

2021 SENATE ENERGY AND NATURAL RESOURCES

HB 2262

2021 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Peace Garden Room, State Capitol

SB 2262
1/28/2021

A BILL for an Act to amend and reenact paragraph 12 of subdivision a of subsection 1 of section 38-08-04 of the North Dakota Century Code, relating to the authority of the industrial commission.

Chairman Kreun called the hearing to order at 8:30am
Senators Kreun, Patten, Schaible, J. Roers, Piepkorn, and Bell were present

Discussion Topics:

- What constitutes an abandoned well
- Changes to existing well status and review
- Landowner concerns
- Industry concerns

Senator Kannianen, District 4, introduced the bill and testified in favor #3845 (8:31am)

Troy Coons, NW Landowners Association, Chairman testified in favor #3968 (8:39am)

Derek Braaten, attorney with Braaten law and counsel for the NW Landowners Association testified in favor (8:46am)

Brady Pelton, ND Petroleum Council, General Counsel and Director of Government Affairs testified opposed #3981 (8:50am)

Jeff Herman, Petro Hunt, Regional Manager testified opposed (8:58am)

Greg Schneuke, Danbury Incorporated, Bowman County operator, testified opposed (9:03am)

Additional written testimony:

Scott Skokos, Dakota Resource Council, Executive Director, testified in favor #3955

Chairman Kreun adjourned the hearing at 9:08am.

Dave Owen, Committee Clerk



NORTH DAKOTA SENATE

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Senator Jordan Kannianen

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COMMITTEES:

Finance and Taxation
Political Subdivisions

Testimony on SB 2262

Senator Jordan Kannianen, District 4

Chairman Kreun and committee members,

The purpose of SB 2262 is to shorten the timeframe in which landowners can request a review of temporarily abandoned (TA) wells. Current law, put in place in 2015, allows landowners to submit a review request to the Industrial Commission after a well has been in temporarily abandoned status for seven years. This bill would shorten it to two years.

Once a landowner review request is filed with the Industrial Commission, a hearing is set, and notice is given. Producers need to bring evidence to the hearing of why the well should stay in TA status. Since 2015, a dozen review requests have been submitted by landowners (a couple/few per year), and after the subsequent hearings half of them were required to be plugged by the Industrial Commission, while half of them were given extensions.

Of course, this is a situation where landowners want the time until they can ask for a TA review to be as short as possible and industry wants that time stretched out as long as possible. Industry is concerned that a shortened timeframe would reduce the incentive to explore enhanced oil recovery (EOR) or other methods to increase production of an aging well. However, if they have a plan in place the Director of the Dept. of Mineral Resources isn't going to recommend plugging the well.

Years TA	Number of wells subject to review	Estimated case increase
7	141	None
6	161	14%
5	195	38%
4	233	65%
3	301	114%
2	369	162%

Perhaps going from 7 years to 4 years is more realistic than going from 7 years to 2 years.

Please give SB 2262 a Do Pass recommendation, as amended if necessary.
Thank you.

Troy Coons
Northwest Landowners Association
Energy and Natural Resources Committee
Testimony for SB 2262
January 28, 2021



Good morning, Chairman Kreun and members of the committee, thank you for taking my testimony into consideration today.

My name is Troy Coons and I am the Chairman of the Northwest Landowners Association. Northwest Landowners Association represents over 560 farmers, ranchers, and property owners in North Dakota. Northwest Landowners Association is a nonprofit organization, and I am not a paid lobbyist.

I am here to request a “do pass” on SB 2262. There are many wells in North Dakota that are not producing in paying quantities and have not produced in paying quantities for years. Mineral owners who find themselves in this situation have the ability to require production in paying quantities under their mineral lease, but for the surface owner, there may be nothing you can do to address an old well on your land. One of the things the surface owner can do is ask the Industrial Commission to review the well to determine if it should be plugged and abandoned, required to increase production to paying quantities, or put on temporary abandonment status for some reason. Ultimately these decisions are made by the Industrial Commission.

This bill simply allows the landowner to ask the Commission to review the status of a well after it has been sitting idle for two years. The current law requires the landowner to wait seven years. We have seen no justification or reason for this in the legislative history, and our research has found no reason for requiring the landowner to wait this long simply to ask the Commission to take a look at a well. To be clear, this bill does not require the Commission to act in any specific way, and it is ultimately still only a request for the Commission to review the well. There may be times when a well is sitting idle, but an operator actually has plans for it in the future. In those situations, the likely outcome of the review is that the Commission is able to explain to the landowner what the operator has planned, and why the well is not being reclaimed. If there is no reason for the well to be sitting there, then our hope is that the Commission would force the operator to either reactivate the well, or reclaim it. But again, that is still a decision for the Commission – we are only asking that landowners be allowed to request a review every two years. If there are good reasons to keep the well sitting, then the operator can explain that to the Commission and request that the Commission not require plugging and reclamation.

My understanding is that the Commission only hears two or three of these cases per year right now. It is possible that reducing the time period to two years will increase the number of wells reviewed in the short term, and that will be additional work for the Commission. But we are concerned that there is actually a backlog of wells that should be addressed, so it makes sense that there will be some additional reviews. Indeed, that is our hope. I want to repeat, though, that it is still the agency that will decide what happens after such a review.

