

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1229

2007 HOUSE NATURAL RESOURCES

HB 1229

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1229

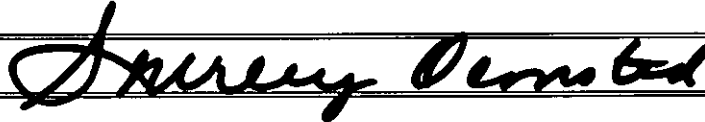
House Natural Resources Committee

Check here for Conference Committee

Hearing Date: January 18, 2007

Recorder Job Number: 1229

Committee Clerk Signature



Minutes:

Chairman Porter opened the hearing on HB 1229.

Representative Drovdal testified on HB 1229 as the prime sponsor. See attached testimony marked as Item #1. He said he thought this was a reasonable request.

Representative Keiser asked if there currently was a definition of "occupied dwelling" in the North Dakota Century Code? What if it is a summer cabin or a hunting cabin? Is the intent to mean fully occupied?

Representative Drovdal indicated he thought there was such a definition.

Chairman Porter asked for additional support for HB 1229.

Representative Keith Kempenich from District 39 came forward to testify. He said that HB 1229 was trying to address common sense. When common sense fails, this is where legislation comes in. There is another bill that will be addressing this as well.

Mr. Tom Irgens from Springbrook, ND came in support of HB 1229. Please see attached written testimony marked as Item #2.

Representative Kelsh asked for clarification of "blowout".

Mr. Irgens indicated that something happens such as a valve turned the wrong way, or perhaps a lightning bolt, and it is a large explosion. What would happen to a house that is located 200 feet away? It hasn't happened, but there is a possibility of it happening.

Representative Keiser said that you were asking for a further setback. You comment that with horizontal drilling, you can put the well anywhere. Aren't there optimal places to put a well to minimize the costs?

Mr. Irgens said that there would be locations that would be farther away from the house. None of us are against the oil wells, but we just want this done right. I think this would help some of the relationships.

Ms. Cindy Klein, of the Dakota Resource Council, came forward in support of HB 1229.

Please see attached written testimony marked as Item #3. She said her testimony was a ditto to Mr. Irgens testimony. She handed out pictures (2) that showed the wells close to these homes. Please see pictures marked as items 4 & 5. They too were asking for a setback of 1320 feet.

Chairman Porter asked for further testimony in favor of HB 1229.

Seeing none, he asked for testimony in opposition to HB 1229.

Mr. Greg Steiner from Eagle Operating, Inc. came to the podium. He indicated that his company drills on a lot of 40, 80, 160, and 320 acre areas. The way this bill is currently written, if he is drilling on a 40 acre plot, it only leaves him 660 feet on either side of the section line. If there is a 500 foot setback, it only leaves him 160 feet to drill that well to not be in violation of the setback. In some cases, there would be no way to drill a well on that land without a waiver from the owner. This is a totally unacceptable situation for him. The costs for vertical wells are about \$25,000 per day. The cost per day on a horizontal well, it would be at least \$60,000 per day. There is a huge impact for him should this bill pass.

Mr. Ron Ness of the North Dakota Petroleum Council also came forward in opposition to HB 1229. He indicated that this is a very difficult situation and that common sense needs to prevail. He said you need to look at other parts of the country that are in the well drilling business. He listed a number of states and their setback rules. We currently have 330 feet in place that coincides with other states. He also thought that it should be a permanently occupied residence the full year round. This is a very contentious issue.

Mr. Robert Harms, President of Northern Alliance of Independent Producers came forward in opposition of HB 1229. Please see written testimony listed as Item #6. He again said that you cannot legislate common sense. This is currently working 99% of the time. He also indicated the 330 feet is working for most the state right now. They would encourage a do not pass on HB 1229.

