

2021 HOUSE ENERGY AND NATURAL RESOURCES

HB 1054

2021 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Coteau AB Room, State Capitol

HB 1054

1/15/2021

Relating to bond requirements for abandoned oil and gas wells

Chairman Porter opened the hearing on HB 1054 at 10:36 am. Roll call was taken, all members were present: Representatives Porter, Damschen, Anderson, Bosch, Devlin, Heinert, Keiser, Lefor, Marschall, Roers Jones, M Ruby, Zubke, Guggisberg, and Ista.

Discussion Topics:

- Oil price/oil wells back in production
- Owner compliance incentives
- Temporary abandoned wells that sit for years
- 5-year rotation to pressure test wells

Written testimony:

Bruce Hicks, assistant director, Oil and Gas Division, DMR #869

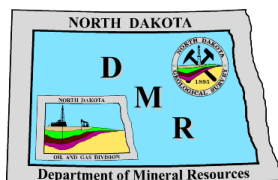
Scott Skokos, executive director, Dakota Resource Council #859

Brady Pelton, Government Affairs, Manager, ND Petroleum Council #890

Preston Page, Dakota Energy Advisors #906

Chairman Porter closed the hearing at 11:02 AM

Kathleen Davis, Committee Clerk



House Bill 1054 House Energy and Natural Resources Committee

January 15, 2021

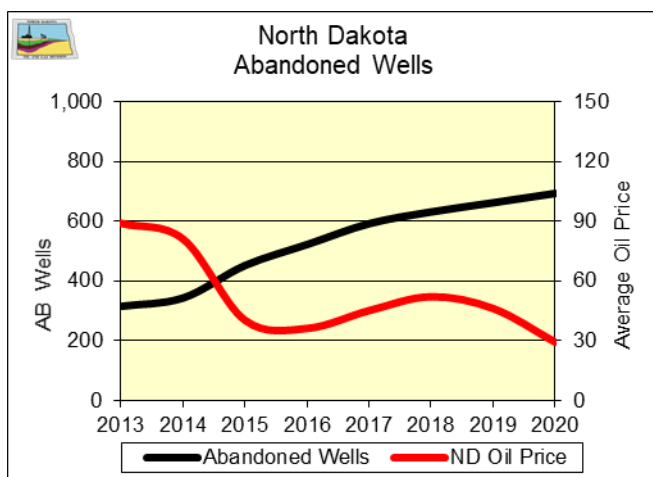
Testimony of Bruce E. Hicks, Assistant Director—NDIC—DMR—Oil and Gas Division

Chairman Porter and members of the House Energy and Natural Resources Committee, our department introduced this bill and we offer the following information in support:

North Dakota Century Code Section 38-08-04(1)(a)(12) currently allows the Commission to require an operator to place an abandoned well on a single-well bond in the amount equal to the cost of plugging the well and reclaiming the well site if the abandoned well is not returned to production in paying quantities, approved for temporarily abandoned status, or plugged and reclaimed within six months.

HB 1054 amends 38-08-04(1)(a)(12), making it mandatory for operators to obtain said single-well bond. Please take note of the following facts:

- The Commission has been requiring operators to file said bond whenever they fail to bring the well into compliance within six months, therefore the amendment would not affect Commission policy
- Only wells which have not produced oil or natural gas in paying quantities for one year are subject to this amendment
- Blanket bonds could continue to carry up to six abandoned wells not subject to 38-08-04(1)(a)(12)—such as injection wells



Oil prices have not rebounded sufficiently over the past seven years for operators to return abandoned wells to economic production. This has caused abandoned well counts to double over the same time period. The proposed amendment is necessary to strengthen the bond requirements and provide incentive for the operator to bring the abandoned well into compliance with Commission rules.

Testimony of Dakota Resource Council
House Bill 1054
January 15, 2021

Chair and members of the committee, my name is Scott Skokos and I am here on behalf of Dakota Resource Council. I stand here today in support of HB 1054.

Dakota Resource Council is a statewide, grassroots organization with more than 650 members statewide. Dakota Resource Council was founded over 40 years ago by landowners working to ensure energy industries did not compromise their rural way of life. Many of our current members live close to oil wells and other energy sources and are personally impacted by oil wells that are not reclaimed in a timely manner. We support this bill because it gives the Industrial Commission the clear ability to further protect landowners (like DRC members) and North Dakota taxpayers from having to deal with the impacts and costs of reclaiming abandoned oil and gas wells.

This proposed change gives the Industrial Commission the authority to require companies to place their abandoned wells on a single well bond equal to the cost of plugging and reclaiming. This change, if implemented, helps reduce the possibility that a well would have insufficient money to be reclaimed. This is important because in the case that there is not sufficient money, via a bond, to reclaim an abandoned oil well, the cost of plugging and reclamation then falls onto the state and by the transitive property the taxpayer.

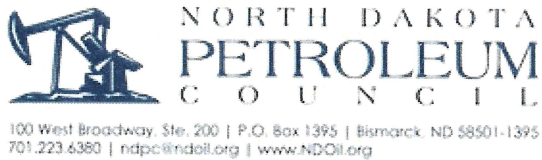
Under the current situation companies are allowed to operate with a statewide blanket bond that covers all of their wells in North Dakota. The blanket bond in North Dakota for a single company is currently \$100,000, which is insufficient in some cases

to reclaim several oil wells. Theoretically, if a company that holds a blanket bond has 100 wells and goes bankrupt and decides to abandon all of its 100 North Dakota wells, then only \$1000 per well would be available for plugging and reclamation. In some extreme instances oil wells can cost over \$100,000 to plug and reclaim. As a result, requiring abandoned wells to be put on a single well bond equal to the plugging and reclamation costs, in our view, is the only way to ensure plugging and reclamation costs are entirely covered by an operator.

