

2013 HOUSE POLITICAL SUBDIVISIONS

HB 1149

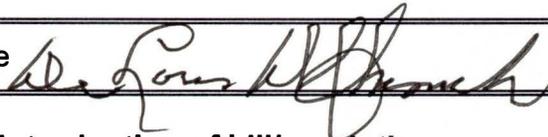
2013 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee Prairie Room, State Capitol

HB 1149
February 14, 2013
Job # 18986

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to emergency response to hazardous materials incidents.

Minutes:

Testimony 1,2,3,4,5,6,7

Chairman N. Johnson opened the hearing on HB 1149.

Rep. Anderson: Introduced the bill. It has to do with the emergency response to any hazardous material incidents. Our local EMS director in my county up there would like to be notified if there is a spill of a hazardous material in their area if the state is called to look at it.

Dean Pearson, Bowman County EMS: (Testimony #1) 01:58 - 8:44

Rep. Klemin: Who is to do the initial reporting; is that like Continental Resources in your first example?

Dean Pearson: It is usually the company that is in charge of the well or a company that has been hired to manage the well.

Rep. Klemin: then they are supposed to report it to whom?

Dean Pearson: They report it to the oil and gas and then they passes it on.

Rep. Klemin: So if a company charged of the well is required to report it after it happens how can the state report it to you sooner?

Dean Pearson: We don't know when it is reported? When this information is first sent out could they possible include all the people that could possibly respond to it at the same time? If you don't need to respond to it you don't, but at least you are aware something has happened.

Rep. Klemin: The bill requires Director of a division of Homeland Security to provide notice to local or regional person. When I look at what you provided to us for example in the first

one it says time reported January 25, 2013 at 1349 and then in 58 minutes later it was reported to you.

Dean Pearson: We are not having a problem with the state and maybe the bill needs to be amended. We did not have a meeting until noon today with the Director of EMS and he pointed that out to us and we don't have a problem with the reporting between the State DES and the county EMS. We have a problem with the length of time from the incident occurrence until the state DES gets notified.

Rep. Klemin: The bill doesn't seem to address the situation your concerned about.

Sherry Adams, Director of SWDHU: (See testimony #2) 11:35 - 14:56

Rep. J. Kelsh: On the 3rd paragraph on the first page it says unfortunately local emergency manager does not always get notified until the incident has occurred.

Sherry Adams: It was after the fact when the EMS found out about it at the county café. Making sure that local connection is there is critical with the impact we are having.

Rep. Hatlestad: Does your local EMS manager build a relationship with companies working in the area?

Sherry Adams: Yes we try very hard to build those bridges. Because there is so much more activity out there having that local connection is more important. That is something we are constantly developing those relationships.

Rep. Kathy Hogan: Do you think it would be feasible to have the notification that is sent to the oil and gas division just be sent to the local EMS manager at the time of the incident so you save a whole step?

Sherry Adams: I think we are hoping to accomplish throughout this bill. Making fewer steps would help. It is not just the oil and gas but there is hazardous material besides them. If we hear something locally we need to be communicating up the ladder as well so it is a two way street.

Richard Hummel, Bottineau County EM Office: (Handed out testimony #3.) (See testimony #4) 19:05 - 22:21

Rep. Kretschmar: How long could it be for an incident to occur and then for it to be reported?

Richard Hummel: Sometimes it can be three to four days before we get notified. DES notified us immediately after they get it.

Rep. Hatlestad: Have you gone out to the various companies that work in your area and negotiated with them to notify you immediately?

Richard Hummel: If DES was notified right away along with all the agencies that would take care of a big problem.

Rep. Hatlestad: You are on the front line, so you probably should be one of the first people notified and then you pass information up the pipeline. Yet nobody seems to respond that way?

Rep. Klemin: The party that is responsible for giving the notice initially isn't doing it in a timely manner.

Richard Hummel: That would probably be the case that they aren't reporting it when they should.

Gaylen Peterson, NW Landowners (Presenting this Testimony #5 on his behalf).
24:55-26:34

Greg Wilz: Deputy Director, Department of Emergency Services: (See Testimony #6) Handed out and went over 27:31 - 35:32 (Proposed amendment #7) 36:24 - 38:50 If the site is truly a hazard frankly we need to let the folks that are trained to deal with the hazardous deal with them and then let them in. If there is a criminal case that has resulted in this spill and law enforcement must investigate it the last thing law enforcement wants is they don't want a bunch of people in there until they can do a scene investigation and gather evidence if there is a criminal intent. Beyond that I think local officials should have full excess to what is going on locally. Those are the minimal amendments we need. If the committee should desire now that have had our initial meeting this morning and have talked with those folks to figure out what their true intent are here is we are certainly willing to work with them and perhaps come up with some better language.

Rep. Hatlestad: How much training does the state group do with the local EMS managers?

Greg Wilz: We don't s train them at all at any level of hazmat qualified. They seek that on their own.

Rep. Hatlestad: You could train them to seal off the area or make sure nobody expanded into the area or whatever.

Greg Wilz: No we don't do that. We don't do field work. There are courses that are offered to do that, but we don't.

Rep. Hatlestad: Would that be the Health Department?

Greg Wilz: The training that comes to a first responder there is a basic course and an operational training course and a hazmat tech training. To go in and seal something off; some of our larger fire departments are training to do that. The state has regional hazmat teams at the tech level that can be called to do that.

Rep. Hatlestad: What was the result of the Jamestown spill? The 41 bags of kitty litter seemed like a pretty smart move.

Greg Wilz: They did catch up with the responsible party; the driver. Beyond that I don't know. The Department of Health would have mitigated that.

Rep. J. Kelsh: Dean Pearson's testimony showed a backhoe and the truck and moving that. Do you direct that to be done or does the oil companies do that immediately or what is the situation there? I am just trying to find a time line on how this all works.

Greg Wilz: DES is a repository for information. The nice thing about hazardous material is that you are responsible for that and if an oil company has a spill they are in fact responsible for that. The Department of Health generally is the agency that monitors the cleanup. The problem is that there is just a lot of the going on now.

Rep. Klemin: I know that most of the agencies that are responsible for permitting and inspecting oil and gas wells, coal mines, solid waste disposal sites seems like they do have reporting requirements if there is some kind of a spill. The issue seems to be the parties required to report these either don't know how to do it properly or are intentionally not reporting it sooner. Until they report it to you cannot notify anybody else.

Greg Wilz: Yes there are issues on those having to do reports. Locally the industry needs to do a better job. There is so much information left out. My staff turned this report back to the agency that gave it to us since there was no name for the well site and that is all we can do.

Rep. Klemin: This bill doesn't really seem to address the concerns that were expressed here today even with your amendments.

Greg Wilz: The bill does not address the need you heard from the folks. Maybe the committee could fix that and I will assist to amending it. You can pass the bill with the amendment, but it will have little impact on the real issues.

Rep. Kathy Hogan: Do you think it is feasible to get something for us to address the real issues?

Greg Wilz: I think we could turn something around within a week and keep it alive and in a good state going into the Senate.

Rep. Hatlestad: At the local level a rural neighborhood watch might be in order?

Opposition: None

Neutral:

Tim Wiedrich, ND Department of Health Department: I am section chief for the EMS. What training if any does the health department do at a local level? I am not responsible entirely as part of that effort we have been funding eight regional environmental health

practitioners in local public health units. That has been our primary outreach in terms of the educational competent we require. That is the primary extend of the training we have done from our section.

Rep. Klemin: It seems clear to me are those parties that are supposed to be the initial reporting to start with and why aren't they doing it? We are on the end of the line here for all the people that have testified and not at the beginning to find out why these people aren't making their reports when they should.

Chairman N. Johnson: Is there anyone here from oil and gas?

Rep. J. Kelsh: I would suggest Mr. Wilz work in conjunction with these folks that would be meaningful.

Chairman N. Johnson: We would ask you Mr. Wilz if you would do that and we may need to visit with the industry also.

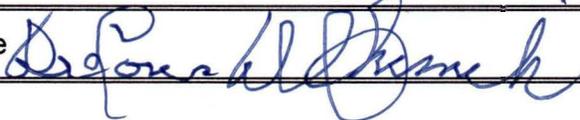
Hearing closed.

2013 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee Prairie Room, State Capitol

HB 1149
February 21, 2013
Job # 19337

Conference Committee

Committee Clerk Signature 

Minutes:

Proposed amendment #1

Chairman N. Johnson opened the hearing on HB 1149. This is about emergency response to hazardous materials incidents.

