

**1999 SENATE NATURAL RESOURCES**

**SB 2092**

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2092

Senate Natural Resources Committee

Conference Committee

Hearing Date January 8, 1999

Tape Number	Side A	Side B	Meter #
1	x		0-550
Committee Clerk Signature <i>Lyla A. Hagans</i>			

Minutes:

SENATOR TRAYNOR opened the hearing on SB 2092: A BILL FOR AN ACT TO AMEND AND REENACT SECTION 38-11.1-05 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO NOTICE OF OIL AND GAS DRILLING OPERATIONS.

JOHN P. BLUEMLE, State Geologist testified in favor of SB2092. (See attached testimony).

SENATOR TRAYNOR announced that Lynn D. Helms, Director of Oil and Gas Division for the ND Industrial Commission would not be attending this hearing, but submitted his testimony.

(See attached testimony).

SENATOR TRAYNOR acknowledged acceptance of Lynn D. Helms' testimony.

SENATOR TRAYNOR closed the hearing.

Senator Christmann moved for a DO PASS. Senator Heitkamp seconded the motion.

ROLL CALL - 6 AYES, 0 NAYES, 0 ABSENT CARRIER: SEN. CHRISTMANN

Date 1-8-99

Roll call vote # 1

Please type or use black pen to complete

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2092

Senate Natural Resources Committee

Subcommittee on \_\_\_\_\_ (Identify or

Conference Committee \_\_\_\_\_ (check where appropriate)

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do pass

Motion Made By Christmann Seconded By Heitkamp

Senators	Yes	No	Senators	Yes	No
SENATOR TRAYNOR, CHR	✓				
SENATOR FISCHER, VCHR	✓				
SENATOR CHRISTMANN	✓				
SENATOR FREBORG	✓				
SENATOR HEITKAMP	✓				
SENATOR REDLIN	✓				
_____					
_____					
_____					
_____					

Total 6 0  
(Yes) (No)

Absent 0

Floor Assignment Senator Christmann

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

DO NOT USE HIGHLIGHTER ON ANY FORMS

REPORT OF STANDING COMMITTEE (410)  
January 8, 1999 11:35 a.m.

Module No: SR-04-0418  
Carrier: Christmann  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

SB 2092: Natural Resources Committee (Sen. Traynor, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2092 was placed on the Eleventh order on the calendar.

**1999 HOUSE NATURAL RESOURCES**

**SB 2092**

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2092

House Natural Resources Committee

Conference Committee

Hearing Date 2/26/99

Tape Number	Side A	Side B	Meter #
1	x		0.0-8.0
Committee Clerk Signature <i>Robin L. Small</i>			

Minutes: REP. GROSZ opens the committee hearing with thirteen members present and two absent.

LYNN D. HELMS, DIRECTOR OF THE OIL & GAS DIVISION- ND INDUSTRIAL COMMISSION. HELMS introduces the bill. SEE HANDOUT.

REP. GROSZ asks about the director change. HELMS replies that division should be in there.

JOHN P. BLUEMLE, STATE GEOLOGIST and DIVISION OF THE ND GEOLOGICAL SURVEY. SEE HANDOUT. HELMS also proposes an amendment.

Being there was no opposition to the bill, REP. GROSZ asks the committee their wishes.

REP. DEKREY moves for a DO PASS on the amendment, seconded by REP. SOLBERG. REP.

GROSZ takes a voice vote, which does pass. REP. HANSON moves for DO PASS AS

AMENDED. Seconded by REP. DROVDAL. The roll call was taken with 13 YES, 0 NO, 2

ABSENT. The bill passes. The CARRIER of the bill on the floor will bill REP. LUNDGREN.

Date: 3.26.99  
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

House House Natural Resources Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken 2092 Accept the Amendment

Motion Made By DeKrey Seconded By Solberg

Representatives	Yes	No	Representatives	Yes	No
Chairman Mick Grosz					
Vice-Chairman Dale Henegar					
Representative David Drovdal					
Representative Pat Galvin					
Representative Duane DeKrey					
Rep. Darrell D. Nottestad					
Representative Jon O. Nelson					
Representative Byron Clark					
Representative Todd Porter					
Representative Jon Martinson					
Representative Lyle Hanson					
Representative Scot Kelsh					
Representative Deb Lundgren					
Representative Sally M. Sandvig					
Representative Dorvan Solberg					

*Voice  
Pass*

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_  
If the vote is on an amendment, briefly indicate intent:

Date: 2.26.99  
 Roll Call Vote #: 2

**1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO.**

House House Natural Resources Committee

Subcommittee on \_\_\_\_\_  
 or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken 2092 Do Pass As Amended

Motion Made By Hanson Seconded By Drovdal

Representatives	Yes	No	Representatives	Yes	No
Chairman Mick Grosz	✓				
Vice-Chairman Dale Henegar					
Representative David Drovdal	✓				
Representative Pat Galvin	✓				
Representative Duane DeKrey	✓				
Rep. Darrell D. Nottestad	✓				
Representative Jon O. Nelson	✓				
Representative Byron Clark	✓				
Representative Todd Porter	✓				
Representative Jon Martinson	✓				
Reperesentative Lyle Hanson	✓				
Representative Scot Kelsh					
Representative Deb Lundgren	✓				
Representative Sally M. Sandvig	✓				
Representative Dorvan Solberg	✓				

Total (Yes) 13 No 0

Absent 2

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



REPORT OF STANDING COMMITTEE (410)  
March 1, 1999 8:46 a.m.