Chairman Porter asked for further testimony in opposition to HB 1229. Since there was none, Chairman Porter closed the hearing on HB 1229.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1229

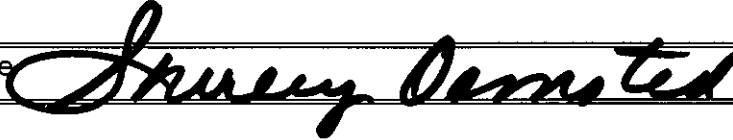
House Natural Resources Committee

Check here for Conference Committee

Hearing Date: January 19, 2007

Recorder Job Number: 1428

Committee Clerk Signature



Minutes:

Chairman Porter called the committee together on HB 1229.

Representative Drovdal came forward with the amendment he had prepared on HB 1229.

He referenced page 1, line 10. He said that he realizes that you cannot always find the occupants of these properties. They come and go. The owner of the property will be registered with the county. He wanted to change word "occupant" to "owner". The owner is the only one that can waive that distance. Also, on page 1, line 11 they indicated that this cannot be an old abandoned farm home or building. It must be a permanent residence where they intend to live. With that, he moved for a motion to pass HB 1229 as amended. There was a second by **Representative Keiser**.

Chairman Porter asked for discussion.

Representative DeKrey asked if the oil companies decided that they could live with 500 feet.

Chairman Porter indicated that was correct.

Representative Drovdal said that before this bill was introduced he had indicated ¼ mile.

After some discussion he went down to 1/8 mile. He did that because most everything is set up in North Dakota on the section line and it is a little easier to figure out. They did agree so they must think it is far enough.

There was no discussion on the motion. A voice vote was taken and the motion carried.

Representative Meyer asked if the setback was now 330 feet. Is that correct?

Chairman Porter said that the current setback in the administrative code for the oil and gas is 330 feet.

Representative DeKrey made a motion for an amendment from 660 feet to 500 feet as referenced on line 11. **Representative Keiser** seconded the motion.

Chairman Porter said that typically we are thinking about the oil exploration out in the western part of the state where there are large distances and horizontal drilling and things that really don't come into play with the vertical well. He thought the gentlemen from Kenmare, Mr. Steiner, gave good argument why the 660 feet would not work for the vertical type operations and how they do their work across that area. I am definitely going to support the 500 feet.

Representative Drovdal said he was not opposed to 500 feet although I don't think that is bad. It gives some bargaining power to those home owners. The money is great on these wells, but they are not much fun to have in your backyard. This gives some negotiating power to not only the oil companies but also for the landowner. I think that is important.

Representative Keiser was there any discussion about shallow wells and the implications on the distance for shallow wells?

Representative Drovdal said that actually based on the testimony of Mr. Steiner from the Kenmare area, with the 40 acres parcels, this would cover that situation.

Representative Keiser said he thought he said the distance would prohibit him from operating.

Chairman Porter said he said it wouldn't necessarily prohibit him from operating but he did say it would definitely put an increased burden on their operations for doing the vertical type wells which the shallow wells would be a part of.

Representative Charging reminded them of the picture that was passed around of the Kaye's residence.

Chairman Porter took a voice vote. The motion passed.

Representative DeKrey made a motion for a do pass as amended. It was second by

Representative Meyer. There was no further discussion. The clerk took roll.

Let the record show that this motion prevailed with 13 yes, 0 no 1 absent.

Representative Kelsh will carry this bill to the floor.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1229

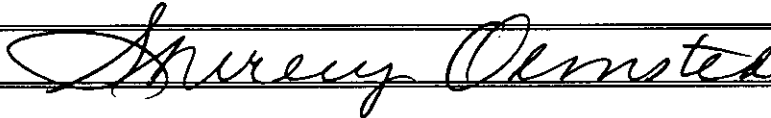
House Natural Resources Committee

Check here for Conference Committee

Hearing Date: January 25, 2007

Recorder Job Number: January 25, 2007

Committee Clerk Signature



Minutes:

Chairman Porter asked the committee to pull HB 1229.

Representative Drovdal asked for reconsideration on this bill. He made a motion for reconsideration on HB 1229 and it was second by Representative Keiser.

Chairman Porter took a voice vote and it prevailed.