Greg Wilz: Director, Homeland Security of North Dakota: Handed out the proposed amendment (Testimony #1) I think it is called a hog house bill now. This was a group effort to get this bill amended correctly. We think is amendment is a solution that is reasonable and we did read through the bill with the Petroleum Council and they had no issues with the language of the bill. All the language was deleted and new language was written. I went over the proposed amendment. 03:03 - 11:50

Rep. Klemin: On E 2 exceeding one or more barrels? What is the difference?

Greg Wilz: I think you are on to something here. The idea is if it is one barrel or less they don't have to report it. Anything greater than one barrel they have to report and anything off site they have to report. If you can edit that language as a committee that would be great. You understand the intent.

Rep. Koppelman: Is it your intent that your agency would get the first call versus a local entity?

Greg Wilz: There are thousands of entry points to somebody understanding and becoming aware of a spill. We are gearing this to the industry; operators, owners and service entities. When you know something is happening their first call is to a 911 center or their local EMS manager because they know who that person is. Their local EMS will contact DES. That is their normal flow of communication so we will find out about it that way and the system would just reverse itself and come right back to oil and gas and health. This is geared toward industry and DES would be a primary notification point from the standpoint that oil and gas and health department and hopefully the Ag Department we would get the notice at the same time from their website as they would get the notice.

Rep. Koppelman: In 2 e for the purpose of notifying monitoring and determining if emergency responses may be required and notifying local officials, owners, and operators or responsible parties shall report all spills or discharges to the appropriate state agency. The Division of Homeland Security shall serve as a central information dissemination point

and repository for initial notification information for spills and discharges and that was where my question came.

Greg Wilz: Yes we had a lot of discussion on this. We are going to be an additional public interface, but they can also go to oil and gas. We will be an additional public interface and they can come to us or they can also go to oil and gas and pull the same thing. For the purpose of notifying local public officials that is our game and this puts us as the coach of that game.

Rep. Koppelman: Has this been an issue in terms of agencies talking to one another?

Greg Wilz: All of the above.

Rep. Klemin: 3 at the bottom; any agricultural chemicals and pesticides. Does this apply to farmers or ranchers or crop sprayers or persons like that? Who makes the decision whether it is detrimental to life or safety?

Greg Wilz: We believe the local user would make a judgment in this. The federal law requires us to manage all these hazardous material in the State of North Dakota. Essentially agricultural is exempt unless they are storing for resale so we don't monitor what is on farms; but the Ag Department does so we rely on people that file the report.

Rep. J. Kelsh: I think the original complaint was that the local EMS manager did not know. They are out in the field and the link comes directly to you, but it doesn't have to be within 24 hours, but somebody will see them hurrying around out there doing things. Is there a local disconnection between the local guys? I thought the reason for the bill originally was so that the local folks knew what was going on and could answer questions and that type of thing. There is still going to be this 24 hours gap. Am I missing something?

Greg Wilz: The timeframe when they were notified was a long time after 24 hours. It could have been up to ten days later. They thought they could live with the 24 hour requirement. Let's give this a try as a minimum and in two years if it is not working we will come back and ask you for a change to this.

Rep. Kretschmar: I don't see anything in this proposed agreement. Is there something in another law that it has to be reported in a certain timeframe?

Greg Wilz: In a general sense it is a reasonable time which is felt to be 24 hours. There are requirements in administrative code when a spill occurs. As far as cleanup is concerned there is no timelines. They have reporting based upon other agencies administrative codes through the life of the spill to include a close out report.

Rep. Klemin: I would like to amend this amendment at the bottom and 2 on the second line where it says exceeding one or more barrels; change or more and that to barrel.

Chairman N. Johnson: A motion to amend this to say exceeding one barrel on a facility.

Motion Made to Amend this bill by Rep. Klemin: Seconded by Rep. A. Maragos

Voice Vote Carried.

Motion Made to Move the proposed amendment by Rep. A. Maragos; Seconded by Rep. J. Kelsh.

Voice Vote Carried.

Do Pass As Amended Motion Made by Rep. A. Maragos; Seconded by Rep. Koppelman:

Vote: 15 Yes 0 No 0 Absent Carrier Rep. M. Klein:

Closed.

February 21, 2013

2/21/13
JSMC
1072

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1149

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new subsection to section 37-17.1-06 and a new subdivision to subsection 1 of section 37-17.1-07.1 of the North Dakota Century Code, relating to emergency response to hazardous materials incidents.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 37-17.1-06 of the North Dakota Century Code is created and enacted as follows:

The division of homeland security shall serve as a central information dissemination point and repository for initial notification information for spills and discharges in the state for hazardous materials as defined in section 37-17.1-07.1. The division shall develop processes to ensure proper state and federal agencies that have oversight responsibilities are promptly notified. The division shall also provide notice to local emergency management officials within a time that is consistent with the level of emergency.

SECTION 2. A new subdivision to subsection 1 of section 37-17.1-07.1 the North Dakota Century Code is created and enacted as follows:

For purposes of monitoring, determining if emergency response may be required, and notifying local officials, owners and operators or responsible parties shall report all spills or discharges to the appropriate state agency. The report must include the name of the reporting party, including phone number and address; date; time of release; location of release; containment status; waterways involved; and immediate potential threat. If the release occurs or travels off site from a facility, the owner and operator or responsible party shall notify the surface owner within a reasonable time. State agencies that receive direct reports of spills or discharges shall provide the report information to the division within a time that is consistent with potential level of response needed. Hazardous materials spills and other discharges that require reporting under this section include:

- (1) Any spill or discharge that causes or may cause pollution of state waters;
- (2) On a facility or rig site, any spill or discharge of a fluid or substance or derivative of that fluid or substance, including oil, gas, and salt water, which relates to oil and gas exploration or production if that spill or discharge exceeds one barrel;
- (3) Not on a facility or rig site, any spill or discharge of a fluid or substance or derivative of that fluid or substance, including oil,

2/2

gas, and salt water, which relates to oil and gas exploration or production; and

- (4) Any spill or discharge of an agricultural chemical or pesticide that may be detrimental to life or safety or may cause unreasonable adverse environmental effects."

Renumber accordingly

Date: 2-21-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1149

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Klemm Seconded By Rep. Maragos

| Representatives | Yes | No | Representatives | Yes | No |
|---------------------------------|-----|----|-------------------|-----|----|
| Chairman Nancy Johnson | | | Rep. Jerry Kelsh | | |
| Vice Chairman Patrick Hatlestad | | | Rep. Kathy Hogan | | |
| Rep. Lawrence Klemm | | | Rep. Naomi Muscha | | |
| Rep. Kim Koppelman | | | Rep. Ben Hanson | | |
| Rep. William Kretschmar | | | | | |
| Rep. Andrew Maragos | | | | | |
| Rep. Nathan Toman | | | | | |
| Rep. Thomas Beadle | | | | | |
| Rep. Lisa Meier | | | | | |
| Rep. Matthew Klein | | | | | |
| Rep. Alex Looyen | | | | | |
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| | | | | | |
| | | | | | |

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Exceeding one barrel on a facility.

*Voice
Vote
carried!*

Date: 2-21-13
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1149

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Maragos Seconded By Rep. J. Kelsh

| Representatives | Yes | No | Representatives | Yes | No |
|---------------------------------|-----|----|-------------------|-----|----|
| Chairman Nancy Johnson | | | Rep. Jerry Kelsh | | |
| Vice Chairman Patrick Hatlestad | | | Rep. Kathy Hogan | | |
| Rep. Lawrence Klemin | | | Rep. Naomi Muscha | | |
| Rep. Kim Koppelman | | | Rep. Ben Hanson | | |
| Rep. William Kretschmar | | | | | |
| Rep. Andrew Maragos | | | | | |
| Rep. Nathan Toman | | | | | |
| Rep. Thomas Beadle | | | | | |
| Rep. Lisa Meier | | | | | |
| Rep. Matthew Klein | | | | | |
| Rep. Alex Looyen | | | | | |
| | | | | | |
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| | | | | | |

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

voice vote carried!