A 2020 report by the Western Organization of Resource Councils specifically recommends that regulators place all oil and gas wells on single well bonds to remove the potential liability of blanket bonds¹. In our view, the changes to law in HB 1054 gets North Dakota closer to that goal. In addition, we hope that if HB 1054 is passed, that the Industrial Commission will take swift action to ensure all abandoned wells are placed immediately on a single-well bonds in the amount equal to the cost of plugging the well and reclaiming the well site,” as stated ND Century Code subsection 1 a 12 of section 38-08-04.

In summary, we support the changes made in this bill because they provide further protections to ensure plugging and reclamation costs are covered by operators and not the taxpayer. Thank you for the opportunity to speak regarding this bill. DRC urges the passage of this HB 1054.

¹ <http://www.worc.org/media/2020.04-Oil-and-Gas-Bonding-Federal-vs-State-sm2.pdf>



House Bill 1054

Testimony of Brady Pelton

House Energy and Natural Resources Committee

January 15, 2021

Chairman Porter and members of the House Energy and Natural Resources Committee, my name is Brady Pelton, general counsel and director of government affairs for the North Dakota Petroleum Council (“NDPC”). The North Dakota Petroleum Council represents more than 650 companies 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. I appear before you today in opposition of House Bill 1054.

House Bill 1054 effectively removes the discretion of the North Dakota Industrial Commission (“NDIC”) regarding whether to require a well in abandoned-well status be placed on a single-well bond. Currently, the NDIC has the option of requiring such a single-well bond on abandoned wells that a) have not been promptly returned to production in paying quantities, b) have not been approved by the NDIC for temporarily abandoned (“TA”) status, or c) have not been plugged or reclaimed within six months. At a time when regulatory flexibility is perhaps more important to the oil and gas industry than ever before, removing the NDIC’s ability to require single-well bonds when it is deemed appropriate takes away any opportunity for consideration of case-specific details. It is important to note that, in current statute, there is nothing prohibiting the NDIC from requiring a single-well bond on abandoned wells falling outside the conditions listed above.

Ensuring North Dakota is prepared to properly address situations where abandoned wells may become orphaned is an important priority. In its administrative rulemaking promulgated in 2019, the NDIC

proposed substantial changes to the well bonding process to do just that. Those proposed rules were ultimately approved, heightening the requirements for blanket bonds and requiring abandoned wells transferred from a bond to be single-well bonded. Given the protections now already within the North Dakota Administrative Code, the removal of NDIC discretion on requiring a single-well bond is unnecessary and potentially harmful to a number of operators and working interest owners. Many of these individuals are born-and-raised North Dakotans, whose businesses frequently invest in North Dakota's legacy wells. Before I conclude and try to answer any questions, I am pleased to introduce you to one of them whose testimony will follow mine. Preston Page is the owner of Dakota Energy Advisors and will share his perspective on this bill as a working interest owner.

Taking away any flexibility of a regulatory body such as the NDIC to make impactful decisions on a case-by-case basis is not good policy, and we therefore urge a **Do Not Pass** on House Bill 1054. I would be happy to answer any questions.

House Energy and Natural Resources Committee,

Thank you for your time. My name is Preston Page and I am the owner of Dakota Energy Advisors. I am from Bottineau County and my company owns a five percent working interest in about 120 wells located in the Red Rock and North Souris Field. We are active in the acquisition and divestment of numerous legacy wells.

I am here to testify against House Bill 1054.

Changing the law where the North Dakota Industrial Commission “may” require a single well bond for an Abandoned well to “shall” require a single well bond will not yield the assumed objective of mitigating the states potential liability of being left with the abandoned well.

This change in procedure will limit the acquisition and divestment and reduce investment into legacy wells.

The State will yield a higher return by encouraging operators to invest in keeping their wells compliant than they will by requiring the bonding amount equal to plugging the well and reclaiming the site.

I believe the Commission deserves the discretion to regulate whether a single well bond is required, therefore I encourage you to vote against HB 1054.

Preston Page



2021 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Coteau AB Room, State Capitol

HB 1054

1/22/2021

Relating to bond requirements for abandoned oil and gas wells

Chairman Porter opened the hearing on HB 1054 at 10:34 am. Roll call was taken, all members were present: Representatives Porter, Damschen, Anderson, Bosch, Devlin, Heinert, Keiser, Lefor, Marschall, Roers Jones, M Ruby, Zubke, Guggisberg, and Ista.

Discussion Topics:

- Older legacy wells may drop out of the business
- Wording from “may” to “shall” is a good thing
- Enough flexibility in the bill as is
- Uncertain times, undue burdens on the oil industry

Rep Zubke moved a Do Not Pass, seconded by Rep Rep M Ruby.

Representatives	Vote
Representative Todd Porter	Y
Representative Chuck Damschen	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Bill Devlin	Y
Representative Ron Guggisberg	N
Representative Pat D. Heinert	Y
Representative Zachary Ista	Y
Representative George Keiser	Y
Representative Mike Lefor	Y
Representative Andrew Marschall	Y
Representative Shannon Roers Jones	Y
Representative Matthew Ruby	Y
Representative Denton Zubke	Y

Motion carried. 13-1-0. Rep Anderson is carrier.

No testimony oral or written.

Chairman Porter closed the hearing at 10:44 PM

Kathleen Davis, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1054: Energy and Natural Resources Committee (Rep. Porter, Chairman)
recommends **DO NOT PASS** (13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB
1054 was placed on the Eleventh order on the calendar.