, UTAH AND WASHINGTON.

**IMPORTANT**

Observe all precautions. Read and follow mixing and application instructions.

**DO NOT** treat subirrigated cropland or areas where the soil remains saturated with water throughout the year.

Make only one application on BANVEL per year.

**WEEDS CONTROLLED**

BANVEL, when applied at specified rates, will control many broadleaf weeds including:

Bindweed, Field

Knapweed, Russian

SP2315

#4 90

1-25-19

Dock, Broadleaf (Bitterdock)  
Dock, Curly  
Knapweed, Black

Ragwort, Tansy  
Spurge, Leafy  
Thistle, Canada

**RATES AND TIMINGS**

BANVEL may be applied at any time following a crop harvest to stubble, fallow or other cropland. Application should be made when weeds are actively growing and prior to a killing frost.

Apply 2 quarts (2 lb ai) of BANVEL per treated acre. Application may be made up to one month prior to the planting of wheat.

**NOTE: DO NOT** use unless injury to wheat or rotated barley will be acceptable.

Barley, oats, corn, sorghum (milo), annual or perennial grass crops may be planted into treated areas one year after application. Crops grown for seed (other than perennial grass seed) should not be planted into treated areas until three years after application. Do not plant broadleaf crops such as alfalfa, beans, peas, potatoes, or sugarbeets into treated areas until two years after application.

In most cases, treatments will not kill perennial weed seedlings, which germinate from seed one or two years after treatment. Once the effect of the chemical has been lost, a follow-up program for seedling control or other cultural practices should be instituted.

**WIPER APPLICATION USES**

IMPORTANT: Observe all precautions.

BANVEL may be applied through wiper application equipment to control or suppress actively growing broadleaf weeds, brush and vines. Use a solution containing 1 part BANVEL to 1 part water. **DO NOT** contact desirable vegetation with herbicide solution. Wiper application should only be made to crops (including pastures) and non-cropland areas described in this label with the exception of Grain Sorghum (Milo).

**STORAGE AND DISPOSAL**

**PROHIBITIONS**

**DO NOT** contaminate water, food or feed by storage or disposal.

**PESTICIDE STORAGE**

Store in original containers in a well-ventilated area separately from fertilizer, feed and foodstuffs. Avoid cross-contamination with other pesticides. Spillage or leakage should be contained and absorbed with clay granules, sawdust, or equivalent material for disposal.

**PESTICIDE DISPOSAL**

Triple rinse pesticide from containers and use rinsates in the pesticide application. Wastes which cannot be used according to label instructions may be disposed of on site or at an approved waste disposal facility.

**CONTAINER DISPOSAL**

Plastic or Metal containers equal to or less than 5 gallons: Nonrefillable container. **DO NOT** reuse or refill this container. Triple rinse container (or equivalent) promptly after emptying; then offer for recycling, if available, or reconditioning, if appropriate, or puncture and dispose of in a sanitary landfill, or by incineration, or by other procedures approved by state and local authorities. Triple rinse as follows: Empty the remaining contents into application equipment or a mix tank and drain for 10 seconds after the flow begins to drip. Fill the container ¼ full with water and recap. Shake for 10 seconds. Pour rinsate into application equipment or a mix tank or store rinsate for later use or disposal. Drain for 10 seconds after the flow begins to drip. Repeat this procedure two more times. Offer for recycling, if available, or puncture and dispose of in a sanitary landfill, or by other procedures approved by state and local authorities.

Refillable containers: Refill this container with this pesticide only. **DO NOT** reuse this container for any other purpose. Cleaning the container before final disposal is the responsibility of the person disposing of the container. Cleaning before refilling is the responsibility of the refiller. To clean the container before final disposal, empty the remaining contents from this container into application equipment or mix tank. Fill the container about 10 percent full with water. Agitate vigorously or recirculate water with the pump for two minutes. Pour or pump rinsate into application equipment or rinsate collection system. Repeat this procedure two more times.

SD2315

#4 Pg 91

1-25-19

#### Warranty and Disclaimer Statement

The directions for use of this product are believed to be adequate and must be followed carefully. However, it is impossible to eliminate all risks associated with the use of this product. Such risks may arise from weather conditions, soil factors, off-target movement, unconventional farming techniques, the presence of other materials, the manner of use or application, or other unknown factors, all of which are beyond the control of Arysta LifeScience North America, LLC ("Arysta"), and can cause crop injury, injury to non-target crops or plants, ineffectiveness of the product, or other unintended consequences. All such risks shall be assumed by the user or buyer. Arysta warrants that this product conforms to the chemical description on the label and is reasonably fit for the purposes stated in the Directions for Use, subject to the inherent risks described above, when used in accordance with the Directions for Use under normal conditions. This warranty does not extend to the use of this product contrary to label instructions or under conditions not reasonably foreseeable to Arysta, and is subject to the inherent risks described above.

**TO THE EXTENT CONSISTENT WITH APPLICABLE LAW, ARYSTA DISCLAIMS ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. TO THE EXTENT CONSISTENT WITH APPLICABLE LAW, ARYSTA, MANUFACTURER, AND SELLER DISCLAIM AND SHALL NOT BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES RESULTING FROM THE USE, HANDLING, APPLICATION, STORAGE, OR DISPOSAL OF THIS PRODUCT OR FOR DAMAGES IN THE NATURE OF PENALTIES, AND THE USER AND BUYER WAIVE ANY RIGHT THAT THEY MAY HAVE TO SUCH DAMAGES. NO AGENT, REPRESENTATIVE OR EMPLOYEE OF ARYSTA IS AUTHORIZED TO MAKE ANY WARRANTY, GUARANTEE OR REPRESENTATION BEYOND THOSE CONTAINED HEREIN OR TO MODIFY THE WARRANTIES CONTAINED HEREIN.**

**TO THE EXTENT CONSISTENT WITH APPLICABLE LAW, THE EXCLUSIVE REMEDY OF THE USER OR BUYER, AND THE TOTAL LIABILITY OF ARYSTA, MANUFACTURER, AND SELLER, SHALL BE LIMITED TO THE PURCHASE PRICE PAID, OR AT ARYSTA'S ELECTION, THE REPLACEMENT OF THE PRODUCT.**

#### REGISTERED TRADEMARKS

Aatrex, Amber, Beacon, Bicep, Concep, Caparol, Cyclone, Dual, Evik, Gramoxone and Princep are registered trademarks of Syngenta Group Company.

Accent, Ally, Bladex, Express, Extrazine, Finesse, Glean, Harmony and Karmex are registered trademarks of E.I. duPont de Nemours & Co., Inc. Asulox, Bronate, Buctril and Sencor are registered trademarks of Bayer.

Battalion, Bronco, Bullet, Harness, Landmaster, Lariat, Lasso, Partner, Permit, Ramrod, Roundup, Roundup Ultra and Screen are registered trademarks of Monsanto Company.

Broadstrike, Curtail, Garlon, Kerb, Stinger, Surpass and Tordon are registered trademarks of Dow AgroSciences, LLC.

Tough is a registered trademark of Novartis AG.

Eradicane is a registered trademark of Gowan Company, LLC.

Sutan is a registered trademark of Helm Agro US, Inc.

Genate is a trademark of Chevron Chemical Company.

Dakota is a registered trademark of AgrEvo USA Company.

Tiller is a registered trademark of Hoescht Schering Agrevo GmBh.

Banvel, Clarity, Fallow Master, Frontier, Guardsman, Marksman and Prowl are registered trademarks of BASF Corporation.

Guardsman and Marksman are Restricted Use Pesticides.

SB2315

#4 B 92

1-25-19

# Banvel® Herbicide

HERBICIDE FOR WEED CONTROL IN CORN, SORGHUM,  
SMALL GRAINS, PASTURE, HAY, RANGELAND, FARMSTEAD  
(NON-CROPLAND), FALLOW, SUGARCANE, ASPARAGUS,  
TURF AND GRASS SEED CROPS.

ACTIVE INGREDIENT	By Weight
Dimethylamine salt of dicamba (3,6-dichloro-o-anisic acid)*	49.4%
<b>OTHER INGREDIENTS:</b>	50.6%
<b>TOTAL:</b>	100.0%

\* This product contains 41.0% 3,6-dichloro-o-anisic acid  
(dicamba) or 4 pounds per gallon (480 g/L).

## KEEP OUT OF REACH OF CHILDREN CAUTION/PRECAUTION

Si usted no entiende la etiqueta, busque a alguien para que se la explique a usted en detalle. (If you do not understand the label, find someone to explain it to you in detail.)

See inside of booklet for complete Precautionary Statements and Directions For Use.

### FIRST AID

**IF IN EYES:** Hold eye open and rinse slowly and gently with water for 15-20 minutes. Remove contact lenses, if present after the first 5 minutes, then continue rinsing eye. Call a poison control center or doctor for treatment advice.

**IF ON SKIN OR CLOTHING:** Take off contaminated clothing. Rinse skin immediately with plenty of water for 15-20 minutes. Call a poison control center or doctor for treatment advice.

**IF SWALLOWED:** Call a poison control center or doctor immediately for treatment advice. Have person sip a glass of water if able to swallow. Do not induce vomiting unless told to do so by a poison control center or doctor. Do not give anything by mouth to an unconscious person.

**EMERGENCY TELEPHONE NUMBERS:** Have the product container or label with you when calling a poison control center or doctor, or going for treatment.

**FOR 24-HOUR EMERGENCY MEDICAL ASSISTANCE CALL:** 1-866-303-6952

**FOR CHEMICAL EMERGENCY:** Spill, leak, fire, exposure, or accident call CHEMTREC 1-800-424-9300

### PRECAUTIONARY STATEMENTS HAZARDS TO HUMANS AND DOMESTIC ANIMALS

## Caution

Harmful if swallowed. Harmful if absorbed through skin. Causes moderate eye irritation. Avoid contact with skin, eyes, or clothing.

### ENVIRONMENTAL HAZARDS

Do not apply directly to water, or to areas where surface water is present or to intertidal areas below the mean high water mark. Do not contaminate water when disposing of equipment washwaters or rinsate. Apply this product only as directed on label.

### PHYSICAL OR CHEMICAL HAZARDS

Keep away from strong oxidizers.

### DIRECTIONS FOR USE

It is a violation of Federal law to use this product in a manner inconsistent with its labeling.

Do not apply this product in a way that will contact workers or other persons, either directly or through drift. Only protected handlers may be in the area during application. For any requirements specific to your State or Tribe, consult the agency responsible for pesticide regulation.

## STORAGE AND DISPOSAL

**PROHIBITIONS:** Do not contaminate water, food or feed by storage or disposal.

**PESTICIDE STORAGE:** Store in original containers in a well-ventilated area separately from fertilizer, feed and foodstuffs. Avoid cross-contamination with other pesticides. Spillage or leakage should be contained and absorbed with clay granules, sawdust, or equivalent material for disposal.

**PESTICIDE DISPOSAL:** Triple rinse pesticide from containers and use rinsates in the pesticide application. Wastes which cannot be used according to label instructions may be disposed of on site or at an approved waste disposal facility.

**CONTAINER DISPOSAL:** Plastic or Metal containers equal to or less than 5 gallons: Nonrefillable container. Do not reuse or refill this container. Triple rinse container (or equivalent) promptly after emptying; then offer for recycling, if available, or reconditioning, if appropriate, or puncture and dispose of in a sanitary landfill, or by incineration, or by other procedures approved by state and local authorities. Triple rinse as follows: Empty the remaining contents into application equipment or a mix tank and drain for 10 seconds after the flow begins to drip. Fill the container ¼ full with water and recap. Shake for 10 seconds. Pour rinsate into application equipment or a mix tank or store rinsate for later use or disposal. Drain for 10 seconds after the flow begins to drip. Repeat this procedure two more times. Offer for recycling, if available, or puncture and dispose of in a sanitary landfill, or by other procedures approved by state and local authorities.

Refillable containers: Refill this container with this pesticide only. Do not reuse this container for any other purpose. Cleaning the container before final disposal is the responsibility of the person disposing of the container. Cleaning before refilling is the responsibility of the refiller. To clean the container before final disposal, empty the remaining contents from this container into application equipment or mix tank. Fill the container about 10 percent full with water. Agitate vigorously or recirculate water with the pump for two minutes. Pour or pump rinsate into application equipment or rinsate collection system. Repeat this procedure two more times.

EPA Reg. No. 66330-276

EPA Est. No. 68323-TX-001

AD091109

2040549-081110

Arysta LifeScience and the Arysta LifeScience logo are registered trademarks of Arysta LifeScience Corporation.

Product of U.S.A.

Manufactured for:

**Arysta LifeScience North America, LLC**  
15401 Weston Parkway, Suite 150 • Cary, NC 27513

Net Contents: 2.5 gallon

# PREFER 90

## NONIONIC SURFACTANT

### PRINCIPAL FUNCTIONING AGENTS:

Nonionic surfactants and humectants . . . . .	90.0%
CONSTITUENTS INEFFECTIVE AS SPRAY ADJUVANTS: . . . . .	10.0%
TOTAL . . . . .	100%

All ingredients are exempt from tolerance under 40 CFR 180.

**KEEP OUT OF REACH OF CHILDREN  
CAUTION**

**Read Entire Label Before Using This Product  
SHAKE WELL BEFORE USING**

### PRECAUTIONARY STATEMENTS

Causes moderate eye irritation. Harmful if swallowed, inhaled or absorbed through skin. Avoid contact with skin, eyes or clothing. Avoid breathing spray mist. Wash thoroughly with soap and water after handling and before eating, drinking, chewing gum or smoking tobacco. Remove and wash contaminated clothing before reuse.

### FIRST AID

#### IF SWALLOWED:

- Call a poison control center or doctor immediately for treatment advice.
- Have person sip a glass of water if able to swallow.
- Do not induce vomiting unless told to do so by a poison control center or doctor.
- Do not give anything by mouth to an unconscious person.

#### IF INHALED:

- Move person to fresh air.
- If a person is not breathing, call 911 or an ambulance, then give artificial respiration, preferably mouth-to-mouth, if possible.
- Call a poison control center or doctor for further treatment advice.

#### IF IN EYES:

- Hold eye open and rinse slowly and gently with water for 15 to 20 minutes.
- Remove contact lenses, if present, after the first 5 minutes, then continue rinsing eye.
- Call a poison control center or doctor for treatment advice.

#### IF ON SKIN OR CLOTHING:

- Take off contaminated clothing.
- Rinse skin immediately with plenty of water for 15 to 20 minutes.
- Call a poison control center or doctor for treatment advice.

#### PERSONAL PROTECTIVE EQUIPMENT

Wear chemical-resistant gloves, long-sleeved shirt and long pants, shoes plus socks when mixing or applying this product.

SN: 000-110910

WEST   
CENTRAL, Inc.  
*World Class Solutions™*

2700 Trott Ave. SW • P.O. Box 897 • Willmar, MN 56201

[www.westcentralinc.com](http://www.westcentralinc.com)

#4  
93  
B  
6-25-19  
B2315

## GENERAL INFORMATION

**PREFER 90** is an excellent quality, nonionic surfactant. **PREFER 90** can be used with most insecticides, fungicides, herbicides, acaricides, defoliants, desiccants and wettable powders to improve performance of the active spray ingredient by giving them more uniform distribution and better wetting of the plant surface. **PREFER 90** meets the requirements of most pesticide manufacturer's for a 90/10 surfactant.

## DIRECTIONS FOR USE

<u>Applications</u>	<u>This Product per 100 Gallons of Mix</u>
Insecticides	3 to 8 fluid ounces
Fungicides	3 to 8 fluid ounces
Herbicides	1 to 4 pints
Acaricides	3 to 8 fluid ounces
Defoliants	1 to 2 pints
Desiccants	1 to 2 pints
Wettable powders	1 to 2 pints

Variations in conditions of use can cause some variation in the amount of this product required. The minimum required to give a smooth, uniform coverage usually gives the most effective results. Not for aquatic use.

## MIXING INSTRUCTIONS

Follow the instructions on the pest control product manufacturer's label. If there are no specific instructions, add **PREFER 90** after the pest control product has been thoroughly mixed into the tank mix water and preferably after all products have been mixed into the tank.

## STORAGE AND DISPOSAL

Do not contaminate water, food or feed by storage and disposal.

Store in a cool, dry place away from fire, flame or other sources of ignition.

**DISPOSAL:** Wastes resulting from the use of this product must be disposed of on site or at an approved waste disposal facility. Always dispose of all chemicals and materials according to all applicable regulations.

**CONTAINER DISPOSAL:** Triple rinse (or equivalent) during mixing and loading. Recycling decontaminated containers is the best option of container disposal. The Agricultural Container Recycling Council (ACRC) operates the national recycling program. To contact your state and local ACRC recycler visit the ACRC web page at [www.acrecycle.org](http://www.acrecycle.org). Decontaminated containers may also be disposed of in a sanitary landfill.

## WARRANTY

Seller warrants that this product conforms to its chemical description and is reasonably fit for the purpose stated on the label when used in accordance with directions under normal conditions of use, but neither this warranty nor any other warranty of merchantability or fitness for a particular purpose, expressed or implied, extends to the use of this product contrary to label instructions, or under abnormal conditions, or under conditions not reasonably foreseeable to the seller, and buyer assumes the risk or any such use.

SN: 000-111710

94

94

#4

1-25-19

SB2315



Charlie Sorenson  
5850 94<sup>th</sup> Ave NW  
Ross, ND 58776

(701) 755-3476

[charlie.sorenson@yahoo.com](mailto:charlie.sorenson@yahoo.com)

January 25<sup>th</sup>, 2019

Attn: Senate Agricultural Committee

RE: Please Recommend a Do Pass on Senate Bill 2315

As a farmer from Ross, ND, I ask you to forward Senate Bill 2315 to the floor with a Do Pass recommendation.

On a nice fall morning in late September, I drove my sprayer to apply a burn down application to a quarter of land I farm. I had my ND Commercial Applicators license in hand, filled out a pesticide application record, read four product labels, followed all aspects of ND Pesticide Control in Chapter 4.1-33, made sure my farm liability policy is paid, and adhered to all aspects of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

After recording the local weather condition and noticing no bystanders, I begin spraying. I apply product as I encircle the entire field and then began spraying the middle of the field. Near a slough in the center of the field, I notice a person stand up from the stubble in the field and then three more. I've just surrounded these people with products I'm spraying!

I never thought about the \$25,000 fine, 1 year in prison, or felony I can receive for violating FIFRA law, ND Pesticide Law, and product labels. I was mainly concerned for these people not have any personal protective equipment on and the fact that they were surrounded by what I just sprayed.

Some will say I should have posted this quarter, but what if the signs blow away or the sportsmen didn't see them. Some will say I should have checked for hunters, but they were bedded down in the stubble and parked their vehicle behind a tree row. Some will say to block the entries, but these folks walked around those. Some will say I should check the field first, maybe with a drone, but how do I know for sure they didn't enter after I checked. Others will say I should build a wall around all my fields, but that's simply impractical.

Federal law states that I must follow the crop protection labels. The labels state that I must apply the product in a way that it doesn't contact people directly or through drift and further states that no one should enter the treated area until the product dries. North Dakota law currently allows hunters to access unposted hunting lands without permission. These two laws clash with one another and because a state law cannot override a federal law, you as legislators must pass Senate Bill 2315 to avoid this clashing. We currently have a Federal versus State juggernaut.

Fortunately the previous scenario never happened, but almost did. I was contacted the day before by waterfowl hunters who found my information on their app. When asked if they could hunt this quarter, I said no because I would be spraying it. Then I directed them to other land I owned that had more abundant habitat that I wouldn't be spraying. It was a win for both of us. With the passage of Senate Bill 2315, successful hunts and landowner relations like these will only increase.

Passing Senate Bill 2315 will increase cooperation and relations between sportsmen and landowners while allowing farmers like me to reduce needless unknown exposure and hazard potential to them. Passing Senate Bill 2315 will update North Dakota's outdated trespass law while enhancing our agricultural enterprises and boosting successful sportsmen relations. Please recommend a Do Pass on Senate Bill 2315 and push it to passage on the Senate Floor.

Sincerely,



Charlie Sorenson



## North Dakota Senate

State Capitol  
600 East Boulevard Avenue  
Bismarck, ND 58505-0360

Senator Jessica Unruh  
District 33  
1224 First Avenue NE  
Beulah, ND 58523-6301

[jkunruh@nd.gov](mailto:jkunruh@nd.gov)

### Committees:

Energy and Natural Resources,  
Chairman  
Finance and Taxation

SB2315

#5 Pg 1

01/25/2019

I'm here before you this morning as a senator for District 33, but I'm also here as a farm kid and an avid outdoorsman who loves our great state and deep heritage of loving our land. That deep heritage has been embedded in what we do from statehood, as is written in Article I, Section 1 of our constitution, which states:

All individuals are by nature equally free and independent and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property and reputation; pursuing and obtaining safety and happiness; and to keep and bear arms for the defense of their person, family, property, and the state, and for lawful hunting, recreational, and other lawful purposes, which shall not be infringed.

We care so much about our property owners and our right to hunt, that the writers of our founding document and statehood mentioned them both. And that makes me so proud. We've continued our deep heritage for generations. I noticed one other item - property rights are listed first. And it is because of that I stand before you today in favor of this bill.

The owners of the land in our state are a fabulous group of people. I grew up with them. I've been with my father when he's listened to great hunting stories told by some out of state hunters who he allowed on his land. I've also been with him when he's had to have some uncomfortable conversations with trespassers who have used high powered rifles just over the hill from his herd of cattle. Our land owners carry many burdens, including feeding and taking care of our wildlife. Over time, we've slowly taken away rewards for this. We've changed the gratis program to make the process just a little more difficult for them so others have more opportunities to draw the big buck tags they dream of in the unit they want. And yet, we expect them to be required to tell people to stay off their property instead of assuming they shouldn't be there in the first place.

I deeply want our heritage of hunting to continue. I want access to be easy so a 12 year old can feel what it's like to successfully take their first deer. I want to take my children out on a cold morning with their first shotgun to find some pheasants. And I want everyone to have these opportunities.

I believe that if we pass this legislation, we can still have both of these things. With the progress in technology and a continued spirit of cooperatism that stems from statehood, we can both preserve private property rights and continue our long standing heritage of hunting.

BRIAN SCHANILEC #6

21

SB2315

1-25-19

Chairman Luick and Ag Committee members. I thank you for the opportunity to address this committee and encourage a DO NOT PASS on SB 2315 referred to as the No Trespass Law.

I am Brian Schanilec, a fifth-generation farmer and landowner in ND. I have had tremendous hunting opportunities growing up in this great state of ND. I grew up hunting with my father and grandfather. I continue hunting today with my sons and daughters extending the ND hunting heritage to a 6<sup>th</sup> generation.

SB 2315 brings us to the crossroads of the hunting heritage in ND. A tremendous amount of hunting in ND is done as free lance hunting, which is going to where the game is. An example is following the waterfowl migration through ND, or picking a 40-mile radius to hunt coyotes not knowing which field will host your quarry. SB 2315 will eliminate almost all free lance hunting. Do you have any idea how much revenue our state will lose from resident and nonresident hunters if free-lance hunting is almost eliminated?

I have had so many youth hunters that have harvested their first deer, duck, or goose on ground I control. The number of father-son or father-daughter pairs I've hosted is very rewarding. Where are these youth hunters going to hunt if they do not have connections? We need to promote our youth hunting. With access to land getting harder and harder to obtain, our tradition is even more threatened with this "no trespass law". If all land is posted automatically, we will be seeing less of that father-youth pairs a field.

I control the hunting rights on quite a bit of private land. I post a portion of it. By not posting a majority of my land it gives opportunities to many. I control my posted land with signs and manage accordingly. I never get calls on my unposted property all hours of the day and night. Nearly 100% of the property I control has hunting done by guests of some magnitude. When people see my name on a sign, they know who to reach out to.

SB2315

#6 Pg 2

1-25-19

I hear the argument that technology will fix the challenges of SB 2315. Believe me it won't. A means to find what person, entity or trust who owns certain property quicker doesn't help. There's a really good chance ownership doesn't control the hunting rights to a property. Almost all of my landowners are from out of state. Will we see owners/tenants voluntarily list their property on the internet for open hunting? Less than 1% will. I am a farmer. I deal with over 200 farmers on a daily basis. Unless there is a sufficient economic incentive or a monetary penalty, these guys aren't going to list their land and relationships on the internet. My most valuable asset I have in farming is the land I own and control. Do I want my competition to know my book of business? I'd be crazy to list all the property I control on the internet. I would be targeted by all my competition in my region. Would you list all your most valuable assets on the internet to be used any way possible?

Being at the cross roads of hunting let's not make the mistakes our neighboring states have made. The no Trespass state law ruined their hunting heritage making it only for the rich. Please let my families 6<sup>th</sup>, 7<sup>th</sup> generations and beyond enjoy the heritage we've had for far over 100 years and recommend a DO NOT PASS on SB 2315. Thank you again for this opportunity to express myself and hopefully keep our hunting heritage forever.



I am Darrell Belisle, President of the North Dakota Bowhunters Association. I was amongst those who participated in meetings involving the Sportsman / Conservation groups and the Stockman's Association.

The intent of these meetings was to try to find some "middle ground" that might satisfy the landowners concern for private property rights as well as those concerns of the Sportsman's groups.

The first meeting went fairly well. Concerns were expressed by both groups.

1. The Stockman's group expressed how much time and cost was involved in putting up their no trespassing signage.
  - a. The Sportsman's group let them know about a plan to help landowners with the cost of these signs. This plan was developed during the 2017 Legislative session.
  - b. A few members of the Stockman's group then hung their heads and said "it's not about that, it's about Private Property Rights" with no further explanation of what that meant to them.
2. The Stockman's group stated they are not anti-hunters, yet their comments were geared toward hunters.
  - a. Non-resident hunters seemed to be favored.
3. The Sportsman's groups were concerned about the proposed loss of contact information. It was also expressed the landowner signage is very helpful to the Sportsman in knowing he is hunting on the land for which he has permission.
  - a. There was quite a bit of discussion about a form of electronic posting, building a landowner data base which could be available on an App.
    - i. The Sportsman's groups learned at a later meeting, from an IT expert, that this idea would be extremely costly, very hard to administer in a timely fashion, and ultimately would be ineffective.
4. The Sportsman's groups expressed concern about loss of access to public land.
  - a. A western landowner from the Stockman's group proclaimed about how he would be able to block access to those "Government" people who want to cross his land to test the water quality over on federal land.
5. The Stockman's group expressed concern about trespassers and the current trespass laws.
  - a. There was quite a bit of discussion about the number of trespass violations.
    - i. The Stockman's group seemed to think that passing the "No Trespass Law" would make the situation better.
    - ii. The Sportsman's groups suggested it would only get worse.
  - b. The Stockman's group expressed concern over being liable for somebody trespassing on their land.
    - i. They were advised the ND Century Code protects property owners from liability.

S132315

#7 Pg 2

1-25-19

- c. The Stockman's group was basically unaware of the landowner protections provided by the current ND Century Code
  - d. There was concern from both groups with the poor prosecution rate from our Judges and States attorneys.
6. Members of the Stockman's group expressed they were concerned with people who were hunting and placing cameras on their land which "was not posted".
- a. Current law allows hunting on land which is not posted.

There were a few more concerns from both sides, but this list represents the bulk of them.

Consequently, there was no middle ground to be found. We came close on the electronic app idea, but that was basically it. The second meeting amongst the same groups was cut short by the Stockman's Association. They seemed to have their heels dug in with the plan of posting everybody's land and would not appreciate anything else the Sportsman's group had to offer.

So, here we are again, battling our old friend the "No Trespass Bill". The many Sportsman's groups would not be working so hard to defeat this action if this action would not undoubtedly and greatly diminish our outdoor opportunities. In other states such as South Dakota, laws had to be changed to allow hunters to hunt on section lines. Recently, other states, including South Dakota are also losing some fishing waters to privatization.

I would like to offer an alternative to passing this bill –

1. Create an opportunity to better educate Landowners as well as the Sportspersons on the current laws included in the ND Century Code that work to protect Private Property Rights.
2. Work with the ND State's Attorneys and Judges to provide a better prosecution system.
3. Create a system which rewards landowners for allowing ND residents hunting on their land.

Two thoughts I can't get rid of –

1. Farm and Ranch groups are notorious for saying there is too much government involved in their business, yet they are asking for the government to become more involved.
2. This one is important to me. The first amendment of the Constitution of the United States provides every legal citizen the right to the freedom speech. The same right which allows me to speak my thoughts here.
  - a. Every landowner has the right to say what happens on their property. He or She has the right to say No to trespassing, the right to say my land is available or unavailable for hunting in one way or another. The right to say whatever they want. Yet we have groups of property owners who are asking the state to take this right away and do the speaking for everybody. This is simply a violation of our right to the freedom of speech.

Thank you for your time to consider this testimony and I would appreciate your opposition to this bill.

Darrell Belisle  
NDBA President  
Turtle Lake, ND  
[bigbucks@westriv.com](mailto:bigbucks@westriv.com)  
701-737-9358

## TESTIMONY IN OPPOSITION TO SB 2315

Good morning Mr Chairman and Committee. For the record, my name is Paul Henderson. I am a farmer and landowner from Calvin, ND which is located in northeast North Dakota. I am a board member for Land Owners Association of North Dakota (L.A.N.D.) which is a property rights group I've been a member of for over 15 years. I am also a member of the Cavalier County Farm Bureau. I am here to testify in opposition to SB 2315.

Number one, this is not a property rights bill. Right now the law states I can keep people off my property. You might say it's too much of a burden for me to comply with posting my land--that it's too much of a hassle. If that's the core issue here-- if it's too egregious to make me put signs up, then lets amend this bill to allow property owners to use a registry to post their land either with a paper application or online, for an online registry open to the public to show what land is posted.

So what would that do? I believe it would make alot of landowners satisfied without the unintended consequences of making it harder for hunters and sportsmen to have access in North Dakota.

So then some will say- right now under the current law if I have all my signs in place and I find someone out trespassing; or if one of my signs is knocked down, I cannot get enforcement of the law. So how am I going to get enforcement on my property when ther are no signs on my land saying closed to trespassers?

Here I think the problem switches from a problem posting my land to a problem with enforcement. I guess my point is that it doesn't lessen the burden of proof that is needed for a conviction of trespass with local law enforcement or Game and Fish.

I think there is an impression that by automatically posting everything, that this issue of enforcement is going to go away as well. It won't change. I think landowners are frustrated because if the sign is kicked down or not signed properly, then Game and Fish is less likely to enforce it and to get a conviction and penalty.



So again, we are trying to fix an enforcement issue with a change in signage. Yes, this bill does increase penalties for convictions, but it doesn't lessen any parameters for enforcements--meaning it doesn't make it easier to enforce penalties.

I don't think that this bill will accomplish what everyone thinks it will. It's a band-aid approach to one of the real grievances of landowners, and that's enforcement.

I'm also here today as a staunch supporter of our 2<sup>nd</sup> Amendment. One of the things that gives strength to the 2<sup>nd</sup> Amendment in the populace is that we have a thriving gun culture. I realize the 2<sup>nd</sup> Amendment isn't about hunting, but if you inadvertently make it harder for access to hunt in North Dakota or if you increase fee hunting, then the outcome of that is less hunters; less young people hunting, and less people who are passionate about gun ownership. This has happened in many states that have automatic posting—Kansas, Texas, South Dakota and more. It only takes one generation to get where gun control becomes easy, because nobody has any connections with firearms.

Another reason I don't like this bill is that in politics, perception is everything. And the perception of sportsmen and urban citizens is that we are limiting access. The effect of this perception is that we will get more antagonistic responses from sportsmen and urban dwellers on issues that are important to farm and ranch families- namely Ag programs, farmstead tax exemptions and others all in the name of a bill that is flawed in several issues.

1- It does not solve enforcement issues. If we want to stop bad behavior we have to have to make it easier to prosecute and then convict trespassing. Then you have a deterrent.

2-It will have the unintended consequence of weakening the 2<sup>nd</sup> Amendment which in today's environment we simply cannot afford to do!

3-We have a perception of limiting sportsmen's access to property which will antagonize, not improve, hunter to landowner relationships.

SB2315  
1-25-19  
#8 133

I do think electronic posting would be a good start to solving some of landowner's concerns and still balancing and retaining access for sportsmen. Without this amendment, I would urge you to vote Do Not Pass on SB2315.

Please see attached amendment.

Thank you. I'd be happy to answer any questions you may have.

Paul Henderson

Calvin, ND

cell phone- 701-370-1878

Proposed Amendment

5132315

1-25-19

#8 Pg 4

19.0896.01000

Sixty-sixth  
Legislative Assembly  
of North Dakota

SENATE BILL NO. 2315

Introduced by

Senators Erbele, Patten, Unruh

Representatives Boe, Schmidt, Westlind

1 A BILL for an Act to create and enact section 20.1-02-33 of the North Dakota Century Code,  
2 relating to identifying private land open to hunters; to amend and reenact sections 12.1-22-03,  
3 20.1-01-18, 20.1-01-19, 20.1-01-20, and 20.1-03-42 of the North Dakota Century Code, relating  
4 to criminal trespass and hunting on private land; to repeal section 20.1-01-17 of the North  
5 Dakota Century Code, relating to posting land; and to provide a penalty.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Section 12.1-22-03 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **12.1-22-03. Criminal trespass ~~-Noncriminal offense on posted property.~~**

- 10 1. An individual is guilty of a class C felony if, knowing that that individual is not licensed  
11 or privileged to do so, the individual enters or remains in a dwelling or in highly  
12 secured premises.
- 13 2. An individual is guilty of a class A misdemeanor if, knowing ~~that that~~ the individual is  
14 not licensed or privileged to do so, the individual:
  - 15 a. ~~Enters~~ enters or remains in or on any building, occupied structure, or storage  
16 structure, or separately secured or occupied portion thereof; or
  - 17 b. ~~Enters or remains in any place so enclosed as manifestly to exclude intruders of a~~  
18 building or structure, or any other place the individual is not licensed or privileged  
19 to be.
- 20 3. a. ~~An individual is guilty of a class B misdemeanor if, knowing that that individual is~~  
21 ~~not licensed or privileged to do so, the individual enters or remains in any place~~  
22 ~~as to which notice against trespass is given by actual communication to the actor~~  
23 ~~by the individual in charge of the premises or other authorized individual or by~~  
24 ~~posting in a manner reasonably likely to come to the attention of intruders. The~~

- 1 name of the person posting the premises must appear on each sign in legible  
2 characters.
- 3 b. Even if the conduct of the owner, tenant, or individual authorized by the owner  
4 varies from the provisions of subdivision a, an individual may be found guilty of  
5 violating subdivision a if the owner, tenant, or individual authorized by the owner  
6 substantially complied with subdivision a and notice against trespass is clear  
7 from the circumstances.
- 8 e. An individual who violates subdivision a is guilty of a class A misdemeanor for the  
9 second or subsequent offense within a two-year period.
- 10 4. a. An individual, knowing the individual is not licensed or privileged to do so, may  
11 not enter or remain in a place as to which notice against trespass is given by  
12 posting in a manner reasonably likely to come to the attention of intruders. A  
13 violation of this subdivision is a noncriminal offense.
- 14 b. A peace officer shall cite an individual who violates subdivision a with a fine of  
15 two hundred fifty dollars for each violation.
- 16 e. The peace officer citing the individual shall:
- 17 (1) Take the name and address of the individual; and  
18 (2) Notify the individual of the right to request a hearing if posting bond by mail.
- 19 d. The peace officer may not take the individual into custody or require the  
20 individual to proceed with the peace officer to any other location for the purpose  
21 of posting bond. The officer shall provide the individual with an envelope for use  
22 in mailing the bond.
- 23 e. An individual cited may appear before the designated official and pay the  
24 statutory fine for the violation at or before the time scheduled for hearing.
- 25 f. If the individual has posted bond, the individual may forfeit bond by not appearing  
26 at the designated time.
- 27 g. If the individual posts bond by mail, the bond must be submitted within fourteen  
28 days of the date of the citation and the individual cited shall indicate on the  
29 envelope or citation whether a hearing is requested. If the individual does not  
30 request a hearing within fourteen days of the date of the citation, the bond is  
31 deemed forfeited and the individual is deemed to have admitted to the violation.

5132315  
1-25-19  
FFS Jy6

Sixty-sixth  
Legislative Assembly

- 1 ~~and to have waived the right to a hearing on the issue of commission of the~~
- 2 ~~violation. If the individual requests a hearing, the court for the county in which the~~
- 3 ~~citation is issued shall issue a summons to the individual requesting the hearing~~
- 4 ~~notifying the individual of the date of the hearing before the designated official.~~
- 5 h. ~~Upon appearing at the hearing scheduled in the citation or otherwise scheduled~~
- 6 ~~at the individual's request, the individual may make a statement in explanation of~~
- 7 ~~the individual's action. The official may at that time waive or suspend the statutory~~
- 8 ~~fine or bond.~~
- 9 i. ~~A citing peace officer may not receive the statutory fine or bond.~~
- 10 j. ~~The bond required to secure appearance before the judge must be identical to~~
- 11 ~~the statutory fine established in subdivision b.~~
- 12 5. An individual is guilty of a class B misdemeanor if that individual remains upon the
- 13 property of another after being requested to leave the property by a duly authorized
- 14 individual. An individual who violates this subsection is guilty of a class A
- 15 misdemeanor for the second or subsequent offense within a two-year period.
- 16 6-4. This section does not apply to a peace officer in the course of discharging the peace
- 17 officer's official duties.

18 **SECTION 2. AMENDMENT.** Section 20.1-01-18 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20 **20.1-01-18. Hunting on ~~posted land and trapping on private land without permission~~**  
21 **~~unlawful~~ - Penalty.**

22 ~~No person~~An individual may not hunt or pursue game, or enter for those purposes, upon  
 23 ~~legally posted~~ land belonging to another without first obtaining the permission of the person  
 24 legally entitled to grant the ~~same~~ permission, or verifying the land is ~~open~~ <sup>posted</sup> to hunters by  
 25 complying with subsection 3 of section 20.1-02-03. ~~No person~~An individual may not enter upon  
 26 privately owned land for the purpose of trapping protected fur-bearing animals without first  
 27 gaining the written permission of the owner or operator of that land. ~~A person~~An individual who  
 28 violates this section is guilty of a class B misdemeanor for the first offense and a class A  
 29 misdemeanor for a subsequent offense within a two-year period.

30 **SECTION 3. AMENDMENT.** Section 20.1-01-19 of the North Dakota Century Code is  
31 amended and reenacted as follows:

SB 2315  
1-25-19  
TEB/PJ7

1       **20.1-01-19. When ~~posted~~private land may be entered.**

2       ~~Any person~~An individual may enter upon ~~legally posted~~private land to recover game shot or  
3 killed on land where the ~~person~~individual had a lawful right to hunt.

4       **SECTION 4. AMENDMENT.** Section 20.1-01-20 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6       **20.1-01-20. Entering ~~posted~~private land with gun or firearm prima facie evidence of**  
7 **intent to hunt game.**

8       Proof that ~~a person~~an individual having a firearm, or other weapon declared legal by  
9 governor's proclamation, in the ~~person's~~individual's possession entered upon the ~~legally~~  
10 ~~posted~~private premises of another without permission of the owner or tenant is prima facie  
11 evidence the ~~person~~individual entered to hunt or pursue game.

*legally  
posted*

12       **SECTION 5.** Section 20.1-02-33 of the North Dakota Century Code is created and enacted  
13 as follows:     **20.1-02-33. Private land ~~open~~<sup>posted</sup> to hunters - Publicly accessible database -**

14 **Penalty.**

15       1. If a person legally entitled to give permission to ~~enter~~<sup>post</sup> private land wants to make the  
16 land ~~open~~<sup>posted</sup> to hunters, the person shall notify the director on a form prescribed by the  
17 director. The notification must include information the director deems necessary to  
18 identify the boundaries of the private land ~~open~~<sup>posted</sup> to hunters.

19       2. The director shall make the information identifying the private land made ~~open~~<sup>posted</sup> to  
20 hunters under subsection 1 accessible to the public, including in an electronic format  
21 available on the department's website. The information must be made available in a  
22 format that allows hunters to identify easily which private land is ~~open~~<sup>posted</sup> to hunters.

23       3. Before entering private land to hunt or pursue game, an individual shall verify the  
24 publicly available information under subsection 2 indicates the land is ~~open~~<sup>posted</sup> to hunters.  
25 Unless the individual has permission to hunt or pursue game on the land from a  
26 person legally entitled to give the permission, an individual is guilty of a class B  
27 misdemeanor if the individual hunts or pursues game on ~~private~~<sup>posted</sup> land, or enters ~~private~~<sup>posted</sup>  
28 land to hunt or pursue game, when the land is ~~not~~<sup>posted</sup> identified as ~~open~~<sup>posted</sup> to hunters in the  
29 publicly available information under subsection 2.

30       **SECTION 6. AMENDMENT.** Section 20.1-03-42 of the North Dakota Century Code is  
31 amended and reenacted as follows:

1       **20.1-03-42. Guiding on prohibited lands.**

2       A person may not act as a hunting guide or hunting outfitter on land the person knows is  
3 owned by the state unless the appropriate state agency permits or authorizes the guiding or  
4 outfitting, on private land enrolled by the department for purposes of hunting, on land in which  
5 the department pays in lieu of taxes, on federal lands without being authorized or permitted as  
6 required by the appropriate federal agency, or on private lands ~~posted against hunting or~~  
7 ~~trespassing~~ without first informing and obtaining permission from the landowner to conduct  
8 guiding or outfitting on the land. If the landowner did not grant the permission in writing, there is  
9 a presumption that the permission did not exist.

restore  
original  
language

10       **SECTION 7. REPEAL.** Section 20.1-01-17 of the North Dakota Century Code is repealed.

SB2315  
1-25-19  
#9 131

Dear Committee Members

I am here today to talk about SB 2315. My name is Greg Daws and I live on a farm near Michigan ND. I am 58 years old and IT IS TIME.

TIME TO CHANGE. You are going to hear that this bill will ruin hunting. It is time for hunting to change because everything else has. The guns hunters use, the scopes they use, the shells they use, the vehicles they drive, the clothes they wear, game camera's and the communications hunters use. All has changed except for this requirement of my family to post our land to protect and preserve our property rights.

I was born in 1960 and the posting began in 1961 when the USFW official stopped and asked my grandfather to sell him an easement because there was not enough ducks. My Grandfather's response was " For heaven sake I want to know who is shooting them so I can tell them to stop because there are not enough" and the posting began". He would ask them if they belonged to DU. If they did they did not get to hunt. The rest he would give permission to but he sure would make them feel guilty about shooting ducks since there was not enough

I have been helping or posting alone since I was about 5. So in my lifetime so far I have spent 52 plus days out of my life doing this just so I can know who is on our property. We raise winter wheat, interseed alfalfa, and sweet clover to be used for next years hay. Most hunters can't tell those crops are planted and growing but driving over them can and usually does kill them. And ducks and geese are drawn to those fields because of the good groceries.

Another thing, I read the other day that we should have to post our land because we got free rural electricity. Well, I just



spent \$105,000 to get big enough wire buried 1.5 miles so I can run a newer more efficient grain dryer . Times are changing and it is not free

I spend more money on NO HUNTING signs each year than I did on our wedding. MY wife and I got married for \$367 and I bet we have a happier marriage than most of you. It takes 136 signs to properly post our farm. Each sign costs \$12.19 from Newman sign company. I have included a price quote so you can see for yourself It comes to \$1657.84 for the signs for the farm. This does not include the cost of the post at \$4.50 apiece. We use good orange signs so we don't hear "geez, I did not see any signs". I do not think it is right for our family to have to do this each and every year to protect our land, our property and our property rights.

We have been hearing since 1961 there are not enough ducks but we keep shooting them anyway. Delta Waterfowl, Ducks Unlimited, USFW and our very own ND Game and Fish Dept. You would think they would want all the land considered posted so not so many ducks would get shot. They are going to say it will ruin hunting, which it won't, but by god it will save ducks where I live and pheasants out west.

This is about property rights and forcing me to spend a lot of time and money just to know who is going to be on our property.

We now have cell phones, I-pads, plot books, internet, Google Earth, just plain Google, online plat books, and on the go WI-FI. Times are changing and it is time for this crazy posting requirement to change. 90 years of running and gunning without permission needs change. They say they don't have time to find out who the landowner is. It IS TIME for hunters to

SB2315  
1-25-19  
#9 193

put in the time and ASK PERMISSION to use my or any other landowners property

I don't think there is a property owner in here that would want me to bring a 4 wheel drive pickup and trailer, drive around in the dark on their property till I found the spot we saw last night, dig some holes, forget a couple of dead birds, some feathers and guts for the coyotes when we leave without asking permission first. Oh yeah I forgot to mention the little pieces of white paper with brown speckles blowing across the property. But there was no signs. IT IS TIME for SB2315

IT IS Time to make the hunters do the work and not the landowners.

SB 2315  
1-25-19  
#10 19!



You Raise. We Represent. [www.ndgga.com](http://www.ndgga.com)

**North Dakota Grain Growers Association  
Testimony On SB 2315  
Senate Agriculture Committee  
January 25, 2019**

Chairman Luick, members of the Senate Agriculture Committee, for the record my name is John Weinand; I am a diversified family farmer from Hazen, North Dakota. I am also Past President of the North Dakota Grain Growers Association. I appear here today in both capacities in support of SB 2315.

Committee members, I am a landowner in the state of North Dakota. I am also an avid hunter and sportsman; as a matter of fact, for the last few days I've been hunting mountain lions on both public and private land in the Killdeer area. I've hunted in a number of states and have even hunted in South Africa. In my opinion SB 2315 is not about hunting it is about private property rights in our state.

Some claim this will hurt hunting in North Dakota; I'm not a believer of that. North Dakota has a great hunting heritage that can only get better under this legislation. Why you ask? It's simply a matter of hunters, including myself and my family, forging relationships with landowners to ensure that our hunting heritage is preserved for all to enjoy.

It takes time and money to protect private property rights. The burden should not be on the landowner to post their property if they so choose; the onus should be on those who seek the privilege to enter onto my property to ask permission. Is that too much to ask, especially in this day and age of modern communication. I have family and friends that hunt my land every year; why should it be me that has to take time during my busy season to post my own land so that the very people I want to enjoy my land are able to?

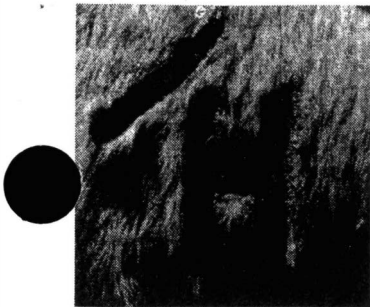
*NDGGA provides a voice for wheat and barley producers on domestic policy issues – such as crop insurance, disaster assistance and the Farm Bill – while serving as a source for agronomic and crop marketing education for its members.*

Phone: 701-282-9361 | Fax: 701-239-7280 | 1002 Main Ave W. #3 West Fargo, N.D. 58078

SB 2315  
6-25-19  
#10 PG 2

Chairman Luick, members of the Senate Agriculture Committee, SB 2315 is a landowner rights bill that in my opinion should have been enacted long ago. We can't change yesterday, but we can change today and change the future for the better for landowner rights and relations. Therefore, as a North Dakota landowner, hunter and Past President of the North Dakota Grain Growers Association, I would ask the Senate Agriculture Committee for a Do Pass recommendation on SB 2315.

SB2315  
1-25-19  
#11 131



# **/H Ranch**

**Clayton & Donell Pederson**  
10197 65<sup>th</sup> Avenue  
Morristown, SD 57645

**slashhranch@gmail.com**  
701-522-3609

## **Members of the Committee:**

**My name is Clayton Pederson (Retired Sr. National Rifle Association Field Rep), Vice President of RAX Adventure Team, Hunter/shooter/sportsman, Rancher, and landowner.**

**My wife and I live and ranch in Sioux County ND, north of Morrystown SD, on our family ranch, where we own and operate a cow/calf operation that has been operating for over 70 years. I also spent 17 yrs, first as a volunteer and then as the Sr. Field Rep for the National Rifle Association retiring in at the end of 2016. Currently along with operation of the ranch, I am also the Vice President of RAX Adventure Team, where we hunt, fish, defend the 2<sup>nd</sup> Amendment, promote hunting and shooting (especially to the next generation), and support firearms safety.**

**I am here today to speak on behalf and SUPPORT of Senate Bill 2315, which I have nicknamed the “Private Property Rights Restoration Bill”, because that is what this would do for private property owners, restore their rights. I share a strong belief, just as our founding fathers did, that private property is one of the cornerstones to our Constitutional Republic. They reaffirmed this in our 5<sup>th</sup> Amendment which states, “No Person shall be... ..deprived of life, liberty, or PROPERTY, without due process of law; nor shall PRIVATE PROPERTY be taken for public use....”. These words contained within the 5<sup>th</sup> Amendment go to show us that the founders had a strong belief in private property ownership and felt so strongly about it that they made specific reference to the protection of private property, and to those who owned it, from infringement by our government. This is why Senate Bill 2315 is so important today and a “Do Pass” recommendation is just as important.**

**As a landowner, who has worked hard to achieve success, own property, and provide for my family, I can’t understand how a true Constitutionalist could believe that the state of ND (with support of ND Game & Fish agency) can grant access and/or hunting privileges on private property just because I might fail to have a sign up saying they can’t. This is saying that if I don’t put up a sign, my private property becomes public access, and that just isn’t true, and is in direct counter diction of the 5<sup>th</sup> Amendment in my land now being “taken” for public use. In comparison then, I should be able to come to Bismarck, Fargo, Grand Forks, or pick your town, pick out a home, enter the front or back yard and eat lunch if it is not posted. It is truly a double standard. Just as ND residents enjoy privacy and trespass protections within city/municipal limits, why then shouldn’t those same protections be recognized for those of us who own land in the rural community? It seems there exists a double standard, and one which was created by the “state”, but one that may be corrected easily as well, with passage of 2315 and once again restoring EVERY ND RESIDENTS private property rights.**

**I also would like to address simple issues such as liability problems with the trespassing of people upon our private property. In a statement from Steve Becher, CIC, CPIA Executive Director of the Professional Insurance Agents of North Dakota – he answered the questions of liability in reference to the ND Century Code that references this issue. His expert opinion is:**

**“The law shows landowner immunity for trespasser injury, but there is a difference between no duty of care and not being able to be sued as people can sue for anything and the landowner would need to prove that they had no duty of care. There are also exceptions to the immunity as you will see such as the landowner cannot willfully harm the trespasser, if they know they are there they must exercise reasonable care, and exceptions for kid’s trespassing. I know of a case a few years ago where a landowner saw snowmobile tracks crossing his land so he put up a fence across the tracks in the snow and when a snowmobiler hit the fence and was hurt the landowner was**

SD 2315  
1-25-19  
#11 Pg 2

sued and lost. The courts determined that the landowner knew of the trespasser's presence and put up a fence where the snowmobilers wouldn't see it until the last moment which did not meet "ordinary" care statute. What this shows is that even if private land is posted with NO TRESPASSING signs, if we as a landowner see this happening, try to stop it, either intentional or not, if that trespasser is injured due to our actions to stop the trespass (legal or illegal), disrespect, and complete disregard for our private property, we can still be held liable in the protection of our property. This is another reason that 2315 is so important, it will give us as landowners a fighting chance when we choose to protect our assets of our private property because with this bill in place as law, the responsibility would now shift back to the person violating property rights and the law.

I also would like to address an issue, as a hunter. I didn't always hunt either. I didn't get a good start until I was 16 years old as my parents didn't hunt. I was the example of "take a kid hunting" and my best friends dad did. I was invited to go with them, taught how to handle a firearm properly, and enjoy all of what SD had to offer in the great outdoors. I mention this also because in SD all land is considered posted and permission is needed to enter or hunt it. It didn't deter me from hunting, it didn't deter generations before me from hunting, and it won't deter future generations from hunting. What it did do is help me forge long lasting relationships with landowners who now after almost 30 years have become friends and like family. I always enjoyed the privilege of hunting their private land and had the upmost respect for them and their property. Would volunteer to help out fencing, work calves, or cut hay, pretty much whatever they might need help with. Some would say, "Don't worry about it", while others would invite me to help. It is one the key things mentioned from the ND Hunters Ed Online study guide and actually NUMBER 1 under their Unit 7, Topic 2, Respect Landowners section and again re-enforced at the end in the 7<sup>th</sup> statement, all that appear under the Topic 2 of HUNTER ETHICS. These 7 important "rules" are stated as:

## HUNTER ETHICS

### RESPECT LANDOWNERS

1. Ask Landowners To Hunt
2. Follow their restrictions on when and where you may hunt
3. Treat Livestock and crops as your own
4. Offer to share a part of your harvest with the owner.
5. Leave all gates the way you found them.
6. If you notice something wrong or out of place, notify the landowner immediately.
7. Never enter private land that is cultivated or posted, unless you have obtained permission first.

I am pleased to see this appear on the North Dakota Hunters Ed online course page that is offered by the North Dakota Game & Fish and obviously they feel it is important, as do I, to teach the next generation about respect, ethics, and good character when hunting, but what kind of confusing message to we teach our new hunters when we tell them to ask permission from landowners to hunt, then tell them don't worry about it if the land isn't posted???? Sends a conflicting message, and truly really isn't respectful of a landowner. I always made sure, even if I already knew the answer would be "YES", to ask my neighbor or friend, or anyone who was the owner of private land if it was alright to hunt growing up in SD, and I carried that same respect with me to ND and now onto my sons as they have passed their Hunters Ed and will begin to share hunting with me this fall.

While on this subject and in speaking with many people about this issue, the one myth that always comes up is "hunters will decrease in numbers." I say myth because in the surrounding states where this is already law (SD as I mentioned before) posted land is not the issue. There are factors that have contributed to decreased hunters in every state and nationwide, declining populations in a state, decreased populations of wildlife, social issues, and I could go on, but what I found probably the most detrimental issue, created by the very agencies and legislatures themselves (and on the road to correction in many states) is the fact that so many didn't let young hunters begin hunting until the age of 12. The issue with this is all the other sports, especially school supported sports, kids are starting out in the 1<sup>st</sup> grade, and some younger. By the time they become 12 so many don't even have an interest and are committed to those activities. Now, and with my support, I applaud states that have initiated the mentor programs which allow young hunters the opportunity to now be an active participant, with an adult, in hunting seasons, and my hope is this will help encourage our tradition. In stating all of this, the point is that in passage of bill 2315, the opportunity of hunting for the next generation will not discourage it, but in my opinion make all of

SB 2315  
1-25-14  
#11  
Pg 3

them better hunters, gain respect for land and landowners, and forge lifelong friendships as it has done for me while I grew up in SD. Some quick stats which I found at reatree.com, stated this:

	<u>Paid Hunting License Holders</u>	<u>License Holders as a % of the Population</u>
ND	175,591	26.20% of the population
SD	244,182	37.20% of the population (has posted law)
MT	239,335	27.20% of the population (has posted law)
WY	133,568	29.50% of the population (has posted law) (important to note that over 50% of WY is public land)

These are just the surrounding states and stats on those hunting, but it shows that in a state where all land is posted, they actually have greater percentage of population and number of licensed holders. What's very interesting is that with WY having over 50% of its land public, they actually see around 8% less of the total license holders per percentage of population from its neighbor to the east South Dakota which all private land is considered posted. I believe the myth of decreased hunters will be the result of Senate Bill 2315 has been proven and hopefully that issue will be put at ease on the minds of those with concerns.

There is also the issue of supposedly landowners, and to be honest I haven't heard one landowner in my area say this, "that they don't want to be bothered with all the phone calls this would created. I am sure there may be some that feel this way, and most that have expressed this concern to me (a very small percentage) when I was contacting them lived in the eastern side of ND. Also comparing it to the western side, a lot of places are smaller in size so there would be more people that would share that view comparatively to the western side due to that. There is a solution though, and it exists within the ND Game & Fish. It is called PLOTS, the Private Land Open To Sportsmen program. This is the program that private landowners can work and sign up with the ND Game & Fish to grant public access to their private land, and the best part about it....the landowner is actually compensated for public access. This is a WIN-WIN for landowner/hunter in my opinion and solves the issue for those landowners that don't want to be bothered" with everyone asking for permission. They don't have to do anything, sign up, get paid, and then ND Game & Fish will post the land with the iconic yellow triangle sign that says PLOTS. I would even go to wager that because of Senate Bill 2315, there would be more land enrolled into the PLOTS program which will give all of the public more acres to hunt, solve the waterfowl hunters concerns in those areas they hunt, and improve landowner relationships as a whole. Not all land is eligible, but I believe this is a small issue that can be resolved easily.

This brings me to the issue of waterfowl hunting as it has been a concern of many who do waterfowl hunt. I myself hunt geese and ducks, and enjoyed a great hunt this past year in Montana with a fellow team member, which we hunted both public and private land with permission. With the most current report available, I looked at South Dakota as it resembles North Dakota in many ways. It is also an example of a state where all private property is considered post and permission is needed to enter or hunt private property. In the 2017 Survey of Waterfowl Hunters in South Dakota collaborate by DJ Case & Associates and the US Geological Survey, it showed that in Chapter 1 part 1.2.2 Participation in Waterfowl Hunting, 50% of respondents hunting on public land or waters and that 50% hunted on some type of private property. Virtually no respondents in the survey hunt on land they lease or pay to hunt on. This is reflected in Table 2.15 of the survey. What can be taken from this is that waterfowl hunters will hunt public land as they always have and will get permission on private land at the same rates of participation in a state where all land is considered posted, and that very few will seek out a "fee hunting" operation. I also believe that the idea of more lands becoming fee operations doesn't really have numbers to back it. Those landowners that already want to engage in a pay to hunt operation are doing and I would bet are posting their private acres. I don't believe that there will be an "explosion" of fee hunting operations because of the passage of SB 2315.

SB 2315  
1-25-19

In closing I want to urge the cmte to once again give a DO PASS recommendation for Senate Bill 2315. This bill restores the property rights of landowners everywhere in North Dakota. I believe it will actually result in more acres being enrolled into programs like PLOTS for those owners that don't want to deal with granting permission. This is a way they can do that, get maximum exposure through ND Game & Fish of the enrolled acres, and be compensated for that access of those acres. It also ensures that nobody will be driving all over private property as these areas are foot traffic only. I also believe that better landowner/hunter relationships will be forged and take place as there will be personal contact made between the parties involved. As I have stated before, I have made some of the best friends in life through contacting landowners to hunt. It is also encouraged within the ND Game & Fish Hunter's Ed program to contact landowners and respect their requirements as part of ethical hunting, I couldn't agree more. With all private land considered posted, this will remove confusion for our young hunters that have been taught to respect a landowner and ask for permission, but then are told they can hunt anywhere without contacting a landowner as long as there isn't a sign saying not to do so. Most of us who own land, hunt, shoot, and fish, we don't want to restrict that opportunity, we really want to make it better, by having complete knowledge of who is on our property, and really there is no reason we shouldn't as owners of that property. Many of us also manage our property, along with our cattle and farming operations, for wildlife. We want to see healthy populations as well, and that is hard to do if everyone is coming and going on our land and not limiting the harvest of populations. We know what's out there, we are out there every day and we know how many hunters the land can take. We also can have requirements of what kind of game we allow to be hunted, all resulting in a healthier population and of course better hunting opportunities. This bill will also give us a better avenue to prosecute those that trespass even after we have posted it. There is no question; private land would be posted unless permission is given by the private property owner, no confusion and straight forward.

Again thank you for your time today, and I urge you to consider everything I have presented and vote to give Senate Bill 2315 a "DO PASS" recommendation.

Thank you.



Clayton M. Pederson

/H Ranch – Owner/Operator  
Retired National Rifle Association Field Rep – ND/SD  
VP RAX Adventure Team



# North Dakota Wildlife Federation

Ensuring abundant wildlife, wildlife habitat, and access to wildlife recreational opportunities

SD 2315  
1-25-19  
#12 Pgl



## TESTIMONY OF JOHN BRADLEY NORTH DAKOTA WILDLIFE FEDERATION SENATE BILL 2315 SENATE AGRICULTURE COMMITTEE JANUARY 25, 2019

Chairman Luick and members of the Senate Agriculture Committee:

For the Record, I am John Bradley, Executive Director of the North Dakota Wildlife Federation. I'm here today representing our 1,500 members in 15 affiliated wildlife and sportsmen's club across North Dakota. While I don't speak for the 140,000 hunters that took to the field last year, I would say our views are representative of many of them.

There have been surveys conducted on a national level to determine the participation level of hunting across the United States over the year. Results of these surveys show that hunting participation has declined, and is continuing to decline, across the nation - and the number one reason stated for that decline is a lack of access.

SB 2315 eliminates all private land whether posted or unposted from hunting access unless the owner/operator can be found and permission obtained. Ask any hunter, finding the owner of posted land can prove really difficult. With more land (50% or more) being rented or operated by someone other than the owner and an increase of out of state landowners, finding the owner of unposted land should this bill pass will be even more difficult. Creating an access issue. For those that argue Minnesota and Montana are No Trespass States and they are doing just fine. Consider this statistic, on a nationwide scale Montana ranks 12th in the nation for public land access (37.5% Public/ 62.5% Private). Minnesota ranks 16th (23.5% Public/ 76.5% Private). North Dakota ranked 34th in the country with a measly 9.1% Public and 90.9% Private. (South



SB 2315  
1-25-19  
#12 pg 2

Dakota is the only neighboring State that is lower with a ranking of 35th (8.9% Public/ 91.1% Private).

NDWF has concerns with the landowner database that the Game and Fish Department would be required to create. First, this bill doesn't create a funding source for the creation, maintenance, and promotion of a landowner database. We are also worried that landowners who would allow access won't want to deal with the bureaucracy when providing that information. We currently have a database in ND with the Department of Game and Fish that actually pays people to list their lands for open access, it's called PLOTS. If these current folks who don't post their land and leave it open to access aren't availing themselves of money via the PLOTS program, what makes you think they'll enter it in the proposed database for free?

Lastly, SB2315 will not reduce landowner's problems with the "bad apples" - hunters entering posted land without permission. Those bad apple will not decrease if private land is deemed off limits to hunting without permission. Conflicts will likely increase. In 2017, Game and Fish recorded 59 violations for hunting on posted land without permission, that is out of 140,000 hunters. This is not meant to minimize the problem that any landowner has had in the past, but to illustrate that overall ND hunters overall are pretty well behaved.

NDWF prefers a more proactive approach. Over the last couple of years we have produced these "ASK BEFORE YOU ENTER" signs to provide to landowners. The signs provide the owner/operator's name and contact information. The signs are made of aluminum and permanent so they don't need to be replaced each fall. Our members want better landowner-hunter relations and this is just one step to achieving that goal, while improving access.

Nothing in SB2315 improves hunter access, promotes better landowner-hunter relations or is good for our rural communities that benefit from a robust fall hunting economy. The North Dakota Wildlife Federation urges a Do Not Pass on SB 2315.

I will stand for any questions that the committee may have. Thank you



**Ducks Unlimited**

SB 2315  
1-25-19  
#13 B&I

**TESTIMONY IN OPPOSITION TO SB 2315  
Carmen Miller, Director of Public Policy, Ducks Unlimited  
North Dakota Senate Agriculture Committee  
January 25, 2019**

Good morning Chairman Luick and members of the committee. Thank you for the opportunity to speak on this important issue today. My name is Carmen Miller, Director of Public Policy for Ducks Unlimited's Great Plains Region and I'm here today testifying on behalf of our 4000 members in North Dakota and more than 1 million supporters nationwide.

Ducks Unlimited is a science-based conservation organization focused on conserving wetlands for waterfowl, wildlife and people. While our membership is largely made up of sportsmen and women, our habitat work in North Dakota takes place on private lands and simply could not succeed without partnerships with farmers and ranchers. We strongly support private property rights and pride ourselves on working hand-in-hand with landowners to conserve habitat, improve working farms and ranches and promote access for sportsmen and women. We encourage our members to seek permission before hunting on private lands.

I come from a long line of North Dakota hunters – let me tell you a story about my dad. He's 74 years old, lives in Bismarck, and upland game hunting is probably the most important thing in his life. This is a man who carefully timed two knee replacements over the course of 9 months with the one goal of being back in the field on grouse opener. He has never owned hunting land, and has relied on the generosity of North Dakota landowners for the activity that he loves. He takes his relationships with the farmers on whose land he hunts very seriously, and spends more time, money and effort on landowner relations than he does hunting – bringing people pheasant pot pies, buying them tickets for concerts at the State Fair, cooking dinner for the family on the eve of opening day. For him, hunting is seasonal, but landowner relations are year-round.

Hunting, fishing and outdoor recreation are part of who we are as a state, and also significant to our economy, generating \$2 billion in economic impact annually. In North America, wildlife is a public resource that exists largely on private land, and this is especially true in North Dakota, where 90% of the land is privately owned. The success of wildlife populations and hunting are based on habitat and access, both of which depend on cooperation and communication between private landowners and sportsmen and women.

SB 2315

1-25-19

#13 132

One provision of SB 2315 proposes to establish an online database where landowners could list their land as open for hunting. This is highly experimental, but also does not require legislation. We don't need to change the law to do that, so if we are interested in exploring other alternatives of communication between landowners and sportsmen, why not simply provide ND Game and Fish with the resources to conduct this experiment?

Actual, intentional violations of private trespass laws by hunters are statistically very rare. In fact, according to North Dakota Game and Fish Department Law Enforcement Division, less than 0.1 percent of hunters are cited for trespass complaints or violations. Those actions by a "few" should be addressed to the full extent of the law, but they certainly don't represent the vast majority of law-abiding sportsmen and women out there. This does not warrant completely upending a system that has been in place for decades, and is an important part of North Dakota's sporting industry.

For these reasons, we would respectfully ask the committee to support the existing law, and give SB 2315 a DO NOT PASS recommendation.

Thank you for your time and service to the people North Dakota.

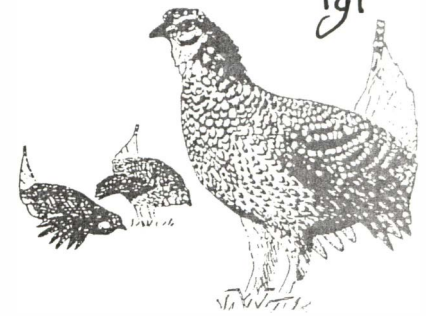


North Dakota Chapter

---

# THE WILDLIFE SOCIETY

P.O. BOX 1442 • BISMARCK, ND 58502



**TESTIMONY OF MICHAEL McENROE  
NORTH DAKOTA WILDLIFE FEDERATION  
SENATE BILL 2315  
SENATE AGRICULTURE COMMITTEE  
JANUARY 25, 2019**

Chairman Luick and Members of the Senate Agriculture Committee:

For the record, I am Mike McEnroe representing the North Dakota Chapter of The Wildlife Society. The Chapter is a professional organization made up of over 350 wildlife biologists, land managers, educators, law enforcement officers, and administrators in our State.

SB 2315 has been proposed to reduce or stop problems some landowners have had with people hunting on posted land without permission. Data from the Game and Fish Department (2008-2016) show approximately 100 complaints annually for hunting without permission. There are some 100,000 hunters in North Dakota over a 4-month long variety of hunting seasons, and probably over one million hunter-days afield annually. This is not meant to minimize any problem that an individual landowner or farmer/rancher has had, but to illustrate that overall our sportsmen and women are pretty well behaved.

SB 2315 will not stop hunting without permission on private land. If unethical people trespassed when land was posted, why would anyone expect the number of hunting trespass cases to go down if land is no longer posted?

SB 2315  
1-25-19  
#14 Pg 2

Supporters of SB 2315 say it is about private property rights. We fully agree! Landowners have the right to control who enters or uses their land. They can do that by posting their land. With property rights come responsibilities. This bill does the opposite, people who want to leave their land open or who have no objections to hunters using their land will have to post it open or go to a government (Game and Fish Department) website to develop an online "Open to Hunting" data base. SB 2315 takes a fundamental property right, control of access to private land, and gives it to the State, who says all land is posted. Landowners then have to get that right back from the State.

SB 2315 closes all private land whether posted or unposted to hunting access unless the owner/operator can be found and permission obtained. Finding the owner of posted land is difficult these days. Finding the owner of unposted land should SB 2315 pass, will be even more difficult if the land is not posted with the owner/operator's name. By some estimates over 50% of the agricultural land in North Dakota is rented or operated by someone other than the owner. Many landowners do not live near the property or even in state.

In addition, SB 2315 will focus hunting on the relatively few acres of public land or PLOTS tracts in the State. This increased hunting pressure on select few areas will eliminate or reduce the wildlife numbers on those areas, or disperse wildlife to lands now closed to hunting, and likely lead to depredation or wildlife-landowner conflicts on those lands.

SB 2315 does not improve access, does not promote better landowner-hunter relations, and does not benefit the business people in our rural communities that benefit from a robust fall hunting economy.

The North Dakota Chapter of The Wildlife Society respectfully asks for a Do Not Pass vote on SB 2315. I will stand for any questions the Committee may have.

SB 2315  
1-25-19  
#415 [signature]

SB 2315

Good Morning Mr. Chairman and members of the Committee

My name is Bill Helphrey and I am representing the North Dakota Bow Hunters Association.

We are asking that you give this bill a “do not pass recommendation”.

Those that support this bill are asking to have all land posted for reasons you have already heard. I sympathize with what land owners have to go through every year with hunters, or people passing themselves off as hunters. Many of the problems I have heard of really have to do with vandalism and outright criminal acts, not hunting. It is too bad that the honest law abiding hunter is taking all the hits for these wrongful acts. We feel the landowner has rights to their property and those rights should be respected. The landowner has the right to know who is on their land and why. We have no problem with this.

Those that support this bill may refer to the all land posted concept working in states such as Montana and Wyoming. It Does.

The land in Montana and Wyoming is generally contiguous in nature and the landowner usually lives on the land. When one gets permission to hunt in those other states they are usually hunting on a piece of property that is all in one block. The average size of the farm or ranch in Wyoming is 3587 acres, in Montana it is 2134 acres and in North Dakota it is 1268 acres. (This information comes from the United States Department of Agriculture, Economic Research Services). In many cases North Dakota land is not contiguous, or not in one block, and is just too broken up to make finding the landowner even a moderate task at best.

S132715  
1-25-19  
#15 P92

The problem we do have is that of finding out WHO TO ASK for permission. Without any posters with the landowner's or tenants' name, and even with the aid of county maps and atlas, it is virtually impossible to find out who to ask.

For an example I have selected a page from a Mercer County atlas to demonstrate this point. Let's take a look at township 142 N-R88W in Mercer county. This is an area that was open to Antelope hunting several years ago and an area I actually hunted in.

The most current edition of this atlas is 2013 and the cost is \$60.90 delivered. On page three of the atlas one will find the disclaimer portion. It reads in part, "While every effort has been made to assure its accuracy and completeness, no representation is made as to complete accuracy and we cannot accept responsibility for any errors or omissions."

According to this County Atlas, there are 57 landowners that own the entire township of 36 sections. Single individuals own only two of those sections in their entirety. Many of the sections have as many as four owners, each owning part of the section. Of the 57 owners listed, in the atlas, only 20 are listed as even living in the township. A Search of the Beulah, Hazen and Center telephone listings produced 30 of the 57 names. Slightly over 50%. This leaves the remaining 27 landowners locations unknown. Now with the influx of cell phones I would guess even fewer owners may be listed in the local phone books. It is not unusual for North Dakota landowners to own land that is broken up into pieces that are scattered across the area and there are quite a few landowners that live outside the state. I have heard that as high as 25% of the private land in North Dakota is owned by absentee owners.



S132315  
1-25-19  
#15 Pg 3

All we are asking for is a realistic chance of being able to contact the proper person so we can ask for permission. If the land isn't posted, the owner is telling us that it is OK to hunt on that property. If it is posted, we at least have a name to start with. Don't take away the best practical tool we have for asking permission to hunt.

We recognize the problems the landowners have, we would like to help. Is there a way we can help? Is it asking too much to ask the landowners to recognize the problems we have?

Let's get together and find a way to solve the problem without having to go the the level this bill is asking for.

Thank you for your time, please defeat this bill.

Are there any questions of me?

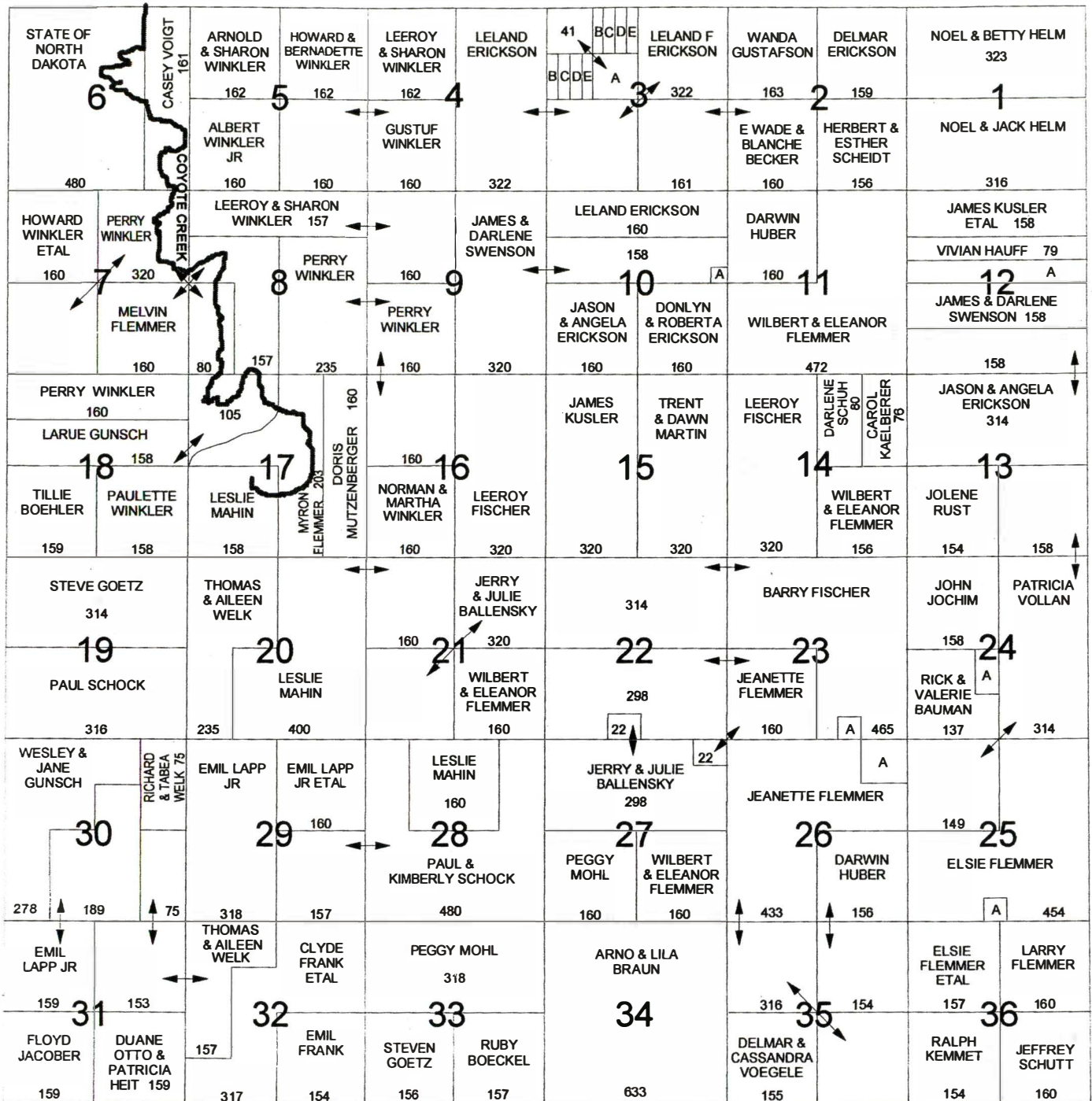
SD 2315  
1-25-19  
#15 124

# TWP 142N-R88W PLAT

T-142-N

CODE: AF

R-88-W



CMS

MB

## SMALL TRACT OWNERS

- 3-A CECELIA ORTH - 40 ACRES
- 3-B WILFRED ORTH - 20 ACRES
- 3-C JOAN CUNDALL - 20 ACRES
- 3-D DUANE ORTH - 20 ACRES
- 3-E MYRON ORTH - 20 ACRES

- 10-A TRENT & DAWN MARTIN - 2 ACRES
- 12-A WILLA WEAVER - 79 ACRES
- 23-A RICKY & VALERIE BAUMAN - 5 ACRES
- 24-A VIOLET JOCHIM - 20 ACRES
- 25-A FRANK JR & KERRY EIDE - 19 ACRES
- 26-A ROBB & HEIDI MOORE - 44 ACRES

SB 2315  
1-25-19  
#16 Bgl

Troy Coons  
Northwest Landowners Association  
Senate Agriculture Committee  
Testimony for SB 2315  
January 25, 2019

Good morning, Chairman Luick and members of the committee, thank you for taking my testimony into consideration today.


My name is Troy Coons, and I am the Chairman of the Northwest Landowners Association. Northwest Landowners Association represents over 525 farmers, ranchers, and property owners in North Dakota. Northwest Landowners Association is a nonprofit organization, and I am an unpaid lobbyist.

Northwest Landowners Association is in favor of SB 2315 because among other things it gives additional protection to landowners for personal and property liability.

We feel the property owners who pay the taxes and retain the liability on their land should be able to mitigate their risk by having control over whether strangers are allowed to enter their property. For this reason and others presented today, we urge a do pass on SB 2315.

Thank you for taking the time to consider our comments. I am available for any questions.

Sincerely,



Troy Coons, Chairman

Northwest Landowners Association

4

SB2315  
1-25-19  
#17 Pg1

My name is Tyler Lannoye and I am not a landowner. I am a lifelong resident of ND and I am a sportsman. I am a member of the Lake Regions Sportsman's Club and I donate money, time, guns, and resources to promote youth hunting and shooting sports. I was taught to understand the value of life, to hunt ethically, respect landowners, and to understand that hunting is a privilege and not a right.

Part of ensuring continued opportunities for sportsman is maintaining a positive relationship with landowners. If it wasn't for the landowners, who are the biggest stewards of wildlife, I would not have these opportunities. They make hunting in ND possible for sportsman, yet they are required to expend personal time and resources to protect their private property, the people who hunt on that property, and the wildlife that inhabit that property.

This is not an anti-hunting bill, it is a private property rights bill.

Saying that I have a right to utilize private property without permission is absurd and this is realized in many other states, including those bordering ND. This is also realized in society in general. It would be unacceptable if I drive my pickup onto a private golf course to search for a spot for my decoys, and then shoot all the geese in the pond. Why is the same activity acceptable on private agricultural land?

I cannot recall a time when I have hunted an unposted field. Controlling access does not prevent hunting, but it does promote successful hunting by making sure animals are not over-pressured. It also ensures that multiple groups are not attempting to hunt the same area at one time. This not only promotes success, but the safety of the hunter. At no time have I wanted to sit by a field all night to ensure that I have a spot to hunt, in hopes I don't get shot by another hunter unaware of my presence.

This year I was fortunate enough to gain permission, from a family that I had never met before, to archery hunt. I used a phone app to find the landowner. I visited with the landowner, put my time in, and hunted when the conditions were right. I didn't pressure the wildlife and subsequently harvested a mature trophy whitetail. I enjoyed every moment of the preparation and also formed a relationship with that family that will continue for seasons to come.

The joy and excitement of a hunt spans far beyond releasing an arrow or pulling a trigger. We should teach the next generation that it is not about killing, but about enjoying the outdoors and the relationships formed with landowners and other sportsman. Unfortunately, I have been disgusted by the lack of this realization and too many times have witnessed a blatant disrespect for life and property. Along with countless other examples, I have personally had my hunts ruined by unethical hunters who tore down a sign, shot the deer I was hunting, and say that the land wasn't posted. Activities like this do nothing good for the image of, or the future hunting, and it surely does not help ensure the success of ethical hunters. This bill would decrease some of these activities and promotes the future of hunting.

This is not an anti-hunting bill and much of the land sportsman utilize is posted anyways. It would only make a better experience for the ethical sportsman who value more than a trigger pull. It does protect the future of hunting and instills appropriate values into young sportsman and it definitely does not limit my access but ensures that my preparation and time in the field are safe, enjoyable, and rewarding.

Please support the passing of SB 2315.

Tyler Lannoye  
Churchs Ferry, ND

SB2315  
1-25-19  
#18 PGI

Senate Ag Committee members:

My name is Erika Kenner and I farm and ranch with my father at Leeds, ND. First of all, I want to be clear, this is NOT a no-hunting bill. This is a bill to protect our landowners of their private property rights. Currently, our ND property owners have to spend money and time posting their land they own every year. This is land they have paid for, paid taxes on each year, maintained, and improved and want to know who is accessing.

The current law also is very specific as to how the posted signs need to be signed and where they need to be posted and sometimes hunters use that against the landowners to access without permission. Even though, it is still private property and the sign is still present.

I come from a family of hunters. My dad hunts all over the world and locally and is a member of many sportsman's groups, but he is tired of paying hundreds of dollars each year to post our land. We have many local and out-of-state hunters each year who enjoy hunting our land after they have asked permission. Some have made relationships through the years and many are new ones with their first time to the area.

Our community and surrounding area depend on the tourism from bird hunting in the Fall. In order to keep the birds around for a longer season, we manage the hunting – birds need to have some time of rest somewhere. By rotating the fields hunted each day and limiting afternoon hunts in certain areas gives the birds a little break and they stay around longer. We also want to provide a good hunting experience, so we do not place hunting groups too close to each other. We do all of this for free and we can't do it if we don't know where they are.

This bill is written in a way that is friendly to the landowner and the hunter. By utilizing the already in place, PLOTS program, contact information will be available for all the land in North Dakota including if the renter is the person to be contacted and if the owner wants it to be open or if they require permission.

Hunting costs money and I would think if someone wants to hunt somewhere out of their area, they would want to be prepared ahead of time as to where they were going. With this updated program available, hunters could make contact with landowners in that area before arriving to look for posted signs. Technology has helped us in everything else, and here it will make it easier for the hunters. We need to update to the times.

I ask you to support the 2315 bill to protect our private property rights with a Do-Pass recommendation.

Sincerely,  
Erika Kenner  
Leeds, ND

SB 2315  
1-25-19  
#19 Pg 1

January 25 2019

**SB 2315**

Mr. Chairman and members of the committee. My name is Joe Schettler, I ranch in the badlands northwest of Killdeer. I support this bill because I believe this is a private property rights issue. A landowner should not have to proclaim with signs that people need to receive permission to recreate on their land. We post our land every year, not because we don't allow hunting but because we want to know who is on our land and to explain our rules, such as no road hunting, no driving off roads and to be careful not to start a fire.

Every fall I take a better part of a day and go hang up signs. Often it is time I really don't have but I need to because one careless person could put me out of business. So, I hang signs in the places I think people will see along the entrances to our ranch and along the boundary with the neighbors. Recently I sat down with some maps to see what it would take to post our ranch according to the law. According to the North Dakota state GIS mapping software, I would have to post along 13 miles of river bank, 28 miles of federal land that is intermingled on our ranch, and one mile of state land. With the signs I already put out along neighboring property, I would need to hang approximately 208 signs. Most of these would have to go where there is no vehicle access. At my best guess it would take a minimum of forty hours to post. More than likely it would be a lot closer to eighty hours. I encourage you to ask those who oppose this bill if they would be willing to give up a week or two of work and pay so others could play on their property.

Here is some food for thought. The cities of Bismarck, Fargo and Minot have deer management tags available to archery hunters. To hunt in Bismarck, hunters must receive a trespass permit from the Chief of Police. In Fargo, hunters must receive a permit from the city. To apply for the permit, you have to pass a shooting proficiency and written test. In Minot hunters must have written permission from landowners whose land they want to hunt to apply for the permit. Minot also states in their hunting regulations that all private land within the city is considered as "Posted". Why is it that these urban landowners have private property rights that rural landowners do not? Maybe what is good for the goose is good for the gander.

Thank you for your time.

Joe Schettler

Killdeer, ND

SB 2315  
1-25-19  
#20 Pgl

Chairman Luick and members of the committee, my name is Darrell Oswald and I farm and ranch near Wing, ND. I am here today as the Vice Chairman of the North Dakota Ag Coalition, past Chairman and current mentor and member of the North Dakota Grazing Lands Coalition, and recently past director for the North Dakota Stockmen's Association. The Grazing Lands Coalition is the least known of these groups and is an organization which helps support and promote the grasslands of our state and provides information and education to our mentors, members and the general public.

I come here today to urge your support of SB 2315. This is an important piece of property rights legislation that is beneficial for all property owner across the state, urban and rural. SB 2315 reaffirms a fundamental private property right by allowing property owners to require consent before others can access their property. I believe it is important to remember this is indeed a property rights bill. I am a 4<sup>th</sup> generation rancher and landowner and I am not anti-hunting nor anti-access for individuals who enjoy spending time in the outdoors whether it be to bird watch, hunting of all kinds, or just enjoying a beautiful North Dakota afternoon walking on some pristine native rangeland. We have allowed access to countless sportsmen and a variety of others as well as hosted tours and groups on our ranch for years. We will continue to do this and are glad and proud to do it. Because we believe we have something to offer the public as far as information and education. But, the fact of the matter is, under the current archaic and obsolete law those areas where we do not want to allow access for a variety of reasons must be posted and reposted and posted again. SB 2315 contains a method for landowners who want to keep their land open without permission to do so. This information would be then made available to sportsmen and other groups. They would know what

SB 2315  
1-25-19  
#20 Pg 2

areas are available to them, without burdening the landowner. It would seem to me this just makes sense and would satisfy all public concerns.

Senator Luick and members of the committee, those that believe in private property rights encourage your support of SB 2315. Give property owners the right to determine who is allowed on their property without the burden of posting it. Thank you.



SB 2315  
1-25-19  
#21 Pg 1

Chairman Luick, Members of the committee,

My name is Caleb Mehlhoff, I am a rancher from Spiritwood, ND and vice chair of North Dakota Young Republicans. However I stand before you today representing myself as a rancher.

I am standing today in support of SB 2315 because I believe one of government's primary roles is to protect private property and the law, as it stands, does not.

The current law places the burden on the land owner and disregards their rights as property owners.

Last year a hunter entered my property without permission and was hunting grouse on land that I was resting and stockpiling grass on, making it a prime spot for game birds. This was a piece of land I wanted undisturbed. Under the current law, I would have no legal recourse because my posted signs had been ripped off the posts and I could not prove that it had been posted.

It is not the right of non-landowners to access private property. There are few things more concerning to me than an unauthorized and unknown hunter walking on my property. This not only raises questions of liability, but it is especially concerning if my wife and I are working in the field or if my cows are in the area, particularly when the intent is to discharge a firearm. Though I am happy to grant the privilege of hunting my land upon request, if it will not interfere with my ranch's operation.

Although this law will impact those who enter land illegally or who don't make the effort to build relationships with landowners, it does not make land in North Dakota harder to access for hunting. The bill will remove loopholes making legitimate trespassing cases easier to prosecute. The bill protects property rights and the hunter-landowner relationships that are the heart of hunting in North Dakota.



P.O. Box 1091  
Bismarck, ND 58502  
(701) 355-4458  
FAX (701) 223-4645

**VOTING MEMBERS**

Independent Beef Association  
of ND  
Milk Producers Association of ND  
Minn-Dak Farmers Cooperative  
ND Ag Aviation Association  
ND Agricultural Association  
ND Ag Consultants  
ND Agri-Women  
ND Barley Council  
ND Corn Growers Association  
ND Corn Utilization Council  
ND Crop Improvement & Seed  
Association  
ND Dry Bean Council  
ND Elk Growers  
ND Ethanol Council  
ND Farm Credit Council  
ND Farmers Union  
ND Grain Dealers Association  
ND Growers Association  
ND Irrigation Association  
ND Lamb & Wool Producers  
ND Oilseed Council  
ND Pork Producers Council  
ND Soybean Growers Association  
ND Stockmen's Association  
ND Wheat Commission  
Northern Canola Growers  
Association  
Northern Plains Potato Growers  
Northern Pulse Growers  
Association  
Northwest Landowners  
Association  
Red River Valley Sugarbeet  
Growers  
U.S. Durum Growers Association

**NON-VOTING MEMBERS**

BNSF Railway, Inc.  
Ellingson Companies  
Garrison Diversion Conservancy  
District  
ND Association of Ag Educators  
ND Association of Soil  
Conservation Districts  
ND Commission  
ND Department of Ag  
ND Rural Water Systems  
Association  
ND Soybean Council  
ND State Seed Commission  
NDSU Agricultural Affairs

SB 2315  
1-25-19  
#22 Pgl

**Testimony of Paul Mathiason  
North Dakota Ag Coalition Chairman  
In Support of SB 2315**

Chairman Luick and members of the Senate Ag Committee, my name is Paul Mathiason, and I am here today as the chairman of the North Dakota Ag Coalition. The Ag Coalition has provided a unified voice for North Dakota agricultural interests for over 35 years. Today, we represent more than 40 statewide organizations and associations that represent specific commodities or have a direct interest in agriculture. Through the Ag Coalition, our members seek to enhance the climate for North Dakota's agricultural producers.

The Ag Coalition takes a position on a limited number of issues, brought to us by our members, that have significant impact on North Dakota's producers and agriculture industry.

The Ag Coalition stands in support of SB 2315 as the bill reinstates landowner's private property rights by removing the requirement to post land to keep uninvited individuals off private property. This bill would eliminate the burden on landowner's by reversing the presumption that all land is considered open and allow landowners to require permission for others to access it without having to purchase and put up signs as well as maintain these signs. Agricultural landowner's are not anti-hunting as many ag land owners are hunters. There are other avenues for determining where hunters can hunt including websites, phone apps, and asking property owners for permission which is reflected in this bill.

The ND Ag Coalition encourages your support of SB 2315, which gives land owners the right to determine who is allowed on their property without having to post it.

SB 2315  
1-25-19  
#23 Pgl

Chairman Luick and Committee Members,

Good Morning. My name is Dan Rorvig from McVile ND.

As you are serving on the Senate Agriculture Committee I am asking for your SUPPORT on Senate Bill 2315 as it passes through your committee this morning and as it moves to the Senate floor. This bill would support private property rights for all ND residents. This includes owners and renters of ag land, commercial property, and all personal residences. This not only includes my ranch, but my urban friends backyard and patio.

Please remember this is not a hunting issue. This is not an access issue. This is only a private property rights issue.

I am here as a landowner and sportsman. I try to spend several days every year hunting. I have hunted on our own property, other private property, public lands and pay to hunt properties. The most vocal pushback seems to come from the hunting and tourism groups. Please be aware ND is surrounded by no posting states with laws we are attempting to get. The hunting and tourism industries in MN, SD, WY and MT all seem very vibrant under their current system and certainly a better representation of our personal property rights.

Thank you for your consideration.

Dan L. Rorvig  
McVile ND  
701-797-7338

SB 2315  
1-25-19  
#24 Pg 1

January 25, 2018

***Official Written Testimony of John Devney on behalf of Delta Waterfowl***

***Presented to Chairman Luick and members of the Senate Agriculture Committee***

***Bill: SB 2315***

***Position: Oppose***

Chairman Luick and Members of the Committee,

I am here today on behalf of Delta Waterfowl to offer testimony in opposition to SB 2315. I understand this issue continues to be an issue that the legislature continues to wrestle with, including listening to impassioned testimony on both sides of the issue.

I feel lucky that while I work for a conservation and hunting organization, we also enjoy good and productive working relationships with our friends and colleagues in agriculture. Amongst some, this may seem to be impossible, but I can say with great confidence it does occur and far more than many would imagine. We can find many places of mutual benefit and mutual interest where we can work together and I am proud of that good work that serves farmers and ranchers, hunters and habitat.

But today we are discussing an issue that is of great importance to our members, our volunteers and hunters across the State and I am here to represent their interests and perspectives. Access has consistently been documented by them and hunters everywhere as the single greatest factor to hunting participation. Maintaining the status quo is, as a result, a high priority for hunters.

I think it is important to acknowledge that there are some-a fractional minority of people-who have shown wanton disregard for our existing laws, private property rights and the relationships between landowners, farmers, ranchers and hunters. Those are worthy of our contempt and all actions should be taken to ensure their actions are dealt with to the full extent of the law. The testimony provided today will focus on the overwhelming majority of hunters-the 99.9%- who understand the rule of the law, who respect private property and who are simply seeking to enjoy time afield with their friends and family.

For generations, North Dakotan's have found a resolution to trespass that has worked quite well. Hunters and the State's landowners, farmers and ranchers have worked well together in a spirit of mutual respect and collaboration. The historic approach has both respected the fundamental and essential need of protecting private property rights, while affording access to lands where owners have chosen not to restrict access. The private property right is wholly retained by the landowner and he or she can restrict or provide access depending upon his or her interests as the owner. I think this system is wholly appropriate and fully legitimate as it puts the landowner fully in charge to make that decision.

You will hear testimony from landowners today that will speak both in favor and in opposition to SB 2315. It is important to listen to the testimony of those landowners who oppose the proposed legislation-farmers and ranchers who to the man or woman believe in their private property right as resolutely as those that support the proposed legislation. They do though have a different opinion as to

how they exercise their right. Is it the legislature's role to decide how landowners will apportion their private property right? Should we ask them to register land for the purposes of expressing their interest in maintaining the status quo?

We are fully committed, as we were two years ago, to find collaborative and constructive approaches to meet the needs of both our private landowners in securing their private property rights, however they choose to express them. While also understanding the desire for hunters to have access to private lands as afforded them by individual landowners. We are supportive of efforts to minimize the burden of posting, to strengthen punishment for those that break existing laws, and other approaches that will help deal with problems as they are perceived.

We thank you Chairman Luick and members of the Committee for the opportunity to provide this testimony.

SB 2315  
1-25-19  
#25 Pgl

Senate Agriculture Committee

Senate Bill 2315, no trespass

My name is Lloyd Jones, Baldwin, ND, landowner and sportsman. I urge you to **vote DO NOT PASS on SB 2315.**

-as a landowner the current process allows me to determine if I want land open and available for hunting by not posting, it's my option. This bill takes that option away, automatically closes all land to hunting without permission and **causes undue and unnecessary landowner interruptions and contacts from hunters in instances where landowners are willing to allow hunting by not posting.**

-as a sportsman, it would be extremely difficult to impossible to obtain permission in many situations because landowners are often not easy to find, many are nonresidents, many do not live in the vicinity of the land and many are out of state some of the year. **It is virtually impossible to find and contact landowners in many situations.** Currently much land is unposted and available for hunting. But this legislation automatically closes that land.

The current system allows landowners to have the ability to open or close their land at their choice. **Don't take that choice away. Please vote DO NOT PASS.** Thank you.

#### **RECOMMENDATIONS:**

1. Request a **FISCAL NOTE** because of the impact to the loss of hunting activity and resulting economic impact, notably to rural communities.

**Justification** – hunting and fishing in ND annually generates \$2.1 billion in economic activity, 3,200 jobs and \$48 million in tax revenues. If this bill would pass, due to a decrease in the amount of land available for hunting, even just a loss of 1% in this activity would result in an **annual economic loss of \$20 million.**

Additionally, the Legislature provides approximately \$1.4 million per biennium to USDA's Wildlife Services primarily in support of coyote control to reduce impacts to livestock. **Currently public hunters harvest approximately 80,000**

S132315  
1-25-19  
#25 Pg2

coyotes each year, this is 85% of the total harvest of coyotes in ND. If this bill were to pass, coyote hunting would become very difficult and deemed totally impractical by many hunters because of the loss in ability to hunt unposted land. The conclusion is that if passed, coyote harvest would be significantly reduced resulting in increased impacts to various livestock and causing additional expenditures to Wildlife Services to control coyotes. Why cause with this bill, an increase in public expenditures for an activity (coyoted control) that is currently being provided free by hunters. If passed however, that would not continue to be possible.

**Because of these economic impacts of this bill a FISCAL NOTE would be appropriate.**

**2. Refer the proposed bill to a Concurrent Resolution for an Interim study.**

**Justification** - The economic impact of this bill is of such significance that a detailed study would be warranted. Secondly, whatever purposes the bill hopes to accomplish may not be addressed with the passage of this bill. For example, if the purpose is to reduce or eliminate the need to post or to reduce trespass violations, in all probability neither would occur with passage of this bill. Further study would determine if the basis for the bill would be addressed.

**The impacts of this bill are so diverse and significant that a detailed analysis would be warranted with an INTERIM STUDY.**

SB 2315  
1-25-19  
#26 Pg 1

Vote in favor of SB 2315

As you decide on SB 2315 let's keep emotion and falsehoods out of the decision-making process.

This bill is to the core strictly a **private property rights bill** versus a hunting access issue.

As a property owner you should have the right to know **who** and **why** an individual or group wants access to your property. The hunting access privilege should not override private property rights.

Going from an assumption of "open" to "closed" access is already the law of the land in most of the United States and is working fine, including in our neighboring states of Minnesota and South Dakota.

A lot of assumptions will be thrown out in this debate against this bill. Let's be very careful in separating fact from fiction.

Thanks for your support of this much needed, long overdue law.

Jeff Schafer  
New Rockford





SB 2315

1-25-19

#27 Pyl

Contact:

**Kayla Pulvermacher, Lobbyist**

[kpulvermacher@ndfu.org](mailto:kpulvermacher@ndfu.org) | 701.952.0104

**Mary Jensen, Lobbyist**

[mjensen@ndfu.org](mailto:mjensen@ndfu.org) | 701.952.0107

---

**Testimony of  
Kayla Pulvermacher  
North Dakota Farmers Union  
Before the  
House Finance and Taxation Committee on SB 2315  
January 25, 2019**

---

My name is Kayla Pulvermacher and I'm here to represent the 50,000 members of North Dakota Farmers Union. We support SB 2315.

SB 2225 establishes protections for North Dakota landowners. Our members have had longstanding policy in favor of a state law that mandates all private land should be considered "posted," as they rigorously support the property rights of landowners. They have long held the belief that they should not be held responsible for accidents occurring as a result of trespassing on their property, and believe that SB 2225 will safeguard them from such a liability.

I will attempt to answer any questions you may have.



S132315  
1-25-19  
#28 gyl

## Roger & Becky Graner

---

5265 Hwy 1806, Huff, ND 58554 \* 701-471-7170 \* [bgraner@ceas.coop](mailto:bgraner@ceas.coop)

**January 22, 2019**

**Senate Ag Committee Members**

Senators Luick, Myrdal, Hogan, Klein, Larsen, and Osland

Dear Senate Ag Committee Members :

Traditions, even if long held, need an occasional examination for their assumed connection to expressed values and beliefs.

**SB 2315** is before you, a bill that again challenges a long-held tradition in ND: hunting and access to private property.

It is a belief that land owners in North Dakota have an expectation that their private property rights will be respected and defended by laws crafted by the legislature. Presently, trespassing laws befuddle many as the rural landowner and the city landowner do not always share the same protections under the law. It is assumed that someone will not drive around a city neighborhood looking for a great back yard to enjoy their favorite recreational pastime in. On the other hand, rural landowners have to post signs that tell others that their pasture is not open for outdoor sports activities.


This bill lays out a roadmap that begins to mend some fences. A bill that proposes to mesh ND's expressed beliefs and values with real life private property right protection. And a way, which has a precedence in the ND Game & Fish PLOTS program, to assist hunters and other outdoor enthusiasts find and gain access to land, all the while respecting everyone's private property rights.

We strongly urge a DO PASS from your committee.

Sincerely,



**Roger and Becky Graner**  
Huff, ND

SB 2315  
1-25-19  
#29 

SB 2315

Chairman Luick and members of the Senate Agriculture Committee.

My name is Randy Melvin. I am the President of the ND Corn Growers Association and also a farmer and property owner from Buffalo, ND.

The ND Corn Growers appreciates the opportunity to voice our support of SB 2315.

This bill is about more than just an individual's right to their property. This also takes into account the breakdown of communication that has happened in today's society. As property owners we want to have the ability to communicate to individual who wish to enter our property.

The current state law requires owners to post signs to restrict access. Signs are regularly knocked or torn down, requiring regular attention, time and money to keep them in place. Why is it ok to enter a rural landowner's property without asking, but if you were to access someone's property in town by foot or by motorized transportation it would be met with consequences?

This bill is not about landowners not allowing people to use property for hunting, but more about restarting communication and working with sportsman to access property the right way.