Proposed amend #1

Date: 2-21-13
Roll Call Vote #: 3

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1149

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.0355.01001.02000

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider

Motion Made By Rep. Maragos Seconded By Rep. K. Koppelman

| Representatives | Yes | No | Representatives | Yes | No |
|---------------------------------|-----|----|-------------------|-----|----|
| Chairman Nancy Johnson | ✓ | | Rep. Jerry Kelsh | ✓ | |
| Vice Chairman Patrick Hatlestad | ✓ | | Rep. Kathy Hogan | ✓ | |
| Rep. Lawrence Klemin | ✓ | | Rep. Naomi Muscha | ✓ | |
| Rep. Kim Koppelman | ✓ | | Rep. Ben Hanson | ✓ | |
| Rep. William Kretschmar | ✓ | | | | |
| Rep. Andrew Maragos | ✓ | | | | |
| Rep. Nathan Toman | ✓ | | | | |
| Rep. Thomas Beadle | ✓ | | | | |
| Rep. Lisa Meier | ✓ | | | | |
| Rep. Matthew Klein | ✓ | | | | |
| Rep. Alex Looyen | ✓ | | | | |
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Total (Yes) 15 No 0

Absent 0

Floor Assignment Rep. M. Klein

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

REPORT OF STANDING COMMITTEE

HB 1149: Political Subdivisions Committee (Rep. N. Johnson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1149 was placed on the Sixth order on the calendar.

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- (1) Any spill or discharge that causes or may cause pollution of state waters;
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- (3) Not on a facility or rig site, any spill or discharge of a fluid or substance or derivative of that fluid or substance, including oil, gas, and salt water, which relates to oil and gas exploration or production; and
- (4) Any spill or discharge of an agricultural chemical or pesticide that may be detrimental to life or safety or may cause unreasonable adverse environmental effects."

Renumber accordingly

2013 SENATE AGRICULTURE

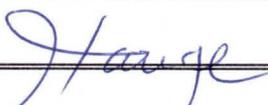
HB 1149

2013 SENATE STANDING COMMITTEE MINUTES

Senate Agriculture Committee
Roosevelt Park Room, State Capitol

HB 1149
March 28, 2013
20624

Conference Committee



Relating to emergency response to hazardous materials incidents

Minutes:

Written testimony

Chairman Miller opened the hearing on Engrossed HB 1149. All committee members were present.

Representative Dick Anderson, District 6, introduced Engrossed HB 1149. It creates a pathway of communication if there is a hazardous spill. He also presented amendments 13.0355.02003 and explained them. **Attachment #1**

Senator Klein asked if currently there is no chain of command and has there been a problem that we are trying to fix.

Representative Dick Anderson replied that there is a process but we are trying to make it better by creating a better pathway.

Senator Klein asked if they had emergencies that weren't handled very well.

Representative Dick Anderson said that the emergency director from Bottineau County can probably answer that and give an example.

Senator Heckaman asked why they want to remove the lines 2-14 on page 2.

Representative Dick Anderson said that the Ag Commissioner said that those lines are already in code and some of it is actually illegal according to federal statute. He said there will be further explanation on that.

Todd Kranda, representing the North Dakota Petroleum Council, testified in support of Engrossed HB 1149, with the proposed amendments. **Written testimony #2**

Senator Miller asked if the word discharge in HB 1149 means spills.

Todd Kranda replied that whether it is spilled or intentionally discharged there is a reporting that occurs.

Senator Luick asked if there are any types of material, in solid form that is a hazardous material that we have to be concerned with.

Todd Kranda said that the statute defines chemicals and actually refers to federal provision that ties us to some federal laws. The focus of the bill is on oil, gas, and salt water and other items are already covered in the code.

Dean Pearson testified on behalf of Bowman County Emergency Management Organization, in support of Engrossed HB 1149 with amendments. **Written testimony #3**

Richard Hummel, Bottineau County Emergency Management, testified in support of Engrossed HB 1149 and the amendments. **Written testimony #4**

Lynn Helms, Director of Department of Mineral Resources, and North Dakota Industrial Commission: The Industrial Commission supports HB 1149 with amendments. They do not support it without the amendment. We worked with the work group and made what we think are the necessary improvements to the bill with the amendments. In terms of oil, gas, and saltwater, the threshold is any amount that leaves the well sight and must be reported within 24 hours. If it is contained within the well sight, the threshold is one barrel. He also explained the changing of the word from chemical to material (22:59).

Senator Luick: Why was the Ag Department concerned with #4?

Lynn Helms: They were concerned because that is already administered under the Ag Department and in their administrative code. With this bill we are creating a mechanism and process that we all support and it can be built on in the future.

Senator Luick: This is just to get that information at a more timely matter to the people that need to know.

Lynn Helms: That is the purpose of the bill. To create central information dissemination point in a quick and timely matter.

Discussion followed on where Landowners fit in, ways of disseminating the information and information storage (well file). There were questions and answers on illegal dumping and septic tanks. Septic tanks are under the Health Departments.

Greg Wilz, Deputy Director of Department of Emergency Services, and Homeland Security Director spoke in favor of Engrossed HB 1149. They have been involved in working on this bill and they support the amendments that have been presented.

Discussion followed on the complexity of what gets reported to what department. The legislation of the bill, ties all of the chains of reporting together to provide better communication, which is the intent of Engrossed HB 1149.

Gaylen Peterson read Myron Hanson's testimony in support of HB 1149 with amendments. Myron represents the Northwest Landowners.

Opposing Testimony

(50:25)**Kathleen Spielman**, Managing director of K2 Engineers Consulting, located in Mandan, ND. She is a Consulting Engineer and a Chemical Engineer by degree. Their firm is a member of the ND Petroleum Council and she spoke in opposition to HB 1149 because they see it as another variation of reporting and she believes it will not achieve what the intent wants to do. She explained what their firm has done and that they specialize in regulatory affairs. She explained why they are against this bill and amendments. (52:00 - 58:39)

Senator Miller: Maybe we have to clarify in this language that this is not the responsibility of the business.

Kathleen Spielman says that in Federal and State it is the responsibility of the person who had the spill or their employee to make that call and they should.

Senator Miller: If the bill said this only applies to how intergovernmental information is disseminated, and not how incidents are reported from the private sector, would that satisfy your concerns.

Kathleen Spielman: Yes

Senator Luick: Wouldn't it make sense that all spills were run through the 911 system.

Kathleen Spielman: No, those individuals should not be tasked, when they are tasked to protect somebody who is having a heart attack or etc.

Chairman Miller closed the hearing on HB 1149.

Discussion followed on the intent of the bill, the overwhelming support of the working group, and the amendments.

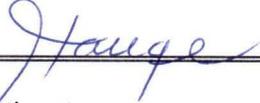
Chairman Miller adjourned.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Agriculture Committee
Roosevelt Park Room, State Capitol

HB 1149
March 28, 2013
20649

Conference Committee



Relating to emergency response to hazardous materials incidents

Minutes:

Vote: Do Pass as amended 5-0-0

Chairman Miller opened discussion on Engrossed HB 1149 and presented amendments 13.0355.02003.

Senator Luick moved to adopt the amendments.

Senator Larsen seconded the amendment.

Roll call vote: **5-0-0**

Senator Luick moved a Do Pass as amended on Engrossed HB 1149.

Senator Klein seconded.

Roll call Vote: **5-0-0**

Senator Luick is the carrier.

March 28, 2013

3/28/13
TD

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1149

Page 1, line 3, replace "materials" with "chemical, oil, gas, and saltwater"

Page 1, line 9, replace "materials" with "chemicals"

Page 1, line 9, after "37-17.1-07.1" insert ", oil, gas, and saltwater"

Page 1, line 18, after "agency" insert "as required by law"

Page 2, line 1, remove "Hazardous"

Page 2, remove lines 2 through 14

Re-number accordingly

Date: 3-28-13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES *Eng.*
BILL/RESOLUTION NO. 1149

Senate Agriculture Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.055.02003

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Senata Luick Seconded By Senata Larsen

| Senators | Yes | No | Senator | Yes | No |
|---------------------------|-----|----|---------|-----|----|
| Chairman Joe Miller | ✓ | | | | |
| Vice Chairman Larry Luick | ✓ | | | | |
| Senator Jerry Klein | ✓ | | | | |
| Senator Oley Larsen | ✓ | | | | |
| Senator Joan Heckaman | ✓ | | | | |
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Total (Yes) 5 No 0

Absent 0

Floor Assignment _____

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

REPORT OF STANDING COMMITTEE

HB 1149, as engrossed: Agriculture Committee (Sen. Miller, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1149 was placed on the Sixth order on the calendar.