Representative Drovdal said he wanted to thank the committee for the indulgence. As one of the sponsor of this bill he feels like they came up with a solution that will work. What he did was come up with a proposed amendment numbered 70247.0202.0300 which is attached as Item #1. This will still give the owner of an occupied building an opportunity to have his well tested. They will be a good neighbor by doing this policy. Page 1, line 11 goes back to the original bill. He asked for a motion to move the amendments he had just read.

Representative Nottestad seconded the motion.

Representative Keiser asked what it means to give notice twenty days prior. Does it mean certified mail, or what does it mean?

Representative Drovdal said and he thought the oil companies would do it by certified mail.

They would need that record that the people were notified.

Representative Charging said there is a difference between what this says and what you originally said.

Representative Drovdal said what they did was combine some of things we were trying to solve in 1182. We just changed it from 650 to 500 feet.

Chairman Porter called for a voice vote. The motion carried.

Representative DeKrey made a motion for a do pass as amended on HB 1229.

Representative Clark seconded the motion.

Representative Meyer asked if this affected in way the notification you have to give the surface owner.

Representative Drovdal said it shouldn't. We are not changing the existing code.

Chairman Porter asked the clerk to call the roll for a **do pass as amended** on HB 1229.

Let the record show there were 12 yes, 1 no and 1 absent. **Representative Kelsh** will carry this bill to the floor.

Proposed Amendments to House Bill 1229
Prepared for Representative Drovdal

Page 1, line 10, replace "occupant" with "owner"

Page 1, line 11, replace "an" with "a" and insert "permanently" immediately thereafter

Renumber Accordingly

Date: 1-19-07
 Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1229

House Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken to amend as attached

Motion Made By Drovdal Seconded By Keiser

Representatives	Yes	No	Representatives	Yes	No
Chairman - Rep. Porter			Rep. Hanson		
Vice-Chairman - Rep Damschen			Rep. Hunskor		
Rep. Charging			Rep. Kelsh		
Rep. Clark			Rep. Meyer		
Rep. DeKrey			Rep. Solberg		
Rep. Drovdal					
Rep. Hofstad					
Rep. Keiser					
Rep. Nottestad					

Handwritten signature/initials over the table.

Total Yes 14 No 0

Absent _____

Floor Assignment _____

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

Item #1

Proposed Amendments to House Bill 1229

Prepared for Representative Drovda

Page 1, line 9, after the period insert "At least twenty days prior to applying for a permit, the applicant shall give notice of intention to apply for a permit to the record owner, as set forth in the office of the county treasurer; and, the applicant shall also notify the owner of any permanently occupied dwelling located within one-quarter mile of the proposed oil or gas well. However, if the occupied dwelling lies within city limits, notification may be given by contacting the local governing board."

Page 1, line 11, replace "six" with "five" and remove "sixty" and replace "201.17" with "152.4"

Renumber accordingly

Date: 1-19-07
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1229

House Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Amend from 660 to 500 yr

Motion Made By DeKrey Seconded By Keiser

Representatives	Yes	No	Representatives	Yes	No
Chairman - Rep. Porter			Rep. Hanson		
Vice-Chairman - Rep Damschen			Rep. Hunsakor		
Rep. Charging			Rep. Kelsh		
Rep. Clark			Rep. Meyer		
Rep. DeKrey			Rep. Solberg		
Rep. Drovdal					
Rep. Hofstad					
Rep. Keiser					
Rep. Nottestad					

Total Yes _____ No _____

Absent _____

Floor Assignment _____

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

*Motion provided
660 yr to 500*

Date: 1-19-07
 Roll Call Vote #: 3

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1229

House Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass as amended

Motion Made By DeKrey Seconded By Meyer

Representatives	Yes	No	Representatives	Yes	No
Chairman - Rep. Porter	✓		Rep. Hanson	✓	
Vice-Chairman - Rep Damschen	✓		Rep. Hunskor	✓	
Rep. Charging	✓		Rep. Kelsh	✓	
Rep. Clark	✓		Rep. Meyer	✓	
Rep. DeKrey	✓		Rep. Solberg		
Rep. Drovdal	✓				
Rep. Hofstad	✓				
Rep. Keiser	✓				
Rep. Nottestad	✓				

Total Yes 13 No 0

Absent 1

Floor Assignment Kelsh

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

REPORT OF STANDING COMMITTEE

HB 1229: Natural Resources Committee (Rep. Porter, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1229 was placed on the Sixth order on the calendar.

