

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

NATURAL RESOURCES COMMITTEE

Tuesday, August 21, 2012
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Chuck Damschen, Chairman, called the meeting to order at 10:00 a.m.

Members present: Representatives Chuck Damschen, Dick Anderson, Michael D. Brandenburg, Duane DeKrey, Lyle Hanson, Bob Hunskor, Mike Nathe, David S. Rust, Vicky Steiner; Senators Bill Bowman, Randy Burckhard, Robert Erbele, Philip M. Murphy, Connie Triplett

Members absent: Representatives David Drovdal, Curt Hofstad, Scot Kelsh; Senators Layton Freborg, Oley Larsen

Others present: See [Appendix A](#)

It was moved by Representative DeKrey, seconded by Senator Erbele, and carried on a voice vote that the minutes of the April 26, 2012, meeting be approved as distributed.

REPORT ON GOOSE HUNTING AND RESIDENT AND NONRESIDENT GOOSE HUNTERS

Mr. Terry Steinwand, Director, Game and Fish Department, gave a presentation ([Appendix B](#)) on the effect of not counting against the 14 days allowed for nonresidents the days spent hunting the early Canada goose season in Richland, Sargent, Benson, Ramsey, and Towner Counties. He provided information on the annual goose harvest numbers, the number of waterfowl hunters, the seasonal Canada goose bag per waterfowl hunter, the hunters and harvest of early season Canada geese, Canada goose kill permits, and Canada goose population indices. He said it is difficult to assess the success of limiting the nonresident hunter day restrictions from Ramsey, Benson, and Towner Counties based on a single year of data. He said a larger sample of nonresident hunters is needed to provide valid information.

In response to a question from Representative Nathe, Mr. Steinwand said the additional 48,711 geese harvested during the early Canada goose season probably is not enough geese harvested.

In response to a question from Representative Brandenburg, Mr. Steinwand said the Game and Fish Department has methods and tools to avoid depredation. He said depredation kill permits allow the producer to kill up to 30 geese per season per permit, and permits are easily obtained after the previous one is filled. He said the Game and Fish Department provides snowfence stops, propane cannons, coyote decoys, solar scarecrows, food plots,

and buffer strips to address goose depredation. He said he does not see a negative to expanding the exemption from the 14 days of hunting for nonresident goose hunters in the early Canada goose season statewide.

In response to a question from Representative Brandenburg, Mr. Steinwand said landowners with goose depredation issues need to allow more hunting.

In response to a question from Senator Erbele, Mr. Steinwand said the department does not pay for the chemical for spraying which can cost \$125 for five gallons. He said the department does pay for food plot costs upfront, but the application must be made in the spring.

Mr. Mike Johnson, Biologist, Game and Fish Department, answered questions for the committee. In response to a question from Senator Erbele, Mr. Johnson said the spray is unproven and expensive. He said it is mainly used on golf courses and small portions of property. He said the spray must be reapplied if it rains. He said 225 kill permits were issued. He said other methods of controlling depredation first must be used before a kill permit is issued. He said the permit allows the destruction of the nest or eggs and using shotguns to kill adults and goslings. He said each permit allows the destruction of 30 geese and another permit can be obtained immediately upon filling the previous permit. He said some producers want to use rifles, but rifles are not as big of a deterrent as shotguns. In addition, he said, the federal rules require the geese to be picked up and disposed of, and shooting geese from a long distance does not promote capture of wounded geese.

In response to a question from Senator Erbele, Mr. Johnson said the federal rules require that the dead geese are collected and buried, burned, or donated to charity for food.

In response to a question from Representative DeKrey, Mr. Steinwand said the department generally supports expanding the exemption from the 14 days for nonresidents to other counties or statewide. He said some resident hunters would not support expanding opportunities for nonresident hunters.

In response to a question from Representative Hunskor, Mr. Johnson said bag limit increases have a positive result but not on a one-to-one basis. He said the bag limit was increased to 15 birds a day for the August hunt. He said you will see people take advantage of the larger bag limit this year, but interest

in the limit will wane over the years, and fewer geese will be harvested. He said next year in the regular season the bag limit is expected to be five Canada geese. He said to control goose numbers there needs to be hunters and access, and it can be difficult for hunters to obtain access when landowners are difficult to find.