Page 1, line 3, replace "materials" with "chemical, oil, gas, and saltwater"

Page 1, line 9, replace "materials" with "chemicals"

Page 1, line 9, after "37-17.1-07.1" insert ", oil, gas, and saltwater"

Page 1, line 18, after "agency" insert "as required by law"

Page 2, line 1, remove "Hazardous"

Page 2, remove lines 2 through 14

Renumber accordingly

2013 TESTIMONY

HB 1149

#1

**Bowman County Emergency Management
Testimony
on
HB 1149
February 14, 2013**

Good afternoon Chairman Johnson and members of the Committee. My name is Dean Pearson and I am here on behalf of Bowman County and the Bowman County Emergency Management organization to ask for your support of House Bill 1149.

I am here today to ask that notification procedures, used to report hazardous materials incidents in the state, be implemented that specifically addresses notification of local county officials. I will speak specifically in response to the oil and gas development and production in Bowman County.

In the current system, if a hazardous materials spill or oil field incident occurs within our county, notification is sent to the Oil and Gas Division which in turn, ultimately sends it to the North Dakota Department of Emergency Services and they send it down to the county level. When the notice arrives at the county a lot of the pertinent data regarding the incident may be missing or inaccurate. The specific location, name of the reporting party, type of released substance, amount of released substance and whether it was contained or not may or may not be present. We have even seen reports that have listed sites that are not in our county or operator names that are not doing business there as well. We need to have some type of guarantee that the incident reports are being completed and filed accurately as these are used by the local responders when traveling to the incident. Inaccurate information may result in getting someone into a scene in which they are not protected or prepared.

We would like to have the Emergency Management organizations at the local level be notified as soon as possible so that the appropriate officials at the county level know what is happening in

their own back yard before the incident is completely cleaned and covered up. We have had reports of incidents reaching the county level as late as 2 days following an occurrence and in some cases the County Commissioners and other local officials have been asked about the incident by the landowners and have not been able to provide any answers because they had not been notified yet.

Each county has an Emergency Manager, and since all incidents start locally and will usually involve some type of local response, it only seems right that they be notified if something is happening in their jurisdiction as soon as possible following an incident. If an incident occurs on a weekend it may be early the following week before we get a report. There needs to be some type of mechanism for including the locals in the notification process earlier. We understand that the Emergency Manager will not have any authority for regulating or enforcement, but we need to be able to make reports and keep records for our Multi-Hazard Mitigation Planning and to keep our citizens informed.

I have included two examples of reports that we have received during the first two months of 2013 that emphasize our concerns.

The first is dated January 25, 2013

If you look at the e-mail (highlighted areas) the reporting person is not listed and also there is no indication that the release was contained. We also received the notice 23 hours after the incident took place.

The map shows that the leak took place from a broken flow line that drained into a stream between a dam and a wetlands area. The landowner of the wetlands was not notified by the

company, but rather by the Emergency Manager after visiting the site. The landowner has voiced concerns if the fill, that was placed into the excavated stream bed, covers any un-removed product or if any salt water from the flow line will destroy grass or harm wildlife using the wetlands.

The first and second photos show the excavation and the stained soils and the third photograph shows the excavated spoil pile.

The second is dated February 13, 2013

This e-mail also was received 22 hours after the incident again with no contact person and it also indicates that the release may not have been contained. On this report, the operators name is wrong as well.

The landowner contacted the Emergency Managers office at 3:30 PM MST yesterday to ask if there was going to be any damage to their alfalfa field as the pipeline break was in the middle of the field and she was concerned with salt water damages. Also, the landowner reported the oil was bubbling out of the ground and had run across the surface about 100 yards before it was contained.

Since the report and the landowners call came in to late to visit the site, any inaccuracies in the reports and maps were not available, but a spill of this size is probably larger than 5 barrels.

In closing, I encourage you to support this bill, or implement something to inform the local officials earlier and to insure better reporting for the safety of the landowners, environment and all involved.

Thank you. If you have any questions I will be more than happy to answer them.

Dean Pearson

From: -Info-ND Dept. of Emergency Services [nddes@nd.gov]
Sent: Friday, January 25, 2013 2:47 PM
To: DeBoer, Raymond L.; Freyman, Christopher L.; Hagel, Kirk A.; Dean Pearson; Karla Germann
Subject: FW: Spill Report - KID CREEK 14-29SH

From: mbohrer@nd.gov [<mailto:mbohrer@nd.gov>]

Sent: Friday, January 25, 2013 3:39 PM

To: Bohrer, Mark F.; Wollan, Glenn L.; Garbe, Bob K.; Axtman, John S.; Hutchens, Rick W.; Vanderbusch, Cody W.; -Grp-DOH Oil Spills; Joersz, Kyle W.; johnny.jones@clr.com; andy.truhan@clr.com; mike.white@clr.com

Subject: Spill Report - KID CREEK 14-29SH

Date/Time Reported : Jan 25 2013 / 13:49

State Agency person :

Responsible Party : Continental Resources

Well operator : CONTINENTAL RESOURCES, INC.

Date/Time of Incident : Jan 24 2013 / 14:45

NDIC file no : 16487

Facility no :

Well or facility name : KID CREEK 14-29SH

Field name : CEDAR HILLS

County : BOWMAN

Section : 29

Township : 131

Range : 106

Quarter-Quarter :

Quarter :

Distance to nearest residence : 0.75 Miles

Distance to nearest water well : 0.75 Miles

Released oil : 120 barrels

Released brine : 50 barrels

Released other : 0 barrels

Recovered oil : 100 barrels

Recovered brine : 40 barrels

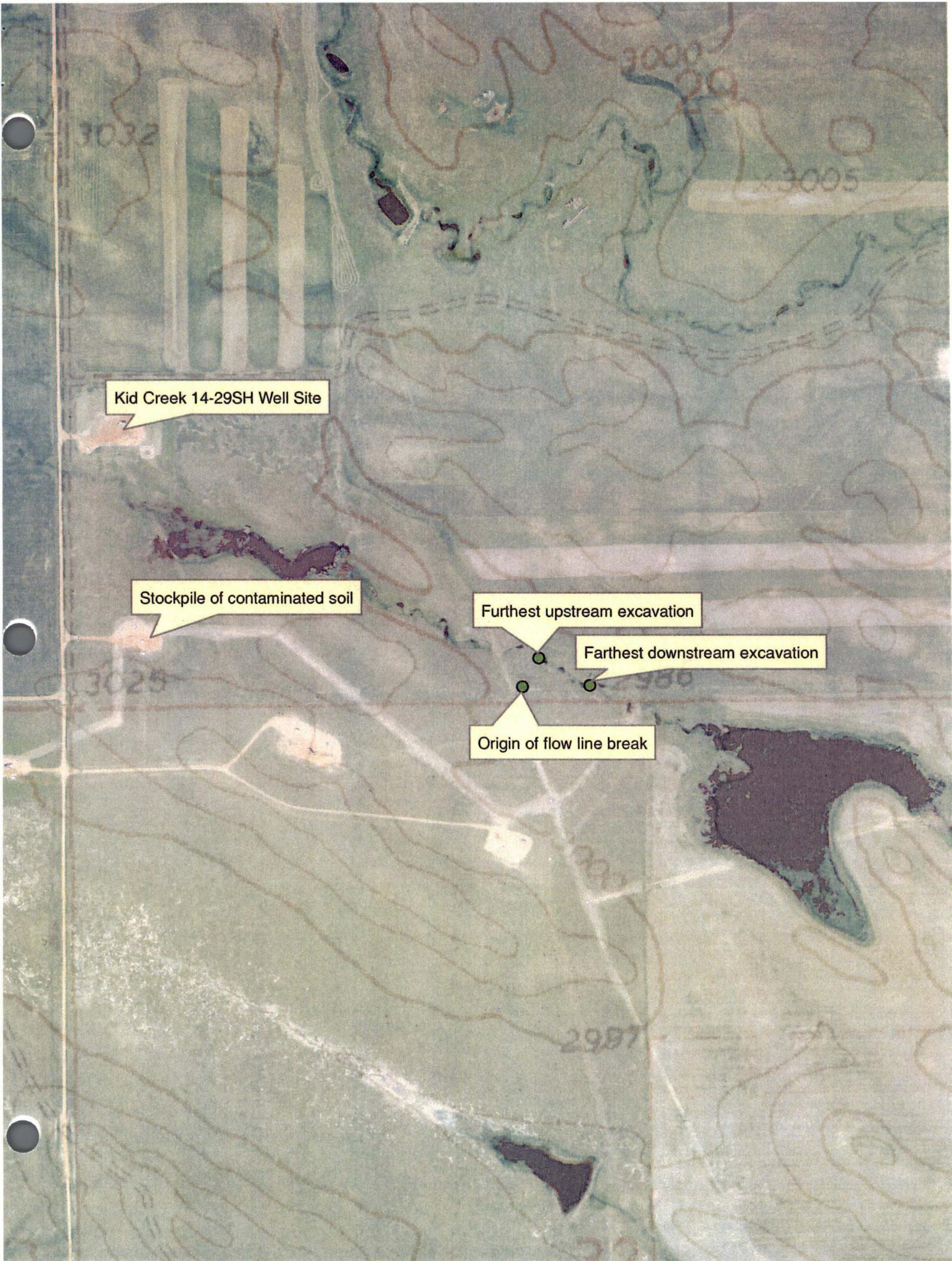
Recovered other : 0 barrels

Description of other released substance :