Module No: HR-36-3740  
Carrier: Lundgren  
Insert LC: 98095.0101 Title: .0200

**REPORT OF STANDING COMMITTEE**

SB 2092: Natural Resources Committee (Rep. Grosz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2092 was placed on the Sixth order on the calendar.

Page 1, line 16, after "of" insert "the" and after "gas" insert "division"

Renumber accordingly

**1999 TESTIMONY**

**SB 2092**

Senate Bill 2092  
Senate Natural Resources Committee  
Testimony By  
Lynn D. Helms  
Director  
Oil and Gas Division  
North Dakota Industrial Commission

Mr. Chairman and members of the committee, my name is Lynn Helms and I am the Director of the Oil and Gas Division of the North Dakota Industrial Commission.

The Industrial Commission is the oil and gas regulatory commission for the state of North Dakota. The Oil & Gas Division has been the agency that provides the technical expertise needed for the creating and enforcing statutes, rules, regulations, and orders of the North Dakota Industrial Commission pertaining to geophysical exploration, drilling, development, and production of oil and gas, as well as the disposal of oil field brines and other fluid oil field wastes since July 1981.

The current statute NDCC 38-11.1-05 (NOTICE OF DRILLING OPERATIONS) requires mineral developers to give the surface owner(s) written notice of contemplated drilling operations via a form prepared by the state geologist. The form advises the surface owner of their rights and options. This "form" is sent out by the Oil and Gas Division with the approved drilling permit resulting in confusion to the operators and surface owners. When there are problems they don't know whether to call the North Dakota Geologic Survey or the Oil and Gas Division. It appears that this amendment was overlooked in 1981 when the Oil and Gas Division was created.

The proposed amendment will make the NDCC more consistent and improve government-public relations.



John P. Bluemle, State Geologist

# North Dakota Geological Survey

## INDUSTRIAL COMMISSION

Edward T. Schafer - Governor, Chairman

Heidi Heitkamp - Attorney General

Roger Johnson - Commissioner of Agriculture

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### TESTIMONY BEFORE THE SENATE NATURAL RESOURCES COMMITTEE

Senate Bill 2092

John P. Bluemle, State Geologist

9:00 a.m., January 8, 1999

Good morning! Chairman Traynor and members of the Senate Natural Resources Committee, my name is John Bluemle. I am state geologist and director of the North Dakota Geological Survey, a division of the State Industrial Commission. I am here this morning to testify in favor of Senate Bill 2092. Mr. Lynn Helms, director of the Oil and Gas Division is out of town today, but it's my understanding he will be testifying in favor of this bill later.

I've provided a copy of the current *"Notice to Surface Owners Concerning the Right of Compensation for Damages Caused by Oil and Gas Operations."* This notice is prepared by the state geologist and is provided to operators by the Oil and Gas Division. The operators, in turn, pass it on to the land owners.

The notice reiterates and paraphrases North Dakota Century Code Chapter 38-11.1, which requires that mineral developers give surface owners written notice of proposed drilling operations. The statute requires that, in addition to other specific information, the mineral developer must provide the surface owner with a copy of the notice I just gave you. The purpose of the notice is to inform the surface owner of his or her rights and options under the law, including the right to request the State Health Department to inspect and monitor the well site for the presence of hydrogen sulfide, the right to be compensated for lost agricultural production and income, for lost access to land, and certain other provisions. It makes landowners aware that mineral developers are responsible for damages they may cause. And it outlines procedures the landowner may pursue should it become necessary to do so.

The reason we have asked for the legislation specified in Senate Bill 2092 is to change the responsibility for providing this notice from the state geologist to the director of the Oil & Gas Division. This is really an oil and gas regulatory matter that is better handled by the Oil and Gas Division.

I think the reason the law currently requires the state geologist, rather than the director of Oil and Gas, to provide this letter is more of an oversight than anything else. Prior to 1981, the North Dakota Geological Survey oversaw the regulation of oil and gas operations. In 1981, the Oil and Gas Division of the Industrial Commission was created and responsibility for oil and gas regulation was removed from the Geological Survey and assigned to the new Oil and Gas Division. At the time the Oil and Gas Division was created, the clause requiring notification of surface owners by the state geologist was apparently overlooked; it should have been assigned to Oil & Gas along with most other oil and gas regulatory functions.