In response to a question from Senator Bowman, Mr. Johnson said the state does not have flexibility as to bag limits because bag limits are under federal jurisdiction. He said there are 13 populations of geese that cross the United States and each population is regulated the same among the states with that population.

In response to a question from Representative Rust, Mr. Johnson said the number of goose hunters peaked in the 1970s.

In response to a question from Senator Triplett, Mr. Johnson said the information obtained by the survey as to the total harvest information is good, but not as to the 37 nonresident respondents. He said there needs to be better information on nonresident hunters. He said this information could be obtained by a more targeted sample that could be obtained through a special license, much like the spring snow goose nonresident license.

In response to a question from Senator Triplett, Mr. Johnson said offering enticements to people to answer surveys is not a good idea because it can bias the response.

In response to a question from Representative Anderson, Mr. Johnson said the steel shot limitation went into effect in 1987 or 1988.

In response to a question from Senator Murphy, Mr. Johnson said there are 8 to 130 races of Canada geese. He said most biologists believe there are 11 races. He said North Dakota has one resident race and three additional races that pass through the state.

In response to a question from Representative Brandenburg, Mr. Johnson said a landowner may place anyone on the permit to kill geese. He said the permits appear to be a paper burden on farmers, and the department is looking for an easier way to administer the permits through the Internet.

In response to a question from Representative Nathe, Mr. Johnson said the federal rules do not allow using hunting techniques to kill geese with a permit. He said the purpose of the rule does not include making goose kill permits a sport.

In response to a question from Representative Rust, Mr. Johnson said the federal rules do not allow the person who kills the geese to keep or eat the meat.

In response to a question from Representative Damschen, Mr. Johnson said there is a 10,000 goose limit for kill permits that has never been reached. He said the number could be increased if it needed to be increased. He said the current rules require monitoring and reports on how many geese are killed and crop losses which are burdensome for producers.

In response to a question from Representative Nathe, Mr. Johnson said 150,000 to 200,000 geese could be harvested safely. He said states want more geese banded so geese that are shot can be identified so as to provide more targeted hunting seasons.

In response to a question from Senator Erbele, Mr. Johnson said a landowner who shot geese out of season would be in violation of state and federal law.

In response to a question from Representative Brandenburg, Mr. Johnson said neighborhood youth could kill geese under the permit as long as they are listed on the permit.

In response to a question from Representative Anderson, Mr. Steinwand said a person has to have a historic problem with geese before a permit is issued. He said evidence of a problem in the previous year is good enough.

In response to a question from Representative Anderson, Mr. Johnson said the department has put up 21,000 miles of electric fence, provided 348 propane cannons, 39 fences, and 661 flags.

In response to a question from Representative Rust, Mr. Steinwand said the department would generally ask a landowner to obtain a permit before issuing a citation for shooting geese causing depredation.

POTASH MINING AND TAXATION

Mr. Lynn Helms, Director, Department of Mineral Resources, introduced Mr. Ed Murphy, State Geologist, who provided a presentation ([Appendix C](#)) on potash mining and the results of the Eby test well. He said the purpose of potash mining is to remove K_2O , which is called potassium chloride or potassium oxide. He said carnallite is found bound with K_2O and potash mining companies usually try to avoid carnallite. He said the industry norm is to prefer less than 6 percent carnallite. He said Canadian literature shows a preference by mining companies of having K_2O at least 12 feet thick and in a weighted percentage of 20 to 25 percent. He said the weighted percentage for an area exceeding 12 feet at the Eby well is 18 percent. He said the Txl well was drilled previously one mile away. He said at this well there are 12 potash layers totaling 55 feet. He said Eby well has 6 layers totaling 18 feet. He said the Helming well was drilled in Bottineau County and has higher K_2O and much lower carnallite. He said in a 12.5 foot layer there is 21 percent K_2O . He said the only detailed core samples have come from the Eby and Helming wells. He said there is a company called Carnallite Resources that is looking for carnallite to remove the magnesium for aluminum and manufacturing. He said as soon as the rules are done, a potash report will be created. He said investment companies will wait for the report. He said it will take a year for the department to issue the report on potash. He said exploratory wells will take one year. He said more test wells will have to be drilled and that will take another year. He said it is three years to four years out for a permit. He said if

the Eby well would have had better results, there would have been a more immediate response by investment companies.