I would like to give you an example. A few years ago, farm equipment knocked down one of our posted signs. A hunter did not see the other signs and drove out into our field to set up for a day of hunting. The problem was we had just received 1.5" of rain. Field conditions were not suitable for vehicles and ruts were left all over the field. There was blame on both sides for this happening.

The real problem is the lack of communication and dialogue between sportsmen and property owners. As land owners we need to be able to talk to individuals who would like to access our property. From the standpoint of weather conditions or field conditions and allowing access to our property with vehicles, or the best places to park when they are enjoying our property.

The property in question is truly our livelihood. We depend on this ground to be productive and provide for our families, we take good care of it- so it can take care of us.

As farmers we are doing more with no-till, cover crops and other conservation practices. Thankfully, these practices not only enhance the soil, but they also accommodate wildlife habitat. However, this land is extremely sensitive to the traffic driving over the fields at the wrong times or wrong place. We cannot afford to have the burden completely on the property owner as to whether an individual wants to enter our property without asking.

SB2315  
1-25-19  
#29 PZ

I believe SB 2315 is the only chance we as property owners have, to be able to force the needed communication to happen.

We ask you to support SB2315 before it's too late and we have no choice but to restrict access to our property.

Thanks for your time today and I welcome any questions.

Randy Melvin

SB 2315  
1-25-19  
FF30 Pl

January 25, 2019  
Senate Ag Committee

Ladies and Gentleman of the committee, thank you for hearing testimony on Senate Bill 2315. My Name is Levi Rue, I farm, ranch, and own land near Sheyenne, ND. Senate Bill 2315 passage is critical for many reasons. It is critical because people who have paid for land with their blood, sweat, and tears have a reasonable right to privacy and safety on the land.

It seems completely backwards that that we are required to post land No Trespassing. Since when is "Yes" assumed just because we haven't made a sign saying "No". What part of Private Property have we failed to understand in North Dakota.

Back when I was a high school senior I had a class called Problems Of Democracy. For that class we came down to Bismarck during the session, toured the capitol and got to meet some legislators and see how the process of how a bill becomes law in North Dakota plays out.

I was fortunate enough to get to meet up with a legislator from my home district 23 Representative Don Vigessaa. I sat on the house floor during the afternoon session, we visited, he explained some things and asked me if there was any changes I would like to see in North Dakota. I thought for a minute what in the world is a state representative asking me this for I'm just a kid, but I knew what change I wanted and I knew it was the right change. I told Mr. Vigessaa that I wanted to see the posting requirement lifted on private land owners.

Even back in 2007 if my memory is correct I was informed that "That will never happen" he went on to explain that the hunters will never go for it.

At 17 or 18 years old I couldn't figure out what hunting had to do with it. It wasn't a hunting issue at all and it is a private property issue.

When you own a car you have a title saying its yours. When you own land you have a deed and a abstract stating it is yours. You may not have mineral rights and that may be stated in the papers that prove you ownership, but I have never seen in the deed, abstract, or title opinion that we don't have Private Property rights.

We have argued that there is not fair and equal treatment under the law for rural land owners vs our urban friends. Some new information seems to back that claim that I'm sure you will hear about in depth today.

SB 2315  
1-25-19  
#30 Pg 2

Each and every one of us could go on and on with personal stories of how we are burdened as land owners by the posting requirement in North Dakota. We could go on about the times we have caught trespassers.

The opposition will say it causes too much headache for those wishing access and how will they find landowners. I have heard from many legislators that the opposition knows how to e-mail, and sends them quite often. They must know how to use technology. I have seen their letters to the editor, so they must know how to read and write. Many of them are here today so they must have a few spare minutes.

I appreciate your time. Thank you and I will stand for any questions.

Levi Rue  
Sheyenne, ND

SB 2315  
1/25/19  
#31  
B1

## How to Support

### MAKE A CONTRIBUTION

**Online:** <https://waterprotectorlegal.org/donate/>

**Paypal:** <https://www.paypal.me/WPLC>

**Mail a check payable to:**

Water Protector Legal Collective  
PO Box 578  
Mandan, ND 58554

**Tax deductible donations:**

Donations can be made through our fiscal sponsor,  
the National Lawyers Guild Foundation.

**Online:** <https://www.nlg.org/donate/waterprotectorlegal>

**Mail a check payable to:**

“NLG Foundation” and write “Water  
Protector Legal Collective” in the memo  
line.

NLG Foundation  
132 Nassau Street, Rm. 922  
New York, NY 10038

### SUPPORT OUR PRISONERS

Red Fawn Fallis, Little Feather, Rattler and Dion  
Ortiz are in prison and would appreciate letters and  
contributions from supporters. For details see our  
Water Protector Prisoners page:

<https://waterprotectorlegal.org/water-protector-prisoners/>

### FOLLOW US ON FACEBOOK

<http://www.facebook.com/WaterProtectorLegal/>

## Our Work

Water Protector Legal Collective (WPLC) was born out of  
the NoDAPL protest movement. Since we first came at  
the request of tribal leadership and set up our office in a  
tent in Oceti Sakowin, WPLC has been providing legal  
defense and offense to the Water Protector Movement.

We envision a world where Indigenous peoples are  
centered and guiding the world to protect the  
environment for all.

WPLC provides legal support, advocacy, and knowledge  
sharing for Indigenous centered and guided  
environmental and climate justice movements.

In addition to continuing our core legal support and  
advocacy work, we are stepping up our investment in  
education and skill-development for Indigenous people  
at every level of what we do. Legal education is an  
investment in the future through building a new  
generation of movement legal advocates who are from  
the Indigenous communities we work in and serve.

WPLC also engages in local, national and international  
advocacy work in support of efforts to protect the water  
and advance indigenous sovereignty.

## WATER PROTECTOR LEGAL COLLECTIVE

Providing legal support, advocacy, and knowledge  
sharing for Indigenous centered and guided  
environmental and climate justice movements



## Contact Us



[donations@waterprotectorlegal.org](mailto:donations@waterprotectorlegal.org)



701.566.9108



[@waterprotectorlegal](https://www.facebook.com/waterprotectorlegal)

*Standing Rock  
Case Updates & Information*

*State & Federal Criminal Cases  
Civil Litigation*

<https://waterprotectorlegal.org>

<https://waterprotectorlegal.org>

SB 2315  
1/25/19  
#31  
Pg. 2

## Federal Criminal Cases

WPLC is providing legal support for five Water Protectors who are serving federal sentences pursuant to non-cooperating plea agreements.

**Red Fawn Fallis** was sentenced to 57 months on July 11, 2018.

**Michael "Little Feather" Giron** was sentenced to 36 months on May 30, 2018.

**Michael "Rattler" Markus** was sentenced to 36 months on September 27, 2018.

**Dion Ortiz** was sentenced to 16 months on October 22, 2018.

**James "Angry Bird" White** was sentenced on December 5, 2018 to two-years of supervised release.

For information visit our Federal Criminal Cases page: <https://waterprotectorlegal.org/federal-cases/>

## Civil Litigation

*Dundon v. Kirchlmeier* is a federal civil rights class action lawsuit challenging police violence on the night of November 20-21, 2016, at Backwater Bridge. The case was filed on November 28, 2016, in federal court, on behalf of all persons who were injured by law enforcement that night. The lawsuit is moving forward in the U.S. District Court in Bismarck.

If you were injured by law enforcement at Standing Rock during the fall or winter of 2016-2017, or if you were arrested on October 22, 2016, you can send your information to our civil litigation team by visiting the Civil Lawsuit tab on our website.

## State Criminal Cases

TOTAL NoDAPL ND STATE CRIMINAL CASES		836*
Dismissed	392	
Acquitted at trial	41	
Pretrial diversion	185	
Plea agreement	146	
Convicted at trial	25	
Total concluded cases:		789
Open and proceeding to trial	2	
Inactive/warrant status	45	
On appeal to ND Supreme Court	0	
Total on-going cases:		47

Date prepared: February 4, 2019

*\* This is the number of NoDAPL state criminal cases that have a separate case number. It may change over time if cases are dismissed due to lack of evidence and then re-charged (with new charges and case numbers). There may be several charges involved in any one case and some people may have more than one case.*

## Know Your Rights

You are not required to answer questions from law enforcement and doing so can harm you or others. You have a right to consult an attorney before deciding whether or not to talk to law enforcement, and you have a right to have an attorney present while being questioned by law enforcement even if they tell you that you are not the subject of the investigation.

If you are approached or questioned by local or federal law enforcement about your time at Standing Rock, we strongly encourage you to refuse to answer any questions no matter how innocent they may seem and immediately contact WPLC, your local National Lawyers Guild chapter, or another attorney with movement support experience. Please contact WPLC immediately if you have been served with a subpoena of any kind or are named in a civil suit related to your Water Protector activities in North Dakota in 2016-2017.

If you have a pending criminal charge, it is very important that you not speak about the details of your case with anyone but your attorney and not discuss or post information related to the circumstances of your arrest in any public space including social media. These principles apply when other people are facing criminal charges or under investigation as well – please do not share information that could harm other Water Protectors.

We encourage everyone to visit our website for information about how to protect yourselves and others:

<https://waterprotectorlegal.org/know-rights-materials/>



SB2315  
1/25/19  
#31  
Pg.3

SB 2315

Chairman Luick, Vice Chairman Myrdal, Senator Klein, Senator Larsen, Senator Osland and Senator Hogan,

I am Mary Graner and I am writing regarding SB2315. Thank you for giving me the opportunity to testify, however, I would like to follow up on a few more points about the issue.

First off, the very animate Attorney that testified in opposition of the Bill is EXACTLY what we farmers and ranchers have to put up with. I was told after the Hearing that one person should have stood up and pointed to him and say, "that is exactly why we need this law....."

The Hunting and Waterfowl groups will lead you to believe this is anti-sports.....it is not. One of the testifiers in opposition stated that the "migratory birds can be anywhere in a 20 – 40 mile radius on any given day." My answer to that is if they already know where the birds will most likely be located and where they have been allowed to hunt in the past, they will surely be able to hunt there in the future.....one phone call to ask permission. The same goes for any land that is considered "open."

The hunting groups want you to believe that our state will lose money by considering all land posted. As you know, the state incurred \$40,000,000.00 (**FORTY MILLION DOLLARS**) dealing with the DAPL protest.

**How many out-of-state hunters will it take to make up our \$40,000,000.00 loss?** Also, this \$40,000,000.00 only portrays the State of North Dakota's losses. There were many other losses to private citizens and businesses that are not included in this amount. They are as follows:

- Hotels trashed by protestors
- Restaurants left to pay the bill for protestors that skipped out on payments (as well as protestors going to buffets and stealing as much food as their pockets and backpacks could hold while only purchasing one meal.....for example Bonanza in Mandan).
- Banks and Federal offices closed because of protestors
- Schools on lock downs because of protestors
- Rural school buses full of children stopped by masked protestors
- Local food banks emptied by the protestors and our local homeless and needy families went hungry
- Graner Park and Fort Rice Parks closed for most of the season
- Extra security at the Capital and Federal Buildings. (We now have to go through metal detectors at the Capital as a direct result of the protestors as the protest was going on during the last session).
- Jobs lost as many posted their frustration on social media and the protestors found it offensive. (A coffee shop owner in Mandan had to sell out due to a protest at the County Courthouse and the Wells Fargo Bank parking lot was full. He was unable to use the bank. He made a derogatory comment on Social Media and protestors retaliated against his business.)
- Vandalism to private and public property
- Farmers and Ranchers had trouble harvesting and hauling their semi loads of grain or cattle to market as they had to incur additional mileage to go around the roadblocks. This included loss in market prices as it took longer to get to market. Hauling bales also took extra time as semi loads of hay had to be rerouted due to blocked roads.

SB2315  
1/25/14  
#31  
Pg. 4

- Law enforcement officers and their families were doxed (meaning names and addresses were published on social media and they were threatened and harassed).
- Theft at grocery stores, convenience stores, Super Centers and other retail stores.
- Cattle stolen and butchered at the protest camp sites
- Torn down fences
- Blocked streets in heavy traffic areas such as the intersection of Main Street Mandan and the Strip as well as the streets in front of the Federal Building in Bismarck
- Stopping the Burlington Northern Santa Fe Railroad for several hours causing delays on the entire railway system. Mandan's railroad yard used to be the largest yard between Chicago and Seattle.....I'm not sure if this still holds true
- And, last, but not least.....the failed marriages as a direct result of the protest. Many officers worked for months at a time. They missed birthdays, anniversaries, and their kids' events and their marriages took a toll.

I have enclosed the Dakota Access Pipeline Protest – Significant Events Summary prepared by Morton County Emergency Management. The Assistant States Attorney as well as Cody Schulz gave me permission to share it with you. I know you won't have time to read all the attached documents but I will provide them to you and maybe you can scan through to get a quick overview.

I am attaching a few Affidavits for your review. You will see an inside picture of what the officers had to endure as a result of the protest. This includes having bottles of urine as well as human feces thrown at them along with rocks and ice chunks. Not to mention Red Fawn shooting at the officers!!

During the weekend of our first big snowstorm, many of the protestors tried to leave but were unable to make it very far due to the blizzard conditions. Many protestors stopped in Flasher, ND, and the school agreed to open the gymnasium as a shelter. While there, the protestors broke into the kitchen and stole the food meant for the students. That same weekend, many stayed in the Mandan Braves Center (formerly known as the Mandan Community Center). Many were kicked out due to the vandalism that took place. These were places that opened up to the protestors and it came back to bite them! An unreported fact: one of our local pawn shops was broken into by the protestors. Weapons were recovered at the DAPL camps during arrests.

I would also like to point out another "unidentified" issue. POOP..... During the height of the protest, there were over 10,000 people living in the various protest camps. It is a medical fact that the average human poops one pound a day.....that means there was over 10,000 pounds of human waste scattered in holes and trenches on the prairie.....**daily!!!** During the rains and snow melt, this all ran into the river.

Just a quick note on "sleeping dragons" – it is a device that the protestors lock themselves into and attach themselves to a piece of equipment owned by the excavation company or part of a building like banks or Federal buildings. They also cemented themselves into the ground and it takes HOURS of time for Law Enforcement to free them. They do this to slow down the construction of the pipeline. Every day that the pipeline is put behind schedule is extra expense to the oil company. One of their tricks is to wrap it in several layers of Duct Tape because the tape gums up the saw blades and takes extra time. (I am attaching an article about Sleeping Dragons for your review.)

I am also attaching a summary of the DAPL lawsuits. The majority of the cases were Trespassing and Engaging in a Riot. Most of the cases were dismissed for lack of evidence. The protestors testified that

SB2315  
1/25/19  
#31  
Pg. 5

they didn't know they were trespassing nor did they hear the Law Enforcement announce over the bullhorn that they were trespassing. Many were dismissed because the "arresting officer" did not see the offense committed. Law Enforcement formed two lines in front of the protestors. The first line of officers grabbed the protestor to and pulled him through the first line to an "arresting" officer in 2nd line. The arresting officer testified that he/she did not actually see the individual committing a crime.....the protestor was basically handed over to them. For this reason, the case was dismissed.

In closing, as I said in my testimony, **protesting is the new norm**. We are an energy state and the DAPL protest was basically a "practice round." They took what they learned here and spread it throughout the country. They are well funded by extreme radical environmental groups and this is not going away any time soon. I am attaching a brochure that the "Water Protector Legal Collective" has on their website. If you log onto their website at [waterprotectorlegal.org](http://waterprotectorlegal.org) you will find information on how to protest. There are links that will take you to the National Lawyers Guild with articles and brochures protestors can order on "Know Your Rights." It is printed in English, Spanish, Arabic, Bengali, and Urdu. There is also a brochure called "Operation Backfire: A Survival Guide for Environmental and Animal Rights Activists." All of this adds up to future problems in our state.

**Please pass SB2315. Our state cannot afford the problems that come along with our lenient trespassing laws. The \$40,000,000.00 in expenses to the state would not have occurred if we had stronger trespass laws in the initial stages of the protest and there is no way possible that hunters can make up this expense and future expenses to our state.**

Thank You!!

Kind Regards,

Mary Graner

701-319-4328

This will serve as a summary of DAPL issues along with terminology frequently used.

According to the State's Attorney data, there were 839 total arrests involving 581 arrestees. Of those arrested, 355 or 61% were male and 226 or 39% were female. 306 or 53% were White, 238 or 41% were Native American, 9 or 1% were Asian, 6 or 1% were Black and 22 or 4% were Unknown.

Arrestees came from all 50 States. Below is a list of the top 10 States and Canada from which the arrestees claim residency:

California – 14.97%

South Dakota – 11.36%

Washington – 7.06%

North Dakota – 6.71%

Minnesota – 5.34%

New York – 4.82%

Colorado – 4.13%

Arizona – 3.96%

New Mexico – 2.93%

Canada – 2.75%

Oregon – 2.41%

Below is a list of the Age Demographics:

Under 20: 26

20 – 29: 245

30 – 39: 138

40 – 49: 79

50+: 93

(The two oldest were born in 1945 making them 72 years old).

SB 2315  
1/25/19  
#31  
Pg. 7

**Below is the status of all cases:**

Open – 233  
Reopened – 4  
Closed – 493  
Inactive (Warrants for Arrest) – 98  
On Appeal – 3  
**Total: 831**

**Below is the status of the charges:**

City Transfer – 25  
Felony – 205  
    Dismissed – 178  
    Guilty – 11  
    Not Guilty – 1  
    Open – 12  
    Acquittal – 3  
Misdemeanor – 1412  
    Dismissed – 844  
    Guilty – 177  
    Not Guilty – 1  
    Open – 12  
    Reopened – 5  
    Acquittal – 27  
Felony Reduced to Misdemeanor – 18  
    Dismissed – 4  
    Guilty – 14  
**Total Charges: 1,660**

SB 2315  
1/25/19  
#31  
Pg. 8

Many of the cases were dismissed. Although, this has been frustrating, the Courts have to follow the rule of the law. There have been several court cases that have been found Guilty, however, several have already appealed the ruling. The various dismissals include Acquittals, Pretrial Diversions and Plea Agreements as well as Court rulings. I have summarized the explanations of the dismissal terminology below:

### **Acquittals:**

An Acquittal occurred after the County presented the information to the Judge and/or Jury with the Defense team being able to cross examine the State's witnesses. The Judge would determine if there was enough evidence to proceed with the rest of the trial.

A verdict of Not Guilty constitutes an Acquittal. At Trial (either Bench Trial or Jury Trial) an acquittal occurs when the Judge or Jury determines that the prosecution hasn't proved the defendant guilty beyond a reasonable doubt. The defendants can be found Guilty of some, but not all charges.

### **Rule 43:**

Rule 43 is when they reached an agreement before the trial date. It could be a Plea Agreement or a Pretrial Agreement. In some Pleas, the Defendant could plead Guilty to one charge and Not Guilty to other charges and be accepted by the court.

The Defendant can make an **Alford Plea** which means the defendant admits that the evidence the prosecution has would be likely to persuade a judge or jury to find the defendant guilty beyond a reasonable doubt. Or: If the jury were to believe the description of the events as portrayed of the disclosures, a conviction would likely follow.

Regarding the DAPL cases, many made an Alford Plea but the sentence was deferred. A **deferred sentence** is a sentence that is suspended until after a defendant has completed a period of probation. If the defendant fulfills the stipulations surrounding probation, a judge may then throw out the sentence and guilty plea, clearing the incident from their record. If the defendant violates probation, he or she must serve the full sentence immediately.

Many DAPL cases had deferred sentences anywhere from 1 Day to 2 Years. Along with that, some of the deferments were **Nunc Pro Tunc** which means "now for then." In general, it applies the sentence retroactively. The result of Nunc Pro Tunc is that many of the sentences were completed before the Ruling was entered as the sentencing started the day of the arrest.

### **Rule 48:**

Rule 48 occurs when the Defense makes a motion to the court asking for the Judge to make an opinion as to whether there is enough evidence to proceed with a trial. The DAPL cases dealt with several different types of Rule 48 so I summarized them below.

**Rule 48 – Notice:** The State failed to provide documents to the Court within the deadlines.

**Rule 48 – Evidence:** There is not sufficient evidence to prove the case in Court. A few examples are as follows:

SB2315  
1/25/19  
#31  
pg 9

“After survey of the discovery materials involving the defendants’ arrest, the State has concerns that the prosecution cannot meet the elements of the offenses as charged during the State’s case in chief at trial.”

“The State’s reason for dismissal is that further investigation is needed to verify defendant’s level of participation in the events under which these charges were brought.”

“The State does not have an arresting officer.” (This occurred during many of the early arrests due to the chaos surrounding the event. One officer would pull the defendant through the police line and another officer would do the arrest. If the “arresting” officer didn’t see the crime taking place, his testimony is “hearsay” and the case would be dismissed.

“The State is unable to establish the defendant interfered with a valid government function.”

“Just reasons exists for dismissing the action.”

Rule 48 – Death: The Defendant passed away before the Trial.

Rule 48 – Federal Court: The case was transferred to Federal Court.

Rule 48 – Justice: The Court determines that “something should be done the way that is most fair and equitable to the parties, or, in some cases, with respect to the public good.” The interest of justice refers generally to the cause of fairness and equity used when a judge has discretion to making a ruling in a particular situation. It is a term that is very subjective and interpretation will vary based upon the facts and people involved.

An example of this regarding DAPL cases in particular would be an elderly person from a distant State charged with a Misdemeanor. The cost to the County bringing this Defendant back to for a Hearing would out way the charge as Misdemeanors are usually dismissed. This is especially true when the Defendant didn’t really cause any problems while being arrested.

Example: “Upon review of the case file and evidence against this defendant the State has reservations about its ability to prove the elements of the crime as charged, and in the interest of justice seeks the dismissal of the charge against the defendant.”

Pretrial Agreements: This is a voluntary program for defendants charged with misdemeanors or criminal violations. When a defendant successfully completes the program, a recommendation is made to the court to dismiss the charges. In the agreements, the defendants acknowledge that there is probably enough evidence to find them guilty.

Motion in Limine (LEE-min-ay):

Latin for “threshold.” A motion is made at the start of a trial requesting that the judge rule that certain evidence may not be introduced in trial. The Judge may rule an Acquittal at that time or agree there is enough evidence to proceed with the trial.

Sleeping Dragon Offenses:

These devices enable protesters to fasten themselves together in order to form a human chain for the purpose of obstructing and preventing expedient removal or arrests by Law Enforcement. The pipe sleeve securing device is comprised of a piece of plastic drainage pipe approximately three feet long and

SB 2315  
1/25/19  
#31  
Pg 10

four inches diameter which can then be over-laid with a one foot by four inch piece of electrical steel conduit. The middle of the device is a half-inch piece of rebar that is placed through the center of the doubled pipe sleeve and welded to both sides of the electrical conduit. The rebar is used to secure a carabiner and chain assemble that is wrapped around each protester's wrist and locked onto the rebar, making them and the pipe sleeve securing device one unit. The device may then be wrapped with chicken wire and duct tape on the exterior. The device may also have two 45 degree drainage pipe fittings on the ends which cover each protester's elbow. The duct tape and wire are intended to slow the removal process. In visiting with some of the officers that responded to the DAPL Sleeping Dragons, they informed me that they used many, many layers of duct tape. This slowed the removal process down as the duct tape "gums up" the saw blades used in removing the Sleeping Dragon. Along with that, in one case, the protesters also embedded the Sleeping Dragon into the ground inside a Teepee. NOTE: The protesters secured within the device have the ability to disengage the carabineer on the interior of the device at any time and thus release themselves.

Initially, many of the Sleeping Dragon offenses were dismissed. Assistant State's Attorney Gabrielle Goter informed us that the defendants have been recharged with different charges.

**Fires on Backwater Bridge:**

These Felony charges were dismissed by Judge Cynthia Feland as there was no proof who started the fires. In her Ruling, she stated: "In making this order, the Court recognizes the extreme stress under which law enforcement officers and the prosecutors bringing these charges have been operating. This order should not be considered a criticism of their efforts, or a suggestion the arrest in this matter was not appropriate. The charge is being dismissed without prejudice, which means that if the prosecution is able to provide probable cause to believe a defendant has committed the offense, the matter may be re-charged."

**Criminal Trespass:**

With the laws in North Dakota favoring trespassers, it is difficult to make a Criminal Trespass charge stick. The land must be posted. However, we know that the protesters removed the posting signs and claimed they "didn't know" they were trespassing. If the defendant's complied with the arrest for trespassing, many were dismissed because they didn't fight the arrest and they claimed they didn't know it was posted. Also, if Law Enforcement couldn't prove it was posted, they were dismissed.

In the more recent Bench Trials, the Judges are catching on that if the Defendants had been there for weeks and sometimes even months, they knew where they were allowed to be and the Defendants have been found Guilty of Criminal Trespass. Last week, Judge Christopherson stated: "I can understand if this was Day One or even Week One, but you had been there for several months and it is clear to the Court that you knew where the boundaries were."

Kind Regards,

Mary Graner – 701-319-4328



30-2016-CR-01122

RESCUE

**FIREHOUSE****Slaying the "Dragons"**

ARTICLE OCT 31, 2003

Anybody old enough to remember the 1960s will recall media coverage of anti-war and other protests in public places. In the 21st century, we still have civil unrest, protests, and demonstrators. One target has been meetings of the World Trade Organization (WTO) in Seattle, Quebec City, New York, Washington, D.C. and most recently in Cancun, Mexico. Demonstrators have taxed the resources of police and fire departments everywhere they went. In Miami, we are preparing for protests that are expected during this month's Free Trade of the Americas Agreement (FTAA) conference.

In the 1960s, demonstrators adopted "passive resistance" techniques such as locking arms or holding hands and becoming limp to make it difficult for police officers to arrest and remove them. Then there were those who became more violent, throwing rocks, bottles and sometimes even Molotov cocktails at police and the National Guard.

11\_03\_srescue1.jpg

Today's protesters have taken resistance to a new level by designing a locking device called the "sleeping dragon." The device is made of a three-foot piece of PVC or steel pipe wide enough for an arm to be inserted in each end. In the middle of the pipe is a pin or bolt that is fastened to each side. The protester inserts his or her arm in the opening with a chain wrapped around the arm. A mountain climber's carabiner is placed at the end of the chain, where the protester locks himself or herself into the pin. Although the protesters can release themselves at any time, they usually do not, so a police or fire department "cut team" must manually cut them loose to remove them from the premises.

Photo Courtesy of Miami Fire-Rescue  
**Firefighters train in the removal of a "bucket dragon," one of several locking devices used by political protesters.**

Freeing the protesters takes a lot of time and manpower; that is exactly what they want. In fact, some have taken the "sleeping dragon" devices to a new level of difficulty by adding a layer of tar, chicken wire and duct tape, or sometimes even human feces. These are called "tar dragons." Or, protesters may place the pipe sleeve in a five-gallon bucket of concrete, called a "bucket dragon," and encase the sleeve in a 55-gallon drum of concrete, called a "drum dragon."

Whatever the device used, it will take a well-trained cut team 45 minutes to two hours to get to the pin so it can be cut. Even then, a team must have an arsenal of cutting equipment.

In extreme cases, protesters use long 2X4 pieces of lumber to erect a tripod. Suspended from the tripod is a demonstrator who appears to have a hangman's noose around his neck, and threatens to hang himself if any effort is made to remove him. Although this is usually a ruse, the intention is to make it appear as though we are trying to kill him, giving the group exactly what it wants - publicity and bad press for the police and fire departments.

To effectively mitigate these devices, a well-trained and informed police and fire team must be ready before the event begins. I recently attended two classes on this subject, where we studied the command process in civil unrest and then the actual mitigation of demonstrations using the various "dragons." The classes were sponsored by the U.S. Office of Domestic Preparedness (ODP). Community Research Associates, contracted by ODP, conducted the classes for firefighters and police officers.

In the hands-on training, we worked with "dragons" and cut them loose in a systematic, planned manner. It was an enlightening experience. It was also an exhaustive process as well. Well-trained teams are vital to effectively deal with these problems. Legal issues were discussed, as was the use of deadly force, riot-control agents and less-lethal weapons by police.

What is surprising is how quickly these devices can be put into action. We watched a video taken by a surveillance camera in San Francisco that showed five protesters in a flatbed truck pulling up in front of a department store. The protesters were dressed like municipal workers in coveralls, hard hats and safety vests. In just 10 minutes, they unloaded four 55-gallon "dragons," uprighted them and locked themselves in.

We were taught that sometimes the prudent thing to do is to place yellow tape around these individuals to reroute traffic, then ignore them. They want publicity, media and crowd coverage. Denying them these things decreases their perceived effectiveness. Staying cool, calm and collected is exactly what they do not want us to do. If the protesters become violent, however, that is another story. Even then, such responses have been challenged in California courts on several occasions and the responders lost because of perceived violations of the protesters' First Amendment rights.

As I've noted, fire and police officials in Miami are working together to prepare for this month's FTAA conference. Specialized equipment has been purchased, and training is taking place. In fact, the entire fire department is being trained in explosives, riot control and "dragon"-cutting techniques.

The key to this type of situation, like all others in public safety, is training and cooperation. If we work together, all "dragons" can be slain, or at least tamed.

**Removal Procedures for "Dragon" Devices**

Recent political protests have presented a new challenge for the San Francisco Fire Department. Specifically, one challenge is the safe and efficient removal of pipe sleeve securing devices, or "sleeping dragon" devices, utilized by protesters. These devices enable protesters to fasten themselves together in order to form a human chain for the purpose of obstructing street traffic and building entrances, preventing their expedient removal by law enforcement. The following information was gathered with the assistance of Rescue Squad 2 and the Bureau of Equipment.

The pipe sleeve securing device is comprised of a piece of plastic drainage pipe approximately three feet long and four inches diameter that is overlaid with a one foot-by-four-inch piece of electrical steel conduit. In the middle of the device is a half-inch piece of rebar that is placed through the center of the doubled pipe sleeve

Exhibit E

SB 2315  
1/25/19  
#31  
Pg 4

502315  
1-125/19  
#31  
Pg. 12

and welded to both sides of the electrical conduit. The rebar is used to secure a carabiner and chain assembly that is wrapped around each protester's wrist and locked onto the half-inch rebar, making them and the pipe sleeve securing device a unit. The device may be wrapped with chicken wire with duct tape on the exterior. The device may also have two 45-degree drainage pipe fittings on the ends which cover each protester's elbow. The duct tape and wire are intended to slow the removal process.

Equipment and materials needed for removal include a utility knife, wire cutters, two water extinguishers, two plastic blankets, material blankets, salvage or roof cove (for spark protection), two 4X4 wooden blocks (minimum size, to elevate sleeve device and protester's elbow off the ground) and a multipurpose saw with a metal cutting blade.

Removal procedures are as follows:

- Firefighters to wear full protective personal equipment.
- Have protesters with the pipe sleeve securing device lie on the ground.
- Place wooden blocks under the device and forearm.
- Cut and remove any duct tape and wire that are over the steel conduit only.
- Place the nozzle of the extinguisher into one end of the pipe sleeve device for heat protection, and discharge judiciously during the cutting operation.
- Cover both protesters with a blanket and prepare the second extinguisher for spark protection as needed.
- Use the saw to create two two-inch cuts approximately three inches apart directly above the installed rebar. The cuts are perpendicular to the length of the steel conduit.
- Next, create a three-inch cut lengthwise joining the two two-inch cuts, followed by a partial cut (score) of the corresponding side opposite the three-inch cut.
- Use a screwdriver to pry the fully cut three-inch side upward and begin working the partially-attached piece of steel conduit back and forth until it breaks off. Once detached, you are able to access the carabiners on the inside of the device, disengage them from the rebar, and remove the device from the protesters. The device should be turned over to law enforcement.

Also discovered in recent protests have been multiple pipe-sleeved protesters who have had their securing device imbedded in concrete by using a small plastic garbage can as a mold. Four protesters joined in two devices are bonded together within the concrete-filled garbage can shaped bollard.

At an initial size-up, it appears to be a formidable and time-consuming task to dismantle the concrete bollard before removal of the devices can be initiated. However the concrete bollard is typically filled with lightweight rubble and paper products which can be quickly broken apart with a hammer or similar tool chipping the material away from the outside perimeter toward the center.

Note: Be advised that protesters secured within the device have the ability to disengage the carabiner on the interior of the device at any time and thus release themselves. With this in mind, a protester who appears to be uncomfortable with the cutting process may be convinced to disengage voluntarily. Of utmost importance is that the cuts made to the device are not made too deeply, which could result in injury to the protester.

Barry Wong is a lieutenant with the San Francisco Fire Department, assigned to the Public Information Office.

Chief Michael J. Essex is special operations officer for the Emergency Response Division of City of Miami Fire-Rescue. The division includes the technical rescue, hazardous materials and dive rescue teams. Essex also is the department's SWAT-Medic commander.

Sleeping  
Dragon

STATE OF NORTH DAKOTA                    )  
  )  
  )        SS.  
COUNTY OF MORTON                        )

AFFIDAVIT

1. Your affiant, Rick Widicker, is a Police Officer with the Mandan Police Department. I currently am assigned as a Sergeant to the Support Services Division. I have been a Police Officer since 2002. Your affiant graduated from the North Dakota Law Enforcement Academy in 2002 and has been a licensed peace officer in North Dakota since then. I have worked as a law enforcement officer for over fourteen years. I have worked as a police officer for the Mandan Police Department for over 7 years. As such, my duties have been focused on the patrol functions of the police department such as responding to emergency calls, conducting routine patrol and traffic enforcement, taking reports, and initiating investigations. I have also worked as a Field Training officer and a School Resource officer. I have over 1300 hours of training in various areas of law enforcement including criminal investigations, patrol operations, interviewing techniques, and drug identification. In 2016 I was trained in Field Force Extrication techniques to assist in dealing with protest activities in Morton County
2. That on 10/27/16, in County of Morton, Sydney N. Johnson, Kylie B. Lemley, and Emily M. Mills committed the offense of: Reckless Endangerment
3. The following information gives rise to probable cause:

I, Officer Widicker, have been assigned to an extrication team to assist with protest duties occurring in Morton County. The protests are in regards to a pipeline being installed in rural Morton County. On 10/27/16, I was called to respond with the team to a protest situation that was occurring on Hwy 1806, south of Fort Rice ND. When the team arrived we were advised that there were three females who were locked into devices in the ground and needed to be extricated. The females were inside a makeshift shelter that was located on private property. They were to be arrested, extricated and taken into custody for trespassing.

Upon arrival we found that a makeshift shelter had been set up with pallets and other misc. wood, and blankets. Inside the shelter were three young females. Each had an arm stuck into the ground. It appeared they were locked into what is commonly known as "Sleeping Dragons". These are protest devices that are commonly used to lock people into or onto things. The devices are typically designed so that the person locked into it can release themselves if they chose to do so. The girls were asked several times if they would release themselves. They refused to do so. A deputy advised them they were being placed under arrest. They continued to refuse to release themselves.

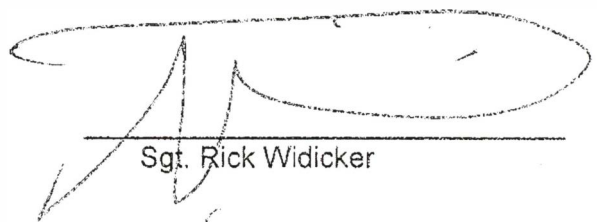
In order to extricate the females, the shelter had to be opened up. This was done by cutting some of the lumber away on one of the walls. The team then began to dig holes next to where the females were laying on the ground. It was discovered that the devices they were locked into were made from PVC and wrapped in duct tape and chain. The dragons were then put into holes filled with cement. Fire resistant covers were put over the females as well as eye protection. While officers were extricating the girls they were asked several times if they would willingly release. They refused each time. The officers on the extrication team had to dig at the

SB 2315  
1/25/19  
#31  
Pg 14

ground using tools, and had to take care not to injure the girls during this process. The ground around them was packed in and this made the digging process slow and difficult. Once access was gained, cement had to be broken away from the dragons using hammer drills. Officers then used an angle grinder to cut away part of the chain from the dragons. The duct tape had to be cut away from the dragons using a utility knife. The angle grinder was then used to cut a hole in the dragons. The females were locked into the dragon using a small chain and a carabineer. These also had to be cut. During the extrication process, Officers had to work in difficult positions in a tight working space. Some of the time they had to lay on the ground and grind and cut at the dragons from awkward angles. This made using the tools dangerous to the officers, as well as the females who were locked into the dragons. It should be noted that during the extrication process, Lt. Stromsodt sustained an injury from a power tool.

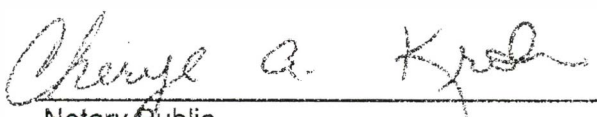
After they were extricated, the females were placed in flex-cuffs and turned over to arrest teams for transport to Morton County Corrections.

Dated: 11/10/16



Sgt. Rick Widicker

Subscribed and sworn before me on the 10<sup>th</sup> day of November 2016.

  
Notary Public

CHERYLA. KROH  
Notary Public  
State of North Dakota  
My Commission Expires Mar. 07, 2019

SB 2315  
1/25/19  
#31  
Pg. 15

30-2016-CR-01815

STATE OF NORTH DAKOTA     )  
  )  
COUNTY OF MORTON         )

**AFFIDAVIT**

I, Dion Bitz, a Morton County Deputy Sheriff, being first duly sworn, have good reason to believe that on or about November 15 2016 , in Morton County North Dakota, Stephen Eddy, Ernest Cobiness, Kimberley Bonner-Secunda, Miranda Bradford, Mia Brown, Numa Aitken, Sarah Chomin, Roderick Collins, Herb Goodwin, Jackie-Teresa Hart, Kathleen Jessee, Nicholas Johnson, Jessica Joe, Jayson Paymella, Brian Okeefe, John Platner, Stewart Towle, Joel Salt, Tyler Wade, Erica Gonzalez, Brandon Ami, Andrew Acque, Mark Hebert and Hanna Grover did commit the offense(s) of Tampering or damaging a public service, Reckless Driving, Obstruction of a Government Function, Criminal Trespass, Possession of Marijuana, Disorderly Conduct, Fleeing, Reckless Endangerment, Terrorizing and Resisting Arrest.

My belief of the foregoing statement is based upon personal knowledge.

Your affiant is a Corporal with the Morton County Sheriff's Department. Your affiant has been employed with the Sheriff's Department for over 17 years starting in January 1999. Your affiant has served as an investigator with the Metro Area Narcotics Task Force, Patrol Deputy, Field Training Officer and is assigned to investigations. Your affiant has over 1000 hours of law enforcement training including but not limited to DEA Basic, BCI drug investigations, BCI criminal investigations 1, 2 and advanced, and Interrogation and Interviewing.

On November 15, 2016 all aforementioned were arrested while blocking the Burlington Northern Railroad near the crossing on Morton County Road 82 at the intersection of Business Loop 94. There were approximately 400 people gathered to protest what they described as protecting the water. At approximately 10:00 AM law enforcement responded to the area.

Individuals parked a Black Dodge Dakota on the railroad crossing, slashed all four tires, and stacked debris around, under and in the vehicle. An accelerant was used on the debris and inside the vehicle itself in an attempt to burn the vehicle. A rope was attached to the vehicle that was also soaked in an accelerant. Protestors attempted to light the rope on fire. Law enforcement used a fire extinguisher on the rope to avoid the fire. Protestors later lifted the vehicle off the tracks and onto the North Side of the tracks approximately 4 feet from the tracks. During this time hundreds of people formed a line along the railroad tracks to face off with law enforcement. Plastic water bottles of urine were thrown at law enforcement. All were given an order to leave or face arrest.

Burlington Northern was forced to stop train traffic on that railroad track due to the amount of people and the vehicle which were on Burlington Northern Railroad property. Your affiant witnessed a train stopped on the tracks West of Mandan facing Westbound. The protestors were directly in the line of travel of the train. All named above, that were

arrested on site, at a minimum participated in the delay of the BN train service to the point that they were instructed to leave. The participation in the delay continued when they refused to leave after being instructed to leave.

Protestors hindered law enforcement officers making arrests with resulted in taking greater measures through less than lethal force. This included using pepper spray, sponge and bean bag rounds and a Taser was deployed.

Protestors ignored repeated orders from law enforcement to disperse due to the unlawful natures of their protest.

Your affiant learned from narratives and or affidavits that, Tyler Wade also swerved a vehicle he was driving at a NDHP Trooper in an attempt to stop that trooper from making a traffic stop while that trooper was attempting to stop a vehicle. The vehicle Wade was driving had marijuana in it. Wade was a known agitator at the protest site who refused to leave after being given several commands.

Erica Gonzalez was arrested by a BPD officer on a traffic stop. The stop was on a vehicle that was at the protest site. The driver of the vehicle was Tyler Wade a known agitator at the protests. Marijuana was found within reach of Gonzalez while in the vehicle. Neither occupants of the vehicle admitted possession of the marijuana.

Stewart Towle was arrested by a NDHP Trooper for refusing to leave the site.

Sara Shomin was arrested by a MCSO Deputy for refusing to leave the site and breaching the law enforcement line.

Joel Salt was arrested by a MPD officer for approaching officers, yelling at them and refusing to leave the site.

John Platner was arrested by a NDHP Trooper for engaging officers and refusing to leave the site.

Jayson Paymella was arrested by a BPD officer for accelerating the vehicle he was driving towards law enforcement who was on foot when they were trying to arrest him.

Numa Aitken was arrested by a BPD officer for refusing to leave by locking arms with other protestors after being placed under arrest causing officers to use force to make the arrest.

Nicholas Johnson was arrested by a NDHP Trooper for refusing to leave by locking arms with other protestors after being placed under arrest causing officers to use force to make the arrest.

Rodrick Joe was arrested by a MPD officer for refusing to leave the site.

SB 2315  
1/25/19  
#31  
Pg 17

Mia Brown was arrested by a NDHP Trooper for refusing to leave the site.

Mark Hebert was arrested by a NDHP Trooper for refusing to leave the site and locking arms with other protestors.

Rebecca Jessee was arrested by a NDHP Trooper for refusing to leave the site and locking arms with other protestors.

Brian Okeefe was arrested by a NDHP Trooper for refusing to leave the site and locking arms with other protestors. Once being placed under arrest Okeefe attempted to get away from the arresting officer by pulling away from that officer and getting back with the rest of the protestors.

Hannah Glover was arrested by a NDHP Trooper for yelling at officers and refusing to leave the site.

Kimberly Bunner-Secunda was arrested by a NDHP Trooper for locking arms with other protestors and refusing to leave the site. When she was arrested by the trooper she resisted by trying to pull away.

Numa Aiken was arrested by a NDHP Trooper for yelling at officers and refusing to leave the site.

Jessica Joe was arrested by a MPD officer for refusing to leave the site.

Brandon Ami was arrested by a MSCD Deputy for being on and crossing the railroad tracks on foot, aggressively engaging officers and refusing to leave the site then retreat to the crowd. Ami did this at least three times. Ami was a passenger in a motor vehicle that fled from officers, Ami was arrested at that point for the original incident.

Andrew Acque was arrested by a MCSD Deputy for refusing to leave the site. Acque was aggressive towards officers and was able to roll the deputy onto the deputies back. Another officer was forced to deploy a taser to control Acque and place him under arrest.

Ernest Cobiness was arrested by a BPD officer. The officer identified Cobiness as one of the agitators at the protest. The officer reported Cobiness as motioning his arms as if he wanted to fight. During the arrest Cobiness resisted by holding onto a vehicle and others as he was being arrested.

Hanna Grover was arrested by a BPD officer for refusing to leave the site.

Jackie-Teresa Hart was arrested by a MCSD Deputy for intervening in an arrest by pulling a person away from the deputy who had been arrested. Hart was on the train tracks at the time. Hart attempted to pull away from the Deputy at the time of her arrest.

Herb Goodwin was arrested by a BPD officer for refusing to leave the site.

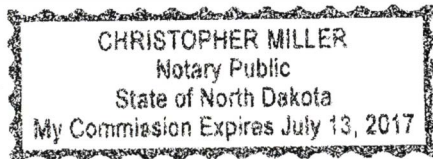
562315  
1/25/19  
#71  
Pg 18

Stephen Eddy Jr was arrested by a BPD officer for refusing to leave the site. While at the site, Eddy Jr. threw a glass beer bottle at the officer which broke and struck the officers leg. Eddy Jr. turned around and ran from the officer. The officer later found Eddy Jr. and arrested him.

Your affiant believes the aforementioned people intentionally caused a substantial interruption or impairment of public transportation, interstate commerce.

  
\_\_\_\_\_  
AFFIANT

SWORN AND SUBSCRIBED TO before me by the said Affiant on November 25, 2016.



  
\_\_\_\_\_  
NOTARY PUBLIC  
Morton County, North Dakota



SB2315  
1/25/19  
#31  
Pg. 19

# Alexsis C. Beach & Rachel Lederman, Attorneys

civil rights ■ human rights ■ community legal services

- [Home](#)
- [Latest News](#)
- [About Us](#)
- [Contact Us](#)
- [Water Protector Civil Lawsuits](#)



## Water Protector Civil Lawsuits

[Home](#) / [Water Protector Civil Lawsuits](#)

### We need your information:

- If you were **injured on or near Backwater Bridge on the night of November 20-21**, please [input your information here](#). This form is secure and confidential, for the WPLC civil attorneys only.
- If you were arrested on October 22, 2016, near the DAPL site, please [input your information here](#). This form is secure and confidential, for the WPLC civil attorneys only.
- If you were **injured by law enforcement on another date**, in connection with the water protector camps in North Dakota please [input your information here](#). This form is secure and confidential, for the WPLC civil attorneys only.

### The November 20 Lawsuit:

*Dundon v. Kirchmeier* is a federal civil rights lawsuit challenging police violence on the night of November 20-21, 2016, at Backwater Bridge, near the Oceti Sakowin camp and the site of the DAPL pipeline in North Dakota. The case was filed on November 28, 2016, in federal court, as a class action lawsuit on behalf of **all persons who were injured** by law enforcement that night.

Plaintiff Vanessa Dundon is a member of the Navajo/Diné Nation who was shot in the eye with a teargas canister that night, suffering a partial vision loss. She and eight other named Plaintiffs represent a class of several hundred water protectors who were injured by high pressure fire hoses, explosive grenades, chemical agents and impact munitions while peacefully protesting and engaging in prayer in opposition to the Dakota Access Pipeline. The Plaintiffs' legal team includes notable civil rights lawyers from around the country who are cooperating with WPLC to pursue the case. The [Indigenous Peoples' Law & Policy Program](#) at the University of Arizona is working with WPLC and the Plaintiffs' legal team to bring the human rights and treaty violations to the attention of international bodies.

In February, 2017, United States District Court Judge Daniel Hovland denied the water protectors' initial request that he restrict the local sheriff from using water cannons or fire hoses in freezing temperatures, explosives and other dangerous weapons on peaceful crowds. The lawsuit continues to move forward and asks for monetary compensation for the injuries and the violation of the water protectors' constitutional rights, as well as for changes in local law enforcement practices. The Defendants — Morton County, its Sheriff Kyle Kirchmeier, and other local law enforcement — have asked the court to dismiss the case or parts of the case. The Plaintiff's legal team filed our papers opposing that in April, 2018, and requested a hearing to show the video evidence and argue the case, but the court has not set a hearing or decided the motion yet. As the other federal district court judge seat for North Dakota is currently empty, there is just one judge covering the entire state and he is backed up in all cases, so we don't necessarily take the delay as a bad sign as to how he will rule. As soon as we hear from the court, we will update this page.

SB2315  
1/25/19  
#31  
Pg. 20

In April, 2018, we also submitted a report to the United Nations on the human rights violations against the water protectors. The report was presented to the UN Special Rapporteur on the rights of indigenous peoples, and to other UN officials during the 17th Session of the [United Nations Permanent Forum on Indigenous Issues](#) (UNPFII), and informed the Special Rapporteur's presentation to the UN Human Rights Council in September 2018. We are currently working on a request to the Inter-American Commission on Human Rights for a thematic hearing on the suppression of indigenous protest and criminalization of indigenous resistance to extractive industries in the United States.

### Read more:

- Water protectors' April 27, 2018, [Opposition to Defendants' Motion to Dismiss](#).
- April, 2018, report to the UN: "[Indigenous Resistance to the Dakota Access Pipeline: Criminalization of Dissent and Suppression of Protest](#)".
- Lawsuit First Amended [Complaint](#).
- Former Police Chief Tom Frazier's [expert opinion](#) finding unnecessary and excessive force.
- [Legal arguments](#) presented to the 8th Circuit in the interlocutory appeal.

### October 22 mass arrest, and other cases:

Watch this page or the [Water Protector Legal Collective](#) website for updates on this, and other civil litigation that we will be filing to seek redress for the human rights violations against the water protectors. If you were arrested on October 22, 2016, we need your contact info so please fill out the form linked in the first paragraph above.

#### Alexis C. Beach & Rachel Lederman, Attorneys – San Francisco office:

[558 Capp Street](#)  
San Francisco, CA 94110

#### Oakland office at Oakland Law Collaborative

[1736 Franklin Street, Suite 400, Oakland, CA 94612](#)

#### Phone | Fax

Phone 415-282-9300  
Fax 415-285-5066

Please use our [contact page](#) or call for a free consultation. *We cannot see you on a drop in basis.*

© Beach Lederman Attorneys

03/28/17

SB 2315  
1/25/19  
#31  
Pg. 21

## Dakota Access Pipeline Protest – Significant Events Summary

**8/10/16:** Protesters began gathering in Morton County just north of the Standing Rock Sioux Indian Reservation in opposition to construction of the Dakota Access pipeline.

**8/11/16:** Morton Co SD & NDHP responded to a private security report that protesters were hampering construction activities of DAPL. Total of 13 arrests made.

**8/12/16:** Morton Co SD & NDHP responded to reports of access to private property (construction site) was being blocked. Total of 6 arrests made. Those arrested included Standing Rock Tribal chairman and a Tribal Council member.

**8/13/16:** No construction activity took place. Bridge over Cannonball River on Hwy 1806 was temporarily blocked by demonstrators who marched from there to the DAPL construction site.

**8/14/16:** No construction activity took place.

**8/15/16:** Dakota Access is moving equipment down to the site. Demonstrators on horseback pushed LE officers manning barricade line back. A hole was cut in the property fence and approximately 50 demonstrators went onto private property. Reports from the site are that when the protesters initially stormed the construction site on private land they broke windows out of a loader and struck a 10-code (private security) person providing security for the DAPL workers. All construction on site has stopped and Dakota Access Pipeline (DAPL) workers are leaving the site and supporting Law Enforcement is preparing to leave the immediate area as well.

Total of 10 arrests occurred.

The protesters have exited the private property where the pipeline company was working and have returned to the designated protest assembly area.

Additional demonstrators were arriving in the area. A camp is being planned for the southeast side of the Cannonball River Bridge.

A tribal press briefing was conducted at 11:30.

The Morton County Commission Chairman has signed an Emergency Declaration. According to subsection 4 of section 37-17.1-05 this declaration is in effect for seven days and will be heard by the entire commission at the next County Commission meeting.

DAPL sued in federal court Monday to stop protesters near an American Indian reservation in North Dakota to stop interfering with the project, alleging the safety of workers and law enforcement are at risk.

**8/16/16:** No construction activity. Reports that windows were broken out of one of the company's bulldozers at the pipeline site. In addition, one of their generators and a light stand was also vandalized.

Traffic moving slowly past the protest site in both directions. 150 to 200 protesters at the protest site now. Vehicles parked on shoulders of ND HWY 1806 for 2-miles south of the protest site.

U.S. District Judge Daniel Hovland ordered a temporary restraining order against protesters for unlawfully interfering with Dakota Access, LLC and its representatives from construction at the site. There will be a preliminary injunction hearing on August 25 at North Dakota District Court in Bismarck.

**8/17/16:** Traffic control point established at Hwy 1806 & Morton County Rd 138A. Southbound traffic detoured to alternate routes. LE manning traffic control point. Report of laser being used against NDHP pilot at approximately 5:15 am. The Morton County EOC was established at the Law Enforcement Center.

**8/18/16:** Demonstration occurred in Bismarck just south of the Capitol Grounds from 4:00 6:00 pm. Boulevard Avenue was closed between 4<sup>th</sup> & 7<sup>th</sup> Streets to accommodate the demonstrators and ensure safety. No problems were encountered with the demonstration.

**8/19/16:** No significant events occurred.

**8/20/16:** "Water Action Against Dakota Access Pipeline" event occurred in the area of the confluence of the Missouri and Cannonball rivers. No problems encountered.

**8/21/16:** Report of laser being used against NDHP pilot at approximately 12:45 am. No other significant activity. Morton EOC closed for the day.

**8/22/16:** ND Dept. of Health removed their assets from the demonstrators' overflow camp at Standing Rock.

The Standing Rock Sioux Tribe and the International Indian Treaty Council have appealed to the United Nations for help in their fight against construction of the Dakota Access oil pipeline. Portable cell tower was installed in the area of the DAPL construction site.

**8/23/16:** Standing Rock Water Protectors group conducted a march across Memorial Bridge @ approximately 1500 hrs. They remained on the sidewalk of the bridge and there were no problems. Traffic was stopped for a short time while they crossed from the sidewalk area on the south side of the bridge to the gathering area on the north side of the bridge. Morton County Commission meeting at 1730 hrs. Testimony was presented from attendees that the traffic checkpoint impedes travel, is impacting the Tribe's economy, and can be humiliating to cross.

**8/24/16:** March planned at 1000 hrs. from the Cannonball River bridge on Hwy 1806 to the DAPL construction site. Traffic control was established to ensure safety. No problems were encountered. Hearing was held in Washington D.C. in Federal District Court concerning the Standing Rock Tribe's request for an injunction against DAPL proceeding with construction. Judge's opinion to be issued on Sept 9<sup>th</sup>.

**8/25/16:** No significant events occurred.

**8/26/16:** No significant events occurred.

**8/27/16:** No significant events occurred. Morton EOC closed for the day.

**8/28/16:** No significant events occurred. Morton EOC closed for the day.

03/28/17

SB 2315  
1/25/19  
#31  
Pg 23

**8/29/16:** Protest at 1133 College Dr – Fredrikson & Byron, PA office (attorney for DAPL). No problems encountered – occurred from approximately 3-5 pm.

**8/30/16:** No significant events occurred.

**8/31/16:** At approximately 7:30 am, protestors were reported to be putting signs on DAPL equipment at the construction site approximately 4 miles south of St. Anthony along Hwy 6. Law enforcement officers responded. One subject had secured himself to a track hoe on site and his restraining system was safely removed at approximately 1:30 pm. Total of 8 persons arrested. Facebook event posting of a prayer gathering at the Morton County Jail at 5:00 pm lasting until the release of those arrested at the protest today. There were a small number of people (reported as approximately 12) who participated and no problems were encountered.

**9/1/16:** There was a hearing at the Federal Courthouse in Bismarck concerning Paradigm Energy's request for continuation of an injunction against Three Affiliated Tribes so they can continue construction of a natural gas pipeline under Lake Sakakawea. No problems were encountered with attendees. There was no formal demonstration.

**9/2/16:** No significant events occurred.

**9/3/16:** At approximately 3:30 pm, an estimated 300 protestors trespassed onto property just west of Hwy 1806 where DAPL workers were doing construction. The protestors entered the property after cutting/damaging the fence and went a significant distance onto the property to engage the construction equipment. Protestors also brought 20-30 horses and possibly vehicles onto the property. Private security met the protestors and security had K-9's. There was conflict between security and the protestors which led to several security workers sustaining injury. Pepper mace was used against the protestors. Law enforcement arrived and were able to get the protestors to leave the property. No arrests were made at the scene but investigation continues.

**9/4/16:** No significant events occurred.

**9/5/16:** No significant events occurred.

**9/6/16:** Approximately 150-200 protestors trespassed on private property and occupied the DAPL construction area south of St. Anthony near the intersection of Hwy 6/Morton Co Rd 135. Two protestors attached themselves to equipment. Protestors painted graffiti was painted on some of the equipment. Independent Presidential candidate Jill Stein was at the site. LE monitored the situation but did not attempt to remove or arrest the protestors. By approximately 1600 hrs, the protestors had left the scene.

A small fire was reported on a planked entrance road to a DAPL construction site.

Federal District Court Judge ruled on the request for a restraining order by the Standing Rock Sioux Tribe to stop DAPL from construction 20 miles in both directions from the Missouri River. The Judge ruled that construction can continue west of Hwy 1806 but is restrained from construction for 20 miles east of Hwy 1806.

**9/7/16:** The Paddle to Standing Rock event occurred which involved canoes traveling on the Missouri River from Bismarck to Standing Rock. No problems were encountered with the event. No other significant events occurred.

**9/8/16:** A report was received from private security that protesters were gathering at the DAPL site at Hwy 6/Morton Co Rd 135 (same site as they gathered on 9/6) at approximately 5:20 am. Facebook postings showed at least 4 protestors were attached to equipment. The protesters were reported as leaving the site at approximately 6:45 am. Facebook postings said they were leaving as DAPL workers were not showing up at the site.

Governor activated a military police unit to support law enforcement efforts. Primary responsibilities will be traffic control points and administrative duties.

The traffic control point just south of Mandan on Hwy 1806 has been converted to a traffic information point advising motorists of potential traffic delays, people on the roadway and possible protest activities.

**9/9/16:** At approximately 11:30 am it was reported that a large number of people were leaving the protest camps and heading north on Hwy 1806. People were walking and there were horses and vehicles in the group and they were blocking both lanes of the highway. As a result of this traffic hazard, the traffic control point was reinstated just south of Mandan and traffic was rerouted on Hwy 6. BIA established a traffic control point near the Cannonball River for northbound traffic. The group left Hwy 1806 at the location that was the site of the protest last Saturday. This group subsequently left this location and Hwy 1806 was re-opened and the traffic control point reverted to the traffic information point.

At approximately 1:55 pm it was reported that the US District Judge had denied the Standing Rock Tribe's request for an injunction against the pipeline construction while the Tribe's lawsuit against the US Army Corps of Engineers proceeds. Subsequently, the US Dept. of Justice issued a joint statement with the Dept. of the Army and Dept. of the Interior that the Army will not authorize construction of the pipeline on Corps land bordering or under Lake Oahe until it reconsiders its previous decisions regarding the Dakota Access pipeline. They are also requesting DAPL to voluntarily cease construction activity within 20 miles east or west of Lake Oahe.

The planned demonstration at the Capitol was conducted from 3:00 – 6:00 pm. There were approximately 200 – 300 in attendance. No problems were encountered.

**9/10/16:** No significant events occurred.

**9/11/16:** No significant events occurred.

**9/12/16:** US District Court Judge issued a decision on the Standing Rock Tribe's appeal of the removal of the temporary restraining order halting construction east of Hwy 1806. The Judge reinstated the TRO prohibiting construction 20 miles east of Hwy 1806 until the status conference scheduled for September 16<sup>th</sup>.

No other significant events occurred.

**9/13/16:** DAPL moved their construction equipment that was located in areas between Hwy 1806 and Hwy 6 to the area west of Hwy 6. The equipment that is east of Hwy 1806 in the site of the original protest was left at that location.

03/28/17

SB 2315  
4/25/19  
#31  
Pg 25

At approximately 10:50 am a report was received of protesters at a DAPL site located west of Glen Ullin north of Exit 120 near MM 106.5. Two protesters were reported as having attached themselves to equipment. Law enforcement officers responded and 22 subjects were arrested.

At approximately 11:30 am a report was received of a large number of persons (approximately 100) walking from the main camp north on Hwy 1806 accompanied by vehicles and blocking both lanes of travel. Due to safety concerns, the TIP was converted to a TCP. The persons went to the north approach of the original protest site just north of the main camp. After approximately 2 hours, the group returned to the camps. At that time, BIA officers estimated the group to be about 300 persons. At approximately 4:00 pm the TCP was converted back to a TIP.

At approximately 12:20 am it was reported that a group of protesters was blocking traffic on 40<sup>th</sup> Street near a DAPL site 5 miles west and 1 mile south of New Salem. It was believed this group of protesters had left the site near Glen Ullin. This group then moved onto the construction site and DAPL workers stopped work and left the site. The protesters were subsequently reported as piling tires by construction equipment. The protesters left the site prior to LE arrival. Unknown damage at this time.

**9/14/16:** At approximately 8:00 am a report was received that protesters had attached themselves to DAPL construction equipment at a DAPL site north of Exit 120 on I-94 (west of New Salem). LE responded and found 3 persons attached to the equipment. There were also reports of other protesters possibly at other DAPL sites in the area. A total of 8 persons were subsequently arrested.

**9/15/16:** Report of vandalism at a Precision Pipeline construction site near Alexander, ND. Unknown if this is related to the DAPL protest. No other significant events occurred.

**9/16/16:** Approximately 200 demonstrators assembled at the Memorial Bridge on the Bismarck side and conducted a march on the bridge. No problems were encountered. It had been reported to the EOC that a prayer assembly was going to be conducted with occupants of the camp walking north on Hwy 1806 to the DAPL site north of the camp. The TIP was transitioned to a TCP from noon – 3 pm to accommodate this gathering. The assembly did not occur, likely due to rainy weather, however, no notification of cancelation was received by the EOC so the TIP was transitioned to a TCP.

**9/17/17:** The EOC received notification that the occupants of the camp were going to be conducting the prayer assembly that had been scheduled for the 16<sup>th</sup> from 12:00 – 3:00 pm. The TIP was transitioned to a TCP during this time to provide for traffic safety as camp occupants were to be walking on Hwy 1806. The assembly began later than originally advised and the TCP converted back to a TIP at approximately 4:30 pm. No problems were encountered.

**9/18/16:** Law enforcement patrol discovered a person on a DAPL construction site on the west side of Hwy 6 between mile markers 49 & 50. Subject was subsequently arrested for criminal trespass.

**9/19/16:** No significant events occurred.

**9/20/16:** A protest was held in Mandan, originally at the Morton Co LEC and then moved to a location in front of Mandan City Hall. The protesters claimed to be in support of Olowan Martinez who was arrested at a DAPL protest site, but is being held on Nebraska warrants pending extradition. There were an estimated 100-200 at the protest. Attempts were made by protesters to antagonize LE, but there

were no arrests. The protest began at approximately 3:00 pm and was disbanded at approximately 4:30 pm.

**9/21/16:** No significant events occurred.

**9/22/16:** No significant events occurred. It was announced that the deed had been recorded documenting the sale of the Cannonball Ranch to Dakota Access, LLC. The Cannonball Ranch includes the private property directly west of the Missouri River that is being crossed by the Dakota Access Pipeline.

**9/23/16:** No significant events occurred.

**9/24/16:** Report of trespassing at the original protest site. Approximately 5-6 people on horseback and 1-2 people on foot were observed inside the fence line and were carrying no trespassing signs they had removed from the property. This was observed by a NDHP trooper.

**9/25/16:** At approximately 9:15 am, a large convoy of approximately 60 passenger vehicles accompanied by 3 school buses was reported as leaving the protester camp and traveled to DAPL site 114. The vehicles were parked to obstruct access to the site and 3 security guards on scene were assaulted by the group. The security guards reported they also observed their attackers brandishing a knife and a handgun. The protesters trespassed onto the property and subsequently planted trees and did a protest on the site while vandalizing construction equipment at the site. The protest group then left and traveled to DAPL site 116 where trespassed onto the property to plant trees and did a protest while vandalizing equipment on the site.

**9/26/16:** A small group (approximately 12) protesters were reported as being at DAPL site AR 117. They were observed to be trespassing but did not engage in other illegal activity. They were monitored and left on their own after a short time.

**9/27/16:** At approximately 1100 hrs. a large group of protesters in vehicles left the main camp and drove to the "north camp" area and parked along the roadway. A group estimated at 100-200 engaged in a demonstration along the road but did not significantly impeded any traffic.

At approximately 11:45 am a convoy of approximately 100 vehicles containing protesters drove up to DAPL site AR 114. They remained at the site until approximately 2:00 pm when they left and drove to DAPL site AR 117. They left this site at approximately 3:25 pm.

Law enforcement responded to both sites and monitored the situation but no arrests were made at the protest sites.

Law enforcement did arrest 5 persons as a result of them blocking a roadway during the convoy movement.

It was initially reported that 3 DAPL security persons were assaulted by protesters at one of the construction sites. There was no confirmation that any security was assaulted and no assault reports were received.

Approximately 3 DAPL signs were shot at a site – these were paper type signs. Graffiti was also scratched into the coating on some pipe which will need to be recoated.



**9/28/16:** At approximately 12:00 - (2) Truck drawn horse trailers leading a convoy of protesters northbound from the camp area - approximately 50-plus vehicles. Another (50) people reported forming at the Sacred Stone Camp.

At approximately 13:15 Protesters trying to tear down Concertina Wire at AR 115.

At approximately 14:03 (75) protesters and several on horseback at Kent Morrell Farm 5-miles S. and 3-Miles W. of St. Anthony (2501 MC RD 82).

Protest group making claims of using mustard gas against protestors as a result of sighting a spray plane doing routine agricultural spraying in the area.

Total Number of arrested – (21).

**9/29/16:** No significant events occurred.

**9/30/16:** Protester group hand delivered a “Oceti Sakawin Proclamation and Notice” to the Morton County Sheriffs’ Department alleging violations of law by the Sheriffs’ Department related to the response to protest activities.

**10/1/16:** No significant events occurred.

**10/2/16:** No significant events occurred.

**10/3/16:** At approximately 9:35 am a large group of vehicles (later estimated at approximately 110 vehicles each containing 3-4 protesters) forming a convoy were reported as leaving the camp and headed north on Morton Co Rd 81. The convoy traveled to the St. Anthony area and basically made a loop and returned to the camp. No protest activity occurred.

**10/4/16:** No significant events occurred.

The EOC at Morton County transitioned to a TOC and EOC activities moved to the SEOC.

**10/5/16:** At approximately 10:15 am a convoy of approximately 75 passenger vehicles and 2 buses left the protest camps and traveled north on Hwy 6 to St. Anthony where they encountered law enforcement who had closed Co Rd 136 westbound. The protester convoy stopped on Hwy 6 and began a demonstration. They were advised to clear the roadway and disperse. At approximately 12:35 pm the protesters left this area in a convoy which traveled to the area of DAPL site AR 116 where they stopped and staged another demonstration. At approximately 2:25 pm the protesters left this area and returned to camp.

No arrests were made.

**10/6/16:** At approximately 10:45 am a convoy of approximately 60 vehicles containing protesters left the camps and traveled to the DAPL construction site area that is west and north of St. Anthony. Law enforcement responded and monitored the progress of the convoy. Law enforcement blocked roadways leading to the DAPL construction site access roads. The convoy traveled around the area and ultimately returned to the camps at approximately 4:30 pm. There were no demonstrations.

No arrests were made.

**10/7/16:** No significant protester activity. A Fargo PD unit conducted a traffic stop on Hwy 6 in the area of St. Anthony that resulted in 3 misdemeanor arrests but it is unknown if it was protest related. A pro-law enforcement rally was conducted by the public at the Mandan/Morton LEC. There was no demonstration in opposition to law enforcement at the rally.

**10/8/16:** The "Ride for Our Sacred Water" left the overflow camp at approximately 11:30 am. There were approximately 20 riders on horseback accompanied by support vehicles. They traveled northbound on Hwy 1806 to the Ft. Rice area where they then headed west. The support vehicles were traveling at a slow rate of speed creating a traffic hazard so the TIP was converted to a TCP from approximately noon – 1:50 pm.

The rider group broke into separate groups. One group continued on in the general area of the planned route to continue on towards the end destination of Tioga. Other groups rode around the area with one group wanting to get onto the DAPL site at AR 121 to take photos. LE did not allow this. These splinter groups ultimately loaded their horses into trailers and left the area.

A drone was seized from Myron Dewey as a result of an investigation into a stalking offense which occurred earlier in the day.

**10/9/16:** No significant events occurred.

**10/10/16:** At approximately 7:15 am a report was received that 2 individuals were locked down to DAPL equipment at the construction site located at AR 117 in protest to the pipeline project. Law enforcement responded and subsequently cut these two subjects loose from the equipment. Three individuals were arrested as a result.

At approximately 8:15 am a convoy estimated at approximately 100 vehicles occupied by protesters left the camps and traveled to the DAPL construction site located at AR 118. A large group of protesters trespassed onto private property after removing a wire boundary fence to gain access. Law enforcement responded and ultimately arrested 24 subjects. Those arrested included actress Shailene Woodley.

**10/11/16:** At approximately 11:00 am law enforcement conducted a stop on a vehicle that was reported to be engaged in suspicious activity near the DAPL site at AR 117. This stop resulted in the arrest of 2 individuals.

A small group of protesters conducted a demonstration at the Morton County Courthouse and Morton/Mandan LEC from approximately noon – 2 pm. No problems were encountered.

At approximately 4:30 pm, riders on horseback left from Ft. Rice boat ramp to ride back to the camp on Hwy 1806. The TIP converted to a TCP while this took place due to the traffic hazard/obstruction created by the riders and accompanying vehicles. At approximately 6:20 pm, the riders reached the camp and Hwy 1806 was clear of horses and accompanying vehicles and the TCP converted back to a TIP.

**10/12/16:** No significant events occurred.

**10/13/16:** No significant events occurred.

**10/14/16:** At approximately 1:00 pm smaller groups of vehicles were seen leaving the camps and eventually formed into a larger convoy that traveled around the area where active DAPL construction

03/28/17

SB 2315  
1/15/19  
#31  
Pg 29

was taking place. LE monitored the convoy and prevented it from approaching any of the construction sites. The convoy did stop and some protesters approached LE who were stationed on Co Rd 81 just north of 63<sup>rd</sup> St but there was no significant confrontation. The convoy traveled through the area and then returned to the camps.

At approximately 4:45 pm, a large group of vehicles left the main camp and drove to the "north camp". There were approximately 100 people at the "north camp" until about 5:00 pm when they began dispersing and returned to camp. According to social media, there may have been some sort of prayer ceremony there and reports were received at the main camp that LE was coming so a number responded to the "front line".

**10/15/16:** At approximately 7:40 am a report was received that there were protesters at the DAPL construction site at AR 125 and that a subject was locked down to equipment. Reports were also received at approximately the same time that a small group of protesters may also be at the site at AR 126. LE responded and found 1 subject locked down to an excavator at AR 125 and all other protesters had left the sites at AR 125 and 126. A bucket truck responded and as LE were raised to remove the protester, he released himself and was subsequently arrested for reckless endangerment & criminal trespass.

At approximately 9:00 am a convoy of vehicles approached LE who were at Hwy 6/Co Rd 135 restricting access to DAPL sites. Occupants of the vehicles (estimated to be 100 – 150) approached the LE line and 10 were subsequently arrested for disobedience of public safety order & disorderly conduct. This group of protesters left the area at approximately 10:00 am.

At approximately 9:45 am, LE had restricted another large convoy of vehicles that were prevented from accessing DAPL sites near Co Rd 81/Co Rd 135. The protesters left their vehicles and began walking on Co Rd 81. They walked several miles on Co Rd 81 and eventually turned around and went back to their vehicles and left the area and dispersed at approximately noon.

At approximately 10:45 hrs. a group of 3 protesters were arrested in the area that were trespassing on private property east of Co Rd 81 off 64<sup>th</sup> St.

**10/16/16:** No significant events occurred.

**10/17/16:** By 7:00 am, "Democracy Now" had assembled equipment at the church lot directly west of the Morton County Courthouse. This was apparently in preparation for Amy Goodman's planned appearance to answer criminal charges against her.

At approximately noon, a large group of protesters parked their vehicles on the east end of Memorial Bridge, blocking both the westbound and eastbound lanes of travel. The protesters gathered on foot, creating a line that totally blocked the east end of the bridge. They then began a march eastbound on West Main Avenue, totally blocking the eastbound lane of Main Ave. Law enforcement established a line near West Main/West Rosser to address the protesters' blocking of the roadway. At approximately 12:45, the protesters began to disperse.

The majority of this group of protesters then apparently traveled to the Morton County Courthouse where they joined the ongoing protest bringing the total involved to an estimate of approximately 150 persons. Law enforcement restricted protest activity to a certain area in order to keep the street and sidewalks clear. At approximately 2:30 pm, the protesters dispersed from the Courthouse area. One subject was arrested during the protest activity at the Courthouse for disobedience of public safety orders and disorderly conduct.

**10/18/16:** Very little activity today with the exception of three journalists being detained at the Seven Councils (overflow) camp. Apparently some of the protesters took exception to some of the questions

03/28/17

SB 2315  
1/25/19  
#31  
Pg 30

raised by the journalists and ultimately surrounded the vehicle preventing them from leaving. They were asked to surrender their video however they refused. Law enforcement did respond and the journalists were allowed to leave with their footage. The TIP/TCP was removed from its location at Hwy 1806/Co Rd 138A.

**10/19/16:** No significant events occurred.

**10/20/16:** VIP walkabout on 1806 to view construction site from AR 127 East. ND congressional delegation, Chairman Archambault, THPO, and SHPO were involved. It was reported that some bones were found and were transported to the ND State Lab for analysis to determine if they are human or animal. The ND medical examiner determined these bones were not from a human but were from a horse, cow, or deer.

**10/21/16:** At approximately 2:45 pm, a group of approximately 20 vehicles left the camp and drove to the area of the Ft. Rice boat ramp. The protesters (estimated at 40-50) then marched in the ditch to the area just south of the Ft. Rice campground area where they encountered a line of law enforcement officers. The protesters staged a demonstration for approximately 10 minutes and then returned to their vehicles and drove back to the camps. There was no significant confrontation with law enforcement and no arrests were made.

At approximately 5:00 pm, a report was received that approximately 100+ protesters were present at the north camp site (where the pipeline route is to cross Hwy 1806). Law enforcement responded. The protesters were ultimately estimated to be approximately 150+. They held a demonstration or prayer ceremony. There were reports of up to 20 protesters who may have crossed the fence line onto private property but law enforcement did not make contact with any protesters on private property. By approximately 6:15 pm, the protesters had left and returned to the camps. There was no significant confrontation with law enforcement and no arrests were made.

**10/22/16:** At approximately 5:00 am a report was received that protesters were at the DAPL construction sites located at AR 125 & 126. Law enforcement responded and found protesters at AR 126 but AR 125 was cleared. There were approximately 12 protesters at AR 126 and 4 were locked to a passenger vehicle the protesters apparently brought to the scene.

At approximately 7:00 am, a report was received that approximately 100 vehicles had left the protest camps and traveled to the site of the "North Camp" along Hwy 1806 at AR 128. A group of approximately 100 – 150 persons were reported as trespassing onto the pipeline right of way and marching west onto the property. Law enforcement responded and formed a line just to the DAPL equipment that was parked east of AR 127. The marching protesters were joined by others forming a group estimated at 200+. This group reached the line of law enforcement officers at approximately 9:00 am. The protesters confronted the law enforcement officers and due to protester actions, law enforcement began making arrests at approximately 9:20 am. The protester group subsequently began to move east while scattering into smaller groups. Law enforcement reported several small children in the group, with one child estimated to be 3 years of age. The protest group also brought a number of dogs with them, and law enforcement reported at least 3 German Shepherds with the group at one point.

Due to protester vehicles and pedestrians on the roadway at site AR 128, Hwy 1806 was temporarily closed from approximately 8:00 am to 1:30 pm.

**10/23/16:** At approximately 8:15 am, a large group of protesters left the protest camps and some marched and some traveled in vehicles to the location of the North (ditch) Camp. The group congregated at the North Camp and was estimated at approximately 200 persons. A subject claiming to be a group leader, who identified himself as Mekasi Camp-Horinek, informed law enforcement on scene that this was a prayer ceremony and the group would not trespass. Social media affiliated with the protesters was reporting this was going to be an "Historic Day".

Law enforcement monitored the protesters and at approximately 10:45 am observed protesters entering private property on the east side of Hwy 1806 by the North Camp location. The protesters began to erect teepees and move vehicles onto the private property.

At approximately 12:40 pm, law enforcement officers attempted to arrest a group of 3 individuals who were trespassing on private property east of Hwy 1806 that were to the north of the main group of protesters. Law enforcement was able to apprehend and arrest one of these subjects and as they did so, a number of people from the large group of protesters began to run towards law enforcement who were conducting the arrest. Law enforcement withdrew before being confronted.

Protesters continued to erect teepees and other tents on the private property in addition to entering other buildings on the property. At approximately 2:00 pm protesters began to barricade Hwy 1806 by the North Camp using vehicles, wire fencing, pieces of log, bales, rocks, and miscellaneous debris until the road was totally blockaded. The protesters also blockaded Hwy 1806 south of the main protest camps using vehicles and a Dept. of Transportation electronic sign. Additionally, the protesters blockaded Co Rd 134 just west of Hwy 1806 using large logs and also erected 5 tents on the roadway. At approximately 3:45 pm, NDHP Colonel Gerhardt accompanied by 2 other law enforcement officers approached the protesters' north blockade on Hwy 1806 and advised them they need to clear the blockade from the roadway.

At approximately 4:20 pm, the protesters began to clear the blockades from Hwy 1806 and at approximately 4:45 the blockades were removed from Hwy 1806 but the material in the ditch remained. The blockade on Co Rd 134 remained.

Hwy 1806 was closed except to local traffic and D.O.T. signs were placed and BIA established a traffic control point at Hwy 1806/Hwy 24.

The protesters continued to erect teepees, tents, and move vehicles onto the private property. During the events of the day, a drone was flown within 50 feet of a helicopter, endangering those on the helicopter and the drone was also used to surveil law enforcement field operations. Law enforcement attempted to disable the drone by shooting it with less-lethal armament. It was also reported that arrows had been shot at the helicopter.

**10/24/16:** The new camp location on private property east of Hwy 1806 grew overnight and consisted of approximately 17 teepees, 100+ small tents, 5 large military style tents, and several RV's. The protester road blockade remained on Co Rd 134 just west of Hwy 1806 and the number of tents on the roadway increased from 5 to 9 overnight. The protesters blockaded Hwy 1806 just north of the North Camp from about 3:00 – 3:30 pm using large round bales and blockaded it again at approximately 4:00 pm. There was a lot of vehicle travel between this new camp and the southern protester camps throughout the day.

**10/25/16:** Activity continued in the new camp to include the apparent erection of new teepees. At approximately 11:40 am, a report was received that a female had fallen from a horse in the Seven Councils Camp and Standing Rock ambulance responded. The nature and extent of the injury is unknown.

03/28/17

JB2315  
1/25/19  
#31  
Pg 32

At approximately 1:30 pm, it was reported that protesters had assembled materials to construct a 2<sup>nd</sup> roadblock approximately ½ of the way between their north roadblock and the North Camp. At approximately 2:45 pm, a report was received that 6 riders on horseback had left the camps and ridden onto private property west of Hwy 1806 and rode to the roadblock the protesters have erected on Co Rd 134 east of Hwy 1806.

**10/26/16:** At approximately 11:00 am, a group of law enforcement representatives consisting of Sheriff Kirchmeier, Sheriff Laney, Colonel Gerhart, and General Dohrmann approached the protester's roadblock by the North Camp. There were met by a contingent of protesters with Mekasi Camp-Horinek acting as the primary spokesperson for the protesters. Sheriff Kirchmeier asked that the protesters remove their blockades and move off of the private property. The protesters said that they were not moving. Law enforcement left without incident.

At approximately 12:15 pm, DAPL security recovered a drone apparently belonging to the protesters that was buzzing them at the archeological site just west of Hwy 1806. Damage on the drone indicated that it is likely the same drone involved in the incident which endangered the helicopter on 10/23/16. During the day, protesters continued to expand the North Camp, including moving in a small mobile home and erecting additional teepees.

**10/27/16:** At approximately 11:50 am law enforcement began an operation to remove the protester roadblocks on Hwy 1806 as well as to remove individuals from private property in the area of the North Camp. A group of law enforcement officers approached the protester roadblock on Hwy 1806 north of the North Camp and repeatedly and consistently gave notice that protesters needed to clear the highway and private property and to go to the south and if they did so they would not be arrested. Law enforcement was met with resistance and protesters lit materials at this blockade on fire. A fire truck was brought forward to extinguish this fire.

At approximately the same time, another group of law enforcement moving in from the west approached the protester roadblock on the bridge at Co Rd 134 west of Hwy 1806. Law enforcement at this location encountered protesters who started the blockade materials on the bridge on fire at approximately 12:30 pm.

At approximately 12:40 pm, the protesters on Hwy 1806 had retreated to their second blockade on Hwy 1806.

The protesters at the Co Rd 134 bridge continued to add materials to the fire on the bridge and a fire truck was sent to this location as well to extinguish the fire.

At approximately 2:00 pm, a group of protesters entered the property on the west of Hwy 1806 and went to the archeological site on the pipeline right of way.

Law enforcement on Hwy 1806 continued to push the protesters south and reached the area of the North Camp. Law enforcement began to check the tents and other structures at the North Camp and located 3 protesters that were locked down to something buried in the ground in one of the structures. A law enforcement cut team removed these protesters.

While law enforcement was clearing the private property at the North Camp, protesters chained themselves to a vehicle parked in the middle of Hwy 1806, erected teepee poles in the middle of the highway, and placed a number of large logs in the middle of the highway.

Law enforcement continued to clear the North Camp and move protesters south on Hwy 1806. At approximately 4:15 pm, law enforcement had protesters cleared from the North Camp area. While the North Camp was being cleared, protesters on horseback were chasing a large herd of buffalo in the area attempting to stampede them towards law enforcement. The helicopter and airplane assisting in the operation took action to herd the buffalo away from law enforcement. Some of the protesters on horseback were eventually arrested by law enforcement officers who responded on ATV's.

03/28/17

SB2315  
1/25/19  
#31  
Pg 33

Law enforcement continued to address the situation at the Co Rd 134 bridge and fires continued on the bridge to include protesters setting fire to vehicles on or near the bridge.

At approximately 4:50 pm, protesters started DAPL construction equipment on fire that was parked northeast of the North Camp.

Law enforcement continued to move the protesters south on Hwy 1806. At approximately 5:20 pm, the NDHP pilot reported observing an altercation between subjects in the area of the Backwater Bridge on Hwy 1806 involving a firearm. Law enforcement officers were unable to respond to the area as they were still blocked by protesters on Hwy 1806 and Co Rd 134. BIA officers responded. This altercation was between a subject who is an employee of a security company and members of the protest group. The security person with the gun was taken into custody by BIA and subsequently turned over to Morton Co law enforcement.

At approximately 5:55 pm, law enforcement arrested a protester on Hwy 1806 who drew a handgun and fired shots towards officers. The subject was taken into custody. Law enforcement officers were not seriously injured.

Law enforcement at the bridge on Co Rd 134 continued to experience fires set on the bridge and Co Rd 134 as they attempted to move east on Co Rd 134 to reach Hwy 1806. Law enforcement was slowly able to move eastward as they extinguished fires and used heavy equipment to remove debris and vehicles from the roadway.

At approximately 7:00 pm, the law enforcement groups on Hwy 1806 and Co Rd 134 met at the intersection of Hwy 1806/Co Rd 134. As law enforcement began to move south on Hwy 1806 they encountered protesters at the Backwater Bridge on Hwy 1806 who had placed debris on Hwy 1806 near the bridge to create a barricade and the protesters set a fire in the middle of the highway by the bridge. Law enforcement began to move forward towards the bridge and protesters threw Molotov cocktails and rocks towards law enforcement. Law enforcement moved back out of range of the thrown objects and maintained a position on Hwy 1806 just north of the bridge.

Attempts were made to extinguish the fires but fire trucks were not able to safely approach to a distance that would allow them to fight the fire.

Law enforcement positioned 2 large trucks on Hwy 1806 on the north end of the bridge to form a barricade. Protesters set the trucks on fire.

Law enforcement maintained a presence at the bridge throughout the night.

Approximately 141 individuals were arrested for various criminal violations throughout the course of the law enforcement operation and were transported to Morton Co Jail for processing.

**10/28/16:** Law enforcement maintained position at the Backwater Bridge throughout the previous night. Fires continued to burn on the bridge this morning. A group of approximately 50 protesters remained on the bridge throughout the morning. At approximately 1:00 pm, either Standing Rock Tribal or camp representatives were attempting to persuade protesters to leave the bridge. By approximately 3:00 pm, all protesters had left the area of the bridge.

During the afternoon, burned vehicles and other debris were cleaned from Co Rd 134 and the bridge where the protester roadblock had been established.

Law enforcement continued to monitor the area of the Backwater Bridge throughout the day. No other significant activity occurred.

**10/29/16:** At approximately 10:30 am, persons from the main camp began gathering on the Backwater Bridge. This group grew to approximately 150-200 persons by noon. At approximately noon, a group of law enforcement command representatives met with representatives of the protest camp at the

03/28/17

502315  
1/25/19  
#31  
Pg 34

barricade on the north side of the Backwater Bridge. By approximately 1:00 pm, the group had dispersed from the Backwater Bridge.

A demonstration event was held at the State Capitol from 1:00 – 3:00 pm. Approximately 50 persons were present at the demonstration. No problems were encountered.

**10/30/16:** At approximately 1:00 am, a fire began in the prairie to the west of the Seven Councils camp on the west side of Hwy 1806. Mandan Rural FD was dispatched at 1:12 am. Due to the location of the fire, the fire departments experienced difficulty with access. The fire was spreading to the west, and was not endangering the protest camps. At approximately 8:30 am, a NDNG helicopter arrived to assist with extinguishing the fire. The fire was basically extinguished at approximately 9:50 am.

**10/31/16:** The North Dakota Highway Dept. cleaned the road ditches along Hwy 1806 in the area of the North Camp and the Morton Co Highway Dept. cleaned the area of the protest at the bridge on Co Rd 134 west of Hwy 1806. The North Camp location has been cleared of the protester teepees, tents, and other items.

Law enforcement encountered a small group of protesters who were crossing from the south shore of the backwater east of the Backwater Bridge to the north shore. There was no confrontation and the protesters returned to the south shore.

**11/1/16:** Protesters established a small camp on the south shore of the north branch of Cantapeta Creek in a location that is east of the Backwater Bridge. This location is called "Turtle Island". The area of Corps of Engineer property on the north shore across from this camp where law enforcement is stationed is called "Lone Tree Hill".

Small numbers of protesters were crossing over to the north shore of the creek using small watercraft or by swimming/wading. Law enforcement monitored the activity and directed the protesters to remain on the south shore. No significant confrontation between law enforcement and the protesters occurred. This occurred primarily between 10:00 am and noon.

At approximately 3:30 pm, law enforcement observed subjects butchering a large animal believed to be a cow in the area east of the protest camps.

**11/2/16:** Throughout the early morning hours, protesters were constructing a wooden bridge from their camp on Cantapeta Creek in an attempt to reach the north shore of the creek. At approximately 9:30 am, law enforcement issued a warning to the protesters to remove the bridge and remain on the south shore of the creek. The protesters ignored the warning and law enforcement placed officers in boats and approximately 10:50 am, law enforcement towed the bridge away. A group of approximately 100 protesters entered the water and approached towards the law enforcement line stationed on the north shore of the creek. Protesters were throwing rocks, bricks, and other items at law enforcement officers. Law enforcement deployed chemical agents and less lethal munitions as necessary to counter protester assaults and to disperse them. The confrontation ended at approximately 2:00 pm. Also during the morning hours, the protesters towed their burned vehicles from the Backwater Bridge. Approximately 150 protesters were on the bridge during the morning and remained relatively peaceful. The protester camp on Cantapeta Creek has grown slightly and now has 3 teepees at the campsite. No arrests were made at the protest sites today. A male subject was arrested for conspiracy to obstruct a government function for purchasing kayaks and canoes which he was transporting to the protest camp.



03/28/17

SB2315  
1/25/19  
#31  
P535

**11/3/16:** At approximately 6:30 am, a vehicle purportedly leaving the protest camp was northbound on Hwy 1806 and crashed into the burnt trucks north of the Backwater Bridge. Vehicle occupants refused medical transport. The NDHP investigated the crash.

In the morning, a large group assembled on Hwy 1806 in the area of the Backwater Bridge apparently to engage in a prayer march. It was estimated that 200-300 persons were present.

At approximately 4:00 pm, a group of protesters arrived at the State Capitol. Some of the protesters entered the Judicial Wing. This group was subsequently arrested as they were seated on the floor and refused to leave as the Capitol was closing. The remainder of the group remained outside the Capitol and eventually marched to a location on the west side of 4<sup>th</sup> Street across from the Governor's residence where they engaged in a demonstration. A small group crossed over to the Capitol grounds and refused to obey law enforcement orders and were subsequently arrested. The remainder of the protest group eventually left the area.

At total of 18 persons were arrested during the protest at the Capitol.

**11/4/16:** At approximately 6:00 pm, a small protest was held at the Morton County LEC on the east side. There was a group of approximately 50 anti-pipeline protesters present. No problems were encountered. There was also a group of approximately 15 persons doing a pro-law enforcement demonstration at the same time on the north side of the LEC. No problems were encountered as a result of this group's activities.

**11/5/16:** A large number of vehicles were observed going into the Seven Councils Camp throughout the day. There was a large congregation of persons in the camp and it is believed this was related to the large group of clergy that had come to the area to show support for the protest. No problems were encountered.

**11/6/16:** A march was held that left Legion Park in Mandan at approximately 10:30 am that consisted of approximately 200 persons. The destination of the march was the Morton Co LEC and upon arrival, the participants held a "love, prayer, and forgiveness" event. The event concluded at approximately noon. No problems were encountered.

At approximately 9:15 am, protesters backed a semi-tractor onto the Backwater Bridge and there was a group of approximately 20 protesters present. LE advised the protesters not to tamper with the burned trucks on the north side of the bridge and also that the bridge was unsafe. The group increased to approximately 100. Some of the protesters were standing on the burned trucks and tampering with the security fencing. At about 11:00 am, the protesters gradually began leaving the bridge and moved back towards the camp.

At approximately 11:20 am, protesters began arriving in the area of Turtle Island and using a boat and kayaks/canoes, began ferrying persons over to the shoreline on Turtle Hill. Eventually, approximately 200+ protesters were on the shore of Turtle Hill. A portion of this group began climbing the hill and encountered the LE line at the top of the hill. At approximately 1:12 pm, protesters began a fire on Turtle Hill using a flare. LE was able to extinguish the fire using hand held fire extinguishers. LE attempted using chemical agents to move the protesters back from Turtle Hill but this was unsuccessful due to wind conditions. At approximately 1:20 pm, the protesters withdrew from the hill and began to ferry back across to Turtle Island. By approximately 2:30 pm, the majority of the protesters were gone from Turtle Island and those remaining were not causing any disturbance.

At approximately 12:35 pm, the semi-tractor and approximately 20 protesters returned to the Backwater Bridge. The group of protesters grew in size and began to approach the blockade and would not comply with LE commands to move back. LE attempted to deploy chemical agents to make them

SIB 2315  
1-25-19  
#31  
p.36

withdraw, but due to wind conditions this was unsuccessful. At approximately 2:15 pm, the truck and protesters withdrew from the bridge.

From approximately 11:15 am – 12:15 pm, protesters held a demonstration at Fairview Cemetery in Bismarck. It was estimated there was approximately 50 in this group. There were reports that there was a group doing a counter-demonstration. No significant problems were reported.

One person was arrested from one of the boats ferrying protesters at Turtle Island.

**11/7/16:** At approximately 6:45 am, law enforcement received a report of protesters establishing a roadblock near the intersection of Co Rd 82/Hwy 10 west of Mandan by the Precision Pipeline yard. They left prior to law enforcement arrival and left a “sleeping dragon barrel” on Co Rd 82. Law enforcement responded did contact these subjects. At about the same time, a second report of a vehicle pulling a U Haul trailer containing protesters was observed in the area and law enforcement also did contact this vehicle. No arrests were made with either group.

At approximately noon, a group of approximately 300 persons left the Seven Councils camp and walked to the Backwater Bridge where they conducted a prayer ceremony. They left and returned to camp after about one hour. No problems were encountered.

At approximately 9 am and at 5:15 pm, a semi-tractor was driven onto the Backwater Bridge close to the burned out trucks on the bridge. The semi-tractor was accompanied by about 10 persons. Law enforcement was concerned the semi-tractor may attempt to move the burned out trucks and gave commands to stay away from the trucks. On each occasion, after about 45 minutes, the semi-tractor left and drove back toward the Seven Councils camp.

**11/8/16:** At approximately 8:20 am, a report was received that protesters were hanging anti-pipeline banners from overpasses in Bismarck. The Bismarck Police Department responded and located 4 of the protesters involved in this activity. Two of the protesters were arrested for drug violations and an outstanding warrant.

At approximately 4:40 pm, the semi-tractor that has been on the Backwater Bridge in the past 2 days returned to the bridge along with approximately 50 persons. The semi-tractor and persons eventually left the bridge which was all cleared by 6:00 pm. No problems were encountered with this group.

**11/9/16:** At approximately noon, a semi-tractor left the protest camp and went onto Hwy 1806 south of the Backwater Bridge and pulled the burned car and the D.O.T. sign from the west ditch onto the highway. Other material was placed in the roadway and a cable was strung across the road to form a barricade. After about an hour, the semi-tractor pulled the car and sign back into the ditch and the other material and cable was removed from the roadway.

At approximately 3:40 pm, a group of approximately 25 protesters assembled at the intersection of Hwy 6/Hwy 21 but they did not obstruct traffic or cause problems. This group left at about 5:30 pm.

At approximately 4:50 pm, a group of approximately 50 persons accompanied by riders on horseback left the camp and went walking south on Hwy 1806. They went to the Cannonball Bridge and then returned to camp. It was later reported on social media that this may have been related to a subject being forced from the camp that had allegedly tried to commit a sexual assault.

At approximately 5:30 pm, a group of approximately 25 subjects unloaded items from pickups that were placed into a large pile and burned on the shoreline. No problems were created. Information was received later that the items burned may have been material from the North Camp.

At approximately 5:45 pm, the semi-tractor returned to the Backwater Bridge and backed up to the burned trucks at the barricade on the north end of the bridge. It appeared as if subjects from the truck may have intentions of hooking a chain to one of the burned trucks, but never did. The semi-tractor left the bridge at 6:30 pm and returned to the Seven Councils camp.

**11/10/16:** At approximately 9:30 am, protesters began to gather at the Red Warrior camp on the shore of Turtle Island. This group grew to approximately 100 persons. Four canoes/kayaks were placed into the water and attempted to land on the north shore of the creek onto Turtle Hill but were prevented from landing by law enforcement. The group of protesters walked along the shoreline to the east and eventually returned to the camp and dispersed. By noon, all persons had left the area of the shoreline camp.

**11/11/16:** At approximately 10:00 am, protesters began assembling on Hwy 6 at AR 118. A group also was reported as being at the construction site at AR 119. Law enforcement responded and encountered a roadblock that protesters has established at Co Rd 135/Co Rd 81. Law enforcement ordered the protesters at the roadblock to disperse and cleared the roadway but the protesters refused to leave. Law enforcement subsequently arrested approximately 30 persons at this location. The protesters at AR 119 damaged DAPL equipment at this location, to include breaking windows, tearing wiring, spraying fire extinguishers into or onto engines. Law enforcement removed the protesters from AR 119 and arrested 3 at this location.

Law enforcement removed the protesters from Hwy 6 at AR 118 and the area was cleared at approximately 1:30 pm. Protesters slashed tires on 6 squad cars that were parked at this area. Highway 6 was closed during the protest event due to the protesters obstructing the roadway. A Veteran's Ceremony was held on the Backwater Bridge from approximately 11:00 am – 11:45 am. This event involved 300-400 persons who left the Seven Councils Camp. No problems were encountered with this event.

At approximately 1:20 pm, a group of approximately 25 protesters left Legion Park and marched to the Morton County LEC where they staged a protest. No problems were encountered and at approximately 2:30 pm, this group left the LEC and returned to the park and dispersed.

At approximately 2:45 pm, protesters began assembling at the intersection of Hwy 6/Hwy 21. This group grew to approximately 75 and they blocked the highway. Law enforcement responded and met resistance in clearing the protesters from the highway. 4 persons were arrested as officers dispersed the protesters. Highway 6 was closed from approximately 2:45 – 4:50 pm while this was occurring. A total of 37 protesters were arrested as a result of all the protest activities.

**11/12/16:** At approximately 9:00 am, a caravan of approximately 130 vehicles left the Seven Councils camp and proceeded to the area of the Precision Pipeline yard located west of Mandan where DAPL equipment is stored. Upon arrival at approximately 10:30 am, the protesters formed on Co Rd 82 in front of the yard as well as the entrances to the lot. There were an estimated 500 protesters present. Law enforcement responded into the yard. There was no confrontation between the protesters and law enforcement and the protesters dispersed from the area at approximately noon.

During the incident, it was reported that a person (possible protester) was struck by a vehicle trying to leave the area. Metro Ambulance responded and the person refused medical treatment. Unknown as to the nature or extent of the injury.

During the incident, there was a report of shots being fired into the air, possibly by a construction company employee who was surrounded by protesters. Law enforcement is investigating this report. Towards the end of the incident, there were a group of local residents in vehicles that were on Co Rd 82. This group was being approached by some protesters and some in the group armed themselves with rifles. Law enforcement officers positioned themselves between the groups to control the situation and reported the local residents were very irate.

No arrests resulted from this incident.

**11/13/16:** At 9:50 am, a small caravan of four vehicles left the camp, westbound on Hwy 24, one was stopped and the occupants were heading home to Wisconsin. A fishing boat reportedly entered the Cannonball at 10:28 am, and our units were unable to locate a boat. DAPL was to begin mobilizing their drilling equipment, moving it from Bismarck south to the drilling site today.

**11/14/16:** At 9:40 am, approximately 100 vehicles left the camp and traveled to the State Capital to protest; then approximately 150 protesters walked down 3<sup>rd</sup> Street to the federal building where LE stopped them short of Rosser Avenue. No arrests resulted.

A group of protesters accompanied by USCOE personnel was allowed to gather in the area of the pipeline easement.

**11/15/16:** At 9:20 am, vehicles began to leave the camps heading towards Bismarck/Mandan. The caravan stopped on Hwy10 west of Mandan by the Precision Pipeline facility. They parked along the Hwy. and then proceeded to block the BNSF tracks, first with a vehicle, and then with tree branches and other debris. LE formed a line and started to make arrests when the 300 protesters did not leave the area as instructed. Later in the day about 100 protesters marched from the area of UTTC, to the offices of the Corp of Engineers on S 12<sup>th</sup> Street in Bismarck.

There were 25 arrested at the protest scene in Mandan; none arrested at the Bismarck protest event.

**11/16/16:** Protesters caravanned into Bismarck/Mandan and protested at the Bank of ND then walked to the main gate area at Fraine Barracks. No arrests.

**11/17/16:** Protesters again came into Bismarck/Mandan, and protested in downtown Bismarck. There were eight arrests made at/or near the Federal Building in Bismarck.

The protesters then came to downtown Mandan to continue their actions. No arrests made in Mandan.

**11/18/16:** Little protester movement today. Leaving the camp in small groups, no activity in town detected.

**11/19/16:** About 40 protester vehicles came into Bismarck/Mandan, but were not very organized. About 20 stopped at the Capital, but nothing really developed there. Eventually, the vehicles dispersed from the cities.

Two males were arrested for trespassing on private property in the southern part of Morton County, but it did not appear to be DAPL related.

**11/20/16:** At approximately 6:00 pm, protesters pulled one of the burned out trucks from the barricade area on the north side of the Backwater Bridge using a semi-tractor. They failed to comply with law enforcement orders to leave the truck alone and to disperse. Law enforcement formed a line at the barricade. A group of protesters estimated at 400-500 person was eventually present on the bridge and in the immediate area. They were failing to comply with law enforcement orders and were reported as throwing rocks, logs, and other materials at law enforcement officers on the line.

Law enforcement utilized chemical agents, less-lethal munitions, and water sprayed from a fire truck to provide for protections and for crowd control and dispersing of the protesters.

The protesters started small fires in the area of the bridge to provide warming fires. At least one explosion was heard in the area occupied by the protesters, possibly from an improvised explosive device of some type.

Morton County TOC was informed the Standing Rock ambulance service was responding to the area of the Seven Councils Camp to provide medical services to protesters. As of approximately 1:30 am, 1 male subject was arrested on an initial charge of Disorderly Conduct.

A group of approximately 50-75 protesters remained on the bridge throughout the night.

**11/21/16:** At 8:00 am, it was reported that approximately 75 protesters were on the Backwater Bridge. Throughout the morning, they worked on building a barricade wall on the bridge consisting of wood and other materials supplemented by some sandbags.