Page 1, line 10, replace "occupant" with "owner"

Page 1, line 11, replace "six" with "five", remove "sixty", replace "201.17" with "152.4", and replace "an" with "a permanently"

Renumber accordingly

January 25, 2007

VK
1/26/07

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1229

Page 1, line 9, after the period insert "At least twenty days before applying for a permit, the applicant shall give notice of intention to apply for a permit to the record owner, as set forth in the office of the county treasurer. The applicant also shall notify the owner of any permanently occupied dwelling located within one-quarter mile [402.34 meters] of the proposed oil or gas well. If the occupied dwelling lies within city limits, notification may be given by contacting the local governing board."

Page 1, line 11, replace "six" with "five", remove "sixty", and replace "201.17" with "152.4"

Renumber accordingly

0404

Date: 1-25-07
Roll Call Vote #: HB 1229 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1229

House Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken re-amended amendments to 1229

Motion Made By Drovdal Seconded By Nottestad

Representatives	Yes	No	Representatives	Yes	No
Chairman - Rep. Porter			Rep. Hanson		
Vice-Chairman - Rep Damschen			Rep. Hunskor		
Rep. Charging			Rep. Kelsh		
Rep. Clark			Rep. Meyer		
Rep. DeKrey			Rep. Solberg		
Rep. Drovdal					
Rep. Hofstad					
Rep. Keiser					
Rep. Nottestad					

Vote

Total Yes _____ No _____

Absent _____

Floor Assignment _____

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

0404
5:00

Date: 1-25-07
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1229

House Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass as amended

Motion Made By DeKrey Seconded By Clark

Representatives	Yes	No	Representatives	Yes	No
Chairman - Rep. Porter	✓		Rep. Hanson	✓	
Vice-Chairman - Rep Damschen	✓		Rep. Hunsakor	✓	
Rep. Charging	✓		Rep. Kelsh	✓	
Rep. Clark	✓		Rep. Meyer	✓	
Rep. DeKrey	✓		Rep. Solberg		
Rep. Drovdal	✓				
Rep. Hofstad	✓				
Rep. Keiser		✓			
Rep. Nottestad	✓				

Total Yes 12 No 1

Absent 1

Floor Assignment Kelsh

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

REPORT OF STANDING COMMITTEE

HB 1229: Natural Resources Committee (Rep. Porter, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (12 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1229 was placed on the Sixth order on the calendar.

Page 1, line 9, after the period insert "At least twenty days before applying for a permit, the applicant shall give notice of intention to apply for a permit to the record owner, as set forth in the office of the county treasurer. The applicant also shall notify the owner of any permanently occupied dwelling located within one-quarter mile [402.34 meters] of the proposed oil or gas well. If the occupied dwelling lies within city limits, notification may be given by contacting the local governing board."

Page 1, line 11, replace "six" with "five", remove "sixty", and replace "201.17" with "152.4"

Renumber accordingly

2007 SENATE NATURAL RESOURCES

HB 1229

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1229

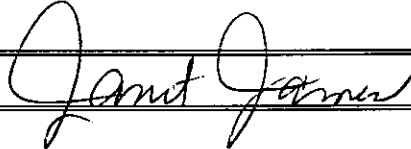
Senate Natural Resources Committee

Check here for Conference Committee

Hearing Date: February 23, 2007

Recorder Job Number: # 3776

Committee Clerk Signature



Minutes:

Senator Stanley Lyson, Chairman of the Senate Natural Resources Committee opened the hearing HB 1229 relating to oil and gas well location restrictions.

All members of the committee were present.