In response to a question from Representative Hunsdor, Mr. Murphy said the Helming well is within six miles of Lansford. He said the potash zone is shallower as it moves to the east but is thinner. He said the economics of a potash well are depth dependent.

In response to a question from Representative Steiner, Mr. Murphy said the bond for the exploration well was \$50,000. He said the rules will look at a sliding scale for a bond. He said the bond will have to be enough to plug the wells and remove the buildings.

In response to a question from Representative Anderson, Mr. Murphy said oil development waste water may be used for potash wells. He said 97 percent of the water is recycled.

In response to a question from Senator Triplett, Mr. Murphy said the 90 pages of rules for subsurface minerals are going to be reviewed by an in-house attorney. He said he is thinking about splitting the rules into four different sections. He said after the attorney approves the rules, then approval from the Industrial Commission is needed. He said after there is Industrial Commission approval, there will be a hearing and the opportunity for public comment. He said he expects the rules to be out for comment in October.

In response to a question from Representative Damschen, Mr. Murphy said potash mining is at least four years to five years down the road. He said if the test well results would have been better there would be development sooner, but there will be increased potash demand in the future.

Mr. J. T. Starzecki, Senior Manager, Sirius Minerals, PLC, answered questions for the committee.

In response to a question from Representative Rust, Mr. Starzecki said the focus of Sirius Minerals has been on the United Kingdom project during the last 12 months. He said that impact in this state will be at a minimum of three years to four years away, and the potential for a longer period of time may be more accurate. He said he would expect more than five years for development. He said other companies will wait 12 months for the report and will take an additional 12 months to make a plan plus more time to develop the plan.

In response to a question from Representative Steiner, Mr. Starzecki said so much information goes into the model whether to mine potash that one factor does not have a great effect. He said the spot price is one of many components. He said the current focus is on the United Kingdom because of the great amount of data that was in the public domain. He said his company has limited resources and with lots of public data there was less risk in developing that resource. He said the layers in the North Dakota formation are deep compared to other places in the world. He said in the United Kingdom the potash is 5,000 feet deep. He said depth adds cost.

In response to a question from Representative Nathe, Mr. Starzecki said the industry standard is for five years to pass from exploration to impact. He said there usually is seven years to eight years. He said it will be at least five years before there is impact in North Dakota.

In response to a question from Representative Rust, Mr. Starzecki said potash exploration is not like oil exploration and does not cause a great impact. He said potash is valueless unless it is processed, so there needs to be a production plant before there is mining.

COMMITTEE DISCUSSION

In response to a question from Representative Rust, Committee Counsel said the committee was assigned a study of potash mining and taxation. He said in the bill that created the study there were sections that stated the next Legislative Assembly must determine how the tax revenues will be apportioned and legislative intent that the next Legislative Assembly will provide a source for up to \$2 million in loans for impact.

Representative Rust said he had concern with the counties impacted by potash development will receive appropriate funds to address the impact, Burke County in particular. He said the impact of oil and potash development at the same time in Burke County could be quite great.

Senator Bowman said the issue is that the committee does not know what the impact will be until there is mining. He said any impact funding needs flexibility to provide appropriate funding to counties and political subdivisions.

Representative Damschen said development of resource cannot be done at the expense of local residents.

Senator Bowman said impact funding should be available if there is the development of uranium or lesser known minerals.

Representative Damschen said the consensus of the committee is that the impact of potash mining needs to be addressed, but there needs to be more information to determine the impact. He said some of that information should be available in a year when the Department of Mineral Resources issues the report.

Senator Bowman said a solution might be a process in which the Industrial Commission can address impact and make a decision for approval by the Budget Section.

Representative Nathe said waiting for more information is generally a good idea. He said it will take three years to five years for there to be impact. He said the Legislative Assembly has time and should use this time.

Representative DeKrey said the study with geese shows there is a problem with geese affecting landowners. He said there will need to be a bill in the next legislative session to address these issues.

It was moved by Representative DeKrey, seconded by Senator Murphy, and carried on a voice vote that the chairman and the staff of the Legislative Council be requested to prepare a report and to present the report to the Legislative Management and adjourn sine die.

Chairman Damschen adjourned the meeting sine die at 12:00 noon.

Timothy J. Dawson
Committee Counsel

ATTACH:3