At approximately 9:30 am, a caravan of approximately 40 vehicles left the Seven Councils camp and traveled to Bismarck/Mandan. Protesters assembled in downtown Bismarck where they were at several locations to include the downtown Wells Fargo Bank.

One protester was arrested for disorderly conduct as a result of the protest activities in Bismarck.

Protesters gathered at the Mandan LEC at approximately 12:50 pm. A group was seated on the sidewalk directly in front of the main doors. Law enforcement gave them direction to move and they initially complied and left. The group apparently walked around the block and returned to the front of the LEC where a group returned to the area they were directed to leave and sat and refused to comply with orders to leave. They were subsequently arrested – a total of 16 were arrested and charged with disorderly conduct and criminal trespass.

**11/22/16:** There was no significant protest activity.

Law enforcement conducted follow-up investigation on the Backwater Bridge related to the events which occurred at the incident on 11/20/16.

Additional jersey barriers were placed at the barricade on the north end of the bridge and additional fortifications to the barricade were completed. A crane was used to remove the remaining burned truck from the barricade area.

**11/23/16:** At approximately 9:15 am, a caravan of approximately 100 vehicles left the Seven Councils camp and traveled to the location of Hwy 1806/County Rd 138A where they encountered a law enforcement roadblock which prevented the caravan from traveling south on Hwy 1806. The protesters conducted a demonstration on Hwy 1806 at that location for approximately 1 hour and then the caravan departed and traveled to Bismarck/Mandan.

In Bismarck/Mandan a small group of protesters conducted a demonstration in the area of the Morton LEC/Wells Fargo Bank for approximately ½ hour and then left and no significant problems occurred and there were no arrests with this group.

The majority of the caravan traveled to downtown Bismarck where they conducted protest demonstrations in a variety of locations for approximately 2 hours. No significant problems occurred with this group and there were no arrests.

There was some smaller groups of protesters on the Backwater Bridge throughout the day but no problems were encountered on the bridge.

**11/24/16:** Between 8:30 am and 9:30 am, two caravans of approximately 200 vehicles left the Seven Councils camp and traveled to Mandan where protesters conducted a protest in the middle of Main Ave between the intersections of Mandan Ave & 13<sup>th</sup> Ave NE. The protest began at approximately 9:40 am. Law enforcement reported that some of the protesters were wearing holsters, carrying slingshots, and

SB 2315  
1-25-19  
#31  
p. 40.

wearing gasmasks. Law enforcement also reported that there were some younger children in the protest group.

Law enforcement made announcements to the group beginning at approximately 10:50 am they need to disperse and leave the area. At approximately 11:20 am the protesters began to disperse from Main Ave and eventually cleared the area and did not conduct any further protest events in Mandan or Bismarck.

During this protest event, 2 subjects were arrested.

At approximately 8:00 am, law enforcement reported that the protesters had constructed wooden bridge structure that was laying on the shoreline across from Turtle Hill and that construction was continuing on the bridge. It appeared as if the bridge was going to be used by the protesters in an attempt to cross over to the shore of Turtle Hill. As the construction was occurring, protesters were yelling to officers on Turtle Hill that the protesters are coming today and "to remember 73" (an apparent reference to the events which occurred at Wounded Knee in 1973). By 11:30 am, the protester group by Turtle Hill had grown to 350-400 people. At about noon, protesters began to cross over to Turtle Hill using the wooden bridge which was pushed into the water in addition to various watercraft. Law enforcement formed a line to prevent the protesters from climbing to the top of Turtle Hill and utilized water to wet down the hill to hinder the ability to climb the hill. Some protesters climbed partway up the hill but there were no significant confrontations between the protesters and law enforcement. At approximately 2:15 pm, the protesters began to cross back across the water and disperse. By approximately 4:45 pm, all protesters were gone from Turtle Hill and crossed back across the water.

Throughout the day, there were various groups of protesters on the Backwater Bridge, but there were no significant problems on the bridge.

**11/26/16:** At approximately 8:30 am, law enforcement used boats to seize and remove the wooden bridge and various watercraft from the shoreline by Turtle Hill. Security fencing was also installed on the shoreline at the base of Turtle Hill.

At approximately 10:00 am, small groups of vehicles were seen leaving the Seven Council camp and eventually a significant number of protester vehicles were observed traveling into Bismarck/Mandan. At approximately 12:15 pm, law enforcement determined that protester vehicles were beginning to assemble at Kirkwood Mall and at approximately 12:45 pm, protest activity began to occur within Kirkwood Mall. Protesters were violating rules established by mall management and would not leave when asked. Law enforcement arrested 33 protesters and the remainder did disperse and leave the mall. A group of protesters assembled along Bismarck Expressway by the mall but did not disrupt traffic. By approximately 2:30, all protesters had left the area of Kirkwood Mall. No other protest activities occurred in Bismarck/Mandan.

A group of approximately 30 protesters assembled in the area of Turtle Island in the afternoon and one subject was using a rope and homemade type grapple hook to try and grab the security wire at the base of Turtle Hill by throwing it across the creek separating Turtle Island and Turtle Hill. No significant events occurred at Turtle Hill.

Col. Henderson, USCOE District Commander provided a letter to Chairman Archambault primarily advising that effective December 5, 2016 the Corps managed federal property north of the Cannonball River is closed to all public use and access.

**11/26/16:** No significant protest events occurred.

**11/27/16:** Just before 0800hrs, the TOC phone number was compromised resulting in an inundation of harassing phone calls. The phone number was shut down and a new number assigned.

At approximately 1100hrs, a group of approximately 100 protestors, mostly women and children, went to the Backwater Bridge. No issues reported.

At approximately 1500hrs, a semi-tractor and approximately 60 people approached Backwater Bridge. It is believed that they will attempt to pull the jersey barriers from the bridge.

At approximately 1615hrs 400+ people went to the Backwater Bridge. No incidents reported.

During early evening, the weather seemed to curtail activities.

**11/28/16:** Significant snow accumulations occurred during the previous night.

Governor Dalrymple issued an executive order for a mandatory evacuation of the US Corps of Engineer land on which the Seven Councils Camp is located due to winter weather conditions and the lack of proper shelter, dwellings, and means of sanitation in the camp. (The Governor's office later clarified that occupants of the camp would not be forcibly evacuated, nor would any enforcement action be taken against those providing supplies or support to the camp.)

**11/29/16:** For the majority of the day, there was very little activity with the exception of snow removal duties at and near the forward staging area (1) individual was arrested when he swam across the river channel at Turtle Island and attempted to retrieve some canoes. The subject was arrested for criminal trespass and resisting an officer.

**11/30/16:** During the night, protestors took down a section of C wire. The area was repaired later in the day. Between 1430 and 1500 as many as 30 people approached Backwater Bridge. They eventually left without incident.

**12/01/16:** Very slow day. Only activity reported were approximately a dozen people in two canoes traveling on a portion of the river. No incidents reported.

**12/02/16:** At approximately 1050hrs, there was a report of three people on horseback riding cross country. Approximately 45 minutes later they rode back to camp.

At approximately 1315, a group of about 30 protesters came to the Morton County LEC. They departed approximately one hour later without incident.

The ND Adjutant General and representatives from law enforcement met with representatives from the protest camp at Backwater Bridge. There were no incidents reported.

**12/03/16:** Very little activity today. A media conference was held regarding the plan to pull back the law enforcement line from the bridge. A small group from the protest camp remained south of the bridge but there were no incidents.

SB 2315  
1-25-19  
#31  
P.42

**12/04/16:** There were a large number of vehicles entering the Seven Councils camp throughout the day.

There was no significant protest activity.

The US Army Corps of Engineers announced that it will not grant an easement for DAPL to cross Lake Oahe.

**12/05/16:** At approximately 8:00 am, subjects from the protest camp walked onto the Backwater Bridge. By 8:30 there were approximately 12 individuals on the bridge. One of these subjects crossed over to the north side of the barricade that is on the north side of the bridge. After a few minutes, the subject crossed back over to the south side of the barricade. The subjects were taking photos and video of the barricade and surrounding area as if doing a survey of the security measures in place.

Law enforcement officers came up to the barricade and told these subjects they needed to leave the bridge as they were trespassing and were in violation of the agreement concerning the bridge. The subjects left after being told by the officers but expressed disagreement to the officers.

At the same time as the individuals were on the bridge, a protester had crossed over to the private property on the north side of Cantapeta Creek west of Hwy 1806. This subject was located by law enforcement and arrested for trespass at approximately 8:20 am.

At approximately noon, a group that appeared to be approximately 100 persons walked down Hwy 1806 from the camp and stopped just south of the Backwater Bridge. The group turned and walked back south on Hwy 1806 and formed up with additional persons who were coming from the protest camp. At approximately 1:30, the group walked back north on Hwy 1806 to a position south of the Backwater Bridge where they stood in a group. The group was very large at this time and was estimated to be 500 – 1000 people. At approximately 2:15 pm, the group began to disperse back to the camp.

Throughout the day, there was a snowstorm caused by falling snow and high winds. Blizzard warnings were in effect for the coming night.

**12/06/16:** A blizzard which began in the night continued throughout the day.

Second hand information was received that security at the Seven Councils camp was attempting an evacuation effort due to conditions at the camp. However, Emergency management and law enforcement officials had received no phone calls or other requests for assistance from the camp or Standing Rock Tribal officials. Contact was made with the Standing Rock Tribal Emergency Manager and Sioux County Emergency Manager who could provide no additional information on conditions at the camp. The Standing Rock Tribal Emergency Manager advised that emergency shelters had been established at the Casino pavilion and at the schools in Ft. Yates.

ND Dept of Transportation snow plows were assigned to attempt to clear Hwy 1806 to the camp. A snowplow did reach the camp at approximately 1:00 pm, having plowed Hwy 1806 from the south. A BIA law enforcement officer had followed the plow and checked on conditions at the camp. BIA reported that while people were leaving the camp in their own vehicles once the road was opened, no emergency existed in the camp.

The Dept of Transportation was going to continue to plow in the area until approximately 7:00 pm if conditions allowed.



SB 2315  
1-25-19  
# 31  
P. 43

**12/07/16:** Winter storm conditions continued primarily due to high wind speeds. In the morning, ND Dept of Transportation snowplows did plow Hwy 1806 to the protest camp as well as other roads in the surrounding area.

At approximately 1:30 pm, a group of about 15 protesters did a demonstration outside the Federal building in Bismarck (3<sup>rd</sup> & Rosser) for about 10 minutes and then left without incident.

At approximately 4:35 pm, a group of approximately 12 protesters went onto the Backwater Bridge and approached the barricade. One of the group began cutting the security wire at the barricades and began to remove portions of the wire. Law enforcement approached the barricade and ordered the protesters to leave the bridge. The protesters verbally contested law enforcement but eventually dispersed from the bridge about 4:55 pm. There was minimal damage to the security wire, but it will require repair.

**12/08/16:** At approximately 2:00 pm, 4 persons from the protest camp walked onto the Backwater Bridge. The individuals walked to the barricade on the north end of the bridge and appeared to be examining the security measures at the barricade. After about 15 minutes, 3 of these subjects walked to the east of Hwy 1806 along the barricade to a point where they climbed over to the north side of the barricade. They then walked back to Hwy 1806 where they stood directly on the north side of the barricade. The 4<sup>th</sup> subject stayed on the south side of the barricade and was taking photos/videos of the other 3 crossing the barricade.

Law enforcement officers responded to the barricade and arrested the 3 who crossed the barricade for criminal trespass.

Local media was reporting that Chairman Archambault said the Standing Rock Tribe was working to assist protesters to leave the Seven Councils Camp. It was also reported that a number of the leading organizations in the protest movement were asking people not to come to the camp but to stay home and support the protest by taking action in their own communities.

No other significant events occurred during the day.

**12/09/16:** At approximately 4:55 pm, a white passenger vehicle driving at a high rate of speed came from the south on Hwy 1806 and crashed into the jersey barriers forming a barricade on the north end of the Backwater Bridge. Other individuals from the protest camp came to the bridge shortly after the crash occurred and provided assistance to the driver. Law enforcement officers responded to the barricade and were informed by some of the individuals that this was a deliberate act but this has not been confirmed. The officers were also told that the driver was going to be taken to a hospital but the nature and extent of injuries is unknown. The incident remains under investigation.

**12/10/16:** The white passenger car that crashed into the barricade remains at the barricade. No significant events occurred.

**12/11/16:** No significant events occurred.

**12/12/16:** At approximately 9:00 am a single individual from the protest camp walked onto the Backwater Bridge. The individual walked along the barricade to the west and then climbed over the barricade trespassing onto the property on the north side of the barricade. Law enforcement responded and took the individual into custody for criminal trespass.

SB 2315  
1-25-19  
# 31  
p.44

Governor Dalrymple and other State officials met with Chairman Archambault and other Standing Rock tribal officials. The meeting was to discuss future relationships between the State and Standing Rock and one specific topic of discussion was a process to open the Backwater Bridge.

No other significant events occurred. The weather has remained extremely cold since December 6<sup>th</sup> with high temperatures generally in the single digits with wind chill factors in the double digits below zero.

**12/13/16:** No significant events occurred.

**12/14/16:** No significant events occurred. The weather remained very cold with high temperatures around zero with wind chills in the double digits below zero.

**12/15/16:** At approximately 4:00 pm, a group of 30-40 from the protest camp assembled on Hwy 1806 just south of the backwater bridge and appeared to be performing a ceremony. After approximately 15 minutes the group dispersed and went back to camp.

No other significant events occurred. The weather continued cold with below normal temperatures.

**12/16/16:** No significant events occurred. The weather continued cold with below normal temperatures.

**12/17/16:** No significant events occurred. The weather remained very cold.

**12/18/16:** During the afternoon, a group estimated at approximately 50 people went to the Backwater Bridge and did a ceremony/demonstration of some type. Some of the individuals approached the barricade on the north end of the bridge and tied ribbons to the security wire. They also left 2 large flags at the south jersey barriers at the bridge.

The weather began a warming trend with high temperatures in the mid-teens during the day.

**12/19/16:** At approximately 3:50 am, a protester trespassed onto Turtle Hill and was taken into custody by law enforcement. The subject arrested is a Jake Atkinson who has pending charges for engaging in a riot and disorderly conduct.

Trials for 10 of the protesters charged in an incident which occurred on August 11<sup>th</sup> were scheduled at the Morton County Courthouse. During preliminary court actions, the judge postponed the trials until January 31<sup>st</sup> and December 1<sup>st</sup> due to discovery issues. During the morning, protesters staged a demonstration in front of the Courthouse from approximately 9:00 am until noon. Throughout the morning, approximately 30-40 protesters were present in front of the courthouse. No problems were encountered.

Temperatures continued a warming trend with a high of approximately 30 above.

**12/20/16:** There was no significant protester activity.

The first trial of protesters charged for criminal activity related to the DAPL protests was held in Morton County and resulted in convictions. Benjamin Schapiro, 30, of Ohio, and Steven Voliva, 62, of Washington were arrested Sept. 27 and accused of blocking a highway to allow a caravan of protesters to proceed. A jury convicted the men of obstructing a highway and disorderly conduct.

**12/21/16:** No significant events occurred.

SB 2315  
1-25-19  
#31  
p. 45

**12/22/16:** The ND Dept. of Transportation obtained core samples from the Backwater Bridge in the morning in order to make a determination as to the extent of the repairs needed to the bridge. Results of the testing of the samples could take up to 30 days. The burnt and damaged vehicles were also removed from the area of the bridge during the operation which was completed at approximately noon. There was no protester activity during the operation on the bridge and no other significant events occurred during the day.

**12/23/16:** No significant events occurred.

**12/24/16:** No significant events occurred.

**12/25/16:** A severe blizzard occurred with snowfall amounts of approximately 12 inches in the Bismarck/Mandan area accompanied by winds 30-40 mph with higher gusts.

**12/26/16:** Blizzard conditions continued until late afternoon. Snow plowing efforts were underway but due to the snowfall amounts and drifting, progress was extremely slow.

**12/27/16:** Approximately 30-40 protesters went onto the Backwater Bridge. Some in this group did some minor damage to the light plants at the bridge by breaking the keys in the switches. Five protestors climbed to the top of Turtle Hill and were arrested for trespass. As a result of these arrests, approximately 30 protesters responded to the area but no additional arrests occurred. Protesters stole the large "No Trespassing" sign from the barricade area on the Backwater Bridge.

**12/28/16:** Approximately 20 protestors were at the Morton County courthouse standing in the hallway outside of the courtroom for most of the afternoon. No significant problems were encountered with this group.

**12/29/16:** At approximately 3:20 pm, protesters cut the light tower support cable, causing the tower to fall, and the surveillance camera was stolen from the tower pole. There were small groups on the bridge most of the afternoon, and also near Turtle Hill. These groups tampered with and cut some of the security wire at the bridge and on Turtle Hill.

**12/30/16:** One female arrested for trespass after crossing the fence onto private property near the intersection of County Rd 135/County Rd 80 where law enforcement were present. There were approximately 15 in the group she was with.

**12/31/16:** At approximately 10:00 pm, protesters lit a fire on Turtle Island and a second fire was lit later. The number of protesters at the Island continued to grow and approximately 11:00 pm, protesters began to climb Turtle Hill. At approximately 11:05 pm, the first protester arrived at the top of the hill and by 11:30 there were approximately 30 on top of the hill and approximately 50 at the base of the hill. At midnight, there were approximately 75 protesters at the top of the hill and approximately 100 in the area of the base of the hill and island. Law enforcement reported that many protesters were seen with knives and slingshots. Protesters were also shooting fireworks in the direction of law enforcement officers.

Another group of approximately 15 protesters was present on the Backwater Bridge.

**1/1/17:** The incident which began at approximately midnight on the 31<sup>st</sup> continued. A group of approximately 6 protesters cut and removed a section of the security wire at the top of Turtle Hill and shut off one of the lighting units at the top of the hill. The protesters fled as law enforcement arrived on scene.

Protesters also damaged some of the security wire on the Backwater Bridge barricade.

Protesters were shining a green laser at the NDHP plane flying over the area.

At approximately 3:15 am the protesters had dispersed and no further significant protest activity occurred.

No arrests were made.

**1/2/17:** No significant protest activity occurred. A snowstorm began late in the day on January 1 and continued throughout January 2<sup>nd</sup>. A total of approximately 8 inches of snow accumulated in the Bismarck/Mandan area with total snowfall for the winter now at approximately 50 inches.

Temperatures fell with highs to be around zero for most of the coming week with wind chills to be as low as 40 below zero during the nights.

**1/3/17:** At approximately 2:45 pm, a group of 8 protesters went onto the Backwater Bridge and tampered with the security wire at the barricade on the north end of the bridge. After about 15 minutes, the protesters left the bridge and returned to the camp. No significant damage was done to the security wire.

No other significant activity occurred.

**1/4/17:** Approximately 30 protesters staged a demonstration outside the Federal Courthouse in Bismarck from approximately 1:30 – 2:30 pm. The demonstration was related to a grand jury session concerning Sophia Wilansky who suffered an arm injury during the protest on the Backwater Bridge which began the night of November 20th, 2016. No problems were encountered during the demonstration.

No other significant activity occurred.

**1/5/17:** Standing Rock Tribal officials had a meeting with representatives of the protest camps to discuss concerns with flooding of the area where the camps are located and the need to begin to clean up and relocate the camps.

No significant protest activity occurred.

**1/6/17:** At approximately 2:45 am, approximately 50 protesters were at the Backwater Bridge removing the security wire from the barricade on the north end of the bridge. Law enforcement responded and the protesters disregarded orders to leave the bridge. The officers eventually withdrew a short distance and observed the protesters. The protesters continued to remove the security wire at the barricade and a few went to the north side of the barricade. Approximately 10 of the protesters were equipped with protective hand-held shields. The protesters remained standing in the area of the barricade and were yelling at the officers. After approximately one hour, all protesters had dispersed from the bridge. No arrests were made.

During this incident, the NDHP plane was targeted by laser and spotlight from the protest camp.

The security wire damaged in the incident early in the morning was repaired by approximately 11:00 am.

Throughout the afternoon, several protesters came onto the bridge and were examining the repaired security measures at the barricade.

SB 2315  
1-25-19  
#31  
p.47

At approximately 3:15 pm, 2 protesters were arrested for trespassing at Turtle Hill.

At approximately 11:50 pm, a group of 15 protesters was on the bridge tampering with the security wire at the barricade. The group left after about 15 minutes and only did minimal damage to the wire.

**1/7/17:** The Fischer buffalo auction was held in Selfridge and no problems were encountered. No significant protest activity occurred.

**1/8/17:** No significant activity occurred.

**1/9/17:** At approximately 1:30 pm, 2 protesters were arrested for trespassing at Turtle Hill. In the afternoon, several protesters went onto the Backwater Bridge and examined the security measures at the barricade to include taking photos of the barricade.

**1/10/17:** No significant activity occurred.

**1/11/17:** Two large garbage dumpster "roll-offs" were delivered to the Oceti camp supposedly to be used to assist in the cleanup effort. No significant activity protest activity occurred.

**1/12/17:** A recording of a press release made by the headsmen of the Oceti Sakowin camp was posted to social media. In this release, they announced the sacred fire in the Oceti camp was going to be allowed to burn down today and the ashes would be carried in the four directions to support and strengthen the protesters. They also announced cleanup of the camp would begin today.

The results of the core sampling of the Backwater Bridge were announced and there is no structural damage to the bridge, however, repairs to the surface and guardrail need to be completed before the bridge may be re-opened. The repairs will not be attempted until security of the bridge may be assured.

There was no significant protest activity.

**1/13/17:** No significant protest activity occurred.

**1/14/17:** No significant protest activity occurred.

**1/15/17:** No significant protest activity occurred.

**1/16/17:** At approximately 4:00 pm, protester activity began. Initially, limited numbers of protesters were in the area directly east of the HDD site as well as at Turtle Hill. At approximately 5:00 pm, there were approximately 200 protesters in the general areas of the HDD site and Turtle Hill. Approximately 75 were by the HDD site, 40 by Turtle Hill, and the remainder were scattered in the general area.

Protesters cut and removed the security wire in the area east of the HDD site.

Law enforcement arrested 3 protesters in the area east of the HDD site during this activity.

At approximately 6:00 pm, the protesters began gathering on the Backwater Bridge and were relocating from the other protest areas to the bridge. The number of protesters at the bridge continued to grow.

At approximately 7:50 pm, protesters began removing the security wire and other barricade materials at

the north end of the bridge. A protester also crossed over the barricade and disabled the security lights at the bridge.

Some protesters were equipped with shields and gas masks.

At approximately 9:55 pm, law enforcement officers crossed the barricade and pushed the protesters back to the south end of the bridge. As law enforcement returned back to the north side of the barricade, the protesters again advanced back to the barricade on the north end of the bridge and continued to remove the security measures at the barricade.

A standoff continued at the barricade between law enforcement and the protesters with occasional protesters arrested by law enforcement as the protesters either crossed the barricade or law enforcement crossed over to the south side of the barricade and made arrests. A total of 11 protesters were arrested during the protest activity at the bridge.

By approximately 1:00 am, the protesters had mainly dispersed from the bridge with only a few remaining at the bridge at that time. No further significant protest activity was occurring at that time. Law enforcement did utilize chemical agents and less lethal munitions at times during the protest activity.

Protesters were reported as throwing items at law enforcement on occasion and also targeted the NDHP airplane with spotlights and lasers.

**1/17/17:** At approximately noon, protesters began assembling on the Backwater Bridge. By 2:00 pm, there were approximately 30 at the barricade on the north end of the bridge. At approximately 3:45 pm, law enforcement officers crossed the barricade to the south side in order to move the protesters back so the security measures at the barricade that were removed by the protesters the previous night could be reinstalled. As the officers crossed the barricade they arrested 2 protesters and the remaining protesters moved back to the south side of the bridge and the officers maintained a position in the middle of the bridge until the barricade repairs were completed at approximately 6:30 pm. The officers crossed back to the north side of the barricade and the protesters eventually moved back up to the barricade. At approximately 7:00 pm the majority of the protesters had dispersed from the bridge with only a few remaining.

Throughout the evening, the number of protesters on the bridge began to increase and by approximately 10:30 pm there was an estimated 75 on the bridge and they were removing the security wire from the barricades on the north end of the bridge.

Law enforcement responded and additional officers began arriving at the bridge. The protesters did not make any significant attempts to cross the bridge and there was basically a standoff between the protesters and law enforcement until the protesters dispersed from the bridge at approximately 3:00 am. No arrests were made of protesters during this activity during the night/early morning.

Protesters were reported as targeting the NDHP airplane with lasers and also supposedly targeted a commercial airplane with a laser during the evening.

**01/18/17:** At approximately 7:00 pm, protesters began assembling on the Backwater Bridge. Some of the protesters were equipped with shields and gas masks and they started a fire on the south end of the bridge. The protesters also erected teepee poles on the bridge.

At approximately 7:30 pm, law enforcement officers entered the bridge and moved the protesters back and while on the bridge dismantled and removed the teepee poles.

At approximately 8:00 pm, the protesters again began assembling on the bridge. The number of protesters continually increased over the next two hours and the protesters were throwing a variety of objects at the law enforcement officers present at the barricade on the north end of the bridge. The objects included burning emergency flares, ice chunks, and frozen water bottles.

SB 2315  
1-25-19  
#31  
p. 49

At 10:20 pm, the number of protesters on the bridge was estimated at approximately 175. The situation continued past midnight.

**01/19/27:** At approximately 12:15 am, law enforcement officers began advancing towards the bridge to remove the protesters. During this operation to clear the protesters from the bridge, 19 protesters were arrested. Law enforcement officers returned to the north side of the barricade at approximately 1:00 am.

At approximately 1:30 am, officers again moved onto the bridge to clear protesters from the bridge and 2 protesters were arrested.

During the incident, protesters had started fires on the bridge using tires and gasoline.

Law enforcement used chemical agents and less lethal munitions during the incident.

At least one protestor, a total of six National Guard and police officers sustained injuries.

**01/20/17:** No significant protest activity occurred.

**01/21/17:** No significant protest activity occurred.

**01/22/17:** No significant protest activity occurred.

**01/23/17:** At approximately 7:50 pm, a lone male individual walked from the south onto the Backwater Bridge and crossed over to the north side of the barricade. The subject was contacted by law enforcement and subsequently arrested for criminal trespass.

**01/24/17:** President Trump issued an executive order to advance approval of the Dakota Access Pipeline in addition to the Keystone Pipeline. The order did not provide any specifics that would allow for DAPL to begin crossing Lake Oahe.

At approximately 9:15 pm, law enforcement officers observed a vehicle drive from the Oceti protest camp and park at Turtle Island. The 3 occupants who proceeded to fly a drone which subsequently crashed on the south side of the Cannonball River. Law enforcement officers approached the occupants to arrest them for trespass. The occupants ran back to the vehicle and began to leave. Officers in UHV's attempted to stop the vehicle and the vehicle backed into the UHV to its rear, forcing the UHV to take evasive action. The UHV sustained some damage. The vehicle fled nearly striking other UHV's and headed back towards the Oceti Sakowin camp on a plowed road. Officers were able to get the vehicle stopped and the 3 occupants (2 males and one female) were arrested and charged with multiple offenses.

**01/25/17:** No significant protest activity occurred.

**01/26/17:** No significant protest activity occurred.

**01/27/17:** No significant protest activity occurred.

**01/28/17:** No significant protest activity occurred.

**01/29/17:** No significant protest activity occurred.

**01/30/17:** No significant protest activity occurred.

**1/31/17:** At approximately 11:30 am, 30-40 protesters were at the Bank of North Dakota in Bismarck doing a demonstration. The protest was apparently related to the State funding from the Bank of North Dakota that is going to the North Dakota Department of Emergency Services to pay costs related to the protest. At approximately 12:30 pm, the protesters left the area of the bank. Law enforcement monitored the protesters and there were no significant problems and no arrests were made.

At approximately 12:45 pm, approximately 15-25 protesters staged a demonstration outside the Federal Courthouse in downtown Bismarck. The protest was related to a court hearing being held in the courthouse for a protester. After approximately 1 hour, the protesters left the area. Law enforcement monitored the protesters and there were no significant problems and no arrests were made.

Late in the afternoon, Senator Hoeven's office released a statement reporting that Acting Secretary of the Army Robert Speer has directed the Corps to proceed with an easement for completion of the DAPL pipeline.

**2/1/17:** At approximately 7:30 am, protesters were beginning to illegally establish a new camp on the west side of Hwy 1806 directly west of the current Oceti Sakowin camp. This is private property owned by DAPL/Energy Transfer Partners. A pay loader and other equipment was being used to clear snow and tepee poles and other items are being hauled to this area. Throughout the morning, additional clearing of snow in this area was completed and at least 4 tepees were being constructed. It was estimated there were 40 – 50 protesters in this camp area throughout the morning.

Beginning at approximately 12:20 pm, the barricades at the Backwater Bridge were moved to allow law enforcement vehicles to travel south on the bridge in order to access and take action to clear the protesters from the private property west of Hwy 1806. While the barricades were being moved, the protesters were placing vehicles and other obstacles on the highway to restrict access to the new camp west of Hwy 1806.

At approximately 1:45 pm, a group of 8 protesters walked onto the Backwater Bridge and were met by law enforcement representatives. Law enforcement informed the protesters that their new camp was on private property and they were trespassing and they needed to leave and remove the tepees and other items from the property. After several minutes the discussion ended and the protesters returned to the camp area. It was estimated there were approximately 60 protesters at the west camp at this time. Upon return to the camp, there was activity to continue to erect tepees instead of beginning to take them down as directed by law enforcement.

Law enforcement continued to make preparations to approach the camp and at approximately 2:15 pm, a group of approximately 12 protesters walked to the Backwater Bridge and approached law enforcement. Law enforcement informed the protesters that as they had not made any effort to leave the private property as directed, anyone there is considered to be trespassing and they would be subject to arrest. The protesters said that there were people who would not leave the camp and would have to be arrested. The protesters returned to the area of the camp. It was estimated there were approximately 80 protesters at the camp area at the time and an additional 30 on Hwy 1806 by the entrance to the west camp.

Law enforcement began moving south on Hwy 1806 from the Backwater Bridge at approximately 2:40 pm. Law enforcement encountered a large group of protesters on Hwy 1806 south of the Backwater Bridge that slowly retreated as law enforcement advanced. The protesters on the highway were also coming from the Oceti Sakowin camp on the east side of Hwy 1806. The protesters were told to return to the Oceti camp and law enforcement was not taking action against that camp.



SB 2315  
1-25-19  
#31  
P.51

Protesters started fires in 2 vehicles parked along the access road into the west camp apparently to attempt to hinder law enforcement access to the camp.

At approximately 3:00 pm, law enforcement reached the access road to the west camp and a pay loader was brought forward to clear wood debris piled on Hwy 1806 so that law enforcement vehicles could enter the access road to the west camp. Law enforcement then proceeded to the area of the camp and by approximately 4:00 pm the camp was cleared. All those who had refused to leave were arrested and taken into custody.

Representatives from the Standing Rock Sioux Tribe were allowed to remove tepee materials from the property.

By approximately 6:00 pm, law enforcement had returned back to the north side of the Backwater Bridge and the barricades were replaced on the bridge.

As of this time, the number of persons arrested is reported as 76. Formal charges are still being completed.

**2/2/17:** No significant protest activity occurred.

**2/3/17:** No significant protest activity occurred.

The US Army Corps of Engineers issued formal notice to protesters that they would be closing the land illegally occupied by the Oceti Sakowin camp as of February 22, 2017.

**2/4/17:** No significant protest activity occurred.

**2/5/17:** No significant protest activity occurred.

**2/6/17:** The ND Dept of Transportation removed the barricade from the north end of the Backwater Bridge and also cleaned the bridge deck of snow/ice in preparation for repairs to the bridge to begin. A barricade remains in place on the south side of the bridge.

No significant protest activity occurred.

**2/7/17:** The US Army Corps of Engineers notified Congress that the easement allowing DAPL to drill under Lake Oahe would be granted. USACOE also advised the normal 14 day waiting period between notifying Congress and issuing the easement would be waived. The easement will be issued any time after 24 hours from the notification to Congress.

No significant protest activity occurred.

**2/8/17:** The US Army Corps of Engineers granted an easement to Dakota Access, LLC to drill under Lake Oahe.

Energy Transfer Partners released information stating they would begin drilling immediately.

No significant protest activity occurred.

**2/9/17:** No significant protest activity occurred.

**2/10/17:** No significant protest activity occurred.

**2/11/17:** No significant protest activity occurred.

**2/12/17:** No significant protest activity occurred.

**2/13/17:** The Cheyenne River Sioux Tribe's request for a temporary restraining order to stop the drilling was denied by Judge Boesberg after a hearing in Federal District Court in Washington, D.C.

No significant protest activity occurred.

**2/14/17:** A warm weather pattern continues with daytime temperatures above freezing. Forecasted high temperatures for the next few days are to be near record highs. While cleanup efforts continue in the camps, officials worry there's not enough progress being made to remove the waste before the area is inundated with water. Camp conditions are quickly deteriorating due to rapid spring melt and runoff. These wet conditions when combined with human waste and trash are creating a potential public health and environmental disaster.

No significant protest activity occurred.

**2/15/17:** A traffic control point was established on Hwy 1806 between the Backwater Bridge and the north entrance to the Oceti Sakowin camp. The existing barricade on the Backwater Bridge was removed. The new traffic control point was established in accordance with the plan to do a phased re-opening of the Backwater Bridge but at this time the bridge remains closed to traffic. While the movement of the jersey barriers was underway to the new traffic control point, protesters approached law enforcement on Hwy 1806 but no significant problems were encountered.

Governor Burgum issued Executive Order 2017-1 which orders a mandatory evacuation of the areas of Morton and Sioux County adjacent to the Cannonball River which are under the proprietary jurisdiction of the US Army Corps of Engineers. In summary, the evacuation is ordered due to flooding concerns and accompanying significant health and safety risk and danger to human life as well as a significant and increasing environmental threat to the waters of the Missouri River. All persons occupying or residing in the area are ordered to leave the area no later than 2 pm on February 22, 2017.

At approximately 11:40 pm, 2 snowmobiles left the protest camp and entered onto US Corps of Engineers property in the area of Turtle Hill. Three law enforcement officers on snowmobiles responded and approached these snowmobiles and the unknown subjects operating the snowmobiles engaged in reckless driving by approaching the officers at high speed and driving very close to the officers as if to crash into the officers or cause the officers to wreck by taking evasive action. These snowmobiles then returned to the Oceti Sakowin camp at a high rate of speed and officers did not pursue.

**2/16/17:** At 11:00 am, Federal and State officials met with members from the protest camps at the Cannonball Bridge concerning the evacuation order and need for cleanup of the camp.

Emergency vehicles are now allowed through the traffic control point south of the Backwater Bridge and have access to travel on Hwy 1806.

No significant protest activity occurred.

**2/17/17:** Additional large equipment and trucks under direction of Incident Command began assisting with cleanup of the Oceti Sakowin camp.

No significant protest activity occurred.

**2/18/17:** Equipment under the direction of Incident Command continued to assist with cleanup of the Oceti Sakowin camp.

No significant protest activity occurred.

**2/19/17:** Equipment under the direction of Incident Command continued to assist with cleanup of the Oceti Sakowin camp.

At approximately 5:30 pm, a group of approximately 75 – 100 protesters gathered in the middle of Hwy 1806 in front of the north entrance to the Oceti Sakowin camp and also erected a tepee in the roadway. They were directed to clear the roadway but refused to comply with commands. As a result of their blocking of the roadway, an ambulance coming from the south was unable to proceed and had to turn around and take an alternative route. After approximately one hour, the protesters were given a final notice to clear the roadway and leave or face arrest. At that point, they did disperse from the area. No arrests were made.

**2/20/17:** Equipment under the direction of Incident Command continued to assist with cleanup of the Oceti Sakowin camp.

No significant protest activity occurred.

**2/21/17:** Equipment under the direction of Incident Command continued to assist with cleanup of the Oceti Sakowin camp. As on previous days, protesters at the gate delayed the equipment from entering and searched all equipment as it entered causing it to take approximately 90 minutes for all equipment to enter. Due to extremely muddy conditions, there was very limited progress in doing the cleanup.

At approximately 3:00 pm, representatives from the ND Governor's office and the US Corps of Engineers met with people from the camp and discussed the requirement that the camp be vacated by 2:00 pm on February 22, 2017.

While cleanup activities are occurring in the camp, there is obvious movement of some structures and materials to higher ground in the Oceti camp to include construction of new wooden buildings. A fence was also being constructed around a portion of the structures in the camp.

A thunderstorm moved through the camp in the early evening hours.

No significant protest activity occurred.

**2/22/17:** All persons are to be vacated from the Oceti Sakowin camp and other adjacent US Army Corps of Engineer property by 2:00 pm today.

At approximately 7:50 am, 3 large fires were reported as burning in the camp. Throughout the morning and early afternoon, there were continual fires accompanied by some explosions in the camp as structures and debris were being burned. It is estimated there were approximately 20 fires.

At approximately 8:50 am, contractors reporting to the camp to assist with cleanup were denied entry by camp officials at the gate to the Oceti camp.

At approximately 9:15 am, BIA established a traffic control point on Hwy 1806 south of the Oceti camp to prohibit anyone from entering the area of the camp from the south on Hwy 1806. Access from the north continued to be controlled by the checkpoint just south of the backwater bridge.

At approximately 12:45 pm, a procession estimated to be approximately 100 people left the Oceti camp walking south on Hwy 1806. This group continued to walk south and were allowed to leave the area.

At approximately 12:54 pm, a report was received of 2 individuals that received burns as a result of a fire/explosion in the camp and were being brought from the camp to be picked up by ambulance. They were subsequently transported to a Bismarck hospital by Standing Rock Ambulance. The victims were a 17 year old female and a 7 year old male.

At approximately 1:30 pm, protesters blocked the north entrance to the Oceti camp with a metal gate and also strung razor or barb wire across the entrance.

Protesters gathered on Hwy 1806 in front of the camp and at approximately 4:10 pm, law enforcement officers moved to the area by the camp and the protesters on the highway ignored orders to disperse. Subsequently 10 were arrested and taken into custody. The remainder fled on foot from the officers and moved to the south. Officers then returned to the traffic checkpoint that is north of the camp.

Buses were available for protesters who wanted to voluntarily leave and be taken to a state-sponsored Travel Assistance Center to receive resources to leave the area. Four individuals were taken to the Travel Assistance Center.

Law enforcement officers did not enter the camp at any time and an unknown number of protesters remain in the camp.

**2/23/17:** At approximately 10:00 am, representatives from the U.S. Army Corps of Engineers met with protesters from the Oceti Sakowin camp and discussed USACE priorities to clean up the area and restore the land to its pre-protest condition.

At approximately 10:45 am, law enforcement prepared to enter the Oceti camp using equipment to remove snow to create an entrance path into the northwest portion of the camp. Snow removal was completed by approximately 11:05 am, and officers entered the camp and encountered a group of approximately 50 protesters. Officers directed the protesters to disperse and move to the south and if they did so, they would not be arrested. Officers began to move forward and those protesters who did not disperse were arrested. Law enforcement officers continued to move through the camp and inspected each structure to ensure they were all empty. At 2:09 pm, law enforcement announced the Oceti camp was cleared and secured.

SIB 2315  
1-25-19  
#31  
P.55

As officers cleared the camp, construction equipment began to demolish wooden structures in the camp that had been inspected and confirmed as unoccupied. When the camp was cleared, approved contractors began to disassemble and remove structures and items that were determined to be ceremonial or of other cultural value. A tow company also began removing the abandoned vehicles from the camp.

A total of 47 arrests were made of those who refused to leave Oceti camp.

After the Oceti camp was cleared, BIA also entered and cleared the Rosebud camp.

Traffic control measures are in place to prevent traffic into the area of the camps. Cleanup activities will continue to clear the USCOE property.

**2/24/17:** Contractors continued cleanup activities in the Oceti and Rosebud camps.

No protest activity occurred.

**2/25/17:** Contractors continued cleanup activities in the Oceti and Rosebud camps.

No protest activity occurred.

**2/26/17:** Contractors continued cleanup activities in the Oceti and Rosebud camps.

No protest activity occurred.

**2/27/17:** Contractors continued cleanup activities in the Oceti and Rosebud camps.

No protest activity occurred.

**2/28/17:** Contractors continued cleanup activities in the Oceti and Rosebud camps.

There was significant activity involving persons moving out of the Sacred Stone Camp in response to a final trespass notice that was issued by BIA to occupants of the camp yesterday.

No protest activity occurred.

**3/1/17:** Contractors continued cleanup activities in the Oceti and Rosebud camps.

BIA announced that all protesters have vacated the Sacred Stone Camp at approximately 2:50 pm and that contractors would begin cleanup of the area. Three arrests were reported. BIA has established hard checkpoints to prevent anyone from re-entering the area.

At approximately 2:00 pm, a group of approximately 10 protesters staged a demonstration in front of the Federal Courthouse located in downtown Bismarck. The demonstration was apparently to protest the grand jury process in which several DAPL protesters have been involved. There were no significant problems and no arrests and the protesters dispersed within approximately one hour.

**3/2/17:** Contractors continued cleanup activities in the Oceti, Rosebud, and Sacred Stone camps.

SB 2315  
1-25-19  
#31  
p. 56

No protest activity occurred.

**3/3/17:** The US Army Corps of Engineers announced the cleanup of the area formally occupied by the Oceti Sakowin Camp is complete. They reported the debris removed was just over 2,000 cubic yards and required more than 600 roll-off dumpsters. Clean up of the other areas continues.

No protest activity occurred.

**3/4/17:** Contractors continued cleanup activities in the Oceti and Rosebud camps.

No protest activity occurred.

**3/5/17:** Contractors continued cleanup activities in the Oceti and Rosebud camps.

No protest activity occurred.

**3/6/17:** The cleanup of the area formally occupied by the Rosebud Camp is reported as complete. Cleanup activities of the US Army Corps of Engineer property formally occupied by the Sacred Stone Camp continue.

No protest activity occurred.

**3/7/17:** Judge Boasberg in Federal District Court in Washington, DC issued a ruling which denied the Standing Rock Sioux and Cheyenne River Sioux Tribes' request for an injunction under the Religious Freedom Restoration Act to stop construction of the pipeline.

Cleanup activities of the former Sacred Stone Camp location continued.

No protest activity occurred.

**3/8/17:** Cleanup activities of the former Sacred Stone Camp location continued.

No protest activity occurred.

**3/9/17:** Cleanup of the former Sacred Stone Camp location was completed.

No protest activity occurred.

**3/10/17:** No protest activity occurred.

**3/11/17:** No protest activity occurred.

**3/12/17:** No protest activity occurred.

**3/13/17:** The Cheyenne River Sioux Tribe filed an appeal of Judge Boasberg's denial of a preliminary injunction to stop construction of DAPL on grounds of violation of the Religious Freedom Restoration

SB 2315  
1-25-19  
#31  
p.57

Act. Additionally, the Tribe filed a motion requesting that Judge Boasberg issue an injunction pending appeal to "prevent the flow of oil" through DAPL. (Appeal was filed on 3/10/17.)

No protest activity occurred.

**3/14/17:** No protest activity occurred.

**3/15/17:** The Cheyenne River Sioux Tribes' request for an injunction pending appeal was denied by Judge Boasberg in a ruling issued on March 14, 2017.

No protest activity occurred.

**3/16/17:** No protest activity occurred.

**3/17/17:** Hwy 1806 was opened at noon to both northbound and southbound traffic. Pilot cars were used to guide traffic between the Cannonball Bridge and Ft. Rice. No significant problems were encountered with the opening.

The Tactical Operations Center at the Morton Co LEC ceased operation. Future operations missions will be directed by the Morton County Sheriff's Department assisted by Morton County Emergency Management as necessary.

No protest activity occurred.

**3/18/17:** The Cheyenne River Sioux and Standing Rock Sioux Tribes filed an appeal regarding Judge Boasberg's March 14<sup>th</sup> denial of their request for injunction. On this date, the Appeals Court refused the Tribes' request for an "emergency order" to prevent oil from flowing through the Dakota Access Pipeline.

The pilot car escorts of Hwy 1806 traffic continued with no significant problems.

No protest activity occurred.

**3/19/17:** The pilot car escorts of Hwy 1806 traffic continued with no significant problems.

No protest activity occurred.

**3/20/17:** The pilot car escorts of Hwy 1806 traffic continued with no significant problems.

No protest activity occurred.

**3/21/17:** The pilot car escorts of Hwy 1806 traffic ended at noon on today and Hwy 1806 was fully re-opened to regular traffic. No parking signs are posted in the area from the Cannonball Bridge to Ft. Rice. Law enforcement will be maintaining additional patrols in the area.

No protest activity occurred.

**3/22/17:** There were no significant events. Construction activities to complete the pipeline continue.

SO 2315  
1-25-19  
#31  
p. 58

**3/23/17:** There were no significant events. Construction activities to complete the pipeline continue.

**3/24/17:** Unified Command response and mutual aid law enforcement assistance to Morton County ended today. Final demobilization of any remaining assets and materials is ongoing. The Morton County Sheriff's Department and the ND Highway Patrol will maintain future additional patrols in the area.

Construction activities to complete the pipeline continue.

**3/25/17:** There were no significant events. Construction activities to complete the pipeline continue.

**3/26/17:** There were no significant events. Construction activities to complete the pipeline continue.

**3/27/17:** Energy Transfer Partners announced that it has placed oil in the pipeline under Lake Oahe and that final preparations to place the entire Dakota Access Pipeline into service are being completed. Energy Transfer Partners reports the entire pipeline should be operational in several weeks.

This is the final entry into this general summary of events.

**This is preliminary information intended solely to provide a general timeline & summary and may include some inaccurate information until independent confirmation can be completed. The purpose of this document is to provide the user specific dates of activity that may be used as a starting point in order to gather additional information through law enforcement reports, news media coverage, or other data sources.**

This summary was maintained and updated by:  
Keith Witt  
Southwest Regional Emergency Response Coordinator  
North Dakota Department of Emergency Services  
PO Box 5511  
Bismarck, ND 58506-5511

This summary is maintained on file at:  
Morton County Emergency Management  
210 2<sup>nd</sup> Ave NW  
Mandan, ND 58554-3124



SB2315  
1/25/19  
#32  
Pg.1

**TESTIMONY  
SENATE BILL 2315  
SENATE AGRICULTURE COMMITTEE  
JANUARY 25, 2019**

Mr. Chairman and members of the Senate Agriculture Committee, my name is Mike Gerhart, a resident of Bismarck, retired law enforcement officer, and a person who enjoys hunting and fishing. I'm providing written testimony in support of Senate Bill 2315.

As a former law enforcement officer, I understand the concerns landowners have and why this legislation is important to them. As a sportsman, I don't feel this legislation adversely impacts my ability to pursue hunting. There are various smartphone applications that can be utilized to locate public land as well as information regarding the ownership of private land. Having access to this information makes seeking permission from a landowner relatively simple. In order for sportsmen to develop and maintain a positive relationship with landowners, it is important they understand the landowner's perspective and why this legislation is important to them.

I ask that you give SB 2315 favorable consideration and a DO-PASS recommendation.

.

SB 2315  
1/25/19  
#33  
Pg.1

SB 2315

Dear Committee Members,

As a MN resident and avid sportsman, I'd like to share with you my experience hunting near Devils Lake, ND all the way back to the late 1960's. My dad & I would drive up from the Twin Cities to hunt snow geese near Devil's Lake. We had no relatives or friends who owned land there. But like a lot of other hunters we still hoped to get some shooting on private land. Even in the late 60's, almost everything was posted. It's hard to believe, but true. We would drive around looking for snow geese and we saw plenty. But the challenge was trying to find land available with birds nearby. We would drive and drive, basically spending our entire weekend in the car. Very frustrating for a high school kid and his dad. However, we have learned over all these years that if a hunter does a little home work up front, some great hunting can be found. We now spend one weekend in the summer scouting around and talking to farmers about what might be available to hunt in the fall. 99% of the farmers we've contacted in the summer have been more than generous. Many are now close friends and we have multiple areas to hunt.

So, **we fully support SB2315** knowing that land owner contact information would be available. Rather than driving around in circles, a hunter can now pick up the phone and talk with land owners directly. This is a win-win for everyone.

Thank you for your consideration.

Sincerely

Fremont Gruss  
Excelsior, MN

SB 2315  
1/25/19  
#34  
Pg. 1

to Chairman Luick and esteemed members of the Senate Agricultural committee.

My name is Craig Kemmet and my wife and I, together with our son farm and ranch at Tappen, North Dakota. Our operation consists roughly 5000 acres irrigated corn, soybeans, potatoes, and dryland cropland, hay land, and of course pasture. I am also a director of the North Dakota Stockmens Assn, President of Tappen Oil Company cooperative, and Chairman of Tappen Township.

Senate bill 2315 would make all private property in our state both rural and urban legally posted with regards to trespassing without the necessity of putting up signage to state it as such. We believe this is an inherent right that goes along with ownership of a piece of property. When I buy a piece of property I get a deed that states ownership. When I buy a vehicle I get a title which states ownership. If I happen to leave my keys in my car no one has the right to borrow it, use it for a while, and then return it later when they are done with it, because I own it. I don't have to put a sign on it that says if I leave my keys in my car you can't use it. It is just understood that if you take my car without my permission it is wrong and could be considered stealing. Why does that not hold true own a piece of land? If you are on my property without my permission it should be considered trespassing. Just as I, and for that matter, most of us, do not think we have a right to take our lawn chairs and camp out on someone's lawn in a residential area, I don't believe that anyone has a right to come on to my property without my permission either.

I realize that there is opposition to this bill. I think that is unfortunate because I need the hunter, just like the hunter needs me. I keep hearing that wildlife belongs to the public. It has been my experience that when I hit a deer on the road it belongs to the public, if I shoot one it belongs to the Game and Fish department, and when they get into my hay supply they're my deer. I have fed a lot of deer over the years when the weather gets bad so I do rely on hunting to keep the numbers in check. However, there also are bullet holes in some of my grain bins. You see, my farm is not visible from the road, and it would be my hope that if someone had to ask my permission before they could shoot at something on my property they would know where my buildings were and would make a conscious effort not to shoot in that direction. My wife also likes to walk and knowing when someone is hunting on our property would add to her peace of mind, along with hunters knowing where we are. My question to those in opposition to

SB 2315  
1/25/19  
#34  
Pg 2

this bill is "What are you afraid of". Are you afraid of forging a relationship with some landowners? Are you afraid of doing a little homework and a little legwork before opening day? I have heard about our hunting heritage. I have heard about how it is our right. But hunting is not a right. Hunting requires a license to be purchased from the state just like a drivers license. That makes hunting a privilege just like driving a car. Why is it up to me to post what is mine? Why must I invest the money and the time?

However, I do not believe this bill is about hunting. It is a trespass law. It is about knowing who is on your property and why they are there. Two years ago there was a lot in the news about the protest over the Dakota Access Pipeline. The word "trespassing" was taken to a whole new level in our state. I do not recall anyone being prosecuted for trespassing, but we all know that it was occurring on a daily basis. This alone should be proof enough that our trespass law in its current state has failed us. How many of our city cousins would have put up with the depredation that took place around the protest. I would dare to say that if the protest had taken place in a city setting, the law would have been changed by now. The land owners affected were far fewer than would have the case, had it been a residential area. Does that make the offense any less real, any less costly, or any more acceptable? If anything, it showed us the law in its current form does not work and is almost impossible to enforce. The protest cost this state millions of dollars. It also cost the people that live in the area. I'm sure there are a few more gray hairs from worry on their heads too. How many of us would like to experience the fear they had to live in?

In closing, earlier I asked "what are you afraid of?". I would like to tell you what I am afraid of. I'm afraid of someone I don't even know is on my property, getting injured. I'm afraid that in this sue happy world we live in that injured person is going to bring a lawsuit against me. I'm afraid that even though I carry liability insurance, that it won't be enough. And finally I fear for the safety of my family, both financially and physically. That's what I'm afraid of. Please don't be afraid to ASK.

I hope you will give this bill a do pass recommendation.

Respectfully submitted

*Craig Kemmet*

SB 2315  
1/25/19  
#35  
Pg. 1

NDYR: Concerning Land Access

The North Dakota Young Republicans believe that private property rights are an intricate part of civilized society. Our system of private property rights has been critical to the development of this nation and state. However, private property rights aren't simply arbitrary legal definitions, it's a complex system of social recognition. Society must recognize the autonomy of the property owners in order for this system to properly work. Assuming access to private property erodes the autonomy of the property owners.

The assumption of access degrade the social recognition of the property owners exclusive privilege and right to their private property. Assuming access to private land is no different than the socialization of land rights. We believe this to conflict with more prevalent interpretations of private property access. For example, is a home invasion just simply a lack of communication? Men and women of reason would surely scoff at such a ludicrous notion. However, our land is arbitrarily presumed to be different.

Similar to the interior of our individual homes, North Dakotans have an interest in controlling the access to their private land as well. Our farmers and ranchers have an interest in protecting their crops and livestock. They have an interest in knowing who is armed and discharging firearms on their homesteads. They have just as much an interest in access to their land as we all do towards controlling access to homes to secure property and privacy.

Century code should be properly augmented to ensure that the property rights of landowners are held to the esteem as those of homeowners. Arbitrary differentiations between the two should be promptly reconciled ensure the security, autonomy, and privacy of all private property within the state of North Dakota.

Raheem Williams - Policy Director



Mr. Chairman, members of the Senate Agriculture Committee, For the record my name is Scott Nelson I am a producer from Lakota ND.

I am here today to testify in support of ~~SB~~ 2315.  
SB

As a producer, private land owner and caretaker of rental farm land, I am responsible for monitoring who is accessing these properties.

We welcome hunters onto a majority of our property, the only exception to this is our farmyard and land surrounding a confinement hog facility.

We post both of these properties due to hunters using our yard as a parking lot and walking through the back yard with shotguns in hand. Also, the confinement operation has had hunters drive past no trespassing signs which are there due to biosecurity concerns for the hogs. Hunters have parked next to the barns and walked through the property raising biosecurity issues.

As I have said, with the exception of these properties, we welcome hunters.

In my area, Nelson County, we have exceptionally high Canada goose and duck numbers, they do an extensive amount of damage to our growing crops. For this reason, we have invited hunters to help reduce the population. I have visited with the ND Game and Fish department and asked them to refer hunters to me, the department has referred a few hunters and I appreciate their assistance. I have also resorted to using the Fargo radio stations to get the word out of the high bird populations and invite hunters to hunt our land. I felt this would certainly generate some calls from prospective hunters. To date I have not had anyone return the calls.

I bring this to your attention to illustrate that by passing of SB 2315, we will continue to welcome hunters, and I believe we will be able to help their success rates. If I know who is hunting, I can suggest hunters spread out onto different properties and increase success rates for all. This bill in no way will limit the access I give to hunters but will enable me to know who and where they are on our private property. This will help the hunters have a positive and successful hunting experience.

I respectfully ask the Senate Agriculture Committee to give SB 2315 a do pass recommendation.

Thank you for the opportunity to speak with you today. I would be happy to answer any questions you may have.

SB 2315  
1/25/19  
# 37  
Pg. 1

Jan. 25, 2019

Dear Senate Agriculture Committee Members,

The following is why I support the Private Property Rights Bill for all ND Landowners, including urban landowners.

As a 4<sup>th</sup>-generation rancher in the Badlands of ND, it doesn't take much to find a challenge on a daily basis. Every year, it seems as if a person is rolling the dice to get that one paycheck at the end of the year. Through ups and downs, I am proud to say that the ranch has stayed in the family since it was homesteaded. Over the years, each generation has had to see and help with many different events that change the way a person thinks when you live so far from a hospital, EMS services and such. If a person has an accident or a fire starts up, the good part of your livelihood is gone before any services can show up to help.

Over the years, I have been slowly taking on more responsibility. I have had to respond to many fires and accidents. Some turned out fine and others ended in the loss of lives. So why is the Private Property Rights Bill so important to me? Well, I guess I need to first start out by saying that all of our land is posted, but this doesn't seem to matter to some. There will always be those bad eggs that make it harder for the rest. Our challenge is being checkerboarded with public land. It seems that if a person is hunting, bird watching, doing outdoor photography, the many studies that are kept from the public eye...those folks don't seem to worry about the posted sign. They just want to drive through your private land to get to the next area instead of walking or asking permission to cross a person's private land.

I am not against any of the previous listed activities. I would like to know who and where that person (or persons) is (are) going. You see, I am the first person of contact when something serious happens to those folks when they cross my property. Fire and ambulance rely on the local landowner to be able to get you in and out of that area safely so they can respond. I feel it would be a great help if those people would contact the landowner and let us know when and where they are planning on going so if something does happen, we can respond more quickly to save the grasslands or a person's life.

The issue of hunting always comes up, which is a good point, but this past deer season I saw 13 vehicles drive up to a posted gate, go through and attempt to close such gate, and not ask permission to cross our private land (that was posted). However, there was a handful of hunters who did stop and ask permission. To them I mentioned that they could cross our private but there was already 13 other vehicles that drove up that way. So instead of driving all the way to find that that area was being heavily hunted, I told them of some other spots to which they gladly hunted and were tagged out within that same day. Hard to believe the landowner would know the honey holes!

Of the vehicles that drove up without asking, one started a fire and another stepped off a cutbank wrong and broke their ankle. Thankfully, the fire and the ankle were taken care of by their own hunting party, but what if that wasn't the case? What if it was worse? That fire could have spread over hundreds of acres before anyone could have called it in, then it would take close to an hour before help can arrive, but most local ranchers and farmers has a backup water rig just in case. But, if we don't know who and where they are at, we also are wasting valuable time.

Thankfully, the person with the broken ankle had help with them also, but many of the hunters, bird watchers, photography folks and study people are alone. Wouldn't it make sense that the local landowner should know about where they would be so if the call comes in that someone needs help, we can get to them faster and more safely? Just because you have a GPS point doesn't mean the rescue can drive straight to them, or drive to them at all.

If an accident does happen, who is responsible for that fire? Is the person that broke their ankle going to sue the landowner? Either way, it will be costly to the landowner even if they are proven in court that they are innocent. Why should I have to spend time and money to defend myself for someone who entered my property illegally?

Please vote yes on SB 2315.

Sincerely,

Scott Bachmeier  
Rhame, ND

SB 2315  
1/25/19  
#38  
Pg. 1

To: Members of the North Dakota Legislature

I am writing in support of SB 2315. We need a vote on what is right, not a vote on what a popular group wants. Every year we have problems with hunters thinking it is their right to access private property because of the way the law reads now. This has also become a problem for fishing access. Landowners are accessible as outdoorsmen have apps on their phone that have land and owners listed. We live in an area where a lot of roads are on quarter lines. It is very hard to convince sportsmen they are not on section lines. Passing SB 2315 would solve this problem. We are lifelong farmers and ranchers who every fall seem to lose our private property to public access. I strongly urge support of SB 2315.

Thank You

Burdell Johnson

Diamond J Livestock

Tuttle, ND



In reference to SB 2315

I, Wayne Herbig, ranch in SW North Dakota. I participated in a sportsman-conservation group a ND Stockmen discussion to find middle ground on the no post issue.

Carroll, Belisle has circulated his outline of the discussion. There is a statement that is different than I remember. Number 4a of his outline is not correct. He referred to a western ND landowner, who is me, about blocking access. I was referring to a case in WY of an environmental group trespassing on private land to get to Federal land to get a water sample.

Another issue is no trespass signs being replaced by electronic apps showing landowners. There are several apps, one in particular being called x Hunt. There is information online and the cost is \$29.99 per state. It is not extremely costly.

I am aware of the Century Code liability. With the value of badlands ranches I am very concerned about the liability issue.

I just want to set the record straight and hope you consider passing this bill.

Wayne Herbig

Regarding SB 2315

Attention: Senate Agricultural Committee Members,

We the undersigned support SB 2315, which would help to reaffirm our fundamental rights for consent before others can access our private property. Landowners must take onerous steps to ensure others do not enter their land. American society has changed and with regard to the amount and type of liabilities in this day and age we would like to see North Dakota statute change with The Times.

Sincerely submitted:

Laura Klewin	- Amidon, ND	701-879-6335
Neil Derjig	- Amidon ND	701-879-6336
Jaycee Jyck	Amidon ND	701-879-6316
Jane Jyck	- Amidon ND	701-879-6316
Joe Jyck	Amidon ND	701-879-5619
David Juntunen	Amidon, ND	701-879-6372
Wayne Gulig	Amidon, ND	701-879-6353
Acne Juntunen	Amidon, ND	701-879-6372
Sam Jyck	Amidon, ND	701-440-8775
Larry Lamborn	Amidon, N.D.	701-879-6313
Jackie Lamborn	Amidon ND	701-879-6313
Gary L Miller	Amidon ND	701-204-002
Loren Jacobson	Rhame ND	701-279-579



# Dakota Taxidermy

1339 Airport Road • P.O. Box 614 • Bismarck, ND 58502  
701-323-0537 • 800-669-9217

SB 2315  
1/25/19  
#40  
Pg.1

January 24, 2019

To Whom This May Concern:

My name is Brian Kadrmas and I am the owner of Dakota Taxidermy in Bismarck, North Dakota. I have been in business for over 35 years and I am also a hunter and avid outdoor sportsman. Over the years, as a business owner I have developed a great working relationship with hunters in the state of North Dakota and non-residents alike. I understand that SB 2315 is not a NO HUNTING bill. It simply allows the landowners the right to know who is on their property. I have found that the people that plan ahead for their hunting experience, always find a place to hunt. They do their research and contact landowners before going. When landowners are respected, they generally are very open to hunting on their land. Also, having an app and/or website with this landowner information readily available would make it much easier for people to contact landowners prior to hunting.

I fully support SB 2315 with a yes vote and ask for a Do-Pass recommendation from your committee.

Brian Kadrmas  
Dakota Taxidermy

# Regarding SB 2315

Attention: Senate Agricultural Committee Members,

We the undersigned support SB 2315, which would help to reaffirm our fundamental rights for consent before others can access our private property. Landowners must take onerous steps to ensure others do not enter their land. American society has changed and with regard to the amount and type of liabilities in this day and age we would like to see North Dakota statute change with the times.

Sincerely submitted:

- Jamen Klein - Amidon, ND 701-879-6336
- Neil Derby - Amidon ND 701-879-2336
- Jay Jay - Amidon ND 701-879-6316
- Joe - Amidon ND 701-879-6316
- Joe - Amidon ND 701-879-5619
- David Juntunen - Amidon, ND 701-879-6372
- Wayne Gulij - Amidon, ND 701-879-6353
- Steve Juntunen - Amidon, ND 701-879-6372
- Em - Amidon, ND 701-440-8775
- Larry Lamborn - Amidon, N.D. 701-879-6313
- Jackie Lamborn - Amidon ND 701-879-6313
- Gary L Miller - Amidon ND 701-204-002
- Loren Jacobson - Rhame ND 701-279-579

SB2315  
1/25/19  
#42  
Pg.1

Dear Senate Ag Committee members:

Please pass the Senate Bill 2315. I am a farmer, rancher and an avid hunter from Leeds. This is NOT a "no hunting bill" as the opponents will argue. I hunt in several states around North Dakota and the apps they have are very user friendly and lets the hunters know who owns the land and if it's open to hunting.

As a property owner I feel that I shouldn't have to purchase several hundred dollars worth of signs every year and go to the work of putting them up. People who live in town don't have to post their private back yards. My farm is my back yard.

I live in the flyway for ducks and geese and over the years have let hundreds of local and out of state people hunt. I have the right to know who is hunting on my farm. This bill will not affect who I give permission to hunt. I sure hope you can give this bill a do-pass recommendation.

Thank you,

Roger Kenner  
Leeds, ND

SB 2315  
1/25/19  
#43  
pg.1

From: Bret Weiland  
To: Agriculture Committee  
RE: SB 2315  
Date: January 25, 2018

Good morning, and thank you for taking the time to listen to us, the people of North Dakota. My name is Bret Weiland. I am a resident of Burleigh County. I am a hunter. I support hunting as much as anyone here. I'm also an aggressive proponent of property rights. Senate Bill 2315 is a bill that upholds and defends property rights.

John Locke, a philosopher and naturalist from the 17<sup>th</sup> Century, considered the concept of property to be a natural right. In fact, Locke identified natural rights and considered the most precious and important of all the natural rights to be Life, Liberty, and Property. Naturally what follows is that if someone works the land they live on and own, they reap the rewards they sow.

To me, it seems unreasonable that a landowner should have to post signage on his land to show that someone cannot hunt on that land. It should be implied, and respected, that private property is most certainly not open for someone to hunt on. Private property is not public lands to hunt upon. The rights of the land owner need to be considered by everyone. It is perfectly reasonable for a hunter to ask for permission and to give the due respect of that landowner. Chances are that a landowner will say yes anyways. Or they'll say no. Either way, the decision must be respected.

Landowners are the stewards of the lands they own. They want what is best for their land. Sometimes what the landowner feels is best is to have hunters come and harvest their prey. Sometimes the landowner feels it is best to have his lands be left alone. What should be respected is the decision of the land owner. In no way is anyone's ability to hunt being trampled upon. It is up to responsible hunters and good landowners working together that will bring the best results.

## Duke Law Journal

<https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1238&context=dlj>

### “HUNTING AND POSTING ON PRIVATE LAND IN AMERICA”

By Mark R. Sigmon, 2004

Twenty-one states already have statutes that require affirmative consent to hunt, and there is no evidence that hunting is unreasonably difficult in any of those states. Those states are not geographically concentrated in any way: hunting requires affirmative landowner permission in Midwestern states such as South Dakota; in large, game-filled states such as Texas; in Southern states such as Tennessee; and in Mid-Atlantic states such as Delaware.

Twenty-nine states currently require private landowners to post their land to exclude hunters, twenty-seven of these states by statute. The posting statutes were an outgrowth of the American desire to ensure that hunting was available to everyone, not just the rich and landed. The statutes vary widely in their particulars, but the core idea behind them—that landowners must take often onerous steps to ensure that hunters do not enter their land—exists in all twenty-seven statutes.

Whatever the merits of these statutes when first formulated, as a result of social changes they now unfairly privilege hunters over landowners. Because judicial remedy of this problem seems unlikely, state legislatures should alter their statutes to require landowner permission to hunt on private land. Failing state legislation, municipalities could take action, although the reach of municipal ordinances would be limited and the potential for state law preemption presents a substantial danger. It is time for states and cities to recognize that American society has changed.

SB2315  
1/25/19  
#45  
Pg.1

To Whom It May Concern,

The intent of the letter is to express my point of view in regards to SB2315 and the overall impact on the hunting experience it has the potential to create. I have been an avid outdoorsmen for nearly 30 years. The Waterfowl Migration is the largest attraction for me in terms of hunting in North Dakota, I am not alone. My home state of Minnesota is a difficult place to be successful while in pursuit of waterfowl, again, I am not alone. For this reason, we look to neighboring states for a higher quality experience. Let me define "higher quality experience" with a series of bullet points:

- Greater numbers of birds
- Larger plots of land
- Less time spent scouting
- Fewer hunters
- Less pressure
- Over the counter license
- Landowners more likely to grant permission when

compared to Minnesota

Up to this point you'd probably think I'm a proponent for open access to private/unposted land, but here's where myself and many, many like me will surprise you.

We are not, at all.

In fact, this outdated rule has effectively lessened the quality of hunting in your State for both residents and non residents. The controversy it has created between Landowner and Sportsman can not possibly benefit the sport of hunting, the relationship between human beings and most importantly, wildlife. The lawless "free for all" type provision manufactures confusion, frustration and jealousy between Sportsmen and Landowners. If the Sportsman is lucky enough to have this confrontation between Landowner or fellow Sportsman at the end of the day, he still has his options open for the next day. But, most often this happens early in the morning, when multiple groups descend upon the same field, all assuming permission through an impractical law. A recipe for trouble, a recipe for a lesser quality experience.

Sincerely,

Brian Morris  
Isanti, MN



SB 2315  
2/14/19  
#1

Draft Mark-up from meeting with  
SENATE BILL NO. 2315  
Governor's Office  
2-13-19

19.0896.01003

Sixty-sixth  
Legislative Assembly  
of North Dakota

Introduced by

Senators Erbele, Patten, Unruh  
Representatives Boe, Schmidt, Westlind

1 A BILL for an Act to create and enact ~~section 20.1-02-33~~ chapter 20.1-18 of the North Dakota  
2 Century Code, relating to a database identifying whether private land is open to hunters; to  
3 amend and reenact sections 12.1-22-03, 20.1-01-18, 20.1-01-19, 20.1-01-20, and 20.1-03-42 of  
4 the North Dakota Century Code, relating to criminal trespass and hunting on private land; to  
5 ~~repeal section 20.1-01-17 of the North Dakota Century Code, relating to posting land~~ provide a  
6 statement of legislative intent; and to provide a penalty.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1. AMENDMENT.** Section 12.1-22-03 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **12.1-22-03. Criminal trespass ~~– Noncriminal offense on posted property.~~**

- 11 1. An individual is guilty of a class C felony if, knowing that that individual is not licensed
- 12 or privileged to do so, the individual enters or remains in a dwelling or in highly
- 13 secured premises.
- 14 2. An individual is guilty of a class A misdemeanor if, knowing ~~that that~~ the individual is
- 15 not licensed or privileged to do so, the individual:
  - 16 a. ~~Enters~~ enters or remains in or on any building, occupied structure, ~~or~~ storage
  - 17 structure, ~~or~~ separately secured or occupied portion thereof; ~~or~~
  - 18 b. ~~Enters or remains in any place so enclosed as manifestly to exclude intruders of a~~
  - 19 ~~building or structure, or any other place the individual is not licensed or privileged~~
  - 20 ~~to be, except as provided in sections 20.1-01-18, 20.1-01-19, 20.1-03-42, and~~
  - 21 ~~20.1-18-03.~~ 20.1-18-03.
  - 22 3. a. ~~An individual is guilty of a class B misdemeanor if, knowing that that individual is~~
  - 23 ~~not licensed or privileged to do so, the individual enters or remains in any place~~
  - 24 ~~as to which notice against trespass is given by actual communication to the actor~~

SB 2315  
2/19/19  
#1

Sixty-sixth  
Legislative Assembly

- 1 by the individual in charge of the premises or other authorized individual or by  
2 posting in a manner reasonably likely to come to the attention of intruders. The  
3 name of the person posting the premises must appear on each sign in legible  
4 characters.
- 5 b. Even if the conduct of the owner, tenant, or individual authorized by the owner  
6 varies from the provisions of subdivision a, an individual may be found guilty of  
7 violating subdivision a if the owner, tenant, or individual authorized by the owner  
8 substantially complied with subdivision a and notice against trespass is clear  
9 from the circumstances.
- 10 e. An individual who violates subdivision a is guilty of a class A misdemeanor for the  
11 second or subsequent offense within a two-year period.
- 12 4. a. An individual, knowing the individual is not licensed or privileged to do so, may  
13 not enter or remain in a place as to which notice against trespass is given by  
14 posting in a manner reasonably likely to come to the attention of intruders. A  
15 violation of this subdivision is a noncriminal offense.
- 16 b. A peace officer shall cite an individual who violates subdivision a with a fine of  
17 two hundred fifty dollars for each violation.
- 18 e. The peace officer citing the individual shall:
- 19 (1) Take the name and address of the individual; and  
20 (2) Notify the individual of the right to request a hearing if posting bond by mail.
- 21 d. The peace officer may not take the individual into custody or require the  
22 individual to proceed with the peace officer to any other location for the purpose  
23 of posting bond. The officer shall provide the individual with an envelope for use  
24 in mailing the bond.
- 25 e. An individual cited may appear before the designated official and pay the  
26 statutory fine for the violation at or before the time scheduled for hearing.
- 27 f. If the individual has posted bond, the individual may forfeit bond by not appearing  
28 at the designated time.
- 29 g. If the individual posts bond by mail, the bond must be submitted within fourteen  
30 days of the date of the citation and the individual cited shall indicate on the  
31 envelope or citation whether a hearing is requested. If the individual does not

Sixty-sixth  
Legislative Assembly

- 1 request a hearing within fourteen days of the date of the citation, the bond is  
2 deemed forfeited and the individual is deemed to have admitted to the violation  
3 and to have waived the right to a hearing on the issue of commission of the  
4 violation. If the individual requests a hearing, the court for the county in which the  
5 citation is issued shall issue a summons to the individual requesting the hearing  
6 notifying the individual of the date of the hearing before the designated official.
- 7 h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled  
8 at the individual's request, the individual may make a statement in explanation of  
9 the individual's action. The official may at that time waive or suspend the statutory  
10 fine or bond.
- 11 i. A citing peace officer may not receive the statutory fine or bond.
- 12 j. The bond required to secure appearance before the judge must be identical to  
13 the statutory fine established in subdivision b.
- 14 5. An individual is guilty of a class B misdemeanor if that individual remains upon the  
15 property of another after being requested to leave the property by a duly authorized  
16 individual. An individual who violates this subsection is guilty of a class A  
17 misdemeanor for the second or subsequent offense within a two-year period.
- 18 ~~6.4.~~ This section does not apply to a peace officer in the course of discharging the peace  
19 officer's official duties.

20 **SECTION 2. AMENDMENT.** Section 20.1-01-18 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 ~~**20.1-01-18. Hunting on posted land and trapping on private land without permission**~~  
23 ~~**unlawful - Penalty.**~~

24 ~~No person~~An individual may ~~not~~ hunt or pursue game, or enter for those purposes, upon  
25 legally posted land belonging to another without first obtaining the permission of the person  
26 legally entitled to grant the same permission, ~~or verifying the land is open to hunters by~~  
27 ~~complying with subsection 3 of section 20.1-02-03.~~ ~~No person~~An individual may ~~not~~ enter upon  
28 privately owned land for the purpose of trapping protected fur-bearing animals without first  
29 gaining the written permission of the owner or operator of that land. A person~~An individual~~ who  
30 violates this section is guilty of a class B misdemeanor for the first offense and a class A  
31 misdemeanor for a subsequent offense within a two-year period unless the land is designated as

1 ~~closed to hunters or open to hunters upon receipt of permission under section 20.1-18-02 or the~~  
2 ~~land is legally posted in accordance with section 20.1-01-17.~~

3 **SECTION 3. AMENDMENT.** Section 20.1-01-19 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **20.1-01-19. When ~~posted~~private land may be entered.**

6 Any ~~person~~An individual may enter upon legally ~~posted~~private land to recover game shot or  
7 killed on land where the ~~person~~individual had a lawful right to hunt.

8 **SECTION 4. AMENDMENT.** Section 20.1-01-20 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **20.1-01-20. Entering ~~posted~~private land with a hunting license and a gun or firearm**  
11 **prima facie evidence of intent to hunt game.**

12 Proof that a ~~person~~an individual ~~having~~an individual had a firearm, or other weapon  
13 declared legal by governor's proclamation, ~~in the person's individual's possession~~and a valid  
14 license to hunt game in the relevant area when the individual entered upon the legally-  
15 ~~posted~~private premises of another without permission of the owner or tenant is prima facie  
16 evidence the ~~person~~individual entered to hunt or pursue game.

17 ~~SECTION 5. Section 20.1-02-33 of the North Dakota Century Code is created and enacted~~  
18 ~~as follows:~~

19 ~~20.1-02-33. Private land open to hunters -- Publicly accessible database -- Penalty.~~

20 ~~1. If a person legally entitled to give permission to enter private land wants to make the~~  
21 ~~land open to hunters, the person shall notify the director on a form prescribed by the~~  
22 ~~director. The notification must include information the director deems necessary to~~  
23 ~~identify the boundaries of the private land open to hunters.~~

24 ~~2. The director shall make the information identifying the private land made open to~~  
25 ~~hunters under subsection 1 accessible to the public, including in an electronic format~~  
26 ~~available on the department's website. The information must be made available in a~~  
27 ~~format that allows hunters to identify easily which private land is open to hunters.~~

28 ~~3. Before entering private land to hunt or pursue game, an individual shall verify the~~  
29 ~~publicly available information under subsection 2 indicates the land is open to hunters.~~  
30 ~~Unless the individual has permission to hunt or pursue game on the land from a~~  
31 ~~person legally entitled to give the permission, an individual is guilty of a class B~~

SB 2315  
2/19/19  
#1

1 ~~misdemeanor if the individual hunts or pursues game on private land, or enters private~~  
2 ~~land to hunt or pursue game, when the land is not identified as open to hunters in the~~  
3 ~~publicly available information under subsection 2.~~

4 **SECTION 5. AMENDMENT.** Section 20.1-03-42 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **20.1-03-42. Guiding on prohibited lands.**

7 A person may not act as a hunting guide or hunting outfitter on land the person knows is  
8 owned by the state unless the appropriate state agency permits or authorizes the guiding or  
9 outfitting, on private land enrolled by the department for purposes of hunting, on land in which  
10 the department pays in lieu of taxes, on federal lands without being authorized or permitted as  
11 required by the appropriate federal agency, or on private lands posted against hunting or  
12 trespassing under section 20.1-01-17 or designated as closed to hunters or open to hunters  
13 upon receipt of permission under section 20.1-18-02, without first informing and obtaining  
14 permission from the landowner to conduct guiding or outfitting on the land. ~~If private land is not~~  
15 ~~posted against hunting or trespassing under section 20.1-01-17 or designated as closed to~~  
16 ~~hunters or open to hunters upon receipt of permission under section 20.1-18-02, a person may~~  
17 ~~act as a hunting guide or hunting outfitter on the land.~~ If the landowner did not grant the  
18 permission in writing, there is a presumption that the permission did not exist.

2.

19 ~~**SECTION 7. REPEAL.** Section 20.1-01-17 of the North Dakota Century Code is repealed.~~

20 **SECTION 6.** Chapter 20.1-18 of the North Dakota Century Code is created and enacted as  
21 follows:

22 **20.1-18-01. Hunters access ~~database~~ advisory group.**

- 23 1. The hunters access ~~database~~ advisory group consists of:
  - 24 a. The agriculture commissioner or the commissioner's designee;
  - 25 b. The director or the director's designee;
  - 26 c. The chief information officer or the officer's designee;
  - 27 d. A representative of the association of counties;
  - 28 e. One legislator appointed by the majority leader of the senate;
  - 29 f. One legislator appointed by the majority leader of the house of representatives;
  - 30 and
  - 31 g. One legislator from the minority party appointed by the legislative management.

\*Add\*  
← Attorney General or his designee

3.

^  
From both chambers

\*Add\*

Sixty-sixth  
Legislative Assembly

During the 2019-20 interim, the hunters access advisory group shall study hunter access to public and private lands for hunting and trapping and other relevant issues. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-seventh legislative assembly.

map

SB2315  
2/14/19  
#1

1 2. The hunters access ~~database~~ advisory group shall oversee the development of a  
2 database identifying private land in the state as open to hunters, closed to hunters, or  
3 open to hunters upon receipt of permission from the owner or lawful occupant.

4 3. The hunters access ~~database~~ advisory group ~~may~~ <sup>shall</sup> establish guidelines for the  
5 development of the database and acceptance criteria for county data used to develop  
6 the database.

7 **20.1-18-02. Hunters access database.**

8 1. The hunters access database must use color coding or other clear indicators to  
9 designate private land in the state as open to hunters, closed to hunters, or open to  
10 hunters upon receipt of permission from the owner or lawful occupant.

11 2. A landowner or lawful occupant may designate which of the three categories in  
12 subsection 1 applies to the landowner's or occupant's land. Land for which a  
13 landowner or lawful occupant does not designate a category must be indicated in the  
14 database as open to hunters if the county in which the land is located is included in the  
15 database.

16 3. If a landowner or lawful occupant designates land as open to hunters upon receipt of  
17 permission, the landowner or lawful occupant shall provide contact information to be  
18 included in the database for hunters to request permission to hunt on the land.

19 4. The database must be accessible electronically to the public and may be made  
20 available to the public through other means, including smartphone applications.

21 5. To be included in the database, a county shall provide geographic information system  
22 data or other data to the information technology department which meet the criteria  
23 established by the hunters access database advisory group.

24 **20.1-18-03. Noncompliance with database and posting - Penalty.**

25 1. Until the county in which private land is located is included in the hunters access  
26 database, the land is deemed open unless posted in accordance with section  
27 20.1-01-17.

28 2. After a county is included in the database:

29 a. A hunter may not enter land in the county which is designated in the database as  
30 closed to hunters or open to hunters upon receipt of permission unless the hunter  
31 has permission to enter the land or otherwise is entitled to enter the land. A

SB2315  
2/14/19  
#1

4,

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15

hunter is guilty of a class B misdemeanor for a first violation and a class A misdemeanor for a second and subsequent violation of this subdivision; and  
~~b. A hunter without permission may enter land in the county which is not designated in the database as closed to hunters or open to hunters upon receipt of permission, unless the land is posted in accordance with section 20.1-01-17.~~  
3. A hunter may not enter land that is posted in accordance with section 20.1-01-17 unless the hunter has permission to enter the land or otherwise is entitled to enter the land, regardless of the designation of the land in the database. A hunter is guilty of a class B misdemeanor for a first violation and a class A misdemeanor for a second and subsequent violation of this subsection.

**SECTION 7. LEGISLATIVE INTENT - TIMELINE FOR DATABASE DEVELOPMENT.** It is the intent of the legislative assembly that several counties will be included in an operational hunters access database by the fall hunting season of 2020, and the operational database will include all counties whose data meet the specifications of the hunters access database advisory group by September 1, 2022.

SB 2315  
2/15/19  
#1

19.0896.01004

Sixty-sixth  
Legislative Assembly  
of North Dakota

**SENATE BILL NO. 2315**

Introduced by

Senators Erbele, Patten, Unruh

Representatives Boe, Schmidt, Westlund

1 A BILL for an Act to create and enact ~~section 20.1-02-33~~ chapter 20.1-18 of the North Dakota  
2 Century Code, relating to a database identifying whether private land is open to hunters; to  
3 amend and reenact sections 12.1-22-03, 20.1-01-18, 20.1-01-19, 20.1-01-20, and 20.1-03-42 of  
4 the North Dakota Century Code, relating to criminal trespass and hunting on private land; to  
5 ~~repeal section 20.1-01-17 of the North Dakota Century Code, relating to posting land~~ provide a  
6 statement of legislative intent; to provide for a legislative management study; and to provide a  
7 penalty.

8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

9 **SECTION 1. AMENDMENT.** Section 12.1-22-03 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **12.1-22-03. Criminal trespass - ~~Noncriminal offense on posted property.~~**

- 12 1. An individual is guilty of a class C felony if, knowing that that individual is not licensed  
13 or privileged to do so, the individual enters or remains in a dwelling or in highly  
14 secured premises.
- 15 2. An individual is guilty of a class A misdemeanor if, knowing ~~that that~~ the individual is  
16 not licensed or privileged to do so, the individual:
  - 17 a. ~~Enters~~ enters or remains in or on any building, occupied structure, ~~or~~ storage  
18 structure, ~~or~~ separately secured or occupied portion thereof; ~~or~~
  - 19 b. ~~Enters or remains in any place so enclosed as manifestly to exclude intruders of a~~  
20 building or structure, or any other place the individual is not licensed or privileged  
21 to be, except as provided in sections 20.1-01-18, 20.1-01-19, 20.1-03-42, and  
22 20.1-18-03.
- 23 3. a. ~~An individual is guilty of a class B misdemeanor if, knowing that that individual is~~  
24 ~~not licensed or privileged to do so, the individual enters or remains in any place~~



- 1 as to which notice against trespass is given by actual communication to the actor  
2 by the individual in charge of the premises or other authorized individual or by  
3 posting in a manner reasonably likely to come to the attention of intruders. The  
4 name of the person posting the premises must appear on each sign in legible  
5 characters.
- 6 b. Even if the conduct of the owner, tenant, or individual authorized by the owner  
7 varies from the provisions of subdivision a, an individual may be found guilty of  
8 violating subdivision a if the owner, tenant, or individual authorized by the owner  
9 substantially complied with subdivision a and notice against trespass is clear  
10 from the circumstances.
- 11 e. An individual who violates subdivision a is guilty of a class A misdemeanor for the  
12 second or subsequent offense within a two-year period.
- 13 4. a. An individual, knowing the individual is not licensed or privileged to do so, may  
14 not enter or remain in a place as to which notice against trespass is given by  
15 posting in a manner reasonably likely to come to the attention of intruders. A  
16 violation of this subdivision is a noncriminal offense.
- 17 b. A peace officer shall cite an individual who violates subdivision a with a fine of  
18 two hundred fifty dollars for each violation.
- 19 c. The peace officer citing the individual shall:  
20 (1) Take the name and address of the individual; and  
21 (2) Notify the individual of the right to request a hearing if posting bond by mail.
- 22 d. The peace officer may not take the individual into custody or require the  
23 individual to proceed with the peace officer to any other location for the purpose  
24 of posting bond. The officer shall provide the individual with an envelope for use  
25 in mailing the bond.
- 26 e. An individual cited may appear before the designated official and pay the  
27 statutory fine for the violation at or before the time scheduled for hearing.
- 28 f. If the individual has posted bond, the individual may forfeit bond by not appearing  
29 at the designated time.
- 30 g. If the individual posts bond by mail, the bond must be submitted within fourteen  
31 days of the date of the citation and the individual cited shall indicate on the

1 envelope or citation whether a hearing is requested. If the individual does not  
2 request a hearing within fourteen days of the date of the citation, the bond is  
3 deemed forfeited and the individual is deemed to have admitted to the violation  
4 and to have waived the right to a hearing on the issue of commission of the  
5 violation. If the individual requests a hearing, the court for the county in which the  
6 citation is issued shall issue a summons to the individual requesting the hearing  
7 notifying the individual of the date of the hearing before the designated official.

8 h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled  
9 at the individual's request, the individual may make a statement in explanation of  
10 the individual's action. The official may at that time waive or suspend the statutory  
11 fine or bond.

12 i. A citing peace officer may not receive the statutory fine or bond.

13 j. The bond required to secure appearance before the judge must be identical to  
14 the statutory fine established in subdivision b.

15 5. An individual is guilty of a class B misdemeanor if that individual remains upon the  
16 property of another after being requested to leave the property by a duly authorized  
17 individual. An individual who violates this subsection is guilty of a class A  
18 misdemeanor for the second or subsequent offense within a two-year period.

19 6.4. This section does not apply to a peace officer in the course of discharging the peace  
20 officer's official duties.

21 **SECTION 2. AMENDMENT.** Section 20.1-01-18 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23 **20.1-01-18. Hunting on posted land and trapping on private land without permission**  
24 **unlawful – Penalty.**

25 ~~No person~~An individual may ~~not~~ hunt or pursue game, or enter for those purposes, upon  
26 ~~legally posted~~ land belonging to another without first obtaining the permission of the person  
27 legally entitled to grant the same permission, or verifying the land is open to hunters by  
28 complying with subsection 3 of section 20.1-02-03. ~~No person~~An individual may ~~not~~ enter upon  
29 ~~privately owned land for the purpose of trapping protected fur bearing animals without first~~  
30 ~~gaining the written permission of the owner or operator of that land.~~ ~~A person~~An individual who  
31 ~~violates this section is guilty of a class B misdemeanor for the first offense and a class A~~

1 ~~misdemeanor for a subsequent offense within a two-year period~~ unless the land is designated as  
2 closed to hunters or open to hunters with permission under section 20.1-18-02 or the land is  
3 legally posted in accordance with section 20.1-01-17.

4 **SECTION 3. AMENDMENT.** Section 20.1-01-19 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **20.1-01-19. When ~~posted~~private land may be entered.**

7 ~~Any person~~An individual may enter upon ~~legally posted~~private land to recover game shot or  
8 killed on land where the ~~person~~individual had a lawful right to hunt.

9 **SECTION 4. AMENDMENT.** Section 20.1-01-20 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **20.1-01-20. Entering ~~posted~~private land with a hunting license and a gun or firearm**  
12 **prima facie evidence of intent to hunt game.**

13 Proof that a ~~person~~an individual ~~having~~an individual had a firearm, or other weapon  
14 declared legal by governor's proclamation, ~~in the person's~~individual's possession and a valid  
15 license to hunt game in the relevant area when the individual entered upon the ~~legally~~  
16 ~~posted~~private premises of another without permission of the owner or tenant is prima facie  
17 evidence the ~~person~~individual entered to hunt or pursue game.

18 ~~SECTION 5. Section 20.1-02-33 of the North Dakota Century Code is created and enacted~~  
19 ~~as follows:~~

20 ~~20.1-02-33. Private land open to hunters - Publicly accessible database - Penalty.~~

21 ~~1. If a person legally entitled to give permission to enter private land wants to make the~~  
22 ~~land open to hunters, the person shall notify the director on a form prescribed by the~~  
23 ~~director. The notification must include information the director deems necessary to~~  
24 ~~identify the boundaries of the private land open to hunters.~~

25 ~~2. The director shall make the information identifying the private land made open to~~  
26 ~~hunters under subsection 1 accessible to the public, including in an electronic format~~  
27 ~~available on the department's website. The information must be made available in a~~  
28 ~~format that allows hunters to identify easily which private land is open to hunters.~~

29 ~~3. Before entering private land to hunt or pursue game, an individual shall verify the~~  
30 ~~publicly available information under subsection 2 indicates the land is open to hunters.~~  
31 ~~Unless the individual has permission to hunt or pursue game on the land from a~~

SB2315  
2/15/19  
#1

1 ~~person legally entitled to give the permission, an individual is guilty of a class B~~  
2 ~~misdemeanor if the individual hunts or pursues game on private land, or enters private~~  
3 ~~land to hunt or pursue game, when the land is not identified as open to hunters in the~~  
4 ~~publicly available information under subsection 2.~~

5 **SECTION 5. AMENDMENT.** Section 20.1-03-42 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **20.1-03-42. Guiding on prohibited lands.**

8 1. A person may not act as a hunting guide or hunting outfitter on land the person knows  
9 is owned by the state unless the appropriate state agency permits or authorizes the  
10 guiding or outfitting, on private land enrolled by the department for purposes of  
11 hunting, on land in which the department pays in lieu of taxes, or on federal lands  
12 without being authorized or permitted as required by the appropriate federal agency;  
13 ~~or.~~

14 2. A person may not act as a hunting guide or outfitter on private lands that are posted  
15 against hunting or trespassing under section 20.1-01-17 or private lands that are  
16 designated as closed to hunters or open to hunters with permission under section  
17 20.1-18-02, without first informing and obtaining permission from the landowner to  
18 conduct guiding or outfitting on the land. If the landowner did not grant the permission  
19 in writing, there is a presumption that the permission did not exist.

20 ~~**SECTION 7. REPEAL.** Section 20.1-01-17 of the North Dakota Century Code is repealed.~~

21 **SECTION 6.** Chapter 20.1-18 of the North Dakota Century Code is created and enacted as  
22 follows:

23 **20.1-18-01. Hunters access advisory group.**

- 24 1. The hunters access advisory group consists of:
- 25 a. The agriculture commissioner or the commissioner's designee;
  - 26 b. The director or the director's designee;
  - 27 c. The chief information officer or the officer's designee;
  - 28 d. A representative of the association of counties;
  - 29 e. One legislator appointed by the majority leader of the senate;
  - 30 f. One legislator appointed by the majority leader of the house of representatives;
- 31 and

- 1 g. One legislator from the minority party appointed by the legislative management.
- 2 2. The hunters access advisory group shall oversee the development of a database
- 3 identifying private land in the state as open to hunters, closed to hunters, or open to
- 4 hunters with permission from the owner or lawful occupant.
- 5 3. The hunters access advisory group shall establish guidelines for the development of
- 6 the database and acceptance criteria for county data used to develop the database.
- 7 **20.1-18-02. Hunters access database.**
- 8 1. The hunters access database must use color coding or other clear indicators to
- 9 designate private land in the state as open to hunters, closed to hunters, or open to
- 10 hunters with permission from the owner or lawful occupant.
- 11 2. A landowner or lawful occupant may designate which of the three categories in
- 12 subsection 1 applies to the landowner's or occupant's land. Land for which a
- 13 landowner or lawful occupant does not designate a category must be indicated in the
- 14 database as open to hunters if the county in which the land is located is included in the
- 15 database.
- 16 3. If a landowner or lawful occupant designates land as open to hunters with permission,
- 17 the landowner or lawful occupant shall provide contact information to be included in
- 18 the database for hunters to request permission to hunt on the land.
- 19 4. The database must be accessible electronically to the public and may be made
- 20 available to the public through other means, including smartphone applications.
- 21 5. To be included in the database, a county shall provide geographic information system
- 22 data or other data to the information technology department which meet the criteria
- 23 established by the hunters access advisory group.
- 24 **20.1-18-03. Noncompliance with database and posting - Penalty.**
- 25 1. Until the county in which private land is located is included in the hunters access
- 26 database, the land is deemed open unless posted in accordance with section
- 27 20.1-01-17.
- 28 2. After a county is included in the database:
- 29 a. A hunter may not enter land in the county which is designated in the database as
- 30 closed to hunters or open to hunters with permission unless the hunter has
- 31 permission to enter the land or otherwise is entitled to enter the land. A hunter is

SB 2315  
2/15/19  
#1

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

guilty of a class B misdemeanor for a first violation and a class A misdemeanor for a second and subsequent violation of this subdivision; and

b. A hunter without permission may enter land in the county which is not designated in the database as closed to hunters or open to hunters with permission, unless the land is posted in accordance with section 20.1-01-17.

3. A hunter may not enter land that is posted in accordance with section 20.1-01-17 unless the hunter has permission to enter the land or otherwise is entitled to enter the land, regardless of the designation of the land in the database. A hunter is guilty of a class B misdemeanor for a first violation and a class A misdemeanor for a second and subsequent violation of this subsection.

**SECTION 7. LEGISLATIVE INTENT - TIMELINE FOR DATABASE DEVELOPMENT.** It is the intent of the legislative assembly that several counties will be included in an operational hunters access database by the fall hunting season of 2020, and the operational database will include all counties whose data meet the specifications of the hunters access database advisory group by September 1, 2022.

**SECTION 8. LEGISLATIVE MANAGEMENT STUDY - ACCESS TO LANDS FOR HUNTING AND TRAPPING.** During the 2019-20 interim, the legislative management shall consider studying access to public and private lands for hunting, trapping, and related issues. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-seventh legislative assembly.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2315

- Page 1, line 1, replace "section 20.1-02-33" with "chapter 20.1-18"
- Page 1, line 2, after the first "to" insert "a database"
- Page 1, line 2, after "identifying" insert "whether"
- Page 1, line 2, after "land" insert "is"
- Page 1, line 4, remove "repeal section 20.1-01-17 of the North"
- Page 1, line 5, replace "Dakota Century Code, relating to posting land" with "provide a statement of legislative intent; to provide for a legislative management study"
- Page 1, line 19, after "be" insert ", except as provided in sections 20.1-01-18, 20.1-01-19, 20.1-03-42, and 20.1-18-03"
- Page 3, line 21, overstrike "- **Penalty**"
- Page 3, line 22, remove "not"
- Page 3, line 24, remove "or verifying the land is open to hunters by"
- Page 3, line 25, remove "complying with subsection 3 of section 20.1-02-03"
- Page 3, line 25, overstrike the period
- Page 3, line 25, remove "An individual"
- Page 3, line 25, overstrike "may"
- Page 3, line 25, remove "not"
- Page 3, line 25, overstrike "enter upon"
- Page 3, overstrike line 26
- Page 3, line 27, overstrike "gaining the written permission of the owner or operator of that land."
- Page 3, line 27, remove "An individual"
- Page 3, line 27, overstrike "who"
- Page 3, overstrike line 28
- Page 3, line 29, overstrike "misdemeanor for a subsequent offense within a two-year period" and insert immediately thereafter "unless the land is designated as closed to hunters or open to hunters with permission under section 20.1-18-02 or the land is legally posted in accordance with section 20.1-01-17"
- Page 4, line 6, after "**with**" insert "**a hunting license and a**"
- Page 4, line 8, remove "an individual"
- Page 4, line 8, overstrike "having" and insert immediately thereafter "an individual had"

SB 2315  
2/15/19  
#2

Page 4, line 9, overstrike "in the person's"

Page 4, line 9, remove "individual's"

Page 4, line 9, overstrike "possession" and insert immediately thereafter "and a valid license to hunt game in the relevant area when the individual"

Page 4, remove lines 12 through 29

Page 5, after line 1, insert :

"1."

Page 5, line 5, after the comma insert "or"

Page 5, line 6, overstrike ", or" and insert immediately thereafter ".

2. A person may not act as a hunting guide or outfitter"

Page 5, line 6, after "lands" insert "that are"

Page 5, line 6, remove the overstrike over "~~posted against hunting or~~"

Page 5, line 7, remove the overstrike over "~~trespassing~~" and insert immediately thereafter "under section 20.1-01-17 or private lands that are designated as closed to hunters or open to hunters with permission under section 20.1-18-02."

Page 5, replace line 10 with:

"**SECTION 6.** Chapter 20.1-18 of the North Dakota Century Code is created and enacted as follows:

**20.1-18-01. Hunters access advisory group.**

1. The hunters access advisory group consists of:
  - a. The agriculture commissioner or the commissioner's designee;
  - b. The director or the director's designee;
  - c. The chief information officer or the officer's designee;
  - d. A representative of the association of counties;
  - e. One legislator appointed by the majority leader of the senate;
  - f. One legislator appointed by the majority leader of the house of representatives; and
  - g. One legislator from the minority party appointed by the legislative management.
2. The hunters access advisory group shall oversee the development of a database identifying private land in the state as open to hunters, closed to hunters, or open to hunters with permission from the owner or lawful occupant.
3. The hunters access advisory group shall establish guidelines for the development of the database and acceptance criteria for county data used to develop the database.



SB 2315  
2/15/19  
#2

**20.1-18-02. Hunters access database.**

1. The hunters access database must use color coding or other clear indicators to designate private land in the state as open to hunters, closed to hunters, or open to hunters with permission from the owner or lawful occupant.
2. A landowner or lawful occupant may designate which of the three categories in subsection 1 applies to the landowner's or occupant's land. Land for which a landowner or lawful occupant does not designate a category must be indicated in the database as open to hunters if the county in which the land is located is included in the database.
3. If a landowner or lawful occupant designates land as open to hunters with permission, the landowner or lawful occupant shall provide contact information to be included in the database for hunters to request permission to hunt on the land.
4. The database must be accessible electronically to the public and may be made available to the public through other means, including smartphone applications.
5. To be included in the database, a county shall provide geographic information system data or other data to the information technology department which meet the criteria established by the hunters access advisory group.

**20.1-18-03. Noncompliance with database and posting - Penalty.**

1. Until the county in which private land is located is included in the hunters access database, the land is deemed open unless posted in accordance with section 20.1-01-17.
2. After a county is included in the database:
  - a. A hunter may not enter land in the county which is designated in the database as closed to hunters or open to hunters with permission unless the hunter has permission to enter the land or otherwise is entitled to enter the land. A hunter is guilty of an infraction for a first violation and a class B misdemeanor for a second and subsequent violation of this subdivision; and
  - b. A hunter without permission may enter land in the county which is not designated in the database as closed to hunters or open to hunters with permission, unless the land is posted in accordance with section 20.1-01-17.
3. A hunter may not enter land that is posted in accordance with section 20.1-01-17 unless the hunter has permission to enter the land or otherwise is entitled to enter the land, regardless of the designation of the land in the database. A hunter is guilty of an infraction for a first violation and a class B misdemeanor for a second and subsequent violation of this subsection.

**SECTION 7. LEGISLATIVE INTENT - TIMELINE FOR DATABASE DEVELOPMENT.** It is the intent of the legislative assembly that several counties will be

SB 2315  
2/15/19  
#2

included in an operational hunters access database by the fall hunting season of 2020, and the operational database will include all counties whose data meet the specifications of the hunters access database advisory group by September 1, 2022.

**SECTION 8. LEGISLATIVE MANAGEMENT STUDY - ACCESS TO LANDS FOR HUNTING AND TRAPPING.** During the 2019-20 interim, the legislative management shall consider studying access to public and private lands for hunting, trapping, and related issues. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-seventh legislative assembly."