Representative David Drovdal of District 39 prime sponsor of HB 1229 introduced the bill stating it is a simple bill but became complicated. He explained his intent of the bill to first set a distance of 500n feet from an occupied building as it is currently 330 feet which he feels to too close. The issue does not appear as a problem very often, but is does from time to time. A property owner of the occupied building does have the right to waive the notice. The Industrial Commission also has the ability to waive that notice. The second intent of the bill is for the owners of the occupied building that do not own any minerals rights of the well location would receive notification. The notification would give responsibility to those owners to report any expected damage to water wells to be tested or other concerns to be addressed. Those notifications to the building occupants would be of the same time frame as the surface rights owner of the well site which is 20 days before drilling commences. He further stated he would submit amendments as well as amendments from the Petroleum Council that his in agreement with. One other issue is details of the notifications, which by current language is by letter. The

amendment includes a phrase may be in the local county newspaper. This gives the oil companies an option which relieves some burden and gives some responsibilities back to the home owner. He feels this is a small step but a good step in the right direction as there can be issues with health issues. This does not require any reclaim or beautification of sights or building next to sites. This is a good policy to notify property owners although it does not empower the land owner to stop the process of oil well drilling. The tenant of the property is not notified which is the responsibility of the land owner. He has an amendment to change the notification of 20 days before the permitting and should be the drilling process.

Senator Lyson asked he have the amendments drawn up by the legislative council.

Cindy Klein representing the Dakota Resources Council testified in support of HB 1229 (see attachment #1).

Senator Lyson asked with all the public notification just how many ranchers, land owners do not have their wells tested.

Cindy Klein guessed that maybe half have not had their wells tested.

Senator Lyson disagreed and feels they have the responsibility to do so.

Cindy Klein responded that without notification land owners do not know of the testing.

Tom Irgens of Springbrook, North Dakota testified in support of HB 1229 stating he is a board member of the Dakota Resources Council and serve on the oil and gas task force working on responsible development of oil and gas resources (see attachment #2).

Senator Lyson asked if he was aware of any conflicts in the century code with this bill.

Tom Irgens answered with the aid of Cindy Klein that 38-11.1-02 requires that if a water well test has been conducted one year preceding the drilling activity within a one mile radius of that well and someone has a problem with that water well, they will then have recourse against the

company. He also responded to concept of the land owner's responsibility and does not think they do it every year. If a landowner is on vacation, they might miss the time requirements.

Senator Lyson asked for opposing testimony.

Ron Ness representing the North Dakota Petroleum Council testified in opposition to HB 1229 (See attachment #3). He further stated the current state of the HB 1229 is unacceptable to the industry. He agreed with Tom Irgrens' statements that with increased activity there will be more instances of disagreements but in the long run communications will be the key. There are other economic activity that impact people, their homes and other property like bridges, roads, feedlots, electrical sub stations, power lines, gravel pits, and propane storage facilities. No one wants to live near these things but it is a reality of economy moving forward. He further listed the set back footage of other states. He referred to the seven reasons in opposition to HB 1229 asking the committee to read them. He referred to the amendments proposed that will give the Industrial Commission some latitude as they have in their powers to adjust well locations as deemed appropriate as it should be. He hopes the committee will amend HB 1229 for discussion because as in the present state it is very problematic for the industry. Let the Industrial Commission who is very qualified continue to be the organization that regulates the industry.

Senator Lyson asked if he has reviewed the amendments as proposed by **Representative Drovdal**.

Ron Ness confirmed that he has reviewed the amendments and they improve the bill but are still oppose the bill.

Senator Lyson stated he would like to have Representative Drovdal work with the Legislative council to create the amendments so they say exactly would he prefer.

Senator Urlacher asked if the Industrial Commission can negotiate distance in certain situations.

Ron Ness answered the Commission does have the authority for public health and safety reasons to negotiate the distance as they issue the permits.

Senator Heitkamp questioned the last line "unless waived by the occupant" saying this means he already has notification, "the commission may not issue a drilling permit for oil and gas well that may be located within 500 feet of an occupied dwelling". He continued to ask the question if he was against that.