Passing Senate Bill 2092 will place the notification responsibility with the Oil and Gas Division, where it more logically belongs.



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John P. Bluemle  
State Geologist

**INDUSTRIAL COMMISSION**  
Edward T. Schafer - Governor, Chairman  
Heidi Heitkamp - Attorney General  
Sarah Vogel - Commissioner of Agriculture

## NOTICE TO SURFACE OWNERS CONCERNING THE RIGHT OF COMPENSATION FOR DAMAGES CAUSED BY OIL AND GAS OPERATIONS

North Dakota law (North Dakota Century Code Chapter 38-11.1) provides that all persons should be justly compensated for personal injury, property damage, and interference with the use of their property caused by oil and gas exploration (geophysical and seismic), drilling, production, and completion operations. This letter is furnished so that you will be advised of your rights and options under this law.

The law provides that surface owners and their tenants are entitled to be compensated by a mineral developer for loss of agricultural production and income, lost land value, lost use of and access to land, and lost value of improvements caused by oil and gas operations that directly affect the land where these operations occur. Any reservation or assignment of this payment to someone other than the surface owner or tenant is prohibited. In the absence of an agreement between the surface owner and a tenant as to the division of compensation payable under the law, the tenant is entitled to recover from the surface owner that portion of the payments attributable to the tenant's share of the damages sustained.

The amount of compensation may be determined by any mutually agreeable formula. When determining damages, you may consider the period of time during which the loss occurs, and you may elect to be paid damages in annual installments over such period of time; except that you are entitled to be compensated for harm caused by exploration only by a single sum payment.

Except for certain exploration activities governed by other law (such as seismograph exploration), you are entitled to written notice of any contemplated drilling operations at least twenty days prior to the start of the operations, unless waived by mutual agreement of both parties. If the mineral developer plans to begin drilling operations within twenty days of the termination date of the mineral lease, the required notice may be given at any time prior to the start of operations. This notice is given by obtaining your address from the land records of the appropriate county register of deeds office. This form and the information disclosing the plan of work and operations contemplated by the mineral developer are intended to assist you in evaluating the effect such activity will have on the use of your property. If a mineral developer fails to give notice as provided above, you may file a court action and may receive punitive as well as actual damages. You are responsible for negotiating the terms of any settlements. If you need advice or assistance in making a settlement you should consult private counsel.


Other provisions of this law provide that the mineral developer is responsible for damages to persons or property resulting from the mineral developer's "lack of ordinary care" or resulting from a "nuisance" caused by drilling operations. In the event any person (not just a surface owner) suffers damage, notice of the damage sustained must be given the mineral developer within two years after the damage occurs or should have been discovered. Unless the mineral developer and injured person have otherwise agreed, a mineral developer is required to make a written offer to settle a claim for damages at the time the above required notice is given. If the injured person receives a written rejection from the mineral developer, rejects the offer of the mineral developer, or receives no reply from the mineral developer, a court action for damages may be commenced; if the injured person receives a court award greater than the offer of settlement made by the mineral developer, the court shall also award reasonable attorneys' fees, any court costs in addition to the damage award, and interest on the amount of the final compensation awarded by the court from the day drilling is commenced.

The law provides protection of your surface or underground water supply used for domestic, livestock, or irrigation; if your water supply is disrupted or diminished in quality or quantity, you may have a claim for damages against the mineral developer, provided that: (1) you own an interest in real property within one-half mile of where geophysical or seismography activities are or have been conducted, or within one mile of an oil or gas well site; (2) a certified water quality and quantity test has been performed within one year preceding the start of drilling operations; and, (3) a claim for damages is filed within six years from the time it was discovered or should have been discovered. In addition, if you own an interest in real property and obtain all or a part of your water supply for any beneficial use from an underground source, you have a claim against a mineral developer for disruption or diminution in water quality and quantity proximately caused by drilling operations. This law does not apply if water can reasonably be acquired under the changed conditions and the changed conditions are the result of the legal appropriation of water by the mineral developer.

A tract of land is not obligated to receive water contaminated by drilling operations on another tract of land. The owner has a claim against the mineral developer to recover damages resulting from the natural drainage of waters contaminated by drilling operations.

You, or an adjacent landowner, may request the state department of health to inspect and monitor the well site on your land for the presence of hydrogen sulfide. If the presence of hydrogen sulfide is indicated, the state department of health will issue appropriate orders to protect your health, welfare, and property.

The remedies provided by this law do not prohibit seeking other legal remedies. This law, however, does not apply to damages resulting from the operation, maintenance, or use of a motor vehicle upon a highway.

  
John P. Bluemle  
State Geologist