Renumber accordingly



## North Dakota Senate

State Capitol  
600 East Boulevard Avenue  
Bismarck, ND 58505-0360

**Senator Jessica Unruh**  
District 33  
1224 First Avenue NE  
Beulah, ND 58523-6301

[jkunruh@nd.gov](mailto:jkunruh@nd.gov)

**Committees:**  
Energy and Natural Resources,  
Chairman  
Finance and Taxation

03/14/2019

SB 2315  
3.14.19  
Attachment 1

I'm here before you this morning as a senator for District 33, but I'm also here as a farm kid and an avid outdoorsman who loves our great state and deep heritage of loving our land. That deep heritage has been embedded in what we do from statehood, as is written in Article I, Section 1 of our constitution, which states:

All individuals are by nature equally free and independent and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property and reputation; pursuing and obtaining safety and happiness; and to keep and bear arms for the defense of their person, family, property, and the state, and for lawful hunting, recreational, and other lawful purposes, which shall not be infringed.

We care so much about our property owners and our right to hunt, that the writers of our founding document and statehood mentioned them both. And that makes me so proud. We've continued our deep heritage for generations. I noticed one other item - property rights are listed first. And it is because of that I stand before you today in favor of this bill.

The owners of the land in our state are a fabulous group of people. I grew up with them. I've been with my father when he's listened to great hunting stories told by some out of state hunters who he allowed on his land. I've also been with him when he's had to have some uncomfortable conversations with trespassers who have used high powered rifles just over the hill from his herd of cattle. Our land owners carry many burdens, including feeding and taking care of our wildlife. Over time, we've slowly taken away rewards for this. We've changed the gratis program to make the process just a little more difficult for them so others have more opportunities to draw the big buck tags they dream of in the unit they want. And yet, we expect them to be required to tell people to stay off their property instead of assuming they shouldn't be there in the first place.

I deeply want our heritage of hunting to continue. I want access to be easy so a 12 year old can feel what it's like to successfully take their first deer. I want to take my children out on a cold morning with their first shotgun to find some pheasants. And I want everyone to have these opportunities.

I believe that if we pass this legislation, we can still have both of these things. With the progress in technology and a continued spirit of cooperatism that stems from statehood that we've seen as this concept has progressed, we can both preserve private property rights and continue our long standing heritage of hunting.

Chairman Johnson and Members of the Agriculture Committee and Chairman Porter and Members of the House Energy and Natural Resources Committee. My name is Representative Greg Westlind, District 15. I stand in support of Senate Bill 2315. I am a farm land owner, tenant and farmer and sportsman from Cando North Dakota. My farms location is in the central fly zone for migrating water fowl. Our area receives a great deal of hunting pressure both in the fall and spring migration season. My family and friends have enjoyed many years of great hunting. Some of our best hunting land is located near Hurricane Lake in Towner County and, of course, we post our land with NO TRESPASS signs. And yes, we have people who enter our land with out permission to hunt or deposit unwanted appliances, tires, garbage, drive on fields in very wet conditions and destroy our signs. Will this bill stop this type of illegal trespass? Most likely not.

I sponsored this original bill and like its original intend. On two occasions I have had people cut hay on my land. One track of land was a small field of CRP located some distant from my main farm so was not noticed. Had I had a spot check by the FSA I would I would have been out of compliance. Its time do more to protect land owner rights.

There are many hunters that come every year to hunt ducks and geese on my farm, both in state and out of state. We have four bow hunters come from the state of Michigan, a state where all land is posted. They love coming here to deer hunt, generally they never see another hunter.

Again, I stand in support of SB2315. Thank you.



# Morton County

STATE OF NORTH DAKOTA

SB 2315  
3/14/19  
Attach #3



Sheriff Kyle Kirchmeier

TO: House Agriculture Committee, Chairman Dennis Johnson  
FROM: Morton County Commissioner Cody Schulz and Morton County Sheriff Kyle Kirchmeier  
DATE: March 14, 2019  
RE: SB 2315 Support

As you consider Senate Bill 2315 which relates to criminal trespass and hunting on private land, we urge you to consider the intent of current law and how it should be changed to better serve the citizens of North Dakota.

Current trespass laws in North Dakota create a difficult situation for landowners, law enforcement and prosecuting attorneys when attempting to arrest and prosecute those choosing to engage in criminal activity on private property.

The current law allows an individual to go onto private land as long as they are not verbally told to leave by the property owner or the land isn't legally posted. Trespass, for any purpose, whether it is for recreation or hunting or photography should be a privilege granted to those seeking permission to do so. The landowner should have the right to allow or not allow someone onto their land for those purposes.

We certainly agree that hunters are not the problem. Our request is for you to pass this bill to address trespassers who have a criminal intent. In the case of the Dakota Access Pipeline (DAPL) protest and associated riots, those moving onto private property claimed their First Amendment right to free speech should protect them and that all areas were "free speech zones." Had their actions been solely public demonstrations and peaceful expressions of free speech, private land owners may have accommodated them. But as we witnessed, the protests were often characterized by violence, vandalism and intimidation.

In an interview during the DAPL protest, our constituent and your fellow legislator, Rep. Jim Schmidt, articulated it best when he said, "What we have done is taken a privilege and given it the status of a right, and taken a right and made it a privilege."

During, and following, the DAPL protest and associated riots, 633 charges of criminal trespass were dropped or dismissed due in large part because the state's current legal definition of trespass does not match the dictionary definition of trespass which is "entry to a person's land or property without their permission". In many cases protesters removed posted signs and then claimed they did not know they were trespassing. It is difficult to convict on a criminal trespass charge especially since the land must be posted and proved to be posted. Many times during the DAPL court proceedings, if prosecuting attorneys could not prove the land was posted at the exact moment of the trespass – through photo or video evidence – the charge was dismissed. The protests and associated riots on private land were often chaotic, with law enforcement frequently outnumbered, so proving the land was posted was not always possible, nor was it the top priority at the time – keeping people safe was.

Because current law puts the burden on the property owner instead of the person(s) seeking access to private property, people can trespass brazenly without much consequence.

We understand the hunting implications of changing the law, and we do not wish to hinder that significant industry within our state. In fact, sportsmen are generally very law-abiding people because they do not want to lose the privileges granted to them. However, landowners should not have to put their home, livelihood or their basic rights governing private property at risk because the law is narrowly focused on recreation. The current law does not have enough teeth to prosecute those who see private property as a place to make a bold statement and thus encourages unlawful activity – as protesters demonstrated in many cases – in order to garner attention for a cause.

With a growing number of activists willing to go to great lengths, including criminal activity, to stop energy development, North Dakota – a state with a diverse energy portfolio – needs to address its current law and we are in favor of Senate Bill 2315 to achieve that. Protests have become the new normal any time an energy project begins to take shape, and as a state, we must protect the right to peacefully assemble and protest. We must also consider our landowners who simply want to work and continue their daily lives knowing the laws of our state are there to protect them if someone chooses to trespass with intentions of engaging in criminal activity.

Furthermore, the hundreds of dropped and dismissed criminal trespass charges give an invitation to anyone who might consider criminal activity on private land, since disregarding the rights of the landowner proved easy to do with impunity during the DAPL protest.

State, county and local government agencies learned a lot of lessons from responding to the DAPL protest. One of those lessons is to strengthen our trespass laws so landowners don't have the unfair burden of spending time and money placing signs and continually making sure the signs remain in place. We ask you to amend our state's trespass laws to ensure that landowners have the protections they need so offenders can be dealt with fairly and appropriately, and to discourage people from trespassing on private property because they feel entitled to do so.

Let's make it less difficult for landowners to protect their private property. If someone wishes to access private land, they should be required to seek permission. It's a matter of respect and public safety.

Sincerely,



Cody Schulz  
Morton County Commissioner



Kyle Kirchmeier  
Morton County Sheriff

# SB 2315

Acceptable Use  
(Smartphone, PC, Printable)

Verification & Authentication  
(Forms)

Data Acquisition & Integration  
(Database)

## Who

## What

Hunters

Visually identify open, permissioned, off limits lands

Technology can make maps available when there is no connectivity

Landowners

County  
Representatives

Verification and authentication of land ownership

Landowners control their data privacy and what data is listed

County Database

GIS Database

Provides the most up-to-date land parcel information

Data quality will only be as good as what the county provides





Joint House Agriculture and  
Energy and Natural Resource Committees  
Testimony on SB 2315

North Dakota Game and Fish Department  
Terry Steinwand, Director  
March 14, 2019

Chairman Johnson, Chairman Porter and and members of the House Agriculture and Energy and Natural Resources Committees, my name is Terry Steinwand and I am the Director of the North Dakota Game and Fish Department. I am providing testimony in support of the concept behind SB 2315.

The concept provided in the current version of the bill addresses the issues brought forward by landowners and the hunting public, i.e., landowners cite the time and expense involved in posting private land and hunters state they simply want to know who to contact. For the most part, the intent of this bill would address those concerns. There is trepidation on how the database/registry would work but I'd have to leave that explanation to the IT experts.

Given that substantial work was spent on the hunter trespass portion of the bill in the first half of the session not much attention was given to the criminal trespass portion. As a result, many potential unintended consequences exist. Since all private land would be automatically posted to criminal trespass in this version some of the unintended consequences and violations could be birdwatching, mentoring youth hunters (mentors are not allowed to carry firearms when accompanying a youth hunter), fishing access to many smaller lakes, a political candidate going door to door, etc. I would recommend obtaining advice from states attorneys on other potential ramifications on this issue.

A potential solution to these issues, and also one that could address hunter trespass, is to have one category for the electronic database/registry. This would allow the landowner or lawful occupant to enter their land into the registry as posted but they'd only have to list their name and not a phone number—but that could be optional. By providing this option in the registry it would address the criminal and hunting trespass but still allow for physical posting as currently exists if they choose. As in the current version, if the landowner or legal occupant chooses not to enter anything into the electronic registry or physically post the land it would be open to hunting and other legal activities.



*For decades, landowners have longed for the ability to decide who can and cannot access their private property without having the time and cost burdens of posting signs. To them, this is a fundamental private property right that they are entitled to, since they own, pay taxes on and make improvements to the land. For just as long, sportsmen have been concerned about hunting access and knowing who to contact. Finally, SB 2315 offers solutions stakeholders and lawmakers have been seeking.*

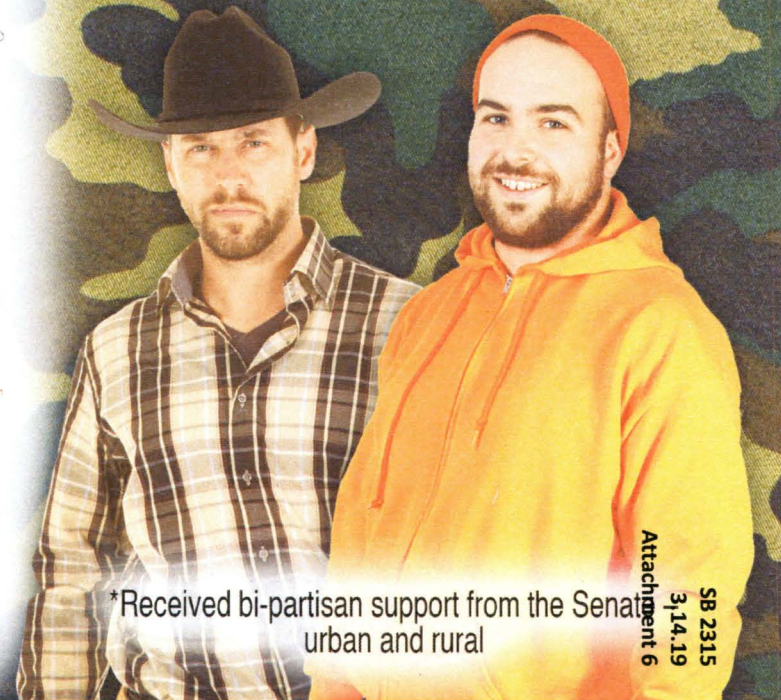
**What SB 2315 does:**

- Effective in August 2019, reverses the presumption that all land is considered open and requires people to seek permission to access private property, except for hunting, where designations of open or closed will be indicated on an electronic database.
- Authorizes the development of a publicly available, electronic, hunter access database, wherein land will be designed as green (hunters welcome without asking); yellow (hunting may be allowed with permission); and red (no hunting available). Contact info will be provided for parcels indicated as yellow. The database will be completed by 2022. If a landowner does not provide info for the database, the land will be designated as green. Those on red or yellow land without permission will be considered trespassers.
- Allows traditional signs to be used if landowners prefer them. Signs take precedence over the database.
- Establishes an advisory group, including landowners and sportsmen, to oversee the development of the database so it meets stakeholder needs.

*Good for landowners,  
good for hunters*

**SB 2315 will help connect landowners and sportsmen, develop stronger relationships between the constituencies and satisfy property rights and access goals.**

Supported by:



\*Received bi-partisan support from the Senate urban and rural

SB 2315  
3.14.19  
Attachment 6

**Vote YES on SB 2315**

**North Dakota Stockmen's Association  
Testimony to the House Agriculture and  
Energy and Natural Resources Committees on SB 2315  
March 14, 2019**

Good morning, Chairmen Johnson and Porter and members of the House Agriculture and Energy and Natural Resources Committees. I am Julie Ellingson and I represent the North Dakota Stockmen's Association, an 89-year-old beef cattle trade organization representing 3,000 cattle-ranching families.

We rise in support of SB 2315. Our organization was founded on the principle that the right to own and enjoy the use of private property is the cornerstone to a free society and is firmly opposed to any infringement of its lawful use. North Dakota's current posting law infringes on property rights – requiring those who own, care for and pay taxes on their land to hang signs in order to keep others off or even just to know who is accessing it. The time and cost burden of posting signs is placed squarely on the landowner and, if the signs veer from the prescribed protocol – or when the signs mysteriously disappear – their property rights protection is breached.

As you know, this is not a new issue. Many of you will remember this same discussion two years ago and a few years before that and a few years before that. Unfortunately, the problems with our current law have not gone away and were underscored even more during the No-DAPL protest.

Landowners were especially frustrated after the bill on this topic failed during the last session. Instead of throwing in the towel, though, our group sat down with those on the other side of this issue in a couple face-to-face meetings to gain a better understanding of their concerns. Simply put, landowners want to be able to decide who does and does not come on their land without having to post and sportsmen want to make sure they have access.

The bill before you aims to accomplish both of those objectives, is the result of many, many hours of work and is offered in a sincere spirit of compromise.

As the bill sponsor explained, it creates a clearer distinction between criminal trespass and

hunting trespass, requiring landowner permission to access property for most situations, and creates an electronic posting option for the purposes of hunting. This will yield a modern, publicly available database that will be a useful tool for hunters. It is a win-win for everyone.

It includes provisions that allow landowners who are uncomfortable using the electronic platform to retain the use of traditional signs and identifies an advisory group that includes landowners, sportsmen and the appropriate agencies to oversee the roll-out of the program to ensure it meets the needs of the respective constituencies.

SB 2315 will not only preserve the state's hunting heritage, but enhance it, as stronger relationships will be forged with better communication and mutual respect and understanding. Conversely, the alternative to not passing the bill, I believe, would have a detrimental impact to hunting in our state, as landowners are growing frustrated and feeling marginalized and would likely close off more access as a result.

While each has their own nuances, neighboring states have laws on the books already that require permission before access is granted, and each of those states continue to have robust hunting opportunities. In fact, they host more hunters and generate more revenue from hunting than North Dakota.

Remember, the land we are talking about is more than a piece of land. It's our home, our heritage, our place of business, our storefront if you will – not to mention the source of \$11 billion worth of economic activity for our state. This is not an unreasonable request.

We feel strongly that the penalties for hunting trespass, which were changed from Class B and Class A misdemeanors, currently in code, to infractions and Class B misdemeanors in the amended bill, must be restored to what they are now. Reducing the penalties for trespass below what they are now would not be well-received by landowners. As such, we urge you to consider that amendment, which would be a simple fix in subsection 3 on page 6.

Committee members, landowners are seeking the right to have some say on the property they own. SB 2315 is a significant step in the right direction – one that helps fortify our property rights, addresses the most commonly expressed concerns and is long overdue. Thank you for the opportunity to testify. We urge your favorable recommendation on this bill.

# Our view: North Dakota land should be assumed closed

By Herald editorial board on Jan 13, 2019 at 6:10 a.m.

Herald editorial board

North Dakota homeowners, be sure to post "no trespassing" signs on your front door, lest would-be intruders feel it's OK to make themselves welcome in your parlor. Same goes for your businesses and vehicles.

Actually, don't bother, because everybody knows it's wrong to enter someone's home without an invitation, or a store after business hours. Signs, therefore, are unnecessary and would be an inconvenience to the property owner.

Why, then, must North Dakota landowners spend the time and money to post signs on private rural acres to declare trespassers are similarly unwelcome?

All of that might change if legislation is — as expected — introduced during the current session of the state Legislature. That's good, because creating an environment of assumed closed land is a common-sense proposal that is overdue.

Here's the problem: Openness is assumed on North Dakota private lands unless otherwise posted. That means hunters may access, without permission, any land on which the property owner has not erected actual signs declaring it closed.

That's directly the opposite of laws in many other states, including neighboring Minnesota and South Dakota. There, all private land is closed to hunting without permission of the landowner. For example, in South Dakota, unapproved access on land by a hunter is only allowed in the case where game has been shot legally on adjacent land and the hunter needs access to retrieve the game. The hunter must make a beeline to the game and must do it unarmed.

As reported recently in the Herald, farmers and other proponents of a trespass bill believe the current North Dakota rule puts an unfair burden on landowners, who are forced to spend time and money placing signs and, later, making sure the signs remain in place. We agree — that is an unfair burden.

This isn't the opening salvo of a new debate. It's been discussed in the past, too, including in 2017 when a bill was introduced and prompted heated conversation. The 2017 bill died in the Senate, 28-17.

Sportsmen's groups say a new trespass law won't solve the problem of hunters inappropriately accessing land. They're probably right, since trespassing still happens in Minnesota and South Dakota, where openness is not assumed and where permission is required for all land entry.

There also are concerns about tracking down property owners to seek permission. We understand that inconvenience, but it's not one that cannot be overcome, as evidenced in other states.

However, use of private land really shouldn't be a sportsmen's decision. It should rest solely with the landowner.

Further, any landowner who currently allows hunting probably will allow access in the future. And the landowners who take the time now to post their land probably won't allow hunting if a new law is passed. So, again, how will a new law adversely affect hunters in a common-sense world?

What should happen is this: The Legislature should indeed create a law that assumes private land is closed to hunting and all other entry. Then, North Dakota sportsmen should do what all responsible hunters do — visit with landowners, politely ask for access and develop relationships that result in hunting opportunities.

Landowners deserve this courtesy.



Matt Gade/Forum News Service file photo

# North Dakota Property Owners Shouldn't Have to Post Their Land to Control Access

January 2, 2019 | by [Rob Port](#)

There were hundreds of arrests made during the violent protests against the Dakota Access Pipeline a couple of years back, but I'm sure you readers noticed that the charges behind many of those arrests didn't stick.

That's because the bulk of those charges were related to trespassing, and North Dakota has some very antiquated trespass laws.

Under the *status quo* citizens are allowed to go on private land that doesn't belong to them for purposes like hunting as long as they a) aren't told verbally to leave or b) the land isn't legally posted. In other words, the law grants the presumption of access to private property unless the property owner opts out.

This allowed the anti-pipeline protesters to trespass repeatedly, and flagrantly, with near impunity simply by ripping down signage prior to their protests. Law enforcement was left having to prove, in a chaotic situation, that the land in question had been properly posted prior to the alleged trespass.

A nearly impossible situation.

Prompted by that less, during the 2017 session state Senator Don Schaible – a Republican who represents an area near where the protests occurred – introduced SB2225 which would have changed the presumption in the law. Instead of the property owner needing to opt out of granting access to his/her land, they'd get to opt in by specifically granting permission for that access.

Unfortunately that bill died a quick death early in the session on a 17-28 vote in the Senate.

Some, though, think the issue may get resurrected during the 2019 session. "Sportsmen's groups are bracing for another trespass bill as the 2019 session of the North Dakota Legislature approaches," my colleague Brad Dokken reports.

As of this morning I haven't seen any legislation related to this issue filed on the legislative website, but it's early. It could still be coming, and I hope it does.

While I can understand the concern of outdoors groups, who are afraid of diminished access to the land, the simple fact of the matter is that private land is private. If we are to respect property rights, we cannot have law which puts the onus on property owners to restrict access to their land.

Perhaps, instead of requiring that land owners post their property, we instead allow them to put up signs indicating that a given piece of land is open for hunting. I'm very interested in fostering comity between outdoors groups and land owners, but the *status quo* is breeding resentment between those two groups.

"The first meeting I thought went fairly well," Dokken quotes ND Game and Fish Director Terry Steinwand as saying of efforts to find common ground on land access. "The second meeting pretty much degraded into—it wasn't a shouting match, that's absolutely not true—but it really got into the guts of the philosophical differences between the two, and it was getting no place in a hurry."

The hunting and fishing groups may not like it, but this debate would probably get better if we start off by respecting who owns the land in the first place. They've felt marginalized in this debate, and why shouldn't they? Not only is the *status quo* onerous for them, but those who own the land in North Dakota's rural areas are outnumbered both in the general population and in the Legislature by those from urban areas.

Many of whom see the land not as private property but their play areas for hunting, snowmobiling, etc.

**TESTIMONY  
HOUSE AGRICULTURE COMMITTEE  
MARCH 14, 2019**

Mr. Chairman and members of the House Agriculture Committee, my name is Mike Gerhart, a resident of Bismarck, retired law enforcement officer, and a person who enjoys hunting and fishing. I'm providing written testimony in support of Senate Bill 2315.

As a former law enforcement officer, I understand the concerns landowners have and why this legislation is important to them. As a sportsman, I don't feel this legislation adversely impacts my ability to pursue hunting. There are various smartphone applications that may be utilized to locate public land as well as information regarding the ownership of private land. Having access to this information makes seeking permission from a landowner relatively simple. In order for sportsmen to develop and maintain a positive relationship with landowners, it is important they understand the landowner's perspective and why this legislation is important to them.

I ask that you give SB 2315 favorable consideration and a DO-PASS recommendation.

Sincerely,

Mike Gerhardt  
Bismarck, ND



March 11, 2019

Dear House Ag Committee & House Energy and Natural Resources Committee  
Members:

SB 2315 is before you, a bill that in its original form challenged the long-held tradition of how people have come to gain access to private property.

The present law allows hunters to access unposted land to harvest their chosen game or fowl without having to contact the landowner. Sadly, the law as written muddies the water for law enforcement when people enter land that is posted. It has also been inappropriately used when both hunters and non-hunters use the provisions to access land that they claim is NOT "properly posted". This "not properly posted" excuse is used to justify their presence and to sometimes argue that they don't have to leave, even when asked to do so, as the landowner did not "properly post" their land. You have heard frustrating story after frustrating story. If you have served as a representative for any length of time you no doubt have seen this type of bill come before you nearly every session for many years.

It is time to examine our long-held traditions and hold them up against expressed values and beliefs. We believe land owners in North Dakota expect their private property rights will be respected and defended by well-crafted and equally applied laws. The bill (as passed out of the Senate) offers a strong step in the right direction. It begins to clarify the high value North Dakotans hold regarding private property rights and the expectation that those rights will be protected by the laws constructed by our elected representatives. The amendments added to the original bill provide a compromise by the landowners and address the concerns hunters have expressed.

We strongly urge a DO PASS from your committee.

Sincerely,

*Roger and Becky Graner*

Roger & Becky Graner

Huff, ND

Dear Chairman Johnson and members of the House Agriculture Committee,

My name is Greg Schonert. I am here today representing myself as a 5<sup>th</sup> generation North Dakotan, avid sportsman and future landowner. I am against SB 2315. I currently live on land that has been in my family for over 100 years, some of it in which my siblings and I will inherit someday. Living on our farm which is right north of Bismarck, we inevitably have a few issues with trespassing every year. I want to share a story and state why I still think SB 2315 is bad for North Dakota.

About two years ago I was driving to work and made it about 1/2 mile from my house and noticed two people and two dogs walking in our legally posted field that had just been harvested. I thought at first they were hunting but upon looking closer they just appeared to be letting their dogs run around. Now I could have called the sheriff right away, but I personally would rather give a warning before going that route. As I approached one of the people in my vehicle I had my arm hanging out the window. Before I could even ask what he was doing on our land, I was bit by his dog. Which I thought was just a nip at the time. The dog then turned and bit the owner severely in his hand and he was bleeding very badly. It all happened so fast and I was so irritated I told him in words I will not share with the Committee today to promptly leave and to never be on this property again. I didn't think about taking information from this person I just wanted them gone. When I returned home to change my shirt which had been slightly ripped, I realized that I probably needed stitches. I had no information from him and that was my fault but long story short is that I ended up needing stitches and rabies shots because I didn't know the person or his unruly dog.

There are other instances involving criminals whom refuse to acknowledge that land is posted or claim to not have known it was posted. We also have a big problem with snowmobilers, whom seem to just not care where they go on their machines. Often they are chasing up wildlife either intentionally or inadvertently. Not good for the wildlife, especially during winters like this. I have had hunts ruined on our posted land and in one case a stolen trail cam and ground blind. When speaking with the Sheriff's department they said there was not much they can do as it is very hard to catch snowmobilers in the act and actually get them to stop.

SB 2315 will not stop these kinds of things from happening. The bill does absolutely nothing to deter people from trespassing let alone it does not increase the fines and penalties for either trespassing or poaching. Something I think North Dakota needs to work on. SB 2315 would not have stopped the Dakota access pipeline protest and will not stop the relatively low proportion of people whom trespass or poach wildlife. The law-abiding resident and non-resident sportsmen and women whom generate approximately 2.1 billion to this state every year will be the ones to suffer. Harder access means less interest in hunting. Fewer hunters are not good for wildlife conservation, the 2<sup>nd</sup> amendment, or to the economy of North Dakota.

If SB 2315 is passed, and trespass continues (which it unfortunately will) the onus will still be on the landowner to track down a sheriff or game warden and have enough evidence to press charges.

Creating an online access database seems like a good idea in theory, but I have some serious concerns on the cost and logistics. I feel it is a terrible idea to encourage landowners to put their land or contact information in a public database for the whole world to see. One could argue that this database would make it easier for the criminals who expect everything handed to them and completely disrespect property rights by trespassing or poaching. Instead of actually having to get out in the country side and find places to hunt, these folks would be able turn on a database and drive right out to these areas. I

mean how convenient is that for the people whom you don't want on your land? At least the way things are now, people have to put in the time, effort, and money to find that land and if posted, ask for permission. Shouldn't we be teaching kids and new hunters that hunting takes time and work to find areas to hunt? Most land in North Dakota is already posted and the trespassers know that but it doesn't stop them. SB 2315 does nothing to rectify that.

So, what started out as a good deed from a landowner is destined to be a disaster. Soon enough there will be problems with trespassing, poaching, too many calls from hunters, scam-artists, or anti-hunters, and now with the database idea; previously unposted land or posted land but access with permission that was available for all those who took the effort to find or call or stop in-person and ask will be gone. Pretty soon this access database will be a sea of red. No hunting and don't ask. People that claim to not see posted signs today, will claim the database said the land was open. Criminals always find a way around things.

I also strongly feel that a hunter should not need a smartphone or app to be able to hunt. Yes they are extremely useful tools, which I use myself. But they should not be necessary. The older generation whom make up a large percentage of hunters in this state will be left in the dust with this access database. My dad, bless his heart, has a smartphone. He can make calls and text, but ask him to use an app and you would be better off trying to sell a ketchup flavored popsicle to a person with white gloves! That's not his fault, their generation just didn't grow up with the technology that we have today.

I want to thank you for letting me take the opportunity to submit written testimony in opposition to this bill. I urge you to not pass this bill and develop an interim study to find ways to deter trespassing and poaching and to also better understand the economic impact that this bill would create both in implementing the access database as well as the inevitable loss of revenue from resident and non-resident hunters, as there will be a hunter decline over time if SB 2315 passes. Good access is paramount to keeping our rich hunter-friendly heritage alive in North Dakota, which is vital to the state's economy. Thank you again and I will take any questions you may have.

Sincerely,

Greg Schonert  
701-202-0833  
[undbiology@gmail.com](mailto:undbiology@gmail.com)

# North Dakota Wildlife Federation

Ensuring abundant wildlife, wildlife habitat, and access to wildlife recreational opportunities

SB 2315  
3.14.19  
Attachment 10



**TESTIMONY OF JOHN BRADLEY**  
**NORTH DAKOTA WILDLIFE FEDERATION**  
**SENATE BILL 2315**  
**HOUSE AGRICULTURE COMMITTEE**  
**HOUSE ENERGY AND NATURAL RESOURCE**  
**COMMITTEE**  
**March 14, 2019**

Chairman Johnson, members of the House Agriculture Committee; Chairman Porter and members of the House Energy and Natural Resource Committee :

For the Record, I am John Bradley, Executive Director of the North Dakota Wildlife Federation. I'm here today representing our 1,500 members in 15 affiliated wildlife and sportsmen's club across North Dakota. While I don't speak for the 100,000 plus hunters that took to the field last year, I would say our views are representative of many of them. I would also note that our membership is made up of landowners, anglers, hikers, birders, wildlife photographers, horseback riders, and other recreationists.



NDWF recognizes the hard work and discussions that have gone into SB 2315 on the Senate side. We also recognize that the current version of SB 2315 is very different from what was originally introduced. NDWF supports trying to find a solution to the historic fighting over the posting/trespass issue that has gone on in past legislative sessions. We support the concept of online posting and reducing the cost and workload for landowners to annually post their land. Over the last couple of years, NDWF and our partners have produced and distributed “Ask Before You Enter” signs, free of charge to landowners who wish to post their land. The signs provide the owner/operator’s name and contact information. The signs are made of aluminum and are permanent so they don’t need to be replaced each fall. Our members want better landowner-hunter relations and these signs are just one step to achieving that goal, while improving access.

There have been surveys conducted on a national level to determine the participation level of hunting across the United States over the years. Results of these surveys show that hunting participation is declining across the nation. The number one reason stated for that decline is a lack of access. Ask any hunter, finding the owner of posted land can prove really difficult. With more land (50% or more) being rented or operated by someone other than the owner and an increase of out of state landowners, finding the owner of land is becoming more difficult. We believe if this database is going to work, landowner contact information for every category- closed to hunting, open to hunting with permission, and open to hunting -needs to be available on the online database.

Although not described in SB 2315, we believe that most landowners will simply select the "Closed to Hunting" as the default option for registering online. We currently have a database in ND with the Department of Game and Fish that actually pays people to list their lands for open access, it's called PLOTS. If these current landowners who don't post their land and leave it open to access aren't availing themselves of money via the PLOTS program, what makes you think they'll enter it in the proposed database for free?

For those that argue Minnesota and Montana are No Trespass States and they are doing just fine. Consider this statistic, on a nationwide scale Montana ranks 12th in the nation for public land access (37.5% Public/ 62.5% Private). Minnesota ranks 16th (23.5% Public/ 76.5% Private). North Dakota ranked 34th in the country with a measly 9.1% Public and 90.9% Private. (South Dakota is the only neighboring State that is lower with a ranking of 35th (8.9% Public/ 91.1% Private). Proponents have said, "No trespass works in South Dakota for landowners and sportsmen." South Dakota has better habitat and milder winters resulting in more birds. South Dakota also sells hunting access, resulting in a "pay to play" system. North Dakota has fewer birds, but better access. Limiting hunter's access will result in a decline in hunting numbers.

NDWF has concerns with the funding for this bill. We believe that there has been some confusion as to what the \$ 1.1 million and \$250,000 are being used for. Our understanding is that the \$1.1 million for ITD is to get counties up to date with a digital GIS program that will be used by multiple agencies, for a number of applications. The \$250,000 fiscal note for the Game & Fish Department is to create the digital form and database that landowners would

fill out to classify their land. There is no funding source to create, maintain or promote the potential paper maps or phone app that are required to make this system work. We have a real concern that the cost of this bill will fall directly on the shoulders of sportsmen - are hunters and anglers really expected to pay for a system that tells them where they can't go?

Nothing in SB2315 improves hunter access, promotes better landowner-hunter relations or is good for our rural communities that rely on a robust fall hunting economy. The North Dakota Wildlife Federation urges a Do Not Pass on SB 2315.

I will stand for any questions that the committee may have. Thank you.

**Needed Changes:**

- 1) Landowner contact information needs to be available on the online database.
- 2) Delete “smart phone” from bill and add provide paper copy of database (at least in early years of implementation)
- 3) Representatives from Agriculture Community and from Conservation/Sportsmen Community to be picked by GFD, and GFD Director be chair of Advisory Committee (the Advisory Committee is in Chapter 20 of the Century Code)
- 4) All guiding and outfitting on private land to require written permission from landowner/renter.
- 5) Describe “how” a county decides to enter into database or provide their data.
- 6) Study called for in Section 8, be conducted by GFD, and possibly Ag Dept, not Legislative Management.

**Concerns:**

- 1) We believe the passage of SB 2315 will have a chilling effect on hunting in ND - resulting in fewer hunters (both resident and non-resident), reduced license sales and fewer dollars spent in local economies (from the Scheels in Bismarck to the coffee shop in McClusky)
- 2) Proponents say “No Trespass works in South Dakota for landowners and sportsmen”. SD has better habitat and milder winters resulting in more birds. SD also sells hunting access, resulting in a “pay to play” system. North Dakota has fewer birds, but better access. Limiting hunter’s access will result in a decline in hunting numbers.
- 3) We believe most landowners who use the database will pick the “Closed to Hunting” option
- 4) Penalty for bird watching or photography trespass is more severe than hunting trespass.
- 5) Travel across private land for fishing, especially ice-fishing would fall under the criminal trespass.
- 6) Databases will be on county boundaries; waterfowl zones and deer units do not follow county lines. Zones and units will have different laws in the same unit/zone - creating confusion for hunters.
- 7) \$1.1 million for ITD and \$250,000 from GFD is likely too small to develop database and public database.
- 8) Confusion for youth season and mentors; is an adult mentoring a child “hunting, or guilty of criminal trespass?”
- 10) Does this actually fix the issues around prosecuting future protesters (DAPL)?

**Bottom line:**

SB 2315 will be detrimental to hunting in North Dakota. There are too many problems to fix this bill before the end of the session. We recommend moving SB 2315 to a study to look at opportunities on developing more access for hunters and solving posting issues for all stakeholders.





**Ducks Unlimited**

**TESTIMONY IN OPPOSITION TO SB 2315**

**Carmen Miller, Director of Public Policy, Ducks Unlimited**

**House Agriculture Committee**

**House Energy and Natural Resources Committee**

**March 14, 2019**

Good morning Chairman Johnson, Chairman Porter, and committee members. I'm Carmen Miller, Director of Public Policy for Ducks Unlimited's Great Plains Region and I'm here today testifying on behalf of our 4000 members in North Dakota and more than 1 million supporters nationwide.

Ducks Unlimited is a science-based conservation organization focused on conserving wetlands for waterfowl, wildlife and people. While our membership is largely made up of sportsmen and women, for whom access is very important, our habitat work in North Dakota takes place on private lands and simply could not succeed without partnerships with farmers and ranchers. We strongly support private property rights and pride ourselves on working hand-in-hand with landowners to conserve habitat, improve working farms and ranches and promote access for sportsmen and women. We encourage our members to seek permission before hunting on private lands.

We commend the efforts of the bill sponsors, sportsmen, landowners, North Dakota Game and Fish and others for their work on this bill, and while some of the provisions are promising, our members remain concerned about the bill. An interim legislative management study, which could assess the issues of hunter access, possible online posting systems, the approaches of neighboring states and the possible impact of such a change on North Dakota's sporting industry, would be beneficial before changing a system that has been in place for decades. While this issue has been debated extensively during the heat of several legislative sessions, it has not been studied in detail in the less pressing interim environment. Hunting and fishing is a \$2 billion annual industry in North Dakota – this is a significant change to that industry, which should not be taken lightly. We simply don't know how this might impact our recreation economy. Options for modernizing hunting access and posting are

certainly worthy of interim study, and the representative identified on the proposed hunters access advisory group should be a part of that study.

It is unclear what resources will be needed to actually implement the online system proposed in the bill. Technology can be a great thing, but it is hardly free, and the bill does not provide any funding for the development of this new system. The system anticipates actions by counties, an advisory group, ITD, and Game and Fish, but does not clearly indicate primary responsibility for implementation or enforcement. The proposed online database is untested, and could take several years to implement statewide. In the meantime, the potential patchwork of counties operating with or without online systems could create considerable confusion for both hunters and landowners. It is also somewhat ironic to propose a technology-driven system for an activity that frequently occurs beyond the reach of technology. Hunters frequently find themselves in places so remote that they do not have cell reception – in fact, some might even say that is the point of hunting.

The bill as drafted is confusing and contains inconsistencies that will complicate enforcement. For example, Section 6 [(20.1-18-02(2))] establishes that if a landowner does not designate a category within the color-coding system, the land must be indicated in the database as open if the county is in the database. However, the same section [(20.1-18-03(2)(b))] later states that a hunter may enter such land, unless the land is posted. Under this scenario, a hunter could be home on the app planning his/her hunt, see a parcel identified as open, but then arrive the next day only to learn that the land is actually posted, if the landowner chose not to identify the land in the system, but still posted the land.

Actual, intentional violations of private trespass laws by hunters are statistically very rare. In fact, according to North Dakota Game and Fish Department Law Enforcement Division, less than 0.1 percent of hunters are cited for trespass complaints or violations. Those actions by a “few” should be addressed to the full extent of the law, but they certainly don’t represent the vast majority of law-abiding sportsmen and women out there. SB 2315 in its current form contains some interesting concepts that are certainly worth of more study, but it needs more work to avoid confusion for both landowners and hunters, and uncertainty for an important sector of our economy.

Thank you for your time and service to the people North Dakota.

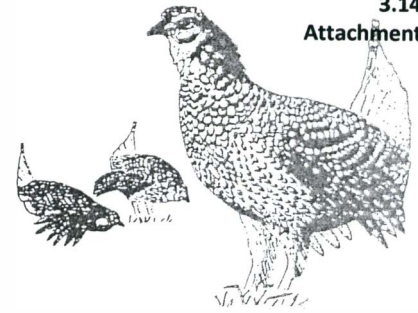


*North Dakota Chapter*

---

# THE WILDLIFE SOCIETY

P.O. BOX 1442 • BISMARCK, ND 58502



**TESTIMONY OF MICHAEL McENROE  
NORTH DAKOTA CHAPTER OF THE WILDLIFE SOCIETY  
SENATE BILL 2315  
HOUSE AGRICULTURE AND ENERGY AND NATURAL  
RESOURCES COMMITTEES  
MARCH 14, 2019**

Chairman Johnson and members of the House Agriculture Committee, and Chairman Porter and members of the House Energy and Natural Resources Committee:

For the record, Mike McEnroe, representing the North Dakota Chapter of The Wildlife Society. The chapter is a professional organization made up of approximately 350 wildlife biologists, land managers, educators, law enforcement officers, and natural resource administrators in North Dakota.

We recognize all the hard work and meetings and discussions that have gone into SB 2315. We also recognize that the current version of SB 2315 is very different from what was introduced. We support trying to find a solution to the long and arduous fighting over the posting/trespass issue that has gone on for six of the last seven legislative sessions. We support the concepts of on-line posting, creating a database for sportsmen and other users, and reducing the cost and workload for landowners to annually post their land with paper, plastic, or metal signs. We do not believe that SB 2315 solves these problems.

That being said, we have to strongly oppose SB 2315 because we believe it to be bad for North Dakota's sportsmen and women and bad for North Dakota's economy. This bill, if passed will result in a decrease in hunter numbers, both residents and non-residents, because of a real or perceived loss of access and opportunity. That means decreased revenue for the North Dakota Game and Fish Department, and decreased funding for wildlife management. It will mean a decrease in the outdoor recreation economy of the State; that means Scheel's in Bismarck, Minot, and Fargo, as well as the restaurants, gas stations, and rural businesses in Watford City, Willow City, and Wahpeton.

Following is a list of concerns, contradictions, and problems in the current version of SB 2315 that must be addressed before this bill can be put into place or enforced:

- 1) Contact information for all landowners registering in the on-line database should be included; closed-don't ask, closed, but open with permission, and open without permission (p. 5, line 24).
- 2) Provide paper copies of the database, in the early years of implementation (p. 5, line 27).
- 3) The GFD Director should appoint the representatives from the agriculture and sportsmen communities (p. 5, lines 7-8).
- 4) All guiding/outfitting on private land should require written permission (p. 4, lines 18-29).
- 5) Change code so penalties for birdwatching/photography are not more severe than for hunting without permission.
- 6) Similarly, travel or access across private land for fish/ice-fishing, has to be addressed.
- 7) Describe "how" a county decides to enter into database or provide data (p. 5, lines 28-30).
- 8) Clarify whether on-line or on-fence posting has priority.
- 9) Databases will be developed on a county basis, yet deer hunting units and non-resident waterfowl zones are not on a county basis. Units and zones will have different regulations within their boundaries.

- 10) Confusion over youth seasons and mentors. Is an adult mentoring a youth guilty of criminal trespass?
- 11) The on-line database must be presented in a manner that is not confusing or contradictory to the Game and Fish Department's PLOTS Guide which is available on-line and in printed versions.
- 12) We believe the \$ 1.1 million for the ITD and \$ 250,000 for GFD in funding is insufficient to develop the database.
- 13) We believe the study described in Section 8 (p. 6, lines 24-29) should be conducted by the GFD, possibly with assistance of the Agriculture Department.
- 14) We further recommend that the study be expanded to investigate opportunities and restrictions to providing more access and ways to solve landowner issues with trespass.

Although not described in SB 2315, we believe that as written, most landowners will simply select the "No Hunting – Don't Ask!" as the default option for registering on-line.

SB 2315 supporters have said the No Trespass law works in South Dakota. South Dakota has more pheasants and more habitat and milder winters which produces more pheasants. South Dakota sells their access because they have pheasants. North Dakota has fewer pheasants but is able to capitalize on its access. SB 2315 likely will chop the head off access, and leave North Dakota with little attraction for either resident or non-resident hunters.

The bottom line is that we believe SB 2315 is bad for hunters and bad for North Dakota.

We believe there are too many problems with SB 2315 as written to fix, and ask you for a Do Not Pass recommendation.

Thank you and I would stand for any questions from the Committees.

SB 2315

House Agriculture Committee and Energy and Natural Resources Committee,

I am Mary Graner and I am testifying regarding SB2315. My husband, Kenny, and I are private land owners South of Mandan in Morton County. We have dealt with trespassers on our land in the past and more specifically were affected by the DAPL protest.

It is a fact that protesting is the "new norm." We are an energy state with oil, coal, water and wind towers. We will always be a hot spot for protesters to assemble in our state.

The Hunting and Waterfowl groups want you to believe this is an anti-sports Bill.....it is not. One of the testifiers in opposition during the Senate hearing stated that the "migratory birds can be anywhere in a 20 – 40 mile radius on any given day." My answer to that is if they already know where the birds will most likely be located and where they have been allowed to hunt in the past, they will surely be able to hunt there in the future.....either it will remain "open" or one phone call to ask permission.

The hunting groups want you to believe that our state will lose money by considering all land posted. Our state incurred \$40,000,000.00 (**FORTY MILLION DOLLARS**) dealing with the DAPL protest. **How many out-of-state hunters will it take to make up our \$40,000,000.00 loss?** Also, this \$40,000,000.00 only portrays the State of North Dakota's losses. There were many other losses to private citizens and businesses that are not included in this amount. They are as follows:

- Hotels trashed by protestors
- Restaurants left to pay the bill for protestors that skipped out on payments (as well as protestors going to buffets and stealing as much food as their pockets and backpacks could hold while only purchasing one meal.....for example Bonanza in Mandan).
- Banks and Federal offices closed because of protestors
- Schools on lock downs because of protestors
- Rural school buses full of children stopped by masked protestors
- Local food banks emptied by the protestors and our local homeless and needy families went hungry
- Graner Park and Fort Rice Parks closed for most of the season
- Extra security at the Capital and Federal Buildings. (We now have to go through metal detectors at the Capital as a direct result of the protestors as the protest was going on during the last session).
- Jobs lost as many posted their frustration on social media and the protestors found it offensive. (A coffee shop owner in Mandan had to sell out due to a protest at the County Courthouse and the Wells Fargo Bank parking lot was full. He was unable to use the bank. He made a derogatory comment on Social Media and protestors retaliated against his business.)
- Vandalism to private and public property
- Farmers and Ranchers had trouble harvesting and hauling their semi loads of grain or cattle to market as they had to incur additional mileage to go around the roadblocks. This included loss in market prices as it took longer to get to market. Hauling bales also took extra time as semi loads of hay had to be rerouted due to blocked roads.
- Law enforcement officers and their families were doxed (meaning names and addresses were published on social media and they were threatened and harassed).

- Theft at grocery stores, convenience stores, Super Centers and other retail stores.
- Cattle stolen and butchered at the protest camp sites
- Torn down fences
- Blocked streets in heavy traffic areas such as the intersection of Main Street Mandan and the Strip as well as the streets in front of the Federal Building in Bismarck
- Stopping the Burlington Northern Santa Fe Railroad for several hours causing delays on the entire railway system. Mandan's railroad yard used to be the largest yard between Chicago and Seattle.....I'm not sure if this still holds true
- And, last, but not least.....the failed marriages as a direct result of the protest. Many officers worked for months at a time. They missed birthdays, anniversaries, and their kids' events and their marriages took a toll.

I have enclosed the Dakota Access Pipeline Protest – Significant Events Summary prepared by Morton County Emergency Management. The Morton County Assistant States Attorney gave me permission to share it with you. This summary will give you a complete insight of the problems Morton County had to deal with during the eight month long protest.

I am attaching a few Affidavits for your review. You will see an inside picture of what the officers had to endure as a result of the protest. This includes having bottles of urine as well as human feces thrown at them along with rocks and ice chunks. Not to mention Red Fawn shooting at the officers!!

During the weekend of our first big snowstorm, many of the protestors tried to leave but were unable to make it very far due to the blizzard conditions. Many protestors stopped in Flasher, ND, and the school agreed to open the gymnasium as a shelter. While there, the protestors broke into the kitchen and stole the food meant for the students. That same weekend, many stayed in the Mandan Braves Center (formerly known as the Mandan Community Center). Many were kicked out due to the vandalism that took place. These were places that opened up to the protestors and it came back to bite them! An unreported fact: one of our local pawn shops was broken into by the protestors. Weapons were recovered at the DAPL camps during arrests.

I would also like to point out another "unidentified" issue. POOP..... During the height of the protest, there were over 10,000 people living in the various protest camps. It is a medical fact that the average human poops one pound a day.....that means there was over 10,000 pounds of human waste scattered in holes and trenches on the prairie.....**daily!!!** During the rains and snow melt, this all ran into the river.

Protestors also used "sleeping dragons" – it is a device that the protestors use to lock themselves into and attach themselves to a piece of equipment owned by the excavation company or part of a building like banks or Federal buildings. They also cemented themselves into the ground and it takes HOURS of time for Law Enforcement to free them. They do this to slow down the construction of the pipeline. Every day that a business is put behind schedule is an extra expense to that company. One of their tricks is to wrap the Sleeping Dragon in several layers of Duct Tape because the tape gums up the saw blades and it takes extra time for Law Enforcement to release them. (I am attaching an article about Sleeping Dragons for your review.)

I am also attaching a summary of the DAPL lawsuits. The majority of the cases were Trespassing and Engaging in a Riot. Most of the cases were dismissed for lack of evidence. The protestors testified that **they didn't know they were trespassing** and they also claimed they didn't hear Law Enforcement

announce over the bullhorn that they were trespassing. Many cases were dismissed because the "arresting officer" did not see the offense committed. Law Enforcement formed two lines in front of the protestors. The first line of officers grabbed the protestor and pulled him/her through the first line to an "arresting" officer in 2nd line. The arresting officer testified that he/she did not actually see the individual committing the crime.....the protestor was basically handed over to them. For this reason, the case was dismissed as the arresting officer didn't personally see the crime.

In closing, **protesting is the new norm**. We are an energy state and the DAPL protest was basically a "practice round." They took what they learned here and spread it throughout the country. They are well funded by extreme radical environmental groups and this is not going away any time soon. The "Water Protector Legal Collective" has printable brochures on their website informing people "how to protest". Their website is [www.waterprotectorlegal.org](http://www.waterprotectorlegal.org). There are links that will take you to the National Lawyers Guild with articles and brochures protestors can order on "Know Your Rights." It is printed in English, Spanish, Arabic, Bengali, and Urdu. There is also a brochure called "Operation Backfire: A Survival Guide for Environmental and Animal Rights Activists." All of this adds up to future problems in our state.

**Please pass SB2315. Our state cannot afford the problems that come along with our lenient trespassing laws. The \$40,000,000.00 in expenses to the state would not have occurred if we had stronger trespass laws in the initial stages of the protest and there is no way possible that hunters can make up this expense and as well as future expenses to our state.**

Thank You!!

Kind Regards,

Mary Graner

701-319-4328



This will serve as a summary of DAPL issues along with terminology frequently used.

According to the State's Attorney data, there were 839 total arrests involving 581 arrestees. Of those arrested, 355 or 61% were male and 226 or 39% were female. 306 or 53% were White, 238 or 41% were Native American, 9 or 1% were Asian, 6 or 1% were Black and 22 or 4% were Unknown.

Arrestees came from all 50 States. Below is a list of the top 10 States and Canada from which the arrestees claim residency:

California – 14.97%

South Dakota – 11.36%

Washington – 7.06%

North Dakota – 6.71%

Minnesota – 5.34%

New York – 4.82%

Colorado – 4.13%

Arizona – 3.96%

New Mexico – 2.93%

Canada – 2.75%

Oregon – 2.41%

Below is a list of the Age Demographics:

Under 20: 26

20 – 29: 245

30 – 39: 138

40 – 49: 79

50+: 93

(The two oldest were born in 1945 making them 72 years old).

**Below is the status of all cases:**

Open – 233  
Reopened – 4  
Closed – 493  
Inactive (Warrants for Arrest) – 98  
On Appeal – 3  
**Total: 831**

**Below is the status of the charges:**

City Transfer – 25  
Felony – 205  
    Dismissed – 178  
    Guilty – 11  
    Not Guilty – 1  
    Open – 12  
    Acquittal – 3  
Misdemeanor – 1412  
    Dismissed – 844  
    Guilty – 177  
    Not Guilty – 1  
    Open – 12  
    Reopened – 5  
    Acquittal – 27  
Felony Reduced to Misdemeanor – 18  
    Dismissed – 4  
    Guilty – 14  
**Total Charges: 1,660**

Many of the cases were dismissed. Although, this has been frustrating, the Courts have to follow the rule of the law. There have been several court cases that have been found Guilty, however, several have already appealed the ruling. The various dismissals include Acquittals, Pretrial Diversions and Plea Agreements as well as Court rulings. I have summarized the explanations of the dismissal terminology below:

#### Acquittals:

An Acquittal occurred after the County presented the information to the Judge and/or Jury with the Defense team being able to cross examine the State's witnesses. The Judge would determine if there was enough evidence to proceed with the rest of the trial.

A verdict of Not Guilty constitutes an Acquittal. At Trial (either Bench Trial or Jury Trial) an acquittal occurs when the Judge or Jury determines that the prosecution hasn't proved the defendant guilty beyond a reasonable doubt. The defendants can be found Guilty of some, but not all charges.

#### Rule 43:

Rule 43 is when they reached an agreement before the trial date. It could be a Plea Agreement or a Pretrial Agreement. In some Pleas, the Defendant could plead Guilty to one charge and Not Guilty to other charges and be accepted by the court.

The Defendant can make an Alford Plea which means the defendant admits that the evidence the prosecution has would be likely to persuade a judge or jury to find the defendant guilty beyond a reasonable doubt. Or: If the jury were to believe the description of the events as portrayed of the disclosures, a conviction would likely follow.

Regarding the DAPL cases, many made an Alford Plea but the sentence was deferred. A deferred sentence is a sentence that is suspended until after a defendant has completed a period of probation. If the defendant fulfills the stipulations surrounding probation, a judge may then throw out the sentence and guilty plea, clearing the incident from their record. If the defendant violates probation, he or she must serve the full sentence immediately.

Many DAPL cases had deferred sentences anywhere from 1 Day to 2 Years. Along with that, some of the deferments were Nunc Pro Tunc which means "now for then." In general, it applies the sentence retroactively. The result of Nunc Pro Tunc is that many of the sentences were completed before the Ruling was entered as the sentencing started the day of the arrest.

#### Rule 48:

Rule 48 occurs when the Defense makes a motion to the court asking for the Judge to make an opinion as to whether there is enough evidence to proceed with a trial. The DAPL cases dealt with several different types of Rule 48 so I summarized them below.

Rule 48 – Notice: The State failed to provide documents to the Court within the deadlines.

Rule 48 – Evidence: There is not sufficient evidence to prove the case in Court. A few examples are as follows:

“After survey of the discovery materials involving the defendants’ arrest, the State has concerns that the prosecution cannot meet the elements of the offenses as charged during the State’s case in chief at trial.”

“The State’s reason for dismissal is that further investigation is needed to verify defendant’s level of participation in the events under which these charges were brought.”

“The State does not have an arresting officer.” (This occurred during many of the early arrests due to the chaos surrounding the event. One officer would pull the defendant through the police line and another officer would do the arrest. If the “arresting” officer didn’t see the crime taking place, his testimony is “hearsay” and the case would be dismissed.

“The State is unable to establish the defendant interfered with a valid government function.”

“Just reasons exists for dismissing the action.”

Rule 48 – Death: The Defendant passed away before the Trial.

Rule 48 – Federal Court: The case was transferred to Federal Court.

Rule 48 – Justice: The Court determines that “something should be done the way that is most fair and equitable to the parties, or, in some cases, with respect to the public good.” The interest of justice refers generally to the cause of fairness and equity used when a judge has discretion to making a ruling in a particular situation. It is a term that is very subjective and interpretation will vary based upon the facts and people involved.

An example of this regarding DAPL cases in particular would be an elderly person from a distant State charged with a Misdemeanor. The cost to the County bringing this Defendant back to for a Hearing would out way the charge as Misdemeanors are usually dismissed. This is especially true when the Defendant didn’t really cause any problems while being arrested.

Example: “Upon review of the case file and evidence against this defendant the State has reservations about its ability to prove the elements of the crime as charged, and in the interest of justice seeks the dismissal of the charge against the defendant.”

Pretrial Agreements: This is a voluntary program for defendants charged with misdemeanors or criminal violations. When a defendant successfully completes the program, a recommendation is made to the court to dismiss the charges. In the agreements, the defendants acknowledge that there is probably enough evidence to find them guilty.

Motion in Limine (LEE-min-ay):

Latin for “threshold.” A motion is made at the start of a trial requesting that the judge rule that certain evidence may not be introduced in trial. The Judge may rule an Acquittal at that time or agree there is enough evidence to proceed with the trial.

Sleeping Dragon Offenses:

These devices enable protesters to fasten themselves together in order to form a human chain for the purpose of obstructing and preventing expedient removal or arrests by Law Enforcement. The pipe sleeve securing device is comprised of a piece of plastic drainage pipe approximately three feet long and

four inches diameter which can then be over-laid with a one foot by four inch piece of electrical steel conduit. The middle of the device is a half-inch piece of rebar that is placed through the center of the doubled pipe sleeve and welded to both sides of the electrical conduit. The rebar is used to secure a carabiner and chain assemble that is wrapped around each protester's wrist and locked onto the rebar, making them and the pipe sleeve securing device one unit. The device may then be wrapped with chicken wire and duct tape on the exterior. The device may also have two 45 degree drainage pipe fittings on the ends which cover each protester's elbow. The duct tape and wire are intended to slow the removal process. In visiting with some of the officers that responded to the DAPL Sleeping Dragons, they informed me that they used many, many layers of duct tape. This slowed the removal process down as the duct tape "gums up" the saw blades used in removing the Sleeping Dragon. Along with that, in one case, the protesters also embedded the Sleeping Dragon into the ground inside a Teepee. NOTE: The protesters secured within the device have the ability to disengage the carabineer on the interior of the device at any time and thus release themselves.

Initially, many of the Sleeping Dragon offenses were dismissed. Assistant State's Attorney Gabrielle Goter informed us that the defendants have been recharged with different charges.

#### **Fires on Backwater Bridge:**

These Felony charges were dismissed by Judge Cynthia Feland as there was no proof who started the fires. In her Ruling, she stated: "In making this order, the Court recognizes the extreme stress under which law enforcement officers and the prosecutors bringing these charges have been operating. This order should not be considered a criticism of their efforts, or a suggestion the arrest in this matter was not appropriate. The charge is being dismissed without prejudice, which means that if the prosecution is able to provide probable cause to believe a defendant has committed the offense, the matter may be re-charged."

#### **Criminal Trespass:**

With the laws in North Dakota favoring trespassers, it is difficult to make a Criminal Trespass charge stick. The land must be posted. However, we know that the protesters removed the posting signs and claimed they "didn't know" they were trespassing. If the defendant's complied with the arrest for trespassing, many were dismissed because they didn't fight the arrest and they claimed they didn't know it was posted. Also, if Law Enforcement couldn't prove it was posted, they were dismissed.

In the more recent Bench Trials, the Judges are catching on that if the Defendants had been there for weeks and sometimes even months, they knew where they were allowed to be and the Defendants have been found Guilty of Criminal Trespass. Last week, Judge Christopherson stated: "I can understand if this was Day One or even Week One, but you had been there for several months and it is clear to the Court that you knew where the boundaries were."

Kind Regards,

Mary Graner – 701-319-4328

RESCUE

# FIREHOUSE

## Slaying the "Dragons"

ARTICLE OCT 31, 2003

Anybody old enough to remember the 1960s will recall media coverage of anti-war and other protests in public places. In the 21st century, we still have civil unrest and protests, and demonstrators. One target has been meetings of the World Trade Organization (WTO) in Seattle, Quebec City, New York, Washington, D.C. and most recently in Cancun, Mexico. Demonstrators have taxed the resources of police and fire departments everywhere they went. In Miami, we are preparing for protests that are expected during this month's Free Trade of the Americas Agreement (FTAA) conference.

In the 1960s, demonstrators adopted "passive resistance" techniques such as locking arms or holding hands and becoming limp to make it difficult for police officers to arrest and remove them. Then there were those who became more violent, throwing rocks, bottles and sometimes even Molotov cocktails at police and the National Guard.

11\_03\_srescue1.jpg

Today's protesters have taken resistance to a new level by designing a locking device called the "sleeping dragon." The device is made of a three-foot piece of PVC or steel pipe wide enough for an arm to be inserted in each end. In the middle of the pipe is a pin or bolt that is fastened to each side. The protester inserts his or her arm in the opening with a chain wrapped around the arm. A mountain climber's carabiner is placed at the end of the chain, where the protester locks himself or herself into the pin. Although the protesters can release themselves at any time, they usually do not, so a police or fire department "cut team" must manually cut them loose to remove them from the premises.

Photo Courtesy of Miami Fire-Rescue  
**Firefighters train in the removal of a "bucket dragon," one of several locking devices used by political protesters.**

Freeing the protesters takes a lot of time and manpower; that is exactly what they want. In fact, some have taken the "sleeping dragon" devices to a new level of difficulty by adding a layer of tar, chicken wire and duct tape, or sometimes even human feces. These are called "tar dragons." Or, protesters may place the pipe sleeve in a five-gallon bucket of concrete, called a "bucket dragon," and encase the sleeve in a 55-gallon drum of concrete, called a "drum dragon."

Whatever the device used, it will take a well-trained cut team 45 minutes to two hours to get to the pin so it can be cut. Even then, a team must have an arsenal of cutting equipment.

In extreme cases, protesters use long 2X4 pieces of lumber to erect a tripod. Suspended from the tripod is a demonstrator who appears to have a hangman's noose around his neck, and threatens to hang himself if any effort is made to remove him. Although this is usually a ruse, the intention is to make it appear as though we are trying to kill him, giving the group exactly what it wants - publicity and bad press for the police and fire departments.

To effectively mitigate these devices, a well-trained and informed police and fire team must be ready before the event begins. I recently attended two classes on this subject, where we studied the command process in civil unrest and then the actual mitigation of demonstrations using the various "dragons." The classes were sponsored by the U.S. Office of Domestic Preparedness (ODP). Community Research Associates, contracted by ODP, conducted the classes for firefighters and police officers.

In the hands-on training, we worked with "dragons" and cut them loose in a systematic, planned manner. It was an enlightening experience. It was also an exhaustive process as well. Well-trained teams are vital to effectively deal with these problems. Legal issues were discussed, as was the use of deadly force, riot-control agents and less-lethal weapons by police.

What is surprising is how quickly these devices can be put into action. We watched a video taken by a surveillance camera in San Francisco that showed five protesters in a flatbed truck pulling up in front of a department store. The protesters were dressed like municipal workers in coveralls, hard hats and safety vests. In just 10 minutes, they unloaded four 55-gallon "dragons," uprighted them and locked themselves in.

We were taught that sometimes the prudent thing to do is to place yellow tape around these individuals to reroute traffic, then ignore them. They want publicity, media and crowd coverage. Denying them these things decreases their perceived effectiveness. Staying cool, calm and collected is exactly what they do not want us to do. If the protesters become violent, however, that is another story. Even then, such responses have been challenged in California courts on several occasions and the responders lost because of perceived violations of the protesters' First Amendment rights.

As I've noted, fire and police officials in Miami are working together to prepare for this month's FTAA conference. Specialized equipment has been purchased, and training is taking place. In fact, the entire fire department is being trained in explosives, riot control and "dragon"-cutting techniques.

The key to this type of situation, like all others in public safety, is training and cooperation. If we work together, all "dragons" can be slain, or at least tamed.

### Removal Procedures for "Dragon" Devices

Recent political protests have presented a new challenge for the San Francisco Fire Department. Specifically, one challenge is the safe and efficient removal of pipe sleeve securing devices, or "sleeping dragon" devices, utilized by protesters. These devices enable protesters to fasten themselves together in order to form a human chain for the purpose of obstructing street traffic and building entrances, preventing their expedient removal by law enforcement. The following information was gathered with the assistance of Rescue Squad 2 and the Bureau of Equipment.

The pipe sleeve securing device is comprised of a piece of plastic drainage pipe approximately three feet long and four inches diameter that is over-laid with a one foot-by-four-inch piece of electrical steel conduit. In the middle of the device is a half-inch piece of rebar that is placed through the center of the doubled pipe sleeve

and welded to both sides of the electrical conduit. The rebar is used to secure a carabiner and chain assembly that is wrapped around each protester's wrist and locked onto the half-inch rebar, making them and the pipe sleeve securing device a unit. The device may be wrapped with chicken wire with duct tape on the exterior. The device may also have two 45-degree drainage pipe fittings on the ends which cover each protester's elbow. The duct tape and wire are intended to slow the removal process.

Equipment and materials needed for removal include a utility knife, wire cutters, two water extinguishers, two plastic blankets, material blankets, salvage or roof cover (for spark protection), two 4X4 wooden blocks (minimum size, to elevate sleeve device and protester's elbow off the ground) and a multipurpose saw with a metal cutting blade.

Removal procedures are as follows:

- Firefighters to wear full protective personal equipment.
- Have protesters with the pipe sleeve securing device lie on the ground.
- Place wooden blocks under the device and forearm.
- Cut and remove any duct tape and wire that are over the steel conduit only.
- Place the nozzle of the extinguisher into one end of the pipe sleeve device for heat protection, and discharge judiciously during the cutting operation.
- Cover both protesters with a blanket and prepare the second extinguisher for spark protection as needed.
- Use the saw to create two two-inch cuts approximately three inches apart directly above the installed rebar. The cuts are perpendicular to the length of the steel conduit.
- Next, create a three-inch cut lengthwise joining the two two-inch cuts, followed by a partial cut (score) of the corresponding side opposite the three-inch cut.
- Use a screwdriver to pry the fully cut three-inch side upward and begin working the partially-attached piece of steel conduit back and forth until it breaks off. Once detached, you are able to access the carabiners on the inside of the device, disengage them from the rebar, and remove the device from the protesters. The device should be turned over to law enforcement.

Also discovered in recent protests have been multiple pipe-sleeved protesters who have had their securing device imbedded in concrete by using a small plastic garbage can as a mold. Four protesters joined in two devices are bonded together within the concrete-filled garbage can shaped bollard.

At an initial size-up, it appears to be a formidable and time-consuming task to dismantle the concrete bollard before removal of the devices can be initiated. However the concrete bollard is typically filled with lightweight rubble and paper products which can be quickly broken apart with a hammer or similar tool chipping the material away from the outside perimeter toward the center.

Note: Be advised that protesters secured within the device have the ability to disengage the carabiner on the interior of the device at any time and thus release themselves. With this in mind, a protester who appears to be uncomfortable with the cutting process may be convinced to disengage voluntarily. Of utmost importance is that the cuts made to the device are not made too deeply, which could result in injury to the protester.

Barry Wong is a lieutenant with the San Francisco Fire Department, assigned to the Public Information Office.

Chief Michael J. Essex is special operations officer for the Emergency Response Division of City of Miami Fire-Rescue. The division includes the technical rescue, hazardous materials and dive rescue teams. Essex also is the department's SWAT-Medic commander.

# National Lawyers Guild

[Donate](#)

[Referral Directory](#)

[Join/Renew](#)

[Login](#)



[Home](#) [About](#) [Chapters](#) [Committees](#) [Students](#) [News](#) [Regionals](#) [Resources](#)  
[Convention](#) [STORE](#) [Donate](#)



## Know Your Rights

These pocket-sized know-your-rights booklet are designed to be a practical resource for people dealing with law enforcement. The 16-page primer advises people of their rights when confronted by FBI agents or the Department of Homeland Security. It also includes information for noncitizens and minors. This booklet is available for free download below or in print (in English, Spanish, Arabic) by contacting [massdef@nlg.org](mailto:massdef@nlg.org).





## Alexsis C. Beach & Rachel Lederman, Attorneys

civil rights ■ human rights ■ community legal services

- [Home](#)
- [Latest News](#)
- [About Us](#)
- [Contact Us](#)
- [Water Protector Civil Lawsuits](#)



## Water Protector Civil Lawsuits

[Home](#) / [Water Protector Civil Lawsuits](#)

### We need your information:

- If you were **injured on or near Backwater Bridge on the night of November 20-21**, please [input your information here](#). This form is secure and confidential, for the WPLC civil attorneys only.
- If you were arrested on October 22, 2016, near the DAPL site, please [input your information here](#). This form is secure and confidential, for the WPLC civil attorneys only.
- If you were **injured by law enforcement on another date**, in connection with the water protector camps in North Dakota please [input your information here](#). This form is secure and confidential, for the WPLC civil attorneys only.

### The November 20 Lawsuit:

*Dundon v. Kirchmeier* is a federal civil rights lawsuit challenging police violence on the night of November 20-21, 2016, at Backwater Bridge, near the Oceti Sakowin camp and the site of the DAPL pipeline in North Dakota. The case was filed on November 28, 2016, in federal court, as a class action lawsuit on behalf of **all persons who were injured** by law enforcement that night.

Plaintiff Vanessa Dundon is a member of the Navajo/Diné Nation who was shot in the eye with a teargas canister that night, suffering a partial vision loss. She and eight other named Plaintiffs represent a class of several hundred water protectors who were injured by high pressure fire hoses, explosive grenades, chemical agents and impact munitions while peacefully protesting and engaging in prayer in opposition to the Dakota Access Pipeline. The Plaintiffs' legal team includes notable civil rights lawyers from around the country who are cooperating with WPLC to pursue the case. The [Indigenous Peoples' Law & Policy Program](#) at the University of Arizona is working with WPLC and the Plaintiffs' legal team to bring the human rights and treaty violations to the attention of international bodies.

In February, 2017, United States District Court Judge Daniel Hovland denied the water protectors' initial request that he restrict the local sheriff from using water cannons or fire hoses in freezing temperatures, explosives and other dangerous weapons on peaceful crowds. The lawsuit continues to move forward and asks for monetary compensation for the injuries and the violation of the water protectors' constitutional rights, as well as for changes in local law enforcement practices. The Defendants — Morton County, its Sheriff Kyle Kirchmeier, and other local law enforcement — have asked the court to dismiss the case or parts of the case. The Plaintiff's legal team filed our papers opposing that in April, 2018, and requested a hearing to show the video evidence and argue the case, but the court has not set a hearing or decided the motion yet. As the other federal district court judge seat for North Dakota is currently empty, there is just one judge covering the entire state and he is backed up in all cases, so we don't necessarily take the delay as a bad sign as to how he will rule. As soon as we hear from the court, we will update this page.

In April, 2018, we also submitted a report to the United Nations on the human rights violations against the water protectors. The report was presented to the UN Special Rapporteur on the rights of indigenous peoples, and to other UN officials during the 17th Session of the United Nations Permanent Forum on Indigenous Issues (UNPFII), and informed the Special Rapporteur's presentation to the UN Human Rights Council in September 2018. We are currently working on a request to the Inter-American Commission on Human Rights for a thematic hearing on the suppression of indigenous protest and criminalization of indigenous resistance to extractive industries in the United States.

#### Read more:

- Water protectors' April 27, 2018, Opposition to Defendants' Motion to Dismiss.
- April, 2018, report to the UN: "Indigenous Resistance to the Dakota Access Pipeline: Criminalization of Dissent and Suppression of Protest".
- Lawsuit First Amended Complaint.
- Former Police Chief Tom Frazier's expert opinion finding unnecessary and excessive force.
- Legal arguments presented to the 8th Circuit in the interlocutory appeal.

#### October 22 mass arrest, and other cases:

Watch this page or the Water Protector Legal Collective website for updates on this, and other civil litigation that we will be filing to seek redress for the human rights violations against the water protectors. If you were arrested on October 22, 2016, we need your contact info so please fill out the form linked in the first paragraph above.

#### Alexis C. Beach & Rachel Lederman, Attorneys – San Francisco office:

558 Capp Street  
San Francisco, CA 94110

#### Oakland office at Oakland Law Collaborative

1736 Franklin Street, Suite 400, Oakland, CA 94612

#### Phone | Fax

Phone 415-282-9300  
Fax 415-285-5066

Please use our contact page or call for a free consultation. *We cannot see you on a drop in basis.*

© Beach Lederman Attorneys

STATE OF NORTH DAKOTA

)

SS.

COUNTY OF MORTON

)

)

Sleeping  
Dragon

AFFIDAVIT

1. Your affiant, Rick Widicker, is a Police Officer with the Mandan Police Department. I currently am assigned as a Sergeant to the Support Services Division. I have been a Police Officer since 2002. Your affiant graduated from the North Dakota Law Enforcement Academy in 2002 and has been a licensed peace officer in North Dakota since then. I have worked as a law enforcement officer for over fourteen years. I have worked as a police officer for the Mandan Police Department for over 7 years. As such, my duties have been focused on the patrol functions of the police department such as responding to emergency calls, conducting routine patrol and traffic enforcement, taking reports, and initiating investigations. I have also worked as a Field Training officer and a School Resource officer. I have over 1300 hours of training in various areas of law enforcement including criminal investigations, patrol operations, interviewing techniques, and drug identification. In 2016 I was trained in Field Force Extrication techniques to assist in dealing with protest activities in Morton County
2. That on 10/27/16, in County of Morton, Sydney N. Johnson, Kylie B. Lemley, and Emily M. Mills committed the offense of: Reckless Endangerment
3. The following information gives rise to probable cause:

I, Officer Widicker, have been assigned to an extrication team to assist with protest duties occurring in Morton County. The protests are in regards to a pipeline being installed in rural Morton County. On 10/27/16, I was called to respond with the team to a protest situation that was occurring on Hwy 1806, south of Fort Rice ND. When the team arrived we were advised that there were three females who were locked into devices in the ground and needed to be extricated. The females were inside a makeshift shelter that was located on private property. They were to be arrested, extricated and taken into custody for trespassing.

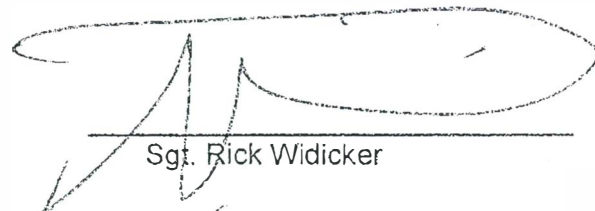
Upon arrival we found that a makeshift shelter had been set up with pallets and other misc. wood, and blankets. Inside the shelter were three young females. Each had an arm stuck into the ground. It appeared they were locked into what is commonly known as "Sleeping Dragons". These are protest devices that are commonly used to lock people into or onto things. The devices are typically designed so that the person locked into it can release themselves if they chose to do so. The girls were asked several times if they would release themselves. They refused to do so. A deputy advised them they were being placed under arrest. They continued to refuse to release themselves.

In order to extricate the females, the shelter had to be opened up. This was done by cutting some of the lumber away on one of the walls. The team then began to dig holes next to where the females were laying on the ground. It was discovered that the devices they were locked into were made from PVC and wrapped in duct tape and chain. The dragons were then put into holes filled with cement. Fire resistant covers were put over the females as well as eye protection. While officers were extricating the girls they were asked several times if they would willingly release. They refused each time. The officers on the extrication team had to dig at the

ground using tools, and had to take care not to injure the girls during this process. The ground around them was packed in and this made the digging process slow and difficult. Once access was gained, cement had to be broken away from the dragons using hammer drills. Officers then used an angle grinder to cut away part of the chain from the dragons. The duct tape had to be cut away from the dragons using a utility knife. The angle grinder was then used to cut a hole in the dragons. The females were locked into the dragon using a small chain and a carabineer. These also had to be cut. During the extrication process, Officers had to work in difficult positions in a tight working space. Some of the time they had to lay on the ground and grind and cut at the dragons from awkward angles. This made using the tools dangerous to the officers, as well as the females who were locked into the dragons. It should be noted that during the extrication process, Lt. Stromsodt sustained an injury from a power tool.

After they were extricated, the females were placed in flex-cuffs and turned over to arrest teams for transport to Morton County Corrections.

Dated: 11/10/16



Sgt. Rick Widicker

Subscribed and sworn before me on the 10<sup>th</sup> day of November 2016.



Cheryl A. Kroh  
Notary Public



CHERYL A. KROH  
Notary Public  
State of North Dakota  
My Commission Expires Mar. 07, 2019

STATE OF NORTH DAKOTA    )  
  )  
COUNTY OF MORTON        )

**AFFIDAVIT**

I, Dion Bitz, a Morton County Deputy Sheriff, being first duly sworn, have good reason to believe that on or about November 15 2016 , in Morton County North Dakota, Stephen Eddy, Ernest Cobiness, Kimberley Bonner-Secunda, Miranda Bradford, Mia Brown, Numa Aitken, Sarah Chomin, Roderick Collins, Herb Goodwin, Jackie-Teresa Hart, Kathleen Jessee, Nicholas Johnson, Jessica Joe, Jayson Paymella, Brian Okeefe, John Platner, Stewart Towle, Joel Salt, Tyler Wade, Erica Gonzalez, Brandon Ami, Andrew Acque, Mark Hebert and Hanna Grover did commit the offense(s) of Tampering or damaging a public service, Reckless Driving, Obstruction of a Government Function, Criminal Trespass, Possession of Marijuana, Disorderly Conduct, Fleeing, Reckless Endangerment, Terrorizing and Resisting Arrest.

My belief of the foregoing statement is based upon personal knowledge.

Your affiant is a Corporal with the Morton County Sheriff's Department. Your affiant has been employed with the Sheriff's Department for over 17 years starting in January 1999. Your affiant has served as an investigator with the Metro Area Narcotics Task Force, Patrol Deputy, Field Training Officer and is assigned to investigations. Your affiant has over 1000 hours of law enforcement training including but not limited to DEA Basic, BCI drug investigations, BCI criminal investigations 1, 2 and advanced, and Interrogation and Interviewing.

On November 15, 2016 all aforementioned were arrested while blocking the Burlington Northern Railroad near the crossing on Morton County Road 82 at the intersection of Business Loop 94. There were approximately 400 people gathered to protest what they described as protecting the water. At approximately 10:00 AM law enforcement responded to the area.

Individuals parked a Black Dodge Dakota on the railroad crossing, slashed all four tires, and stacked debris around, under and in the vehicle. An accelerant was used on the debris and inside the vehicle itself in an attempt to burn the vehicle. A rope was attached to the vehicle that was also soaked in an accelerant. Protestors attempted to light the rope on fire. Law enforcement used a fire extinguisher on the rope to avoid the fire. Protestors later lifted the vehicle off the tracks and onto the North Side of the tracks approximately 4 feet from the tracks. During this time hundreds of people formed a line along the railroad tracks to face off with law enforcement. Plastic water bottles of urine were thrown at law enforcement. All were given an order to leave or face arrest.

Burlington Northern was forced to stop train traffic on that railroad track due to the amount of people and the vehicle which were on Burlington Northern Railroad property. Your affiant witnessed a train stopped on the tracks West of Mandan facing Westbound. The protestors were directly in the line of travel of the train. All named above, that were

arrested on site, at a minimum participated in the delay of the BN train service to the point that they were instructed to leave. The participation in the delay continued when they refused to leave after being instructed to leave.

Protestors hindered law enforcement officers making arrests with resulted in taking greater measures through less than lethal force. This included using pepper spray, sponge and bean bag rounds and a Taser was deployed.

Protestors ignored repeated orders from law enforcement to disperse due to the unlawful natures of their protest.

Your affiant learned from narratives and or affidavits that, Tyler Wade also swerved a vehicle he was driving at a NDHP Trooper in an attempt to stop that trooper from making a traffic stop while that trooper was attempting to stop a vehicle. The vehicle Wade was driving had marijuana in it. Wade was a known agitator at the protest site who refused to leave after being given several commands.

Erica Gonzalez was arrested by a BPD officer on a traffic stop. The stop was on a vehicle that was at the protest site. The driver of the vehicle was Tyler Wade a known agitator at the protests. Marijuana was found within reach of Gonzalez while in the vehicle. Neither occupants of the vehicle admitted possession of the marijuana.

Stewart Towle was arrested by a NDHP Trooper for refusing to leave the site.

Sara Shomin was arrested by a MCSD Deputy for refusing to leave the site and breaching the law enforcement line.

Joel Salt was arrested by a MPD officer for approaching officers, yelling at them and refusing to leave the site.

John Platner was arrested by a NDHP Trooper for engaging officers and refusing to leave the site.

Jayson Paymella was arrested by a BPD officer for accelerating the vehicle he was driving towards law enforcement who was on foot when they were trying to arrest him.

Numa Aitken was arrested by a BPD officer for refusing to leave by locking arms with other protestors after being placed under arrest causing officers to use force to make the arrest.

Nicholas Johnson was arrested by a NDHP Trooper for refusing to leave by locking arms with other protestors after being placed under arrest causing officers to use force to make the arrest.

Rodrick Joe was arrested by a MPD officer for refusing to leave the site.

Mia Brown was arrested by a NDHP Trooper for refusing to leave the site.

Mark Hebert was arrested by a NDHP Trooper for refusing to leave the site and locking arms with other protestors.

Rebecca Jessee was arrested by a NDHP Trooper for refusing to leave the site and locking arms with other protestors.

Brian Okeefe was arrested by a NDHP Trooper for refusing to leave the site and locking arms with other protestors. Once being placed under arrest Okeefe attempted to get away from the arresting officer by pulling away from that officer and getting back with the rest of the protestors.

Hannah Glover was arrested by a NDHP Trooper for yelling at officers and refusing to leave the site.

Kimberly Bunner-Secunda was arrested by a NDHP Trooper for locking arms with other protestors and refusing to leave the site. When she was arrested by the trooper she resisted by trying to pull away.

Numa Aiken was arrested by a NDHP Trooper for yelling at officers and refusing to leave the site.

Jessica Joe was arrested by a MPD officer for refusing to leave the site.

Brandon Ami was arrested by a MSCD Deputy for being on and crossing the railroad tracks on foot, aggressively engaging officers and refusing to leave the site then retreat to the crowd. Ami did this at least three times. Ami was a passenger in a motor vehicle that fled from officers, Ami was arrested at that point for the original incident.

Andrew Acque was arrested by a MCSD Deputy for refusing to leave the site. Acque was aggressive towards officers and was able to roll the deputy onto the deputies back. Another officer was forced to deploy a taser to control Acque and place him under arrest.

Ernest Cobiness was arrested by a BPD officer. The officer identified Cobiness as one of the agitators at the protest. The officer reported Cobiness as motioning his arms as if he wanted to fight. During the arrest Cobiness resisted by holding onto a vehicle and others as he was being arrested.

Hanna Grover was arrested by a BPD officer for refusing to leave the site.

Jackie-Teresa Hart was arrested by a MCSD Deputy for intervening in an arrest by pulling a person away from the deputy who had been arrested. Hart was on the train tracks at the time. Hart attempted to pull away from the Deputy at the time of her arrest.

Herb Goodwin was arrested by a BPD officer for refusing to leave the site.

Stephen Eddy Jr was arrested by a BPD officer for refusing to leave the site. While at the site, Eddy Jr. threw a glass beer bottle at the officer which broke and struck the officers leg. Eddy Jr. turned around and ran from the officer. The officer later found Eddy Jr. and arrested him.

Your affiant believes the aforementioned people intentionally caused a substantial interruption or impairment of public transportation, interstate commerce.

  
AFFIANT

SWORN AND SUBSCRIBED TO before me by the said Affiant on November 25, 2016.

CHRISTOPHER MILLER  
Notary Public  
State of North Dakota  
My Commission Expires July 13, 2017

  
NOTARY PUBLIC  
Morton County, North Dakota



## Dakota Access Pipeline Protest – Significant Events Summary

**8/10/16:** Protesters began gathering in Morton County just north of the Standing Rock Sioux Indian Reservation in opposition to construction of the Dakota Access pipeline.

**8/11/16:** Morton Co SD & NDHP responded to a private security report that protesters were hampering construction activities of DAPL. Total of 13 arrests made.

**8/12/16:** Morton Co SD & NDHP responded to reports of access to private property (construction site) was being blocked. Total of 6 arrests made. Those arrested included Standing Rock Tribal chairman and a Tribal Council member.

**8/13/16:** No construction activity took place. Bridge over Cannonball River on Hwy 1806 was temporarily blocked by demonstrators who marched from there to the DAPL construction site.

**8/14/16:** No construction activity took place.

**8/15/16:** Dakota Access is moving equipment down to the site. Demonstrators on horseback pushed LE officers manning barricade line back. A hole was cut in the property fence and approximately 50 demonstrators went onto private property. Reports from the site are that when the protesters initially stormed the construction site on private land they broke windows out of a loader and struck a 10-code (private security) person providing security for the DAPL workers. All construction on site has stopped and Dakota Access Pipeline (DAPL) workers are leaving the site and supporting Law Enforcement is preparing to leave the immediate area as well. Total of 10 arrests occurred.

The protesters have exited the private property where the pipeline company was working and have returned to the designated protest assembly area.

Additional demonstrators were arriving in the area. A camp is being planned for the southeast side of the Cannonball River Bridge.

A tribal press briefing was conducted at 11:30.

The Morton County Commission Chairman has signed an Emergency Declaration. According to subsection 4 of section 37-17.1-05 this declaration is in effect for seven days and will be heard by the entire commission at the next County Commission meeting.

DAPL sued in federal court Monday to stop protesters near an American Indian reservation in North Dakota to stop interfering with the project, alleging the safety of workers and law enforcement are at risk.

**8/16/16:** No construction activity. Reports that windows were broken out of one of the company's bulldozers at the pipeline site. In addition, one of their generators and a light stand was also vandalized.

Traffic moving slowly past the protest site in both directions. 150 to 200 protesters at the protest site now. Vehicles parked on shoulders of ND HWY 1806 for 2-miles south of the protest site.

U.S. District Judge Daniel Hovland ordered a temporary restraining order against protesters for unlawfully interfering with Dakota Access, LLC and its representatives from construction at the site. There will be a preliminary injunction hearing on August 25 at North Dakota District Court in Bismarck.

**8/17/16:** Traffic control point established at Hwy 1806 & Morton County Rd 138A. Southbound traffic detoured to alternate routes. LE manning traffic control point.  
Report of laser being used against NDHP pilot at approximately 5:15 am.  
The Morton County EOC was established at the Law Enforcement Center.

**8/18/16:** Demonstration occurred in Bismarck just south of the Capitol Grounds from 4:00 6:00 pm. Boulevard Avenue was closed between 4<sup>th</sup> & 7<sup>th</sup> Streets to accommodate the demonstrators and ensure safety. No problems were encountered with the demonstration.

**8/19/16:** No significant events occurred.

**8/20/16:** "Water Action Against Dakota Access Pipeline" event occurred in the area of the confluence of the Missouri and Cannonball rivers. No problems encountered.

**8/21/16:** Report of laser being used against NDHP pilot at approximately 12:45 am. No other significant activity. Morton EOC closed for the day.

**8/22/16:** ND Dept. of Health removed their assets from the demonstrators' overflow camp at Standing Rock.

The Standing Rock Sioux Tribe and the International Indian Treaty Council have appealed to the United Nations for help in their fight against construction of the Dakota Access oil pipeline.  
Portable cell tower was installed in the area of the DAPL construction site.

**8/23/16:** Standing Rock Water Protectors group conducted a march across Memorial Bridge @ approximately 1500 hrs. They remained on the sidewalk of the bridge and there were no problems. Traffic was stopped for a short time while they crossed from the sidewalk area on the south side of the bridge to the gathering area on the north side of the bridge.  
Morton County Commission meeting at 1730 hrs. Testimony was presented from attendees that the traffic checkpoint impedes travel, is impacting the Tribe's economy, and can be humiliating to cross.

**8/24/16:** March planned at 1000 hrs. from the Cannonball River bridge on Hwy 1806 to the DAPL construction site. Traffic control was established to ensure safety. No problems were encountered. Hearing was held in Washington D.C. in Federal District Court concerning the Standing Rock Tribe's request for an injunction against DAPL proceeding with construction. Judge's opinion to be issued on Sept 9<sup>th</sup>.

**8/25/16:** No significant events occurred.

**8/26/16:** No significant events occurred.

**8/27/16:** No significant events occurred. Morton EOC closed for the day.

**8/28/16:** No significant events occurred. Morton EOC closed for the day.

8/29/16: Protest at 1133 College Dr – Fredrikson & Byron, PA office (attorney for DAPL). No problems encountered – occurred from approximately 3-5 pm.

8/30/16: No significant events occurred.

8/31/16: At approximately 7:30 am, protestors were reported to be putting signs on DAPL equipment at the construction site approximately 4 miles south of St. Anthony along Hwy 6. Law enforcement officers responded. One subject had secured himself to a track hoe on site and his restraining system was safely removed at approximately 1:30 pm. Total of 8 persons arrested. Facebook event posting of a prayer gathering at the Morton County Jail at 5:00 pm lasting until the release of those arrested at the protest today. There were a small number of people (reported as approximately 12) who participated and no problems were encountered.

9/1/16: There was a hearing at the Federal Courthouse in Bismarck concerning Paradigm Energy's request for continuation of an injunction against Three Affiliated Tribes so they can continue construction of a natural gas pipeline under Lake Sakakawea. No problems were encountered with attendees. There was no formal demonstration.

9/2/16: No significant events occurred.

9/3/16: At approximately 3:30 pm, an estimated 300 protestors trespassed onto property just west of Hwy 1806 where DAPL workers were doing construction. The protestors entered the property after cutting/damaging the fence and went a significant distance onto the property to engage the construction equipment. Protestors also brought 20-30 horses and possibly vehicles onto the property. Private security met the protestors and security had K-9's. There was conflict between security and the protestors which led to several security workers sustaining injury. Pepper mace was used against the protestors. Law enforcement arrived and were able to get the protestors to leave the property. No arrests were made at the scene but investigation continues.

9/4/16: No significant events occurred.

9/5/16: No significant events occurred.

9/6/16: Approximately 150-200 protestors trespassed on private property and occupied the DAPL construction area south of St. Anthony near the intersection of Hwy 6/Morton Co Rd 135. Two protestors attached themselves to equipment. Protestors painted graffiti was painted on some of the equipment. Independent Presidential candidate Jill Stein was at the site. LE monitored the situation but did not attempt to remove or arrest the protestors. By approximately 1600 hrs, the protestors had left the scene.

A small fire was reported on a planked entrance road to a DAPL construction site.

Federal District Court Judge ruled on the request for a restraining order by the Standing Rock Sioux Tribe to stop DAPL from construction 20 miles in both directions from the Missouri River. The Judge ruled that construction can continue west of Hwy 1806 but is restrained from construction for 20 miles east of Hwy 1806.

9/7/16: The Paddle to Standing Rock event occurred which involved canoes traveling on the Missouri River from Bismarck to Standing Rock. No problems were encountered with the event. No other significant events occurred.

**9/8/16:** A report was received from private security that protesters were gathering at the DAPL site at Hwy6/Morton Co Rd 135 (same site as they gathered on 9/6) at approximately 5:20 am. Facebook postings showed at least 4 protestors were attached to equipment. The protesters were reported as leaving the site at approximately 6:45 am. Facebook postings said they were leaving as DAPL workers were not showing up at the site.

Governor activated a military police unit to support law enforcement efforts. Primary responsibilities will be traffic control points and administrative duties.

The traffic control point just south of Mandan on Hwy 1806 has been converted to a traffic information point advising motorists of potential traffic delays, people on the roadway and possible protest activities.

**9/9/16:** At approximately 11:30 am it was reported that a large number of people were leaving the protest camps and heading north on Hwy 1806. People were walking and there were horses and vehicles in the group and they were blocking both lanes of the highway. As a result of this traffic hazard, the traffic control point was reinstated just south of Mandan and traffic was rerouted on Hwy 6. BIA established a traffic control point near the Cannonball River for northbound traffic. The group left Hwy 1806 at the location that was the site of the protest last Saturday. This group subsequently left this location and Hwy 1806 was re-opened and the traffic control point reverted to the traffic information point.

At approximately 1:55 pm it was reported that the US District Judge had denied the Standing Rock Tribe's request for an injunction against the pipeline construction while the Tribe's lawsuit against the US Army Corps of Engineers proceeds. Subsequently, the US Dept. of Justice issued a joint statement with the Dept. of the Army and Dept. of the Interior that the Army will not authorize construction of the pipeline on Corps land bordering or under Lake Oahe until it reconsiders its previous decisions regarding the Dakota Access pipeline. They are also requesting DAPL to voluntarily cease construction activity within 20 miles east or west of Lake Oahe.

The planned demonstration at the Capitol was conducted from 3:00 – 6:00 pm. There were approximately 200 – 300 in attendance. No problems were encountered.

**9/10/16:** No significant events occurred.

**9/11/16:** No significant events occurred.

**9/12/16:** US District Court Judge issued a decision on the Standing Rock Tribe's appeal of the removal of the temporary restraining order halting construction east of Hwy 1806. The Judge reinstated the TRO prohibiting construction 20 miles east of Hwy 1806 until the status conference scheduled for September 16<sup>th</sup>.

No other significant events occurred.

**9/13/16:** DAPL moved their construction equipment that was located in areas between Hwy 1806 and Hwy 6 to the area west of Hwy 6. The equipment that is east of Hwy 1806 in the site of the original protest was left at that location.

At approximately 10:50 am a report was received of protesters at a DAPL site located west of Glen Ullin north of Exit 120 near MM 106.5. Two protesters were reported as having attached themselves to equipment. Law enforcement officers responded and 22 subjects were arrested.

At approximately 11:30 am a report was received of a large number of persons (approximately 100) walking from the main camp north on Hwy 1806 accompanied by vehicles and blocking both lanes of travel. Due to safety concerns, the TIP was converted to a TCP. The persons went to the north approach of the original protest site just north of the main camp. After approximately 2 hours, the group returned to the camps. At that time, BIA officers estimated the group to be about 300 persons. At approximately 4:00 pm the TCP was converted back to a TIP.

At approximately 12:20 am it was reported that a group of protesters was blocking traffic on 40<sup>th</sup> Street near a DAPL site 5 miles west and 1 mile south of New Salem. It was believed this group of protesters had left the site near Glen Ullin. This group then moved onto the construction site and DAPL workers stopped work and left the site. The protesters were subsequently reported as piling tires by construction equipment. The protesters left the site prior to LE arrival. Unknown damage at this time.

**9/14/16:** At approximately 8:00 am a report was received that protesters had attached themselves to DAPL construction equipment at a DAPL site north of Exit 120 on I-94 (west of New Salem). LE responded and found 3 persons attached to the equipment. There were also reports of other protesters possibly at other DAPL sites in the area. A total of 8 persons were subsequently arrested.

**9/15/16:** Report of vandalism at a Precision Pipeline construction site near Alexander, ND. Unknown if this is related to the DAPL protest.  
No other significant events occurred.

**9/16/16:** Approximately 200 demonstrators assembled at the Memorial Bridge on the Bismarck side and conducted a march on the bridge. No problems were encountered.  
It had been reported to the EOC that a prayer assembly was going to be conducted with occupants of the camp walking north on Hwy 1806 to the DAPL site north of the camp. The TIP was transitioned to a TCP from noon – 3 pm to accommodate this gathering. The assembly did not occur, likely due to rainy weather, however, no notification of cancelation was received by the EOC so the TIP was transitioned to a TCP.

**9/17/16:** The EOC received notification that the occupants of the camp were going to be conducting the prayer assembly that had been scheduled for the 16<sup>th</sup> from 12:00 – 3:00 pm. The TIP was transitioned to a TCP during this time to provide for traffic safety as camp occupants were to be walking on Hwy 1806. The assembly began later than originally advised and the TCP converted back to a TIP at approximately 4:30 pm. No problems were encountered.

**9/18/16:** Law enforcement patrol discovered a person on a DAPL construction site on the west side of Hwy 6 between mile markers 49 & 50. Subject was subsequently arrested for criminal trespass.

**9/19/16:** No significant events occurred.

**9/20/16:** A protest was held in Mandan, originally at the Morton Co LEC and then moved to a location in front of Mandan City Hall. The protesters claimed to be in support of Olowan Martinez who was arrested at a DAPL protest site, but is being held on Nebraska warrants pending extradition. There were an estimated 100-200 at the protest. Attempts were made by protesters to antagonize LE, but there

were no arrests. The protest began at approximately 3:00 pm and was disbanded at approximately 4:30 pm.

**9/21/16:** No significant events occurred.

**9/22/16:** No significant events occurred. It was announced that the deed had been recorded documenting the sale of the Cannonball Ranch to Dakota Access, LLC. The Cannonball Ranch includes the private property directly west of the Missouri River that is being crossed by the Dakota Access Pipeline.

**9/23/16:** No significant events occurred.

**9/24/16:** Report of trespassing at the original protest site. Approximately 5-6 people on horseback and 1-2 people on foot were observed inside the fence line and were carrying no trespassing signs they had removed from the property. This was observed by a NDHP trooper.

**9/25/16:** At approximately 9:15 am, a large convoy of approximately 60 passenger vehicles accompanied by 3 school buses was reported as leaving the protester camp and traveled to DAPL site 114. The vehicles were parked to obstruct access to the site and 3 security guards on scene were assaulted by the group. The security guards reported they also observed their attackers brandishing a knife and a handgun. The protesters trespassed onto the property and subsequently planted trees and did a protest on the site while vandalizing construction equipment at the site. The protest group then left and traveled to DAPL site 116 where trespassed onto the property to plant trees and did a protest while vandalizing equipment on the site.

**9/26/16:** A small group (approximately 12) protesters were reported as being at DAPL site AR 117. They were observed to be trespassing but did not engage in other illegal activity. They were monitored and left on their own after a short time.

**9/27/16:** At approximately 1100 hrs. a large group of protesters in vehicles left the main camp and drove to the "north camp" area and parked along the roadway. A group estimated at 100-200 engaged in a demonstration along the road but did not significantly impeded any traffic.

At approximately 11:45 am a convoy of approximately 100 vehicles containing protesters drove up to DAPL site AR 114. They remained at the site until approximately 2:00 pm when they left and drove to DAPL site AR 117. They left this site at approximately 3:25 pm.

Law enforcement responded to both sites and monitored the situation but no arrests were made at the protest sites.

Law enforcement did arrest 5 persons as a result of them blocking a roadway during the convoy movement.

It was initially reported that 3 DAPL security persons were assaulted by protesters at one of the construction sites. There was no confirmation that any security was assaulted and no assault reports were received.

Approximately 3 DAPL signs were shot at a site – these were paper type signs. Graffiti was also scratched into the coating on some pipe which will need to be recoated.

**9/28/16:** At approximately 12:00 - (2) Truck drawn horse trailers leading a convoy of protesters northbound from the camp area - approximately 50-plus vehicles. Another (50) people reported forming at the Sacred Stone Camp.

At approximately 13:15 Protesters trying to tear down Concertina Wire at AR 115.

At approximately 14:03 (75) protesters and several on horseback at Kent Morrell Farm 5-miles S. and 3-Miles W. of St. Anthony (2501 MC RD 82).

Protest group making claims of using mustard gas against protestors as a result of sighting a spray plane doing routine agricultural spraying in the area.

Total Number of arrested – (21).

**9/29/16:** No significant events occurred.

**9/30/16:** Protester group hand delivered a “Oceti Sakawin Proclamation and Notice” to the Morton County Sheriffs’ Department alleging violations of law by the Sheriffs’ Department related to the response to protest activities.

**10/1/16:** No significant events occurred.

**10/2/16:** No significant events occurred.

**10/3/16:** At approximately 9:35 am a large group of vehicles (later estimated at approximately 110 vehicles each containing 3-4 protesters) forming a convoy were reported as leaving the camp and headed north on Morton Co Rd 81. The convoy traveled to the St. Anthony area and basically made a loop and returned to the camp. No protest activity occurred.

**10/4/16:** No significant events occurred.

The EOC at Morton County transitioned to a TOC and EOC activities moved to the SEOC.

**10/5/16:** At approximately 10:15 am a convoy of approximately 75 passenger vehicles and 2 buses left the protest camps and traveled north on Hwy 6 to St. Anthony where they encountered law enforcement who had closed Co Rd 136 westbound. The protester convoy stopped on Hwy 6 and began a demonstration. They were advised to clear the roadway and disperse. At approximately 12:35 pm the protesters left this area in a convoy which traveled to the area of DAPL site AR 116 where they stopped and staged another demonstration. At approximately 2:25 pm the protesters left this area and returned to camp.

No arrests were made.

**10/6/16:** At approximately 10:45 am a convoy of approximately 60 vehicles containing protesters left the camps and traveled to the DAPL construction site area that is west and north of St. Anthony. Law enforcement responded and monitored the progress of the convoy. Law enforcement blocked roadways leading to the DAPL construction site access roads. The convoy traveled around the area and ultimately returned to the camps at approximately 4:30 pm. There were no demonstrations.

No arrests were made.

**10/7/16:** No significant protester activity. A Fargo PD unit conducted a traffic stop on Hwy 6 in the area of St. Anthony that resulted in 3 misdemeanor arrests but it is unknown if it was protest related. A pro-law enforcement rally was conducted by the public at the Mandan/Morton LEC. There was no demonstration in opposition to law enforcement at the rally.

**10/8/16:** The "Ride for Our Sacred Water" left the overflow camp at approximately 11:30 am. There were approximately 20 riders on horseback accompanied by support vehicles. They traveled northbound on Hwy 1806 to the Ft. Rice area where they then headed west. The support vehicles were traveling at a slow rate of speed creating a traffic hazard so the TIP was converted to a TCP from approximately noon – 1:50 pm.

The rider group broke into separate groups. One group continued on in the general area of the planned route to continue on towards the end destination of Tioga. Other groups rode around the area with one group wanting to get onto the DAPL site at AR 121 to take photos. LE did not allow this. These splinter groups ultimately loaded their horses into trailers and left the area.

A drone was seized from Myron Dewey as a result of an investigation into a stalking offense which occurred earlier in the day.

**10/9/16:** No significant events occurred.

**10/10/16:** At approximately 7:15 am a report was received that 2 individuals were locked down to DAPL equipment at the construction site located at AR 117 in protest to the pipeline project. Law enforcement responded and subsequently cut these two subjects loose from the equipment. Three individuals were arrested as a result.

At approximately 8:15 am a convoy estimated at approximately 100 vehicles occupied by protesters left the camps and traveled to the DAPL construction site located at AR 118. A large group of protesters trespassed onto private property after removing a wire boundary fence to gain access. Law enforcement responded and ultimately arrested 24 subjects. Those arrested included actress Shailene Woodley.

**10/11/16:** At approximately 11:00 am law enforcement conducted a stop on a vehicle that was reported to be engaged in suspicious activity near the DAPL site at AR 117. This stop resulted in the arrest of 2 individuals.