Ron Ness stated the reality is the minerals need to be developed and some people will not be happy no matter what the setback footage is.

Tom Luttrell, Sr. Vice President of Continental Resources, Inc. testified in opposition to HB 1229 (see attachment # 4).

Kelly Triplett representing MaraThon Oil Co. testified in opposition to HB 1229 stating that he worked for the oil and gas division of North Dakota Industrial Commission. In that position he was responsibility of issuing 1200 oil and gas permits and during that time period, there were not complaints regarding well placement. He does think the change of 330 to 500 ft will not make much difference and believes that footage is okay and the 20 day notification will add to the burden on the oil and gas division to make sure those are given.

David Klym, land supervisor for MaraThon Oil Co, testified in opposition to HB 1229 stating he has worked as a land man in the oil industry for 27 years. One of his main duties is to help the staff settle surface owner agreements on drilling locations and right of ways. They work with the highest standards negotiating with landowners. The company has very strong relationships with mineral and land owners and has not seen any evidence or reason to change their way of doing business in setting up drilling sites near occupied dwellings. There are tens of thousands

of mineral leases in North Dakota and very few have been amended by the mineral and land owner when it comes to the lease clause that provide the opportunity to become within 200 ft of buildings. Only a handful of the company's 4000 leases in North Dakota have been changed that required an operator to be beyond 200 feet from a building.

North Dakota has already up the footage compared to other states for well setback. He further stated mineral owners have the right to have them harvested.

Senator Ben Tollefson asked how his company handles a situation when the property occupants have a health problem.

David Triplett answered they look at each situation to find out what can be done and that communications is very important.

Senator Ben Tollefson asked if property owners can appeal to the Industrial Commission if needed.

David Triplett confirmed this can be done although it is very rare because of the negotiating done by the company.

Senator Urlacher asked if the company ever offer to pay for water well testing.

David Triplett confirmed this can happen and has been done.

Greg Steiner representing Eagle Operating testified in opposition to HB 1229 stating the company is currently working in an area where wells are still on 40 and 80 acre spacing rather than the mentality that wells are on a 1-2 mile spacing and are all horizontal. Many shallow wells are drilled with all kinds of restrictions. He further stated the North Dakota Health Department has rules and regulations and is very active regulating that regard. He further presented an example of family and their health issues and how the company accommodated those issues.

Robert Harms , President of the Northern Alliance of Independent Producers testified in opposition to HB 1229 (See attachment #5).

Senator Lyson closed the hearing on HB 1229.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB1229

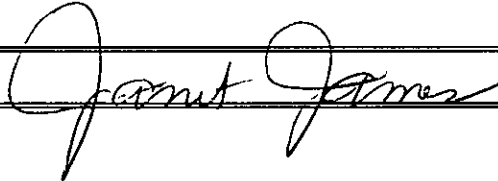
Senate Natural Resources Committee

Check here for Conference Committee

Hearing Date: March 2, 2007

Recorder Job Number: # 4300

Committee Clerk Signature



Minutes:

Senator Stanley Lyson, Chairman of the Senate Natural Resources Committee brought the committee to order for committee work on HB 1229.

All members of the committee were present.

Senator Lyson distributed amendments proposed by Representative Drovdal to the committee (see attachment #1) and another amendment as proposed by the Dakota Resources Council (see attachment #2).

Discussion was held regarding the amendments and if they were are really amendments.

Senator Joel Heitkamp commented he understood the propose of the amendment as empowering the water commission but the essence of the bill is that a well cannot be drilled within 500 ft of a dwelling. He stated he did not feel he would want a well 250 feet from his home without having the ability to say something.

Senator Ben Tollefson stated testimony stated that the well itself could be 250 feet from the dwelling but the fumes and other emissions would be offset a ways away.

Senator Herbert Urlacher commented this bill is the result of one incident and there were no problems up to that point.

Senator Jim Pomeroy commented all the media coverage resulting from that incident.