There are a lot of landowners in this state who are frustrated with old wells sitting on their property, and they often get very little information about it when they approach the operator. We are merely asking you to reopen the doors to the Industrial Commission so we can address our concerns to them. Telling us we can only address our concerns to them after seven years seems like it was intended to shut landowners out. We are simply asking to be allowed back in the room to express our concerns to the Commission.

Thank you for taking the time to consider our comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Troy Coons', with a stylized initial 'T' and a long horizontal stroke.

Troy Coons, Chairman
Northwest Landowners Association

Senate Bill 2262
Testimony of Brady Pelton
Senate Energy and Natural Resources Committee
January 28, 2021

Chairman Kreun and members of the Senate 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 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. I appear before you today in opposition of Senate Bill 2262.

Senate Bill 2262 is a seemingly simple bill, but one with largely negative potential impacts on oil and gas operations within the state. The bill would shorten the amount of time before which a surface owner would be able to request North Dakota Industrial Commission (“NDIC”) review of a well in temporarily abandoned status from seven to two years.

The North Dakota Century Code language proposed to be changed by this bill was first approved by the Sixty-fourth Legislative Assembly in 2015, a section of then House Bill 1358. The section served as a compromised method to provide surface owners with a process to request formal review of a TA well they felt was near the end of its production life after a reasonable amount of time had passed with that well in TA status.

The shortened timeframe before surface owner-requested review proposed in Senate Bill 2262 is a departure from that reasonable agreement and will have a detrimental effect on temporarily abandoned (“TA”) wells awaiting further development through enhanced oil recovery methods or other methods

designed to bring those wells back to economic production status. These secondary and tertiary operations are long horizon projects and often take a great deal of time to initiate as operators assess economics, infrastructure availability, and production potential for their TA wells. Current oil prices, affected by a COVID-19 global pandemic-inspired demand cratering and continued domestic and international production, only underscore the need to have additional time for operators to consider secondary and tertiary operations on TA wells. Given the recent federal action of suspending new oil and gas leases on federal lands, significant questions remain on how rights-of-way and easements across federal acres may be impacted, adding to the uncertainty of being able to get critical gas gathering, CO₂, and water infrastructure in place for continued operations on wells currently in TA status. Time remains an important factor in considering any oil and gas operation, but it is especially important to development considerations of legacy wells.

Finally, TA wells are already subject to annual reports of operations and plans for development as required by administrative rule. The NDIC may intervene and routinely review wells on TA status based upon these annual reports. Any well on TA status must undergo annual casing integrity testing and renewal of its TA status. In this way, protections sought by surface owners through this bill are already in place.

Being subject to a burdensome and unnecessary notice and hearing process as quickly as two years after being placed in TA status significantly jeopardizes the likelihood of exploring future options for any TA well. Here today to speak more about the site-specific impacts this bill creates are Jeff Herman, Region Manager for Petro-Hunt, L.L.C., and Greg Schnacke, Executive Director, Governmental Relations for Denbury Inc.

Limiting the options of operators to explore secondary and tertiary recovery techniques on TA wells by introducing a shorter period before surface owner-requested review is bad policy. This bill is a solution in search of a problem, and we therefore urge a **Do Not Pass** on Senate Bill 2262. I would be happy to try to answer any questions.

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 SB 2262.

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 decision makers an additional tool to 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 by reducing the time a well can be on temporary abandoned status.

This change is important because it ensures that companies cannot put a well on temporary abandoned status, cannot idle assets for too long. Idled wells can be vectors for leaks and pollution and also an eye sore for landowners. In addition, this change is important because it further prevents bad actors from using the temporary abandoned status to shirk their reclamation responsibilities. In other states companies have used abandoned and temporarily abandoned status in an effort to allow them to go through the bankruptcy process and then avoid paying for the cost of reclaiming the well. For example Pennsylvania currently has approximately 8000 abandoned wells and Wyoming has more than 3600 abandoned wells according to the Pew Charitable Trust (these are wells with no legal owners)¹

In conclusion, this bill is a necessary change that will hopefully prevent North Dakota from facing the same fate as states like Pennsylvania and Wyoming.

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<https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2018/07/09/why-orphan-oil-and-gas-wells-a-re-a-growing-problem-for-states>

2021 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Peace Garden Room, State Capitol

SB 2262
2/5/2021

A BILL for an Act to amend and reenact paragraph 12 of subdivision a of subsection 1 of section 38-08-04 of the North Dakota Century Code, relating to the authority of the industrial commission.

Chairman Kreun called the Committee to order (9:09am)
Senators Schaible, Bell, Patten, J. Roers, Kreun and Piepkorn present

Discussion Topics:

- Re-cap of the bill
- Lack of an amendment
- Land value impacts on sale

Senator Patten, discussed the bill in favor (9:10am)

Chairman Kreun, discussed the bill in favor (9:11am)

Senator Roers moved DO NOT PASS (9:12am)

Senator Bell seconded DO NOT PASS (9:12am)

DO NOT PASS	Vote
Senator Curt Kreun	Y
Senator Jim P. Roers	Y
Senator Dale Patten	Y
Senator Merrill Piepkorn	N
Senator Donald Schaible	Y
Senator Jessica Unruh Bell	Y

Motion Carried 5-1-0

Senator Roers will carry

Chairman Kreun called the committee work to a close at 9:15am.

Dave Owen, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2262: Energy and Natural Resources Committee (Sen. Kreun, Chairman)
recommends **DO NOT PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB
2262 was placed on the Eleventh order on the calendar.