A small group of protesters conducted a demonstration at the Morton County Courthouse and Morton/Mandan LEC from approximately noon – 2 pm. No problems were encountered.

At approximately 4:30 pm, riders on horseback left from Ft. Rice boat ramp to ride back to the camp on Hwy 1806. The TIP converted to a TCP while this took place due to the traffic hazard/obstruction created by the riders and accompanying vehicles. At approximately 6:20 pm, the riders reached the camp and Hwy 1806 was clear of horses and accompanying vehicles and the TCP converted back to a TIP.

**10/12/16:** No significant events occurred.

**10/13/16:** No significant events occurred.

**10/14/16:** At approximately 1:00 pm smaller groups of vehicles were seen leaving the camps and eventually formed into a larger convoy that traveled around the area where active DAPL construction



was taking place. LE monitored the convoy and prevented it from approaching any of the construction sites. The convoy did stop and some protesters approached LE who were stationed on Co Rd 81 just north of 63<sup>rd</sup> St but there was no significant confrontation. The convoy traveled through the area and then returned to the camps.

At approximately 4:45 pm, a large group of vehicles left the main camp and drove to the "north camp". There were approximately 100 people at the "north camp" until about 5:00 pm when they began dispersing and returned to camp. According to social media, there may have been some sort of prayer ceremony there and reports were received at the main camp that LE was coming so a number responded to the "front line".

**10/15/16:** At approximately 7:40 am a report was received that there were protesters at the DAPL construction site at AR 125 and that a subject was locked down to equipment. Reports were also received at approximately the same time that a small group of protesters may also be at the site at AR 126. LE responded and found 1 subject locked down to an excavator at AR 125 and all other protesters had left the sites at AR 125 and 126. A bucket truck responded and as LE were raised to remove the protester, he released himself and was subsequently arrested for reckless endangerment & criminal trespass.

At approximately 9:00 am a convoy of vehicles approached LE who were at Hwy 6/Co Rd 135 restricting access to DAPL sites. Occupants of the vehicles (estimated to be 100 – 150) approached the LE line and 10 were subsequently arrested for disobedience of public safety order & disorderly conduct. This group of protesters left the area at approximately 10:00 am.

At approximately 9:45 am, LE had restricted another large convoy of vehicles that were prevented from accessing DAPL sites near Co Rd 81/Co Rd 135. The protesters left their vehicles and began walking on Co Rd 81. They walked several miles on Co Rd 81 and eventually turned around and went back to their vehicles and left the area and dispersed at approximately noon.

At approximately 10:45 hrs. a group of 3 protesters were arrested in the area that were trespassing on private property east of Co Rd 81 off 64<sup>th</sup> St.

**10/16/16:** No significant events occurred.

**10/17/16:** By 7:00 am, "Democracy Now" had assembled equipment at the church lot directly west of the Morton County Courthouse. This was apparently in preparation for Amy Goodman's planned appearance to answer criminal charges against her.

At approximately noon, a large group of protesters parked their vehicles on the east end of Memorial Bridge, blocking both the westbound and eastbound lanes of travel. The protesters gathered on foot, creating a line that totally blocked the east end of the bridge. They then began a march eastbound on West Main Avenue, totally blocking the eastbound lane of Main Ave. Law enforcement established a line near West Main/West Rosser to address the protesters' blocking of the roadway. At approximately 12:45, the protesters began to disperse.

The majority of this group of protesters then apparently traveled to the Morton County Courthouse where they joined the ongoing protest bringing the total involved to an estimate of approximately 150 persons. Law enforcement restricted protest activity to a certain area in order to keep the street and sidewalks clear. At approximately 2:30 pm, the protesters dispersed from the Courthouse area.

One subject was arrested during the protest activity at the Courthouse for disobedience of public safety orders and disorderly conduct.

**10/18/16:** Very little activity today with the exception of three journalists being detained at the Seven Councils (overflow) camp. Apparently some of the protesters took exception to some of the questions

raised by the journalists and ultimately surrounded the vehicle preventing them from leaving. They were asked to surrender their video however they refused. Law enforcement did respond and the journalists were allowed to leave with their footage.

The TIP/TCP was removed from its location at Hwy 1806/Co Rd 138A.

**10/19/16:** No significant events occurred.

**10/20/16:** VIP walkabout on 1806 to view construction site from AR 127 East. ND congressional delegation, Chairman Archambault, THPO, and SHPO were involved. It was reported that some bones were found and were transported to the ND State Lab for analysis to determine if they are human or animal. The ND medical examiner determined these bones were not from a human but were from a horse, cow, or deer.

**10/21/16:** At approximately 2:45 pm, a group of approximately 20 vehicles left the camp and drove to the area of the Ft. Rice boat ramp. The protesters (estimated at 40-50) then marched in the ditch to the area just south of the Ft. Rice campground area where they encountered a line of law enforcement officers. The protesters staged a demonstration for approximately 10 minutes and then returned to their vehicles and drove back to the camps. There was no significant confrontation with law enforcement and no arrests were made.

At approximately 5:00 pm, a report was received that approximately 100+ protesters were present at the north camp site (where the pipeline route is to cross Hwy 1806). Law enforcement responded. The protesters were ultimately estimated to be approximately 150+. They held a demonstration or prayer ceremony. There were reports of up to 20 protesters who may have crossed the fence line onto private property but law enforcement did not make contact with any protesters on private property. By approximately 6:15 pm, the protesters had left and returned to the camps. There was no significant confrontation with law enforcement and no arrests were made.

**10/22/16:** At approximately 5:00 am a report was received that protesters were at the DAPL construction sites located at AR 125 & 126. Law enforcement responded and found protesters at AR 126 but AR 125 was cleared. There were approximately 12 protesters at AR 126 and 4 were locked to a passenger vehicle the protesters apparently brought to the scene.

At approximately 7:00 am, a report was received that approximately 100 vehicles had left the protest camps and traveled to the site of the "North Camp" along Hwy 1806 at AR 128. A group of approximately 100 – 150 persons were reported as trespassing onto the pipeline right of way and marching west onto the property. Law enforcement responded and formed a line just to the DAPL equipment that was parked east of AR 127. The marching protesters were joined by others forming a group estimated at 200+. This group reached the line of law enforcement officers at approximately 9:00 am. The protesters confronted the law enforcement officers and due to protester actions, law enforcement began making arrests at approximately 9:20 am. The protester group subsequently began to move east while scattering into smaller groups. Law enforcement reported several small children in the group, with one child estimated to be 3 years of age. The protest group also brought a number of dogs with them, and law enforcement reported at least 3 German Shepherds with the group at one point.

Due to protester vehicles and pedestrians on the roadway at site AR 128, Hwy 1806 was temporarily closed from approximately 8:00 am to 1:30 pm.

**10/23/16:** At approximately 8:15 am, a large group of protesters left the protest camps and some marched and some traveled in vehicles to the location of the North (ditch) Camp. The group congregated at the North Camp and was estimated at approximately 200 persons. A subject claiming to be a group leader, who identified himself as Mekasi Camp-Horinek, informed law enforcement on scene that this was a prayer ceremony and the group would not trespass. Social media affiliated with the protesters was reporting this was going to be an "Historic Day".

Law enforcement monitored the protesters and at approximately 10:45 am observed protesters entering private property on the east side of Hwy 1806 by the North Camp location. The protesters began to erect teepees and move vehicles onto the private property.

At approximately 12:40 pm, law enforcement officers attempted to arrest a group of 3 individuals who were trespassing on private property east of Hwy 1806 that were to the north of the main group of protesters. Law enforcement was able to apprehend and arrest one of these subjects and as they did so, a number of people from the large group of protesters began to run towards law enforcement who were conducting the arrest. Law enforcement withdrew before being confronted.

Protesters continued to erect teepees and other tents on the private property in addition to entering other buildings on the property. At approximately 2:00 pm protesters began to barricade Hwy 1806 by the North Camp using vehicles, wire fencing, pieces of log, bales, rocks, and miscellaneous debris until the road was totally blockaded. The protesters also blockaded Hwy 1806 south of the main protest camps using vehicles and a Dept. of Transportation electronic sign. Additionally, the protesters blockaded Co Rd 134 just west of Hwy 1806 using large logs and also erected 5 tents on the roadway. At approximately 3:45 pm, NDHP Colonel Gerhardt accompanied by 2 other law enforcement officers approached the protesters' north blockade on Hwy 1806 and advised them they need to clear the blockade from the roadway.

At approximately 4:20 pm, the protesters began to clear the blockades from Hwy 1806 and at approximately 4:45 the blockades were removed from Hwy 1806 but the material in the ditch remained. The blockade on Co Rd 134 remained.

Hwy 1806 was closed except to local traffic and D.O.T. signs were placed and BIA established a traffic control point at Hwy 1806/Hwy 24.

The protesters continued to erect teepees, tents, and move vehicles onto the private property. During the events of the day, a drone was flown within 50 feet of a helicopter, endangering those on the helicopter and the drone was also used to surveil law enforcement field operations. Law enforcement attempted to disable the drone by shooting it with less-lethal armament. It was also reported that arrows had been shot at the helicopter.

**10/24/16:** The new camp location on private property east of Hwy 1806 grew overnight and consisted of approximately 17 teepees, 100+ small tents, 5 large military style tents, and several RV's. The protester road blockade remained on Co Rd 134 just west of Hwy 1806 and the number of tents on the roadway increased from 5 to 9 overnight. The protesters blockaded Hwy 1806 just north of the North Camp from about 3:00 – 3:30 pm using large round bales and blockaded it again at approximately 4:00 pm. There was a lot of vehicle travel between this new camp and the southern protester camps throughout the day.

**10/25/16:** Activity continued in the new camp to include the apparent erection of new teepees. At approximately 11:40 am, a report was received that a female had fallen from a horse in the Seven Councils Camp and Standing Rock ambulance responded. The nature and extent of the injury is unknown.

At approximately 1:30 pm, it was reported that protesters had assembled materials to construct a 2<sup>nd</sup> roadblock approximately ½ of the way between their north roadblock and the North Camp.

At approximately 2:45 pm, a report was received that 6 riders on horseback had left the camps and ridden onto private property west of Hwy 1806 and rode to the roadblock the protesters have erected on Co Rd 134 east of Hwy 1806.

**10/26/16:** At approximately 11:00 am, a group of law enforcement representatives consisting of Sheriff Kirchmeier, Sheriff Laney, Colonel Gerhart, and General Dohrmann approached the protester's roadblock by the North Camp. There were met by a contingent of protesters with Mekasi Camp-Horinek acting as the primary spokesperson for the protesters. Sheriff Kirchmeier asked that the protesters remove their blockades and move off of the private property. The protesters said that they were not moving. Law enforcement left without incident.

At approximately 12:15 pm, DAPL security recovered a drone apparently belonging to the protesters that was buzzing them at the archeological site just west of Hwy 1806. Damage on the drone indicated that it is likely the same drone involved in the incident which endangered the helicopter on 10/23/16. During the day, protesters continued to expand the North Camp, including moving in a small mobile home and erecting additional teepees.

**10/27/16:** At approximately 11:50 am law enforcement began an operation to remove the protester roadblocks on Hwy 1806 as well as to remove individuals from private property in the area of the North Camp. A group of law enforcement officers approached the protester roadblock on Hwy 1806 north of the North Camp and repeatedly and consistently gave notice that protesters needed to clear the highway and private property and to go to the south and if they did so they would not be arrested. Law enforcement was met with resistance and protesters lit materials at this blockade on fire. A fire truck was brought forward to extinguish this fire.

At approximately the same time, another group of law enforcement moving in from the west approached the protester roadblock on the bridge at Co Rd 134 west of Hwy 1806. Law enforcement at this location encountered protesters who started the blockade materials on the bridge on fire at approximately 12:30 pm.

At approximately 12:40 pm, the protesters on Hwy 1806 had retreated to their second blockade on Hwy 1806.

The protesters at the Co Rd 134 bridge continued to add materials to the fire on the bridge and a fire truck was sent to this location as well to extinguish the fire.

At approximately 2:00 pm, a group of protesters entered the property on the west of Hwy 1806 and went to the archeological site on the pipeline right of way.

Law enforcement on Hwy 1806 continued to push the protesters south and reached the area of the North Camp. Law enforcement began to check the tents and other structures at the North Camp and located 3 protesters that were locked down to something buried in the ground in one of the structures. A law enforcement cut team removed these protesters.

While law enforcement was clearing the private property at the North Camp, protesters chained themselves to a vehicle parked in the middle of Hwy 1806, erected teepee poles in the middle of the highway, and placed a number of large logs in the middle of the highway.

Law enforcement continued to clear the North Camp and move protesters south on Hwy 1806. At approximately 4:15 pm, law enforcement had protesters cleared from the North Camp area. While the North Camp was being cleared, protesters on horseback were chasing a large herd of buffalo in the area attempting to stampede them towards law enforcement. The helicopter and airplane assisting in the operation took action to herd the buffalo away from law enforcement. Some of the protesters on horseback were eventually arrested by law enforcement officers who responded on ATV's.

Law enforcement continued to address the situation at the Co Rd 134 bridge and fires continued on the bridge to include protesters setting fire to vehicles on or near the bridge.

At approximately 4:50 pm, protesters started DAPL construction equipment on fire that was parked northeast of the North Camp.

Law enforcement continued to move the protesters south on Hwy 1806. At approximately 5:20 pm, the NDHP pilot reported observing an altercation between subjects in the area of the Backwater Bridge on Hwy 1806 involving a firearm. Law enforcement officers were unable to respond to the area as they were still blocked by protesters on Hwy 1806 and Co Rd 134. BIA officers responded. This altercation was between a subject who is an employee of a security company and members of the protest group. The security person with the gun was taken into custody by BIA and subsequently turned over to Morton Co law enforcement.

At approximately 5:55 pm, law enforcement arrested a protester on Hwy 1806 who drew a handgun and fired shots towards officers. The subject was taken into custody. Law enforcement officers were not seriously injured.

Law enforcement at the bridge on Co Rd 134 continued to experience fires set on the bridge and Co Rd 134 as they attempted to move east on Co Rd 134 to reach Hwy 1806. Law enforcement was slowly able to move eastward as they extinguished fires and used heavy equipment to remove debris and vehicles from the roadway.

At approximately 7:00 pm, the law enforcement groups on Hwy 1806 and Co Rd 134 met at the intersection of Hwy 1806/Co Rd 134. As law enforcement began to move south on Hwy 1806 they encountered protesters at the Backwater Bridge on Hwy 1806 who had placed debris on Hwy 1806 near the bridge to create a barricade and the protesters set a fire in the middle of the highway by the bridge. Law enforcement began to move forward towards the bridge and protesters threw Molotov cocktails and rocks towards law enforcement. Law enforcement moved back out of range of the thrown objects and maintained a position on Hwy 1806 just north of the bridge.

Attempts were made to extinguish the fires but fire trucks were not able to safely approach to a distance that would allow them to fight the fire.

Law enforcement positioned 2 large trucks on Hwy 1806 on the north end of the bridge to form a barricade. Protesters set the trucks on fire.

Law enforcement maintained a presence at the bridge throughout the night.

Approximately 141 individuals were arrested for various criminal violations throughout the course of the law enforcement operation and were transported to Morton Co Jail for processing.

**10/28/16:** Law enforcement maintained position at the Backwater Bridge throughout the previous night. Fires continued to burn on the bridge this morning. A group of approximately 50 protesters remained on the bridge throughout the morning. At approximately 1:00 pm, either Standing Rock Tribal or camp representatives were attempting to persuade protesters to leave the bridge. By approximately 3:00 pm, all protesters had left the area of the bridge.

During the afternoon, burned vehicles and other debris were cleaned from Co Rd 134 and the bridge where the protester roadblock had been established.

Law enforcement continued to monitor the area of the Backwater Bridge throughout the day.

No other significant activity occurred.

**10/29/16:** At approximately 10:30 am, persons from the main camp began gathering on the Backwater Bridge. This group grew to approximately 150-200 persons by noon. At approximately noon, a group of law enforcement command representatives met with representatives of the protest camp at the

barricade on the north side of the Backwater Bridge. By approximately 1:00 pm, the group had dispersed from the Backwater Bridge.

A demonstration event was held at the State Capitol from 1:00 – 3:00 pm. Approximately 50 persons were present at the demonstration. No problems were encountered.

**10/30/16:** At approximately 1:00 am, a fire began in the prairie to the west of the Seven Councils camp on the west side of Hwy 1806. Mandan Rural FD was dispatched at 1:12 am. Due to the location of the fire, the fire departments experienced difficulty with access. The fire was spreading to the west, and was not endangering the protest camps. At approximately 8:30 am, a NDNG helicopter arrived to assist with extinguishing the fire. The fire was basically extinguished at approximately 9:50 am.

**10/31/16:** The North Dakota Highway Dept. cleaned the road ditches along Hwy 1806 in the area of the North Camp and the Morton Co Highway Dept. cleaned the area of the protest at the bridge on Co Rd 134 west of Hwy 1806. The North Camp location has been cleared of the protester teepees, tents, and other items.

Law enforcement encountered a small group of protesters who were crossing from the south shore of the backwater east of the Backwater Bridge to the north shore. There was no confrontation and the protesters returned to the south shore.

**11/1/16:** Protesters established a small camp on the south shore of the north branch of Cantapeta Creek in a location that is east of the Backwater Bridge. This location is called "Turtle Island". The area of Corps of Engineer property on the north shore across from this camp where law enforcement is stationed is called "Lone Tree Hill".

Small numbers of protesters were crossing over to the north shore of the creek using small watercraft or by swimming/wading. Law enforcement monitored the activity and directed the protesters to remain on the south shore. No significant confrontation between law enforcement and the protesters occurred. This occurred primarily between 10:00 am and noon.

At approximately 3:30 pm, law enforcement observed subjects butchering a large animal believed to be a cow in the area east of the protest camps.

**11/2/16:** Throughout the early morning hours, protesters were constructing a wooden bridge from their camp on Cantapeta Creek in an attempt to reach the north shore of the creek. At approximately 9:30 am, law enforcement issued a warning to the protesters to remove the bridge and remain on the south shore of the creek. The protesters ignored the warning and law enforcement placed officers in boats and approximately 10:50 am, law enforcement towed the bridge away. A group of approximately 100 protesters entered the water and approached towards the law enforcement line stationed on the north shore of the creek. Protesters were throwing rocks, bricks, and other items at law enforcement officers. Law enforcement deployed chemical agents and less lethal munitions as necessary to counter protester assaults and to disperse them. The confrontation ended at approximately 2:00 pm.

Also during the morning hours, the protesters towed their burned vehicles from the Backwater Bridge. Approximately 150 protesters were on the bridge during the morning and remained relatively peaceful. The protester camp on Cantapeta Creek has grown slightly and now has 3 teepees at the campsite. No arrests were made at the protest sites today. A male subject was arrested for conspiracy to obstruct a government function for purchasing kayaks and canoes which he was transporting to the protest camp.

**11/3/16:** At approximately 6:30 am, a vehicle purportedly leaving the protest camp was northbound on Hwy 1806 and crashed into the burnt trucks north of the Backwater Bridge. Vehicle occupants refused medical transport. The NDHP investigated the crash.

In the morning, a large group assembled on Hwy 1806 in the area of the Backwater Bridge apparently to engage in a prayer march. It was estimated that 200-300 persons were present.

At approximately 4:00 pm, a group of protesters arrived at the State Capitol. Some of the protesters entered the Judicial Wing. This group was subsequently arrested as they were seated on the floor and refused to leave as the Capitol was closing. The remainder of the group remained outside the Capitol and eventually marched to a location on the west side of 4<sup>th</sup> Street across from the Governor's residence where they engaged in a demonstration. A small group crossed over to the Capitol grounds and refused to obey law enforcement orders and were subsequently arrested. The remainder of the protest group eventually left the area.

A total of 18 persons were arrested during the protest at the Capitol.

**11/4/16:** At approximately 6:00 pm, a small protest was held at the Morton County LEC on the east side. There was a group of approximately 50 anti-pipeline protesters present. No problems were encountered. There was also a group of approximately 15 persons doing a pro-law enforcement demonstration at the same time on the north side of the LEC. No problems were encountered as a result of this group's activities.

**11/5/16:** A large number of vehicles were observed going into the Seven Councils Camp throughout the day. There was a large congregation of persons in the camp and it is believed this was related to the large group of clergy that had come to the area to show support for the protest.

No problems were encountered.

**11/6/16:** A march was held that left Legion Park in Mandan at approximately 10:30 am that consisted of approximately 200 persons. The destination of the march was the Morton Co LEC and upon arrival, the participants held a "love, prayer, and forgiveness" event. The event concluded at approximately noon. No problems were encountered.

At approximately 9:15 am, protesters backed a semi-tractor onto the Backwater Bridge and there was a group of approximately 20 protesters present. LE advised the protesters not to tamper with the burned trucks on the north side of the bridge and also that the bridge was unsafe. The group increased to approximately 100. Some of the protesters were standing on the burned trucks and tampering with the security fencing. At about 11:00 am, the protesters gradually began leaving the bridge and moved back towards the camp.

At approximately 11:20 am, protesters began arriving in the area of Turtle Island and using a boat and kayaks/canoes, began ferrying persons over to the shoreline on Turtle Hill. Eventually, approximately 200+ protesters were on the shore of Turtle Hill. A portion of this group began climbing the hill and encountered the LE line at the top of the hill. At approximately 1:12 pm, protesters began a fire on Turtle Hill using a flare. LE was able to extinguish the fire using hand held fire extinguishers. LE attempted using chemical agents to move the protesters back from Turtle Hill but this was unsuccessful due to wind conditions. At approximately 1:20 pm, the protesters withdrew from the hill and began to ferry back across to Turtle Island. By approximately 2:30 pm, the majority of the protesters were gone from Turtle Island and those remaining were not causing any disturbance.

At approximately 12:35 pm, the semi-tractor and approximately 20 protesters returned to the Backwater Bridge. The group of protesters grew in size and began to approach the blockade and would not comply with LE commands to move back. LE attempted to deploy chemical agents to make them

withdraw, but due to wind conditions this was unsuccessful. At approximately 2:15 pm, the truck and protesters withdrew from the bridge.

From approximately 11:15 am – 12:15 pm, protesters held a demonstration at Fairview Cemetery in Bismarck. It was estimated there was approximately 50 in this group. There were reports that there was a group doing a counter-demonstration. No significant problems were reported. One person was arrested from one of the boats ferrying protesters at Turtle Island.

**11/7/16:** At approximately 6:45 am, law enforcement received a report of protesters establishing a roadblock near the intersection of Co Rd 82/Hwy 10 west of Mandan by the Precision Pipeline yard. They left prior to law enforcement arrival and left a “sleeping dragon barrel” on Co Rd 82. Law enforcement responded did contact these subjects. At about the same time, a second report of a vehicle pulling a U Haul trailer containing protesters was observed in the area and law enforcement also did contact this vehicle. No arrests were made with either group.

At approximately noon, a group of approximately 300 persons left the Seven Councils camp and walked to the Backwater Bridge where they conducted a prayer ceremony. They left and returned to camp after about one hour. No problems were encountered.

At approximately 9 am and at 5:15 pm, a semi-tractor was driven onto the Backwater Bridge close to the burned out trucks on the bridge. The semi-tractor was accompanied by about 10 persons. Law enforcement was concerned the semi-tractor may attempt to move the burned out trucks and gave commands to stay away from the trucks. On each occasion, after about 45 minutes, the semi-tractor left and drove back toward the Seven Councils camp.

**11/8/16:** At approximately 8:20 am, a report was received that protesters were hanging anti-pipeline banners from overpasses in Bismarck. The Bismarck Police Department responded and located 4 of the protesters involved in this activity. Two of the protesters were arrested for drug violations and an outstanding warrant.

At approximately 4:40 pm, the semi-tractor that has been on the Backwater Bridge in the past 2 days returned to the bridge along with approximately 50 persons. The semi-tractor and persons eventually left the bridge which was all cleared by 6:00 pm. No problems were encountered with this group.

**11/9/16:** At approximately noon, a semi-tractor left the protest camp and went onto Hwy 1806 south of the Backwater Bridge and pulled the burned car and the D.O.T. sign from the west ditch onto the highway. Other material was placed in the roadway and a cable was strung across the road to form a barricade. After about an hour, the semi-tractor pulled the car and sign back into the ditch and the other material and cable was removed from the roadway.

At approximately 3:40 pm, a group of approximately 25 protesters assembled at the intersection of Hwy 6/Hwy 21 but they did not obstruct traffic or cause problems. This group left at about 5:30 pm.

At approximately 4:50 pm, a group of approximately 50 persons accompanied by riders on horseback left the camp and went walking south on Hwy 1806. They went to the Cannonball Bridge and then returned to camp. It was later reported on social media that this may have been related to a subject being forced from the camp that had allegedly tried to commit a sexual assault.

At approximately 5:30 pm, a group of approximately 25 subjects unloaded items from pickups that were placed into a large pile and burned on the shoreline. No problems were created. Information was received later that the items burned may have been material from the North Camp.

At approximately 5:45 pm, the semi-tractor returned to the Backwater Bridge and backed up to the burned trucks at the barricade on the north end of the bridge. It appeared as if subjects from the truck may have intentions of hooking a chain to one of the burned trucks, but never did. The semi-tractor left the bridge at 6:30 pm and returned to the Seven Councils camp.



**11/10/16:** At approximately 9:30 am, protesters began to gather at the Red Warrior camp on the shore of Turtle Island. This group grew to approximately 100 persons. Four canoes/kayaks were placed into the water and attempted to land on the north shore of the creek onto Turtle Hill but were prevented from landing by law enforcement. The group of protesters walked along the shoreline to the east and eventually returned to the camp and dispersed. By noon, all persons had left the area of the shoreline camp.

**11/11/16:** At approximately 10:00 am, protesters began assembling on Hwy 6 at AR 118. A group also was reported as being at the construction site at AR 119. Law enforcement responded and encountered a roadblock that protesters has established at Co Rd 135/Co Rd 81. Law enforcement ordered the protesters at the roadblock to disperse and cleared the roadway but the protesters refused to leave. Law enforcement subsequently arrested approximately 30 persons at this location.

The protesters at AR 119 damaged DAPL equipment at this location, to include breaking windows, tearing wiring, spraying fire extinguishers into or onto engines. Law enforcement removed the protesters from AR 119 and arrested 3 at this location.

Law enforcement removed the protesters from Hwy 6 at AR 118 and the area was cleared at approximately 1:30 pm. Protesters slashed tires on 6 squad cars that were parked at this area. Highway 6 was closed during the protest event due to the protesters obstructing the roadway. A Veteran's Ceremony was held on the Backwater Bridge from approximately 11:00 am – 11:45 am. This event involved 300-400 persons who left the Seven Councils Camp. No problems were encountered with this event.

At approximately 1:20 pm, a group of approximately 25 protesters left Legion Park and marched to the Morton County LEC where they staged a protest. No problems were encountered and at approximately 2:30 pm, this group left the LEC and returned to the park and dispersed.

At approximately 2:45 pm, protesters began assembling at the intersection of Hwy 6/Hwy 21. This group grew to approximately 75 and they blocked the highway. Law enforcement responded and met resistance in clearing the protesters from the highway. 4 persons were arrested as officers dispersed the protesters. Highway 6 was closed from approximately 2:45 – 4:50 pm while this was occurring. A total of 37 protesters were arrested as a result of all the protest activities.

**11/12/16:** At approximately 9:00 am, a caravan of approximately 130 vehicles left the Seven Councils camp and proceeded to the area of the Precision Pipeline yard located west of Mandan where DAPL equipment is stored. Upon arrival at approximately 10:30 am, the protesters formed on Co Rd 82 in front of the yard as well as the entrances to the lot. There were an estimated 500 protesters present. Law enforcement responded into the yard. There was no confrontation between the protesters and law enforcement and the protesters dispersed from the area at approximately noon.

During the incident, it was reported that a person (possible protester) was struck by a vehicle trying to leave the area. Metro Ambulance responded and the person refused medical treatment. Unknown as to the nature or extent of the injury.

During the incident, there was a report of shots being fired into the air, possibly by a construction company employee who was surrounded by protesters. Law enforcement is investigating this report. Towards the end of the incident, there were a group of local residents in vehicles that were on Co Rd 82. This group was being approached by some protesters and some in the group armed themselves with rifles. Law enforcement officers positioned themselves between the groups to control the situation and reported the local residents were very irate.

No arrests resulted from this incident.

**11/13/16:** At 9:50 am, a small caravan of four vehicles left the camp, westbound on Hwy 24, one was stopped and the occupants were heading home to Wisconsin. A fishing boat reportedly entered the Cannonball at 10:28 am, and our units were unable to locate a boat. DAPL was to begin mobilizing their drilling equipment, moving it from Bismarck south to the drilling site today.

**11/14/16:** At 9:40 am, approximately 100 vehicles left the camp and traveled to the State Capital to protest; then approximately 150 protesters walked down 3<sup>rd</sup> Street to the federal building where LE stopped them short of Rosser Avenue. No arrests resulted.

A group of protesters accompanied by USCOE personnel was allowed to gather in the area of the pipeline easement.

**11/15/16:** At 9:20 am, vehicles began to leave the camps heading towards Bismarck/Mandan. The caravan stopped on Hwy10 west of Mandan by the Precision Pipeline facility. They parked along the Hwy. and then proceeded to block the BNSF tracks, first with a vehicle, and then with tree branches and other debris. LE formed a line and started to make arrests when the 300 protesters did not leave the area as instructed. Later in the day about 100 protesters marched from the area of UTTC, to the offices of the Corp of Engineers on S 12<sup>th</sup> Street in Bismarck.

There were 25 arrested at the protest scene in Mandan; none arrested at the Bismarck protest event.

**11/16/16:** Protesters caravanned into Bismarck/Mandan and protested at the Bank of ND then walked to the main gate area at Fraine Barracks. No arrests.

**11/17/16:** Protesters again came into Bismarck/Mandan, and protested in downtown Bismarck. There were eight arrests made at/or near the Federal Building in Bismarck.

The protesters then came to downtown Mandan to continue their actions. No arrests made in Mandan.

**11/18/16:** Little protester movement today. Leaving the camp in small groups, no activity in town detected.

**11/19/16:** About 40 protester vehicles came into Bismarck/Mandan, but were not very organized. About 20 stopped at the Capital, but nothing really developed there. Eventually, the vehicles dispersed from the cities.

Two males were arrested for trespassing on private property in the southern part of Morton County, but it did not appear to be DAPL related.

**11/20/16:** At approximately 6:00 pm, protesters pulled one of the burned out trucks from the barricade area on the north side of the Backwater Bridge using a semi-tractor. They failed to comply with law enforcement orders to leave the truck alone and to disperse. Law enforcement formed a line at the barricade. A group of protesters estimated at 400-500 person was eventually present on the bridge and in the immediate area. They were failing to comply with law enforcement orders and were reported as throwing rocks, logs, and other materials at law enforcement officers on the line.

Law enforcement utilized chemical agents, less-lethal munitions, and water sprayed from a fire truck to provide for protections and for crowd control and dispersing of the protesters.

The protesters started small fires in the area of the bridge to provide warming fires. At least one explosion was heard in the area occupied by the protesters, possibly from an improvised explosive device of some type.

Morton County TOC was informed the Standing Rock ambulance service was responding to the area of the Seven Councils Camp to provide medical services to protesters.

As of approximately 1:30 am, 1 male subject was arrested on an initial charge of Disorderly Conduct.

A group of approximately 50-75 protesters remained on the bridge throughout the night.

**11/21/16:** At 8:00 am, it was reported that approximately 75 protesters were on the Backwater Bridge. Throughout the morning, they worked on building a barricade wall on the bridge consisting of wood and other materials supplemented by some sandbags.

At approximately 9:30 am, a caravan of approximately 40 vehicles left the Seven Councils camp and traveled to Bismarck/Mandan. Protesters assembled in downtown Bismarck where they were at several locations to include the downtown Wells Fargo Bank.

One protester was arrested for disorderly conduct as a result of the protest activities in Bismarck.

Protesters gathered at the Mandan LEC at approximately 12:50 pm. A group was seated on the sidewalk directly in front of the main doors. Law enforcement gave them direction to move and they initially complied and left. The group apparently walked around the block and returned to the front of the LEC where a group returned to the area they were directed to leave and sat and refused to comply with orders to leave. They were subsequently arrested – a total of 16 were arrested and charged with disorderly conduct and criminal trespass.

**11/22/16:** There was no significant protest activity.

Law enforcement conducted follow-up investigation on the Backwater Bridge related to the events which occurred at the incident on 11/20/16.

Additional jersey barriers were placed at the barricade on the north end of the bridge and additional fortifications to the barricade were completed. A crane was used to remove the remaining burned truck from the barricade area.

**11/23/16:** At approximately 9:15 am, a caravan of approximately 100 vehicles left the Seven Councils camp and traveled to the location of Hwy 1806/County Rd 138A where they encountered a law enforcement roadblock which prevented the caravan from traveling south on Hwy 1806. The protesters conducted a demonstration on Hwy 1806 at that location for approximately 1 hour and then the caravan departed and traveled to Bismarck/Mandan.

In Bismarck/Mandan a small group of protesters conducted a demonstration in the area of the Morton LEC/Wells Fargo Bank for approximately ½ hour and then left and no significant problems occurred and there were no arrests with this group.

The majority of the caravan traveled to downtown Bismarck where they conducted protest demonstrations in a variety of locations for approximately 2 hours. No significant problems occurred with this group and there were no arrests.

There was some smaller groups of protesters on the Backwater Bridge throughout the day but no problems were encountered on the bridge.

**11/24/16:** Between 8:30 am and 9:30 am, two caravans of approximately 200 vehicles left the Seven Councils camp and traveled to Mandan where protesters conducted a protest in the middle of Main Ave between the intersections of Mandan Ave & 13<sup>th</sup> Ave NE. The protest began at approximately 9:40 am. Law enforcement reported that some of the protesters were wearing holsters, carrying slingshots, and

wearing gasmasks. Law enforcement also reported that there were some younger children in the protest group.

Law enforcement made announcements to the group beginning at approximately 10:50 am they need to disperse and leave the area. At approximately 11:20 am the protesters began to disperse from Main Ave and eventually cleared the area and did not conduct any further protest events in Mandan or Bismarck.

During this protest event, 2 subjects were arrested.

At approximately 8:00 am, law enforcement reported that the protesters had constructed wooden bridge structure that was laying on the shoreline across from Turtle Hill and that construction was continuing on the bridge. It appeared as if the bridge was going to be used by the protesters in an attempt to cross over to the shore of Turtle Hill. As the construction was occurring, protesters were yelling to officers on Turtle Hill that the protesters are coming today and "to remember 73" (an apparent reference to the events which occurred at Wounded Knee in 1973). By 11:30 am, the protester group by Turtle Hill had grown to 350-400 people. At about noon, protesters began to cross over to Turtle Hill using the wooden bridge which was pushed into the water in addition to various watercraft. Law enforcement formed a line to prevent the protesters from climbing to the top of Turtle Hill and utilized water to wet down the hill to hinder the ability to climb the hill. Some protesters climbed partway up the hill but there were no significant confrontations between the protesters and law enforcement. At approximately 2:15 pm, the protesters began to cross back across the water and disperse. By approximately 4:45 pm, all protesters were gone from Turtle Hill and crossed back across the water.

Throughout the day, there were various groups of protesters on the Backwater Bridge, but there were no significant problems on the bridge.

**11/26/16:** At approximately 8:30 am, law enforcement used boats to seize and remove the wooden bridge and various watercraft from the shoreline by Turtle Hill. Security fencing was also installed on the shoreline at the base of Turtle Hill.

At approximately 10:00 am, small groups of vehicles were seen leaving the Seven Council camp and eventually a significant number of protester vehicles were observed traveling into Bismarck/Mandan. At approximately 12:15 pm, law enforcement determined that protester vehicles were beginning to assemble at Kirkwood Mall and at approximately 12:45 pm, protest activity began to occur within Kirkwood Mall. Protesters were violating rules established by mall management and would not leave when asked. Law enforcement arrested 33 protesters and the remainder did disperse and leave the mall. A group of protesters assembled along Bismarck Expressway by the mall but did not disrupt traffic. By approximately 2:30, all protesters had left the area of Kirkwood Mall. No other protest activities occurred in Bismarck/Mandan.

A group of approximately 30 protesters assembled in the area of Turtle Island in the afternoon and one subject was using a rope and homemade type grapple hook to try and grab the security wire at the base of Turtle Hill by throwing it across the creek separating Turtle Island and Turtle Hill. No significant events occurred at Turtle Hill.

Col. Henderson, USCOE District Commander provided a letter to Chairman Archambault primarily advising that effective December 5, 2016 the Corps managed federal property north of the Cannonball River is closed to all public use and access.

**11/26/16:** No significant protest events occurred.

**11/27/16:** Just before 0800hrs, the TOC phone number was compromised resulting in an inundation of harassing phone calls. The phone number was shut down and a new number assigned.

At approximately 1100hrs, a group of approximately 100 protestors, mostly women and children, went to the Backwater Bridge. No issues reported.

At approximately 1500hrs, a semi-tractor and approximately 60 people approached Backwater Bridge. It is believed that they will attempt to pull the jersey barriers from the bridge.

At approximately 1615hrs 400+ people went to the Backwater Bridge. No incidents reported.

During early evening, the weather seemed to curtail activities.

**11/28/16:** Significant snow accumulations occurred during the previous night.

Governor Dalrymple issued an executive order for a mandatory evacuation of the US Corps of Engineer land on which the Seven Councils Camp is located due to winter weather conditions and the lack of proper shelter, dwellings, and means of sanitation in the camp. (The Governor's office later clarified that occupants of the camp would not be forcibly evacuated, nor would any enforcement action be taken against those providing supplies or support to the camp.)

**11/29/16:** For the majority of the day, there was very little activity with the exception of snow removal duties at and near the forward staging area (1) individual was arrested when he swam across the river channel at Turtle Island and attempted to retrieve some canoes. The subject was arrested for criminal trespass and resisting an officer.

**11/30/16:** During the night, protestors took down a section of C wire. The area was repaired later in the day. Between 1430 and 1500 as many as 30 people approached Backwater Bridge. They eventually left without incident.

**12/01/16:** Very slow day. Only activity reported were approximately a dozen people in two canoes traveling on a portion of the river. No incidents reported.

**12/02/16:** At approximately 1050hrs, there was a report of three people on horseback riding cross country. Approximately 45 minutes later they rode back to camp.

At approximately 1315, a group of about 30 protestors came to the Morton County LEC. They departed approximately one hour later without incident.

The ND Adjutant General and representatives from law enforcement met with representatives from the protest camp at Backwater Bridge. There were no incidents reported.

**12/03/16:** Very little activity today. A media conference was held regarding the plan to pull back the law enforcement line from the bridge. A small group from the protest camp remained south of the bridge but there were no incidents.

**12/04/16:** There were a large number of vehicles entering the Seven Councils camp throughout the day.

There was no significant protest activity.

The US Army Corps of Engineers announced that it will not grant an easement for DAPL to cross Lake Oahe.

**12/05/16:** At approximately 8:00 am, subjects from the protest camp walked onto the Backwater Bridge. By 8:30 there were approximately 12 individuals on the bridge. One of these subjects crossed over to the north side of the barricade that is on the north side of the bridge. After a few minutes, the subject crossed back over to the south side of the barricade. The subjects were taking photos and video of the barricade and surrounding area as if doing a survey of the security measures in place.

Law enforcement officers came up to the barricade and told these subjects they needed to leave the bridge as they were trespassing and were in violation of the agreement concerning the bridge. The subjects left after being told by the officers but expressed disagreement to the officers.

At the same time as the individuals were on the bridge, a protester had crossed over to the private property on the north side of Cantapeta Creek west of Hwy 1806. This subject was located by law enforcement and arrested for trespass at approximately 8:20 am.

At approximately noon, a group that appeared to be approximately 100 persons walked down Hwy 1806 from the camp and stopped just south of the Backwater Bridge. The group turned and walked back south on Hwy 1806 and formed up with additional persons who were coming from the protest camp. At approximately 1:30, the group walked back north on Hwy 1806 to a position south of the Backwater Bridge where they stood in a group. The group was very large at this time and was estimated to be 500 – 1000 people. At approximately 2:15 pm, the group began to disperse back to the camp.

Throughout the day, there was a snowstorm caused by falling snow and high winds. Blizzard warnings were in effect for the coming night.

**12/06/16:** A blizzard which began in the night continued throughout the day.

Second hand information was received that security at the Seven Councils camp was attempting an evacuation effort due to conditions at the camp. However, Emergency management and law enforcement officials had received no phone calls or other requests for assistance from the camp or Standing Rock Tribal officials. Contact was made with the Standing Rock Tribal Emergency Manager and Sioux County Emergency Manager who could provide no additional information on conditions at the camp. The Standing Rock Tribal Emergency Manager advised that emergency shelters had been established at the Casino pavilion and at the schools in Ft. Yates.

ND Dept of Transportation snow plows were assigned to attempt to clear Hwy 1806 to the camp. A snowplow did reach the camp at approximately 1:00 pm, having plowed Hwy 1806 from the south. A BIA law enforcement officer had followed the plow and checked on conditions at the camp. BIA reported that while people were leaving the camp in their own vehicles once the road was opened, no emergency existed in the camp.

The Dept of Transportation was going to continue to plow in the area until approximately 7:00 pm if conditions allowed.

**12/07/16:** Winter storm conditions continued primarily due to high wind speeds. In the morning, ND Dept of Transportation snowplows did plow Hwy 1806 to the protest camp as well as other roads in the surrounding area.

At approximately 1:30 pm, a group of about 15 protesters did a demonstration outside the Federal building in Bismarck (3<sup>rd</sup> & Rosser) for about 10 minutes and then left without incident.

At approximately 4:35 pm, a group of approximately 12 protesters went onto the Backwater Bridge and approached the barricade. One of the group began cutting the security wire at the barricades and began to remove portions of the wire. Law enforcement approached the barricade and ordered the protesters to leave the bridge. The protesters verbally contested law enforcement but eventually dispersed from the bridge about 4:55 pm. There was minimal damage to the security wire, but it will require repair.

**12/08/16:** At approximately 2:00 pm, 4 persons from the protest camp walked onto the Backwater Bridge. The individuals walked to the barricade on the north end of the bridge and appeared to be examining the security measures at the barricade. After about 15 minutes, 3 of these subjects walked to the east of Hwy 1806 along the barricade to a point where they climbed over to the north side of the barricade. They then walked back to Hwy 1806 where they stood directly on the north side of the barricade. The 4<sup>th</sup> subject stayed on the south side of the barricade and was taking photos/videos of the other 3 crossing the barricade.

Law enforcement officers responded to the barricade and arrested the 3 who crossed the barricade for criminal trespass.

Local media was reporting that Chairman Archambault said the Standing Rock Tribe was working to assist protesters to leave the Seven Councils Camp. It was also reported that a number of the leading organizations in the protest movement were asking people not to come to the camp but to stay home and support the protest by taking action in their own communities.

No other significant events occurred during the day.

**12/09/16:** At approximately 4:55 pm, a white passenger vehicle driving at a high rate of speed came from the south on Hwy 1806 and crashed into the jersey barriers forming a barricade on the north end of the Backwater Bridge. Other individuals from the protest camp came to the bridge shortly after the crash occurred and provided assistance to the driver. Law enforcement officers responded to the barricade and were informed by some of the individuals that this was a deliberate act but this has not been confirmed. The officers were also told that the driver was going to be taken to a hospital but the nature and extent of injuries is unknown. The incident remains under investigation.

**12/10/16:** The white passenger car that crashed into the barricade remains at the barricade. No significant events occurred.

**12/11/16:** No significant events occurred.

**12/12/16:** At approximately 9:00 am a single individual from the protest camp walked onto the Backwater Bridge. The individual walked along the barricade to the west and then climbed over the barricade trespassing onto the property on the north side of the barricade. Law enforcement responded and took the individual into custody for criminal trespass.

Governor Dalrymple and other State officials met with Chairman Archambault and other Standing Rock tribal officials. The meeting was to discuss future relationships between the State and Standing Rock and one specific topic of discussion was a process to open the Backwater Bridge.

No other significant events occurred. The weather has remained extremely cold since December 6<sup>th</sup> with high temperatures generally in the single digits with wind chill factors in the double digits below zero.

**12/13/16:** No significant events occurred.

**12/14/16:** No significant events occurred. The weather remained very cold with high temperatures around zero with wind chills in the double digits below zero.

**12/15/16:** At approximately 4:00 pm, a group of 30-40 from the protest camp assembled on Hwy 1806 just south of the backwater bridge and appeared to be performing a ceremony. After approximately 15 minutes the group dispersed and went back to camp.

No other significant events occurred. The weather continued cold with below normal temperatures.

**12/16/16:** No significant events occurred. The weather continued cold with below normal temperatures.

**12/17/16:** No significant events occurred. The weather remained very cold.

**12/18/16:** During the afternoon, a group estimated at approximately 50 people went to the Backwater Bridge and did a ceremony/demonstration of some type. Some of the individuals approached the barricade on the north end of the bridge and tied ribbons to the security wire. They also left 2 large flags at the south jersey barriers at the bridge.

The weather began a warming trend with high temperatures in the mid-teens during the day.

**12/19/16:** At approximately 3:50 am, a protester trespassed onto Turtle Hill and was taken into custody by law enforcement. The subject arrested is a Jake Atkinson who has pending charges for engaging in a riot and disorderly conduct.

Trials for 10 of the protesters charged in an incident which occurred on August 11<sup>th</sup> were scheduled at the Morton County Courthouse. During preliminary court actions, the judge postponed the trials until January 31<sup>st</sup> and December 1<sup>st</sup> due to discovery issues. During the morning, protesters staged a demonstration in front of the Courthouse from approximately 9:00 am until noon. Throughout the morning, approximately 30-40 protesters were present in front of the courthouse. No problems were encountered.

Temperatures continued a warming trend with a high of approximately 30 above.

**12/20/16:** There was no significant protester activity.

The first trial of protesters charged for criminal activity related to the DAPL protests was held in Morton County and resulted in convictions. Benjamin Schapiro, 30, of Ohio, and Steven Voliva, 62, of Washington were arrested Sept. 27 and accused of blocking a highway to allow a caravan of protesters to proceed. A jury convicted the men of obstructing a highway and disorderly conduct.

**12/21/16:** No significant events occurred.



**12/22/16:** The ND Dept. of Transportation obtained core samples from the Backwater Bridge in the morning in order to make a determination as to the extent of the repairs needed to the bridge. Results of the testing of the samples could take up to 30 days. The burnt and damaged vehicles were also removed from the area of the bridge during the operation which was completed at approximately noon. There was no protester activity during the operation on the bridge and no other significant events occurred during the day.

**12/23/16:** No significant events occurred.

**12/24/16:** No significant events occurred.

**12/25/16:** A severe blizzard occurred with snowfall amounts of approximately 12 inches in the Bismarck/Mandan area accompanied by winds 30-40 mph with higher gusts.

**12/26/16:** Blizzard conditions continued until late afternoon. Snow plowing efforts were underway but due to the snowfall amounts and drifting, progress was extremely slow.

**12/27/16:** Approximately 30-40 protesters went onto the Backwater Bridge. Some in this group did some minor damage to the light plants at the bridge by breaking the keys in the switches. Five protestors climbed to the top of Turtle Hill and were arrested for trespass. As a result of these arrests, approximately 30 protesters responded to the area but no additional arrests occurred. Protesters stole the large "No Trespassing" sign from the barricade area on the Backwater Bridge.

**12/28/16:** Approximately 20 protesters were at the Morton County courthouse standing in the hallway outside of the courtroom for most of the afternoon. No significant problems were encountered with this group.

**12/29/16:** At approximately 3:20 pm, protesters cut the light tower support cable, causing the tower to fall, and the surveillance camera was stolen from the tower pole. There were small groups on the bridge most of the afternoon, and also near Turtle Hill. These groups tampered with and cut some of the security wire at the bridge and on Turtle Hill.

**12/30/16:** One female arrested for trespass after crossing the fence onto private property near the intersection of County Rd 135/County Rd 80 where law enforcement were present. There were approximately 15 in the group she was with.

**12/31/16:** At approximately 10:00 pm, protesters lit a fire on Turtle Island and a second fire was lit later. The number of protesters at the Island continued to grow and approximately 11:00 pm, protesters began to climb Turtle Hill. At approximately 11:05 pm, the first protester arrived at the top of the hill and by 11:30 there were approximately 30 on top of the hill and approximately 50 at the base of the hill. At midnight, there were approximately 75 protesters at the top of the hill and approximately 100 in the area of the base of the hill and island. Law enforcement reported that many protesters were seen with knives and slingshots. Protesters were also shooting fireworks in the direction of law enforcement officers. Another group of approximately 15 protesters was present on the Backwater Bridge.

**1/1/17:** The incident which began at approximately midnight on the 31<sup>st</sup> continued. A group of approximately 6 protesters cut and removed a section of the security wire at the top of Turtle Hill and shut off one of the lighting units at the top of the hill. The protesters fled as law enforcement arrived on scene.

Protesters also damaged some of the security wire on the Backwater Bridge barricade.

Protesters were shining a green laser at the NDHP plane flying over the area.

At approximately 3:15 am the protesters had dispersed and no further significant protest activity occurred.

No arrests were made.

**1/2/17:** No significant protest activity occurred. A snowstorm began late in the day on January 1 and continued throughout January 2<sup>nd</sup>. A total of approximately 8 inches of snow accumulated in the Bismarck/Mandan area with total snowfall for the winter now at approximately 50 inches.

Temperatures fell with highs to be around zero for most of the coming week with wind chills to be as low as 40 below zero during the nights.

**1/3/17:** At approximately 2:45 pm, a group of 8 protesters went onto the Backwater Bridge and tampered with the security wire at the barricade on the north end of the bridge. After about 15 minutes, the protesters left the bridge and returned to the camp. No significant damage was done to the security wire.

No other significant activity occurred.

**1/4/17:** Approximately 30 protesters staged a demonstration outside the Federal Courthouse in Bismarck from approximately 1:30 – 2:30 pm. The demonstration was related to a grand jury session concerning Sophia Wilansky who suffered an arm injury during the protest on the Backwater Bridge which began the night of November 20th, 2016. No problems were encountered during the demonstration.

No other significant activity occurred.

**1/5/17:** Standing Rock Tribal officials had a meeting with representatives of the protest camps to discuss concerns with flooding of the area where the camps are located and the need to begin to clean up and relocate the camps.

No significant protest activity occurred.

**1/6/17:** At approximately 2:45 am, approximately 50 protesters were at the Backwater Bridge removing the security wire from the barricade on the north end of the bridge. Law enforcement responded and the protesters disregarded orders to leave the bridge. The officers eventually withdrew a short distance and observed the protesters. The protesters continued to remove the security wire at the barricade and a few went to the north side of the barricade. Approximately 10 of the protesters were equipped with protective hand-held shields. The protesters remained standing in the area of the barricade and were yelling at the officers. After approximately one hour, all protesters had dispersed from the bridge. No arrests were made.

During this incident, the NDHP plane was targeted by laser and spotlight from the protest camp.

The security wire damaged in the incident early in the morning was repaired by approximately 11:00 am.

Throughout the afternoon, several protesters came onto the bridge and were examining the repaired security measures at the barricade.

At approximately 3:15 pm, 2 protesters were arrested for trespassing at Turtle Hill.

At approximately 11:50 pm, a group of 15 protesters was on the bridge tampering with the security wire at the barricade. The group left after about 15 minutes and only did minimal damage to the wire.

**1/7/17:** The Fischer buffalo auction was held in Selfridge and no problems were encountered. No significant protest activity occurred.

**1/8/17:** No significant activity occurred.

**1/9/17:** At approximately 1:30 pm, 2 protesters were arrested for trespassing at Turtle Hill. In the afternoon, several protesters went onto the Backwater Bridge and examined the security measures at the barricade to include taking photos of the barricade.

**1/10/17:** No significant activity occurred.

**1/11/17:** Two large garbage dumpster "roll-offs" were delivered to the Oceti camp supposedly to be used to assist in the cleanup effort. No significant activity protest activity occurred.

**1/12/17:** A recording of a press release made by the headsmen of the Oceti Sakowin camp was posted to social media. In this release, they announced the sacred fire in the Oceti camp was going to be allowed to burn down today and the ashes would be carried in the four directions to support and strengthen the protesters. They also announced cleanup of the camp would begin today.

The results of the core sampling of the Backwater Bridge were announced and there is no structural damage to the bridge, however, repairs to the surface and guardrail need to be completed before the bridge may be re-opened. The repairs will not be attempted until security of the bridge may be assured.

There was no significant protest activity.

**1/13/17:** No significant protest activity occurred.

**1/14/17:** No significant protest activity occurred.

**1/15/17:** No significant protest activity occurred.

**1/16/17:** At approximately 4:00 pm, protester activity began. Initially, limited numbers of protesters were in the area directly east of the HDD site as well as at Turtle Hill. At approximately 5:00 pm, there were approximately 200 protesters in the general areas of the HDD site and Turtle Hill. Approximately 75 were by the HDD site, 40 by Turtle Hill, and the remainder were scattered in the general area. Protesters cut and removed the security wire in the area east of the HDD site. Law enforcement arrested 3 protesters in the area east of the HDD site during this activity. At approximately 6:00 pm, the protesters began gathering on the Backwater Bridge and were relocating from the other protest areas to the bridge. The number of protesters at the bridge continued to grow. At approximately 7:50 pm, protesters began removing the security wire and other barricade materials at

the north end of the bridge. A protester also crossed over the barricade and disabled the security lights at the bridge.

Some protesters were equipped with shields and gas masks.

At approximately 9:55 pm, law enforcement officers crossed the barricade and pushed the protesters back to the south end of the bridge. As law enforcement returned back to the north side of the barricade, the protesters again advanced back to the barricade on the north end of the bridge and continued to remove the security measures at the barricade.

A standoff continued at the barricade between law enforcement and the protesters with occasional protesters arrested by law enforcement as the protesters either crossed the barricade or law enforcement crossed over to the south side of the barricade and made arrests. A total of 11 protesters were arrested during the protest activity at the bridge.

By approximately 1:00 am, the protesters had mainly dispersed from the bridge with only a few remaining at the bridge at that time. No further significant protest activity was occurring at that time. Law enforcement did utilize chemical agents and less lethal munitions at times during the protest activity.

Protesters were reported as throwing items at law enforcement on occasion and also targeted the NDHP airplane with spotlights and lasers.

**1/17/17:** At approximately noon, protesters began assembling on the Backwater Bridge. By 2:00 pm, there were approximately 30 at the barricade on the north end of the bridge. At approximately 3:45 pm, law enforcement officers crossed the barricade to the south side in order to move the protesters back so the security measures at the barricade that were removed by the protesters the previous night could be reinstalled. As the officers crossed the barricade they arrested 2 protesters and the remaining protesters moved back to the south side of the bridge and the officers maintained a position in the middle of the bridge until the barricade repairs were completed at approximately 6:30 pm. The officers crossed back to the north side of the barricade and the protesters eventually moved back up to the barricade. At approximately 7:00 pm the majority of the protesters had dispersed from the bridge with only a few remaining.

Throughout the evening, the number of protesters on the bridge began to increase and by approximately 10:30 pm there was an estimated 75 on the bridge and they were removing the security wire from the barricades on the north end of the bridge.

Law enforcement responded and additional officers began arriving at the bridge. The protesters did not make any significant attempts to cross the bridge and there was basically a standoff between the protesters and law enforcement until the protesters dispersed from the bridge at approximately 3:00 am. No arrests were made of protesters during this activity during the night/early morning.

Protesters were reported as targeting the NDHP airplane with lasers and also supposedly targeted a commercial airplane with a laser during the evening.

**01/18/17:** At approximately 7:00 pm, protesters began assembling on the Backwater Bridge. Some of the protesters were equipped with shields and gas masks and they started a fire on the south end of the bridge. The protesters also erected teepee poles on the bridge.

At approximately 7:30 pm, law enforcement officers entered the bridge and moved the protesters back and while on the bridge dismantled and removed the teepee poles.

At approximately 8:00 pm, the protesters again began assembling on the bridge. The number of protesters continually increased over the next two hours and the protesters were throwing a variety of objects at the law enforcement officers present at the barricade on the north end of the bridge. The objects included burning emergency flares, ice chunks, and frozen water bottles.

At 10:20 pm, the number of protesters on the bridge was estimated at approximately 175. The situation continued past midnight.

**01/19/17:** At approximately 12:15 am, law enforcement officers began advancing towards the bridge to remove the protesters. During this operation to clear the protesters from the bridge, 19 protesters were arrested. Law enforcement officers returned to the north side of the barricade at approximately 1:00 am.

At approximately 1:30 am, officers again moved onto the bridge to clear protesters from the bridge and 2 protesters were arrested.

During the incident, protesters had started fires on the bridge using tires and gasoline.

Law enforcement used chemical agents and less lethal munitions during the incident.

At least one protestor, a total of six National Guard and police officers sustained injuries.

**01/20/17:** No significant protest activity occurred.

**01/21/17:** No significant protest activity occurred.

**01/22/17:** No significant protest activity occurred.

**01/23/17:** At approximately 7:50 pm, a lone male individual walked from the south onto the Backwater Bridge and crossed over to the north side of the barricade. The subject was contacted by law enforcement and subsequently arrested for criminal trespass.

**01/24/17:** President Trump issued an executive order to advance approval of the Dakota Access Pipeline in addition to the Keystone Pipeline. The order did not provide any specifics that would allow for DAPL to begin crossing Lake Oahe.

At approximately 9:15 pm, law enforcement officers observed a vehicle drive from the Oceti protest camp and park at Turtle Island. The 3 occupants who proceeded to fly a drone which subsequently crashed on the south side of the Cannonball River. Law enforcement officers approached the occupants to arrest them for trespass. The occupants ran back to the vehicle and began to leave. Officers in UHV's attempted to stop the vehicle and the vehicle backed into the UHV to its rear, forcing the UHV to take evasive action. The UHV sustained some damage. The vehicle fled nearly striking other UHV's and headed back towards the Oceti Sakowin camp on a plowed road. Officers were able to get the vehicle stopped and the 3 occupants (2 males and one female) were arrested and charged with multiple offenses.

**01/25/17:** No significant protest activity occurred.

**01/26/17:** No significant protest activity occurred.

**01/27/17:** No significant protest activity occurred.

**01/28/17:** No significant protest activity occurred.

**01/29/17:** No significant protest activity occurred.

01/30/17: No significant protest activity occurred.

1/31/17: At approximately 11:30 am, 30-40 protesters were at the Bank of North Dakota in Bismarck doing a demonstration. The protest was apparently related to the State funding from the Bank of North Dakota that is going to the North Dakota Department of Emergency Services to pay costs related to the protest. At approximately 12:30 pm, the protesters left the area of the bank. Law enforcement monitored the protesters and there were no significant problems and no arrests were made.

At approximately 12:45 pm, approximately 15-25 protesters staged a demonstration outside the Federal Courthouse in downtown Bismarck. The protest was related to a court hearing being held in the courthouse for a protester. After approximately 1 hour, the protesters left the area. Law enforcement monitored the protesters and there were no significant problems and no arrests were made.

Late in the afternoon, Senator Hoeven's office released a statement reporting that Acting Secretary of the Army Robert Speer has directed the Corps to proceed with an easement for completion of the DAPL pipeline.

2/1/17: At approximately 7:30 am, protesters were beginning to illegally establish a new camp on the west side of Hwy 1806 directly west of the current Oceti Sakowin camp. This is private property owned by DAPL/Energy Transfer Partners. A pay loader and other equipment was being used to clear snow and tepee poles and other items are being hauled to this area. Throughout the morning, additional clearing of snow in this area was completed and at least 4 tepees were being constructed. It was estimated there were 40 – 50 protesters in this camp area throughout the morning.

Beginning at approximately 12:20 pm, the barricades at the Backwater Bridge were moved to allow law enforcement vehicles to travel south on the bridge in order to access and take action to clear the protesters from the private property west of Hwy 1806. While the barricades were being moved, the protesters were placing vehicles and other obstacles on the highway to restrict access to the new camp west of Hwy 1806.

At approximately 1:45 pm, a group of 8 protesters walked onto the Backwater Bridge and were met by law enforcement representatives. Law enforcement informed the protesters that their new camp was on private property and they were trespassing and they needed to leave and remove the tepees and other items from the property. After several minutes the discussion ended and the protesters returned to the camp area. It was estimated there were approximately 60 protesters at the west camp at this time. Upon return to the camp, there was activity to continue to erect tepees instead of beginning to take them down as directed by law enforcement.

Law enforcement continued to make preparations to approach the camp and at approximately 2:15 pm, a group of approximately 12 protesters walked to the Backwater Bridge and approached law enforcement. Law enforcement informed the protesters that as they had not made any effort to leave the private property as directed, anyone there is considered to be trespassing and they would be subject to arrest. The protesters said that there were people who would not leave the camp and would have to be arrested. The protesters returned to the area of the camp. It was estimated there were approximately 80 protesters at the camp area at the time and an additional 30 on Hwy 1806 by the entrance to the west camp.

Law enforcement began moving south on Hwy 1806 from the Backwater Bridge at approximately 2:40 pm. Law enforcement encountered a large group of protesters on Hwy 1806 south of the Backwater Bridge that slowly retreated as law enforcement advanced. The protesters on the highway were also coming from the Oceti Sakowin camp on the east side of Hwy 1806. The protesters were told to return to the Oceti camp and law enforcement was not taking action against that camp.

Protesters started fires in 2 vehicles parked along the access road into the west camp apparently to attempt to hinder law enforcement access to the camp.

At approximately 3:00 pm, law enforcement reached the access road to the west camp and a pay loader was brought forward to clear wood debris piled on Hwy 1806 so that law enforcement vehicles could enter the access road to the west camp. Law enforcement then proceeded to the area of the camp and by approximately 4:00 pm the camp was cleared. All those who had refused to leave were arrested and taken into custody.

Representatives from the Standing Rock Sioux Tribe were allowed to remove tepee materials from the property.

By approximately 6:00 pm, law enforcement had returned back to the north side of the Backwater Bridge and the barricades were replaced on the bridge.

As of this time, the number of persons arrested is reported as 76. Formal charges are still being completed.

**2/2/17:** No significant protest activity occurred.

**2/3/17:** No significant protest activity occurred.

The US Army Corps of Engineers issued formal notice to protesters that they would be closing the land illegally occupied by the Oceti Sakowin camp as of February 22, 2017.

**2/4/17:** No significant protest activity occurred.

**2/5/17:** No significant protest activity occurred.

**2/6/17:** The ND Dept of Transportation removed the barricade from the north end of the Backwater Bridge and also cleaned the bridge deck of snow/ice in preparation for repairs to the bridge to begin. A barricade remains in place on the south side of the bridge.

No significant protest activity occurred.

**2/7/17:** The US Army Corps of Engineers notified Congress that the easement allowing DAPL to drill under Lake Oahe would be granted. USACOE also advised the normal 14 day waiting period between notifying Congress and issuing the easement would be waived. The easement will be issued any time after 24 hours from the notification to Congress.

No significant protest activity occurred.

**2/8/17:** The US Army Corps of Engineers granted an easement to Dakota Access, LLC to drill under Lake Oahe.

Energy Transfer Partners released information stating they would begin drilling immediately.

No significant protest activity occurred.

**2/9/17:** No significant protest activity occurred.

**2/10/17:** No significant protest activity occurred.

**2/11/17:** No significant protest activity occurred.

**2/12/17:** No significant protest activity occurred.

**2/13/17:** The Cheyenne River Sioux Tribe's request for a temporary restraining order to stop the drilling was denied by Judge Boesberg after a hearing in Federal District Court in Washington, D.C.

No significant protest activity occurred.

**2/14/17:** A warm weather pattern continues with daytime temperatures above freezing. Forecasted high temperatures for the next few days are to be near record highs. While cleanup efforts continue in the camps, officials worry there's not enough progress being made to remove the waste before the area is inundated with water. Camp conditions are quickly deteriorating due to rapid spring melt and runoff. These wet conditions when combined with human waste and trash are creating a potential public health and environmental disaster.

No significant protest activity occurred.

**2/15/17:** A traffic control point was established on Hwy 1806 between the Backwater Bridge and the north entrance to the Oceti Sakowin camp. The existing barricade on the Backwater Bridge was removed. The new traffic control point was established in accordance with the plan to do a phased re-opening of the Backwater Bridge but at this time the bridge remains closed to traffic. While the movement of the jersey barriers was underway to the new traffic control point, protesters approached law enforcement on Hwy 1806 but no significant problems were encountered.

Governor Burgum issued Executive Order 2017-1 which orders a mandatory evacuation of the areas of Morton and Sioux County adjacent to the Cannonball River which are under the proprietary jurisdiction of the US Army Corps of Engineers. In summary, the evacuation is ordered due to flooding concerns and accompanying significant health and safety risk and danger to human life as well as a significant and increasing environmental threat to the waters of the Missouri River. All persons occupying or residing in the area are ordered to leave the area no later than 2 pm on February 22, 2017.

At approximately 11:40 pm, 2 snowmobiles left the protest camp and entered onto US Corps of Engineers property in the area of Turtle Hill. Three law enforcement officers on snowmobiles responded and approached these snowmobiles and the unknown subjects operating the snowmobiles engaged in reckless driving by approaching the officers at high speed and driving very close to the officers as if to crash into the officers or cause the officers to wreck by taking evasive action. These snowmobiles then returned to the Oceti Sakowin camp at a high rate of speed and officers did not pursue.

**2/16/17:** At 11:00 am, Federal and State officials met with members from the protest camps at the Cannonball Bridge concerning the evacuation order and need for cleanup of the camp.

Emergency vehicles are now allowed through the traffic control point south of the Backwater Bridge and have access to travel on Hwy 1806.

No significant protest activity occurred.



**2/17/17:** Additional large equipment and trucks under direction of Incident Command began assisting with cleanup of the Oceti Sakowin camp.

No significant protest activity occurred.

**2/18/17:** Equipment under the direction of Incident Command continued to assist with cleanup of the Oceti Sakowin camp.

No significant protest activity occurred.

**2/19/17:** Equipment under the direction of Incident Command continued to assist with cleanup of the Oceti Sakowin camp.

At approximately 5:30 pm, a group of approximately 75 – 100 protesters gathered in the middle of Hwy 1806 in front of the north entrance to the Ocetic Sakowin camp and also erected a tepee in the roadway. They were directed to clear the roadway but refused to comply with commands. As a result of their blocking of the roadway, an ambulance coming from the south was unable to proceed and had to turn around and take an alternative route. After approximately one hour, the protesters were given a final notice to clear the roadway and leave or face arrest. At that point, they did disperse from the area. No arrests were made.

**2/20/17:** Equipment under the direction of Incident Command continued to assist with cleanup of the Oceti Sakowin camp.

No significant protest activity occurred.

**2/21/17:** Equipment under the direction of Incident Command continued to assist with cleanup of the Oceti Sakowin camp. As on previous days, protesters at the gate delayed the equipment from entering and searched all equipment as it entered causing it to take approximately 90 minutes for all equipment to enter. Due to extremely muddy conditions, there was very limited progress in doing the cleanup.

At approximately 3:00 pm, representatives from the ND Governor's office and the US Corps of Engineers met with people from the camp and discussed the requirement that the camp be vacated by 2:00 pm on February 22, 2017.

While cleanup activities are occurring in the camp, there is obvious movement of some structures and materials to higher ground in the Oceti camp to include construction of new wooden buildings. A fence was also being constructed around a portion of the structures in the camp.

A thunderstorm moved through the camp in the early evening hours.

No significant protest activity occurred.

**2/22/17:** All persons are to be vacated from the Oceti Sakowin camp and other adjacent US Army Corps of Engineer property by 2:00 pm today.

At approximately 7:50 am, 3 large fires were reported as burning in the camp. Throughout the morning and early afternoon, there were continual fires accompanied by some explosions in the camp as structures and debris were being burned. It is estimated there were approximately 20 fires.

At approximately 8:50 am, contractors reporting to the camp to assist with cleanup were denied entry by camp officials at the gate to the Oceti camp.

At approximately 9:15 am, BIA established a traffic control point on Hwy 1806 south of the Ocetic camp to prohibit anyone from entering the area of the camp from the south on Hwy 1806. Access from the north continued to be controlled by the checkpoint just south of the backwater bridge.

At approximately 12:45 pm, a procession estimated to be approximately 100 people left the Oceti camp walking south on Hwy 1806. This group continued to walk south and were allowed to leave the area.

At approximately 12:54 pm, a report was received of 2 individuals that received burns as a result of a fire/explosion in the camp and were being brought from the camp to be picked up by ambulance. They were subsequently transported to a Bismarck hospital by Standing Rock Ambulance. The victims were a 17 year old female and a 7 year old male.

At approximately 1:30 pm, protesters blocked the north entrance to the Ocetic camp with a metal gate and also strung razor or barb wire across the entrance.

Protesters gathered on Hwy 1806 in front of the camp and at approximately 4:10 pm, law enforcement officers moved to the area by the camp and the protesters on the highway ignored orders to disperse. Subsequently 10 were arrested and taken into custody. The remainder fled on foot from the officers and moved to the south. Officers then returned to the traffic checkpoint that is north of the camp.

Buses were available for protesters who wanted to voluntarily leave and be taken to a state-sponsored Travel Assistance Center to receive resources to leave the area. Four individuals were taken to the Travel Assistance Center.

Law enforcement officers did not enter the camp at any time and an unknown number of protesters remain in the camp.

**2/23/17:** At approximately 10:00 am, representatives from the U.S. Army Corps of Engineers met with protesters from the Oceti Sakowin camp and discussed USACE priorities to clean up the area and restore the land to its pre-protest condition.

At approximately 10:45 am, law enforcement prepared to enter the Oceti camp using equipment to remove snow to create an entrance path into the northwest portion of the camp. Snow removal was completed by approximately 11:05 am, and officers entered the camp and encountered a group of approximately 50 protesters. Officers directed the protesters to disperse and move to the south and if they did so, they would not be arrested. Officers began to move forward and those protesters who did not disperse were arrested. Law enforcement officers continued to move through the camp and inspected each structure to ensure they were all empty. At 2:09 pm, law enforcement announced the Oceti camp was cleared and secured.

As officers cleared the camp, construction equipment began to demolish wooden structures in the camp that had been inspected and confirmed as unoccupied. When the camp was cleared, approved contractors began to disassemble and remove structures and items that were determined to be ceremonial or of other cultural value. A tow company also began removing the abandoned vehicles from the camp.

A total of 47 arrests were made of those who refused to leave Oceti camp.

After the Oceti camp was cleared, BIA also entered and cleared the Rosebud camp.

Traffic control measures are in place to prevent traffic into the area of the camps. Cleanup activities will continue to clear the USCOE property.

**2/24/17:** Contractors continued cleanup activities in the Oceti and Rosebud camps.

No protest activity occurred.

**2/25/17:** Contractors continued cleanup activities in the Oceti and Rosebud camps.

No protest activity occurred.

**2/26/17:** Contractors continued cleanup activities in the Oceti and Rosebud camps.

No protest activity occurred.

**2/27/17:** Contractors continued cleanup activities in the Oceti and Rosebud camps.

No protest activity occurred.

**2/28/17:** Contractors continued cleanup activities in the Oceti and Rosebud camps.

There was significant activity involving persons moving out of the Sacred Stone Camp in response to a final trespass notice that was issued by BIA to occupants of the camp yesterday.

No protest activity occurred.

**3/1/17:** Contractors continued cleanup activities in the Oceti and Rosebud camps.

BIA announced that all protesters have vacated the Sacred Stone Camp at approximately 2:50 pm and that contractors would begin cleanup of the area. Three arrests were reported. BIA has established hard checkpoints to prevent anyone from re-entering the area.

At approximately 2:00 pm, a group of approximately 10 protesters staged a demonstration in front of the Federal Courthouse located in downtown Bismarck. The demonstration was apparently to protest the grand jury process in which several DAPL protesters have been involved. There were no significant problems and no arrests and the protesters dispersed within approximately one hour.

**3/2/17:** Contractors continued cleanup activities in the Oceti, Rosebud, and Sacred Stone camps.

No protest activity occurred.

**3/3/17:** The US Army Corps of Engineers announced the cleanup of the area formally occupied by the Oceti Sakowin Camp is complete. They reported the debris removed was just over 2,000 cubic yards and required more than 600 roll-off dumpsters. Clean up of the other areas continues.

No protest activity occurred.

**3/4/17:** Contractors continued cleanup activities in the Oceti and Rosebud camps.

No protest activity occurred.

**3/5/17:** Contractors continued cleanup activities in the Oceti and Rosebud camps.

No protest activity occurred.

**3/6/17:** The cleanup of the area formally occupied by the Rosebud Camp is reported as complete. Cleanup activities of the US Army Corps of Engineer property formally occupied by the Sacred Stone Camp continue.

No protest activity occurred.

**3/7/17:** Judge Boasberg in Federal District Court in Washington, DC issued a ruling which denied the Standing Rock Sioux and Cheyenne River Sioux Tribes' request for an injunction under the Religious Freedom Restoration Act to stop construction of the pipeline.

Cleanup activities of the former Sacred Stone Camp location continued.

No protest activity occurred.

**3/8/17:** Cleanup activities of the former Sacred Stone Camp location continued.

No protest activity occurred.

**3/9/17:** Cleanup of the former Sacred Stone Camp location was completed.

No protest activity occurred.

**3/10/17:** No protest activity occurred.

**3/11/17:** No protest activity occurred.

**3/12/17:** No protest activity occurred.

**3/13/17:** The Cheyenne River Sioux Tribe filed an appeal of Judge Boasberg's denial of a preliminary injunction to stop construction of DAPL on grounds of violation of the Religious Freedom Restoration

Act. Additionally, the Tribe filed a motion requesting that Judge Boasberg issue an injunction pending appeal to "prevent the flow of oil" through DAPL. (Appeal was filed on 3/10/17.)

No protest activity occurred.

3/14/17: No protest activity occurred.

3/15/17: The Cheyenne River Sioux Tribes' request for an injunction pending appeal was denied by Judge Boasberg in a ruling issued on March 14, 2017.

No protest activity occurred.

3/16/17: No protest activity occurred.

3/17/17: Hwy 1806 was opened at noon to both northbound and southbound traffic. Pilot cars were used to guide traffic between the Cannonball Bridge and Ft. Rice. No significant problems were encountered with the opening.

The Tactical Operations Center at the Morton Co LEC ceased operation. Future operations missions will be directed by the Morton County Sheriff's Department assisted by Morton County Emergency Management as necessary.

No protest activity occurred.

3/18/17: The Cheyenne River Sioux and Standing Rock Sioux Tribes filed an appeal regarding Judge Boasberg's March 14<sup>th</sup> denial of their request for injunction. On this date, the Appeals Court refused the Tribes' request for an "emergency order" to prevent oil from flowing through the Dakota Access Pipeline.

The pilot car escorts of Hwy 1806 traffic continued with no significant problems.

No protest activity occurred.

3/19/17: The pilot car escorts of Hwy 1806 traffic continued with no significant problems.

No protest activity occurred.

3/20/17: The pilot car escorts of Hwy 1806 traffic continued with no significant problems.

No protest activity occurred.

3/21/17: The pilot car escorts of Hwy 1806 traffic ended at noon on today and Hwy 1806 was fully re-opened to regular traffic. No parking signs are posted in the area from the Cannonball Bridge to Ft. Rice. Law enforcement will be maintaining additional patrols in the area.

No protest activity occurred.

3/22/17: There were no significant events. Construction activities to complete the pipeline continue.

3/23/17: There were no significant events. Construction activities to complete the pipeline continue.

3/24/17: Unified Command response and mutual aid law enforcement assistance to Morton County ended today. Final demobilization of any remaining assets and materials is ongoing. The Morton County Sheriff's Department and the ND Highway Patrol will maintain future additional patrols in the area.

Construction activities to complete the pipeline continue.

3/25/17: There were no significant events. Construction activities to complete the pipeline continue.

3/26/17: There were no significant events. Construction activities to complete the pipeline continue.

3/27/17: Energy Transfer Partners announced that it has placed oil in the pipeline under Lake Oahe and that final preparations to place the entire Dakota Access Pipeline into service are being completed. Energy Transfer Partners reports the entire pipeline should be operational in several weeks.

This is the final entry into this general summary of events.

This is preliminary information intended solely to provide a general timeline & summary and may include some inaccurate information until independent confirmation can be completed. The purpose of this document is to provide the user specific dates of activity that may be used as a starting point in order to gather additional information through law enforcement reports, news media coverage, or other data sources.

This summary was maintained and updated by:  
Keith Witt  
Southwest Regional Emergency Response Coordinator  
North Dakota Department of Emergency Services  
PO Box 5511  
Bismarck, ND 58506-5511

This summary is maintained on file at:  
Morton County Emergency Management  
210 2<sup>nd</sup> Ave NW  
Mandan, ND 58554-3124

Mr. Chairman,

My name is Roger Kenner from Leeds. I am a farmer and a rancher and an avid hunter. Our farm is located in the heart of the waterfowl migration so all of my life I have dealt with the landowner/hunter issues. Over the years, we have allowed hundreds of hunters access to our property and have developed good relationships with many of them. I do post most of my land as I want to control the hunting pressure and know who is on any property. For example, in the peak of the migration, birds will gather up in big flocks to feed in the fields and go to the water at night to roost. If all the fields and water are hunted too hard, the birds will be driven out and no one will benefit. The goal is to make the season last as long as possible. I am not a commercial outfitter or waterfowl guide and do this for the good of everyone.

This bill will offer a more organized and better experience for the hunters as they can contact the property owners before they make the trip to find accessible property. Even though scouting is still involved once in an area.

I have hunted in all the mountain states and several foreign countries and I always line up my hunt before I go. It just makes sense to call and ask permission. It's not my land. Most states have their land listed on a GPS App and it works very well.

Here's the other benefits of this bill as I see it:

1. This bill makes gaining contacts with property owners easier with the user-friendly app, which will be created by the ND Game and Fish Department. Already, the ND Game & Fish has a successful PLOTS program online. This new system will color code the property with three colors: green=open, yellow=call and ask, and red=closed. There will be contact information on the parcels of land.
2. This bill eliminates the need for property owners to purchase signs and take the time to put them up.
3. This bill should help law enforcement with some of the "gray areas" of someone trespassing on posted land. Many times, the hunter will say, "it wasn't posted properly," because maybe the wind or rain tipped it over or maybe someone removed it, etc. In those instances, it causes a "he said, he said" and the warden's hands are tied resulting in no way to prosecute.

This is a good bill and is a win/win for the landowners, the sportsmen, and law enforcement. The relationships between the land owner and sportsmen have deteriorated, but this bill can help bring them together.

I ask you to pass SB 2315 with a Do-Pass Recommendation and to consider restoring the penalties for the hunting offenses.



I am not a landowner. I am a lifelong resident of North Dakota and a sportsman. I am a member of my local sportsmen's clubs and I donate money, time, guns and resources to promote youth hunting and shooting sports. I was taught to understand the value of life, to hunt ethically, to respect landowners and to understand that hunting is a privilege, not a right.

I also understand that Senate Bill 2315 is a private property rights bill, not an anti-hunting bill.

Saying that we all have a right to utilize private property, regardless of what that property is, without permission, is absurd, and this is realized in many other states, including those bordering North Dakota. This is also realized in society in general. It would be unacceptable to drive my pickup onto a private golf course to search for a spot for my decoys, and then shoot all the geese in the pond. Why is the same activity acceptable on private agricultural land?

I cannot recall a time when I have hunted an unposted field. Controlling access does not prevent hunting, but it does promote successful hunting by making sure that animals are not overly pressured. It also ensures that multiple groups are not attempting to hunt the same area at one time which helps ensure the safety of hunters and others in the area.

This year, I was fortunate to gain permission from a landowner I had never met to archery hunt. I didn't pressure the wildlife, and I subsequently harvested a mature trophy whitetail. I enjoyed every moment of preparation and harvest and formed a relationship with that family that will continue for seasons to come. I used a phone app to find the landowner and a plat map book to get their phone number. This is a much more efficient system than relying on a sign. Hunting has changed a lot in the last 90 years, and I think it is time that our system changes as well.

The excitement and joy of a hunt spans far beyond releasing an arrow or pulling a trigger. We should teach the next generation that it is not about killing, but about enjoying the outdoors and forming relationships with landowners and other sportsmen. Every person that I have heard speak in opposition to this bill agrees that relationships with landowners are one of the most important things that ensure their hunting opportunities. This bill supports those relationships.

If it wasn't for the landowners, who are the most important stewards of wildlife, we would not have these opportunities. They make hunting in North Dakota possible for sportsmen, yet they are required to spend personal time and resources to protect their private property, the people who hunt on that property and the wildlife that inhabit that property.

Senate Bill 2315 would provide a better experience for the ethical sportsmen who value more than a trigger pull. It helps protect the future of hunting and instills appropriate values into young sportsmen. It definitely does not limit my access, but ensures that my preparation and time in the field are safe, enjoyable and rewarding.

I support the passing of Senate Bill 2315 and hope that there are other sportsmen who will vocally advocate for landowners – our partners in our treasured hunting experiences – and their private property rights.

Tyler Lannoye

Churchs Ferry, ND

*Tyler Lannoye* 3/14/19





**Testimony of Paul Thomas  
On behalf of the North Dakota Corn Growers Association  
March 15, 2019  
In Support of Senate Bill 2315**

Chairman Johnson, Chairman Porter and members of the House Agriculture Committee and the Energy and Natural Resources Committee.

My name is Paul Thomas. I am the Vice-President of the ND Corn Growers Association and a farmer and property owner from Velva, ND.

The North Dakota Corn Growers Association appreciates the opportunity to voice our members' support of SB 2315. This measure requires people to seek permission to access private property, except for hunting, where an electronic database will be developed to indicate whether land is open to hunting, closed to hunting, or if the land owner wants to be contacted before hunters access their property.

This bill is not about landowners not allowing people to use property for hunting, but more about treating all private property owners equally. Whether it is rural or urban property, we want to have the ability to control access to enter our property and if people are trespassing that there are meaningful penalties that will be assessed fairly on all private property infringements.

The development of the electronic database will allow communication methods to reflect modern methods of accessing information and communicating. Most everyone has a cell phone or computer or at least access to the internet. The information contained in electronic media dominates our world. This database, once developed, will be another very useful tool for all North Dakota citizens to use.

Farmers we are doing more with no-till, cover crops and other proactive conservation practices. Thankfully, these practices not only enhance the soil, but they also accommodate wildlife habitat. However, this land is extremely sensitive to the traffic driving over the fields at the wrong times or wrong place. This land can be literally impacted and damaged if people drive where and when they should not. Senate Bill 2315 simply seeks to prompt communications between the property owners and the individuals wanting to enter our property.

A major problem is the lack of communication and dialogue between people who wish to utilize private property for recreational purposes and owners of the property. As land owners we need to be able to talk to individuals who would like to access our property. Whether from the standpoint of weather or field conditions and allowing access to our property with vehicles, or the best places to park when they are enjoying our property. I do know that every experience I have ever had where a sportsman has contacted me before hunting on our land has always resulted in a positive experience for all.

I would like to share a story of a hunting experience I had this past year. I planted three contiguous quarters of land to soybeans. I post one of those quarters each year. It has 14 acres of trees that we planted in 1992 for wildlife protection and food. It also contains 20 acres of cattail sloughs and grass that we maintain in five different areas for wildlife. My neighbor raises pheasants each year and releases them in this quarter for protection and the ability to enhance the pheasant hunting opportunities in our area. By the way, we do this because we care about the land, wildlife and sportsmen.

During waterfowl season I received phone calls from sportsmen wanting to hunt ducks and geese on my posted quarter. I asked each one what was wrong with the other two quarters right next to it that each were holding the same number of ducks and geese. Some of the responses I received were:

- If I get permission to hunt the posted quarter, I can let my teenage sons sleep in longer in the morning, so we do not have to race other hunters out to a spot
- I do not have to worry about having my decoys set up and having other sportsmen setting up to close to me because it was dark, and they didn't see me
- I don't have to worry about an argument of who was here first
- I know I am wanted here, and I don't have to worry about someone questioning what I am doing here if I see a pickup drive down the prairie trail in the morning.

Each of these sportsmen called me after their hunt, thanked me for the opportunity to hunt the posted land, and offered me some birds, which of course I declined.

The policies proposed in SB 2315 benefits all citizens in North Dakota. We ask you to support SB2315. Thanks for your time today and I welcome your questions.

Paul Thomas



## Testimony of JaCee Aaseth North Dakota Ag Coalition Administrator In Support of SB 2315

P.O. Box 1091  
Bismarck, ND 58502  
(701) 355-4458  
FAX (701) 223-4645

### VOTING MEMBERS

Independent Beef Association  
of ND  
Milk Producers Association of ND  
Minn-Dak Farmers Cooperative  
ND Ag Aviation Association  
ND Agricultural Association  
ND Ag Consultants  
ND Agri-Women  
ND Barley Council  
ND Corn Growers Association  
ND Corn Utilization Council  
ND Crop Improvement & Seed  
Association  
ND Dry Bean Council  
ND Elk Growers  
ND Ethanol Council  
ND Farm Credit Council  
ND Farmers Union  
Grain Dealers Association  
Grain Growers Association  
Irrigation Association  
ND Lamb & Wool Producers  
ND Oilseed Council  
ND Pork Producers Council  
ND Soybean Growers Association  
ND Stockmen's Association  
ND Wheat Commission  
Northern Canola Growers  
Association  
Northern Plains Potato Growers  
Northern Pulse Growers  
Association  
Northwest Landowners  
Association  
Red River Valley Sugarbeet  
Growers  
U.S. Durum Growers Association

### NON-VOTING MEMBERS

BNSF Railway, Inc.  
Ellingson Companies  
Garrison Diversion Conservancy  
District  
ND Association of Ag Educators  
ND Association of Soil  
Conservation Districts  
ND Beef Commission  
Department of Ag  
Grazing Lands Coalition  
ND Soybean Council  
ND State Seed Commission  
NDSU Agricultural Affairs

Chairman Johnson and members of the Committee, my name is JaCee Aaseth, and I am here today as the administrator of the North Dakota Ag Coalition. The Ag Coalition has provided a unified voice for North Dakota agricultural interests for over 35 years. Today, we represent more than 40 statewide organizations and associations that represent specific commodities or have a direct interest in agriculture. Through the Ag Coalition, our members seek to enhance the climate for North Dakota's agricultural producers.

The Ag Coalition takes a position on a limited number of issues, brought to us by our members, that have significant impact on North Dakota's producers and agriculture industry.

The Ag Coalition stands in support of SB 2315 as the bill reinstates landowner's private property rights by removing the requirement to post land to keep uninvited individuals off private property. This bill would eliminate the burden on landowner's by reversing the presumption that all land is considered open and allow landowners to require permission for others to access it without having to purchase and put up signs as well as maintain these signs. Agricultural landowners are not anti-hunting as many ag land owners are hunters, which is why we support this bill as it reads today, with the exception for hunting. This bill provides other avenues for determining where hunters can hunt by using 21<sup>st</sup> century technology including a phone app that can guide hunters on where they may or may not hunt or which pieces of land require property owner's permission.

The ND Ag Coalition encourages your support of SB 2315, which gives land owners the right to determine who is allowed on their property and gives hunters another option to check if land is open or closed.



Contact:

**Kayla Pulvermacher, Lobbyist**

[kpulvermacher@ndfu.org](mailto:kpulvermacher@ndfu.org) | 701.952.0104

**Mary Jensen, Lobbyist**

[mjensen@ndfu.org](mailto:mjensen@ndfu.org) | 701.952.0107

---

**Testimony of  
Kayla Pulvermacher  
North Dakota Farmers Union  
Before the  
House Agriculture and Natural Resources Committees on SB 2315  
January 25, 2019**

---

My name is Kayla Pulvermacher and I'm here to represent the 50,000 members of North Dakota Farmers Union. We support SB 2315.

SB 2315 establishes protections for North Dakota landowners. Our members have had longstanding policy in favor of a state law that mandates all private land should be considered "posted," as they rigorously support the property rights of landowners. They have long held the belief that they should not be held responsible for accidents occurring as a result of trespassing on their property, and believe that SB 2315 will safeguard them from such a liability.

I will attempt to answer any questions you may have.



Chairman Johnson, chairman Porter and members of both committees. My name is Darrell Oswald and I farm and ranch near Wing, ND. I am here today as past chairman and current mentor of the ND Grazing Lands Coalition. The North Dakota Grazing Lands Coalition is a grassroots group with coalition members having a strong focus on managing for soil health and biodiversity to promote sustainable farming and ranching. It is a core belief that through voluntary actions, respect for private property rights, and education on the focus of soil health our goals are achievable.

I come here today to urge your support of SB 2315. This is a tremendously important piece of property rights legislation, that is beneficial for all property owners across the state. We believe SB 2315 as amended offers the solutions stakeholders, (which is all landowners, large and small) and lawmakers have been seeking. This new law would reverse the presumption that all land is considered open, (an archaic and obsolete way of thinking,) with requiring people to ask permission to access private property. Which reaffirms a fundamental private property right allowing landowners large and small to require consent before others can access their property. Sportsmen and woman and those who enjoy the outdoors, hunting, bird watching, or just meandering around wide-open spaces will have access to a public database, wherein land will be designated green, (come on the property without asking); yellow (you may come on my property with permission) or red (access is unavailable at this time). If I as a landowner do not provide info for the database, the property is shown as green. Those on red or yellow designated land without permission will be considered trespassers. SB 2315 creates more distinction between criminal trespass and hunting trespass. And, if myself as a

landowner still prefer to use signs, I can use them, which takes precedence over the database.

The merits of SB 2315 are many. Finally, this bill offers some solutions by building on landowners' private property rights. The data base will prove to be a useful and helpful tool for those that enjoy the great outdoors. I believe landowner, sportsmen and women relations will become stronger because of this effort. Having the help of a multifaceted advisory committee with the best interests of private landowners and sportsmen in mind will help in this process. The time has come for passage of this bill.

Chairmen and members of both committees, those that believe in private property rights and believe that sportsmen-landowner relations can improve and be built upon by the passage of this bill encourage a due pass on SB 2315.

January 25 2019

**SB 2315**

Mr. Chairman and members of the committee. My name is Joe Schettler, I ranch in the badlands northwest of Killdeer. I support this bill because I believe this is a private property rights issue. A landowner should not have to proclaim with signs that people need to receive permission to recreate on their land. We post our land every year, not because we don't allow hunting but because we want to know who is on our land and to explain our rules, such as no road hunting, no driving off roads and to be careful not to start a fire.

Every fall I take a better part of a day and go hang up signs. Often it is time I really don't have but I need to because one careless person could put me out of business. So, I hang signs in the places I think people will see along the entrances to our ranch and along the boundary with the neighbors. Recently I sat down with some maps to see what it would take to post our ranch according to the law. According to the North Dakota state GIS mapping software, I would have to post along 13 miles of river bank, 28 miles of federal land that is intermingled on our ranch, and one mile of state land. With the signs I already put out along neighboring property, I would need to hang approximately 208 signs. Most of these would have to go where there is no vehicle access. At my best guess it would take a minimum of forty hours to post. More than likely it would be a lot closer to eighty hours. I encourage you to ask those who oppose this bill if they would be willing to give up a week or two of work and pay so others could play on their property.

Here is some food for thought. The cities of Bismarck, Fargo and Minot have deer management tags available to archery hunters. To hunt in Bismarck, hunters must receive a trespass permit from the Chief of Police. In Fargo, hunters must receive a permit from the city. To apply for the permit, you have to pass a shooting proficiency and written test. In Minot hunters must have written permission from landowners whose land they want to hunt to apply for the permit. Minot also states in their hunting regulations that all private land within the city is considered as "Posted". Why is it that these urban landowners have private property rights that rural landowners do not? Maybe what is good for the goose is good for the gander.

Thank you for your time.

Joe Schettler

Killdeer, ND

Chairmen Porter and Johnson and Committee Members,

Good Morning. My name is Dan Rorvig from McVille ND.

As you are serving on the House Agriculture Committee and Energy and Natural Resources Committee I am asking for your SUPPORT on Senate Bill 2315 as it passes through your committee this morning and as it moves to the House floor. This bill would support private property rights for all ND residents. This includes owners and renters of ag land, commercial property, and all personal residences. This not only includes my ranch, but my urban friend's backyard and patio.

Please remember this is not a hunting issue. This is not an access issue. This is only a private property rights issue.

I am here as a landowner and sportsman. I try to spend several days every year in the field hunting. I have hunted on our own property, other private property, public lands and pay to hunt properties. The most vocal pushback seems to come from the hunting and tourism groups. But, please be aware ND is surrounded by no posting states with laws we are attempting to get. The hunting and tourism industries in MN, SD, WY and MT all seem very vibrant under their current system and certainly a better representation of our personal property rights. Also, concessions have been made toward the sportsmen as we have worked to make this bill workable, but yet effective for all North Dakotans.

Thank you for your consideration.

Dan L. Rorvig  
McVille ND  
701-797-7338



March 14, 2019

To: Members of the North Dakota Legislature

I am writing in support of SB 2315. We need a vote on what is right, not a vote on what a popular group wants. Every year we have problems with hunters thinking it is their right to access private property because of the way the law reads now. This has also become a problem for fishing access. Landowners are accessible, as outdoorsmen have apps on their phone that have land and owners listed. We live in an area where a lot of roads are on quarter lines. It is very hard to convince sportsmen they are not on section lines. Passing SB 2315 would help solve this problem. We are lifelong farmers and ranchers who every fall seem to lose our private property to public access. I strongly urge support of SB 2315.

Thank you for your consideration!

Sincerely,

Burdell Johnson

Diamond J Livestock

Tuttle, ND

March 14, 2019

Chairmen Johnson and Porter and members of the House Ag and Energy and Natural Resources Committees:

Thank you for taking time to consider my comments.

My name is Tim Erbele. I farm and ranch 8 miles south of Streeter in Logan County. SB 2315 is a very emotionally charged issue for both sides. I very much believe this is a private property rights issue. I will limit my comments to one comparison to illustrate this point.

When I buy a new vehicle, I am expected and required to pay the tax, the license and the registration. The State of North Dakota will then send me the title showing that it is mine. Every year after that, I am required to pay a yearly registration fee to ND DOT to be able to keep driving on North Dakota roads. I make payments on that vehicle. I also am required to pay for insurance. If I do those things, it is mine. I own it. No one else can use it without my permission. I do not expect anyone will jump in it and take it for a spin if I leave it parked on Main Street in our little town. I am not required to have a sign on the door that declares my ownership. But I would – and have – let my friends and neighbors use it when they needed another vehicle to hook on a trailer to transport cattle, for example.

Similarly, the agricultural land I have purchased over my career has come with an abstract and a deed. The State of North Dakota and Logan County know that I own it. I am expected to pay the property tax every year that is levied on it. I have made payments on it for 23 years. I also pay farm liability insurance on it to protect myself and my family's interests. If I fulfill all those requirements of ownership, then it is legally mine. I own it. No one should be able to use it without my permission. I don't expect that anyone should just "be able to take it for spin" without talking to me first. I have let others "borrow" it to hunt, enjoy and fulfill their dream of a child's first deer harvested.

SB 2315 in no way jeopardizes the use of my land for others to enjoy. What it does do is protects my family's raw commodity that we need to make a living, to pay college tuition, to buy groceries and to service the debt against the land itself. We simply want to know who's there and outline places we want to restrict for our family's and the sportsman's safety. We are glad to share what we have been entrusted to care for. Production agriculture has evolved into a 24-7 business. We do not want nor do we have time to put up signs that, at best, require yearly maintenance to declare our ownership. I would respectfully ask for your Do-Pass recommendation on SB 2315.

Thank you.

Tim Erbele  
Streeter, ND  
(701) 269-3045  
[erbelecattle@daktel.com](mailto:erbelecattle@daktel.com)

From: **Ness, Claire J.** claireness@nd.gov  
Subject: **summary of S.B. 2315**  
Date: **Mar 5, 2019 at 5:32:54 PM**  
To: **Johnson, Dennis E.** djohnson@nd.gov  
Cc: **Richter, Vonette J.** vrichter@nd.gov

Representative Johnson,

Per your request, this is the section-by-section summary of Engrossed Senate Bill No. 2315.

### Section 1

Section 1 essentially closes private land except for certain identified exceptions, including an exception for hunters. Specifically, the section amends the criminal trespass statute to say an individual who enters or remains in a building, occupied structure, storage structure, separately secured or occupied portion of a building or structure, or any other place is guilty of a class A misdemeanor, unless:

- The individual is licensed or privileged to be there; or
- The individual is hunting on the land, and the land is not designated as closed to hunters in the hunters access database created in the bill.

Note that a hunter with permission to be on the land would be “privileged” to be there and would not be trespassing. This section also removes the procedures currently in place for law enforcement officers and others to follow when an individual remains in a place where notice against trespass is given.

### Section 2

Section 2 changes the presumption regarding private land so land is presumed open to hunters unless the land is:

- Physically posted as “closed” or
- Designated as “closed” or “open only with permission” in the new hunter access database.

### Section 3

Section 3 allows a hunter to recover game from any private land if the hunter shot or killed the game on land where the hunter was legally entitled to hunt. Substantively, this will not change from current practice.

### Section 4

Section 4 of the bill relates to evidence indicating that an individual is hunting on private land. Under current law, if an individual has a gun or other weapon approved for hunting under a Governor’s proclamation, that constitutes prima facie evidence the individual was hunting. Under Section 4, in order to be prima facie evidence the individual was hunting, the individual also must have a valid license to hunt game in the relevant area. This increases the threshold for an individual to prove he or she fits within an exception to the criminal trespass law as amended in Section 1. It also increases the threshold for a landowner to prove an individual is hunting on closed land.

### Section 5

Section 5 makes hunting guides and outfitters subject to the same rules as hunters. Specifically, it makes hunting guides and outfitters subject to both physical posting rules and the hunters access

database created in the bill.

### Section 6

Section 6 creates a new chapter 20.1-18.

- Section 20.1-18-01 creates the hunters access advisory group, which will oversee development of the hunters access database.
- Section 20.1-18-02 establishes the hunters access database. Each county can submit geographic information system (GIS) data to the Information Technology Department (ITD). ITD then will upload the GIS data into the database, which will be available electronically to the public. A landowner or lawful occupant will be able to designate their land as “open to hunters”, “closed to hunters”, or “open to hunters with permission” in the database. If a landowner or lawful occupant does not provide a designation, the land will be designated in the database as “open to hunters” if the county in which the land is located has been uploaded into the database. So the default designation of land in the database is “open”. If land is designated as “open to hunters with permission”, the landowner or lawful occupant will provide contact information for hunters to request permission.
- Section 20.1-18-03 says, if a county is not yet included in the database, private land in the county is deemed open to hunters.
- Section 20.1-18-03 also provides penalties for hunters who hunt on land that is designated as “closed” or who hunt without permission on land that is designated as “open to hunters with permission” in the database.
- Section 20.1-18-03 also says physically posting land supersedes any designation of the land in the database. The section provides penalties for hunters who enter land that is physically posted unless the hunters have a legal right to do so or obtained permission to do so.

### Section 7

Section 7 gives ITD, landowners, hunters, counties, and others an idea of the timeframe the Legislative Assembly intends for the operation of the database. It says the Legislative Assembly intends for several counties to be uploaded into the database by fall 2020 and for all counties that provide the appropriate GIS data to ITD to be included in the database by September 1, 2022.

### Section 8

Section 8 provides for an interim study of access to private and public land for hunting and trapping and related issues.

If you need anything else, please let me know.

Thanks,  
Claire

Claire J. Ness  
Counsel

Good Afternoon,

I am Jacy Hauge, I am from Carson, North Dakota. I am currently a freshman at North Dakota State University majoring in Agriculture Communication and minoring in animal science.

Growing up in rural North Dakota, I found hunting season to be one of the greatest times of the year. There is something about the adventure of being in the center of nature and wildlife and being grateful to be alive in God's hunting paradise. I grew up in Southwestern North Dakota where wildlife is very evident in everyday life. I remember being in fourth grade and taking home that bright orange sheet of paper to inform my parents hunter safety class would be starting the next spring and I was finally old enough to be a part of it. My Grandfather instilled in me the importance of hunting and the impact hunting leaves on a person. My grandfather taught me how to hunt pheasant and deer. Don't get me wrong I love hunting deer, I have one hanging on my wall to prove it. Although, I have always enjoyed pheasant hunting more and the main reason why is it is hard for me to be quiet. When I pheasant hunt, I can talk as loud as I want. Hunting with my family has brought me much joy in my life, and has left me with some hunting stories that I truly never get tired of telling.