Was release contained? : No

Immediate risk evaluation :

Has the incident been or will it be reported to the NRC? : Unknown



Kid Creek 14-29SH Well Site

Stockpile of contaminated soil

Furthest upstream excavation

Farthest downstream excavation

Origin of flow line break







Dean Pearson

From: -Info-ND Dept. of Emergency Services [nddes@nd.gov]
Sent: Wednesday, February 13, 2013 2:45 PM
To: Dean Pearson
Cc: Hilfer, Karen; DeBoer, Raymond L.; Freyman, Christopher L.
Subject: FW: Spill Report - CHSU 21D-35SH 26

From: mbohrer@nd.gov [<mailto:mbohrer@nd.gov>]

Sent: Wednesday, February 13, 2013 3:44 PM

To: Bohrer, Mark F.; Wollan, Glenn L.; Garbe, Bob K.; Axtman, John S.; Hutchens, Rick W.; Vanderbusch, Cody W.; -Grp-DOH Oil Spills; Joersz, Kyle W.; Lewis.R.Schoenberger@ConocoPhillips.com

Subject: Spill Report - CHSU 21D-35SH 26

Date/Time Reported : Feb 13 2013 / 15:42

State Agency person :

Responsible Party : Burlington Resources

Well operator : BURLINGTON RESOURCES OIL & GAS COMPANY LP

Date/Time of Incident : Feb 12 2013 / 17:15

NDIC file no : 15996

Facility no :

Well or facility name : CHSU 21D-35SH 26

Field name : CEDAR HILLS

County : BOWMAN

Section : 35

Township : 132

Range : 106

Quarter-Quarter : NE

Quarter : NW

Distance to nearest residence : 0.75 Miles

Distance to nearest water well : 0.75 Miles

Released oil : 5 barrels

Released brine : 0 barrels

Released other : 0 barrels

Recovered oil : 2 barrels

Recovered brine : 0 barrels

Recovered other : 0 barrels

Description of other released substance :

Was release contained? : Unknown

Immediate risk evaluation :

Has the incident been or will it be reported to the NRC? : No



BOARD OF COMMISSIONERS

104 First Street NW, Suite One • Bowman, ND 58623 • Phone: 701-523-3130

January 25, 2013

ND Legislative Members
North Dakota House of Representatives
North Dakota Senate

To Whom It May Concern:

This letter is to inform you that the Bowman County Commissioners are in full support of HB-1149 and are encouraging members of the North Dakota Legislature to support the passage of this bill.

We also give permission to Dean Pearson, the Bowman County Emergency Manager, to testify on behalf of Bowman County and the County Emergency Manager's Office in support of HB-1149.

Thank you for your consideration in this important matter.

Sincerely;

A handwritten signature in black ink that reads "Rick Braaten".

Rick Braaten

Chairman

Bowman County Commission

Southwestern District Health Unit
Testimony
To the
On
HB 1149
February 14, 2013

#2

Good afternoon Chairman Johnson and members of the committee. I am Sherry Adams, Executive Officer of Southwestern District Health Unit (SWDHU). Southwestern District Health Unit covers the eight counties in southwestern North Dakota including: Adams, Billings, Bowman, Dunn, Golden Valley, Hettinger, Slope and Stark. I am here today to provide support for HB 1149.

Southwestern District Health Unit has been challenged this past biennium with unprecedented population growth and demand on public health services. One area that has seen a tremendous increase is response to hazardous material incidents. Incidents occur on a daily basis, and are as a result primarily of increased transport of hazardous materials throughout oil country. As an incident occurs, the primary avenue that our local health unit is notified is through our local emergency management. If needed, we are able to assist them with environmental health and other emergency preparedness response.

Unfortunately, the local emergency manager does not always get notified until the incident has occurred or outside resources have been dispatched. This has resulted in resources being dispatched without the county actually knowing until after the fact. This also has resulted in breakdown of communication. Since each county has an emergency manager, and that is the local conduit to get additional resources, it would be very helpful that they be the ones to request additional resources, utilizing first local mutual aid then state resources.

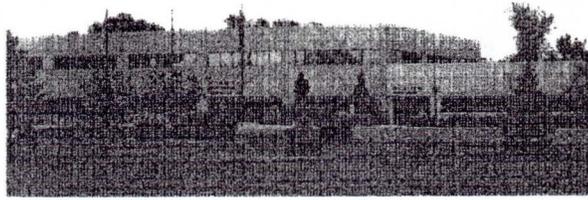
As oil and other energy activity continue to increase, it is more important than ever that the emergency managers be able to be informed about incidents that occur within their county. It is also so important to be able to assist in the investigation, as they can monitor the long term effects in their county. They can then in turn communicate with local entities, such as SWDHU, to assist. This can speed up the response time, and possibly reduce the overall impact to the health and the environment of those impacted.

Thank you for your consideration of this important bill. I would be happy to answer any questions you may have.

COUNTY OFFICERS

| | |
|-----------------------------|-------------------|
| County Auditor | Lisa Herbel |
| County Treasurer/MVD | Ann Monson |
| County Recorder | Helen Christenson |
| County Sheriff | Steve Watson |
| State's Attorney | A. Swain Benson |
| County Clerk of Courts | Rhonda Langehaug |
| County Director/Zoning Adm. | Lisa Peterson |
| Social Services | Kelly Jensen |
| 9-1-1 Coordinator | Terry Volk |
| Disaster Emergency | Richard Hummel |
| Veteran's Service Officer | Dwight Nahinurk |
| Road Supervisor | Ritchie Gimbel |
| Official Newspaper | Courant |

**BOTTINEAU COUNTY
NORTH DAKOTA**



314 West Fifth Street
Bottineau, North Dakota 58318
Fax (701) 228-5181

#3

COUNTY COMMISSIONERS

| | |
|--------------------------|---|
| 1 st District | LeRoy Rude Bottineau, ND 58318 |
| 2 nd District | Jeff Beyer Bottineau, ND 58318 |
| 3 rd District | Daniel Marquardt Bottineau, ND 58318 |
| 4 th District | Lance Kjelshus Souris, ND 58783 |
| 5 th District | Todd Streich Maxbass, ND 58760 |

January 18, 2013

Political Subdivision Committee
of the 63rd Legislative Assembly

Dear Honorable Ladies & Gentlemen:

Re: House Bill 1149

The Bottineau County Board of Commissioners would like to encourage the legislators to support House Bill 1149, which gives Emergency Managers immediate notice so they will be permitted to participate in the onsite investigation of hazardous incidents and/or spills.

With the increasing numbers of hazardous spill incidents in Bottineau County, our Emergency Manager needs to be allowed to be involved in the onsite investigations.

We would greatly appreciate your support of this Bill.

Sincerely,

Jeff Beyer,
Chairman, Bottineau County Commissioners

24

Bottineau County Emergency Management

Testimony

On

HB 1149

February 14, 2013

Good afternoon Chairman Johnson, Representative Anderson and members of the committee. I am Richard Hummel Bottineau County Emergency Management Office. My duties include Emergency Management duties within Bottineau County. I am here to provide support for HB 1149.

Bottineau County has been challenged the past two years with several incidents involving crude oil and saltwater spills within the County. As the County Emergency Manager I have been asked to respond to and investigate the incidents or spills that have occurred in the County. Many of the incidents have occurred days before I am notified, which makes it difficult to do any type of follow up investigation.

As the County Emergency Manager I feel that there should be a better way for incidents to be reported to the County Emergency Managers. One way would be for the entity that receives the first notification of the spill or incident to immediately notify the County Emergency Manager. The Emergency Managers do get notified by North Dakota Department of Emergency Services but not until after NDDDES gets the report sent to them. I feel that if the first entity were to report the incident to the County Emergency Manager two things could happen. The Emergency manager would find out about the incident sooner and would be able to assist the other investigating agencies with the incident. Agencies working on an incident should work together to help protect lives, the land, and the environment of our fine State.