Going back to it was finally spring in fourth grade and I got to go through hunter's safety. I learned the 10 commandments of hunter's safety, how to properly load, clean and carry a gun. Although, as I went through hunter safety, I found the most important thing I learned was a relationship between the landowner and hunter is essential. I believe that we can all agree that as a landowner's we would prefer to know who is on our land and what they are doing. I believe with the passage of this bill the database that will be put in place will allow an easier and more convenient way of communication with landowners. If you think about it, people my age or as young hunters we are constantly on our phones, it is always at our fingertips. This database I believe will only make it easier to call or get ahold of landowners to ask permission but also it will be easier to close the gap between hunter and landowners and make a true relationship that both parties can benefit from.

I believe one of the most interesting parts of this bill is how it will economically benefit North Dakota. How so? In North Dakota we have many hunters that come

from within the city, when they are trying figure out what unit to apply for a tag in it may be hard to do with the current way hunters do that. When talking to citizens of North Dakota I have found the general consensus to be that the land they hunt is either somehow related to the family or any plots land they can find available. This bill will solve that headache, this database will allow hunters to look months ahead when planning their trip. A few sentences ago I told you I see the economic benefit, my grandfather who I told you instilled my passion for hunting is from the eastern side of the state. He comes to the western side to hunt with me, he impacts economics factors in another part of the state when we fill with gas, grab snacks, or have supper at one of the restaurants close to me. What if more hunters saw land available in either the eastern or western part of the state? Small towns would see economic benefits in hotel rooms, buying food, or filling with gas. As North Dakotans we love supporting each other and I believe this added benefit of allowing to see open areas to hunt for months ahead of time will continue to see the economic benefit of hunting grow.

Legislators, it's time we pass a bill. As a young hunter I stand before you today saying its time. I do not believe this bill will differ people away from hunting in our state. I think it will bring more positives instead of negatives. I believe we will see a more solid relationship between landowners and hunters, we will see a database become a tool of the 21<sup>st</sup> century and we will see economic benefit across our state. It is time that we pass a no trespassing bill, it is time we close all the confusion that hunters and landowners share. If we do not pass this bill the gap between hunters and landowners will continue to grow.

Thank you for your time and service to North Dakota and I hope you have a great rest of your day.

I feel smet bill 2315 is  
good ledgistration. If  
you know who is on  
your land then you  
can hold them accountable  
if there is litter or  
damages. Thank you  
Chairman and commety  
members for listening to  
me, and please do pase  
senate bill 2315.

I will Try to Answer Any  
Questions

Good After noon Chairman  
Johnston <sup>and parker</sup> and <sup>community</sup> members  
~~of the house ag commety~~  
My name is Wyatt Kessel  
I am from Belfield, and  
I am 12 years old.  
I am here to support  
senate bill 2315. I attended  
hunters safety last spring  
and I learned to ask the  
landowner to hunt no  
matter if ~~the~~ <sup>the land</sup> is posted  
or not. Asking permission  
is being respectful to the  
landowner.

Chairmen and Members of the committees hearing HB 2315

My name is Dennis Miller, a third generation farmer from Lawton, ND, farming almost 3,000 acres in the prairie pothole region. I am a past LAND president but I am representing myself, although LAND does support this bill. I strongly support the concept in SB 2315. I am not anti hunting but all hunters have lost their ~~right~~ to hunt on my property without being guided.

*privilege*

I have had two time spans where professional guides posted my property, guided countless hunters, picked up the signs after season and generally policed my property from slob hunters. My complaints about slob hunters were almost nil during those two periods. Without someone policing my farm, complaints are constant.

The reasons for supporting SB 2315 are:

1. Over the years, especially in the fall of 2016 when we were extremely wet, I have had countless hunters walk out of my unharvested crops saying, "what are unharvested crops?" This bill will take away their excuse that it wasn't posted so they hunted. In the fall of 2016 Iowa license # BXB490 and AZ# ASX9133 were actually driving their ATV out of my unharvested soybeans. I have 5 other pictures of groups of hunters in unharvested crops that fall, plus many others whom I didn't get pictures of. I had to call the game warden to get Reagen Arnt and his group from Wisconsin off my posted, harvested field so I could work the field. They claimed they didn't see the sign.
2. I can't count the number of times hunters have parked in the middle of the road, stopping access to the road
3. I need to make \$750,000 annually to keep my doors open. I put ~250 separator hours on my combine each year, meaning I need \$3,000 per hour when I am harvesting to make ends meet. Two thirds of my crop is usually harvested after Oct.1, which is hunting season. I have learned that unguided hunters and harvest don't mix.
4. I can't number the times I have asked hunters why they are in unharvested areas who say either, "what are unharvested crops" or "we were told we could hunt wherever the land was not posted."
5. Signs are time consuming to put out, pick up and continually replace during hunting season. Also, hunters will say they didn't see the signs if they were not exactly in the lane of traffic, which impedes my access into the fields.
6. Hunters frequently walk from unposted neighboring fields onto areas so close to my farmstead, and hunt so close that on calm days we can hear shot dropping onto the ground or hitting our house. We can also feel the percussion of their shotguns in the air. SB 2315 would cure most of this.
7. SB 2315 will bring hunting into the 21<sup>st</sup> century and allow for identification of each parcel, probably better than is available now.
8. I should not have to post my property to tell people to stay off.

Thank you. Dennis Miller, Lawton, ND



Kevin Smith  
905 Sunny Hills Rd  
Devils Lake, ND 58301

March 20, 2019

Chairman Porter, Chairman Johnson, Representatives

I will be present on March 21, 2019 to give testimony in favor of SB 2315. These are just a few high points and ideas I will present to you during my testimony. I thank you in advance for the opportunity to be heard and I sincerely hope to make a difference in the outcome of this bill.

Personal information

- ✓ Competitive Clays shooter
- ✓ Small Business owner
- ✓ Lifelong hunter/sportsman
- ✓ Lived in the Lake Region for 50+ years
- ✓ Husband/Father/Grandfather
- ✓ Life Member NRA
- ✓ Life Member National Sporting Clays Assoc
- ✓ Member Lake Region Shooting Sports Assoc
- ✓ Member Lake Region Sportsman
- ✓ Member Lake region Bowman

I converse daily with landowners and sportsman on various topics. When asked what they think about SB 2315, most are not sure what is in the bill. Most hunters are initially against the bill because it will "ruin" hunting. After being truthfully informed of what is in the bill, 90-95% of those same individuals respond with "well that doesn't sound so bad," comments.

I have spoken to several non residents, who have said they will never come back to hunt here because they can't find a place to hunt. They are unable to locate landowners with the information on the no trespassing signs. Some have gone to the local courthouse and spent the \$75 on a county plat book and are still unable to find the proper contact to gain permission.

Hunting has changed dramatically in recent years. One change that I have witnessed is the use of technology. Things like handheld GPS units, helps hunters find their way back to locations with pinpoint accuracy. Cell phone apps, have turned a simple communication device into a powerful tool used for navigation and other tools for hunters. This bill will help hunters in a similar way.

There are wildlife groups already encouraging hunters to get in line with technology. I have included in my handouts magazine articles where these groups are encouraging technology as a tool. The comments about old hunters unable to use modern gadgets just isn't true.

The trend in the decline of hunter numbers is real and has been for 20+ years but I feel is related more to costs than anything else. I remember in the Dale Henegar era Dale telling us that he feared that decline was inevitable.

North Dakota has embraced the fastest growing sport in the country, High School Trapshooting. When the league started just a few short years ago there were 4 teams with a total of less than 75 participants. In 2018 there were over 1400 athletes competing. 2019 will bring more expansion and more kids shooting. This bodes well for hunter numbers in North Dakota

Our youth hunters should be the first priority in this process. The technology involved here is a great tool if utilized correctly and the young hunter will have little problem navigating the state. Whether it be by cell phone or by handheld GPS, it will make it easier for all.

The North Dakota Game and Fish does an absolute tremendous job managing our wildlife. They have provided opportunities for sportsmen and women that were never dreamed of. This bill would be a tremendous tool for both biologists and enforcement alike. If done properly, there is a chance to enhance and expand the PLOTS program as all land coded green could be approached with offers for the program.

I believe this bill will do more to unite landowners and sportsmen far more than damage relations. There are no bad guys in all of this unless we ignore it and sit on our hands and do nothing. Then we are all to blame. I have heard the argument that "no other state does it this way". Well how about we do it our way and let the others follow us.

Kevin Smith

# Devils Lake Ducks

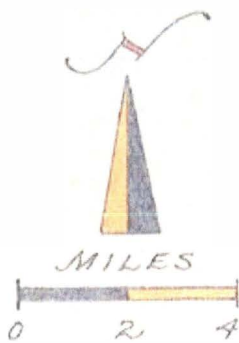
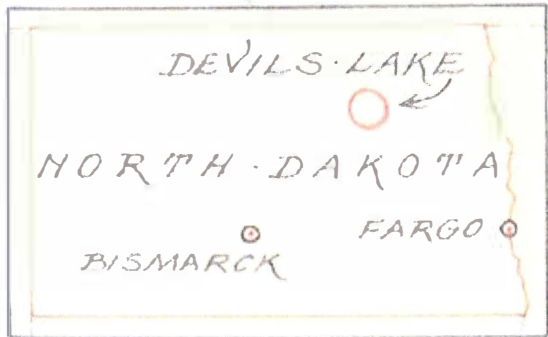


ILLUSTRATION BY TOM GASTNER



BILLBUCKLEYPHOTOGRAPHY.COM

*This sprawling North Dakota lake offers endless public hunting opportunities for freelance waterfowlers*

By Wade Bourne



October 26, 2010, was the day “the bomb” dropped on Devils Lake, North Dakota.

The temperature plunged into the 20s. Rain showers turned into curtains of snow. Straight-line winds blew upwards of 50 mph for most of the day and night. The barometric pressure was the lowest ever recorded in the U.S. interior—lower even than on that fateful day in 1975 when the ore hauler Edmund Fitzgerald broke apart and sank in Lake Superior. This was one of the most violent storms ever to sweep across the northern plains.

Bob Meek and I greeted this tempestuous morning sitting in his truck watching a county road disappear beneath a froth of angry water. My Go-Devil boat was hitched behind us and my Lab Andy was tucked into his dog crate in the pickup’s bed. We were anxious to go duck hunting, but the conditions were just too severe. Instead, we decided to head back to town to wait out the storm. A chili omelet and a late-morning nap seemed more appealing than battling the elements for a few greenheads. Besides, we had already enjoyed two days of spectacular hunting.

*Finding Our Way*

Our first morning began ominously. We woke up at 4 a.m. and dressed right away. Bob went outside and came right back into the room. “Fog is so thick you can barely see across the parking lot,” he reported. “We’re really soaked in.”

I went to look. The fog hung like a heavy, wet blanket. Bob and I had to navigate several miles along back roads southwest of town to get to our spot, and it would be easy to become disoriented in this soup. Still, we forged ahead. It had been a long drive from Tennessee to North Dakota and we were anxious to burn some powder.

Surprisingly, we drove to our launch site without getting lost. We pulled on waders and loaded gear into the boat. Then we launched as the inky night oozed into a damp gray morning.



The best way to explore Devils Lake's expansive backwaters is with a boat powered by a mud motor.

"What now?" Bob asked. We couldn't see more than 10 feet.  
"Why don't we hug this cattail line until we hit open water. Then let's stop and wait for the fog to lift so we can see where we're going," I suggested.

That's what we did, idling parallel to the reeds until we came to what we thought was an opening. We tossed out a dozen decoys just in case, and pushed the boat into the cattails to wait for the fog to rise.

Our wait stretched over several hours. The air was dead calm. Every now and then Bob and I could hear the sound of duck

wings beating in the fog. A couple of times ducks flashed into view over our decoys and then disappeared quickly. We kept watch and quacked occasionally on our calls, but our only "takers" were a pair of coots that paddled blissfully through our spread.

Finally, around midday, the fog blew out. We quickly picked up our decoys, got our bearings, and started motoring toward where we'd seen so many ducks the prior afternoon. We still had several hours left to salvage the day.

Navigating through a patchwork of cattails and open ponds, we turned to enter another cut when suddenly mallards began





DUCKS UNLIMITED



EDUCATE NAK.COM

flushing—several hundred birds. There were so many ducks that we could hear the roar of their wings over the noise of the mud motor. Bob looked at me with wide eyes and a big grin on his face. This was his first trip to the prairie pothole country with its boundless skies, which were now filled with a bounty of ducks and geese.

We tossed the decoys out and rammed the boat into the cattails, and soon mallards started filtering back to their resting hole. We picked away at the drakes and had our five piece in a couple of hours. Andy worked well in the shallows and retrieved several birds that we'd dropped in the thick cover.

As good as our pothole was, we watched continuous swarms of mallards sailing into another spot several hundred yards to the south. When we finished our shoot, Bob and I headed that way to scout for the next morning's hunt.

The author had some of his best shooting late in the morning as flights of mallards and other dabbling ducks returned to the lake after feeding in surrounding grainfields.

A half-mile later we started kicking up ducks in big numbers. They got up from the cattails in rolling waves. There were dozens here, hundreds there, and finally at least a couple thousand from one hole that was no larger than two acres.

**About Devils Lake** Devils Lake is a bull's-eye for ducks and geese moving south from Canada's prairie provinces. Historically, this vast, natural lake has attracted large numbers of waterfowl. But rising waters have expanded the lake dramatically, increasing the habitat available for waterfowl.

An extended wet cycle has caused Devils Lake to rise more than 30 feet in the past 18 years. The lake's surface area has grown from 45,000 to more than 200,000 acres. Sadly, dozens of farms have been flooded as the water has crept ever higher. Today, a vast complex of shallow wetlands surrounds the original Devils Lake basin. This catastrophe for farmers has been a boon for ducks and geese that pile in when the fall migration begins. The birds are drawn by an abundance of both food and refuge. As a result, waterfowl numbers in and around Devils Lake have increased significantly as the waters have spread.

All this has created a freelance hunter's paradise. North Dakota law states that as the water rises, the land it covers becomes public domain. Boats can be launched in various places, and hunters can explore the seemingly endless marshes and shallow bays. Ducks and geese are where you find them. Dabblers and geese typically feed in

grainfields at dawn and return to loaf in nearby marshes mid-morning. Find these resting spots and your waterfowl hunter's dreams can come true.



MARK DILLEY

"Let's hunt here in the morning," Bob said, as if I needed any convincing.

### The Big Blow

That night we got our first news about the approaching storm. The weatherman on the local news described it as a "bomb." A wedge of arctic air was plunging in from Siberia, bringing high winds, heavy snow, and freezing temperatures. Winter was

*Navigating through a patchwork of cattails, we entered another cut when suddenly mallards began flushing—several hundred birds. There were so many ducks that we could hear the roar of their wings over the noise of the mud motor.*

coming early to North Dakota. Bob and I had one day to hunt before the storm hit.

The next morning we were set up in the little two-acre pond at dawn. A trickle of ducks at sunrise turned into a flood by 9 a.m. Line after line of mallards returned to the water after feeding in nearby grasslands. We took turns shooting and each bagged five mallards, plus a pintail and green-winged teal between us, by 9:30. Then we picked up and left quickly so other ducks could return and rest undisturbed.

The storm struck late that night. The next morning, we loaded up and drove back to the marsh, but hunting was out of the



The storm was accompanied by gale-force winds that whipped the lake into a froth, wreaking havoc along the shoreline.

An advertisement for Winchester shotguns. The main image shows a duck decoy mounted on a Winchester Super X3 shotgun. The background is a mix of red and grey. Text at the top reads "SXP FAST, FASTER, AND FASTEST. SX3". At the bottom, it says "THE FASTEST SHOTGUNS IN THE WORLD." and "WINCHESTER REPEATING ARMS". A QR code is in the bottom left, and the website "WINCHESTERGUNS.COM" is at the bottom left. A small logo of a horse is in the bottom right, and "Winchester is a registered trademark of Olin Corporation" is at the very bottom right.

**SXP FAST, FASTER, AND FASTEST. SX3**

Super X<sup>3</sup> Pump

Super X<sup>3</sup>

**THE FASTEST SHOTGUNS IN THE WORLD.**

WINCHESTER REPEATING ARMS

WINCHESTERGUNS.COM

Winchester is a registered trademark of Olin Corporation

WANT TO SEE FAST? Scan this



question. The water was whipped into a lather and the temperature was dropping rapidly. One miscue in the boat and we'd be in big trouble, so we wrote the morning's hunt off and headed back to town.

That afternoon we decided to go looking for any hunting possibility we could find. We covered back roads and glassed for a couple of hours. Then we found a point of land that extended into an open-water flat where bluebills and redheads

*That morning will long be remembered as one of my best in more than 50 years of waterfowling. They came one flight after another, mostly mallards. It was obvious that the storm had prompted a big push of birds from Canada.*

were crossing. We nudged out and sat on the point, hoping for some passing shots. The waves were crashing and covering us in spray. At one point Bob yelled to me, "I never thought I'd get to hunt the coast of North Dakota." We gave up and went back to the motel.

The blow continued all night and into the next day. The wind was still too strong for a boat hunt, so we slept late before heading out to scout for another walk-in hunt. Ducks were stirring and we found several possibilities, but the best spots were posted.

That left one more day to hunt before starting for home. The weather forecast was perfect for this final morning: temperature in the high 20s, clear skies, northwest wind 15 to 25 mph. We were going back to our honey hole and anticipated new ducks in

the marsh. I was tired from four days of hunting and battling the elements, but I had difficulty sleeping that night. I kept thinking about what the morning might bring.

#### Last Chance Ducks

One thing we didn't anticipate was a frozen boat motor. When we got to the launch site in the predawn, I turned the ignition key and nothing happened. The boat had sat in the motel parking lot for two days in blowing snow and sub-freezing temperatures, and the motor was locked up. We had no option but to drive back to town and thaw it out.

With his full beard and oily Carhartts, Cliff Brekken didn't look like an angel, but he certainly acted like one. "Back your boat into my shop, and we'll get it unfrozen in no time," he said. After a few minutes' heating by blowers and a welding torch, the motor



The author's hunting partner, Bob Meek, displays one of many fat greenheads taken during their final duck hunt on Devils Lake.



was freed up and purring. Brekken didn't want any payment for helping us, but we forced him to take \$20—the best bargain Bob and I found during our trip.

Then we drove back to our launch site and were motoring into the marsh by 9 a.m. The flight of waterfowl was heavy. When we got to open water, large rafts of mallards and Canada geese flushed. We realized the potholes back in the cattails were frozen, so we quickly set up on the edge of a broad open pond.

The ducks were coming back before we could get our boat covered. They came one flight after another, mostly mallards. It was obvious that the storm had prompted a big push of birds from Canada. Indeed, a second bomb had gone off at Devils Lake this week—an explosion of new ducks.

We shot our limits and a bonus of two Canada geese in short order, and then we sat and watched the spectacle before us. We didn't say much. There was no need for conversation. We reveled in the moment and the great pleasure of simply being there. We'd driven a long way. We'd faced adversity. We'd tested our skills. We'd enjoyed the wildness of this place, and we'd shared in its bounty. Now it was time to go home.

Waterfowl hunters pursue matters of the heart instead of the mind. They seek answers to unspoken questions about themselves and the birds they pursue. Bob Meek and I didn't find all the answers, but we found some of them at Devils Lake. And as we turned back south on Interstate 29, we rode with the quiet contentment that comes from knowing ourselves and each other just a little better.

"You like gospel music?" Bob asked. I nodded, and he put in a CD to help pass the long miles ahead. ☞

**If You Want to Go** For information about lodging, restaurants, and other amenities in the Devils Lake area, contact the local tourism bureau by phone at 701-662-4903 or visit its website at [devilslakeend.com](http://devilslakeend.com). Waterfowl hunting regulations are posted online at the North Dakota Department of Game and Fish website at [gf.nd.gov](http://gf.nd.gov). This site also includes maps of private land enrolled in North Dakota's PLOTS (Private Lands Open To Sportsmen) program, which offers good public waterfowl hunting in the Devils Lake area.

You'd have to be pretty committed to be out here in this.

It's why we never stop working to make our products better.



### Introducing Kent SilverSteel®

Fasteel® is one of the most respected shotshells on the market today. At Kent, we never stop looking for ways to make our products perform better. Which is why we are bringing you Kent SilverSteel® Precision Plated shotshells. The same consistent delivery and speed of legendary Fasteel®, now with better penetration and knock-down power. Think of it as the silver lining in that wonderfully cold, blustery, overcast day.



**KENT**  
CARTRIDGE

Proven Quality • Proven Performance • Proven Value

[www.kentgamebore.com](http://www.kentgamebore.com)

USA (888) 311-5368 • CDA (800) 844-1880

[Home \(/home\)](#) [Get Involved \(/get-involved\)](#) [Hunting \(/hunting\)](#) [Conservation \(/conservation\)](#)[Hunting \(/hunting\)](#)[Media \(/media\)](#)[Events \(/events\)](#)

# Insider Guide to Public-Land Duck Hunting

Veteran public-land waterfowlers share their secrets for finding great hunting



Photo © Laurie Dirx

8 MIN READ

*By Wade Bourne*

"I don't have a good place to hunt" is an all-too-common lament among North America's waterfowlers. Many duck and goose hunters don't have access to private lands, leases, or clubs, so they are relegated to public areas and the vagaries that come with them. Hunting pressure can be heavy. The number of birds using an area can change quickly. And the shooting can be anything but consistent.

But hold on! The other side of this coin is that many public areas offer great duck and goose hunting. Some are managed intensively and attract large numbers of waterfowl. On these areas, hunting pressure may be heavy, but hunters who learn to work around it can still enjoy reliable action. Other public hunting areas draw fewer birds, but they may also attract fewer hunters. As a result, the birds per-hunter ratio may be just as high as it is on the more popular public areas, but the competition may be less intense.

SB 2315  
3.21.19

Attachment 4

Virtually all states have public areas where any waterfowler with a license and minimal gear can enjoy good sport. Granted, hunters have to learn when and how to hunt these places. But if they're willing to work and have the expertise to handle the competition, they can find good waterfowl hunting on them.

Michael McGowen, Marc Murrell, and Mike Checkett have considerable experience hunting waterfowl on public areas. McGowen, an insurance agent from Albemarle, North Carolina, hunts both upland reservoirs and coastal marshes. Murrell, who manages a nature center in Wichita, Kansas, focuses on wildlife management areas, public reservoirs, and rivers. Checkett, a communications biologist on Ducks Unlimited's national staff in Memphis, Tennessee, was formerly the waterfowl project leader for the Arkansas Game and Fish Commission, and he still hunts often on this state's public waterfowling areas.

By borrowing from the knowledge and experience of these three waterfowlers, you may be able to find excellent public hunting for ducks and geese. As these hunters will tell you, "public" can still mean "productive."

## Locating Public Hunting Areas

Most states have management areas or refuges (state or federal) where waterfowl are concentrated and public hunting is allowed. These places are usually subject to special regulations (drawings, hunting spots, day or time restrictions, etc.) to control hunting pressure. More widely accessible

SB 215  
3.21.19  
Article 4

public areas—natural lakes, reservoirs, and rivers, for example—may not be managed for ducks and geese, but the birds will frequent such habitat when conditions are right. Such places are typically open to public waterfowling in accordance with general statewide hunting regulations.

McGowen, Murrell, and Checkett offer the following advice on how to find good public waterfowling spots:

- **Become Internet savvy.** All state game and fish agencies provide information on their websites about public hunting opportunities, including locations, site maps, special regulations, and harvest figures. Also, browse waterfowl websites (including [www.ducks.org](http://www.ducks.org)) and hunting forums about public areas.

- Search for hunting possibilities on all public property. Major navigable rivers, Corps of Engineers and TVA reservoirs, BLM lands, U.S. Forest Service properties, national wildlife refuges, military reservations, municipal lakes, and other public lands are worth checking out for overlooked hunting possibilities. Pay special attention to finding access points where boats may be launched or where you can enter on foot.

- Call state wetland managers or wildlife biologists and ask where you can find good public hunting. Biologists monitor waterfowl numbers and activity on public areas, and they generally like hunters to take advantage of their management efforts.

• Use aerial photography and satellite imagery to look for small hidden wetlands on public areas that may be better known for upland game hunting. Waterfowl are sometimes drawn to such wetlands after a heavy rain because higher water levels can provide access to an abundance of new food.

SB 2315

3.21.19

Attachment 4

• Scout for hidden wetlands from the air. Hiring an airplane and pilot can be costly, but an hour's worth of scouting from a duck's perspective may uncover opportunities that other hunters don't know are there. If you fly, take maps and a GPS to mark spots and make notes on how to reach them.

• Scout as often as possible, both before and during hunting season. When searching for public hunting opportunities, the amount of scouting done is usually directly proportional to the number of leads uncovered. When it comes to finding public hunting spots, the best detectives uncover the best places.

"Good public hunting spots don't just fall into your lap," Checkett explains.

"You have to work to find them. But they're out there waiting to be discovered by hunters who put in the time and effort to do so. The bottom line is that you don't have to have your own lease or club to enjoy good waterfowl hunting. You just have to be good at utilizing the public opportunities that are out there."

## Tactics for Hunting on Public Areas

Once you have done your reconnaissance and located some good public areas, how do you make the most of the waterfowl hunting potential they offer?

In many cases, hunting success on public areas boils down to one factor: handling pressure. Hunters who avoid pressure or work around it enjoy good shooting. Those who are less skilled at dealing with hunting pressure will generally be less successful.

Here are some tips from McGowen, Murrell, and Checkett on how to take full advantage of the opportunities available on public hunting areas:

- Go hunting the first day after a rest period. For instance, if a management area is closed Monday and Tuesday to rest the birds and then reopens Wednesday, be there that morning. Hunting days following any closure typically offer the best shooting.
- If possible, avoid popular areas on weekends and holidays. Although weather and migrations still play a role, hunting is usually better during weekdays when fewer hunters are out.

- Be mobile. Be ready and willing to move with the birds. Hunters may have to hike, wade, or boat into hard-to-reach areas where waterfowl are working. A small boat with a mud motor can be ideal for reaching remote, shallow areas where standard boats can't run. With safety always in mind, a deep-draft boat with an outboard may be a better choice for large rivers and lakes where long runs in rough water are the rule. A boat-blind is often helpful for hiding when hunters reach remote spots where birds are working.

- Be sure to carry additional means of hiding the boat or building a blind in natural cover. You

may need pruners or an ax for cutting natural brush (if allowed), grass mats, camouflage netting, burlap, etc.

- Consider using a layout boat or a ground blind in a waterproof liner for hunting large open areas where standing cover is sparse.
- Study flight patterns to determine the best times to hunt. Sometimes the midday period is best, as birds return to rest areas after feeding early in the morning. This can be especially true when the moon is full.
- Go hunting on a public waterfowl area on opening day of deer season. Many hunters will be in the woods instead of on the water, so waterfowl hunters will have less competition.
- Purchase and learn to use a GPS. Doing so will allow you to navigate to and from remote sites where birds are working, even in the dark. Plan hunts according to weather changes, both current and anticipated. After a heavy rain, go to newly inundated shallows where fresh food is available. During a cold snap, shift to big water that's still open. Try to hunt whenever an approaching cold front might push new birds down the flyway.
- Use as many decoys as feasible. Ducks and geese find reassurance in a spread that resembles a refuge setting.
- On open water, use magnum duck decoys and add some goose decoys to your rig to increase its long-range visibility.
- Experiment with calling styles to determine which the birds like best on that given day. In a competitive calling situation, the loudest, most aggressive caller may fare best on some days, but on others, a subtle or even silent approach can be especially effective.
- Have one or more spinning-wing decoys available. On public areas, if other hunters are using spinners, hunters who don't have them may be left out of the action. If you have a couple on hand, you have the option of using them as you see fit.

- Be patient. Later is often better as waterfowl frequently trickle back into public hunting areas after most hunters have left.

- Persevere! Of all tips for hunting public land, this one is probably the most crucial. Hunters who aren't willing to work for their birds will likely be disappointed with the results. But those with a stick-with-it attitude who are mobile and flexible in their hunting tactics and who have realistic expectations about hunting on public areas will fare well—perhaps not every day, but often enough to provide plenty of enjoyment to keep them coming back.

"Hunting on public areas is a 'learn as you go' experience," Murrell says. "You have to keep scouting and moving to stay in the birds. And you have to make adjustments, keeping what works and throwing out what doesn't. You also have to realize that places change from year to year because of droughts, floods, or different food conditions. The main thing is not to get discouraged if you have a slow day. All waterfowl hunters know that tomorrow might be better. We live by that hope. Tomorrow might be that golden day, so don't give up too soon."

## Point-Hunting on Mainstream Reservoirs

Michael McGowen frequently hunts on reservoirs along a major river that runs north-to-south through North Carolina. He says when the duck migration is on, birds fly the main channels of these impoundments. McGowen intercepts them by setting up on points at the mouths of bays that extend back from the channels.

"I hunt from a boat-blind," he says. "I like to pull my boat into a deadfall on a chosen point. Then I'll cut extra limbs or brush to blend my boat-blind into the natural cover. I'll usually set out around three dozen oversize mallard decoys. Sometimes I'll also use a spinning-wing decoy, and if the water is calm, I'll add a couple of duck butt wobblers to make some ripples. Altogether, this setup can be very effective when ducks are moving down the lake.

Undoubtedly, this simple strategy will work in other states where similar conditions exist.



House Agriculture and Energy & Natural Resources Committees:

Hello! My name is Matt Leavitt from Mohall ND. I am a 4th generation farmer and very avid sportsman. I grew up hunting as a boy traveling with my father to hunt pheasants in the NW corner of the state. My dad would always make me ask permission to farmers when land would be posted. This over time was a life lesson that has helped me over the years be a very good communicator. I very rarely was ever told no so I think my dad was just using me. I always respected the land and would offer my services to help out in any way the person would need. The doors were always very open to hunting with that kind of attitude. I have since grown up and have boys of my own. We post all of our land and enjoy the opportunities that ND gives us any chance we get. I allow my family and friends to hunt our land and it has developed great relationships. The one thing we are missing is the bond between the landowner and the sportsman. As a kid I would have given anything to have a way of contacting and knowing who's land we were on and getting in contact with them for an opportunity to thank them and let them know they have a gate open and we had closed it etc. I am in 100% support of this bill and teaching my kids the respect we give to the landowners. I occasionally drop off a case of beer or a gift card. The ability to hunt on all the land in ND is a huge gift to us that a lot of people take for granted. Taking a little more time to thank a farmer and a land owner would open doors in every direction in my opinion.

My view as a landowner is that we need a better system on our tillable land to ensure the land is posted. We remove the signs every year, so they are not hit by farm equipment. Every fall we need to replace those posts and put up new signs. In the middle of harvest, it is not my main priority as we harvest a field to get those signs put up. This bill will make a very easy, efficient way to mark the land that is closed and the land that is open to hunting. On my pasture land we have permanent fence posts which makes posting very easy with a permanent sign. I tried at one point to put them on the power line poles in my tillable fields and one of the electric coop employees took a saw and cut all my signs in half. I have had signs ripped down and blown off posts. All of these examples are a reason that we need this bill to pass and move toward better relationships and not a division between landowners and the sportsman.

Matt Leavitt



# Slash Ranch

Clayton & Donell Pederson  
10197 65<sup>th</sup> Avenue  
Morristown, SD 57645

slashhranch@gmail.com  
701-522-3609

Mr. Chairman and Members of the Committee:

My name is Clayton Pederson (Retired Sr. National Rifle Association Field Rep), Vice President of RAX Adventure Team, Hunter/shooter/sportsman, Rancher, and landowner.

My wife and I live and ranch in Sioux County ND, north of Morristown SD, on our family ranch, where we own and operate a cow/calf operation that has been operating for over 70 years. I also spent 17 yrs, first as a volunteer and then as the Sr. Field Rep for the National Rifle Association retiring in at the end of 2016. Currently along with operation of the ranch, I am also the Vice President of RAX Adventure Team, where we hunt, fish, defend the 2<sup>nd</sup> Amendment, promote hunting and shooting (especially to the next generation), and support firearms safety.

I am here today to speak on behalf and SUPPORT of Senate Bill 2315, which I have nicknamed the "Private Property Rights Restoration Bill", because that is what this would do for private property owners, restore their rights. I share a strong belief, just as our founding fathers did, that private property is one of the cornerstones to our Constitutional Republic. They reaffirmed this in our 5<sup>th</sup> Amendment which states, "No Person shall be... deprived of life, liberty, or PROPERTY, without due process of law; nor shall PRIVATE PROPERTY be taken for public use without just compensation". These words contained within the 5<sup>th</sup> Amendment go to show us that the founders had a strong belief in private property ownership and felt so strongly about it that they made specific reference to the protection of private property, and to those who owned it, from infringement by our government. This is why Senate Bill 2315 is so important today and a "Do Pass" recommendation is just as important.

As a landowner, who has worked hard to achieve success, own property, and provide for our family, I can't understand how true Constitutionalists could believe that the state of ND (with support of ND Game & Fish agency) can grant access and/or hunting privileges on private property just because I might fail to have a sign up saying they can't. This is saying that if I don't put up a sign, my private property becomes public access, and that just isn't true, and is a direct contradiction of the 5<sup>th</sup> Amendment, as PRIVATE PROPERTY is now being "taken" for public use. In comparison then, I should be able to come to Bismarck, Fargo, Grand Forks, or pick your town, pick out a home, enter the front or back yard and eat lunch if it is not posted. It is truly a double standard. Just as ND residents enjoy privacy and trespass protections within city/municipal limits, why then shouldn't those same protections be recognized for those of us who own land in the rural community? It seems there is a double standard, and one which was created by the "state", but one that may be corrected easily as well, with passage of 2315 and once again restoring EVERY ND RESIDENTS private property rights.

I also would like to address simple issues such as liability problems with the trespassing of people upon our private property. In a statement from Steve Becher, CIC, CPIA Executive Director of the Professional Insurance Agents of North Dakota – he answered the questions of liability in reference to the ND Century Code that references this issue. His expert opinion is:

"The law shows landowner immunity for trespasser injury, but there is a difference between no duty of care and not being able to be sued as people can sue for anything and the landowner would need to prove that they had no duty of care. There are also exceptions to the immunity as you will see such as the landowner cannot willfully harm the trespasser, if they know they are there they must exercise reasonable care, and exceptions for kid's trespassing. I know of a case a few years ago where a landowner saw snowmobile tracks crossing his land so he put

up a fence across the tracks in the snow and when a snowmobiler hit the fence and was hurt the landowner was sued and lost. The courts determined that the landowner knew of the trespasser's presence and put up a fence where the snowmobilers wouldn't see it until the last moment which did not meet "ordinary" care statute. What this shows is that even if private land is posted with NO TRESPASSING signs, if we as a landowner see this happening, try to stop it, either intentional or not, if that trespasser is injured due to our actions to stop the trespass (legal or illegal), disrespect, and complete disregard for our private property, we can still be held liable in the protection of our property. This is another reason that 2315 is so important; it will give landowners a fighting chance when we choose to protect our assets of our private property because with this bill in place as law, the responsibility would now shift back to the person violating property rights and the law.

Although SB 2315 has been amended to address hunting issues as it crossed over to the House, I feel the importance to stress this was never a "hunting bill" as it was mislabeled by those in opposition who wanted to incite fear amongst their membership when first introduced. This was always about respect for landowners and private property rights. The fact is, it is so important, that it is one the key things mentioned from the ND Hunters Ed Online study guide and actually NUMBER 1 under their Unit 7, Topic 2, Respect Landowners section and again re-enforced at the end in the 7<sup>th</sup> statement, all that appear under the Topic 2 of HUNTER ETHICS. These 7 important "rules" are stated as:

## HUNTER ETHICS

### RESPECT LANDOWNERS

1. Ask Landowners To Hunt
2. Follow their restrictions on when and where you may hunt
3. Treat Livestock and crops as your own
4. Offer to share a part of your harvest with the owner.
5. Leave all gates the way you found them.
6. If you notice something wrong or out of place, notify the landowner immediately.
7. Never enter private land that is cultivated or posted, unless you have obtained permission first.

I am pleased to see this appear on the North Dakota Hunters Ed online course page that is offered by the North Dakota Game & Fish and obviously they feel it is important, as do I, to teach the next generation about respect, ethics, and good character when hunting, but what kind of confusing message do we teach our new hunters when we tell them to ask permission from landowners to hunt, then tell them don't worry about it if the land isn't posted???? Sends a conflicting message, and truly really isn't respectful of a landowner. I always made sure, even if I already knew the answer would be "YES", to ask my neighbor or friend, or anyone who was the owner of private land if it was alright to hunt growing up in SD, and I carried that same respect with me to ND and now onto my sons as they have passed their Hunters Ed and will begin to share hunting with me this fall.

While on this subject and in speaking with many people about this issue, the one myth that always comes up is "hunters will decrease in numbers." I say myth because in the surrounding states where this is already law (SD as I mentioned before) posted land is not the issue. There are factors that have contributed to decreased hunters in every state and nationwide, declining populations in a state, decreased populations of wildlife, social issues, and I could go on, but what I found probably the most detrimental issue, created by the very agencies and legislatures themselves (and on the road to correction in many states) is the fact that so many didn't let young hunters begin hunting until the age of 12. The issue with this is all the other sports, especially school supported sports, kids are starting out in the 1<sup>st</sup> grade, and some younger. By the time they become 12 so many don't even have an interest and are committed to those activities. Now, and with my support, I applaud states that have initiated the mentor programs which allow young hunters the opportunity to now be an active participant, with an adult, in hunting seasons, and my hope is this will help encourage our tradition. In stating all of this, the point is that in passage of bill 2315, the opportunity of hunting for the next generation will not discourage it, but in my opinion make all of them better hunters, gain respect for land and landowners, and forge lifelong friendships as it has done for me while I grew up in SD.

It is actually surprising now, after all the testimony given while being heard in the Senate from the opposition and then the amended bill that was eventually passed addressing the "hunting" issue, that some of those same groups still oppose it, which only has one conclusion, they want no change to current law and do not believe in the rights of private property owners at any level when it concerns the trespass of people who do not own land. It is actually insulting to landowners and as a result has already created a bigger divide between landowners and non-landowners, due entirely to the testimony that was given throughout this whole process. It has even had the result of many property owners pledging to shut down ALL types of access to their land until their rights are restored entirely.

One more topic that was brought up was the idea that people essentially will not be "smart enough" to access the proposed website/database that would be created to let everyone in ND know what lands are accessible in different capacities, coordinated by a color chart that will make it clear. The arguments are invalid that the general public can't, won't, or use the website that will be contained and created with the ND Game & Fish website. The reason for this, is that ND Game & Fish made ALL applications and license's primarily available online at their website. The result was not a loss of applicants, but an increase of those applications for hunting and fishing in ND. If every person who was interested in hunting and fishing in ND was able to navigate the site to get the proper licensing, they surely will be able to also navigate the site to also check on available private property for access. I have the upmost confidence people can do this as it has already been proven. As for the timeframe, also do-able, as just recently it was announced that people applying and purchasing licenses on the ND Game & Fish website can now also sign up as a donor. I believe this will also result in success, and have no doubts that any additions for a variety of services will result in success, including land access, when launched on the site.

In closing I want to urge the cmte to once again give a DO PASS recommendation for Senate Bill 2315. This bill restores the property rights of landowners everywhere in North Dakota. This bill will give all Private Property owners a better avenue to prosecute those that trespass even after land is posted. There is no question; private land would be posted unless permission is given by the private property owner, no confusion and straight forward.

Again thank you for your time today and I urge you to consider everything I have presented and vote to give Senate Bill 2315 a "DO PASS" recommendation.

Thank you.



Clayton M. Pederson

/H Ranch – Owner/Operator  
Hunter/Outdoorsman  
Retired National Rifle Association Field Rep – ND/SD  
VP RAX Adventure Team

March 21, 2019  
House Ag Committee

Ladies and Gentleman of the committee, thank you for hearing testimony on Senate Bill 2315. My Name is Levi Rue, I farm, ranch, and own land near Sheyenne, ND. Senate Bill 2315 passage is critical for many reasons. It is critical because people who have paid for land with their blood, sweat, and tears have a reasonable right to privacy and safety on the land.

It seems completely backwards that that we are required to post land No Trespassing. Since when is "Yes" assumed just because we haven't made a sign saying "No". What part of Private Property have we failed to understand in North Dakota.

Back when I was a high school senior I had a class called Problems Of Democracy. For that class we came down to Bismarck during the session, toured the capitol and got to meet some legislators and see how the process of how a bill becomes law in North Dakota plays out.

I was fortunate enough to get to meet up with a legislator from my home district 23 Representative Don Vigessaa. I sat on the house floor during the afternoon session, we visited, he explained some things and asked me if there was any changes I would like to see in North Dakota. I thought for a minute what in the world is a state representative asking me this for I'm just a kid, but I knew what change I wanted and I knew it was the right change. I told Mr. Vigessaa that I wanted to see the posting requirement lifted on private land owners.

Even back in 2007 if my memory is correct I was informed that "That will never happen" he went on to explain that the hunters will never go for it.

At 17 or 18 years old I couldn't figure out what hunting had to do with it. It wasn't a hunting issue at all and it is a private property issue.

When you own a car you have a title saying its yours. When you own land you have a deed and a abstract stating it is yours. You may not have mineral rights and that may be stated in the papers that prove you ownership, but I have never seen in the deed, abstract, or title opinion that we don't have Private Property rights.

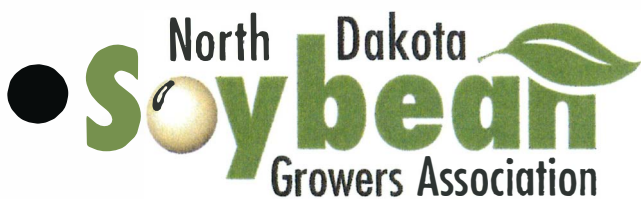
We have argued that there is not fair and equal treatment under the law for rural land owners vs our urban friends. Some new information seems to back that claim that I'm sure you will hear about in depth today.

Each and every one of us could go on and on with personal stories of how we are burdened as land owners by the posting requirement in North Dakota. We could go on about the times we have caught trespassers.

The opposition will say it causes too much headache for those wishing access and how will they find landowners. I have heard from many legislators that the opposition knows how to e-mail, and sends them quite often. They must know how to use technology. I have seen their letters to the editor, so they must know how to read and write. Many of them are here today so they must have a few spare minutes.

I appreciate your time. Thank you and I will stand for any questions.

Levi Rue  
Sheyenne, ND



North Dakota Soybean Growers Association  
4852 Rocking Horse Circle South, Fargo, ND 58104  
(701) 566-9300 | www.ndsoygrowers.com

## SB 2315 Testimony

Good afternoon Chairman Johnson and Chairman Porter and joint committee members.  
I am Scott Rising, representing the North Dakota Soybean Growers Association.

We are asking you to please give SB2315 a "Do Pass" recommendation.

We believe this bill has potential to be win-win for landowners and our hunting community.

To those that think the electronic coloring process won't work, please consider these basic comments from my Grower Board members:

- They will use the Red shaded areas for places we do not want people to hunt. Many of us have children and grandchildren we want to hunt with in a safe place for them, and others.
- We will try using the Yellow shaded areas and sharing our contact information and see how it goes. A good share of the prime hunting season occurs when we are harvesting, and we will likely choose not to answer our phones when busy. But, call at a reasonable time in the morning and we will try to connect.
- We like the Green shaded option. You will not need to call, and we do not need to answer, we are likely busy. We will ask that you treat our property as it is yours; close gates, pickup after yourself and others; etc. Share the ground with others if others are hunting as well or move to another area. If we have to separate hunters a color change may be in the offering.
- Lastly, one of the most important things you can do for us is this; if you see something that you do not think looks right or is of concern, please tell someone. Ask the those at the nearest house to contact us and let us know about your concern. We will appreciate your help.

If you see us nearby, say hi. Most of us would enjoy meeting you too. But if we are harvesting or driving trucks and moving equipment a simple wave will work too.

We think that as we all move down the road to our future its better to look ahead, through the windshield, and not back through the rearview mirror.

Please give SB2315 a DO PASS recommendation.

Scott Rising,  
NDSGA Legislative Director  
C 710.527.1073  
scott.rising@ndsga.com

**TESTIMONY OF DAVID DEWALD**  
**SENATE BILL 2315**  
**HOUSE AGRICULTURE COMMITTEE**  
**HOUSE ENERGY AND NATURAL RESOURCE COMMITTEE**  
**March 21, 2019**

Chairman Johnson and Chairman Porter, members of the House Ag Committee and House Natural Resources and Energy Committee:

For the record, my name is David Dewald. I am here today representing myself, however, I am the current president of the North Dakota Wildlife Federation and the Lewis and Clark Wildlife Club serving the Bismarck/Mandan area. I personally thank you for all of your hard work on SB2315.

You have already heard from many sporting/hunting groups. While most or maybe all of them oppose this bill, they do not necessarily oppose the concept this bill is trying to achieve. It is hard for sportsmen and women to become proponents of a bill that dramatically changes how they think about and how they access private land. National hunting statistics show that the general hunting population is aging and leaving the sport faster than new hunters are being recruited. Statistics also show that at around 65, hunters hit the wall and we very quickly drop out of the sport. SB2315 is a dramatic change in hunter access. These type of changes, make hitting that wall hurt even more.

I support online posting, I support signage for posting, and yes I support private landowner rights. I grew up on a farm in North Dakota within the Prairie Coteau, surrounded by prairie pothole wetlands. I was very glad that my father took full advantage of his private landowner rights to protect those prairie pothole wetlands with a perpetual wetland and grassland easement. A private land owner's right.

In my opinion, SB2315 needs three specific amendments:

Frist: Contact information - All online-posting categories need to have contact information. At a minimum, the name of the landowner authorized to permit access. Current posting laws require a legible name on the posted sign. This same requirement needs to carry through to online posting for all categories.



Second: The Hunters Access Advisory Group - Section 6, on page 5, needs clarification and strengthening. As written, this advisory group has two duties:

1. Oversee the development of a hunters access database and
2. Establishing guidelines for the development and acceptance criteria for the database.

The advisory group is given no authority for developing guidelines for the use and implementation of the database. Unless this section is strengthened to provide the advisory group authority to implement, by statute, the only real work this advisory group has is to oversee and development of the database. Any policy for implementation or use of the database will be questioned by members of this group, since clear authority to develop and implement has not been granted within SB2315.

Third: Under section 5 of SB2315, Guides and outfitters can guide on non-posted land without permission from the landowner or operator. I realize this is current law. But now is the time to fix current law. Guides and outfitters should not be able to make a profit from private land without permission from that landowner or tenant.

I use and fully understand how valuable technology can be in hunting today. In real time, a hunter can drive around looking for hunting areas on public land or private land open to sportsman. I believe that with some significant changes to SB2315, that technology can be further developed and expanded to this type of database. In my opinion, these three changes are needed to make SB2315 more palatable to me and I believe many North Dakota hunters. However, without these changes, I oppose SB2315 as it will lead to loss of access and opportunity for recreationists and a decrease in hunter numbers.

Thank you and I will stand for questions.

Mr. Chairman, members of the committees,

My name is David Voecks, from Fargo. I'm here to speak in opposition to SB2315.

Hunting is a way of life for many in North Dakota, and it draws many hunters from out of state. The current rules are one of the best things about hunting here. I spend a lot of time in the field and I consistently see out of state hunters on un-posted private land. These hunters stay at the hotels, and buy meals in the cafes. They are undoubtedly a boon to many small communities. Changing the current rules risks alienating them.

In many cases land isn't posted because the owners are completely indifferent as to whether people hunt there or not. That's why the current system works. The landowners with the motivation are the ones required to act. If you're truly apathetic, you don't have to do anything. Attempting to get apathetic people to act will result in hunters losing access to many thousands of acres, which would be a travesty, considering many landowners are completely okay with people hunting their land.

I believe that I have a perspective on this matter that most people don't. In addition to being an avid hunter, I have been an application developer for 17 years, 14 of which have been in the public sector. During which time, I've developed several map-driven applications of the type prescribed by the bill.

I believe that "the database" is essentially throwing software at a people problem. I've seen my share of well-intentioned, well-written applications fall into disuse. One of the main causes of an application failing is requiring one group of people to do work strictly for the benefit of another group. The database application should not be seen as the savior of this bill. It absolutely suffers from this fatal weakness.

Even if the implementation goes perfectly, I don't believe that the database will remain a reliable record of landowners' true intent in the long term.

Before developing an application, the first step is to gather requirements. I obviously can't be aware of the particulars of that discussion, but I can make a couple of educated guesses. If you want to give people a web portal where they can update their own preferences, they have to log into an account. In this case, these accounts must be tied to the land they own. Tying accounts to every jagged, non-contiguous piece of property throughout the state is a major undertaking. It will likely be time-consuming, and will be greatly complicated every time land changes hands. Even after a county is included in the database, it's unreasonable to expect that data to remain consistently up-to-date.

Applications don't need to fail catastrophically in order to fail eventually. All it takes is for the information to become stale or unreliable. Some people then resort to other means to

accomplish their goals. As a result, fewer people see benefit in updating the data. It becomes a feedback loop, eventually leading to a collapse.

Falling back to requesting explicit permission has more challenges today than it has in years past.

Near where I hunt, there are several square miles of land that has never been posted. In this case, that's a good thing, because the owners live several miles away. You can't just assume the owner of the nearest house owns the land. Driving into someone's yard is a more reliable way of annoying them than it is obtaining permission.

As for obtaining permission by phone, more people drop their land-line phones every year. Even if you can find an owner's name, getting a phone number is difficult. The phone directory has never been less useful. To top it off, with the sheer number of SPAM calls we all get, many of which pretend to be from local phone numbers, the likelihood of an individual answering a call from a number they don't recognize has never been lower. I know that, personally, I don't want be the source of yet another nuisance phone call.

The numbers of people who hunt have been declining for some time. I hope that we, as a state, continue to embrace it as a way of life, rather than hastening its demise. There are ways of using technology to hopefully accomplish the goals, without throwing the baby out with the bathwater.

If you would like me to elaborate on some ideas on using technology to make the process easier for landowners, while possibly even improving access for hunters, feel free to contact me.

Thank you for your time.

Sincerely,

David Voecks  
732 50th St. S.  
Fargo, ND  
701-361-8310  
dvoecks@gmail.com

**TESTIMONY OF PATSY CROOKE**  
**SENATE BILL 2315**  
**HOUSE AGRICULTURE COMMITTEE**  
**HOUSE ENERGY AND NATURAL RESOURCE COMMITTEE**  
**March 21, 2019**

Chairman Johnson and Chairman Porter, members of the House Ag Committee and House Natural Resources and Energy Committee:

For the record, my name is Patsy Crooke. I am here today representing myself, however, I am the current president of the North Dakota Chapter of the Wildlife Society. I appreciate the opportunity to testify today and thank you all for your hard work on SB2315.

You have already heard from many hunting and wildlife groups who rose in opposition to this bill. While they oppose this bill for the number of unintended consequences (youth mentored hunts, ice fishing access, snowmobiles and horseback riding, etc), they do not necessarily oppose the online posting to ease the burden of landowners to post their land.

Although not described in SB 2315, we believe that as written, most landowners will simply select the "Closed to Hunting – Don't Ask!" as the default option for registering online. I believe instead of the three categories for posting online, being referred to as "Red, Yellow, Green" it should just be open or closed.

To make this bill work effectively, I suggest two main changes:

The first step would allow landowners to post their land on an online database. This would lessen both the time and financial burden of the landowner who wants to post their land. It would also solve the issues of flatland posting, flooding, and landowners who have navigable rivers crossing their land. The second step would be to remove the criminal trespass portion from this bill. It would also keep in place the current criminal trespass law which were developed last session to address the DAPL protests.

Thank you for the opportunity to testify, I will stand for any questions.

My name is Sheldon Cieslak and I am the State Chairman of the United Sportsmen of North Dakota. Mike Liane testified on the organization's behalf last week so today I would like to speak on my own behalf.

The word compromise has been brought up many times on this subject. Sportsmen have had to compromise many times over the years, from the posting distance standards being changed to 880 yards and land entirely enclosed by a fence being able to be posted at the gates.

Hunter landowner relations has been brought up many times. I think no matter how this bill ends up there will always be issues. In the 70s landowners wanted the say in canceling hunting season over perceived fire danger. The 80s there was no hunting until the swamp buster bill was over turned. The 90s was discontent over how the National Grasslands were being managed. The turn of the century brought anger involving membership to various wildlife groups and grain prices.

Private property rights, we can all sympathize with this but there is no such thing as total property rights. My mother and father own land East of Bismarck. Over thirty years ago they lost land without compensation for the Lincoln road. If they want to sell their land to the Game and Fish they must get approval to do so.

The criminal trespass side of the bill needs to be removed. The concerns over DAPL were addressed in the 2017 legislative session and should remain in place. As written in SB 2315, a person is guilty of trespassing just for driving into someone's yard to ask directions or seeking permission to hunt. Snowmobiles, horseback riders, and even the parent taking their kid out during the "youth only" season could now be breaking the law.

This bill has many issues that need to be addressed. I urge a do not pass.

---

Thank you for your time.

Sheldon Cieslak.

Lloyd Jones, landowner/sportsman, Burleigh County

**I OPPOSE 2315.**

**RECOMMENDATION: Change 2315 to a Concurrent Resolution calling for an Interim Study.**

Reasons:

\*why pass legislation that is so confusing that the public and even Legislators are not sure what the legislation actually says or does.

\*why jeopardize a young girl selling Girl Scout cookies or the UPS delivery man with criminal trespass which currently is a potential in this bill according to some attorneys.

\*why put a father and daughter out hunting together on the same level as a guide or outfitter conducting business and profiting in thousands of \$\$\$ by exempting them from getting landowner permission on unposted land.

\*why spend millions of \$\$\$ on creating a data base program when there is **NO** information on how many landowners would actually participate in electronically posting.

\*why risk impacting a billion \$\$\$ industry of hunting and fishing in ND by making land less accessible to hunting for both residents and nonresidents alike. A small decrease in hunting activity will be a loss of millions of \$\$\$ and that impact will be to small towns.

\*why change a process that is well understood by landowners and sportsmen alike that has been in place for several decades including several Legislative reviews, with a process that is confusing and the impacts unclear. **Why rush to change with unknown impacts.**

**Take the time in an Interim Study to:**

1. Survey landowners to determine the level of interest to participate in electronic posting.
2. Clarify the criminal trespass provisions by working with the States Attorneys and other law enforcement entities.

(OVER)

3. Identify a process that is understandable, not confusing or complex such as eliminating the color codes. Red for example, simply eliminates the opportunities for landowners and sportsmen to communicate.
4. Collect accurate and useful information such as the extent of land posting.
5. Identify specific alternatives to address concerns or problems rather than changes that could result in more problems than intended to solve.
6. **Spend some time and a small amount of money to ensure that a lot of time and millions of \$\$\$ is not wasted.**

An **Interim Study** is the only way to take the needed time to sort through these complex issues. The current law has survived the test of time, if changes are needed they should be well researched and accurate information available to **ENSURE THAT ANY CHANGE IS THE RIGHT CHANGE**

Thank you for your consideration of these comments.

---

SB 2315

I am Grady Thorsgard from Northwood, where I farm and raise cattle. I did oppose SB 2315 as it was first brought to the Senate Ag Committee. However, I thought the amended bill that went to the Senate floor was a good compromise. I like the app that would give the landowners contact information if they want hunters to contact them. This should enable and increase the number of hunters that contact landowners in advance of hunting season.

I realize I would not make a good legislator, as I did not study the entire bill enough. The changes made to the Criminal Trespass Law are going to be difficult to live with if the words "or any other place" in line 18 of page 1 means all land. If that is correct, CRP, PLOTS, prairie trails and many other places will be off limits when we are not hunting. Most farmers and ranchers are going to break this law once in awhile, which could result in a Class A misdemeanor charge. I hope we can retain, or where necessary, rewrite parts of the Criminal Trespass Law to include a section that deals with unwanted gatherings, but also keep the large acreages with which we have been blessed, open for all legal activities year round. Let's keep rural North Dakota friendly and welcoming.

Thank you



Grady Thorsgard  
660 28th ST NE  
Northwood, ND 58267

218-779-5556

---



Chairman Johnson, Chairman Porter, members of the House Agriculture Committee and members of the House Energy and Natural Resources Committee:

I am Rick Warhurst and I am Past-President of the North Dakota Chapter of The Wildlife Society BUT I am speaking to you today as a North Dakota resident and as a concerned hunter. I attended last week's hearing and listened to all of the testimonies, the questions asked by all of you and your discussions. There are a couple concerning matters that seemed to be addressed only briefly. First, if this Bill becomes Law, what happens if most ~~are~~<sup>or</sup> all of the electronic maps are mostly red – no access, don't ask. This is a possibility. Representative Westlind noted in his testimony last Thursday that he allows some out-of-state hunters on his land but he would make his land red. Registering your land as red is the easy action by a landowner; then you do not have to be bothered with phone calls from hunters or knocks on the door. I don't think this is the intent of these two committees, though, I do think it is the objective of a few who have testified, that is to have the maps red; no access, don't ask. That situation does not and will not improve relationships between outdoors people, whether hunters, bird-watchers, hikers, trappers or fishing folks and landowners. Really, there should only be two colors; yellow – land is closed to access but ask and permission might be granted or green- land may be accessed for hunting. Similar to what we have currently.

As a hunter I want the landowner to know when I am hunting on his or her land. I appreciate the opportunity that they have given to me and in return I want to show them respect by having them know who I am and what I doing and hunting on their property. If there are areas on their land where they do not want hunting to occur, I want to know that. I am not there to cause the landowner anguish or trouble. I want the relationship to be one of "peace", if I can use that term, for both of us.

If most landowners choose to be red on the map, I'm not sure how that can be fixed nor how it improves hunting opportunity and relationships.

Second, I am concerned about having a map product that can be read accurately and clearly at 0530 in the dark. A 20 yard mistake in one's location could be costly. Many people have trouble reading road maps and now they will have to know precisely where they are on unfamiliar roads in a remote part of a county in the dark. Currently, there are signs that give clues as to where you are but under

the proposed law, signs likely would not be on the landscape to help guide a person.

These are two practical aspects of the proposed law coming from a long-time and avid hunter that I hope you all consider as you determine a plan of action for the state in regards to hunting access for the future.

Thank you for this opportunity to present to you, Chairman Johnson, Chairman Porter and ladies and gentlemen.

GOOD AFTERNOON MR CHAIRMAN, MEMERS OF THE COMMITTEE

MY NAME IS BILL HELPHREY AND I AM TESTIFYING AGAINST THIS BILL BECAUSE I  
~~DON'T UNDERSTAND IT~~ no written testimony, just NOTES TO MYSELF

*Too many unanswered questions*

I HAVE HEARD TESTIMONY FROM SUPPORTERS ABOUT DAPL AND TRESSPASSING  
Problems, lack of conviction, signs taken down etc.

THAT IS NOW ALL HISTORY

LAST SESSION CHAPTER 12 WAS RE-WRITTEN

The existing language in chapter 12 has some teeth in it. 250.00 on the spot. Etc.

WHY IS THIS BILL REMOVING ALL OF THE UPGRADED LANGUAGE?

That is the trespass side of the bill

THE OTHER SIDE, THE POSTING SIDE IS ALL NEW.

IN THE PRESENTATION OF THE BILL THERE WERE REFERENCES TO "THE ADVISORY COMMITTEE HAVING TO WORK IT OUT".

Shouldn't things be worked out before passing something into law?

~~Like, How many categories, two or three.~~

When will the data base be upgraded? Daily changes?

Will the input data need to be received by a specific date?

What is the plan for contacting absentee land owners?

Reference was made to having hard copies printed like the PLOTS GUIDE. What happens when the copy is provided to the printer and more changes come in to the data base? Will the hard copy be outdated before it is even available?

What will the hard copy cost to produce? A county atlas sells for about \$60.00 per county. Are new guides going to be printed every year?

~~Is there a plan for contacting absentee land owners?~~

What is the plan for implementation of everything?

What is the plan for when the computer system goes down?

WHAT IF THE TARGET DATES ARE NOT MET?

THERE ARE JUST TOO MANY UNKNOWNNS TO PASS THIS BILL INTO LAW AS IT IS.

ALL THESE POINTS MENTIONED AND MORE NEED TO BE WORKED OUT INTO A FINAL PACKAGE THAT WILL BE CLEAR AND DEFINED.

IT SEEMS TO ME THAT THIS BILL IS TRYING TO ESTABLISH A GOAL BUT HAS NO CLEAR DEFINITION OF WHAT THAT GOAL WILL BE, OR WORSE, HOW TO GET THERE.

IF THIS ELECTRONIC POSTING IS TO BE PASSED, FINE. JUST MAKE IT A COMPLETE PACKAGE WITH ALL THE DETAILS SPELLED OUT, ALL THE WHAT IFS' COVERED SO THAT THOSE THAT ARE VOTING FOR OR AGAINST IT, AND THE PUBLIC, HAVE A CLEAR UINDERSTANDING OF WHAT IS IN IT.

MAYBE :: 816<sup>TH</sup> ENGR BREG IN THE 34 INF DIV.

JOB SERVICE MOVE

Troy Coons  
Northwest Landowners Association  
House Agriculture Committee  
Testimony for SB 2315  
March 21, 2019



SB 2315  
3.21.19  
Attachment 17

Good afternoon, Chairman Johnson and members of the committee, thank you for taking my testimony into consideration today.

My name is Troy Coons, and I am the Chairman of the Northwest Landowners Association. Northwest Landowners Association represents over 525 farmers, ranchers, and property owners in North Dakota. Northwest Landowners Association is a nonprofit organization, and I am an unpaid lobbyist.

Northwest Landowners Association is in favor of SB 2315 because among other things it gives additional protection to landowners for personal and property liability.

We feel the property owners who pay the taxes and retain the liability on their land should be able to mitigate their risk by having control over whether strangers are allowed to enter their property. For this reason and others presented today, we urge a do pass on SB 2315.

Thank you for taking the time to consider our comments. I am available for any questions.

Sincerely,

Troy Coons, Chairman

Northwest Landowners Association



You Raise. We Represent. [www.ndgga.com](http://www.ndgga.com)

**North Dakota Grain Growers Association  
Testimony On SB 2315  
House Agriculture and House Energy and Natural  
Resources Committees  
March 21, 2019**

Chairman Johnson, Chairman Porter, members of the House Agriculture and House Energy and Natural Resources Committees, for the record my name is Ed Kessel; I am a diversified family farmer from Dickinson, North Dakota. I am also 2<sup>nd</sup> Vice President of the North Dakota Grain Growers Association. I appear here today in both capacities in support of SB 2315.

Chairmen, Committee members, I am a landowner in the state of North Dakota. I am also a hunter and sportsman; in fact, my family avidly enjoys the North Dakota landscape. It seems to me the provisions of SB 2315 will enhance everyone's ability to enjoy the North Dakota outdoors.

Some claim this will hurt hunting in North Dakota; I'm not a believer of that. North Dakota has a great hunting heritage that can only get better under this legislation. Why you ask? It's simply a matter of hunters, including myself and my family, forging relationships with landowners to ensure that our hunting heritage is preserved for all to enjoy. The database portion of the legislation will only make forging those relationships easier to the benefit of everyone concerned.

NDGGA supported the original version of SB 2315; the Association has long standing policy on the issue which has been time and again supported by the membership. That said, in the spirit of compromise enhancing current trespass law and recognizing the concerns of hunters as contained in this legislation is a positive move for both landowners and hunters in the state.

Therefore, as a North Dakota landowner, hunter and 2<sup>nd</sup> Vice President of the North Dakota Grain Growers Association I would ask the House Agriculture and House Energy and Natural Resources Committees give a Do Pass recommendation on SB 2315.

*NDGGA provides a voice for wheat and barley producers on domestic policy issues – such as crop insurance, disaster assistance and the Farm Bill – while serving as a source for agronomic and crop marketing education for its members.*

Ron Selzer

Knox, ND

701-208-0877



Shotgun Blast Damaged many signs

Ron Seltzer  
Knox, ND  
701-208-0877



Damage on Back Side

2



Ron Setzler  
Knox, MD  
701-208-0877



WPA Signs in the Distance, Undamaged.

Seems Ironic

W

**To: North Dakota House Agriculture and Energy and Natural Resources Committees**

**From: Sarah Lovas, Hillsboro, ND; Farmer**

**Subject: Support SB2315 Private Property/No Trespass Bill**

As a landowner and farmer from the east side of the state, I encourage a Do Pass Recommendation for SB2315. There are a million reasons why landowners should be protected from criminal trespass on their private property. With the current law, I worry about safety issues for the trespasser and liability issues for the landowner. We have a river that runs through some of our property and a lot of hunters enjoy hunting it. I worry about too many sportsman hunting that area at the same time and someone getting hurt. I also worry about a trespasser entering my land and injuring themselves on a rock or other obstacle and then suing me. Under current law, I would be liable.

My husband and I are usually too busy harvesting our crops during hunting season to hunt our own land. However, I want hunters on my land to control wildlife populations. If SB2315 passed, I would be protected from criminal trespass on my land, and could still leave my land open to hunting.

I am a member of North Dakota Farm Bureau and am one of the many members who set policy for the organization. NDFB has had a long standing policy that all lands should be considered posted. Last November at our annual meeting, we put new policy on our books which supports the creation of a statewide database to show which land is open and closed for hunting. The idea behind this policy, and the reason I supported it, was to be collaborative with sportsmen and other agriculture groups as we find a solution and compromise for this private property/trespass issue. The proposed app/electronic posting in this bill accomplishes all of these things. SB2315 is the solution.

This bill is a great compromise for everyone. Sportsman are still able to hunt and landowners are protected from criminal trespass. For these reasons, I urge you to give SB2315 a Do Pass Recommendation.

Thank you for your time! Please don't hesitate to contact me with any questions.

Sarah E. H. Lovas

701-866-1704

sarah@lovasfarms.com



**Testimony on Senate Bill 2315  
to  
House Agriculture Committee  
and  
Energy and Natural Resources Committee  
Thursday, March 21, 2019**

**James Odermann, Billings County landowner**

Good afternoon. My name is James Odermann, a landowner in Billings County. I am here today to respectfully encourage and request that you recommend DO PASS to the House of Representatives on Senate Bill 2315.

This proposed piece of legislation is about collaboration and respect. Allow me to offer my opinion.

**Collaboration.** Wild game (whether it be ducks, turkeys, deer, antelope, elk or some other species) is, according to state statute, managed by the North Dakota Game and Fish Department. This management takes place on land that is 90.9% private and 9.1% public. (SOURCE: <https://www.summitpost.org/public-and-private-land-percentages-by-us-states/186111>)

The net result is that the state agency, Game and Fish, needs rural North Dakota landowners to provide food and habitat for the wild game. Additionally, the hunters need to collaborate with the owners of that land base. Basically, we all need each other—and we need to work together.

Imagine for a minute if there was no game management. Or, worse yet, imagine if there was no habitat. Or, consider the prospect of no hunters to harvest the game, control game population and limit spread of zoonotic diseases. (**Zoonotic disease**, also called **zoonosis**, any of a group of diseases that can be transmitted to humans by nonhuman vertebrate animals, such as mammals, birds, reptiles, amphibians, and fish. A large number of domestic and wild animals are sources of zoonotic disease, and there are numerous means of transmission.

SOURCE: <https://www.britannica.com/science/zoonotic-disease>)

We need to work together to provide food, habitat, management and harvesting of our wild game. It makes sense and is good for many elements of our society.

**Respect.** Who owns the land? Who pays the taxes? Who pays the mortgage? The complexities of farm and ranch life are enormous and those who make the commitment to protect the air, water and land (on which we and wild game depend on for sustenance) deserve the common courtesy of “please” and “thank you.”

Senate Bill 2315 engages the North Dakota Game and Fish Department to take the lead in developing a coordinated database of landowners who want game harvesters (hunters).

Let me ask: Who doesn't own an iphone, android or some type of mobile device today? How many of us here in this room today use Google maps when traveling?

The technology is already in use. Private companies have already developed “apps” that define land ownership. Let us use these resources to be respectful of each other’s property.

To the Game and Fish Department’s credit, it is already implementing this technology. If you go to the Game and Fish website, there are many examples of this technology already in use. One simple example is the map detailing where PLOTS land is located. There are 234 maps which show locations of lakes, boating access sites, fish cleaning stations, hunting units, etc. There is a excellent tutorial on how to download map locations to a handheld Garmin unit.

Private companies have already developed “apps” that define land ownership. Let us use these resources to be respectful of each other’s property.

And, finally, I urge hunters to become involved with landowners to perhaps assist with cropping systems that are beneficial to the landowner and game—and ultimately the hunter.

Agronomic practices are changing. Cover crops, rotational systems and land management can be tailored in such a way that everybody wins.

Hunting is a privilege, not a right, and good, honest communication that is respectful of the land—and the person who is responsible for that land—can eliminate the issues of access.

I ask that you recommend DO PASS on Senate Bill 2315. Thank you.

S.B. 2315

Mr. Chairman and members of the Agriculture Committee

I am Glenn Moen from Grand Forks, I oppose this bill.

As you hear testimony on bills and form your opinions, I am sure one of the questions you ask yourself is this bill good public policy, is it good for the public as a whole.

I don't believe this bill is good public policy, how is it good for the public as a whole to have their hunting opportunities severely limited for the sake of the hand full of people proposing to change the way of life for tens of thousands of sportsmen & women. I didn't grow up in a hunting family. It wasn't until after I got married that my brother in law convinced me to go in 1983. I have been hunting now for 35 years. The opening day of hunting season is a day I look forward to all year.

I also believe that as you consider a bill you say to yourself what are the unintended consequences of this bill. Do you remember "if you like your plan you can keep it, if you like your doctors you can keep them" how did that work out? This bill will cause many unintended consequences. Let me try to predict a few.

1-It will make criminals out of hard-working law-abiding residents. Many years ago, my party was hunting in Nelson County. We saw some deer run into an abandoned farmstead, which was posted. We called and got permission to hunt. I walked into to the south side and stood a few yards of the edge of the trees and the rest of the party walked in to the north side. Than I heard a pickup roaring down the road past the farmstead to the next approach and racing across the plowed field. A guy jumped out yelling at me "GET OFF MY LAND" I told him we called and got permission. He said they only own the farm stead and you're on my land. If this law had been in effect then, I would have a criminal record now. Even though I tried to do the right thing. With this bill the land owner would have posted this quarter and say the owner of the farmstead listed the farmstead as open to hunting with permission. Do hunter now have to become register land surveyors to figure out the legal description of every piece of land they hunt on.

2-This bill will cause an out migration of people from our state. I get called from head hunters several times a year to come to the big city for more money. As I have weighed these offers, I have decided to stay in North Dakota for many reasons. One of the main reasons is hunting. If you pass this bill, hunting would come off my list on reasons to stay and I would be more likely to leave for the bigger pay.

3-This bill will create another big bureaucracy. You will have to create another state agency to create a data base and keep it updated. With a president of the agency and a chief of staff. The other side will say it just a one-time data base. With land selling every year it will have to be noted that the owner has changed, and a form sent to the new land owner on what they want to do.

4-This bill will cause confusion. If the land owner doesn't respond the land would be open to hunting. So, if the land is rented out, and the tenant wants to post the land they will still have to put up posted signs.

5-This bill will cause higher taxes. When you create a new agency or expand and exiting one to run this program you must fund it. This bill will result in fewer hunters, thus less fees and taxes collected from hunters. This is how game & fish is funded. So, the state will now have to start funding game & fish with

tax dollars. This is really bothersome to me since you will be taking away one of my most enjoyable activities and then raising my taxes to pay for it. So, I say if you are considering voting yes for this bill you should offer an amendment to it to say that it will be funded by a tax on agricultural land.

6-This bill will also limit some of the pieces of land hunters can access. The area I presently hunt, we hunt what we call waterways. These are narrow pieces of low land that the fields drain to, so in the spring and after a rain water flows through them. They usually have cattails and CRP. In one that we hunt we access it from the north through a neighbor's pasture to get to the north end of it to walk it to the south. We must walk it that way since most falls there are cattle in the pasture, so we can't shoot to the north. So, this neighbor posts his land with good cover, so he will likely say yes to posting his land. Thus, we can't walk across his pasture to get to the north end of the waterway we hunt. We would have to walk down the section line and only be able to hunt the south half of the water way.

7-This bill will cause a declined in economic activity in the small rural towns. For three straight week ends in the deer season I am driving to my hunting area stopping at a C-store in small towns on the way down and back as well as stopping for lunch in small town cafés. It will also have a devastating affect on the many small-town meat shops. I have been having my deer process at Weber's in Reynolds for years. Most of my fellow hunters I talk to have their deer processed in small town.

8-With the decrease in hunters hay and silage deprivation will increase and guess who will be coming to the state asking for help. Why should you help them when they caused it?

I request you give this bill a do not pass.

Thank you for your time. I will attempt to answer any questions you may have.

# MEMO

To: The House Agriculture Committee  
From: Lisa Hochhalter, Intern 8  
Re: Other State Trespass Laws  
Date: March 25, 2019

---

In preparation for the hearing on Senate Bill 2315, Representative Schreiber-Beck asked that a **state-by-state analysis of hunter trespass/land posting laws**. I examined North Dakota's neighbor states, along with other major agricultural states in the Midwest. The states are South Dakota, Minnesota, Montana, Wyoming, Iowa, Kansas, Nebraska, and Wisconsin.

## **I. North Dakota's Law**

Under current North Dakota Law, all land is considered "open" which allows individuals or hunters to enter onto the land without seeking permission from the landowner. If a landowner wishes to exclude an individual from their land, the law states that a landowner must post their land in accordance with N.D.C.C. § 20.1-01-17.

Engrossed Senate Bill 2315 is "relating to a database identifying whether private land is open to hunters; to amend and reenact sections 12.1-22-03, 20.1-01-18, 20.1-01-20, and 20.1-03-42 of the North Dakota Century Code, relating to criminal trespass and hunting on private land; to provide a statement of legislative intent; to provide for a legislative management study; and to provide a penalty."

## **II. Other State Law**

An examination of North Dakota neighbor states and other major agricultural Midwest states' laws were done. The relevant language will be provided, but if a further analysis of the law is required, I would be happy to do so.

### **South Dakota**

Under South Dakota's Codified Laws § 41-9-1, a landowner's consent is required to fish, hunt or trap on private land. The law says "no person may fish, hunt, or trap upon any private land without permission from the owner or lessee of the land."

Mar 26, 2019

SB 2315

Attachment 1

### Minnesota

Under Minnesota law 97B.001, Subd.2. Permission is required to enter agricultural land for outdoor recreation purposes. The law further states that “a person may not enter agricultural land for outdoor recreation purposes, without first obtaining the permission of the owner, occupant, or lessee.” In Subdivision 4 of the same statute, the law states “a person may not enter for outdoor recreation purposes, any land that is posed under this subdivision without first obtaining the permission of the owner, occupant, or lessee.”

### Montana

Under the Annotated 2017 version of the Montana Code, Title 87, Chapter 6, Part 4 Hunting Offenses, a hunter must ask for permission to hunt. Section 1 of the statute states “A resident or nonresident shall obtain permission of the landowner, the lessee, or their agents before taking or attempting to take game animals, migratory game birds, nongame wildlife, predatory animals, upland game birds, or wolves while hunting on private property.”

### Wyoming

Under Wyoming law a person shall not enter private land to hunt, fish, or trap without written permission from the landowner or person in charge of the property. This information was taken from the Wyoming Game and Fish Department.

### Iowa

Under Iowa Statute § 716.7(2)(a)(1), “entering upon or in property without the express permission of the owner...in lawful possession with the intent to commit a public offence...or to hunt, fish, or trap on or in the property...”.

### Kansas

According to the Kansas Wildlife, Parks & Tourism Department, it is illegal to “hunt, shoot, or trap on private land without the owner’s permission.”

### Nebraska

With information gathered from the Nebraska Game and Parks Division, most hunting takes place on private land in Nebraska. However, the law prohibits hunters and trappers from entering onto private land without obtaining permission from the landowner first.

### Wisconsin

Under Wisconsin statute, entry on to agricultural land without permission from the owner or occupant is unlawful.



Mar 26, 2019

SB 2315

Attachment 1

**III. CONCLUSION**

While this only a restatement of other states' laws and not any type of true analysis of case law or a comparison against North Dakota law, I wanted to get this information to you as soon as possible. If you have any other questions regarding any of the information above, or would like a more in-depth look at the laws, please let me know and I would be happy to do that for you. As always, please come to me with any questions or concerns you may have.

# MEMO

To: The House Agriculture Committee  
From: Lisa Hochhalter, Intern 8  
Re: Other State Trespass Laws  
Date: March 25, 2019

---

In preparation for the hearing on Senate Bill 2315, Representative Schreiber-Beck asked that a state-by-state analysis of hunter trespass/land posting laws. I examined North Dakota's neighbor states, along with other major agricultural states in the Midwest. The states are South Dakota, Minnesota, Montana, Wyoming, Iowa, Kansas, Nebraska, and Wisconsin.

## **I. North Dakota's Law**

Under current North Dakota Law, all land is considered "open" which allows individuals or hunters to enter onto the land without seeking permission from the landowner. If a landowner wishes to exclude an individual from their land, the law states that a landowner must post their land in accordance with N.D.C.C. § 20.1-01-17.

Engrossed Senate Bill 2315 is "relating to a database identifying whether private land is open to hunters; to amend and reenact sections 12.1-22-03, 20.1-01-18, 20.1-01-20, and 20.1-03-42 of the North Dakota Century Code, relating to criminal trespass and hunting on private land; to provide a statement of legislative intent; to provide for a legislative management study; and to provide a penalty."

## **II. Other State Law**

An examination of North Dakota neighbor states and other major agricultural Midwest states' laws were done. The relevant language will be provided, but if a further analysis of the law is required, I would be happy to do so.

### **South Dakota**

Under South Dakota's Codified Laws § 41-9-1, a landowner's consent is required to fish, hunt or trap on private land. The law says "no person may fish, hunt, or trap upon any private land without permission from the owner or lessee of the land."

**Minnesota**

Under Minnesota law 97B.001, Subd.2. Permission is required to enter agricultural land for outdoor recreation purposes. The law further states that “a person may not enter agricultural land for outdoor recreation purposes, without first obtaining the permission of the owner, occupant, or lessee.” In Subdivision 4 of the same statute, the law states “a person may not enter for outdoor recreation purposes, any land that is posed under this subdivision without first obtaining the permission of the owner, occupant, or lessee.”

**Montana**

Under the Annotated 2017 version of the Montana Code, Title 87, Chapter 6, Part 4 Hunting Offenses, a hunter must ask for permission to hunt. Section 1 of the statute states “A resident or nonresident shall obtain permission of the landowner, the lessee, or their agents before taking or attempting to take game animals, migratory game birds, nongame wildlife, predatory animals, upland game birds, or wolves while hunting on private property.”

**Wyoming**

Under Wyoming law a person shall not enter private land to hunt, fish, or trap without written permission from the landowner or person in charge of the property. This information was taken from the Wyoming Game and Fish Department.

**Iowa**

Under Iowa Statute § 716.7(2)(a)(1), “entering upon or in property without the express permission of the owner...in lawful possession with the intent to commit a public offence...or to hunt, fish, or trap on or in the property...”.

**Kansas**

According to the Kansas Wildlife, Parks & Tourism Department, it is illegal to “hunt, shoot, or trap on private land without the owner’s permission.”

**Nebraska**

With information gathered from the Nebraska Game and Parks Division, most hunting takes place on private land in Nebraska. However, the law prohibits hunters and trappers from entering onto private land without obtaining permission from the landowner first.

**Wisconsin**

Under Wisconsin statute, entry on to agricultural land without permission from the owner or occupant is unlawful.

Mar 26, 2019

SB 2315

Attachment 1

### III. CONCLUSION

While this only a restatement of other states' laws and not any type of true analysis of case law or a comparison against North Dakota law, I wanted to get this information to you as soon as possible. If you have any other questions regarding any of the information above, or would like a more in-depth look at the laws, please let me know and I would be happy to do that for you. As always, please come to me with any questions or concerns you may have.

# MEMO

To: The House Agriculture Committee  
From: Lisa Hochhalter, Intern 8  
Re: SB 2315 Additional Information  
Date: March 25, 2019

---

In preparation for subcommittee and committee work on SB 2315, additional information was requested regarding hunting apps, the trespass legislation from last session, and any city ordinances that address trespass. The trespass legislation, statute, and city ordinances will be included as attachments, and the hunting app information will be included below.

I found **seven hunting apps** that have good reviews and are either free or able for purchase. The descriptions of each app come from an article called “The 6 Best Hunting Apps” from Outdoor Life.

## **I. Terrastride Inc./Huntstand – huntstand.com**

“HuntStand’s robust and useful feature set alone could have put it in a serious battle with on Xmap’s Hunt for the title of Editor’s Choice, but the fact that it includes free parcel boundaries gave it the decisive edge.

Let’s start with the mapping. HuntStand’s system allows you to choose an array of map views, ranging from satellite aerial imagery to topographic to standard views with road names. The maps function as expected, and image quality is excellent (so long as you have an adequate cellular signal). The parcel boundaries can be turned on or off, and they provide property lines. You will encounter some areas that do not offer parcel details (of the 14 Michigan counties tested, two did not), and the boundary lines are all you get. No landowner information is provided on the app, though the desktop version does include those details, and you can’t tell which property is public versus privately owned, which is a disappointment. Still, it’s the only app that offers parcel boundaries at no charge.

Unfortunately, a recent update to the app limits the number of parcels you can tap for details to 10 per month, and it appears the app may soon charge for additional parcel details.

Still, in-field applications are many. You can record sightings of game and create map boundaries. The weather feature is handy, if a bit clumsy. The overall user interface is intuitive and easy to master. It has a useful measuring tool for determining distance between points, and you can calculate acreage.

The desktop version has even more features, and you can sync data from the field to the desktop.”

## II. onXmaps

“The HUNT app from onXmaps has been the standard by which other apps are measured when it comes to in-field navigation and data management.

Prior to the creation of HunStand, onXmaps was the only app available that allowed you to quickly view property boundaries in real time while afield. The app itself is free, but the property boundaries and parcel information layers require a subscription, with packages starting at \$15 a month. The information is excellent, providing landowner information and acreage details, and it clearly differentiates between public and private lands.

The app does gobble a fair bit of data. HunStand’s maps and layers opened more quickly than other apps tested – particularly in areas with marginal cell service. To save on data charges and for operating in areas where cell service is unreliable, you can download the maps to the app via wifi and open them at any time, regardless of cell coverage.”

## III. Scoutlook

“Scoutlook made its mark among hunting apps with the release of its weather –focused app and its ScentCone system. This feature indicates not only from which direction the wind is blowing, but it illustrates how the wind may blow your scent in the area.

ScoutLook Hunting’s mapping system is similar to most navigational apps, offering satellite imagery and using the phone’s GPS signal to mark your location. What stands out in ScoutLook are the weather options.

You can choose to view cloud cover and radar views, and cater the results to the type of game you’re hunting.

Scent Cone and the app’s top-notch forecasting, plus its good-enough mapping system, creates a top-end free weather app. But it falls short on other hunter-focused features by comparison.”

## IV. Quiver

“Comparing this app to the others in the test is a bit difficult, given that its core functionality isn’t focused on mapping or navigation.

Mar 26, 2019

SB 2315

Attachment 1

The launch page features a useful weather forecast. Once you start hunting, the app comes into play. To begin, you simply tap 'Start Hunt,' and the app will locate where you are, allow you to name the outing, and update the weather.

From there, you can record any activity you want, including deer sightings, and add notes, images, etc. Each time you record an event, the weather, time, and moon phase are captured. Over the course of the season you should begin to see data trends.

Unfortunately, you need to do this deduction on your own."

#### **V. Powderhook**

"Powderhook's concept is simple: you need a place to hunt and fish; the app helps you find one. At its core, Powderhook is a mapping app that includes public land boundaries. It's a simple function, and one that the app does well.

You can choose typical map overlay styles, including satellite imagery. Add public land boundaries and you can see at a glance where the nearest public ground is in relation to your location. Tap on any piece of public land and you'll learn the name of the area and the available acreage, and you'll be offered a link to the area's online information. That's essentially the extent of the app's functionality as it relates to in-the-field mapping and data management.

Overall, it's a solid app for locating public land, but it offers little else in terms of mapping features or in-field applications."

#### **VI. Antler Insanity**

"This free app has been available in the App Store since 2012, and has seen significant updates and revisions since then. But, it still hasn't gotten things quite right. The user interface is somewhat clunky, and the graphics package can't compete with others tested.

One feature that is useful in the field, particularly when you're hanging a new tree stand or hunting a new area, is the ability to mark your location in the field for later navigational use. But Antler Insanity's roundabout interface makes it a frustrating process.

Marking property boundaries in the field is another feature that should see plenty of use. The trouble is that it doesn't seem to work."

Mar 26, 2019  
SB 2315  
Attachment 1

# Pre-2017 Criminal Trespass

2007 N.D. HB 1500

Enacted, March 9, 2007

## Reporter

2007 N.D. ALS 127; 2007 N.D. Laws 127; 2007 N.D. Ch. 127; 2007 N.D. HB 1500

NORTH DAKOTA ADVANCE LEGISLATIVE SERVICE > NORTH DAKOTA 60TH LEGISLATIVE ASSEMBLY >  
CHAPTER 127 > HOUSE BILL 1500

## Notice

---

Added: Text highlighted in green

Deleted: Red text with a strikethrough

## Synopsis

---

AN ACT to amend and reenact section 12.1-22-03 of the North Dakota Century Code, relating to criminal trespass.

## Text

---

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

### SECTION 1.

AMENDMENT. Section 12.1-22-03 of the North Dakota Century Code is amended and reenacted as follows:

#### 12.1-22-03.

Criminal trespass.

1. ~~A person~~ AN INDIVIDUAL is guilty of a class C felony if, knowing that ~~he~~ THAT INDIVIDUAL is not licensed or privileged to do so, ~~he~~ THE INDIVIDUAL enters or remains in a dwelling or in highly secured premises.
2. ~~A person~~ AN INDIVIDUAL is guilty of a class A misdemeanor if, knowing that ~~he~~ THAT INDIVIDUAL is not licensed or privileged to do so, ~~he~~ THE INDIVIDUAL :
  - a. Enters or remains in OR ON any building, occupied structure, or storage structure, or separately secured or occupied portion thereof; or
  - b. Enters or remains in any place so enclosed as manifestly to exclude intruders.
3. ~~A person~~ AN INDIVIDUAL is guilty of a class B misdemeanor if, knowing that that ~~person~~ INDIVIDUAL is not licensed or privileged to do so, ~~that person~~ THE INDIVIDUAL enters or remains in any place as to which notice against trespass is given by actual communication to the actor by the ~~person~~ INDIVIDUAL in charge of the premises or other authorized ~~person~~ INDIVIDUAL or by posting in a manner reasonably likely to come to the attention of intruders. The name of the person posting the premises must appear on each sign in legible characters. ~~A person~~ AN INDIVIDUAL who violates this subsection is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.



Mar 26, 2019

SB 2315  
2007 N.D. HB 1500

~~Page 2 of 2~~

Attachment 1

4. ~~A person~~ AN INDIVIDUAL is guilty of a class B misdemeanor if that ~~person~~ INDIVIDUAL remains upon the property of another after being requested to leave the property by a duly authorized ~~person~~ INDIVIDUAL . ~~A person~~ AN INDIVIDUAL who violates this subsection is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.
5. This section does not apply to a peace officer in the course of discharging the peace officer's official duties.

## History

---

Approved by the Governor March 9, 2007

NORTH DAKOTA ADVANCE LEGISLATIVE SERVICE  
Copyright © 2019 LexisNexis. All rights reserved.

---

End of Document

Mar 26, 2019

# 2017 Criminal TRESPASS

Attachment 1

Sixty-fifth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 3, 2017

SB 2315

HOUSE BILL NO. 1293

(Representatives Grueneich, Dockter, Headland, K. Koppelman, Lefor, Nathe, Oliver, M. Ruby, Satrom,  
Seibel)  
(Senator Wanzek)

AN ACT to amend and reenact sections 12.1-22-03 and 37-17.1-22 of the North Dakota Century Code, relating to trespassing on posted property and disaster and emergency response recovery costs; to provide a penalty; and to declare an emergency.

## BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 12.1-22-03 of the North Dakota Century Code is amended and reenacted as follows:

### 12.1-22-03. Criminal trespass - Noncriminal offense on posted property.

1. An individual is guilty of a class C felony if, knowing that that individual is not licensed or privileged to do so, the individual enters or remains in a dwelling or in highly secured premises.
2. An individual is guilty of a class A misdemeanor if, knowing that that individual is not licensed or privileged to do so, the individual:
  - a. Enters or remains in or on any building, occupied structure, or storage structure, or separately secured or occupied portion thereof; or
  - b. Enters or remains in any place so enclosed as manifestly to exclude intruders.
3.
  - a. An individual is guilty of a class B misdemeanor if, knowing that that individual is not licensed or privileged to do so, the individual enters or remains in any place as to which notice against trespass is given by actual communication to the actor by the individual in charge of the premises or other authorized individual or by posting in a manner reasonably likely to come to the attention of intruders. The name of the person posting the premises must appear on each sign in legible characters.
  - b. Even if the conduct of the owner, tenant, or individual authorized by the owner varies from the provisions of subdivision a, an individual may be found guilty of violating subdivision a if the owner, tenant, or individual authorized by the owner substantially complied with subdivision a and notice against trespass is clear from the circumstances.
  - c. An individual who violates ~~this subsection~~subdivision a is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.
4.
  - a. An individual, knowing the individual is not licensed or privileged to do so, may not enter or remain in a place as to which notice against trespass is given by posting in a manner reasonably likely to come to the attention of intruders. A violation of this subdivision is a noncriminal offense.
  - b. A peace officer shall cite an individual who violates subdivision a with a fine of two hundred fifty dollars for each violation.
  - c. The peace officer citing the individual shall:
    - (1) Take the name and address of the individual; and

Mar 26, 2019

Attachment 1

SB 2315

(2) Notify the individual of the right to request a hearing if posting bond by mail.

- d. The peace officer may not take the individual into custody or require the individual to proceed with the peace officer to any other location for the purpose of posting bond. The officer shall provide the individual with an envelope for use in mailing the bond.
- e. An individual cited may appear before the designated official and pay the statutory fine for the violation at or before the time scheduled for hearing.
- f. If the individual has posted bond, the individual may forfeit bond by not appearing at the designated time.
- g. If the individual posts bond by mail, the bond must be submitted within fourteen days of the date of the citation and the individual cited shall indicate on the envelope or citation whether a hearing is requested. If the individual does not request a hearing within fourteen days of the date of the citation, the bond is deemed forfeited and the individual is deemed to have admitted to the violation and to have waived the right to a hearing on the issue of commission of the violation. If the individual requests a hearing, the court for the county in which the citation is issued shall issue a summons to the individual requesting the hearing notifying the individual of the date of the hearing before the designated official.
- h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled at the individual's request, the individual may make a statement in explanation of the individual's action. The official may at that time waive or suspend the statutory fine or bond.
- i. A citing peace officer may not receive the statutory fine or bond.
- j. The bond required to secure appearance before the judge must be identical to the statutory fine established in subdivision b.

4.5. An individual is guilty of a class B misdemeanor if that individual remains upon the property of another after being requested to leave the property by a duly authorized individual. An individual who violates this subsection is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.

5.6. This section does not apply to a peace officer in the course of discharging the peace officer's official duties.

**SECTION 2. AMENDMENT.** Section 37-17.1-22 of the North Dakota Century Code is amended and reenacted as follows:

**~~37-17.1-22. (Effective through June 30, 2017) Disaster or emergency response and recovery costs:~~**

~~Whenever the governor declares a state of disaster or emergency in accordance with section 37-17.1-05, or when the governor enters into an agreement with the federal government following a disaster or emergency declared by the president of the United States, the director of the division of homeland security shall determine and record the costs of the state and local response and recovery operations in accordance with an agreement with the federal government, in accordance with procedures established by the governor in the case of a state-declared disaster or emergency, and in accordance with procedures established by the state emergency response plan. If the event has met the Stafford Act minimum for a presidential disaster declaration and for which the request is denied, the governor shall make application to the state emergency commission for a grant of funds in an amount equal to the response and recovery costs of the state and fifty percent of the public infrastructure recovery costs above statutorily maintained emergency funds for counties that exceeds twice the individual county federal declaration eligibility threshold, limited to a maximum amount available per~~

Mar 26, 2019

~~disaster of one million dollars and a maximum amount available per biennium of three million dollars. Immediately following the response or recovery operations, or prior thereto if determined necessary by the governor, the governor shall make application to the state emergency commission for a grant of funds in an amount equal to the response and recovery costs of the state. Notwithstanding other provisions of chapter 54-16, it must be conclusively presumed upon receipt by the emergency commission of such application from the governor that a disaster or emergency exists, and the commission immediately shall grant and direct the transfer to the department of the governor's designated representative of an amount equal to that certified in such application by the governor.~~

**(Effective after June 30, 2017) Disaster or emergency response and recovery costs.**

Whenever the governor declares a state of disaster or emergency in accordance with section 37-17.1-05, or when the governor enters into an agreement with the federal government following a disaster or emergency declared by the president of the United States, the director of the division of homeland security shall determine and record the costs of the state response and recovery operations in accordance with an agreement with the federal government or in accordance with procedures established by the governor in the case of a state-declared disaster or emergency. Immediately following the response or recovery operations, or prior thereto if determined necessary by the governor, the governor shall make application to the state emergency commission for a grant of funds in an amount equal to the response and recovery costs of the state. Notwithstanding other provisions of chapter 54-16, it must be conclusively presumed upon receipt by the emergency commission of such application from the governor that a disaster or emergency exists, and the commission immediately shall grant and direct the transfer to the department of the governors designated representative of an amount equal to that certified in such application by the governor.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

Mar 26, 2019

Attachment 1

\_\_\_\_\_  
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-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1293 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote:        Yeas 93                      Nays 0                      Absent 2

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote:        Yeas 43                      Nays 2                      Absent 2

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2017.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2017.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2017,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State

Mar 26, 2019

SB 2315

Attachment 1

Document: N.D. Cent. Code, § 12.1-22-03

Go to  Search Document

**View full table of contents**

- > North Dakota Century Code Annotated
- 12.1-22-01. Robbery.
- 12.1-22-02. Burglary.
- 12.1-22-03. Criminal trespass — Noncriminal offense on posted property.**
- 12.1-22-03.1. Surreptitious intrusion. [Repealed]
- 12.1-22-04. Unlawful entry into or concealment within a vehicle.
- 12.1-22-05. Stowing away.
- 12.1-22-06. Definitions.

< Previous Next >

## N.D. Cent. Code, § 12.1-22-03

### Copy Citation

This document is updated through the end of the 2017 Regular Legislative Session.

**North Dakota Century Code Annotated    TITLE 12.1**  
**Criminal Code (Chs. 12.1-01 — 12.1-41)    CHAPTER**  
**12.1-22 Robbery — Breaking and Entering Offenses**  
**(§§ 12.1-22-01 — 12.1-22-06)**

### 12.1-22-03. Criminal trespass — Noncriminal offense on posted property.

- 1.** An individual is guilty of a class C felony if, knowing that that individual is not licensed or privileged to do so, the individual enters or remains in a dwelling or in highly secured premises.
- 2.** An individual is guilty of a class A misdemeanor if, knowing that that individual is not licensed or privileged to do so, the individual:
  - a.** Enters or remains in or on any building, occupied structure, or storage structure, or separately secured or occupied portion thereof; or
  - b.** Enters or remains in any place so enclosed as manifestly to exclude intruders.
- 3.**
  - a.** An individual is guilty of a class B misdemeanor if, knowing that that individual is not licensed or privileged to do so, the individual enters or remains in any place as to which notice against trespass is given by actual communication to the actor by the individual in charge of the premises or other authorized individual or by posting in a manner reasonably likely to come to the attention of intruders. The name of the person posting the premises must appear on each sign in legible characters.
  - b.** Even if the conduct of the owner, tenant, or individual authorized by the owner varies from the provisions of subdivision a, an individual may be found guilty of violating subdivision a if the owner, tenant, or individual authorized by the owner substantially complied with subdivision a and notice against trespass is clear from the circumstances.
  - c.** An individual who violates subdivision a is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.

16

Mar 26, 2019

SB 2315

Attachment 1

4.

- a.** An individual, knowing the individual is not licensed or privileged to do so, may not enter or remain in a place as to which notice against trespass is given by posting in a manner reasonably likely to come to the attention of intruders. A violation of this subdivision is a noncriminal offense.
- b.** A peace officer shall cite an individual who violates subdivision a with a fine of two hundred fifty dollars for each violation.
- c.** The peace officer citing the individual shall:
- (1)** Take the name and address of the individual; and
- (2)** Notify the individual of the right to request a hearing if posting bond by mail.
- d.** The peace officer may not take the individual into custody or require the individual to proceed with the peace officer to any other location for the purpose of posting bond. The officer shall provide the individual with an envelope for use in mailing the bond.
- e.** An individual cited may appear before the designated official and pay the statutory fine for the violation at or before the time scheduled for hearing.
- f.** If the individual has posted bond, the individual may forfeit bond by not appearing at the designated time.
- g.** If the individual posts bond by mail, the bond must be submitted within fourteen days of the date of the citation and the individual cited shall indicate on the envelope or citation whether a hearing is requested. If the individual does not request a hearing within fourteen days of the date of the citation, the bond is deemed forfeited and the individual is deemed to have admitted to the violation and to have waived the right to a hearing on the issue of commission of the violation. If the individual requests a hearing, the court for the county in which the citation is issued shall issue a summons to the individual requesting the hearing notifying the individual of the date of the hearing before the designated official.
- h.** Upon appearing at the hearing scheduled in the citation or otherwise scheduled at the individual's request, the individual may make a statement in explanation of the individual's action. The official may at that time waive or suspend the statutory fine or bond.
- i.** A citing peace officer may not receive the statutory fine or bond.
- j.** The bond required to secure appearance before the judge must be identical to the statutory fine established in subdivision b.
- 5.** An individual is guilty of a class B misdemeanor if that individual remains upon the property of another after being requested to leave the property by a duly authorized individual. An individual who violates this subsection is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.
- 6.** This section does not apply to a peace officer in the course of discharging the peace officer's official duties.

## History

---

S.L. 1973, ch. 116, § 21; 1989, ch. 165, § 1; 1991, ch. 126, § 1; 1991, ch. 127, § 1; 1997, ch. 121, § 2; 2007, ch. 127, § 1; 2017, ch. 102, § 1, eff February 23, 2017.

# Bismarck City Ordinance

SB 2315

Attachment 1

Mar 26, 2019

2. Incapacitating an operator of such service; or

3. Negligently damaging the tangible property of another by fire, explosive or other dangerous means.

Reference: NDCC Sec. 12.1-21-06 (1985)

6-04-03. Consent as a Defense and Definition of "of another". For prosecutions of criminal mischief under Section 6-04-01 or tampering with or damaging a public service under Section 6-04-02:

1. Whenever it is an element of the offense that the property is of another, it is a defense to a prosecution under those sections that the other has consented to the actor's conduct with respect to the property.

2. Property is that "of another" if anyone other than the actor has a possessory or proprietary interest therein.

Reference: NDCC Sec. 12.1-21-07, 08(2) (1985)

\* 6-04-04. Criminal Trespass. \*

1. A person is guilty of an offense if, knowing that he or she is not licensed or privileged to do so, that person enters or remains in any place as to which notice against trespass is given by actual communication to the actor by the person in charge of the premises or other authorized person or by posting in a manner reasonably likely to come to the attention of intruders. The name of the person posting the premises must appear on each sign in legible characters.

2. A person is guilty of an offense if, knowing he is not licensed or privileged to do so, that person enters or remains in any building, occupied structure, or storage structure, or separately secured or occupied portion thereof; or enters or remains in any place so enclosed as manifestly to exclude intruders.

3. A person is guilty of an offense if that person remains upon the property of another after being requested to leave the property by a duly authorized person.

4. For a zoo, circus, exhibit, livestock yard or other facility that keeps animals, a person is guilty of an infraction if that person, without the permission of the keeper of the animal(s), willfully enters or remains within any cage, enclosure, corral, habitat, demarcated buffer zone, or other area that is delineated by a fence, wall or



10-0325. - Criminal trespass.

Mar 26, 2019

SB 2315

A person is guilty of criminal trespass, a class B misdemeanor, if:

- A. Knowing that the person is not licensed or privileged to do so, that person enters or remains in any place as to which notice against trespass is given by actual communication to the actor by the person in charge of the premises or other authorized person or by posting in a manner reasonably likely to come to the attention of intruders. The name of the person posting the premises must appear on each sign in legible characters, or
- B. That person remains upon the property of another after being requested to leave the property by a duly authorized person.

Source: 3089 (1999).

9-0127. - Trespassing on private property.

Mar 26, 2019

SB 2315

It is unlawful for any person to intentionally trespass in, on, or upon the property of another and, without claim of right, refuse to depart therefrom on demand of the lawful owner, possessor, or agent. A demand to depart may be made in the following manners:

- (1) Orally or by written notice, by the lawful owner, possessor, or agent; or
- (2) By conspicuously posting at reasonable intervals signs which prohibit trespass on the affected property; or
- (3) By conspicuously posting at reasonable intervals signs which prohibit trespass on the affected property during certain hours.

(Ord. No. 4125, § XXIII, 3-20-06)

# City of Minot ordinances

Mar 26, 2019

SB 2315

Attachment 1

§5. That section 23-16 (Disorderly conduct) of Article II (Traditional Offenses), Chapter 23 (Offenses -- Miscellaneous) of the City of Minot Code of Ordinances, City of Minot, North Dakota, is hereby amended and reenacted to read as follows:

## Sec. 23-16. - Disorderly conduct.

No person shall with intent to harass, annoy or alarm another person or in reckless disregard of the fact that another person is harassed, annoyed, or alarmed by his behavior:

1. Engage in fighting or in violent, tumultuous or threatening behavior;
2. Make unreasonable noise;
3. In a public place, use abusive or obscene language, or make an obscene gesture;
4. Obstruct vehicular or pedestrian traffic or the use of a public facility;
5. Persistently follow a person in or about a public place or places;
6. While loitering in a public place for the purpose of soliciting sexual contact, solicit such contact;
7. Create a hazardous, physically offensive or seriously alarming condition by any act which serves no legitimate purpose;
8. Engage in harassing conduct by means of intrusive or unwanted acts, words, or gestures that are intended to adversely affect the safety, security, or privacy of another person; or
9. Use a fixed optical device that enhances or records a visual occurrence to view through any window of another person's property; or use a surveillance camera to capture an image from the dwelling or accessory structure of another person; however, an individual using a surveillance camera has seven days from notice by a law enforcement officer to direct or shield the camera so as to not capture an image from another person's dwelling or accessory structure before there is an offense.

§6. That section 23-17 (Indecent exposure) of Article II (Traditional Offenses), Chapter 23 (Offenses -- Miscellaneous) of the City of Minot Code of Ordinances, City of Minot, North Dakota, is hereby repealed;

§7. That section 23-18 (Trespass) of Article II (Traditional Offenses), Chapter 23 (Offenses -- Miscellaneous) of the City of Minot Code of Ordinances, City of Minot, North Dakota, is hereby amended and reenacted to read as follows:

## Sec. 23-18. - Trespass.

1. a. A person is guilty of a class B misdemeanor if, knowing that that individual is not licensed or privileged to do so, the individual enters or remains in any place as to which notice against trespass is given by actual communication to him by the person in charge of the premises or other authorized person, or by posting in a manner reasonably likely to come to the attention of intruders. The name of the person posting the premises must appear on each sign in legible characters.
- b. Even if the conduct of the owner, tenant, or individual authorized by the owner varies from the provisions of subdivision a, an individual may be found guilty of violating subdivision a if the owner, tenant, or individual authorized by the owner substantially complied with subdivision a and notice against trespass is clear from the circumstances.

Mar 26, 2019

SB 2315  
Minot

Attachment 1

2. a. An individual, knowing the individual is not licensed or privileged to do so, may not enter or remain in a place as to which notice against trespass is given by posting in a manner reasonably likely to come to the attention of intruders. A violation of this subdivision is a noncriminal offense.
  - b. A peace officer shall cite an individual who violates subdivision 2.a. with a fine of two hundred fifty dollars for each violation.
  - c. The peace officer citing the individual shall:
    - (1) Take the name and address of the individual; and
    - (2) Notify the individual of the right to request a hearing if posting bond by mail.
  - d. The peace officer may not take the individual into custody or require the individual to proceed with the peace officer to any other location for the purpose of posting bond. The officer shall provide the individual with an envelope for use in mailing in the bond.
  - e. An individual cited may appear before the designated official and pay the statutory fine for the violation at or before the time scheduled for hearing.
  - f. If the individual has posted bond, the individual may forfeit bond by not appearing at the designated time.
  - g. If the individual posts bond by mail, the bond must be submitted within fourteen days of the date of the citation and the individual cited shall indicate on the envelope or citation whether a hearing is requested. If the individual does not request a hearing within fourteen days of the date of the citation, the bond is deemed forfeited and the individual is deemed to have admitted to the violation and to have waived the right to a hearing on the issue of commission of the violation. If the individual requests a hearing, the court for the county in which the citation is issued shall issue a summons to the individual requesting the hearing notifying the individual of the date of the hearing before the designated official.
  - h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled at the individual's request, the individual may make a statement in explanation of the individual's action. The judge may at that time waive or suspend the statutory fine or bond.
  - i. A citing police officer may not receive the statutory fine or bond.
  - j. The bond required to secure appearance before the judge must be identical to the statutory fine established in subdivision b.
3. An individual is guilty of a class B misdemeanor if that individual remains upon the property of another after being required to leave the property by a duly authorized individual. This section only applies for a first offense within a two-year period.
  4. This section does not apply to a peace officer in the course of discharging the peace officer's official duties.

§8. That section 23-20 (Prostitution) of Article II (Traditional Offenses), Chapter 23 (Offenses -- Miscellaneous) of the City of Minot Code of Ordinances, City of Minot, North Dakota, is hereby amended and reenacted to read as follows:

# DICKINSON City Ordinances

SB 2315  
Attachment 1

Mar 26, 2019

- (c) Negligently damaging the tangible property of another by fire, explosive or other dangerous means. (Source: North Dakota Century Code, section 12.1-21-06.) (Ord. No. 867, § 1.)

## Section 25.12.02030 Consent as defense; definition of "of another" for purposes of sections 25.12.02.010 and 25.12.02.020

For prosecutions of criminal mischief under section 25.12.02.010 or tampering with or damaging a public service under section 25.12.02.020:

- (a) Whenever it is an element of the offense that the property is of another, it is a defense to a prosecution under those sections that the other has consented to the actor's conduct with respect to the property.
- (b) Property is that "of another" if anyone other than the actor has a possessory or proprietary interest therein. (Source: North Dakota Century Code, section 12.1-21-07 and 08(2).) (Ord. No. 867, § 1.)

## Section 25.12.02040 Criminal trespass

(a) A person is guilty of class B misdemeanor if, knowing that he is not licensed or privileged to do so, he enters or remains in any place as to which notice against trespass is given by actual communication to the actor by the person in charge of the premises or other authorized person or by posting in a manner reasonably likely to come to the attention of intruders.

(b) A person is guilty of a class B misdemeanor if that person remains upon the property of another after being requested to leave the property by a duly authorized person. (Ord. No. 867, § 1; Ord. No. 1023, § 1; Ord. No. 1176, § 3 Ord. No. 1645, § 4.)

## Section 25.12.04000 Division 25.12.04 Theft and Related Offenses

### Section 25.12.04010 Consolidated theft offenses

(a) Conduct denominated theft in sections 25.12.04.020 to 25.12.04.040 constitutes a single offense designed to include the separate offenses heretofore known as larceny, stealing, purloining, embezzlement, obtaining money or property by false pretenses, extortion, blackmail, fraudulent conversion, receiving stolen property, misrepresentation of public funds, swindling and the like.

(b) A charge of theft under sections 25.12.04.020 to 25.12.04.040 which fairly apprises the defendant of the nature of the charges against him shall not be deemed insufficient because it fails to specify a particular category of theft. The defendant may be found guilty of theft under such a charge if his conduct falls under sections 25.12.04.020 and 25.12.04.040, so long as the conduct proved is sufficiently related to the conduct charged that the accused is not unfairly surprised by the case he must meet. (Source: North Dakota Century Code, section 12.1-23.01.) (Ord. No. 867, § 1.)

Mar 26, 2019

SB 2315

Attachment 1

**Sec. 12-8. Fire or police department property; injuring; hindrance.**

No person shall, in any manner whatever, intentionally interfere with or injure any property of the fire department or the police department, or hinder or delay any apparatus or equipment or vehicle belonging to the fire department or the police department. (Code 1957, § 15.12)

**State law references**—Criminal mischief, N.D.C.C. § 12.1-21-05; tampering with or damaging a public service, § 12.1-21-06.

**Sec. 12-9. Posting bills, painting signs, etc.**

It shall be unlawful for any person to post or cause to be posted any bills, or paint, write or print, or cause to be painted, written or printed, any signs or devices on any sidewalk, street, bridge, viaduct, pole, tree, post or on any wall, building or structure or other property of another, unless, in the case of private property, the prior consent of the owner thereof has been secured. (Code 1957, § 15.26)

**State law reference**—Criminal mischief, N.D.C.C. § 12.1-21-05.

**Sec. 12-10. Signs, writings, etc., tending to disturb peace.**

No person shall show or expose in public any writing, sign, drawing, print, caricature, statue or any other object which may incite scandal or has a tendency to disturb the public peace. (Code 1957, § 15.31)

**Sec. 12-11. Spitting; littering generally.**

No person shall spit or expectorate nor throw fruit, fruit parings or skins, nuts or nut shells upon the sidewalks or crossings of any street, avenue, alley or driveway within the corporate limits of the city, nor in or upon the floors, stairs or hallways within or sidewalks leading to or from any public building, theatre, public hall or any taxicab stand, bus depot, airport or railway depot or platform connected therewith or leading thereto whether such public building, theatre, hall or depot belongs to the city or not. (Code 1957, § 15.32)

**State law references**—Littering on or in vicinity of park or recreation areas, N.D.C.C. § 20.1-01-25; garbage deposited on highways, N.D.C.C. § 24-12-03.

**Sec. 12-12. Garbage, Glass, Debris or Rubbish on Streets or Public Property.**

It shall be unlawful for any person to violate any of the following provisions:

- (1) No person shall throw or deposit upon any street or public property any glass bottle, glass, nails, tacks, wire, cans, rubbish, or any other litter. In addition, an individual may not deposit any substance likely to injure any person, animal or vehicle, or throw or deposit debris or rubbish of any kind upon the streets or public property;
- (2) Any person who drops, or permits to be dropped or thrown, or deposited, upon any street or public property any destructive or injurious material shall immediately remove the same or cause it to be removed; and
- (3) Any person moving a wrecked or damaged vehicle shall remove any glass or other injurious substance dropped or falling upon the street or public property from such vehicle.
- (4) The penalty for violation of this section is five hundred dollars (\$500.00.)

(Ord. No. 478, 9-12-72; Ord. No. 1068, 8-22-17)

**Cross reference**—Solid waste, Ch. 19.

**Sec. 12-13. Throwing filthy matter into water.**

No person shall throw or leave any vegetables or any liquid waste or filth whatsoever, solid or liquid into any pool of water in the city. (Code 1957, § 11.10)

**State law reference**—Depositing waste materials in lakes or rivers, N.D.C.C. § 20.1-01-25.

**Sec. 12-14. Trespassing on private property.**

- (a) No person shall trespass upon the premises or property of another.
- (b) Property which is generally opened to the public or is considered a public or semi-public place or is property of a business or commercial establishment may prohibit trespassing by posting the property in a manner

reasonably likely to come to the attention of intruders. If such property is posted, no persons shall trespass upon the premises or property in violation of the terms set forth in the posting.

(c) Any person violating any provision of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars (\$500.00), or shall be imprisoned for not more than thirty (30) days, or may be punished by both fine and imprisonment.  
(Code 1957, § 15-35; Ord. No. 706, 11-24-87)

SB 2315  
Attachment 1

State law reference—Criminal trespass, N.D.C.C. § 12.1-22-03.

**Sec. 12-15. Theft of property or services.**

(1) Theft not exceeding five hundred dollars (\$500.00) shall be a violation of this Code if:

- a. The theft was not committed by threat;
- b. The theft was not committed by deception by one who stood in a confidential or fiduciary relationship to the victim of the theft;
- c. The defendant was not a public servant or an officer or employee of a financial institution who committed the theft in the course of his official duties.

(2) Theft under this Code constitutes a single offense designed to include the separate offenses known as larceny, stealing, purloining, embezzlement, obtaining money or property by false pretenses, extortion, blackmail, fraudulent conversion, receiving stolen property, possessing stolen property, misappropriation of public funds, swindling, theft of property or services, and the like.

(Code 1957, § 15.24-1; Ord. No. 640, 2-12-85)

State law references—Similar provisions, N.D.C.C. § 12.1-23-05; power of city to prohibit theft, N.D.C.C. § 40-05-02(26).

**Sec. 12-16. Public libraries; withholding, etc., books.**

It shall be unlawful for any person willfully to keep or withhold any book, pamphlet, magazine, manuscript or other lending material borrowed from the James Memorial Library, or from any other institution maintaining a public library or providing public library service within the city, after the expiration of thirty (30) days following written notice to return the same, given by registered or certified mail pursuant to the lending rules of the institution. (Code 1957, § 15.18-1)

**Sec. 12-17. Peeping person.**

The term "peeping person" means one who peeps through windows or doors or other like places on the premises of another for the purpose of spying upon or invading the privacy of the person spied upon, and the doing of any other act of a similar nature which invades the privacy of such persons.

It shall be unlawful for any person to be a "peeping person" on the premises of another, or to go upon the premises of another for the purpose of becoming a "peeping person". (Code 1957, § 15.24; Ord. No. 610, §§ 1, 2, 12-14-82)

**Sec. 12-18—12-21. Reserved.**

Editor's note—Former sections 12-18 through 12-21, previously codified herein and containing portions of Code 1957, §§ 15.19—15.22, were repealed in their entirety by Ordinance No. 815.

**Sec. 12-22. Indecent exposure, dress, etc.**

No person shall appear in any public place in a state of nudity or in an indecent dress or lewd dress or make an indecent exposure of his person or be guilty of any indecent act or behavior, except as allowed in a licensed premises under section 3-75. (Code 1957, § 15.15; Ord. No. 815, 10-12-99)

**Sec. 12-23. Persuading another to visit gambling place.**

Every person who persuades another to visit any building or part of a building, or any vessel or float used or occupied for the purpose of gambling, in consequence whereof such other person gambles therein, is guilty of a

Mar 26. 2019

Attachment 2

19.0896.02003  
Title.

Prepared by the Legislative Council staff for  
Representative D. Johnson  
March 20, 2019

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2315

- Page 1, line 3, replace "20.1-01-18, 20.1-01-19, 20.1-01-20" with "20.1-01-17"
- Page 1, line 4, remove "to provide a statement"
- Page 1, line 5, remove "of legislative intent; to provide for a legislative management study;"
- Page 1, line 9, remove the overstrike over "~~Noncriminal offense on posted property~~"
- Page 1, line 15, remove the overstrike over "a. Enters"
- Page 1, line 15, remove "enters"
- Page 1, line 16, remove the overstrike over "er"
- Page 1, line 16, after "~~thereof~~" insert "of a building, occupied structure, or storage structure"
- Page 1, line 16, remove the overstrike over "er"
- Page 1, line 17, remove the overstrike over "b. Enters or remains in any place so enclosed as manifestly to exclude intruders"
- Page 1, line 17, remove "of a"
- Page 1, remove lines 18 and 19
- Page 1, line 20, remove "20.1-18-03"
- Page 1, line 21, remove the overstrike over "a. An individual is guilty of a class B misdemeanor if, knowing that that individual is"
- Page 1, remove the overstrike over lines 22 and 23
- Page 1, line 24, remove the overstrike over "~~by the individual in charge of the premises or other authorized individual~~"
- Page 1, line 24, after the second "er" insert an underscored comma
- Page 1, line 24, remove the overstrike over "by"
- Page 2, line 1, remove the overstrike over "~~posting in a manner reasonably likely to come to the attention of intruders~~" and insert immediately thereafter ", or by posting the land online in the trespass registry under chapter 20.1-18"
- Page 2, line 1, remove the overstrike over "~~The~~"
- Page 2, line 2, remove the overstrike over "name of the person" and insert immediately thereafter "physically"
- Page 2, line 2, remove the overstrike over "~~posting the premises must appear on each sign in legible~~"
- Page 2, line 3, remove the overstrike over "characters." and insert immediately thereafter "The name of the person posting the land online must be electronically accessible in the trespass registry."



Page 2, remove the overstrike over lines 4 through 31

Page 3, remove the overstrike over lines 1 through 12

Page 3, line 13, remove the overstrike over "5."

Page 3, line 17, remove the overstrike over "6."

Page 3, line 17, remove "4."

Page 3, line 17, overstrike "a" and insert immediately thereafter ":

a. A"

Page 3, line 18, after "duties" insert: " or

b. An individual who enters land to access buried and aboveground infrastructure for operations, inspection, repair, or maintenance purposes, if the individual has a right to operate, inspect, repair, or maintain the infrastructure"

Page 3, after line 18, insert:

**"SECTION 2. AMENDMENT.** Section 20.1-01-17 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-01-17. ~~Posting~~Physical and online posting of lands by owner to prohibit hunting - How posted - Signs defaced.**

1. Only the owner or tenant or an individual authorized by the owner of land may post the land online by designating the land as "no trespass" in the trespass registry under chapter 20.1-18, or post the land by placing signs alongside the public highway or the land giving notice that hunting is not permitted on the land. The name of the person posting the land online must be electronically accessible in the trespass registry. The name of the person physically posting the land must appear on each sign in legible characters. The signs must be readable from the outside of the land and must be placed conspicuously not more than eight hundred eighty yards [804.68 meters] apart. As to land entirely enclosed by a fence or other enclosure, posting of signs at or on all gates through the fence or enclosure constitutes a posting of all the enclosed land.
2. A person may not deface, take down, destroy posting signs, or post property without the permission of the owner or tenant or an individual authorized by the owner.
3. Even if the conduct of the owner, tenant, or individual authorized by the owner varies from the provisions of subsection 1, an individual may be found guilty of violating section 20.1-01-18 if the owner, tenant, or individual authorized by the owner substantially complied with subsection 1 and notice against hunting or trespassing is clear from the circumstances."

Page 3, remove lines 19 through 31

Page 4, remove lines 1 through 14

Page 4, line 25, remove "or private lands that are"

March 26, 2019

SB 2315

Attachment 2

Page 4, remove line 26

Page 4, line 27, remove "20.1-18-02,"

Page 5, line 1, replace "**Hunters access**" with "**Trespass registry**"

Page 5, line 2, replace "hunters access" with "trespass registry"

Page 5, line 7, replace "of an agriculture committee; and" with "representing agriculture communities;"

Page 5, line 8, replace "of a sportsmen committee." with "representing sportsmen communities;

g. One member of the legislative assembly appointed by the majority leader of the senate;

h. One member of the legislative assembly appointed by the majority leader of the house of representatives; and

i. One member of the legislative assembly from the minority party appointed by the legislative management."

Page 5, line 9, replace "hunters access" with "trespass registry"

Page 5, line 9, remove "the development of the hunters"

Page 5, replace lines 10 and 11 with "a trespass registry providing a digital, online posting option for the owner or tenant of land, or an individual authorized by the owner to use the registry."

Page 5, line 12, replace "hunters access" with "trespass registry"

Page 5, line 14, replace "**Hunters access database**" with "**Trespass registry**"

Page 5, line 15, remove "The hunters access database must use color coding or other clear indicators to"

Page 5, replaces lines 16 and 17 with "The trespass registry must offer an online application for an owner or tenant or an individual authorized by the owner to post the land by designating rural land parcels as "no trespass," if the county in which the land is located is included in the trespass registry."

Page 5, line 18, remove "A landowner or lawful occupant may designate which of the three categories in"

Page 5, remove lines 19 through 25

Page 5, line 26, remove "4."

Page 5, line 26, replace "database" with "information in the trespass registry"

Page 5, line 27, replace "smartphone" with "mobile map"

Page 5, line 28, replace "5." with "3."

Page 5, line 28, replace "database" with "trespass registry"

Page 5, line 30, replace "hunters access" with "trespass registry"

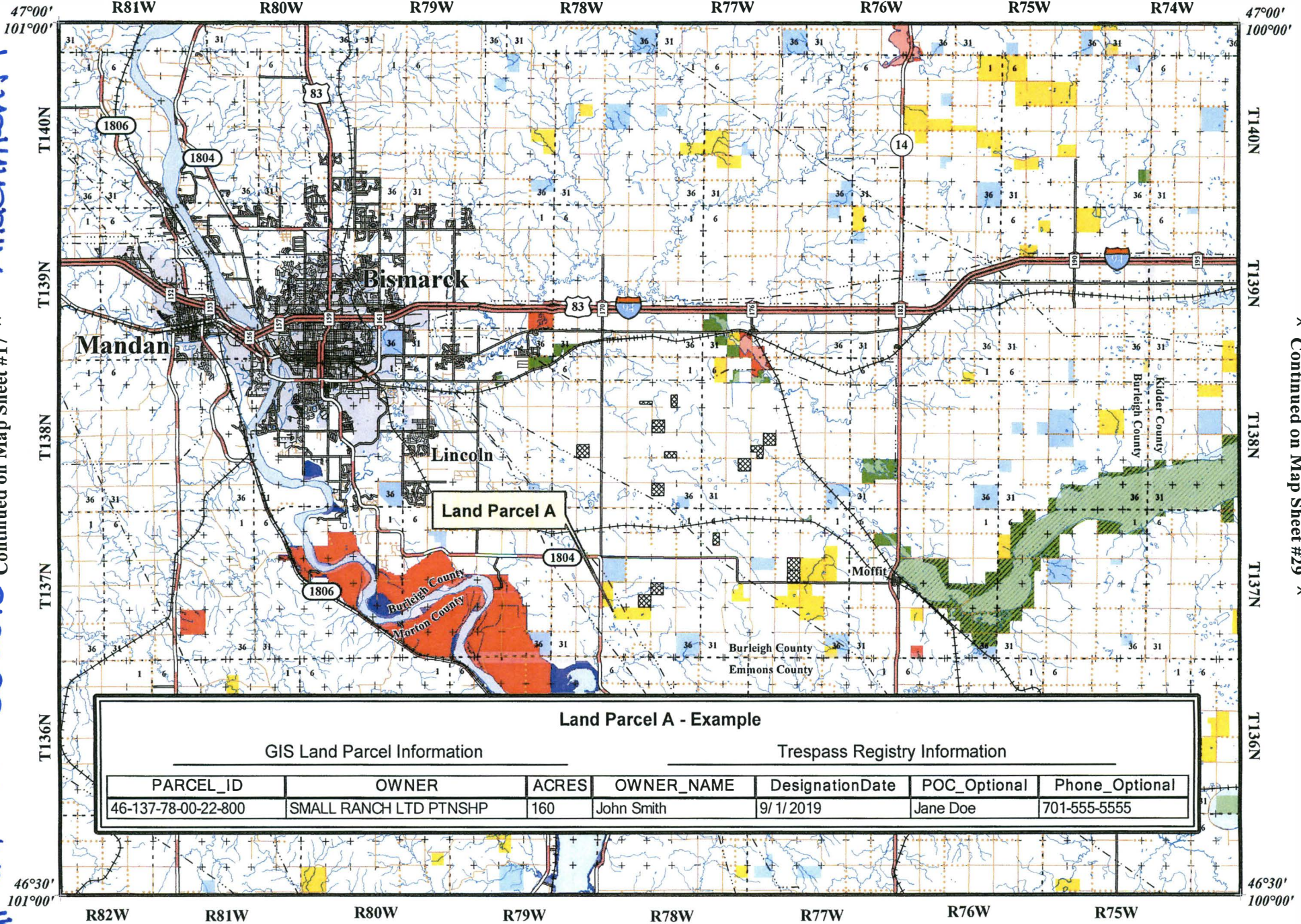
Page 6, remove lines 1 through 29

Renumber accordingly

# Map Sheet 23

Scale 1:325,000  
1 inch represents 5.13 miles

NDGF-GIS-e1\_46100-BH



Attachment 1  
 Continued on Map Sheet #17  
 SB 2315  
 Mar 27, 2019

Continued on Map Sheet #29

### Land Parcel A - Example

#### GIS Land Parcel Information

#### Trespass Registry Information

PARCEL_ID	OWNER	ACRES	OWNER_NAME	DesignationDate	POC_Optional	Phone_Optional
46-137-78-00-22-800	SMALL RANCH LTD PTNSHP	160	John Smith	9/ 1/2019	Jane Doe	701-555-5555

Apr 1, 2019

Attachment 1

19.0896.02007

FIRST ENGROSSMENT

Sixty-sixth  
Legislative Assembly  
of North Dakota

ENGROSSED SENATE BILL NO. 2315

Introduced by

Senators Erbele, Patten, Unruh

Representatives Boe, Schmidt, Westlind

1 A BILL for an Act to create and enact chapter 20.1-18 of the North Dakota Century Code,  
2 relating to a database identifying whether private land is open to hunters; to amend and reenact  
3 sections 12.1-22-03, 20.1-01-18, 20.1-01-19, 20.1-01-20, and 20.1-03-42 of the North Dakota  
4 Century Code, relating to criminal trespass and hunting on private land; to provide a statement  
5 of legislative intent; to provide for a ~~legislative management~~ study; to provide for a report to the  
6 legislative management; and to provide a penalty.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1. AMENDMENT.** Section 12.1-22-03 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **12.1-22-03. Criminal trespass –~~Noncriminal offense on posted property.~~**

11 1. An individual is guilty of a class C felony if, knowing that that individual is not licensed  
12 or privileged to do so, the individual enters or remains in a dwelling or in highly  
13 secured premises.

14 2. An individual is guilty of a class A misdemeanor if, knowing ~~that that~~ the individual is  
15 not licensed or privileged to do so, the individual:

16 a. ~~Enters~~ enters or remains in or on any building, occupied structure, ~~or~~ storage  
17 structure, ~~or~~ separately secured or occupied portion ~~thereof~~; ~~or~~

18 b. ~~Enters or remains in any place so enclosed as manifestly to exclude intruders of a~~  
19 building or structure, or any other place the individual is not licensed or privileged  
20 to be, except as provided in sections 20.1-01-18, 20.1-01-19, 20.1-03-42, and  
21 ~~20.1-18-03~~20.1-18-02.

22 3. a. ~~An individual is guilty of a class B misdemeanor if, knowing that that individual is~~  
23 ~~not licensed or privileged to do so, the individual enters or remains in any place~~  
24 ~~as to which notice against trespass is given by actual communication to the actor~~

- 1 by the individual in charge of the premises or other authorized individual or by  
2 posting in a manner reasonably likely to come to the attention of intruders. The  
3 name of the person posting the premises must appear on each sign in legible  
4 characters.
- 5 b. Even if the conduct of the owner, tenant, or individual authorized by the owner  
6 varies from the provisions of subdivision a, an individual may be found guilty of  
7 violating subdivision a if the owner, tenant, or individual authorized by the owner  
8 substantially complied with subdivision a and notice against trespass is clear  
9 from the circumstances.
- 10 e. An individual who violates subdivision a is guilty of a class A misdemeanor for the  
11 second or subsequent offense within a two-year period.
- 12 4. a. An individual, knowing the individual is not licensed or privileged to do so, may  
13 not enter or remain in a place as to which notice against trespass is given by  
14 posting in a manner reasonably likely to come to the attention of intruders. A  
15 violation of this subdivision is a noncriminal offense.
- 16 b. A peace officer shall cite an individual who violates subdivision a with a fine of  
17 two hundred fifty dollars for each violation.
- 18 e. The peace officer citing the individual shall:
- 19 (1) Take the name and address of the individual; and  
20 (2) Notify the individual of the right to request a hearing if posting bond by mail.
- 21 d. The peace officer may not take the individual into custody or require the  
22 individual to proceed with the peace officer to any other location for the purpose  
23 of posting bond. The officer shall provide the individual with an envelope for use  
24 in mailing the bond.
- 25 e. An individual cited may appear before the designated official and pay the  
26 statutory fine for the violation at or before the time scheduled for hearing.
- 27 f. If the individual has posted bond, the individual may forfeit bond by not appearing  
28 at the designated time.
- 29 g. If the individual posts bond by mail, the bond must be submitted within fourteen  
30 days of the date of the citation and the individual cited shall indicate on the  
31 envelope or citation whether a hearing is requested. If the individual does not

1 request a hearing within fourteen days of the date of the citation, the bond is  
2 deemed forfeited and the individual is deemed to have admitted to the violation  
3 and to have waived the right to a hearing on the issue of commission of the  
4 violation. If the individual requests a hearing, the court for the county in which the  
5 citation is issued shall issue a summons to the individual requesting the hearing  
6 notifying the individual of the date of the hearing before the designated official.

7 h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled  
8 at the individual's request, the individual may make a statement in explanation of  
9 the individual's action. The official may at that time waive or suspend the statutory  
10 fine or bond.

11 i. A citing peace officer may not receive the statutory fine or bond.

12 j. The bond required to secure appearance before the judge must be identical to  
13 the statutory fine established in subdivision b.

14 5. An individual is guilty of a class B misdemeanor if that individual remains upon the  
15 property of another after being requested to leave the property by a duly authorized  
16 individual. An individual who violates this subsection is guilty of a class A  
17 misdemeanor for the second or subsequent offense within a two-year period.

18 6.4. This section does not apply to a peace officer in the course of discharging the peace  
19 officer's official duties.

20 **SECTION 2. AMENDMENT.** Section 20.1-01-18 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 **20.1-01-18. Hunting on posted land and trapping on private land without permission**  
23 **unlawful – Penalty.**

24 ~~No person~~An individual may hunt or pursue game, or enter for those purposes, upon legally  
25 ~~posted~~ land belonging to another without first obtaining the permission of the person legally  
26 entitled to grant the ~~same~~permission. ~~No person may enter upon privately-owned land for the~~  
27 ~~purpose of trapping protected fur-bearing animals without first gaining the written permission of~~  
28 ~~the owner or operator of that land. A person who violates this section is guilty of a class B~~  
29 ~~misdemeanor for the first offense and a class A misdemeanor for a subsequent offense within a~~  
30 ~~two-year period~~unless the land is designated as closed to hunters or open to hunters with

1 | permission under section ~~20.1-18-02~~20.1-18-01 or the land is legally posted in accordance with  
2 | section 20.1-01-17.

3 |       **SECTION 3. AMENDMENT.** Section 20.1-01-19 of the North Dakota Century Code is  
4 | amended and reenacted as follows:

5 |       **20.1-01-19. When ~~posted~~private land may be entered.**

6 |       ~~Any person~~An individual may enter upon ~~legally posted~~private land to recover game shot or  
7 | killed on land where the ~~person~~individual had a lawful right to hunt.

8 |       **SECTION 4. AMENDMENT.** Section 20.1-01-20 of the North Dakota Century Code is  
9 | amended and reenacted as follows:

10 |       **20.1-01-20. Entering ~~posted~~private land with a hunting license and a gun or firearm**  
11 | **prima facie evidence of intent to hunt game.**

12 |       Proof that ~~a person having~~an individual had a firearm, or other weapon declared legal by  
13 | governor's proclamation, ~~in the person's possession~~and a valid license to hunt game in the  
14 | relevant area when the individual entered upon the ~~legally posted~~private premises of another  
15 | without permission of the owner or tenant is prima facie evidence the ~~person~~individual entered  
16 | to hunt or pursue game.

17 |       **SECTION 5. AMENDMENT.** Section 20.1-03-42 of the North Dakota Century Code is  
18 | amended and reenacted as follows:

19 |       **20.1-03-42. Guiding on prohibited lands.**

20 |       1. A person may not act as a hunting guide or hunting outfitter on land the person knows  
21 | is owned by the state unless the appropriate state agency permits or authorizes the  
22 | guiding or outfitting, on private land enrolled by the department for purposes of  
23 | hunting, on land in which the department pays in lieu of taxes, or on federal lands  
24 | without being authorized or permitted as required by the appropriate federal agency,  
25 | or

26 |       2. A person may not act as a hunting guide or outfitter on private lands that are posted  
27 | against hunting or trespassing under section 20.1-01-17 or private lands that are  
28 | designated as closed to hunters or open to hunters with permission under section  
29 | ~~20.1-18-02~~20.1-18-01, without first informing and obtaining permission from the  
30 | landowner to conduct guiding or outfitting on the land. If the landowner did not grant  
31 | the permission in writing, there is a presumption that the permission did not exist.

1       **SECTION 6.** Chapter 20.1-18 of the North Dakota Century Code is created and enacted as  
2 follows:

3       ~~**20.1-18-01. Hunters access advisory group.**~~

- 4       ~~1. The hunters access advisory group consists of:~~
  - 5       ~~a. The agriculture commissioner or the commissioner's designee;~~
  - 6       ~~b. The director or the director's designee;~~
  - 7       ~~c. The chief information officer or the officer's designee;~~
  - 8       ~~d. A representative of the North Dakota association of counties;~~
  - 9       ~~e. Two members of an agriculture committee; and~~
  - 10       ~~f. Two members of a sportsmen committee.~~
- 11       ~~2. The hunters access advisory group shall oversee the development of the hunters~~  
12       ~~access database identifying private land in the state as open to hunters, closed to~~  
13       ~~hunters, or open to hunters with permission from the owner or lawful occupant.~~
- 14       ~~3. The hunters access advisory group shall establish guidelines for the development of~~  
15       ~~the database and acceptance criteria for county data used to develop the database.~~

16       ~~**20.1-18-02.20.1-18-01. Hunters access database.**~~

- 17       1. The department shall operate and maintain a hunters access database, which must  
18       use color coding or other clear indicators to designate private land in the state as open  
19       to hunters, closed to hunters, or open to hunters with permission from the owner or  
20       lawful occupant.
- 21       2. A landowner or lawful occupant may designate which of the three categories in  
22       subsection 1 applies to the landowner's or occupant's land. Land for which a  
23       landowner or lawful occupant does not designate a category must be indicated in the  
24       database as open to hunters if the county in which the land is located is included in the  
25       database.
- 26       3. If a landowner or lawful occupant designates land as open to hunters with permission,  
27       the landowner or lawful occupant shall provide contact information to be included in  
28       the database for hunters to request permission to hunt on the land.
- 29       4. The database must be accessible electronically to the public and may be made  
30       available to the public through other means, including smartphone applications.



1       5. To be included in the database, a county shall provide geographic information system  
2       data or other data to the information technology department which meets the criteria  
3       established by the hunters access advisory group.

4       ~~20.1-18-03.~~**20.1-18-02. Noncompliance with database and posting - Penalty.**

5       1. Until the county in which private land is located is included in the hunters access  
6       database, the land is deemed open unless posted in accordance with section  
7       20.1-01-17.

8       2. After a county is included in the database:

9       a. A hunter may not enter land in the county which is designated in the database as  
10       closed to hunters or open to hunters with permission unless the hunter has  
11       permission to enter the land or otherwise is entitled to enter the land. A hunter is  
12       guilty of ~~an infraction~~ a class B misdemeanor for a first knowing violation and a  
13       class ~~BA~~ misdemeanor for a second and subsequent knowing violation of this  
14       subdivision; and

15       b. A hunter without permission may enter land in the county which is not designated  
16       in the database as closed to hunters or open to hunters with permission, unless  
17       the land is posted in accordance with section 20.1-01-17.

18       3. A hunter may not enter land that is posted in accordance with section 20.1-01-17  
19       unless the hunter has permission to enter the land or otherwise is entitled to enter the  
20       land, regardless of the designation of the land in the database. A hunter is guilty of ~~an~~  
21       ~~infraction~~ a class B misdemeanor for a first knowing violation and a class ~~BA~~  
22       misdemeanor for a second and subsequent knowing violation of this subsection.

23       **SECTION 7. LEGISLATIVE INTENT - TIMELINE FOR DATABASE DEVELOPMENT.** It is  
24       the intent of the legislative assembly that several counties will be included in an operational  
25       hunters access database by the fall hunting season of 2020, and the operational database will  
26       include all counties whose data meet the specifications of the hunters access database  
27       advisory group by September 1, 2022.

28       **SECTION 8. ~~LEGISLATIVE-MANAGEMENT-STUDY--ACCESS TO LANDS FOR~~**  
29       **HUNTING AND TRAPPING STUDY - REPORT TO LEGISLATIVE MANAGEMENT.**

30       1. During the 2019-20 interim, the ~~legislative-management~~ hunters access committee  
31       shall ~~consider-studying~~ study access to public and private lands for hunting, trapping,

Apr 1, 2019

SB 2315

Attachment 1

Sixty-sixth  
Legislative Assembly

1 and related issues, and develop the hunters access database. ~~The legislative~~  
2 ~~management~~ Before August 1, 2020, the hunters access committee shall report its  
3 findings and recommendations, together with any legislation required to implement the  
4 recommendations, to the ~~sixty-seventh legislative assembly~~ legislative management.

5 2. a. The voting members of the committee, who must be appointed by the legislative  
6 management, are:

7 (1) Two members representing agriculture organizations;

8 (2) Two members representing sportsmen organizations; and

9 (3) Five members of the legislative assembly, one of whom must be selected by  
10 the committee as chairman of the committee, including:

11 (a) One member of the majority party in the house of representatives;

12 (b) One member of the minority party in the house of representatives;

13 (c) One member of the majority party in the senate;

14 (d) One member of the minority party in the senate; and

15 (e) One member from either party in either chamber.

16 b. The nonvoting members of the committee are:

17 (1) A representative of the North Dakota association of counties;

18 (2) The agriculture commissioner or the commissioner's designee;

19 (3) The director of the game and fish department or the director's designee; and

20 (4) The chief information officer or the officer's designee.

21 3. A member of the committee who is not a state employee is entitled to reimbursement  
22 for mileage and expenses as provided by law for state officers and employees, to be  
23 paid by the legislative council. A state employee who is a member of the committee is  
24 entitled to receive that employee's regular salary and is entitled to reimbursement for  
25 mileage and expenses to be paid by the employing agency. A member of the  
26 committee who is a member of the legislative assembly is entitled to receive per diem  
27 compensation at the rate provided under section 54-35-10 for each day performing  
28 official duties of the committee. The legislative council shall pay the per diem  
29 compensation and reimbursement for travel and expenses as provided by law for any  
30 member of the committee who is a member of the legislative assembly.

Apr 1, 2019

SB 2315

March 29, 2019

Attachment 1

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2315

Page 1, line 5, remove "legislative management"

Page 1, line 5, after the second semicolon insert "to provide for a report to the legislative management;"

Page 1, line 20, replace "20.1-18-03" with "20.1-18-02"

Page 3, line 30, replace "20.1-18-02" with "20.1-18-01"

Page 4, line 27, replace "20.1-18-02" with "20.1-18-01"

Page 5, remove lines 1 through 13

Page 5, line 14, replace "20.1-18-02." with "20.1-18-01."

Page 5, line 15, after "The" insert "department shall operate and maintain a"

Page 5, line 15, after "database" insert ", which"

Page 6, line 1, replace "20.1-18-03." with "20.1-18-02."

Page 6, line 9, replace "an infraction" with "a class B misdemeanor"

Page 6, line 9, replace "B" with "A"

Page 6, line 16, remove "an"

Page 6, line 17, replace "infraction" with "a class B misdemeanor"

Page 6, line 17, replace "B" with "A"

Page 6, line 24, remove "**LEGISLATIVE MANAGEMENT STUDY - "**

Page 6, line 25, after "**TRAPPING**" insert "**STUDY - REPORT TO LEGISLATIVE MANAGEMENT**"

Page 6, after line 25, after the boldfaced period insert:

"1."

Page 6, line 25, replace "legislative management" with "hunters access committee"

Page 6, line 26, replace "consider studying" with "study"

Page 6, line 26, after "issues" insert ", and develop the hunters access database"

Page 6, line 27, replace "The legislative management" with "Before August 1, 2020, the hunters access committee"

Page 6, line 28, remove "sixty-seventh legislative"

Page 6, line 29, replace "assembly" with "legislative management"

Page 6, after line 29, insert:

- "2. a. The voting members of the committee, who must be appointed by the legislative management, are:
  - (1) Two members representing agriculture organizations;
  - (2) Two members representing sportsmen organizations; and
  - (3) Five members of the legislative assembly, one of whom must be selected by the committee as chairman of the committee, including:
    - (a) One member of the majority party in the house of representatives;
    - (b) One member of the minority party in the house of representatives;
    - (c) One member of the majority party in the senate;
    - (d) One member of the minority party in the senate; and
    - (e) One member from either party in either chamber.
- b. The nonvoting members of the committee are:
  - (1) A representative of the North Dakota association of counties;
  - (2) The agriculture commissioner or the commissioner's designee;
  - (3) The director of the game and fish department or the director's designee; and
  - (4) The chief information officer or the officer's designee.
3. A member of the committee who is not a state employee is entitled to reimbursement for mileage and expenses as provided by law for state officers and employees, to be paid by the legislative council. A state employee who is a member of the committee is entitled to receive that employee's regular salary and is entitled to reimbursement for mileage and expenses to be paid by the employing agency. A member of the committee who is a member of the legislative assembly is entitled to receive per diem compensation at the rate provided under section 54-35-10 for each day performing official duties of the committee. The legislative council shall pay the per diem compensation and reimbursement for travel and expenses as provided by law for any member of the committee who is a member of the legislative assembly."

Renumber accordingly

Apr 1, 2019

SB 2315

Attachment 2

19.0896.02004  
Title.

Prepared by the Legislative Council staff for  
Representative Dobervich  
March 29, 2019

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2315

Page 5, line 4, after "designee" insert ", who shall serve as the chairman of the group"

Page 5, line 7, after "committee" insert "appointed by the director"

Page 5, line 8, after "committee" insert "appointed by the director"

Page 6, line 9, replace "an infraction" with "a class B misdemeanor"

Page 6, line 9, replace "B" with "A"

Page 6, line 16, remove "an"

Page 6, line 17, replace "infraction" with "a class B misdemeanor"

Page 6, line 17, replace "B" with "A"

Renumber accordingly

#1 SB2315  
4/3/19 a.m.

HUNTING APPS FOR ANDROID (Re SB 2315) Carel Two-Eagle April 2, 2019

Hanh House Ag Committee. Since Representative Heinert mentioned apps in the subcommittee hearing this afternoon, I decided to do a Search and see what there is. This is the result.

Please note: I have hunted since I was 10. I have always gotten permission before entering someone's land. I was taught to shoot to kill by ex-military uncles who went through the Great Depression. My skills include blending in with my surroundings so my shots are short-range and through the aorta just above the heart, although I generally put 5 out of 6 in the bullseye at 100 yards. I can't stand to see those of our relatives that I hunt, suffer.

I also have no patience for the concept that unless I post, the land I paid for, I pay taxes on, and I have to take care of is open to someone merely because s/he has a gun and a hunting license. That's as foolish as claiming that there are pregnant virgins. Not likely. So:

Search term: Hunting Apps Free for Android

Result: <https://www.advancedhunter.com/35-best-deer-hunting-apps-android-iphone/>

Gave an article titled "35 Best Deer Hunting Apps for Android and iPhone". Most of the apps in the article are NOT free, but prices are reasonable. OnXMaps Hunt is \$9.99, for example. It got a very good rating in several articles besides the one noted above.

<https://play.google.com/store/apps/details?id=com.huntstand.core&hl=en>

Got 4.4 \*s from more than 12,000 reviews by users. It claims to be the only app you will ever need.

The periodical "Outdoor Life" gave: <https://www.outdoorlife.com/tested-best-hunting-apps-for-hunters> for the 6 best hunting apps they tested.

Realtree.com gave: <https://www.realtree.com/deer-hunting/articles/10-apps-all-deer-hunters-need> .

Cnet.com gave: <https://download.cnet.com/s/where-to-hunt-gps-hunting-app/> .

There are more, but this is enough to inundate the most avid app-hunter. I hope this is of value to the Committee as it sorts through this latest effort at keeping the peace in the country.

#2  
SB 2315  
4/3/19 as mo

**OPTION 1:** all land closed, keep trespass laws (with modifications) in tact for the benefit of law enforcement; if advisory committee necessary, could research what system utilizing technology would benefit hunters in locating land to hunt on; include the amendment for utilities, etc. (an individual who enters land to access buried and above ground infrastructure for operations, inspection, repair, or maintenance purposes, if the individual has a right to operate, inspect, repair, or maintain the infrastructure); marketing the change would need to be included (recreational, hunting)  
WHY: unable to satisfy hunters with the technology offering; over 95% of the hunters that either testified or emailed already ask permission to hunt, thus this would not change their method of operation; for those that wish to utilize, apps are available from private companies (advise researching what additional a private company is capable of doing — could be done through Game & Fish vs a committee); time and labor reduced for landowners and Game & Fish; reduce labor, liability and personal safety issues for landowners; increases safety for hunter since landowner would control # of hunters; eliminate liability of the state if do not own/operate an app; overall cost is reduced to the state; assist w/ prosecution of trespass incidents; no missing signs; benefits property owners within communities; possibility of changing enforcement issues; no issue of state managing technology; could lessen damage to land and also reduce incidents for livestock owners; if no state app, no maintenance required for the app

**OPTION 2:** all land open; keep trespass laws in tact, advisory committee to research what system utilizing technology would benefit hunters in locating land w/ land being either open or closed, w/ guidelines for landowners as to updating the system; include the amendment for utilities, etc.; possibly until technology; landowners would continue to need signage to post land; give opportunity to see if trespass laws instituted in prior session have benefited landowners; if determined the state should develop an app, funding would need to be sourced & allocated; thought of increased penalty for hunters when trespass - ? Loss of hunting privileges; added staff put to manage an app if state developed an app vs. letting a private company maintain an app;  
WHY: made changes last session and have not had the opportunity for an evaluation over time; responsible, law abiding hunters would not have an additional step in locating land; unsure of when technology would be available if app developed by state; theory is "open" would keep out-of-state hunters interested in hunting in ND as well as in-state hunters; recreational use of land remains the same

**OPTION 3:** hybrid option — start out open and moved to closed over a period of time; optional whether or not the state provides the app

Need for advisory committee in above? Option: groups would be able to report to an interim committee or legislative management and include experiences (what are membership saying). — Association of Counties, Game & Fish, Ag Associations, Landowners Assoc, Conversation Assoc, Law Enforcement (Sheriff & Police)

Need data about trespass incidents (Sheriff, Police & Game Wardens)

Utilizing existing private company app for land ownership: cost savings to taxpayers & reduces state liability

Would funding from the Heritage Fund be available to provide access across private land to a lake?

/

SENATE BILL 2315 — Ag Subcommittee 4/3/19

OPTION 1: all land closed, keep trespass laws (with modifications) in tact for the benefit of law enforcement; if advisory committee necessary, could research what system utilizing technology would benefit hunters in locating land to hunt on; include the amendment for utilities, etc. (an individual who enters land to access buried and above ground infrastructure for operations, inspection, repair, or maintenance purposes, if the individual has a right to operate, inspect, repair, or maintain the infrastructure); marketing the change would need to be included (recreational, hunting)  
 WHY: unable to satisfy hunters with the technology offering; over 95% of the hunters that either testified or emailed already ask permission to hunt, thus this would not change their method of operation; for those that wish to utilize, apps are available from private companies (advise researching what additional a private company is capable of doing — could be done through Game & Fish vs a committee); time and labor reduced for landowners and Game & Fish; reduce labor, liability and personal safety issues for landowners; increases safety for hunter since landowner would control # of hunters; eliminate liability of the state if do not own/operate an app; overall cost is reduced to the state; assist w/ prosecution of trespass incidents; no missing signs; benefits property owners within communities; possibility of changing enforcement issues; no issue of state managing technology; could lessen damage to land and also reduce incidents for livestock owners; if no state app, no maintenance required for the app

OPTION 2: all land open; keep trespass laws in tact, advisory committee to research what system utilizing technology would benefit hunters in locating land w/ land being either open or closed, w/ guidelines for landowners as to updating the system; include the amendment for utilities, etc.; possibly until technology; landowners would continue to need signage to post land; give opportunity to see if trespass laws instituted in prior session have benefited landowners; if determined the state should develop an app, funding would need to be sourced & allocated; thought of increased penalty for hunters when trespass - ? Loss of hunting privileges; added staff put to manage an app if state developed an app vs. letting a private company maintain an app;  
 WHY: made changes last session and have not had the opportunity for an evaluation over time; responsible, law abiding hunters would not have an additional step in locating land; unsure of when technology would be available if app developed by state; theory is "open" would keep out-of-state hunters interested in hunting in ND as well as in-state hunters; recreational use of land remains the same

OPTION 3: hybrid option — start out open and moved to closed over a period of time; optional whether or not the state provides the app

Need for advisory committee in above? Option: groups would be able to report to an interim committee or legislative management and include experiences (what are membership saying). — Association of Counties, Game & Fish, Ag Associations, Landowners Assoc, Conversation Assoc, Law Enforcement (Sheriff & Police)

Need data about trespass incidents (Sheriff, Police & Game Wardens)

Utilizing existing private company app for land ownership: cost savings to taxpayers & reduces state liability

Would funding from the Heritage Fund be available to provide access across private land to a lake?



#1  
4/4/19

Sixty-sixth  
Legislative Assembly  
of North Dakota

ENGROSSED SENATE BILL NO. 2315

Introduced by

Senators Erbele, Patten, Unruh

Representatives Boe, Schmidt, Westlind

1 A BILL for an Act ~~to create and enact chapter 20.1-18 of the North Dakota Century Code,~~  
2 ~~relating to a database identifying whether private land is open to hunters;~~ to amend and reenact  
3 sections 12.1-22-03, 20.1-01-18, 20.1-01-19, 20.1-01-20, and 20.1-03-42 of the North Dakota  
4 Century Code, relating to criminal trespass and hunting on private land; ~~to provide a statement~~  
5 ~~of legislative intent;~~ to provide for a legislative management study of access to land; to provide  
6 for a report to the legislative management and interim legislative committees; and to provide a  
7 penalty.

8 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

9 SECTION 1. AMENDMENT. Section 12.1-22-03 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 12.1-22-03. Criminal trespass ~~Noncriminal offense on posted property.~~

12 1. An individual is guilty of a class C felony if, knowing that that individual is not licensed  
13 or privileged to do so, the individual enters or remains in a dwelling or in highly  
14 secured premises.

15 2. An individual is guilty of a class A misdemeanor if, knowing ~~that that~~ the individual is  
16 not licensed or privileged to do so, the individual:

17 a. ~~Enters~~ enters or remains in or on any building, occupied structure, ~~or~~ storage  
18 structure, ~~or~~ separately secured or occupied portion ~~thereof; or~~

19 b. ~~Enters or remains in any place so enclosed as manifestly to exclude intruders of a~~  
20 building or structure, or any other place the individual is not licensed or privileged  
21 to be, except as provided in sections 20.1-01-18, subsection 3 and section  
22 20.1-01-19, 20.1-03-42, and 20.1-18-03.

23 3. a. ~~An individual is guilty of a class B misdemeanor if, knowing that that individual is~~  
24 ~~not licensed or privileged to do so, the individual enters or remains in any place~~

#1  
4/4/19  
SB 2315

- 1 ~~as to which notice against trespass is given by actual communication to the actor~~  
2 ~~by the individual in charge of the premises or other authorized individual or by~~  
3 ~~posting in a manner reasonably likely to come to the attention of intruders. The~~  
4 ~~name of the person posting the premises must appear on each sign in legible~~  
5 ~~characters.~~
- 6 b. ~~Even if the conduct of the owner, tenant, or individual authorized by the owner~~  
7 ~~varies from the provisions of subdivision a, an individual may be found guilty of~~  
8 ~~violating subdivision a if the owner, tenant, or individual authorized by the owner~~  
9 ~~substantially complied with subdivision a and notice against trespass is clear~~  
10 ~~from the circumstances.~~
- 11 e. ~~An individual who violates subdivision a is guilty of a class A misdemeanor for the~~  
12 ~~second or subsequent offense within a two-year period.~~
- 13 4. a. ~~An individual, knowing the individual is not licensed or privileged to do so, may~~  
14 ~~not enter or remain in a place as to which notice against trespass is given by~~  
15 ~~posting in a manner reasonably likely to come to the attention of intruders~~on  
16 property that is privately owned and open to the public after being requested to  
17 leave the property by a duly authorized individual. A violation of this subdivision is  
18 a noncriminal offense.
- 19 b. A peace officer shall cite an individual who violates subdivision a with a fine of  
20 two hundred fifty dollars for each violation.
- 21 c. The peace officer citing the individual shall:  
22 (1) Take the name and address of the individual; and  
23 (2) Notify the individual of the right to request a hearing if posting bond by mail.
- 24 d. The peace officer may not take the individual into custody or require the  
25 individual to proceed with the peace officer to any other location for the purpose  
26 of posting bond. The officer shall provide the individual with an envelope for use  
27 in mailing the bond.
- 28 e. An individual cited may appear before the designated official and pay the  
29 statutory fine for the violation at or before the time scheduled for hearing.
- 30 f. If the individual has posted bond, the individual may forfeit bond by not appearing  
31 at the designated time.

- 1 g. If the individual posts bond by mail, the bond must be submitted within fourteen  
2 days of the date of the citation and the individual cited shall indicate on the  
3 envelope or citation whether a hearing is requested. If the individual does not  
4 request a hearing within fourteen days of the date of the citation, the bond is  
5 deemed forfeited and the individual is deemed to have admitted to the violation  
6 and to have waived the right to a hearing on the issue of commission of the  
7 violation. If the individual requests a hearing, the court for the county in which the  
8 citation is issued shall issue a summons to the individual requesting the hearing  
9 notifying the individual of the date of the hearing before the designated official.
- 10 h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled  
11 at the individual's request, the individual may make a statement in explanation of  
12 the individual's action. The official may at that time waive or suspend the statutory  
13 fine or bond.
- 14 i. A citing peace officer may not receive the statutory fine or bond.
- 15 j. The bond required to secure appearance before the judge must be identical to  
16 the statutory fine established in subdivision b.

17 ~~5. An individual is guilty of a class B misdemeanor if that individual remains upon the~~  
18 ~~property of another after being requested to leave the property by a duly authorized~~  
19 ~~individual. An individual who violates this subsection is guilty of a class A~~  
20 ~~misdemeanor for the second or subsequent offense within a two-year period.~~

21 ~~6.4.~~ This section does not apply to ~~a:~~

- 22 a. A peace officer in the course of discharging the peace officer's official duties; or  
23 b. An individual who enters land to access buried and aboveground infrastructure  
24 for operations, inspection, repair, or maintenance purposes, if the individual has a  
25 right to operate, inspect, repair, or maintain the infrastructure.

26 **SECTION 2. AMENDMENT.** Section 20.1-01-18 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28 **20.1-01-18. Hunting ~~on posted land~~ and trapping on private land without permission**  
29 **unlawful - Penalty.**

30 ~~No person~~ An individual may not hunt or pursue game, or enter for those purposes, upon  
31 ~~legally posted~~ land belonging to another without first obtaining the permission of the person

1 legally entitled to grant the same permission. ~~No person~~ An individual may not enter upon  
2 privately owned land for the purpose of trapping protected fur-bearing animals without first  
3 gaining the written permission of the owner or operator of that land. A person who violates this  
4 section is guilty of ~~a class B misdemeanor for the first offense and a class A misdemeanor for a~~  
5 ~~subsequent offense within a two-year period~~ unless the land is designated as closed to hunters  
6 or open to hunters with permission under section 20.1-18-02 or the land is legally posted in  
7 accordance with section 20.1-01-17.

8 **SECTION 3. AMENDMENT.** Section 20.1-01-19 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **20.1-01-19. When ~~posted~~ private land may be entered.**

11 ~~Any person~~ An individual may enter upon ~~legally posted~~ private land to recover game shot or  
12 killed on land where the ~~person~~ individual had a lawful right to hunt.

13 **SECTION 4. AMENDMENT.** Section 20.1-01-20 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15 **20.1-01-20. Entering ~~posted~~ private land with a hunting license and a gun or firearm**  
16 **prima facie evidence of intent to hunt game.**

17 Proof that ~~a person having~~ an individual had a firearm, or other weapon declared legal by  
18 governor's proclamation, ~~in the person's possession~~ and a valid license to hunt game in the  
19 relevant area when the individual entered upon the ~~legally posted~~ private premises of another  
20 without permission of the owner or tenant is prima facie evidence the ~~person~~ individual entered  
21 to hunt or pursue game.

22 **SECTION 5. AMENDMENT.** Section 20.1-03-42 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24 **20.1-03-42. Guiding on prohibited lands.**

25 1. A person may not act as a hunting guide or hunting outfitter on land the person knows  
26 is owned by the state unless the appropriate state agency permits or authorizes the  
27 guiding or outfitting, on private land enrolled by the department for purposes of  
28 hunting, on land in which the department pays in lieu of taxes, or on federal lands  
29 without being authorized or permitted as required by the appropriate federal agency,  
30 or

1       2. A person may not act as a hunting guide or outfitter on private lands that are posted  
2       against hunting or trespassing under section 20.1-01-17 or private lands that are  
3       designated as closed to hunters or open to hunters with permission under section  
4       20.1-18-02, without first informing and obtaining permission from the landowner to  
5       conduct guiding or outfitting on the land. If the landowner did not grant the permission  
6       in writing, there is a presumption that the permission did not exist.

7       ~~SECTION 6. Chapter 20.1-18 of the North Dakota Century Code is created and enacted as~~  
8       ~~follows:~~

9       ~~**20.1-18-01. Hunters access advisory group.**~~

10      ~~1. The hunters access advisory group consists of:~~

11      ~~a. The agriculture commissioner or the commissioner's designee;~~

12      ~~b. The director or the director's designee;~~

13      ~~c. The chief information officer or the officer's designee;~~

14      ~~d. A representative of the North Dakota association of counties;~~

15      ~~e. Two members of an agriculture committee; and~~

16      ~~f. Two members of a sportsmen committee.~~

17      ~~2. The hunters access advisory group shall oversee the development of the hunters~~  
18      ~~access database identifying private land in the state as open to hunters, closed to~~  
19      ~~hunters, or open to hunters with permission from the owner or lawful occupant.~~

20      ~~3. The hunters access advisory group shall establish guidelines for the development of~~  
21      ~~the database and acceptance criteria for county data used to develop the database.~~

22      ~~**20.1-18-02. Hunters access database.**~~

23      ~~1. The hunters access database must use color coding or other clear indicators to~~  
24      ~~designate private land in the state as open to hunters, closed to hunters, or open to~~  
25      ~~hunters with permission from the owner or lawful occupant.~~

26      ~~2. A landowner or lawful occupant may designate which of the three categories in~~  
27      ~~subsection 1 applies to the landowner's or occupant's land. Land for which a~~  
28      ~~landowner or lawful occupant does not designate a category must be indicated in the~~  
29      ~~database as open to hunters if the county in which the land is located is included in the~~  
30      ~~database.~~

#1:  
4/4/19  
SB2315

- 1 ~~3. If a landowner or lawful occupant designates land as open to hunters with permission,~~
- 2 ~~the landowner or lawful occupant shall provide contact information to be included in~~
- 3 ~~the database for hunters to request permission to hunt on the land.~~
- 4 ~~4. The database must be accessible electronically to the public and may be made~~
- 5 ~~available to the public through other means, including smartphone applications.~~
- 6 ~~5. To be included in the database, a county shall provide geographic information system~~
- 7 ~~data or other data to the information technology department which meets the criteria~~
- 8 ~~established by the hunters access advisory group.~~
- 9 ~~**20.1-18-03. Noncompliance with database and posting - Penalty.**~~
- 10 ~~1. Until the county in which private land is located is included in the hunters access~~
- 11 ~~database, the land is deemed open unless posted in accordance with section~~
- 12 ~~20.1-01-17.~~
- 13 ~~2. After a county is included in the database:~~
- 14 ~~a. A hunter may not enter land in the county which is designated in the database as~~
- 15 ~~closed to hunters or open to hunters with permission unless the hunter has~~
- 16 ~~permission to enter the land or otherwise is entitled to enter the land. A hunter is~~
- 17 ~~guilty of an infraction for a first knowing violation and a class B misdemeanor for~~
- 18 ~~a second and subsequent knowing violation of this subdivision; and~~
- 19 ~~b. A hunter without permission may enter land in the county which is not designated~~
- 20 ~~in the database as closed to hunters or open to hunters with permission, unless~~
- 21 ~~the land is posted in accordance with section 20.1-01-17.~~
- 22 ~~3. A hunter may not enter land that is posted in accordance with section 20.1-01-17~~
- 23 ~~unless the hunter has permission to enter the land or otherwise is entitled to enter the~~
- 24 ~~land, regardless of the designation of the land in the database. A hunter is guilty of an~~
- 25 ~~infraction for a first knowing violation and a class B misdemeanor for a second and~~
- 26 ~~subsequent knowing violation of this subsection.~~
- 27 ~~**SECTION 7. LEGISLATIVE INTENT - TIMELINE FOR DATABASE DEVELOPMENT.** It is~~
- 28 ~~the intent of the legislative assembly that several counties will be included in an operational~~
- 29 ~~hunters access database by the fall hunting season of 2020, and the operational database will~~
- 30 ~~include all counties whose data meet the specifications of the hunters access database~~
- 31 ~~advisory group by September 1, 2022.~~

1       **SECTION 6. ~~LEGISLATIVE MANAGEMENT STUDY - ACCESS TO LANDS FOR~~**  
2 **~~HUNTING AND TRAPPING - REPORT TO LEGISLATIVE MANAGEMENT AND INTERIM~~**  
3 **~~LEGISLATIVE COMMITTEES.~~**

4       1. ~~During the 2019-20 interim, the legislative management~~ land access committee shall  
5 ~~consider studying~~ study access to public and private lands ~~for hunting, trapping, and~~  
6 ~~related issues~~ and shall develop recommendations regarding electronic posting of  
7 land. The study must include consideration of the numbers of calls to law enforcement  
8 regarding trespassers, the number of citations and convictions for trespass, the  
9 locations where trespass occurs the most and least in the state, and how sportsmen  
10 are impacted by legislation regarding access to land in the state. The legislative  
11 ~~management~~ land access committee shall report its findings and recommendations,  
12 together with any legislation required to implement the recommendations, to the  
13 ~~sixty-seventh legislative assembly~~ legislative management, interim energy and natural  
14 resources committee, and interim agriculture committee before August 1, 2020.

15       2. a. The voting members of the committee, who must be appointed by the legislative  
16 management are:

- 17               (1) Two members representing agriculture organizations;  
18               (2) Two members representing sportsmen organizations;  
19               (3) Four members of the legislative assembly, one of whom must be selected  
20 by the committee as chairman of the committee, including:  
21                     (a) One member of the majority party in the house of representatives;  
22                     (b) One member of the minority party in the house of representatives;  
23                     (c) One member of the majority party in the senate; and  
24                     (d) One member of the minority party in the senate; and  
25               (4) A representative of the North Dakota association of counties.

26       b. The nonvoting members of the committee are:

- 27               (1) The agriculture commissioner or the commissioner's designee;  
28               (2) The director of the game and fish department or the director's designee; and  
29               (3) The chief information officer or the officer's designee.

30       3. A member of the committee who is not a state employee is entitled to reimbursement  
31 for mileage and expenses as provided by law for state officers and employees, to be

#1  
4/4/19  
SB2315

1 paid by the legislative council. A state employee who is a member of the committee is  
2 entitled to receive that employee's regular salary and is entitled to reimbursement for  
3 mileage and expenses to be paid by the employing agency. A member of the  
4 committee who is a member of the legislative assembly is entitled to receive per diem  
5 compensation at the rate provided under section 54-35-10 for each day performing  
6 official duties of the committee. The legislative council shall pay the per diem  
7 compensation and reimbursement for travel and expenses as provided by law for any  
8 member of the committee who is a member of the legislative assembly.



#1  
4/5/19

Sixty-sixth  
Legislative Assembly  
of North Dakota

ENGROSSED SENATE BILL NO. 2315

Introduced by

Senators Erbele, Patten, Unruh

Representatives Boe, Schmidt, Westlind

1 A BILL for an Act to create and enact chapter 20.1-18 of the North Dakota Century Code,  
2 relating to a database identifying whether private land is open to hunters; to amend and reenact  
3 sections 12.1-22-03, ~~20.1-01-18, 20.1-01-19, 20.1-01-20~~20.1-01-17, and 20.1-03-42 of the  
4 North Dakota Century Code, relating to criminal trespass and hunting on private land; ~~to provide~~  
5 ~~a statement of legislative intent; to provide for a legislative management study;~~ and to provide a  
6 penalty.

7 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

8 SECTION 1. AMENDMENT. Section 12.1-22-03 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 12.1-22-03. Criminal trespass - Noncriminal offense on posted property.

- 11 1. An individual is guilty of a class C felony if, knowing that that individual is not licensed
- 12 or privileged to do so, the individual enters or remains in a dwelling or in highly
- 13 secured premises.
- 14 2. An individual is guilty of a class A misdemeanor if, knowing that that the individual is
- 15 not licensed or privileged to do so, the individual:
  - 16 a. Enters ~~enters~~ or remains in or on any building, occupied structure, or storage
  - 17 structure, or separately secured or occupied portion thereof of a building,
  - 18 occupied structure, or storage structure; or
  - 19 b. Enters or remains in any place so enclosed as manifestly to exclude intruders of a
  - 20 building or structure, or any other place the individual is not licensed or privileged
  - 21 to be, except as provided in sections 20.1-01-18, 20.1-01-19, 20.1-03-42, and
  - 22 20.1-18-03.
  - 23 3. a. An individual is guilty of a class B misdemeanor if, knowing that that individual is
  - 24 not licensed or privileged to do so, the individual enters or remains in any place

#1  
4/5/19  
SB2315

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

as to which notice against trespass is given by actual communication to the actor by the individual in charge of the premises or other authorized individual ~~or~~<sub>1</sub> by posting in a manner reasonably likely to come to the attention of intruders, or by posting the land online in the trespass registry under chapter 20.1-18. The name of the person physically posting the premises must appear on each sign in legible characters. The name of the person posting the land online must be electronically accessible in the trespass registry.

b. Even if the conduct of the owner, tenant, or individual authorized by the owner varies from the provisions of subdivision a, an individual may be found guilty of violating subdivision a if the owner, tenant, or individual authorized by the owner substantially complied with subdivision a and notice against trespass is clear from the circumstances.

c. An individual who violates subdivision a is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.

4. a. An individual, knowing the individual is not licensed or privileged to do so, may not enter or remain in a place as to which notice against trespass is given by posting in a manner reasonably likely to come to the attention of intruders. A violation of this subdivision is a noncriminal offense.

b. A peace officer shall cite an individual who violates subdivision a with a fine of two hundred fifty dollars for each violation.

c. The peace officer citing the individual shall:  
(1) Take the name and address of the individual; and  
(2) Notify the individual of the right to request a hearing if posting bond by mail.

d. The peace officer may not take the individual into custody or require the individual to proceed with the peace officer to any other location for the purpose of posting bond. The officer shall provide the individual with an envelope for use in mailing the bond.

e. An individual cited may appear before the designated official and pay the statutory fine for the violation at or before the time scheduled for hearing.

f. If the individual has posted bond, the individual may forfeit bond by not appearing at the designated time.

- 1 g. If the individual posts bond by mail, the bond must be submitted within fourteen  
2 days of the date of the citation and the individual cited shall indicate on the  
3 envelope or citation whether a hearing is requested. If the individual does not  
4 request a hearing within fourteen days of the date of the citation, the bond is  
5 deemed forfeited and the individual is deemed to have admitted to the violation  
6 and to have waived the right to a hearing on the issue of commission of the  
7 violation. If the individual requests a hearing, the court for the county in which the  
8 citation is issued shall issue a summons to the individual requesting the hearing  
9 notifying the individual of the date of the hearing before the designated official.
- 10 h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled  
11 at the individual's request, the individual may make a statement in explanation of  
12 the individual's action. The official may at that time waive or suspend the statutory  
13 fine or bond.
- 14 i. A citing peace officer may not receive the statutory fine or bond.
- 15 j. The bond required to secure appearance before the judge must be identical to  
16 the statutory fine established in subdivision b.

17 5. An individual is guilty of a class B misdemeanor if that individual remains upon the  
18 property of another after being requested to leave the property by a duly authorized  
19 individual. An individual who violates this subsection is guilty of a class A  
20 misdemeanor for the second or subsequent offense within a two-year period.

21 6.4. This section does not apply to ~~a.~~

22 a. A peace officer in the course of discharging the peace officer's official duties; or

23 b. An individual who enters land to access buried and aboveground infrastructure  
24 for operations, inspection, repair, or maintenance purposes, if the individual has a  
25 right to operate, inspect, repair, or maintain the infrastructure.

26 **SECTION 2. AMENDMENT.** Section 20.1-01-17 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28 **20.1-01-17. ~~Posting~~Physical and online posting of lands by owner to prohibit hunting**  
29 **- How posted - Signs defaced.**

- 30 1. Only the owner or tenant or an individual authorized by the owner of land may post the  
31 land online by designating the land as "no trespass" in the trespass registry under

1 chapter 20.1-18, or post the land by placing signs alongside the public highway or the  
2 land giving notice that hunting is not permitted on the land. The name of the person  
3 posting the land online must be electronically accessible in the trespass registry. The  
4 name of the person physically posting the land must appear on each sign in legible  
5 characters. The signs must be readable from the outside of the land and must be  
6 placed conspicuously not more than eight hundred eighty yards [804.68 meters] apart.  
7 As to land entirely enclosed by a fence or other enclosure, posting of signs at or on all  
8 gates through the fence or enclosure constitutes a posting of all the enclosed land.

9 2. A person may not deface, take down, destroy posting signs, or post property without  
10 the permission of the owner or tenant or an individual authorized by the owner.

11 3. Even if the conduct of the owner, tenant, or individual authorized by the owner varies  
12 from the provisions of subsection 1, an individual may be found guilty of violating  
13 section 20.1-01-18 if the owner, tenant, or individual authorized by the owner  
14 substantially complied with subsection 1 and notice against hunting or trespassing is  
15 clear from the circumstances.

16 ~~—SECTION 3. AMENDMENT. Section 20.1-01-18 of the North Dakota Century Code is~~  
17 ~~amended and reenacted as follows:~~

18 ~~—20.1-01-18. Hunting on posted land and trapping on private land without permission~~  
19 ~~unlawful – Penalty.~~

20 ~~—No person~~An individual may hunt or pursue game, or enter for those purposes, upon legally  
21 posted land belonging to another without first obtaining the permission of the person legally  
22 entitled to grant the same permission. No person may enter upon privately owned land for the  
23 purpose of trapping protected fur-bearing animals without first gaining the written permission of  
24 the owner or operator of that land. A person who violates this section is guilty of a class-B  
25 misdemeanor for the first offense and a class-A misdemeanor for a subsequent offense within a  
26 two-year period unless the land is designated as closed to hunters or open to hunters with  
27 permission under section 20.1-18-02 or the land is legally posted in accordance with section  
28 20.1-01-17.

29 ~~—SECTION 4. AMENDMENT. Section 20.1-01-19 of the North Dakota Century Code is~~  
30 ~~amended and reenacted as follows:~~

1 ~~20.1-01-19. When posted private land may be entered.~~

2 ~~Any person~~An individual may enter upon legally posted private land to recover game shot or  
3 killed on land where the person individual had a lawful right to hunt.

4 ~~SECTION 5. AMENDMENT. Section 20.1-01-20 of the North Dakota Century Code is~~  
5 ~~amended and reenacted as follows:~~

6 ~~20.1-01-20. Entering posted private land with a hunting license and a gun or firearm~~  
7 ~~prima facie evidence of intent to hunt game.~~

8 ~~Proof that a person having an individual had a firearm, or other weapon declared legal by~~  
9 ~~governor's proclamation, in the person's possession and a valid license to hunt game in the~~  
10 ~~relevant area when the individual entered upon the legally posted private premises of another~~  
11 ~~without permission of the owner or tenant is prima facie evidence the person individual entered~~  
12 ~~to hunt or pursue game.~~

13 **SECTION 3. AMENDMENT.** Section 20.1-03-42 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15 **20.1-03-42. Guiding on prohibited lands.**

16 1. A person may not act as a hunting guide or hunting outfitter on land the person knows  
17 is owned by the state unless the appropriate state agency permits or authorizes the  
18 guiding or outfitting, on private land enrolled by the department for purposes of  
19 hunting, on land in which the department pays in lieu of taxes, or on federal lands  
20 without being authorized or permitted as required by the appropriate federal agency;  
21 or

22 2. A person may not act as a hunting guide or outfitter on private lands that are posted  
23 against hunting or trespassing under section 20.1-01-17 ~~or private lands that are~~  
24 ~~designated as closed to hunters or open to hunters with permission under section~~  
25 ~~20.1-18-02;~~ without first informing and obtaining permission from the landowner to  
26 conduct guiding or outfitting on the land. If the landowner did not grant the permission  
27 in writing, there is a presumption that the permission did not exist.

28 **SECTION 4.** Chapter 20.1-18 of the North Dakota Century Code is created and enacted as  
29 follows:

30 **20.1-18-01. ~~Hunters access~~ Trespass registry advisory group.**

31 1. ~~The hunters accesstrespass registry advisory group~~ consists of:

- 1           a. The agriculture commissioner or the commissioner's designee;
- 2           b. The director or the director's designee;
- 3           c. The chief information officer or the officer's designee;
- 4           d. A representative of the North Dakota association of counties;
- 5           e. Two members ~~of an agriculture committee; and~~ representing agriculture
- 6                 communities;
- 7           f. Two members ~~of a sportsmen committee.~~ representing sportsmen communities;
- 8           g. One member of the legislative assembly appointed by the majority leader of the
- 9                 senate;
- 10          h. One member of the legislative assembly appointed by the majority leader of the
- 11                 house of representatives; and
- 12          i. One member of the legislative assembly from the minority party appointed by the
- 13                 legislative management.

14          2. The ~~hunters accesstrespass registry advisory group shall oversee the development of~~  
15             ~~the hunters access database identifying private land in the state as open to hunters,~~  
16             ~~closed to hunters, or open to hunters with permission from the owner or lawful~~  
17             ~~occupant.~~ a trespass registry providing a digital, online posting option for the owner or  
18             tenant of land, or an individual authorized by the owner to use the registry.

19          3. The ~~hunters accesstrespass registry advisory group shall establish guidelines for the~~  
20             development of the database and acceptance criteria for county data used to develop  
21             the database.

22          **20.1-18-02. ~~Hunters access database~~ Trespass registry.**

23          1. ~~The hunters access database must use color coding or other clear indicators to~~  
24             ~~designate private land in the state as open to hunters, closed to hunters, or open to~~  
25             ~~hunters with permission from the owner or lawful occupant.~~ The trespass registry must  
26             offer an online application for an owner or tenant or an individual authorized by the  
27             owner to post the land by designating rural land parcels as "no trespass," if the county  
28             in which the land is located is included in the trespass registry.

29          2. ~~A landowner or lawful occupant may designate which of the three categories in~~  
30             ~~subsection 1 applies to the landowner's or occupant's land. Land for which a~~  
31             landowner or lawful occupant does not designate a category must be indicated in the

1 database as open to hunters if the county in which the land is located is included in the  
2 database.

3 ~~3. If a landowner or lawful occupant designates land as open to hunters with permission,~~  
4 ~~the landowner or lawful occupant shall provide contact information to be included in~~  
5 ~~the database for hunters to request permission to hunt on the land.~~

6 4. The database information in the trespass registry must be accessible electronically to  
7 the public and may be made available to the public through other means, including  
8 smartphone mobile map applications.

9 5.3. To be included in the database trespass registry, a county shall provide geographic  
10 information system data or other data to the information technology department which  
11 meets the criteria established by the hunters access trespass registry advisory group.

12 **20.1-18-03. Noncompliance with database and posting – Penalty.**

13 ~~1. Until the county in which private land is located is included in the hunters access~~  
14 ~~database, the land is deemed open unless posted in accordance with section~~  
15 ~~20.1-01-17.~~

16 ~~2. After a county is included in the database:~~

17 ~~a. A hunter may not enter land in the county which is designated in the database as~~  
18 ~~closed to hunters or open to hunters with permission unless the hunter has~~  
19 ~~permission to enter the land or otherwise is entitled to enter the land. A hunter is~~  
20 ~~guilty of an infraction for a first knowing violation and a class B misdemeanor for~~  
21 ~~a second and subsequent knowing violation of this subdivision; and~~

22 ~~b. A hunter without permission may enter land in the county which is not designated~~  
23 ~~in the database as closed to hunters or open to hunters with permission, unless~~  
24 ~~the land is posted in accordance with section 20.1-01-17.~~

25 ~~3. A hunter may not enter land that is posted in accordance with section 20.1-01-17~~  
26 ~~unless the hunter has permission to enter the land or otherwise is entitled to enter the~~  
27 ~~land, regardless of the designation of the land in the database. A hunter is guilty of an~~  
28 ~~infraction for a first knowing violation and a class B misdemeanor for a second and~~  
29 ~~subsequent knowing violation of this subsection.~~

30 ~~**SECTION 8. LEGISLATIVE INTENT – TIMELINE FOR DATABASE DEVELOPMENT.** It is~~  
31 ~~the intent of the legislative assembly that several counties will be included in an operational~~

1 ~~hunters access database by the fall hunting season of 2020, and the operational database will~~  
2 ~~include all counties whose data meet the specifications of the hunters access database~~  
3 ~~advisory group by September 1, 2022.~~

4 ~~—SECTION 9. LEGISLATIVE MANAGEMENT STUDY—ACCESS TO LANDS FOR~~

5 ~~**HUNTING AND TRAPPING.** During the 2019-20 interim, the legislative management shall~~  
6 ~~consider studying access to public and private lands for hunting, trapping, and related issues.~~  
7 ~~The legislative management shall report its findings and recommendations, together with any~~  
8 ~~legislation required to implement the recommendations, to the sixty-seventh legislative~~  
9 ~~assembly.~~



#2  
4/5/19  
SB 2315

Sixty-sixth  
Legislative Assembly  
of North Dakota

ENGROSSED SENATE BILL NO. 2315

Introduced by

Senators Erbele, Patten, Unruh

Representatives Boe, Schmidt, Westlind

1 A BILL for an Act ~~to create and enact chapter 20.1-18 of the North Dakota Century Code,~~  
 2 ~~relating to a database identifying whether private land is open to hunters;~~ to amend and reenact  
 3 sections 12.1-22-03, 20.1-01-18, 20.1-01-19, 20.1-01-20, and 20.1-03-42 of the North Dakota  
 4 Century Code, relating to criminal trespass and hunting on private land; ~~to provide a statement~~  
 5 ~~of legislative intent;~~ to provide for a ~~legislative management~~ study of access to land; to provide  
 6 for a report to the legislative management and interim legislative committees; and to provide a  
 7 penalty.

8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

9 **SECTION 1. AMENDMENT.** Section 12.1-22-03 of the North Dakota Century Code is  
 10 amended and reenacted as follows:

11 **12.1-22-03. Criminal trespass –~~Noncriminal offense on posted property.~~**

12 1. An individual is guilty of a class C felony if, knowing that that individual is not licensed  
 13 or privileged to do so, the individual enters or remains in a dwelling or in highly  
 14 secured premises.

15 2. An individual is guilty of a class A misdemeanor if, knowing ~~that that~~ the individual is  
 16 not licensed or privileged to do so, the individual:

17 a. ~~Enters~~ enters or remains in or on any building, occupied structure, ~~or~~ storage  
 18 structure, ~~or~~ separately secured or occupied portion ~~thereof;~~ ~~or~~

19 b. ~~Enters or remains in any place so enclosed as manifestly to exclude intruders of a~~  
 20 building or structure, or any other place the individual is not licensed or privileged  
 21 to be, except as provided in sections 20.1-01-18, subsection 3 and section  
 22 20.1-01-19, 20.1-03-42, and 20.1-18-03.

23 3. a. ~~An individual is guilty of a class B misdemeanor if, knowing that that individual is~~  
 24 ~~not licensed or privileged to do so, the individual enters or remains in any place~~

#2  
4/5/19  
SB 2315

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

~~as to which notice against trespass is given by actual communication to the actor by the individual in charge of the premises or other authorized individual or by posting in a manner reasonably likely to come to the attention of intruders. The name of the person posting the premises must appear on each sign in legible characters.~~

~~b. Even if the conduct of the owner, tenant, or individual authorized by the owner varies from the provisions of subdivision a, an individual may be found guilty of violating subdivision a if the owner, tenant, or individual authorized by the owner substantially complied with subdivision a and notice against trespass is clear from the circumstances.~~

~~e. An individual who violates subdivision a is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.~~

4. a. An individual, knowing the individual is not licensed or privileged to do so, may not enter or remain in a place as to which notice against trespass is given by posting in a manner reasonably likely to come to the attention of intruders on property that is privately owned and open to the public after being requested to leave the property by a duly authorized individual. A violation of this subdivision is a noncriminal offense.

b. A peace officer shall cite an individual who violates subdivision a with a fine of two hundred fifty dollars for each violation.

c. The peace officer citing the individual shall:

(1) Take the name and address of the individual; and

(2) Notify the individual of the right to request a hearing if posting bond by mail.

d. The peace officer may not take the individual into custody or require the individual to proceed with the peace officer to any other location for the purpose of posting bond. The officer shall provide the individual with an envelope for use in mailing the bond.

e. An individual cited may appear before the designated official and pay the statutory fine for the violation at or before the time scheduled for hearing.

f. If the individual has posted bond, the individual may forfeit bond by not appearing at the designated time.

- 1           g. If the individual posts bond by mail, the bond must be submitted within fourteen  
2           days of the date of the citation and the individual cited shall indicate on the  
3           envelope or citation whether a hearing is requested. If the individual does not  
4           request a hearing within fourteen days of the date of the citation, the bond is  
5           deemed forfeited and the individual is deemed to have admitted to the violation  
6           and to have waived the right to a hearing on the issue of commission of the  
7           violation. If the individual requests a hearing, the court for the county in which the  
8           citation is issued shall issue a summons to the individual requesting the hearing  
9           notifying the individual of the date of the hearing before the designated official.
- 10          h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled  
11          at the individual's request, the individual may make a statement in explanation of  
12          the individual's action. The official may at that time waive or suspend the statutory  
13          fine or bond.
- 14          i. A citing peace officer may not receive the statutory fine or bond.
- 15          j. The bond required to secure appearance before the judge must be identical to  
16          the statutory fine established in subdivision b.

17          ~~5. An individual is guilty of a class B misdemeanor if that individual remains upon the~~  
18          ~~property of another after being requested to leave the property by a duly authorized~~  
19          ~~individual. An individual who violates this subsection is guilty of a class A~~  
20          ~~misdemeanor for the second or subsequent offense within a two-year period.~~

21          ~~6.4.~~ This section does not apply to ~~a~~:

- 22          a. A peace officer in the course of discharging the peace officer's official duties; or  
23          b. An individual who enters land to access buried and aboveground infrastructure  
24          for operations, inspection, repair, or maintenance purposes, if the individual has a  
25          right to operate, inspect, repair, or maintain the infrastructure.

26          **SECTION 2. AMENDMENT.** Section 20.1-01-18 of the North Dakota Century Code is  
27          amended and reenacted as follows:

28          **20.1-01-18. Hunting ~~on posted land~~ and trapping on private land without permission**  
29          **unlawful - Penalty.**

30          ~~No person~~An individual may not hunt or pursue game, or enter for those purposes, upon  
31          ~~legally posted~~ land belonging to another without first obtaining the permission of the person

1 legally entitled to grant the ~~same permission.~~ ~~No person~~ An individual may not enter upon  
2 privately owned land for the purpose of trapping protected fur-bearing animals without first  
3 gaining the written permission of the owner or operator of that land. A person who violates this  
4 section is guilty of a ~~class B misdemeanor for the first offense and a class A misdemeanor for a~~  
5 ~~subsequent offense within a two-year period~~ unless the land is designated as closed to hunters  
6 or open to hunters with permission under section 20.1-18-02 or the land is legally posted in  
7 accordance with section 20.1-01-17.

8 **SECTION 3. AMENDMENT.** Section 20.1-01-19 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **20.1-01-19. When posted private land may be entered.**

11 ~~Any person~~ An individual may enter upon ~~legally posted private~~ land to recover game shot or  
12 killed on land where the ~~person~~ individual had a lawful right to hunt.

13 **SECTION 4. AMENDMENT.** Section 20.1-01-20 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15 **20.1-01-20. Entering posted private land with a hunting license and a gun or firearm**  
16 **prima facie evidence of intent to hunt game.**

17 Proof that ~~a person having~~ an individual had a firearm, or other weapon declared legal by  
18 governor's proclamation, ~~in the person's possession~~ and a valid license to hunt game in the  
19 relevant area when the individual entered upon the ~~legally posted private~~ premises of another  
20 without permission of the owner or tenant is prima facie evidence the ~~person~~ individual entered  
21 to hunt or pursue game.

22 **SECTION 5. AMENDMENT.** Section 20.1-03-42 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24 **20.1-03-42. Guiding on prohibited lands.**

- 25 1. A person may not act as a hunting guide or hunting outfitter on land the person knows  
26 is owned by the state unless the appropriate state agency permits or authorizes the  
27 guiding or outfitting, on private land enrolled by the department for purposes of  
28 hunting, on land in which the department pays in lieu of taxes, or on federal lands  
29 without being authorized or permitted as required by the appropriate federal agency,  
30 or

1       2. A person may not act as a hunting guide or outfitter on private lands that are posted  
2       against hunting or trespassing under section 20.1-01-17 or private lands that are  
3       designated as closed to hunters or open to hunters with permission under section  
4       20.1-18-02, without first informing and obtaining permission from the landowner to  
5       conduct guiding or outfitting on the land. If the landowner did not grant the permission  
6       in writing, there is a presumption that the permission did not exist.

7       ~~SECTION 6. Chapter 20.1-18 of the North Dakota Century Code is created and enacted as~~  
8       ~~follows:~~

9       ~~**20.1-18-01. Hunters access advisory group.**~~

10      ~~1. The hunters access advisory group consists of:~~

11      ~~a. The agriculture commissioner or the commissioner's designee;~~

12      ~~b. The director or the director's designee;~~

13      ~~c. The chief information officer or the officer's designee;~~

14      ~~d. A representative of the North Dakota association of counties;~~

15      ~~e. Two members of an agriculture committee; and~~

16      ~~f. Two members of a sportsmen committee.~~

17      ~~2. The hunters access advisory group shall oversee the development of the hunters~~  
18      ~~access database identifying private land in the state as open to hunters, closed to~~  
19      ~~hunters, or open to hunters with permission from the owner or lawful occupant.~~

20      ~~3. The hunters access advisory group shall establish guidelines for the development of~~  
21      ~~the database and acceptance criteria for county data used to develop the database.~~

22      ~~**20.1-18-02. Hunters access database.**~~

23      ~~1. The hunters access database must use color coding or other clear indicators to~~  
24      ~~designate private land in the state as open to hunters, closed to hunters, or open to~~  
25      ~~hunters with permission from the owner or lawful occupant.~~

26      ~~2. A landowner or lawful occupant may designate which of the three categories in~~  
27      ~~subsection 1 applies to the landowner's or occupant's land. Land for which a~~  
28      ~~landowner or lawful occupant does not designate a category must be indicated in the~~  
29      ~~database as open to hunters if the county in which the land is located is included in the~~  
30      ~~database.~~

1 ~~3. If a landowner or lawful occupant designates land as open to hunters with permission;~~  
2 ~~the landowner or lawful occupant shall provide contact information to be included in~~  
3 ~~the database for hunters to request permission to hunt on the land.~~

4 ~~4. The database must be accessible electronically to the public and may be made~~  
5 ~~available to the public through other means, including smartphone applications.~~

6 ~~5. To be included in the database, a county shall provide geographic information system~~  
7 ~~data or other data to the information technology department which meets the criteria~~  
8 ~~established by the hunters access advisory group.~~

9 ~~**20.1-18-03. Noncompliance with database and posting - Penalty.**~~

10 ~~1. Until the county in which private land is located is included in the hunters access~~  
11 ~~database, the land is deemed open unless posted in accordance with section~~  
12 ~~20.1-01-17.~~

13 ~~2. After a county is included in the database:~~

14 ~~a. A hunter may not enter land in the county which is designated in the database as~~  
15 ~~closed to hunters or open to hunters with permission unless the hunter has~~  
16 ~~permission to enter the land or otherwise is entitled to enter the land. A hunter is~~  
17 ~~guilty of an infraction for a first knowing violation and a class B misdemeanor for~~  
18 ~~a second and subsequent knowing violation of this subdivision; and~~

19 ~~b. A hunter without permission may enter land in the county which is not designated~~  
20 ~~in the database as closed to hunters or open to hunters with permission, unless~~  
21 ~~the land is posted in accordance with section 20.1-01-17.~~

22 ~~3. A hunter may not enter land that is posted in accordance with section 20.1-01-17~~  
23 ~~unless the hunter has permission to enter the land or otherwise is entitled to enter the~~  
24 ~~land, regardless of the designation of the land in the database. A hunter is guilty of an~~  
25 ~~infraction for a first knowing violation and a class B misdemeanor for a second and~~  
26 ~~subsequent knowing violation of this subsection.~~

27 ~~**SECTION 7. LEGISLATIVE INTENT - TIMELINE FOR DATABASE DEVELOPMENT.** It is~~  
28 ~~the intent of the legislative assembly that several counties will be included in an operational~~  
29 ~~hunters access database by the fall hunting season of 2020, and the operational database will~~  
30 ~~include all counties whose data meet the specifications of the hunters access database~~  
31 ~~advisory group by September 1, 2022.~~

#2  
4/5/19  
SB2315

1           **SECTION 6. ~~LEGISLATIVE MANAGEMENT STUDY - ACCESS TO LANDS FOR~~**  
2           **~~HUNTING AND TRAPPING - REPORT TO LEGISLATIVE MANAGEMENT AND INTERIM~~**  
3           **~~LEGISLATIVE COMMITTEES.~~**

4           1. During the 2019-20 interim, the ~~legislative management~~ land access committee shall  
5           ~~consider studying~~ study access to public and private lands ~~for hunting, trapping,~~ and  
6           related issues and shall develop recommendations regarding electronic posting of  
7           land. The study must include consideration of the numbers of calls to law enforcement  
8           regarding trespassers, the number of citations and convictions for trespass, the  
9           locations where trespass occurs the most and least in the state, and how sportsmen  
10          are impacted by legislation regarding access to land in the state. The legislative  
11          ~~management~~ land access committee shall report its findings and recommendations,  
12          together with any legislation required to implement the recommendations, to the  
13          ~~sixty-seventh legislative assembly~~ legislative management, interim energy and natural  
14          resources committee, and interim agriculture committee before August 1, 2020.

15          2. a. The voting members of the committee, who must be appointed by the legislative  
16               management are:

17               (1) Two members representing agriculture organizations;

18               (2) Two members representing sportsmen organizations;

19               (3) Four members of the legislative assembly, one of whom must be selected  
20               by the committee as chairman of the committee, including:

21               (a) One member of the majority party in the house of representatives;

22               (b) One member of the minority party in the house of representatives;

23               (c) One member of the majority party in the senate; and

24               (d) One member of the minority party in the senate; and

25               (4) A representative of the North Dakota association of counties.

26          b. The nonvoting members of the committee are:

27               (1) The agriculture commissioner or the commissioner's designee;

28               (2) The director of the game and fish department or the director's designee; and

29               (3) The chief information officer or the officer's designee.

30          3. A member of the committee who is not a state employee is entitled to reimbursement  
31          for mileage and expenses as provided by law for state officers and employees, to be

#2  
4/5/19  
SB 2315

1 paid by the legislative council. A state employee who is a member of the committee is  
2 entitled to receive that employee's regular salary and is entitled to reimbursement for  
3 mileage and expenses to be paid by the employing agency. A member of the  
4 committee who is a member of the legislative assembly is entitled to receive per diem  
5 compensation at the rate provided under section 54-35-10 for each day performing  
6 official duties of the committee. The legislative council shall pay the per diem  
7 compensation and reimbursement for travel and expenses as provided by law for any  
8 member of the committee who is a member of the legislative assembly.



#3  
4/5/19

Sixty-sixth  
Legislative Assembly  
of North Dakota

ENGROSSED SENATE BILL NO. 2315

Introduced by

Senators Erbele, Patten, Unruh

Representatives Boe, Schmidt, Westlind

1 A BILL for an Act ~~to create and enact chapter 20.1-18 of the North Dakota Century Code,~~  
2 ~~relating to a database identifying whether private land is open to hunters;~~ to amend and reenact  
3 sections 12.1-22-03, 20.1-01-17, 20.1-01-18, 20.1-01-19, 20.1-01-20, and 20.1-03-42 of the  
4 North Dakota Century Code, relating to criminal trespass and hunting on private land; to provide  
5 a statement of legislative intent; to provide for a ~~legislative management~~ study of access to  
6 land; and to provide a penalty to repeal sections 20.1-01-17 and 20.1-01-20; to provide for a  
7 report to the legislative management and interim legislative committees; to provide a penalty; to  
8 provide a contingent effective date; to provide a contingent expiration date; and to declare an  
9 emergency.

10 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

11 SECTION 1. AMENDMENT. Section 12.1-22-03 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13 12.1-22-03. Criminal trespass – ~~Noncriminal offense on posted property.~~

- 14 1. An individual is guilty of a class C felony if, knowing that that individual is not licensed  
15 or privileged to do so, the individual enters or remains in a dwelling or in highly  
16 secured premises.
- 17 2. An individual is guilty of a class A misdemeanor if, knowing ~~that that~~ the individual is  
18 not licensed or privileged to do so, the individual:
  - 19 a. ~~Enters~~ enters or remains in or on any building, occupied structure, or storage  
20 structure, or separately secured or occupied portion thereof; or
  - 21 b. ~~Enters or remains in any place so enclosed as manifestly to exclude intruders of a~~  
22 building or structure, or any other place the individual is not licensed or privileged  
23 to be, except as provided in subsection 3 and sections 20.1-01-18, 20.1-01-19,  
24 and 20.1-03-42, and 20.1-18-03.

#3  
4/5/19  
SB2315

1       3.   a. ~~An individual is guilty of a class B misdemeanor if, knowing that that individual is~~  
2           ~~not licensed or privileged to do so, the individual enters or remains in any place~~  
3           ~~as to which notice against trespass is given by actual communication to the actor~~  
4           ~~by the individual in charge of the premises or other authorized individual or by~~  
5           ~~posting in a manner reasonably likely to come to the attention of intruders. The~~  
6           ~~name of the person posting the premises must appear on each sign in legible~~  
7           ~~characters.~~

8       ~~b. Even if the conduct of the owner, tenant, or individual authorized by the owner~~  
9           ~~varies from the provisions of subdivision a, an individual may be found guilty of~~  
10          ~~violating subdivision a if the owner, tenant, or individual authorized by the owner~~  
11          ~~substantially complied with subdivision a and notice against trespass is clear~~  
12          ~~from the circumstances.~~

13       ~~c. An individual who violates subdivision a is guilty of a class A misdemeanor for the~~  
14          ~~second or subsequent offense within a two-year period.~~

15       4.   a. An individual, ~~knowing the individual is not licensed or privileged to do so, may~~  
16           ~~not enter or remain~~ in a place ~~as to which notice against trespass is given by~~  
17           ~~posting in a manner reasonably likely to come to the attention of intruders~~ on  
18           property that is privately owned and open to the public after being requested to  
19           leave the property by a duly authorized individual. A violation of this subdivision is  
20           a noncriminal offense.

21          b. A peace officer shall cite an individual who violates subdivision a or commits a  
22           noncriminal offense under section 20.1-01-18 with a fine of two hundred fifty  
23           dollars for each violation.

24          c. The peace officer citing the individual shall:  
25           (1) Take the name and address of the individual; and  
26           (2) Notify the individual of the right to request a hearing if posting bond by mail.

27          d. The peace officer may not take the individual into custody or require the  
28           individual to proceed with the peace officer to any other location for the purpose  
29           of posting bond. The officer shall provide the individual with an envelope for use  
30           in mailing the bond.

- 1 e. An individual cited may appear before the designated official and pay the  
2 statutory fine for the violation at or before the time scheduled for hearing.  
3 f. If the individual has posted bond, the individual may forfeit bond by not appearing  
4 at the designated time.  
5 g. If the individual posts bond by mail, the bond must be submitted within fourteen  
6 days of the date of the citation and the individual cited shall indicate on the  
7 envelope or citation whether a hearing is requested. If the individual does not  
8 request a hearing within fourteen days of the date of the citation, the bond is  
9 deemed forfeited and the individual is deemed to have admitted to the violation  
10 and to have waived the right to a hearing on the issue of commission of the  
11 violation. If the individual requests a hearing, the court for the county in which the  
12 citation is issued shall issue a summons to the individual requesting the hearing  
13 notifying the individual of the date of the hearing before the designated official.  
14 h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled  
15 at the individual's request, the individual may make a statement in explanation of  
16 the individual's action. The official may at that time waive or suspend the statutory  
17 fine or bond.  
18 i. A citing peace officer may not receive the statutory fine or bond.  
19 j. The bond required to secure appearance before the judge must be identical to  
20 the statutory fine established in subdivision b.

21 ~~5. An individual is guilty of a class B misdemeanor if that individual remains upon the~~  
22 ~~property of another after being requested to leave the property by a duly authorized~~  
23 ~~individual. An individual who violates this subsection is guilty of a class A~~  
24 ~~misdemeanor for the second or subsequent offense within a two-year period.~~

25 ~~6.4.~~ This section does not apply to ~~a~~:

- 26 a. A peace officer in the course of discharging the peace officer's official duties; or  
27 b. An individual who enters land to access buried and aboveground infrastructure  
28 for operations, inspection, repair, or maintenance purposes, if the individual has a  
29 right to operate, inspect, repair, or maintain the infrastructure.

30 **SECTION 2. AMENDMENT.** Section 12.1-22-03 of the North Dakota Century Code is  
31 amended and reenacted as follows:

1 **12.1-22-03. Criminal trespass - Noncriminal offense on posted property.**

2 1. An individual is guilty of a class C felony if, knowing that that individual is not licensed  
3 or privileged to do so, the individual enters or remains in a dwelling or in highly  
4 secured premises.

5 2. An individual is guilty of a class A misdemeanor if, knowing that that individual is not  
6 licensed or privileged to do so, the individual:

7 a. Enters or remains in or on any building, occupied structure, or storage structure,  
8 or separately secured or occupied portion thereof; or

9 ~~b. Enters or remains in any place so enclosed as manifestly to exclude intruders of a~~  
10 ~~building or structure, or any other place the individual is not licensed or privileged~~  
11 ~~to be, except as provided in subsection 3.~~

12 3. ~~a. An individual is guilty of a class B misdemeanor if, knowing that that individual is~~  
13 ~~not licensed or privileged to do so, the individual enters or remains in any place~~  
14 ~~as to which notice against trespass is given by actual communication to the actor~~  
15 ~~by the individual in charge of the premises or other authorized individual or by~~  
16 ~~posting in a manner reasonably likely to come to the attention of intruders. The~~  
17 ~~name of the person posting the premises must appear on each sign in legible~~  
18 ~~characters.~~

19 ~~b. Even if the conduct of the owner, tenant, or individual authorized by the owner~~  
20 ~~varies from the provisions of subdivision a, an individual may be found guilty of~~  
21 ~~violating subdivision a if the owner, tenant, or individual authorized by the owner~~  
22 ~~substantially complied with subdivision a and notice against trespass is clear~~  
23 ~~from the circumstances.~~

24 ~~c. An individual who violates subdivision a is guilty of a class A misdemeanor for the~~  
25 ~~second or subsequent offense within a two-year period.~~

26 4. a. An individual, ~~knowing the individual is not licensed or privileged to do so,~~ may  
27 not ~~enter or remain in a place as to which notice against trespass is given by~~  
28 ~~posting in a manner reasonably likely to come to the attention of intruders on~~  
29 ~~property that is privately owned and open to the public after being requested to~~  
30 ~~leave the property by a duly authorized individual.~~ A violation of this subdivision is  
31 a noncriminal offense.