With safety in mind Emergency Managers, if they choose should have authority to go onto property of a Hazardous Material spill or saltwater incidents to do an investigation. Most companies in Oil Country do not have a problem with Emergency Managers going onto their sites with proper identification and safety equipment, but there are few that simply will not let Emergency Managers onto their sites for any reason. The investigation would involve taking photos, measurements, GPS readings and any other information that would be needed for information about the spill or incident site.

County Emergency Management is an integral part of County Government. We can obtain and provide the resources to all involved. County citizens, should be able to go to their Emergency managers and get answers to the questions they may have about an incident as to cleanup, penalties imposed etc... The only way that can be accomplished is by all entities involved working together.

It needs to be pointed out that Emergency Management is by no way against the oil, gas and other development within our State and Counties. We just want proper notification and have agencies work together for a common goal.

After working 32 years in Law enforcement 7 years with a Sheriff's department and 25 years with the State Patrol, I've experienced that if agencies are willing to work together towards the same goal the job seems to have a much better resolve.

Thank you for your consideration of this bill. I would be happy to answer any questions that you may have.

5

Madam Chairman, members of the committee:

I am Myron Hanson, President of the Northwest Landowners Association.

We are an association of 350 farmer and rancher members, that stands in support of House Bill 1149.

Our association feels that with the ever expanding oil activity which is taking place in our state, it is important to involve as many agencies as possible in the effort to safeguard the individuals and the land that is being impacted by this development.

We do not believe that this bill should be viewed as an attempt to supplant the Department of Mineral Resources . This bill would give the County Emergency Managers the authority to supplement the personnel that are stretched too thin with the scope of and pace at which this development is taking place.

The County Emergency Managers are charged by their county commissioners with developing plans and responding to incidents within their counties. They are the local personnel and often can be the first person to be notified by a local resident of an incident.

Having the authority to go on location, assess the situation, determine if the incident can be contained on location or is running off location, and contact the proper response personnel can save valuable time. This can be important in minimizing the long term effects of the types of incidents occurring with this rapid energy development now taking place on the farms and ranches of this state.

We urge the committee to give a do pass recommendation to HB 1149.

#6

TESTIMONY – HB 1149
HOUSE COMMITTEE – POLITICAL SUBDIVISIONS
FEBRUARY 14, 2013
BY GREG WILZ
DEPUTY DIRECTOR, DEPARTMENT OF EMERGENCY SERVICES

Ms. Chairman and members of the committee, my name is Greg Wilz. I am the Deputy Director of the North Dakota Department of Emergency Services (NDDDES) and Director of the Division of Homeland Security.

The Department of Emergency Services understands and appreciates the intent of HB 1149, which is to place responsibility upon the director of the Division of Homeland Security to provide immediate notice of a hazardous chemical release to the appropriate local or regional emergency service organization and if a state response resource is deployed, the local or regional emergency response organization must be permitted to participate in the onsite investigation. In reality, it is not only very difficult but in certain circumstances, nearly impossible to achieve full compliance. I assure each member, specific processes are in place to ensure information is passed to local governments once NDDDES has received it.

Three state agencies receive release/spill reports. NDDDES monitors hazardous material sites as defined in federal law. The Oil and Gas Division oversees rigs and well sites and the Department of Health has statewide responsibility to manage clean-up activities relating to hazardous material releases. The system includes multiple reporting methods including 911 calls to any one of 23 public safety answering point (PSAP) centers. Unless a report is directed to State Radio, there is a high probability it will not be received or received in time to comply with the intent of HB1149. For example, companies frequently self-report directly to an agency and concerned citizens often provide information to local authorities or a state entity other than State Radio. The decision making continuum in a hazmat incident is critical. Agencies with lawful authority must immediately respond to resolve situations and unless NDDDES is considered integral to that effort, it will be notified post-event for logging and tracking purposes.

To illustrate challenges involved in reporting, actual text from a report involving Wal-Mart, Department of Health, NDDDES, and Jamestown response entities is included below.

State Radio was notified by a Wal-Mart rep at 0537 this morning of a semi that dropped a load of diesel fuel in the Jamestown Wal-Mart parking lot. According to the rep fuel had made its way into the storm drain. State Radio noted in the log they notified Jamestown Police Department, Department of Health and Highway Patrol.

At 0820 on 1/22/13 the duty officer contacted Jerry Bergquist expressed concern with Wal-Mart's notifications procedures...because Wal-Mart initially notified State Radio, local response agencies were not notified as quickly as in a normal hazmat event. However, once State Radio notified Jamestown Police Department of the spill, Stutsman County Communications dispatched Jamestown Fire Department to determine the extent of the problem. The Jamestown Fire Chief spoke with a consultant employed with Wal-Mart corporate and was told that a cleanup team was being assembled and would be en-route to Jamestown to clean up the spill. An ETA was not available and size of spill has not been determined. The emergency manager also notified Central Valley Health District in

Jamestown of the spill (Department of Health had not reached back and notified Central Valley Health District.) Central Valley Health District is working with Wal-Mart officials to determine the type of cleanup that will be required.

At 0841 on 1/22/13 the duty officer spoke with Jamestown Wal-Mart who was the manager on duty at the time of the incident. She relayed that employees at the store put down 41 bags of kitty litter. She spoke with the driver of the semi, went in to make a phone call and came back and the driver was gone. She could hear the diesel dripping into the storm drain but did not have any idea how much spilled or made its way to the storm drain.

The Wal-Mart employee first informed the company's national emergency operations center. Operations personnel knew the Department of Health had jurisdictional authority but did not have the contact information and called State Radio in order to obtain the number. If the Health Department number had initially been available, proper protocol would have correctly circumvented NDDDES in the chain of reporting and the emergency manager would have been contacted by the health officials. NDDDES notification would have occurred later and according to HB 1149, the director would be mandated to provide information already in the possession of local responders.

Because of an inability to control all variables associated with emergencies, NDDDES requests that members consider language in the attached amendment as a viable alternative.

I ask your support of the amendment to HB 1100 and will answer questions you may have.

Greg WILZ #7

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1149

Page 1, line 5 after the first "The" remove "director of the"

Page 1, line 5 after "provide" remove "immediate"

Page 1, line 7 after "If" remove "the division of homeland security or other" and insert "a"

Page 1, line 9 after "the" remove "division or other"

Page 1, line 9 after "shall" remove "immediately"

Page 1, line 12 after "investigation" insert "if there is no immediate danger and the area is not suspected as a crime scene"

Renumber accordingly

#1

PROPOSED AMENDMENTS TO HOUSE BILL 1149

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new subsection to section 37-17.1-06 and 37-17.1-07.1.1 of the North Dakota Century Code, relating to emergency response to hazardous materials incidents.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to 37-17.1-06 of the North Dakota Century Code is created and enacted as follows:

7. The division of homeland security shall serve as a central information dissemination point and repository for initial notification information for spills and discharges in the state for hazardous materials as defined in section 37-17.1-07.1. The division shall develop processes to ensure proper state and federal agencies that have oversight responsibilities are promptly notified. The division shall also provide notice to local emergency management officials in timeframes consistent with the level of emergency.

SECTION 2. A new subsection to section 37-17.1-07.1.1 of the North Dakota Century Code is created and enacted as follows:

e. For purposes of monitoring, determining if emergency response may be required, and notifying local officials, owners and operators or responsible parties shall report all spills or discharges to the appropriate state agency. The report will include: name of reporting party including phone number and address, date and time of release, location of release, materials released, estimated amount released, cause of release, containment status, waterways involved, and immediate potential threat. If the release occurs or travels offsite from a facility, the owner or operator or responsible party shall within a reasonable time notify the surface owner. State agencies as a function of law or rule that receive reports directly shall provide the report information to the division within a time consistent with potential level of response needed. Hazardous materials spills and other discharges that require reporting in this section include:

(1) Any spill or discharge which causes or may cause pollution of state waters;

(2) Any fluid or substance or derivative thereof including oil, gas, and salt water relating to oil and gas exploration and production exceeding one or more barrels on a facility or rig site and any amount offsite; or

(3) Any agricultural chemicals and pesticides that may be detrimental to life and safety or cause unreasonable adverse environmental effects.

Renumber accordingly

E-mail

Miller, Joe T.