#3  
4/5/19  
SB2315

- 1           b. A peace officer shall cite an individual who violates subdivision a with a fine of
- 2           two hundred fifty dollars for each violation.
- 3           c. The peace officer citing the individual shall:
- 4           (1) Take the name and address of the individual; and
- 5           (2) Notify the individual of the right to request a hearing if posting bond by mail.
- 6           d. The peace officer may not take the individual into custody or require the
- 7           individual to proceed with the peace officer to any other location for the purpose
- 8           of posting bond. The officer shall provide the individual with an envelope for use
- 9           in mailing the bond.
- 10          e. An individual cited may appear before the designated official and pay the
- 11          statutory fine for the violation at or before the time scheduled for hearing.
- 12          f. If the individual has posted bond, the individual may forfeit bond by not appearing
- 13          at the designated time.
- 14          g. If the individual posts bond by mail, the bond must be submitted within fourteen
- 15          days of the date of the citation and the individual cited shall indicate on the
- 16          envelope or citation whether a hearing is requested. If the individual does not
- 17          request a hearing within fourteen days of the date of the citation, the bond is
- 18          deemed forfeited and the individual is deemed to have admitted to the violation
- 19          and to have waived the right to a hearing on the issue of commission of the
- 20          violation. If the individual requests a hearing, the court for the county in which the
- 21          citation is issued shall issue a summons to the individual requesting the hearing
- 22          notifying the individual of the date of the hearing before the designated official.
- 23          h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled
- 24          at the individual's request, the individual may make a statement in explanation of
- 25          the individual's action. The official may at that time waive or suspend the statutory
- 26          fine or bond.
- 27          i. A citing peace officer may not receive the statutory fine or bond.
- 28          j. The bond required to secure appearance before the judge must be identical to
- 29          the statutory fine established in subdivision b.

30          ~~5. An individual is guilty of a class B misdemeanor if that individual remains upon the~~

31          ~~property of another after being requested to leave the property by a duly authorized~~

#3  
4/5/19  
SB2315

~~individual. An individual who violates this subsection is guilty of a class A misdemeanor for the second or subsequent offense within a two-year period.~~

6.4. This section does not apply to a:

- a. A peace officer in the course of discharging the peace officer's official duties; or
- b. An individual who enters land to access buried and aboveground infrastructure for operations, inspection, repair, or maintenance purposes, if the individual has a right to operate, inspect, repair, or maintain the infrastructure.

**SECTION 3. AMENDMENT.** Section 20.1-01-17 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-01-17. Posting of lands by owner to prohibit hunting - How posted - Signs defaced.**

1. Only the owner or tenant or an individual authorized by the owner of land may post the land. Land may be posted by placing signs alongside the public highway or the land giving notice that hunting is not permitted on the land or by designating the land as closed to hunters in a database or other electronic application available to the public which is operated and maintained by the state for purposes of electronic posting. ~~The~~ if land is physically posted, the name of the person posting the land must appear on each sign in legible characters. The signs must be readable from the outside of the land and must be placed conspicuously not more than eight hundred eighty yards [804.68 meters] apart. As to land entirely enclosed by a fence or other enclosure, posting of signs at or on all gates through the fence or enclosure constitutes a posting of all the enclosed land.
2. A person may not deface, take down, destroy posting signs, or post property without the permission of the owner or tenant or an individual authorized by the owner.
3. Even if the conduct of the owner, tenant, or individual authorized by the owner varies from the provisions of subsection 1, an individual may be found guilty of violating section 20.1-01-18 if the owner, tenant, or individual authorized by the owner substantially complied with subsection 1 and notice against hunting or trespassing is clear from the circumstances.

**SECTION 4. AMENDMENT.** Section 20.1-01-18 of the North Dakota Century Code is amended and reenacted as follows:

#3  
4/5/19  
SB 2315

1       **20.1-01-18. Hunting on posted land and trapping on private land without permission**  
2 **unlawful - Penalty.**

3       ~~No person~~An individual may hunt or pursue game, or enter for those purposes, upon legally  
4 ~~posted~~land belonging to another without first obtaining the permission of the person legally  
5 entitled to grant the same~~permission~~, unless the land is legally posted or the individual is  
6 requested to leave by a duly authorized person. ~~No person~~ A person may not enter upon  
7 privately owned land for the purpose of trapping protected fur-bearing animals without first  
8 gaining the written permission of the owner or operator of that land. A person who violates this  
9 section is guilty of a~~class-B misdemeanor~~noncriminal offense subject to the fines and  
10 procedures under subsection 3 of section 12.1-22-03 for the first offense and a class A  
11 misdemeanor for a subsequent offense within a two-year period~~unless the land is designated~~  
12 ~~as closed to hunters or open to hunters with permission under section 20.1-18-02 or the land is~~  
13 ~~legally posted in accordance with section 20.1-01-17.~~

14       **SECTION 5. AMENDMENT.** Section 20.1-01-18 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16       **20.1-01-18. Hunting on posted land and trapping on private land without permission**  
17 **unlawful - Penalty.**

18       No person may hunt or pursue game, or enter for those purposes, upon legally  
19 postedprivately owned land belonging to another without first obtaining the permission of the  
20 person legally entitled to grant the same. No person may enter upon privately owned land for  
21 the purpose of trapping protected fur-bearing animals without first gaining the written permission  
22 of the owner or operator of that land. A person who violates this section is guilty of a class-B  
23 misdemeanor for the first offense and a class A misdemeanor for a subsequent offense within a  
24 two-year period.

25       **SECTION 6. AMENDMENT.** Section 20.1-01-19 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27       **20.1-01-19. When postedprivate land may be entered.**

28       ~~Any person~~An individual may enter upon legally~~posted~~private land to recover game shot or  
29 killed on land where the ~~person~~individual had a lawful right to hunt.

30       **SECTION 7. AMENDMENT.** Section 20.1-01-20 of the North Dakota Century Code is  
31 amended and reenacted as follows:

#3  
4/5/19  
SB2315

1       **20.1-01-20. Entering ~~posted~~private land with a hunting license and a gun or firearm**  
2 **prima facie evidence of intent to hunt game.**

3       Proof that ~~a person having~~an individual had a firearm, or other weapon declared legal by  
4 governor's proclamation, ~~in the person's possession and a valid license to hunt game in the~~  
5 relevant area when the individual or a group including the individual entered upon the ~~legally~~  
6 ~~posted~~private premises of another without permission of the owner or tenant is prima facie  
7 evidence the ~~person~~individual or the group including the individual entered to hunt or pursue  
8 game.

9       **SECTION 8. AMENDMENT.** Section 20.1-03-42 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11       **20.1-03-42. Guiding on prohibited lands.**

- 12       1. A person may not act as a hunting guide or hunting outfitter on land the person knows  
13 is owned by the state unless the appropriate state agency permits or authorizes the  
14 guiding or outfitting, on private land enrolled by the department for purposes of  
15 hunting, on land in which the department pays in lieu of taxes, or on federal lands  
16 without being authorized or permitted as required by the appropriate federal agency,  
17 or.
- 18       2. A person may not act as a hunting guide or outfitter on private lands that are posted  
19 against hunting or trespassing under section 20.1-01-17 or private lands that are  
20 designated as closed to hunters or open to hunters with permission under section  
21 20.1-18-02; without first informing and obtaining permission from the landowner to  
22 conduct guiding or outfitting on the land. If the landowner did not grant the permission  
23 in writing, there is a presumption that the permission did not exist.

24 ~~SECTION 6. Chapter 20.1-18 of the North Dakota Century Code is created and enacted as~~  
25 ~~follows:~~

26 ~~**20.1-18-01. Hunters access advisory group.**~~

- 27 ~~1. The hunters access advisory group consists of:~~
- 28 ~~a. The agriculture commissioner or the commissioner's designee;~~
- 29 ~~b. The director or the director's designee;~~
- 30 ~~c. The chief information officer or the officer's designee;~~
- 31 ~~d. A representative of the North Dakota association of counties;~~



#3  
4/5/19  
SB 2315

1 ~~e. Two members of an agriculture committee; and~~

2 ~~f. Two members of a sportsmen committee.~~

3 ~~2. The hunters access advisory group shall oversee the development of the hunters~~  
4 ~~access database identifying private land in the state as open to hunters, closed to~~  
5 ~~hunters, or open to hunters with permission from the owner or lawful occupant.~~

6 ~~3. The hunters access advisory group shall establish guidelines for the development of~~  
7 ~~the database and acceptance criteria for county data used to develop the database.~~

8 ~~**20.1-18-02. Hunters access database.**~~

9 ~~1. The hunters access database must use color coding or other clear indicators to~~  
10 ~~designate private land in the state as open to hunters, closed to hunters, or open to~~  
11 ~~hunters with permission from the owner or lawful occupant.~~

12 ~~2. A landowner or lawful occupant may designate which of the three categories in~~  
13 ~~subsection 1 applies to the landowner's or occupant's land. Land for which a~~  
14 ~~landowner or lawful occupant does not designate a category must be indicated in the~~  
15 ~~database as open to hunters if the county in which the land is located is included in the~~  
16 ~~database.~~

17 ~~3. If a landowner or lawful occupant designates land as open to hunters with permission,~~  
18 ~~the landowner or lawful occupant shall provide contact information to be included in the~~  
19 ~~database for hunters to request permission to hunt on the land.~~

20 ~~4. The database must be accessible electronically to the public and may be made~~  
21 ~~available to the public through other means, including smartphone applications.~~

22 ~~5. To be included in the database, a county shall provide geographic information system~~  
23 ~~data or other data to the information technology department which meets the criteria~~  
24 ~~established by the hunters access advisory group.~~

25 ~~**20.1-18-03. Noncompliance with database and posting - Penalty.**~~

26 ~~1. Until the county in which private land is located is included in the hunters access~~  
27 ~~database, the land is deemed open unless posted in accordance with section~~  
28 ~~20.1-01-17.~~

29 ~~2. After a county is included in the database:~~

30 ~~a. A hunter may not enter land in the county which is designated in the database as~~  
31 ~~closed to hunters or open to hunters with permission unless the hunter has~~

#3  
4/5/19  
SB 2315

1 ~~permission to enter the land or otherwise is entitled to enter the land. A hunter is~~  
2 ~~guilty of an infraction for a first knowing violation and a class B misdemeanor for~~  
3 ~~a second and subsequent knowing violation of this subdivision; and~~

4 ~~b. A hunter without permission may enter land in the county which is not designated~~  
5 ~~in the database as closed to hunters or open to hunters with permission, unless~~  
6 ~~the land is posted in accordance with section 20.1-01-17.~~

7 ~~3. A hunter may not enter land that is posted in accordance with section 20.1-01-17~~  
8 ~~unless the hunter has permission to enter the land or otherwise is entitled to enter the~~  
9 ~~land, regardless of the designation of the land in the database. A hunter is guilty of an~~  
10 ~~infraction for a first knowing violation and a class B misdemeanor for a second and~~  
11 ~~subsequent knowing violation of this subsection.~~

12 ~~SECTION 7. LEGISLATIVE INTENT - TIMELINE FOR DATABASE DEVELOPMENT. It is~~  
13 ~~the intent of the legislative assembly that several counties will be included in an operational~~  
14 ~~hunters access database by the fall hunting season of 2020, and the operational database will~~  
15 ~~include all counties whose data meet the specifications of the hunters access database~~  
16 ~~advisory group by September 1, 2022.~~

17 **SECTION 9. REPEAL.** Sections 20.1-01-17 and 20.1-01-20 of the North Dakota Century  
18 Code are repealed.

19 **SECTION 10. ~~LEGISLATIVE MANAGEMENT STUDY - ACCESS TO LANDS FOR~~**  
20 **~~HUNTING AND TRAPPING - REPORT TO LEGISLATIVE MANAGEMENT AND INTERIM~~**  
21 **~~LEGISLATIVE COMMITTEES.~~**

22 1. During the 2019-20 interim, the ~~legislative management~~land access committee shall  
23 ~~consider studying~~study access to public and private lands ~~for hunting, trapping, and~~  
24 related issues and shall provide recommendations regarding electronic posting of  
25 land. The study must include consideration of the numbers of calls to law enforcement  
26 regarding trespassers and hunting violations, the number of citations and convictions  
27 for trespass and hunting violations, the locations where trespass and hunting  
28 violations occur the most and least in the state, how sportsmen are impacted by  
29 legislation regarding access to land in the state, and whether and how state laws  
30 regarding land access affect tribal lands. ~~The legislative management~~Before August 1,  
31 2020, the land access committee shall report its findings and recommendations,

#3  
4/5/19  
SB2315

1 together with any legislation required to implement the recommendations, to the  
2 ~~sixty-seventh legislative assembly~~. legislative management, interim energy and natural  
3 resources committee, and interim agriculture committee.

4 2. a. The voting members of the committee, who must be appointed by the legislative  
5 management are:

6 (1) Two members representing landowners;

7 (2) Two members representing sportsmen;

8 (3) Four members of the legislative assembly, one of whom must be selected  
9 by the committee as chairman of the committee, including:

10 (a) One member of the majority party in the house of representatives;

11 (b) One member of the minority party in the house of representatives;

12 (c) One member of the majority party in the senate; and

13 (d) One member of the minority party in the senate; and

14 (4) A representative of the North Dakota association of counties.

15 b. The nonvoting members of the committee are:

16 (1) The agriculture commissioner or the commissioner's designee;

17 (2) The director of the game and fish department or the director's designee;

18 (3) The chief information officer or the officer's designee; and

19 (4) A game warden.

20 3. A member of the committee who is not a state employee is entitled to reimbursement  
21 for mileage and expenses as provided by law for state officers and employees, to be  
22 paid by the legislative council. A state employee who is a member of the committee is  
23 entitled to receive that employee's regular salary and is entitled to reimbursement for  
24 mileage and expenses to be paid by the employing agency. A member of the  
25 committee who is a member of the legislative assembly is entitled to receive per diem  
26 compensation at the rate provided under section 54-35-10 for each day performing  
27 official duties of the committee. The legislative council shall pay the per diem  
28 compensation and reimbursement for travel and expenses as provided by law for any  
29 member of the committee who is a member of the legislative assembly.

#3  
4/5/19  
SB 2315

1       **SECTION 11. EDUCATION AND MARKETING.** The game and fish department and the  
2 tourism division of the department of commerce shall provide public education and marketing  
3 regarding the changes to land access in this Act.

4       **SECTION 12. CONTINGENT EFFECTIVE DATE.** If the legislative management does not  
5 receive agreed upon recommendations regarding electronic posting of land from the land  
6 access committee in section 9 of this Act before August 1, 2020, sections 2, 5, 6, 8, and 9  
7 become effective on August 1, 2020.

8       **SECTION 13. CONTINGENT EXPIRATION DATE.** If the legislative management does not  
9 receive agreed upon recommendations regarding electronic posting of land from the land  
10 access committee in section 9 of this Act before August 1, 2020, sections 1, 3, 4, and 7 are  
11 effective until July 31, 2020, and after that date are ineffective.

12       **SECTION 14. EMERGENCY.** Sections 1, 3, 4, 7, 10, and 11 of this Act are declared to be  
13 an emergency measure.

Claire

SB 2315  
4-18-19 am  
# 1 pg. 1/1

**Subject: Re: penalties under SB 2315**

Representative Schreiber-Beck,

The bottom, right hand block of the table below should just say "noncriminal offense".

Per your request, this email describes the penalties for trespass as they exist under current North Dakota Century Code sections 12.1-22-03 and 20.1-01-18, and as they would exist under bill draft 19.0896.04000, the Engrossed Senate Bill 2315 with House amendments. As a preliminary matter, under the bill, private property is presumed closed to everyone (except hunters) without a license or privilege to be on the property. As a result, provisions regarding posted land would be inapplicable other than with regard to hunters.

Activity	Penalty under current law	Penalty under 19.0896.04
Entering or remaining in a dwelling or highly secured premises	Class C felony	Class C felony
Entering or remaining in or on a building, occupied structure, storage structure, separately secured or occupied portion of a building or structure	Class A misdemeanor	Class A misdemeanor
Entering or remaining any other place where an individual is not licensed or privileged to be	N/A – Property generally is presumed open unless posted.	Class A misdemeanor
Entering or remaining in any place as to which notice against trespass is given by actual communication or by posting	Class B misdemeanor for a first offense; Class A misdemeanor for a second or subsequent offense in a two-year period	N/A – Notice generally is required because property is presumed closed.
Hunting on privately owned land that is posted or after being asked to leave	Also, a noncriminal offense Class B misdemeanor for a first offense; Class A misdemeanor for a second or subsequent offense in a two-year period	Noncriminal offense for a first offense; Class A misdemeanor for a second or subsequent offense in a two-year period
Remaining on privately owned property that is open to the public after being asked to leave	Class B misdemeanor for a first offense; Class A misdemeanor for a second or subsequent offense in a two-year period	Noncriminal offense for a first offense; Class A misdemeanor for a second or subsequent offense in a two-year period

Thank you,  
Claire

Claire J. Ness  
Counsel  
Legislative Council  
600 East Boulevard Avenue  
Bismarck, ND 58505  
(701) 328-3208

SB 2315  
4-18-19 am  
# 2 Pg. 1

**Erbele, Robert S.**

---

**From:** Ness, Claire J.  
Wednesday, April 17, 2019 9:11 PM  
**To:** Erbele, Robert S.  
**Subject:** Erickson letter  
**Categories:** Red Category

Senator Erbele,

This responds to your request for additional information regarding the points made by Mr. Erickson in his recent letter on Senate Bill No. 2315. I will address his points in order with regarding to version 19.0896.04000, which is Engrossed Senate Bill No. 2315 with House amendments, and I have included an updated penalty chart for reference. I hope this information is helpful in allaying concerns raised by the letter.

1. Mr. Erickson indicates the bill eliminates North Dakota Century Code subdivision 12.1-22-03(3)(a) and thereby removes criminal penalties for trespassing.

Subdivision 12.1-22-03(3)(a) provided penalties for individuals who enter or remain in a place where notice against trespass is given by actual communication or by posting. This is not necessary in the bill because land would be presumed closed/posted except for hunting. So posting for activities other than hunting would be redundant. Criminal penalties are available for trespassing on private property as described in the updated chart below. Hunting on posted land still would be illegal under section 20.1-01-18 and subdivision 12.1-22-03(4)(a).

2. Mr. Erickson indicates the bill eliminates subsection 12.1-22-03(5) and makes remaining on property after being asked to leave a noncriminal offense rather than a criminal offense.

Much of the language in subsection 12.1-22-03(5) was moved to the revised subsection 12.1-22-03(4), which says remaining on privately owned property that is open to the public after being asked to leave is a noncriminal offense. This was a policy decision made by the House committee to address situations where someone may be asked to leave a store, for example. If a location is privately owned and not open to the public, an individual with no right to be at the location would be guilty of a class A misdemeanor even if the individual was not asked to leave.

3. Mr. Erickson indicates protesters, like the DAPL protesters, could not be arrested under the bill.

Under the bill, protesters who are on property without permission or license would be guilty of a class A misdemeanor under the revised subsection 12.1-22-03(2) and can be

SB 2315  
 4-18-19 am  
 #2 pg. 2

arrested. Land does not need to be posted for this penalty to be applicable under the bill. Also, under the bill, if a protester enters a dwelling or highly secured premises, the protester would be guilty of a class C felony.

4. Mr. Erickson indicates closing land could create problems in towns when neighbors feud over property lines.

Closing land was a policy decision by both the House and Senate committees. Law enforcement officers and prosecutors have discretion over charging individuals with crimes and prosecuting them. If the committee would like to provide more exceptions to the default determination that land is closed under the bill, we can prepare an amendment.

5. Mr. Erickson indicates the noncriminal penalties can't be enhanced for subsequent offenses because people generally do not hire legal counsel for first-time noncriminal offenses.

The case Mr. Erickson cites for this proposition (State v. Orr) involved different facts that what would occur under the bill. In the case, the justices discuss defendants who did not have counsel and did not waive counsel for prior criminal offenses. As a result, the defendants' prior criminal convictions were invalid and could not be deemed a "first offense". Without a first offense, there could be no subsequent offense warranting the enhanced penalty. I don't know whether a court would make the same ruling in a case where the first offense is a noncriminal offense. The constitutional considerations would be different. The Century Code may have other examples of this, and I will try to research for them if I have time before your hearing.

6. Mr. Erickson indicates a hunter will not lose hunting privileges for a noncriminal offense.

This is correct. Under section 20.1-01-26, a hunter's hunting privileges may not be suspended for a noncriminal offense unless the hunter has been convicted of a violation of title 20.1 within the prior three years. If the committee would like to address this, we could prepare an amendment to section 20.1-01-26 or change the applicable penalties in the bill.

Activity	Penalty under current law	Penalty under 19.0896.04
Entering or remaining in a dwelling or highly secured premises	Class C felony	Class C felony
Entering or remaining in or on a building, occupied structure, storage structure, separately secured or occupied portion of a building or structure	Class A misdemeanor	Class A misdemeanor
Entering or remaining any other place where an individual is not licensed or privileged to be	N/A – Property generally is presumed open unless posted.	Class A misdemeanor

SB2315  
4-18-19 am  
# 2 pg. 3

Entering or remaining in any place as to which notice against trespass is given by actual communication or by posting

Class B misdemeanor for a first offense; Class A misdemeanor for a second or subsequent offense in a two-year period

N/A – Notice generally is required because property is presumed closed.

Hunting on privately owned land that is posted or after being asked to leave

Also, a noncriminal offense  
Class B misdemeanor for a first offense; Class A misdemeanor for a second or subsequent offense in a two-year period

Noncriminal offense for a first offense; Class A misdemeanor for a second or subsequent offense in a two-year period

Remaining on privately owned property that is open to the public after being asked to leave

Class B misdemeanor for a first offense; Class A misdemeanor for a second or subsequent offense in a two-year period

Noncriminal offense;

Thanks, Claire



SB 2315  
4-18-19 am  
#2 pg. 4

**Erbele, Robert S.**

**From:** Ness, Claire J.  
**Date:** Wednesday, April 17, 2019 6:12 PM  
**To:** Erbele, Robert S.  
**Cc:** Richter, Vonette J.  
**Subject:** penalties under SB 2315

Senator Erbele,

Per your request, this email describes the penalties for trespass as they exist under current North Dakota Century Code sections 12.1-22-03 and 20.1-01-18, and as they would exist under bill draft 19.0896.04000, the Engrossed Senate Bill 2315 with House amendments. As a preliminary matter, under the bill, private property is presumed closed to everyone (except hunters) without a license or privilege to be on the property. As a result, provisions regarding posted land would be inapplicable other than with regard to hunters.

Activity	Penalty under current law	Penalty under 19.0896.04000
Entering or remaining in a dwelling or highly secured premises	Class C felony	Class C felony
Entering or remaining in or on a building, occupied structure, storage structure, separately secured or occupied portion of a building or structure	Class A misdemeanor	Class A misdemeanor
Entering or remaining any other place where an individual is not licensed or privileged to be	N/A – Property generally is presumed open unless posted.	Class A misdemeanor
Entering or remaining in any place as to which notice against trespass is given by actual communication or by posting	Class B misdemeanor for a first offense; Class A misdemeanor for a second or subsequent offense in a two-year period  Also, a noncriminal offense	N/A – Notice generally is not required because property generally is presumed closed.
Hunting on privately owned land that is posted or after being asked to leave	Class B misdemeanor for a first offense; Class A misdemeanor for a second or subsequent offense in a two-year period	Noncriminal offense for a first offense; Class A misdemeanor for a second or subsequent offense in a two-year period
Remaining on privately owned property that is open to the public after being asked to leave	Class B misdemeanor for a first offense; Class A misdemeanor for a second or subsequent offense in a two-year period	Noncriminal offense for a first offense; Class A misdemeanor for a second or subsequent offense in a two-year period

Thank you,  
Claire

Claire J. Ness  
 Counselor  
 Legislative Council  
 600 East Boulevard Avenue

## CONFERENCE COMMITTEE ISSUES

- All legal/criminal issues and definitions will be addressed as per Ladd Erickson's memo (already provided)
- A Legislative Management study will be conducted during the 2019-2020 interim to explore development of a hunter's access database and an on-line electronic posting system. Fundamental concepts guiding that process would include:
  - Physical and electronic posting would mimic each other in all regards
    - Two land categories, either posted or open (in practice really only one category; if it is not posted, it is open)
    - Physical sign requires name of person authorized to post (20.1-01-17); electronic posting should requires name of person authorized to post
      - An electronic database would facilitate the option for the person authorized to post to include:
        - Additional contact information
        - Additional posting conditions
          - For example, land posted until completion of deer season, then open for:
            - All hunting
            - Only coyote hunting
            - Etc.
  - The study will be completed and findings and recommendations provided on or before August 1, 2020, together with any proposed legislation to implement the recommendations.
  - Legislative Management would appoint members of study committee, designate chairperson and manage the interim process.
  - Members of the study committee and reimbursement process would be as written in SB 2315, version 19.0896.02007, page 7, lines 5-30.
- The Legislative Management study outlined above would take the place of implementation of a hunter's access database and an on-line electronic posting system during the 2019020 interim. As such, language contained in SB 2315, version 19.0896.02007, page 5, lines16-30 and page 6, lines 1-27, is unnecessary.
- Pending the Legislative Management study there will be no other changes to statutes relating to private land access for hunting during the 2019 Legislative session.
- The results of the Legislative Management study will inform legislative action (if any) on this topic in the 2021 Legislative session.

SB 2315  
 4-18-19 am  
 #4 pg. 1/1

Activity	Penalty under <u>current law</u>	Penalty under 19.0896.04000
1. Entering or remaining in a dwelling or highly secured premises	Class C felony	Class C felony
2. Entering or remaining in or on a building, occupied structure, storage structure, separately secured or occupied portion of a building or structure	Class A misdemeanor	Class A misdemeanor
3. Entering or remaining any other place where an individual is not licensed or privileged to be	N/A – Property generally is presumed open unless posted.	Class A misdemeanor
4. Entering or remaining in any place as to which notice against trespass is given by actual communication or by posting	Class B misdemeanor for a first offense; Class A misdemeanor for a second or subsequent offense in a two-year period  Also, a noncriminal offense	N/A – Notice generally is not required because property generally is presumed closed.
5. Hunting on privately owned land that is posted or after being asked to leave	Class B misdemeanor for a first offense; Class A misdemeanor for a second or subsequent offense in a two-year period	Noncriminal offense for a first offense; Class A misdemeanor for a second or subsequent offense in a two-year period
6. Remaining on privately owned property that is open to the public after being asked to leave	Class B misdemeanor for a first offense; Class A misdemeanor for a second or subsequent offense in a two-year period	Noncriminal offense

? could/would a hunter be trespassing if in (1) or (2) —

SB 2315  
4-18-19  
#1 pg.1

19.0896.02011

FIRST ENGROSSMENT

Sixty-sixth  
Legislative Assembly  
of North Dakota

ENGROSSED SENATE BILL NO. 2315

Introduced by

Senators Erbele, Patten, Unruh

Representatives Boe, Schmidt, Westlind

1 A BILL for an Act ~~to create and enact chapter 20.1-18 of the North Dakota Century Code,~~  
2 ~~relating to a database identifying whether private land is open to hunters;~~ to amend and reenact  
3 sections 12.1-22-03, 20.1-01-17, 20.1-01-18, ~~20.1-01-19~~, 20.1-01-20, and 20.1-03-42 of the  
4 North Dakota Century Code, relating to criminal trespass and hunting on private land; to provide  
5 a statement of legislative intent; to provide for a legislative management study; and to provide a  
6 penalty.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1. AMENDMENT.** Section 12.1-22-03 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **12.1-22-03. Criminal trespass ~~Noncriminal offense on posted property.~~**

11 1. An individual is guilty of a class C felony if, knowing that that individual is not licensed  
12 or privileged to do so, the individual enters or remains in a dwelling or in highly  
13 secured premises.

14 2. An individual is guilty of a class A misdemeanor if, knowing that ~~that~~ the individual is  
15 not licensed or privileged to do so, the individual:

16 a. ~~Enters~~ enters or remains in or on any building, occupied structure, or storage  
17 structure, or separately secured or occupied portion thereof; or

18 b. ~~Enters or remains in any place so enclosed as manifestly to exclude intruders of a~~  
19 building or structure, or any other place the individual is not licensed or privileged  
20 to be, except as provided in subsection 3 and sections 20.1-01-18, 20.1-01-19,  
21 and 20.1-03-42, and 20.1-18-03.

22 3. a. ~~An individual is guilty of a class B misdemeanor if, knowing that that individual is~~  
23 ~~not licensed or privileged to do so, the individual enters or remains in any place~~  
24 ~~as to which notice against trespass is given by actual communication to the actor~~

- 1 ~~by the individual in charge of the premises or other authorized individual or by~~  
2 ~~posting in a manner reasonably likely to come to the attention of intruders. The~~  
3 ~~name of the person posting the premises must appear on each sign in legible~~  
4 ~~characters.~~
- 5 ~~b. Even if the conduct of the owner, tenant, or individual authorized by the owner~~  
6 ~~varies from the provisions of subdivision a, an individual may be found guilty of~~  
7 ~~violating subdivision a if the owner, tenant, or individual authorized by the owner~~  
8 ~~substantially complied with subdivision a and notice against trespass is clear~~  
9 ~~from the circumstances.~~
- 10 ~~c. An individual who violates subdivision a is guilty of a class A misdemeanor for the~~  
11 ~~second or subsequent offense within a two-year period.~~
- 12 ~~4.~~ a. An individual, knowing the individual is not licensed or privileged to do so, may  
13 not enter or remain in a place as to which notice against trespass is given by  
14 posting in a manner reasonably likely to come to the attention of intruders on  
15 property that is privately owned and open to the public after being requested to  
16 leave the property by a duly authorized individual. A violation of this subdivision is  
17 a noncriminal offense.
- 18 b. A peace officer shall cite an individual who violates subdivision a or commits a  
19 noncriminal offense under section 20.1-01-18 with a fine of two hundred fifty  
20 dollars for each violation.
- 21 c. The peace officer citing the individual shall:  
22 (1) Take the name and address of the individual; and  
23 (2) Notify the individual of the right to request a hearing if posting bond by mail.
- 24 d. The peace officer may not take the individual into custody or require the  
25 individual to proceed with the peace officer to any other location for the purpose  
26 of posting bond. The officer shall provide the individual with an envelope for use  
27 in mailing the bond.
- 28 e. An individual cited may appear before the designated official and pay the  
29 statutory fine for the violation at or before the time scheduled for hearing.
- 30 f. If the individual has posted bond, the individual may forfeit bond by not appearing  
31 at the designated time.

- 1 g. If the individual posts bond by mail, the bond must be submitted within fourteen  
2 days of the date of the citation and the individual cited shall indicate on the  
3 envelope or citation whether a hearing is requested. If the individual does not  
4 request a hearing within fourteen days of the date of the citation, the bond is  
5 deemed forfeited and the individual is deemed to have admitted to the violation  
6 and to have waived the right to a hearing on the issue of commission of the  
7 violation. If the individual requests a hearing, the court for the county in which the  
8 citation is issued shall issue a summons to the individual requesting the hearing  
9 notifying the individual of the date of the hearing before the designated official.
- 10 h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled  
11 at the individual's request, the individual may make a statement in explanation of  
12 the individual's action. The official may at that time waive or suspend the statutory  
13 fine or bond.
- 14 i. A citing peace officer may not receive the statutory fine or bond.
- 15 j. The bond required to secure appearance before the judge must be identical to  
16 the statutory fine established in subdivision b.

17 ~~5. An individual is guilty of a class B misdemeanor if that individual remains upon the~~  
18 ~~property of another after being requested to leave the property by a duly authorized~~  
19 ~~individual. An individual who violates this subsection is guilty of a class A~~  
20 ~~misdemeanor for the second or subsequent offense within a two-year period.~~

21 ~~6.4.~~ This section does not apply to a:

22 a. A peace officer in the course of discharging the peace officer's official duties; or

23 b. An individual who enters land to access buried and aboveground infrastructure  
24 for operations, inspection, repair, or maintenance purposes, if the individual has a  
25 right to operate, inspect, repair, or maintain the infrastructure.

26 **SECTION 2. AMENDMENT.** Section 20.1-01-17 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28 **20.1-01-17. Posting of lands by owner to prohibit hunting - How posted - Signs**  
29 **defaced.**

- 30 1. Only the owner or tenant or an individual authorized by the owner of land may post the  
31 land by placing signs alongside the public highway or the land giving notice that

- 1 hunting is not permitted on the land. The name of the person posting the land must  
2 appear on each sign in legible characters. The signs must be readable from the  
3 outside of the land and must be placed conspicuously not more than eight hundred  
4 eighty yards [804.68 meters] apart. As to land entirely enclosed by a fence or other  
5 enclosure, posting of signs at or on all gates through the fence or enclosure  
6 constitutes a posting of all the enclosed land.
- 7 2. A person may not deface, take down, destroy posting signs, or post property without  
8 the permission of the owner or tenant or an individual authorized by the owner.
- 9 3. Even if the conduct of the owner, tenant, or individual authorized by the owner varies  
10 from the provisions of subsection 1, an individual may be found guilty of violating  
11 section 20.1-01-18 if the owner, tenant, or individual authorized by the owner  
12 substantially complied with subsection 1 and notice against hunting or trespassing is  
13 clear from the circumstances.
- 14 4. If the state develops and maintains an online database or other electronic application  
15 available to the public which identifies whether land is available to hunters, an owner  
16 or tenant or individual authorized by the owner of land may submit electronic  
17 information for the database or application regarding the availability of the land for  
18 hunting. Land designated as posted or closed to hunters in the database or application  
19 under this subsection is deemed posted land.

20 **SECTION 3. AMENDMENT.** Section 20.1-01-18 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 **20.1-01-18. Hunting on posted land and trapping on private land without permission**  
23 **unlawful - Penalty.**

24 ~~No person~~An individual may hunt or pursue game, or enter for those purposes, upon legally-  
25 ~~posted~~-land belonging to another without first obtaining the permission of the person legally  
26 entitled to grant the ~~same~~permission. unless the land is legally posted or the individual is  
27 requested to leave by a duly authorized person.~~No person~~ A person may not enter upon  
28 privately owned land for the purpose of trapping protected fur-bearing animals without first  
29 gaining the written permission of the owner or operator of that land. A person who violates this  
30 section is guilty of ~~a class B misdemeanor~~ noncriminal offense subject to the fines and  
31 procedures under subsection 3 of section 12.1-22-03 for the first offense and a class A

1 misdemeanor for a subsequent offense within a two-year period ~~unless the land is designated~~  
2 ~~as closed to hunters or open to hunters with permission under section 20.1-18-02 or the land is~~  
3 ~~legally posted in accordance with section 20.1-01-17.~~

4 ~~SECTION 6. AMENDMENT.~~ Section 20.1-01-19 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 ~~20.1-01-19. When posted private land may be entered.~~

7 ~~Any person~~An individual may enter upon legally posted private land to recover game shot or  
8 killed on land where the person/individual had a lawful right to hunt.

9 SECTION 4. AMENDMENT. Section 20.1-01-20 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 20.1-01-20. Entering ~~posted~~private land with a hunting license and a gun or firearm  
12 prima facie evidence of intent to hunt game.

13 Proof that a ~~person having~~an individual had a firearm, or other weapon declared legal by  
14 governor's proclamation, in the person's possession and a valid license to hunt game in the  
15 relevant area when the individual or a group including the individual entered upon the legally-  
16 ~~posted~~private premises of another without permission of the owner or tenant is prima facie  
17 evidence the person/individual or the group including the individual entered to hunt or pursue  
18 game.

19 SECTION 5. AMENDMENT. Section 20.1-03-42 of the North Dakota Century Code is  
20 amended and reenacted as follows:

21 20.1-03-42. Guiding on prohibited lands.

22 1. A person may not act as a hunting guide or hunting outfitter on land the person knows  
23 is owned by the state unless the appropriate state agency permits or authorizes the  
24 guiding or outfitting, on private land enrolled by the department for purposes of  
25 hunting, on land in which the department pays in lieu of taxes, or on federal lands  
26 without being authorized or permitted as required by the appropriate federal agency,  
27 or,

28 2. A person may not act as a hunting guide or outfitter on private lands ~~that are posted~~  
29 ~~against hunting or trespassing under section 20.1-01-17 or private lands that are~~  
30 ~~designated as closed to hunters or open to hunters with permission under section~~  
31 ~~20.1-18-02,~~ without first informing and obtaining permission from the landowner to



1           conduct guiding or outfitting on the land. If the landowner did not grant the permission  
2           in writing, there is a presumption that the permission did not exist.

3     ~~SECTION 6. Chapter 20.1-18 of the North Dakota Century Code is created and enacted as~~  
4     ~~follows:~~

5     ~~20.1-18-01. Hunters access advisory group.~~

6     ~~1. The hunters access advisory group consists of:~~

7         ~~a. The agriculture commissioner or the commissioner's designee;~~

8         ~~b. The director or the director's designee;~~

9         ~~c. The chief information officer or the officer's designee;~~

10        ~~d. A representative of the North Dakota association of counties;~~

11        ~~e. Two members of an agriculture committee; and~~

12        ~~f. Two members of a sportsmen committee.~~

13     ~~2. The hunters access advisory group shall oversee the development of the hunters~~  
14     ~~access database identifying private land in the state as open to hunters, closed to~~  
15     ~~hunters, or open to hunters with permission from the owner or lawful occupant.~~

16     ~~3. The hunters access advisory group shall establish guidelines for the development of~~  
17     ~~the database and acceptance criteria for county data used to develop the database.~~

18     ~~20.1-18-02. Hunters access database.~~

19     ~~1. The hunters access database must use color coding or other clear indicators to~~  
20     ~~designate private land in the state as open to hunters, closed to hunters, or open to~~  
21     ~~hunters with permission from the owner or lawful occupant.~~

22     ~~2. A landowner or lawful occupant may designate which of the three categories in~~  
23     ~~subsection 1 applies to the landowner's or occupant's land. Land for which a~~  
24     ~~landowner or lawful occupant does not designate a category must be indicated in the~~  
25     ~~database as open to hunters if the county in which the land is located is included in the~~  
26     ~~database.~~

27     ~~3. If a landowner or lawful occupant designates land as open to hunters with permission,~~  
28     ~~the landowner or lawful occupant shall provide contact information to be included in the~~  
29     ~~database for hunters to request permission to hunt on the land.~~

30     ~~4. The database must be accessible electronically to the public and may be made~~  
31     ~~available to the public through other means, including smartphone applications.~~

1 ~~5. To be included in the database, a county shall provide geographic information system~~  
2 ~~data or other data to the information technology department which meets the criteria~~  
3 ~~established by the hunters access advisory group.~~

4 ~~**20.1-18-03. Noncompliance with database and posting - Penalty.**~~

5 ~~1. Until the county in which private land is located is included in the hunters access~~  
6 ~~database, the land is deemed open unless posted in accordance with section~~  
7 ~~20.1-01-17.~~

8 ~~2. After a county is included in the database:~~

9 ~~a. A hunter may not enter land in the county which is designated in the database as~~  
10 ~~closed to hunters or open to hunters with permission unless the hunter has~~  
11 ~~permission to enter the land or otherwise is entitled to enter the land. A hunter is~~  
12 ~~guilty of an infraction for a first knowing violation and a class B misdemeanor for~~  
13 ~~a second and subsequent knowing violation of this subdivision; and~~

14 ~~b. A hunter without permission may enter land in the county which is not designated~~  
15 ~~in the database as closed to hunters or open to hunters with permission, unless~~  
16 ~~the land is posted in accordance with section 20.1-01-17.~~

17 ~~3. A hunter may not enter land that is posted in accordance with section 20.1-01-17~~  
18 ~~unless the hunter has permission to enter the land or otherwise is entitled to enter the~~  
19 ~~land, regardless of the designation of the land in the database. A hunter is guilty of an~~  
20 ~~infraction for a first knowing violation and a class B misdemeanor for a second and~~  
21 ~~subsequent knowing violation of this subsection.~~

22 ~~**SECTION 7. LEGISLATIVE INTENT - TIMELINE FOR DATABASE DEVELOPMENT.** It is~~  
23 ~~the intent of the legislative assembly that several counties will be included in an operational~~  
24 ~~hunters access database by the fall hunting season of 2020, and the operational database will~~  
25 ~~include all counties whose data meet the specifications of the hunters access database~~  
26 ~~advisory group by September 1, 2022.~~

27 **SECTION 6. LEGISLATIVE MANAGEMENT STUDY - ACCESS TO LANDS FOR**  
28 **HUNTING AND TRAPPING.** During the 2019-20 interim, the legislative management shall  
29 consider studying access to public and private lands for hunting, trapping the development of a  
30 land access database with the capability for landowners to provide electronic information  
31 regarding the availability of the landowner's property for hunters, and related issues. The

1 and related issues, and develop the hunters access database. ~~The legislative~~  
2 ~~management~~ Before August 1, 2020, the hunters access committee shall report its  
3 findings and recommendations, together with any legislation required to implement the  
4 recommendations, to the ~~sixty-seventh legislative assembly~~ legislative management.

5 2. a. The voting members of the committee, who must be appointed by the legislative  
6 management, are:

7 (1) Two members representing agriculture organizations;

8 (2) Two members representing sportsmen organizations; and

9 (3) Five members of the legislative assembly, one of whom must be selected by  
10 the committee as chairman of the committee, including:

11 (a) One member of the majority party in the house of representatives;

12 (b) One member of the minority party in the house of representatives;

13 (c) One member of the majority party in the senate;

14 (d) One member of the minority party in the senate; and

15 (e) One member from either party in either chamber.

16 b. The nonvoting members of the committee are:

17 (1) A representative of the North Dakota association of counties;

18 (2) The agriculture commissioner or the commissioner's designee;

19 (3) The director of the game and fish department or the director's designee; and

20 (4) The chief information officer or the officer's designee.

21 3. A member of the committee who is not a state employee is entitled to reimbursement  
22 for mileage and expenses as provided by law for state officers and employees, to be  
23 paid by the legislative council. A state employee who is a member of the committee is  
24 entitled to receive that employee's regular salary and is entitled to reimbursement for  
25 mileage and expenses to be paid by the employing agency. A member of the  
26 committee who is a member of the legislative assembly is entitled to receive per diem  
27 compensation at the rate provided under section 54-35-10 for each day performing  
28 official duties of the committee. The legislative council shall pay the per diem  
29 compensation and reimbursement for travel and expenses as provided by law for any  
30 member of the committee who is a member of the legislative assembly.

1 legislative management shall report its findings and recommendations, together with any  
2 legislation required to implement the recommendations, to the sixty-seventh legislative  
3 assembly.

4 **SECTION 7. EDUCATION AND MARKETING.** The game and fish department and the  
5 tourism division of the department of commerce shall provide public education and marketing  
6 regarding the changes to land access in this Act.

SB 2315  
4-22-2019  
# 1 pg. 1/2

Erbele, Robert S.

From: Ness, Claire J.  
Sent: Sunday, April 21, 2019 7:53 PM  
To: Erbele, Robert S.; Heinert, Patrick D.  
Subject: 2315

Senator Erbele and Representative Heinert,

*Claire Ness* *Troy Siebel*

This responds to your request for a summary of issues and changes we discussed Friday. The changes would be made to your most recent amendment (19.0896.02011) to Senate Bill 2315. Please let me know if you have any questions.

*presumption of hunting - P. 5 of 2011 Version*

- We discussed repealing North Dakota Century Code section 20.1-01-20, which establishes the elements that constitute prima facie evidence of hunting. Under current law, this operates as a way to identify when someone is hunting on posted land. Under the bill, however, land would be deemed closed except to hunters. So, under the bill, the amended section 20.1-01-20 would give individuals with a legal weapon and valid hunting license a presumption of fitting within the trespass exception for hunters. The issue of individuals misusing the presumption arose. For example, a nonhunter with a legal weapon and valid license could trespass with other individuals and call themselves a hunting party. You indicated you may wish to repeal that section due to its potential for misuse.
- We discussed making penalties for trespassing consistent. You indicated you may wish to make the violation of a trespass law (other than in subsection 12.1-22-03(1), which pertains to entering or remaining in a dwelling or highly secured premises) a class B misdemeanor for a first offense and a class A misdemeanor for a second or subsequent offense within two years. The change would apply to anyone who enters or remains any place the individual is not licensed or privileged to be, a hunter hunting on posted land, and anyone who is asked to leave a store or other place open to the public but refuses to leave. If we make all these violations misdemeanors, we would then take out the process for noncriminal offenses under subdivisions 12.1-22-03(4)(b)-(j).
- We discussed keeping subsection 12.1-22-03(3) overstruck in the bill. Under current law, this subsection applies to individuals who are someplace where notice against trespass is given through actual communication or posting. However, under the bill, land is deemed closed, except to hunters, without any notice being required. So the only time you would need a provision like subsection 12.1-22-03(3) is for hunters. The provision against hunting on posted land exists in section 20.1-01-18. So 12.1-22-03(3) is

SB 2315  
4-22-19  
#2 pg. 2

redundant under the bill. Also, for nonhunters, the amended subsection 12.1-22-03(2) already provides penalties for people trespassing in any location.

- We discussed changes to subsection 20.1-01-17(4). You indicated the state may not develop and maintain the land access / electronic posting database. For example, the state may contract with a vendor for those functions. We discussed new language to provide that flexibility.
- We discussed clarifying the individuals who would be part of the Legislative Management study. If you would like individuals other than legislators chosen by the Legislative Management to serve on the study committee, that would need to be included in the bill.

• Summary of the bill if the proposed changes in this email are made:

- • Land would be deemed closed except to hunters.
- Trespass in a dwelling or highly secured premises would be a class C felony.
- Trespass in any other place would be a class B misdemeanor for a first offense and a class A misdemeanor for a second or subsequent offense within two years.
- Hunting on posted land without permission would be a class B misdemeanor for a first offense and a class A misdemeanor for a second or subsequent offense within two years.
- An individual who hunts on posted land could lose hunting privileges because the individual would be guilty of a criminal offense.
- Individuals would not have a presumption of hunting. Whether an individual was hunting when on private land would be subject to the facts and circumstances.
- • Land could be posted physically (as it is now) and, if an online database or similar application is developed, land could be posted electronically.
- A hunting guide or outfitter could not perform those services on private land without first obtaining permission from the landowner.
- During the interim, there would be a legislative management study regarding the land access database and related issues.
- The Game and Fish Department and the Tourism Division of the Department of Commerce would provide education and marketing of the changes in the bill.

Thanks,  
Claire

Claire J. Ness  
Counsel  
Legislative Council  
600 East Boulevard Avenue  
Bismarck, ND 58505  
(701) 328-3208

SB 2315  
4-22-19  
#2 pg. 11

April 22, 2019 — 2315

STUDY – ACCESS TO LANDS – REPORT TO LEGISLATIVE MANAGEMENT AND INTERIM LEGISLATIVE COMMITTEES.

During the 2019-20 interim the land access committee shall study access to public and private lands and related issues and shall provide recommendations regarding electronic posting of land. The study must include consideration of the numbers of calls to law enforcement regarding trespassers and hunting violations, the number of citations and convictions for trespass and hunting violations, the locations where trespass and hunting violations occur the most and least in the state, how sportsmen and outdoor enthusiasts are impacted by legislation regarding access to land in the state, and whether and how state laws regarding land access affect tribal lands. Before August 1, 2020, the land access committee shall report its findings and recommendations to the legislative management, interim energy and natural resources committee and interim agriculture committee.

Voting members of the committee, who must be appointed by the legislative management are:

- Two members representing agricultural landowners

- Two members representing sportsmen

Five members of the legislative assembly, one of whom must be selected by the committee as chairman of the committee, including:

- One member of the majority party in the House of Representatives

- One member of the minority party in the House of Representatives

- One member of the majority party in the senate

- One member of the minority part in the senate

- One member of either party in either chamber

The non voting members of the committee are:

- A representative of the North Dakota Association of counties

- The agriculture commissioner or the commissioner's designee

- The director of the game and fish department or the director's designee

- The chief information officer or the officer's designee

- A representative of the North Dakota Sheriff's and Deputies Association

(Continue w/ a member of the committee who is not a state employee.....)

Bis TR: Lane  
SAT. APR 20  
Rep. Trent

SB 2315  
4-22-19  
#3 pg. 1/2

# S. Dakota defends 'riot boosting' bill

New law aims to  
prevent disruptive  
Keystone XL protests

**BLAKE NICHOLSON**  
Associated Press

South Dakota's governor and attorney general are asking a federal judge to throw out a lawsuit challenging a new law that aims to prevent disruptive demonstrations against the Keystone XL pipeline if it's built.

The law allows officials to pursue criminal or civil penalties from demonstrators who engage in "riot boosting," which is defined in part as encouraging violence during a riot. The American Civil Liberties Union and American Indian tribes say the law will stifle free speech, but the state disputes that argument.

"Defendants deny that any objectively reasonable fear of prosecution for protected speech would arise under (the law)," Deputy Attorney General Richard Williams said in a Tuesday filing.



# Keystone

From A1

He also said the state is immune from such lawsuits.

The legislation was muscled through the Legislation by Republican Gov. Kristi Noem and the GOP leaders in a matter of days earlier this year. The new law came in the wake of massive and prolonged protests in North Dakota against the Dakota Access oil pipeline in 2016 and 2017. There were 761 arrests in six months, and the policing effort cost the state \$38 million.

Texas-based pipeline developer Energy Transfer Partners also is seeking to recover millions of dollars in protest-related damages from Greenpeace, an effort the environmental group calls a "sham."

American Indian tribes and environmental groups have promised similar protests against Keystone XL, which

TransCanada Corp. wants to build to move Canadian crude through Montana and South Dakota to Nebraska, where it would connect with lines carrying oil to Gulf Coast refineries. The \$8 billion project is tied up in the courts, as President Donald Trump tries to push it through but environmental groups resist.

The ACLU sued over the South Dakota law late last month on behalf of groups and people planning to protest the pipeline or encourage others to do so. The lawsuit argues the law is an overreach, vague and targets protected speech.

The law states that people who solicit or pay someone to break the law or be arrested would be subject to paying three times the amount that

would compensate for the detriment caused. Money collected would be used to pay for riot damage claims or could be transferred into a fund administered by the state Department of Public Safety.

Noem has said the law is meant to address problems caused by "out-of-state rioters funded by out-of-state interests," and that it arose from discussions with lawmakers, authorities, stakeholders and TransCanada.

Tribes have said they were not consulted. Williams, the deputy attorney general, said in his filing that "all citizens of the state, including tribes, tribal members, and environmental groups, were equally allowed to participate in the legislative process."



SB 2315  
4-22-19  
#3 pg. 2/e

SB 2315  
4/23/19  
#1 pg. 1/1

During the 2019-20 interim the legislative management shall study access to public and private lands for hunting, trapping, fishing and related issues, including trespass violations and penalties, and work towards the development of a hunters access database with the capability of electronic posting. The working committee may establish a trial electronic posting and hunter access information system in several counties prior to August 1<sup>st</sup>, 2020. The hunter database committee shall report its findings and recommendations together with any legislation required for implementation to legislative management for consideration in the 67<sup>th</sup> legislative assembly.

List of committee members adding a member from the State's Attorneys Assoc. instead of Sheriffs Assoc.

SB 2315  
4/23/19  
#2 pg 1/1

Amendment to 19.0896.02011

Representative Bill Tveit

Section 3, 20.1-18.

Page 4, Line 24: Insert "not" following the word "may"

Page 4, Line 26 & 27, line through: "~~unless the land is legally posted or individual is requested to leave by a duly authorized person~~"

Page 4, Lines 24 thru line 27, following the word "person.", add: , with a sunset clause of March 15, 2021.

April 23, 2019

SB 2315 pm  
4-23-19  
#1 pg.1

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2315

That the House recede from its amendments as printed on pages 1451-1453 of the Senate Journal and pages 1714-1721 and page 1732 of the House Journal and that Engrossed Senate Bill No. 2315 be amended as follows:

Page 1, line 1, remove "to create and enact chapter 20.1-18 of the North Dakota Century Code,"

Page 1, line 2, remove "relating to a database identifying whether private land is open to hunters;"

Page 1, line 3, after the first comma insert "20.1-01-17,"

Page 1, line 3, remove "20.1-01-19, 20.1-01-20,"

Page 1, line 4, after the semicolon insert "to repeal section 20.1-01-20 of the North Dakota Century Code, relating to prima facie evidence of hunting;"

Page 1, line 13, after "a" insert "class B misdemeanor for a first offense and a"

Page 1, line 13, after "misdemeanor" insert "for a second or subsequent offense"

Page 1, line 15, remove the overstrike of "~~a. Enters~~"

Page 1, line 15, remove "enters"

Page 1, line 19, replace "sections" with "section"

Page 1, line 19, remove ", 20.1-01-19, 20.1-03-42, and"

Page 1, line 20, replace "20.1-18-03" with "; or"

b. Remains on property that is privately owned and open to the public after being requested to leave the property by a duly authorized individual"

Page 3, line 13, overstrike "An individual is guilty of a class B misdemeanor if that individual remains upon the"

Page 3, overstrike lines 14 through 16

Page 3, line 17, replace "4." with "3."

Page 3, line 17, overstrike "a" and insert immediately thereafter ":

a. A"

Page 3, line 18, after "duties" insert "; or"

b. An individual who enters land to access buried and aboveground infrastructure for operations, inspection, repair, or maintenance purposes, if the individual has a right to operate, inspect, repair, or maintain the infrastructure

Page 3, after line 18, insert:

SB 2315  
4-23-19  
#1 pg. 2

**SECTION 2. AMENDMENT.** Section 20.1-01-17 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-01-17. Posting of lands by owner to prohibit hunting - How posted - Signs defaced.**

1. Only the owner or tenant or an individual authorized by the owner of land may post the land by placing signs alongside the public highway or the land giving notice that hunting is not permitted on the land. The name of the person posting the land must appear on each sign in legible characters. The signs must be readable from the outside of the land and must be placed conspicuously not more than eight hundred eighty yards [804.68 meters] apart. As to land entirely enclosed by a fence or other enclosure, posting of signs at or on all gates through the fence or enclosure constitutes a posting of all the enclosed land.
2. A person may not deface, take down, destroy posting signs, or post property without the permission of the owner or tenant or an individual authorized by the owner.
3. Even if the conduct of the owner, tenant, or individual authorized by the owner varies from the provisions of subsection 1, an individual may be found guilty of violating section 20.1-01-18 if the owner, tenant, or individual authorized by the owner substantially complied with subsection 1 and notice against hunting or trespassing is clear from the circumstances.
4. If the state, either directly or through a third party, develops, operates, or maintains an online database or other electronic application available to the public which identifies whether land is available to hunters, an owner or tenant or individual authorized by the owner of land may submit electronic information for the database or application regarding the availability of the land for hunting. Land designated as posted or closed to hunters in the database or application under this subsection is deemed posted land.

Page 3, line 21, remove the overstrike over "~~on posted land and trapping~~"

Page 3, line 21, remove the overstrike over "~~without permission~~"

Page 3, line 22, remove the overstrike over "~~unlawful - Penalty~~"

Page 3, line 25, after the underscored comma insert "unless the land is legally posted or the individual is requested to leave by a duly authorized person"

Page 3, line 25, after "person" insert "A person"

Page 3, line 25, remove the overstrike over "may" and insert immediately thereafter "not"

Page 3, line 25, remove the overstrike over "~~enter upon privately owned land for the~~"

Page 3, remove the overstrike over lines 26 through 28

Page 3, line 29, remove the overstrike over "~~two-year period~~"

Page 3, line 29, remove "unless the land is designated as closed to hunters or open to hunters with"

Page 3, remove line 30

SB 2315  
4-23-19  
# 1 P.3

Page 3, line 31, remove "20.1-01-17"

Page 4, remove lines 1 through 14

Page 4, line 24, remove "that are"

Page 4, line 24, overstrike "posted"

Page 4, line 25, overstrike "against hunting or trespassing"

Page 4, line 25, remove "under section 20.1-01-17 or private lands that are"

Page 4, remove line 26

Page 4, line 27, remove "20.1-18-02,"

Page 4, remove lines 30 and 31

Page 5, remove lines 1 through 30

Page 6, replace lines 1 through 23 with:

**"SECTION 5. REPEAL.** Section 20.1-01-20 of the North Dakota Century Code is repealed."

Page 6, line 24, remove "**FOR**"

Page 6, line 25, remove "**HUNTING AND TRAPPING**"

Page 6, line 25, after the boldfaced period, insert:

"1."

Page 6, line 25, replace "the legislative management" with "a land access study committee"

Page 6, line 26, replace "consider studying" with "study"

Page 6, line 26, after the second comma insert "fishing,"

Page 6, line 26, after "issues" insert ", including trespass violations and penalties, and provide recommendations regarding a land access database with the capability of electronic posting"

Page 6, line 27, replace "legislative management" with "study committee may establish a trial electronic posting and hunter access information system in several counties prior to August 1, 2020, and"

Page 6, line 29, after "assembly" insert "at a time appointed by the legislative management"

Page 6, after line 29, insert:

"2. a. The voting members of the committee, who must be appointed by the legislative management, are:

- (1) Two members representing agriculture organizations;
- (2) Two members representing sportsmen organizations; and
- (3) Five members of the legislative assembly including:

SB 2315  
4-23-19  
#1 pg.4

- (a) One member of the majority party in the house of representatives;
  - (b) One member of the minority party in the house of representatives;
  - (c) One member of the majority party in the senate;
  - (d) One member of the minority party in the senate; and
  - (e) One member from either party in either chamber to serve as the committee chairman.
- b. The nonvoting members of the committee are:
- (1) A representative of the North Dakota association of counties;
  - (2) The agriculture commissioner or the commissioner's designee;
  - (3) The director of the game and fish department or the director's designee;
  - (4) The chief information officer or the officer's designee; and
  - (5) A representative of the North Dakota state's attorneys' association.
3. A member of the committee who is not a state employee is entitled to reimbursement for mileage and expenses as provided by law for state officers and employees, to be paid by the legislative council. A state employee who is a member of the committee is entitled to receive that employee's regular salary and is entitled to reimbursement for mileage and expenses to be paid by the employing agency. A member of the committee who is a member of the legislative assembly is entitled to receive per diem compensation at the rate provided under section 54-35-10 for each day performing official duties of the committee. The legislative council shall pay the per diem compensation and reimbursement for travel and expenses as provided by law for any member of the committee who is a member of the legislative assembly.

**SECTION 7. EDUCATION AND MARKETING.** The game and fish department and the tourism division of the department of commerce shall provide public education and marketing regarding the changes to land access in this Act."

Renumber accordingly

Sixty-sixth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2315

Introduced by

Senators Erbele, Patten, Unruh

Representatives Boe, Schmidt, Westlund

1 A BILL for an Act ~~to create and enact chapter 20.1-18 of the North Dakota Century Code,~~  
2 ~~relating to a database identifying whether private land is open to hunters;~~ to amend and reenact  
3 sections 12.1-22-03, 20.1-01-17, 20.1-01-18, ~~20.1-01-19, 20.1-01-20~~, and 20.1-03-42 of the  
4 North Dakota Century Code, relating to criminal trespass and hunting on private land; to repeal  
5 section 20.1-01-20 of the North Dakota Century Code, relating to prima facie evidence of  
6 hunting; to provide a statement of legislative intent; to provide for a legislative management  
7 study; and to provide a penalty.

8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

9 **SECTION 1. AMENDMENT.** Section 12.1-22-03 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **12.1-22-03. Criminal trespass ~~– Noncriminal offense on posted property.~~**

- 12 1. An individual is guilty of a class C felony if, knowing that that individual is not licensed  
13 or privileged to do so, the individual enters or remains in a dwelling or in highly  
14 secured premises.
- 15 2. An individual is guilty of a class B misdemeanor for a first offense and a class A  
16 misdemeanor for a second or subsequent offense if, knowing ~~that that the~~ individual is  
17 not licensed or privileged to do so, the individual:
- 18 a. Enters ~~enters~~ or remains in or on any building, occupied structure, or storage  
19 structure, or separately secured or occupied portion thereof; or
- 20 b. ~~Enters or remains in any place so enclosed as manifestly to exclude intruders of a~~  
21 building or structure, or any other place the individual is not licensed or privileged  
22 to be, except as provided in sections ~~section 20.1-01-18, 20.1-01-19, 20.1-03-42,~~  
23 and 20.1-18-03; or



SB2315  
4-23-19  
#2

- 1                    b. Remains on property that is privately owned and open to the public after being  
2                    requested to leave the property by a duly authorized individual.
- 3                    ~~3. a. An individual is guilty of a class B misdemeanor if, knowing that that individual is~~  
4                    ~~not licensed or privileged to do so, the individual enters or remains in any place~~  
5                    ~~as to which notice against trespass is given by actual communication to the actor~~  
6                    ~~by the individual in charge of the premises or other authorized individual or by~~  
7                    ~~posting in a manner reasonably likely to come to the attention of intruders. The~~  
8                    ~~name of the person posting the premises must appear on each sign in legible~~  
9                    ~~characters.~~
- 10                   ~~b. Even if the conduct of the owner, tenant, or individual authorized by the owner~~  
11                   ~~varies from the provisions of subdivision a, an individual may be found guilty of~~  
12                   ~~violating subdivision a if the owner, tenant, or individual authorized by the owner~~  
13                   ~~substantially complied with subdivision a and notice against trespass is clear~~  
14                   ~~from the circumstances.~~
- 15                   ~~c. An individual who violates subdivision a is guilty of a class A misdemeanor for the~~  
16                   ~~second or subsequent offense within a two-year period.~~
- 17                   ~~4. a. An individual, knowing the individual is not licensed or privileged to do so, may~~  
18                   ~~not enter or remain in a place as to which notice against trespass is given by~~  
19                   ~~posting in a manner reasonably likely to come to the attention of intruders. A~~  
20                   ~~violation of this subdivision is a noncriminal offense.~~
- 21                   ~~b. A peace officer shall cite an individual who violates subdivision a with a fine of~~  
22                   ~~two hundred fifty dollars for each violation.~~
- 23                   ~~c. The peace officer citing the individual shall:~~
- 24                   ~~(1) Take the name and address of the individual; and~~
- 25                   ~~(2) Notify the individual of the right to request a hearing if posting bond by mail.~~
- 26                   ~~d. The peace officer may not take the individual into custody or require the~~  
27                   ~~individual to proceed with the peace officer to any other location for the purpose~~  
28                   ~~of posting bond. The officer shall provide the individual with an envelope for use~~  
29                   ~~in mailing the bond.~~
- 30                   ~~e. An individual cited may appear before the designated official and pay the~~  
31                   ~~statutory fine for the violation at or before the time scheduled for hearing.~~

- 1 ~~\_\_\_\_\_ f. If the individual has posted bond, the individual may forfeit bond by not appearing~~  
2 ~~at the designated time.~~
- 3 ~~\_\_\_\_\_ g. If the individual posts bond by mail, the bond must be submitted within fourteen~~  
4 ~~days of the date of the citation and the individual cited shall indicate on the~~  
5 ~~envelope or citation whether a hearing is requested. If the individual does not~~  
6 ~~request a hearing within fourteen days of the date of the citation, the bond is~~  
7 ~~deemed forfeited and the individual is deemed to have admitted to the violation~~  
8 ~~and to have waived the right to a hearing on the issue of commission of the~~  
9 ~~violation. If the individual requests a hearing, the court for the county in which the~~  
10 ~~citation is issued shall issue a summons to the individual requesting the hearing~~  
11 ~~notifying the individual of the date of the hearing before the designated official.~~
- 12 ~~\_\_\_\_\_ h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled~~  
13 ~~at the individual's request, the individual may make a statement in explanation of~~  
14 ~~the individual's action. The official may at that time waive or suspend the statutory~~  
15 ~~fine or bond.~~
- 16 ~~\_\_\_\_\_ i. A citing peace officer may not receive the statutory fine or bond.~~
- 17 ~~\_\_\_\_\_ j. The bond required to secure appearance before the judge must be identical to~~  
18 ~~the statutory fine established in subdivision b.~~

19 5. ~~An individual is guilty of a class B misdemeanor if that individual remains upon the~~  
20 ~~property of another after being requested to leave the property by a duly authorized~~  
21 ~~individual. An individual who violates this subsection is guilty of a class A~~  
22 ~~misdemeanor for the second or subsequent offense within a two-year period.~~

23 ~~6.4.3. This section does not apply to a:~~

- 24 ~~\_\_\_\_\_ a. A peace officer in the course of discharging the peace officer's official duties; or~~  
25 ~~\_\_\_\_\_ b. An individual who enters land to access buried and aboveground infrastructure~~  
26 ~~for operations, inspection, repair, or maintenance purposes, if the individual has a~~  
27 ~~right to operate, inspect, repair, or maintain the infrastructure.~~

28 **SECTION 2. AMENDMENT.** Section 20.1-01-17 of the North Dakota Century Code is  
29 amended and reenacted as follows:

SB 2315  
4-23-19  
#2

1       **20.1-01-17. Posting of lands by owner to prohibit hunting - How posted - Signs**  
2 **defaced.**

- 3       1. Only the owner or tenant or an individual authorized by the owner of land may post the
- 4       land by placing signs alongside the public highway or the land giving notice that
- 5       hunting is not permitted on the land. The name of the person posting the land must
- 6       appear on each sign in legible characters. The signs must be readable from the
- 7       outside of the land and must be placed conspicuously not more than eight hundred
- 8       eighty yards [804.68 meters] apart. As to land entirely enclosed by a fence or other
- 9       enclosure, posting of signs at or on all gates through the fence or enclosure
- 10      constitutes a posting of all the enclosed land.
- 11      2. A person may not deface, take down, destroy posting signs, or post property without
- 12      the permission of the owner or tenant or an individual authorized by the owner.
- 13      3. Even if the conduct of the owner, tenant, or individual authorized by the owner varies
- 14      from the provisions of subsection 1, an individual may be found guilty of violating
- 15      section 20.1-01-18 if the owner, tenant, or individual authorized by the owner
- 16      substantially complied with subsection 1 and notice against hunting or trespassing is
- 17      clear from the circumstances.
- 18      4. If the state, either directly or through a third party, develops, operates, or maintains an
- 19      online database or other electronic application available to the public which identifies
- 20      whether land is available to hunters, an owner or tenant or individual authorized by the
- 21      owner of land may submit electronic information for the database or application
- 22      regarding the availability of the land for hunting. Land designated as posted or closed
- 23      to hunters in the database or application under this subsection is deemed posted land.

24       **SECTION 3. AMENDMENT.** Section 20.1-01-18 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26       **20.1-01-18. Hunting on posted land and trapping on private land without permission**  
27 **unlawful - Penalty.**

28       ~~No person~~An individual may hunt or pursue game, or enter for those purposes, upon ~~legally~~  
29 ~~posted~~ land belonging to another without first obtaining the permission of the person legally  
30 entitled to grant the ~~same~~permission, unless the land is legally posted or the individual is  
31 requested to leave by a duly authorized person. ~~No person~~ A person may not enter upon

1 privately owned land for the purpose of trapping protected fur-bearing animals without first  
2 gaining the written permission of the owner or operator of that land. A person who violates this  
3 section is guilty of a class B misdemeanor for the first offense and a class A misdemeanor for a  
4 subsequent offense within a two-year period ~~unless the land is designated as closed to hunters~~  
5 ~~or open to hunters with permission under section 20.1-18-02 or the land is legally posted in~~  
6 ~~accordance with section 20.1-01-17.~~

7 ~~— **SECTION 6. AMENDMENT.** Section 20.1-01-19 of the North Dakota Century Code is~~  
8 ~~amended and reenacted as follows:~~

9 ~~— **20.1-01-19. When posted private land may be entered.**~~

10 ~~— Any person An individual may enter upon legally posted private land to recover game shot or~~  
11 ~~killed on land where the person individual had a lawful right to hunt. —~~

12 ~~— **SECTION 4. AMENDMENT.** Section 20.1-01-20 of the North Dakota Century Code is~~  
13 ~~amended and reenacted as follows:~~

14 ~~— **20.1-01-20. Entering posted private land with a hunting license and a gun or firearm**~~  
15 ~~**prima facie evidence of intent to hunt game.**~~

16 ~~— Proof that a person having an individual had a firearm, or other weapon declared legal by~~  
17 ~~governor's proclamation, in the person's possession and a valid license to hunt game in the~~  
18 ~~relevant area when the individual entered upon the legally posted private premises of another~~  
19 ~~without permission of the owner or tenant is prima facie evidence the person individual entered~~  
20 ~~to hunt or pursue game.~~

21 **SECTION 4. AMENDMENT.** Section 20.1-03-42 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23 **20.1-03-42. Guiding on prohibited lands.**

24 1. A person may not act as a hunting guide or hunting outfitter on land the person knows  
25 is owned by the state unless the appropriate state agency permits or authorizes the  
26 guiding or outfitting, on private land enrolled by the department for purposes of  
27 hunting, on land in which the department pays in lieu of taxes, or on federal lands  
28 without being authorized or permitted as required by the appropriate federal agency,  
29 or

30 2. A person may not act as a hunting guide or outfitter on private lands ~~that are posted~~  
31 against hunting or trespassing ~~under section 20.1-01-17 or private lands that are~~

SB 2315  
4-23-19  
#2

1 ~~designated as closed to hunters or open to hunters with permission under section~~  
2 ~~20.1-18-02,~~ without first informing and obtaining permission from the landowner to  
3 conduct guiding or outfitting on the land. If the landowner did not grant the permission  
4 in writing, there is a presumption that the permission did not exist.

5 ~~SECTION 6. Chapter 20.1-18 of the North Dakota Century Code is created and enacted as~~  
6 follows:

7 ~~**20.1-18-01. Hunters access advisory group.**~~

8 ~~1. The hunters access advisory group consists of:~~

9 ~~a. The agriculture commissioner or the commissioner's designee;~~

10 ~~b. The director or the director's designee;~~

11 ~~c. The chief information officer or the officer's designee;~~

12 ~~d. A representative of the North Dakota association of counties;~~

13 ~~e. Two members of an agriculture committee; and~~

14 ~~f. Two members of a sportsmen committee.~~

15 ~~2. The hunters access advisory group shall oversee the development of the hunters~~  
16 ~~access database identifying private land in the state as open to hunters, closed to~~  
17 ~~hunters, or open to hunters with permission from the owner or lawful occupant.~~

18 ~~3. The hunters access advisory group shall establish guidelines for the development of~~  
19 ~~the database and acceptance criteria for county data used to develop the database.~~

20 ~~**20.1-18-02. Hunters access database.**~~

21 ~~1. The hunters access database must use color coding or other clear indicators to~~  
22 ~~designate private land in the state as open to hunters, closed to hunters, or open to~~  
23 ~~hunters with permission from the owner or lawful occupant.~~

24 ~~2. A landowner or lawful occupant may designate which of the three categories in~~  
25 ~~subsection 1 applies to the landowner's or occupant's land. Land for which a~~  
26 ~~landowner or lawful occupant does not designate a category must be indicated in the~~  
27 ~~database as open to hunters if the county in which the land is located is included in the~~  
28 ~~database.~~

29 ~~3. If a landowner or lawful occupant designates land as open to hunters with permission,~~  
30 ~~the landowner or lawful occupant shall provide contact information to be included in the~~  
31 ~~database for hunters to request permission to hunt on the land.~~

SB 2315  
4-23-19  
#2

1 ~~4. The database must be accessible electronically to the public and may be made~~  
2 ~~available to the public through other means, including smartphone applications.~~

3 ~~5. To be included in the database, a county shall provide geographic information system~~  
4 ~~data or other data to the information technology department which meets the criteria~~  
5 ~~established by the hunters access advisory group.~~

6 ~~**20.1-18-03. Noncompliance with database and posting - Penalty.**~~

7 ~~1. Until the county in which private land is located is included in the hunters access~~  
8 ~~database, the land is deemed open unless posted in accordance with section~~  
9 ~~20.1-01-17.~~

10 ~~2. After a county is included in the database:~~

11 ~~a. A hunter may not enter land in the county which is designated in the database as~~  
12 ~~closed to hunters or open to hunters with permission unless the hunter has~~  
13 ~~permission to enter the land or otherwise is entitled to enter the land. A hunter is~~  
14 ~~guilty of an infraction for a first knowing violation and a class B misdemeanor for~~  
15 ~~a second and subsequent knowing violation of this subdivision; and~~

16 ~~b. A hunter without permission may enter land in the county which is not designated~~  
17 ~~in the database as closed to hunters or open to hunters with permission, unless~~  
18 ~~the land is posted in accordance with section 20.1-01-17.~~

19 ~~3. A hunter may not enter land that is posted in accordance with section 20.1-01-17~~  
20 ~~unless the hunter has permission to enter the land or otherwise is entitled to enter the~~  
21 ~~land, regardless of the designation of the land in the database. A hunter is guilty of an~~  
22 ~~infraction for a first knowing violation and a class B misdemeanor for a second and~~  
23 ~~subsequent knowing violation of this subsection.~~

24 ~~**SECTION 7. LEGISLATIVE INTENT - TIMELINE FOR DATABASE DEVELOPMENT.** It is~~  
25 ~~the intent of the legislative assembly that several counties will be included in an operational~~  
26 ~~hunters access database by the fall hunting season of 2020, and the operational database will~~  
27 ~~include all counties whose data meet the specifications of the hunters access database~~  
28 ~~advisory group by September 1, 2022.~~

29 **SECTION 5. REPEAL.** Section 20.1-01-20 of the North Dakota Century Code is repealed.

30 **SECTION 6. LEGISLATIVE MANAGEMENT STUDY - ACCESS TO LANDS FOR**  
31 **HUNTING AND TRAPPING.**

SB 2315  
4-23-19  
#2

- 1 1. During the 2019-20 interim, ~~the legislative management~~ a land access study  
2 committee shall ~~consider studying~~ study access to public and private lands for hunting,  
3 trapping, ~~fishing,~~ and related issues, including trespass violations and penalties, and  
4 provide recommendations regarding a land access database with the capability of  
5 electronic posting. The ~~legislative management~~ study committee may establish a trial  
6 electronic posting and hunter access information system in several counties prior to  
7 August 1, 2020, and shall report its findings and recommendations, together with any  
8 legislation required to implement the recommendations, to the sixty-seventh legislative  
9 assembly at a time appointed by the legislative management.
- 10 2. a. The voting members of the committee, who must be appointed by the legislative  
11 management, are:
- 12 (1) Two members representing agriculture organizations;  
13 (2) Two members representing sportsmen organizations; and  
14 (3) Five members of the legislative assembly including:
- 15 (a) One member of the majority party in the house of representatives;  
16 (b) One member of the minority party in the house of representatives;  
17 (c) One member of the majority party in the senate;  
18 (d) One member of the minority party in the senate; and  
19 (e) One member from either party in either chamber to serve as the  
20 committee chairman.
- 21 b. The nonvoting members of the committee are:
- 22 (1) A representative of the North Dakota association of counties;  
23 (2) The agriculture commissioner or the commissioner's designee;  
24 (3) The director of the game and fish department or the director's designee;  
25 (4) The chief information officer or the officer's designee; and  
26 (5) A representative of the North Dakota state's attorneys' association.
- 27 3. A member of the committee who is not a state employee is entitled to reimbursement  
28 for mileage and expenses as provided by law for state officers and employees, to be  
29 paid by the legislative council. A state employee who is a member of the committee is  
30 entitled to receive that employee's regular salary and is entitled to reimbursement for  
31 mileage and expenses to be paid by the employing agency. A member of the

SB 2315  
4-23-19  
#2

1 committee who is a member of the legislative assembly is entitled to receive per diem  
2 compensation at the rate provided under section 54-35-10 for each day performing  
3 official duties of the committee. The legislative council shall pay the per diem  
4 compensation and reimbursement for travel and expenses as provided by law for any  
5 member of the committee who is a member of the legislative assembly.

6 **SECTION 7. EDUCATION AND MARKETING.** The game and fish department and the  
7 tourism division of the department of commerce shall provide public education and marketing  
8 regarding the changes to land access in this Act.



April 24, 2019

SB 2315  
4-24-19  
#1 pg.1

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2315

That the House recede from its amendments as printed on pages 1451-1453 of the Senate Journal and pages 1714-1721 and page 1732 of the House Journal and that Engrossed Senate Bill No. 2315 be amended as follows:

Page 1, line 1, remove "to create and enact chapter 20.1-18 of the North Dakota Century Code,"

Page 1, line 2, remove "relating to a database identifying whether private land is open to hunters;"

Page 1, line 3, after the first comma insert "20.1-01-17,"

Page 1, line 3, remove "20.1-01-19, 20.1-01-20,"

Page 1, line 4, remove "to provide a statement"

Page 1, line 5, replace "of legislative intent" with "to repeal section 20.1-01-20 of the North Dakota Century Code, relating to prima facie evidence of hunting"

Page 1, line 13, after "a" insert "class B misdemeanor for a first offense and a"

Page 1, line 13, after "misdemeanor" insert "for a second or subsequent offense"

Page 1, line 15, remove the overstrike of "~~a. Enters~~"

Page 1, line 15, remove "enters"

Page 1, line 19, replace the first underscored comma with "and"

Page 1, line 19, remove ", 20.1-03-42, and"

Page 1, line 20, replace "20.1-18-03" with "; or

b. Remains on property that is privately owned and open to the public after being requested to leave the property by a duly authorized individual"

Page 3, line 13, overstrike "An individual is guilty of a class B misdemeanor if that individual remains upon the"

Page 3, overstrike lines 14 through 16

Page 3, line 17, replace "4." with "3."

Page 3, line 17, overstrike "a" and insert immediately thereafter ":

a. A"

Page 3, line 18, after "duties" insert "; or

b. An individual who enters land to access buried and aboveground infrastructure for operations, inspection, repair, or maintenance purposes, if the individual has a right to operate, inspect, repair, or maintain the infrastructure

SB 2315

4-24-19

# 1

Page 3, after line 18, insert:

**SECTION 2. AMENDMENT.** Section 20.1-01-17 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-01-17. Posting of lands by owner to prohibit hunting - How posted - Signs defaced.**

1. Only the owner or tenant or an individual authorized by the owner of land may post the land by placing signs alongside the public highway or the land giving notice that hunting is not permitted on the land. The name of the person posting the land must appear on each sign in legible characters. The signs must be readable from the outside of the land and must be placed conspicuously not more than eight hundred eighty yards [804.68 meters] apart. As to land entirely enclosed by a fence or other enclosure, posting of signs at or on all gates through the fence or enclosure constitutes a posting of all the enclosed land.
2. A person may not deface, take down, destroy posting signs, or post property without the permission of the owner or tenant or an individual authorized by the owner.
3. Even if the conduct of the owner, tenant, or individual authorized by the owner varies from the provisions of subsection 1, an individual may be found guilty of violating section 20.1-01-18 if the owner, tenant, or individual authorized by the owner substantially complied with subsection 1 and notice against hunting or trespassing is clear from the circumstances.
4. If the state, either directly or through a third party, develops, operates, or maintains an online database or other electronic application for up to three counties which is available to the public and identifies whether land in the counties is available to hunters, an owner or tenant or individual authorized by the owner of land in the counties may submit electronic information for the database or application regarding the availability of the land for hunting. Land designated as posted or closed to hunters in the database or application under this subsection is deemed posted land.

Page 3, line 21, remove the overstrike over "~~on posted land and trapping~~"

Page 3, line 21, remove the overstrike over "~~without permission~~"

Page 3, line 22, remove the overstrike over "~~unlawful - Penalty~~"

Page 3, line 25, after the underscored comma insert "unless the land is legally posted or the individual is requested to leave by a duly authorized person"

Page 3, line 25, after "person" insert "A person"

Page 3, line 25, remove the overstrike over "~~may~~" and insert immediately thereafter "not"

Page 3, line 25, remove the overstrike over "~~enter upon privately owned land for the~~"

Page 3, remove the overstrike over lines 26 through 28

Page 3, line 29, remove the overstrike over "~~two year period~~"

Page 3, line 29, remove "unless the land is designated as closed to hunters or open to hunters with"

Page 3, remove line 30

Page 3, line 31, remove "20.1-01-17"

Page 4, remove lines 1 through 14

Page 4, line 24, remove "that are"

Page 4, line 24, overstrike "posted"

Page 4, line 25, overstrike "against hunting or trespassing"

Page 4, line 25, remove "under section 20.1-01-17 or private lands that are"

Page 4, remove line 26

Page 4, line 27, remove "20.1-18-02,"

Page 4, remove lines 30 and 31

Page 5, remove lines 1 through 30

Page 6, replace lines 1 through 23 with:

**"SECTION 5. REPEAL.** Section 20.1-01-20 of the North Dakota Century Code is repealed."

Page 6, line 24, remove "**FOR**"

Page 6, line 25, remove "**HUNTING AND TRAPPING**"

Page 6, line 25, after the boldfaced period, insert:

"1."

Page 6, line 26, replace "consider studying" with "study"

Page 6, line 26, after the second comma insert "fishing,"

Page 6, line 26, after "issues" insert ", including trespass violations and penalties, and provide recommendations regarding a land access database with the capability of electronic posting. At the direction of the legislative management, before August 1, 2020, the information technology department and game and fish department shall establish a trial electronic posting and hunter access information system in up to three counties. The information technology department and game and fish department may contract with a third-party to assist with the electronic posting and hunter access information system development and operation."

Page 6, after line 29, insert:

"2. The legislative management shall appoint a committee for this study as follows:

a. The voting members of the committee, who must be appointed by the legislative management, are:

(1) Two members representing agriculture landowners;

SB 2315  
4-24-19  
#1

- (2) Two members representing sportsmen organizations; and
- (3) Five members of the legislative assembly, including:
  - (a) One member of the majority party in the house of representatives;
  - (b) One member of the minority party in the house of representatives;
  - (c) One member of the majority party in the senate;
  - (d) One member of the minority party in the senate; and
  - (e) One member from either party in either chamber to serve as the committee chairman.
- b. The nonvoting members of the committee are:
  - (1) A representative of the North Dakota association of counties;
  - (2) The agriculture commissioner or the commissioner's designee;
  - (3) The director of the game and fish department or the director's designee;
  - (4) The chief information officer or the officer's designee; and
  - (5) A representative of the North Dakota state's attorneys' association.
3. A member of the committee who is not a state employee is entitled to reimbursement for mileage and expenses as provided by law for state officers and employees, to be paid by the legislative council. A state employee who is a member of the committee is entitled to receive that employee's regular salary and is entitled to reimbursement for mileage and expenses to be paid by the employing agency. A member of the committee who is a member of the legislative assembly is entitled to receive per diem compensation at the rate provided under section 54-35-10 for each day performing official duties of the committee. The legislative council shall pay the per diem compensation and reimbursement for travel and expenses as provided by law for any member of the committee who is a member of the legislative assembly.

**SECTION 7. EDUCATION AND MARKETING.** The game and fish department and the tourism division of the department of commerce shall provide public education and marketing regarding the changes to land access in this Act."

Renumber accordingly

Sixty-sixth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2315

Introduced by

Senators Erbele, Patten, Unruh

Representatives Boe, Schmidt, Westlund

1 A BILL for an Act ~~to create and enact chapter 20.1-18 of the North Dakota Century Code,~~  
2 ~~relating to a database identifying whether private land is open to hunters;~~ to amend and reenact  
3 sections 12.1-22-03, 20.1-01-17, 20.1-01-18, ~~20.1-01-19, 20.1-01-20~~, and 20.1-03-42 of the  
4 North Dakota Century Code, relating to criminal trespass and hunting on private land; ~~to provide~~  
5 ~~a statement of legislative intent~~ to repeal section 20.1-01-20 of the North Dakota Century Code,  
6 relating to prima facie evidence of hunting; to provide for a legislative management study; and  
7 to provide a penalty.

8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

9 **SECTION 1. AMENDMENT.** Section 12.1-22-03 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **12.1-22-03. Criminal trespass – ~~Noncriminal offense on posted property.~~**

- 12 1. An individual is guilty of a class C felony if, knowing that that individual is not licensed  
13 or privileged to do so, the individual enters or remains in a dwelling or in highly  
14 secured premises.
- 15 2. An individual is guilty of a class B misdemeanor for a first offense and a class A  
16 misdemeanor for a second or subsequent offense if, knowing ~~that that~~ the individual is  
17 not licensed or privileged to do so, the individual:
- 18 a. Enters ~~enters~~ or remains in or on any building, occupied structure, ~~or~~ storage  
19 structure, ~~or~~ separately secured or occupied portion thereof; ~~or~~
- 20 b. ~~Enters or remains in any place so enclosed as manifestly to exclude intruders of a~~  
21 building or structure, or any other place the individual is not licensed or privileged  
22 to be, except as provided in sections 20.1-01-18, and 20.1-01-19, ~~20.1-03-42,~~  
23 and ~~20.1-18-03;~~ or

SB 2315  
4-24-19  
#2

Sixty-sixth  
Legislative Assembly

- 1                    b. Remains on property that is privately owned and open to the public after being  
2                    requested to leave the property by a duly authorized individual.
- 3                    ~~3. a. An individual is guilty of a class B misdemeanor if, knowing that that individual is~~  
4                    ~~not licensed or privileged to do so, the individual enters or remains in any place~~  
5                    ~~as to which notice against trespass is given by actual communication to the actor~~  
6                    ~~by the individual in charge of the premises or other authorized individual or by~~  
7                    ~~posting in a manner reasonably likely to come to the attention of intruders. The~~  
8                    ~~name of the person posting the premises must appear on each sign in legible~~  
9                    ~~characters.~~
- 10                   ~~b. Even if the conduct of the owner, tenant, or individual authorized by the owner~~  
11                   ~~varies from the provisions of subdivision a, an individual may be found guilty of~~  
12                   ~~violating subdivision a if the owner, tenant, or individual authorized by the owner~~  
13                   ~~substantially complied with subdivision a and notice against trespass is clear~~  
14                   ~~from the circumstances.~~
- 15                   ~~c. An individual who violates subdivision a is guilty of a class A misdemeanor for the~~  
16                   ~~second or subsequent offense within a two-year period.~~
- 17                   ~~4. a. An individual, knowing the individual is not licensed or privileged to do so, may~~  
18                   ~~not enter or remain in a place as to which notice against trespass is given by~~  
19                   ~~posting in a manner reasonably likely to come to the attention of intruders. A~~  
20                   ~~violation of this subdivision is a noncriminal offense.~~
- 21                   ~~b. A peace officer shall cite an individual who violates subdivision a with a fine of~~  
22                   ~~two hundred fifty dollars for each violation.~~
- 23                   ~~c. The peace officer citing the individual shall:~~
- 24                   ~~(1) Take the name and address of the individual; and~~
- 25                   ~~(2) Notify the individual of the right to request a hearing if posting bond by mail.~~
- 26                   ~~d. The peace officer may not take the individual into custody or require the~~  
27                   ~~individual to proceed with the peace officer to any other location for the purpose~~  
28                   ~~of posting bond. The officer shall provide the individual with an envelope for use~~  
29                   ~~in mailing the bond.~~
- 30                   ~~e. An individual cited may appear before the designated official and pay the~~  
31                   ~~statutory fine for the violation at or before the time scheduled for hearing.~~

SB 2315  
4-24-19  
#2

1 ~~\_\_\_\_\_ f. If the individual has posted bond, the individual may forfeit bond by not appearing~~  
2 ~~at the designated time.~~

3 ~~\_\_\_\_\_ g. If the individual posts bond by mail, the bond must be submitted within fourteen~~  
4 ~~days of the date of the citation and the individual cited shall indicate on the~~  
5 ~~envelope or citation whether a hearing is requested. If the individual does not~~  
6 ~~request a hearing within fourteen days of the date of the citation, the bond is~~  
7 ~~deemed forfeited and the individual is deemed to have admitted to the violation~~  
8 ~~and to have waived the right to a hearing on the issue of commission of the~~  
9 ~~violation. If the individual requests a hearing, the court for the county in which the~~  
10 ~~citation is issued shall issue a summons to the individual requesting the hearing~~  
11 ~~notifying the individual of the date of the hearing before the designated official.~~

12 ~~\_\_\_\_\_ h. Upon appearing at the hearing scheduled in the citation or otherwise scheduled~~  
13 ~~at the individual's request, the individual may make a statement in explanation of~~  
14 ~~the individual's action. The official may at that time waive or suspend the statutory~~  
15 ~~fine or bond.~~

16 ~~\_\_\_\_\_ i. A citing peace officer may not receive the statutory fine or bond.~~

17 ~~\_\_\_\_\_ j. The bond required to secure appearance before the judge must be identical to~~  
18 ~~the statutory fine established in subdivision b.~~

19 ~~5. An individual is guilty of a class B misdemeanor if that individual remains upon the~~  
20 ~~property of another after being requested to leave the property by a duly authorized~~  
21 ~~individual. An individual who violates this subsection is guilty of a class A~~  
22 ~~misdemeanor for the second or subsequent offense within a two-year period.~~

23 ~~6.4.3. This section does not apply to a:~~

24 ~~\_\_\_\_\_ a. A peace officer in the course of discharging the peace officer's official duties; or~~

25 ~~\_\_\_\_\_ b. An individual who enters land to access buried and aboveground infrastructure~~  
26 ~~for operations, inspection, repair, or maintenance purposes, if the individual has a~~  
27 ~~right to operate, inspect, repair, or maintain the infrastructure.~~

28 **SECTION 2. AMENDMENT.** Section 20.1-01-17 of the North Dakota Century Code is  
29 amended and reenacted as follows:

1           **20.1-01-17. Posting of lands by owner to prohibit hunting - How posted - Signs**  
2 **defaced.**

3           1. Only the owner or tenant or an individual authorized by the owner of land may post the  
4 land by placing signs alongside the public highway or the land giving notice that  
5 hunting is not permitted on the land. The name of the person posting the land must  
6 appear on each sign in legible characters. The signs must be readable from the  
7 outside of the land and must be placed conspicuously not more than eight hundred  
8 eighty yards [804.68 meters] apart. As to land entirely enclosed by a fence or other  
9 enclosure, posting of signs at or on all gates through the fence or enclosure  
10 constitutes a posting of all the enclosed land.

11           2. A person may not deface, take down, destroy posting signs, or post property without  
12 the permission of the owner or tenant or an individual authorized by the owner.

13           3. Even if the conduct of the owner, tenant, or individual authorized by the owner varies  
14 from the provisions of subsection 1, an individual may be found guilty of violating  
15 section 20.1-01-18 if the owner, tenant, or individual authorized by the owner  
16 substantially complied with subsection 1 and notice against hunting or trespassing is  
17 clear from the circumstances.

18           4. If the state, either directly or through a third party, develops, operates, or maintains an  
19 online database or other electronic application for up to three counties which is  
20 available to the public and identifies whether land in the counties is available to  
21 hunters, an owner or tenant or individual authorized by the owner of land in the  
22 counties may submit electronic information for the database or application regarding  
23 the availability of the land for hunting. Land designated as posted or closed to hunters  
24 in the database or application under this subsection is deemed posted land.

25           **SECTION 3. AMENDMENT.** Section 20.1-01-18 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27           **20.1-01-18. Hunting on posted land and trapping on private land without permission**  
28 **unlawful - Penalty.**

29           ~~No person~~An individual may hunt or pursue game, or enter for those purposes, upon ~~legally~~  
30 ~~posted~~ land belonging to another without first obtaining the permission of the person legally  
31 entitled to grant the ~~same~~permission, unless the land is legally posted or the individual is



1 ~~requested to leave by a duly authorized person. No person~~ A person may not enter upon  
2 privately owned land for the purpose of trapping protected fur-bearing animals without first  
3 gaining the written permission of the owner or operator of that land. A person who violates this  
4 section is guilty of a class B misdemeanor for the first offense and a class A misdemeanor for a  
5 subsequent offense within a two-year period ~~unless the land is designated as closed to hunters~~  
6 ~~or open to hunters with permission under section 20.1-18-02 or the land is legally posted in~~  
7 ~~accordance with section 20.1-01-17.~~

8 ~~SECTION 6. AMENDMENT. Section 20.1-01-19 of the North Dakota Century Code is~~  
9 ~~amended and reenacted as follows:~~

10 ~~SECTION 20.1-01-19. When posted private land may be entered.~~

11 ~~Any person~~ An individual ~~may enter upon legally posted private land to recover game shot or~~  
12 ~~killed on land where the person~~ individual ~~had a lawful right to hunt.~~

13 ~~SECTION 4. AMENDMENT. Section 20.1-01-20 of the North Dakota Century Code is~~  
14 ~~amended and reenacted as follows:~~

15 ~~SECTION 20.1-01-20. Entering posted private land with a hunting license and a gun or firearm~~  
16 ~~prima facie evidence of intent to hunt game.~~

17 ~~Proof that a person having an individual had a firearm, or other weapon declared legal by~~  
18 ~~governor's proclamation, in the person's possession and a valid license to hunt game in the~~  
19 ~~relevant area when the individual entered upon the legally posted private premises of another~~  
20 ~~without permission of the owner or tenant is prima facie evidence the person~~ individual ~~entered~~  
21 ~~to hunt or pursue game.~~

22 ~~SECTION 4. AMENDMENT. Section 20.1-03-42 of the North Dakota Century Code is~~  
23 ~~amended and reenacted as follows:~~

24 ~~SECTION 20.1-03-42. Guiding on prohibited lands.~~

- 25 1. A person may not act as a hunting guide or hunting outfitter on land the person knows  
26 is owned by the state unless the appropriate state agency permits or authorizes the  
27 guiding or outfitting, on private land enrolled by the department for purposes of  
28 hunting, on land in which the department pays in lieu of taxes, or on federal lands  
29 without being authorized or permitted as required by the appropriate federal agency,  
30 or

SB 2315  
4-24-19  
#2

Sixty-sixth  
Legislative Assembly

1       2. A person may not act as a hunting guide or outfitter on private lands ~~that are posted~~  
2       ~~against hunting or trespassing under section 20.1-01-17 or private lands that are~~  
3       ~~designated as closed to hunters or open to hunters with permission under section~~  
4       ~~20.1-18-02~~; without first informing and obtaining permission from the landowner to  
5       conduct guiding or outfitting on the land. If the landowner did not grant the permission  
6       in writing, there is a presumption that the permission did not exist.

7       ~~SECTION 6. Chapter 20.1-18 of the North Dakota Century Code is created and enacted as~~  
8       ~~follows:~~

9       ~~**20.1-18-01. Hunters access advisory group.**~~

10      ~~1. The hunters access advisory group consists of:~~

11      ~~a. The agriculture commissioner or the commissioner's designee;~~

12      ~~b. The director or the director's designee;~~

13      ~~c. The chief information officer or the officer's designee;~~

14      ~~d. A representative of the North Dakota association of counties;~~

15      ~~e. Two members of an agriculture committee; and~~

16      ~~f. Two members of a sportsmen committee.~~

17      ~~2. The hunters access advisory group shall oversee the development of the hunters~~  
18      ~~access database identifying private land in the state as open to hunters, closed to~~  
19      ~~hunters, or open to hunters with permission from the owner or lawful occupant.~~

20      ~~3. The hunters access advisory group shall establish guidelines for the development of~~  
21      ~~the database and acceptance criteria for county data used to develop the database.~~

22      ~~**20.1-18-02. Hunters access database.**~~

23      ~~1. The hunters access database must use color coding or other clear indicators to~~  
24      ~~designate private land in the state as open to hunters, closed to hunters, or open to~~  
25      ~~hunters with permission from the owner or lawful occupant.~~

26      ~~2. A landowner or lawful occupant may designate which of the three categories in~~  
27      ~~subsection 1 applies to the landowner's or occupant's land. Land for which a~~  
28      ~~landowner or lawful occupant does not designate a category must be indicated in the~~  
29      ~~database as open to hunters if the county in which the land is located is included in the~~  
30      ~~database.~~

1 ~~3. If a landowner or lawful occupant designates land as open to hunters with permission,~~  
2 ~~the landowner or lawful occupant shall provide contact information to be included in the~~  
3 ~~database for hunters to request permission to hunt on the land.~~

4 ~~4. The database must be accessible electronically to the public and may be made~~  
5 ~~available to the public through other means, including smartphone applications.~~

6 ~~5. To be included in the database, a county shall provide geographic information system~~  
7 ~~data or other data to the information technology department which meets the criteria~~  
8 ~~established by the hunters access advisory group.~~

9 ~~**20.1-18-03. Noncompliance with database and posting - Penalty.**~~

10 ~~1. Until the county in which private land is located is included in the hunters access~~  
11 ~~database, the land is deemed open unless posted in accordance with section~~  
12 ~~20.1-01-17.~~

13 ~~2. After a county is included in the database:~~

14 ~~a. A hunter may not enter land in the county which is designated in the database as~~  
15 ~~closed to hunters or open to hunters with permission unless the hunter has~~  
16 ~~permission to enter the land or otherwise is entitled to enter the land. A hunter is~~  
17 ~~guilty of an infraction for a first knowing violation and a class B misdemeanor for~~  
18 ~~a second and subsequent knowing violation of this subdivision; and~~

19 ~~b. A hunter without permission may enter land in the county which is not designated~~  
20 ~~in the database as closed to hunters or open to hunters with permission, unless~~  
21 ~~the land is posted in accordance with section 20.1-01-17.~~

22 ~~3. A hunter may not enter land that is posted in accordance with section 20.1-01-17~~  
23 ~~unless the hunter has permission to enter the land or otherwise is entitled to enter the~~  
24 ~~land, regardless of the designation of the land in the database. A hunter is guilty of an~~  
25 ~~infraction for a first knowing violation and a class B misdemeanor for a second and~~  
26 ~~subsequent knowing violation of this subsection.~~

27 ~~**SECTION 7. LEGISLATIVE INTENT - TIMELINE FOR DATABASE DEVELOPMENT.** It is~~  
28 ~~the intent of the legislative assembly that several counties will be included in an operational~~  
29 ~~hunters access database by the fall hunting season of 2020, and the operational database will~~  
30 ~~include all counties whose data meet the specifications of the hunters access database~~  
31 ~~advisory group by September 1, 2022.~~

SB 2315  
4-24-19  
#2

**SECTION 5. REPEAL.** Section 20.1-01-20 of the North Dakota Century Code is repealed.

**SECTION 6. LEGISLATIVE MANAGEMENT STUDY - ACCESS TO LANDS ~~FOR~~  
HUNTING AND TRAPPING.**

1. During the 2019-20 interim, the legislative management shall ~~consider studying study~~ access to public and private lands for hunting, trapping, fishing, and related issues, including trespass violations and penalties, and provide recommendations regarding a land access database with the capability of electronic posting. At the direction of the legislative management, before August 1, 2020, the information technology department and game and fish department shall establish a trial electronic posting and hunter access information system in up to three counties. The information technology department and game and fish department may contract with a third-party to assist with the electronic posting and hunter access information system development and operation. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-seventh legislative assembly.

2. The legislative management shall appoint a committee for this study as follows:

a. The voting members of the committee, who must be appointed by the legislative management, are:

(1) Two members representing agriculture landowners;

(2) Two members representing sportsmen organizations; and

(3) Five members of the legislative assembly, including:

(a) One member of the majority party in the house of representatives;

(b) One member of the minority party in the house of representatives;

(c) One member of the majority party in the senate;

(d) One member of the minority party in the senate; and

(e) One member from either party in either chamber to serve as the committee chairman.

b. The nonvoting members of the committee are:

(1) A representative of the North Dakota association of counties;

(2) The agriculture commissioner or the commissioner's designee;

(3) The director of the game and fish department or the director's designee;

- 1 (4) The chief information officer or the officer's designee; and
- 2 (5) A representative of the North Dakota state's attorneys' association.

3 3. A member of the committee who is not a state employee is entitled to reimbursement  
4 for mileage and expenses as provided by law for state officers and employees, to be  
5 paid by the legislative council. A state employee who is a member of the committee is  
6 entitled to receive that employee's regular salary and is entitled to reimbursement for  
7 mileage and expenses to be paid by the employing agency. A member of the  
8 committee who is a member of the legislative assembly is entitled to receive per diem  
9 compensation at the rate provided under section 54-35-10 for each day performing  
10 official duties of the committee. The legislative council shall pay the per diem  
11 compensation and reimbursement for travel and expenses as provided by law for any  
12 member of the committee who is a member of the legislative assembly.

13 **SECTION 7. EDUCATION AND MARKETING.** The game and fish department and the  
14 tourism division of the department of commerce shall provide public education and marketing  
15 regarding the changes to land access in this Act.