From: Ken Sletten <ken@kensletten.com>
Date: Wednesday, March 27, 2013 10:29 PM
To: Miller, Joe T.; Luick, Larry E.; Heckaman, Joan M.; Klein, Jerry J.; Larsen, Oley L.
Cc: 'Ken Sletten'; O'Connell, David P.; Anderson, Dick D.; Hunskor, Bob L.
Subject: Comments on HB 1149; 4 Ag Com. hearing 28 March.

Importance: High

Wednesday 27 March 2013

From: **Ken Sletten**
347 - 105th St NW
Souris, ND 58783-9714

To: **Agriculture Committee**
ND State Senate

Copy: My Dist. 6 Legislators:
Sen. David O'Connell
Rep. Dick Anderson
Rep. Bob Hunskor

Subject: **Comments on EHB 1149; 4 Ag Com. hearing 28 March.**

Mr. Chairman and Members,

www.legis.nd.gov indicates that Engrossed HB (EHB) 1149 is up for hearing by your committee at 09:45 tomorrow morning, Thursday 28 March 2013; after passing in the House by a vote of 93-0 on 26 Feb.

Following are my comments on EHB 1149; in light of a discussion about this bill that I was part of 2 days ago in Bottineau, where I heard about some amendments that may be proposed. Note my comments refer to the EHB 1149 version at:
<http://www.legis.nd.gov/assembly/63-2013/documents/13-0355-02000.pdf?20130327194643>

1... **EHB 1149 is good and necessary legislation.** Respectfully request you support this bill in committee and on the Senate floor.

2... The phrase "hazardous materials" appears 3 times in EHB 1149. **Rumor has it there will be an effort to amend, to change "hazardous materials" to "hazardous chemicals"**. On quick read this might seem like a fairly innocuous and relatively minor change.

HOWEVER:

It is my understanding that changing "materials" to "chemicals" in this instance would completely remove SALT WATER from the equation; i.e.:

Salt water is NOT technically or legally considered to be a "chemical" in this context; but it IS included under the definition of "hazardous materials". That being the case:

Please RETAIN the current wording in EHB 1149; i.e.:

Do NOT replace the word "materials" with "chemicals".

SIDEBAR: While there is no remaining evidence of salt water damage here on the old Sletten Homestead where I grew up (2 dry holes were drilled ~50 years ago), I've seen what salt water damage can do on a neighbor's land. And from discussions with EOG technical personnel in Denver while I was negotiating an oil lease 3 years ago, I am aware that the underlying oil-bearing strata in my area has a LOT of salt water. So **the potential for salt-water spills is a MAJOR concern.**

3... It is further my understanding that amendment(s) may be proposed to make another major change to EHB 1149; i.e.: DELETE all 4 numbered sub-paragraphs under new SECTION 2 at the end of Page 2, and replace them with a reference to multiple existing sections of the ND Administrative Code (NDAC).

Please keep Section 2 of current EHB 1149 intact.

If it ends up after passage of this legislation that some parts of the NDAC are in conflict with said legislation, then seems like the appropriate thing to do would be to change the NDAC to match the NDCC, not the other way around.

Respectfully submitted via email,

Ken Sletten

ken@kensletten.com

509-492-3780 (Vonage internet phone)

=====

41

PROPOSED AMENDMENTS TO ENGROSSED HB 1149
(FIRST ENGROSSMENT VERSION 13.0355.02000)

Page 1, line 3, replace “materials” with “chemicals, oil, gas and salt water”

Page 1, line 9, replace “materials” with “chemicals”

Page 1, line 9, after “37-17.1-07.1” insert “, oil, gas and salt water”

Page 2, line 1, remove “Hazardous”

Page 2, remove lines 2 through 14

Renumber accordingly

**Testimony in Support of
ENGROSSED HOUSE BILL NO. 1149
(with proposed amendment)
Senate Agriculture Committee
March 28, 2013**

Good morning Chairman Miller and members of the Senate Agriculture Committee, for the record my name is Todd D. Kranda. I am an attorney with the Kelsch Kelsch Ruff & Kranda Law Firm in Mandan and I appear before you today as a lobbyist on behalf of the North Dakota Petroleum Council to express our support for Engrossed House Bill no. 1149, with the proposed amendment.

As you may know, the North Dakota Petroleum Council represents more than 400 companies involved in all aspects of the oil and gas industry including oil and gas production, refining, pipeline, transportation, mineral leasing, consulting, legal work, and oilfield service activities in North Dakota and has been representing the industry since 1952.

The North Dakota Petroleum Council met with the prime sponsor and other interested parties and worked on the proposed amendment for HB 1149, and with the amendment is in support of the proposed legislation. Accordingly, I would urge that you accept the proposed amendment and then provide a **DO PASS** recommendation for **HB 1149, as amended**. I would be happy to try to answer any questions.

**Bowman County Emergency Management
Testimony
on
HB 1149
March 28, 2013**

Good morning Chairman Miller and members of the Committee, my name is Dean Pearson and I am here on behalf of Bowman County and the Bowman County Emergency Management Organization to ask for your support of HB 1149.

I am here today to ask that notification procedures, used to report hazardous materials incidents within the state, be implemented that specifically addresses notification of local county officials and that a new subsection be added to the North Dakota Century Code that addresses hazardous materials spills. Hazardous materials spills are different than hazardous chemical spills and in this case, relate more to incidents relating to oil and gas development and production. The provisions within current law relate to chemicals rather than to materials such as crude oil and salt water.

Currently, if an oil or production water spill occurs within Bowman County due to a transportation, pipeline or fixed site incident, notification is sent from a company representative to the North Dakota Industrial Commission which in turn ultimately sends it to the North Dakota Department of Emergency Services and they send it to the county. When the incident notice arrives at the county some pertinent data regarding the incident may be missing or inaccurate. The specific location of the incident, name of the State Agency Contact Person, type of released substance, amount of released substance and whether it was contained or not may or may not be present in the report. We have even seen reports that have listed sites that

are not in our county or operators names that are not doing business there as well. We, at the county level, need to have some way of getting notification that an incident has occurred earlier so that the incident reports can be verified for accuracy as these reports may also be used by the local responders responding to the incident.

Bowman County Emergency Management would like to see, as a result of this bill, a specific criteria relating to what the incident report must contain. Inaccurate information may result in getting someone into a scene in which they are not protected or prepared. There have been times when we have had reports reaching the county as late as 2-3 days following the incident and in some cases, the County Commissioners and other local officials have been asked about the incident by the landowners and have not been able to provide any answers because the local authorities had not been notified.

We would also like to see, as a result of this bill, that the North Dakota Department of Emergency Services be notified at the same time as the Industrial Commission that an incident has occurred. Emergency Management will not have, and we are not asking for, any additional regulatory responsibility but rather to have them notified at the onset of the incident so that they can notify the local County Emergency Management (and local responders if needed) early into the incident. It may be as simple as adding their address to the send line in an e-mail or the reporting program.

I have included an example of a report that Bowman County has received since the first of the year to illustrate our concerns.

The example is dated January 25, 2013 and the information concerns on the report include: No State Agency Contact person to use as a follow-up and there is no indication that

the spill was contained. We also received this notice 23 hours after the incident occurred. We are getting the reports in a timely manner from the State Department of Emergency Services but they are not getting the reports in a timely manner.

The next page shows a map indicating this specific incident was a broken flow line that drained into a stream between a dam and a wetlands area. The landowner of the wetlands was not notified by the company, but rather the Emergency Manager after visiting the site. The landowner expressed concerns as to what happened to the 20 barrels of oil and 10 barrels of released brine was not recovered and if it was going to have any effect on the grass or wetlands. A lot of material was excavated at this site, as shown on the following three photographs, so there is a concern if all of the un-recovered materials were indeed collected.

In closing, I encourage you to support this bill which would implement a better notification system and contain the necessary information for local authorities as well as the landowners.

Thank you. If you have any questions I will be more than happy to answer them.

Dean Pearson

-Info-ND Dept. of Emergency Services [nddes@nd.gov]

Friday, January 25, 2013 2:47 PM

To: DeBoer, Raymond L.; Freyman, Christopher L.; Hagel, Kirk A.; Dean Pearson; Karla Germann
Subject: FW: Spill Report - KID CREEK 14-29SH

From: mbohrer@nd.gov [mailto:mbohrer@nd.gov]

Sent: Friday, January 25, 2013 3:39 PM

To: Bohrer, Mark F.; Wollan, Glenn L.; Garbe, Bob K.; Axtman, John S.; Hutchens, Rick W.; Vanderbusch, Cody W.; -Grp-DOH Oil Spills; Joersz, Kyle W.; johnny.jones@clr.com; andy.truhan@clr.com; mike.white@clr.com

Subject: Spill Report - KID CREEK 14-29SH

Date/Time Reported : Jan 25 2013 / 13:49

State Agency person :

Responsible Party : **Continental Resources**

Well operator : **CONTINENTAL RESOURCES, INC.**

Date/Time of Incident : Jan 24 2013 / 14:45

NDIC file no : **16487**

Facility no :

Well or facility name : **KID CREEK 14-29SH**

Field name : **CEDAR HILLS**

County : **BOWMAN**

Section : **29**

Township : **131**

Range : **106**

Quarter-Quarter :

Quarter :

Distance to nearest residence : **0.75 Miles**

Distance to nearest water well : **0.75 Miles**

Released oil : **120 barrels**

Released brine : **50 barrels**

Released other : **0 barrels**

Recovered oil : **100 barrels**

Recovered brine : **40 barrels**

Recovered other : **0 barrels**

Description of other released substance :

Was release contained? : **No**

Immediate risk evaluation :

Has the incident been or will it be reported to the NRC? : **Unknown**

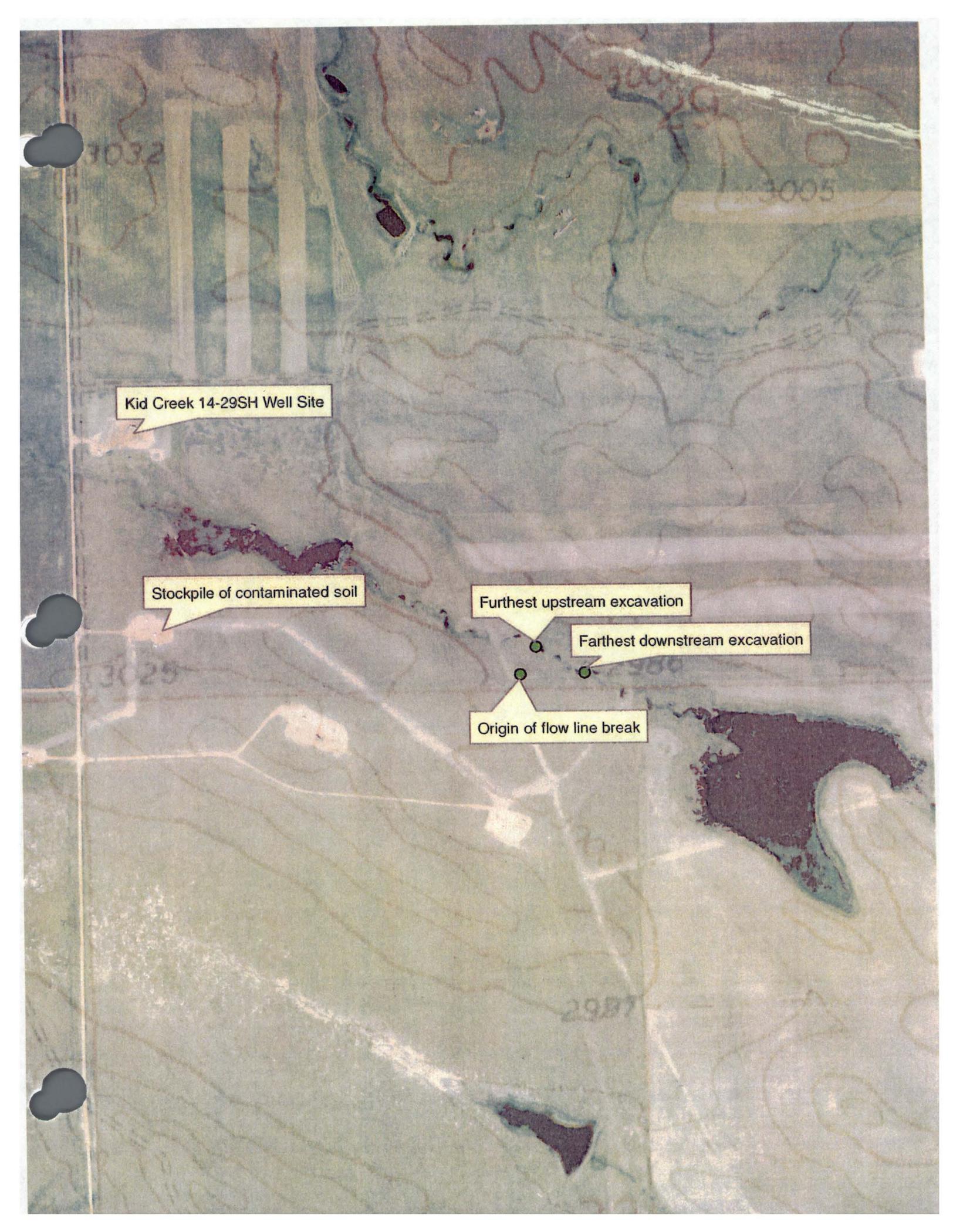
Kid Creek 14-29SH Well Site

Stockpile of contaminated soil

Furthest upstream excavation

Farthest downstream excavation

Origin of flow line break











BOARD OF COMMISSIONERS

104 First Street NW, Suite One • Bowman, ND 58623 • Phone: 701-523-3130

January 25, 2013

ND Legislative Members
North Dakota House of Representatives
North Dakota Senate

To Whom It May Concern:

This letter is to inform you that the Bowman County Commissioners are in full support of HB-1149 and are encouraging members of the North Dakota Legislature to support the passage of this bill.

We also give permission to Dean Pearson, the Bowman County Emergency Manager, to testify on behalf of Bowman County and the County Emergency Manager's Office in support of HB-1149.

Thank you for your consideration in this important matter.

Sincerely;

Rick Braaten

Chairman

Bowman County Commission

4

Bottineau County Emergency Management

Testimony

On

HB 1149

March 28, 2013

Good morning Chairman Miller, Representative Anderson and members of the committee. I am Richard Hummel Bottineau County Emergency Management office. My duties include Emergency Management duties within Bottineau County. I am here to provide support for HB 1149.

Bottineau County has been challenged the past two years with several incidents involving crude oil and saltwater spills within the County. As Emergency Manager I have been asked to respond to and investigate these spills by both the County Commission and the Local Emergency Planning Committee. Some of the incidents have been reported to State agencies days before I am notified, which makes it very difficult to do any type of follow up investigation.

As the Emergency Manager I feel that there must be a better way for these incidents to be reported to the local Emergency Managers. One way it would work much better would be to notify the Department of emergency services with the initial call. When a company sends in the report, which I believe is done by email; the Department of Emergency Services could be put on their email address list. We have always received the report from the DES as soon as they receive it, at the present time there seems to be some disconnect between when the company reports the incident and when DES gets the report.

The investigation that Emergency mangers would do, if they so choose would be obtaining exact locations, photos if possible and any other information that would be pertinent to an investigation. We would not interfere with any investigations by other agencies.

As you are aware this bill basically has two parts. One would be dealing with the notification to local authorities the second is adding oil and saltwater to the wordage. If the amendments are to be added to this bill I feel that we would be losing some of the intent of the bill. Bottineau County Commission and Bottineau County Emergency Management would be in support of keeping Oil and Saltwater in the bill or at least spelling out Oil and Saltwater in the State Administrative rules.

It needs to be pointed out that neither the Bottineau County Commission or the Bottineau County Emergency Management are any way against the production of oil, gas and any other development within our State and Counties. We just want to have the proper notification of incidents and have all agencies working together to meet that goal,

Thank you for your consideration of this bill. I would be happy to answer any questions

#5

Mr. Chairman, members of the committee:

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

We stand in support of HB 1149.

The Northwest Landowners supports HB 1149.

With the increased scope of the activity taking place on our farms and ranches we feel that is critical that local people be empowered to help develop responses to any incident that may occur.

This is not an attempt to infringe on the authority of the oil and gas division. They have the responsibility for all on site occurrences. It is when something happens that goes off location that the local emergency managers need to be able to go on location and develop a response plan. They may be the first people notified by a local resident in case of a spill.

We support this bill as a means of trying to minimize any damage to our farm or ranch land. We feel that this bill is important in allowing access to locations to the local emergency managers so that they can work in concert with oil and gas to contain spills that may not be able to be held on location.

We would urge the committee to give a do pass recommendation to HB 1149 ~~as pass out of the house~~

with proposed amendments.