

2023 HOUSE ENERGY AND NATURAL RESOURCES

HB 1520

2023 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Coteau AB Room, State Capitol

HB 1520
2/9/2023

Relating to jurisdiction of the industrial commission and payment for production from wells, relating to royalties; and to provide a penalty
--

9:41 AM

Chairman Porter opened the hearing. **Members present:** Chairman Porter, Vice Chairman D. Anderson, Representatives Bosch, Conmy, Dockter, Hagert, Heinert, Ista, Kasper, Marschall, Novak, Olson, Roers Jones, and Ruby.

Discussion Topics:

- Oil/gas royalty owners
- Unpaid royalty interest
- Records inspections
- Board of University and School Lands
- Mineral owners
- Increased deductions
- 50% owner deductions
- Proposed amendment
- Royalty Ombudsman Senate Bill
- Royalty Owner Hotline

Representative Bert Anderson, District 2, introduced the bill (#20313).

Shane Leverenz, North Dakota family mineral rights owner, testified in support (#20180, 20658).

Corey Dahl, land and mineral rights owner, Williston Basin Royalty Owners Association, testified in support (#20158).

Troy Coons, Chairman of Northwest Landowners Association, testified in support (#20352).

Bruce Hicks, Assistant Director, NDIC-DMR-OGD, provided neutral testimony (#20028).

Lisa Olson, Minot, mineral rights owner, testified in support (#19354).

Madeline Bugh, Counsel for Dorchester Minerals, LP, Dallas, TX, testified in support (#20194).

Bob Skaarpl, Williston Basin Royalty Owners Association, verbally testified in support.

Ron Ness, President of North Dakota Petroleum Company, testified in opposition (#20281).

Barbara True, Director of Marketing with Eighty-Eight Oil, testified in opposition (#20340).

Additional written testimony:

Eileen Kjorstad, Trustee with Jeanette Kjorstad Family Mineral Trust, testimony in support, #19904.

Robert Sheldon, testimony in support, #19832.

Carl Dahl Jr, Mineral Acre Owner in Bismarck, testimony in support, #19172.

11:29 AM **Chairman Porter** closed the hearing.

Kathleen Davis, Committee Clerk

Minutes completed by Mary Brucker, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Coteau AB Room, State Capitol

HB 1520
2/10/2023

Relating to jurisdiction of the industrial commission and payment for production from wells; relating to royalties, and to provide a penalty.

10:47AM

Chairman Porter opened the hearing. **Members present:** Chairman Porter, Vice Chairman D. Anderson, Representatives Bosch, Conmy, Dockter, Hagert, Heinert, Ista, Kasper, Marschall, Novak, Olson, Roers Jones, and Ruby.

Discussion Topics:

- Committee vote

Representative Heinert moved a Do Not Pass.

Representative Bosch seconded the motion.

Roll call vote:

Representatives	Vote
Representative Todd Porter	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Liz Conmy	Y
Representative Jason Dockter	Y
Representative Jared Hagert	Y
Representative Pat D. Heinert	Y
Representative Zachary Ista	Y
Representative Jim Kasper	Y
Representative Andrew Marschall	Y
Representative Anna S. Novak	Y
Representative Jeremy Olson	N
Representative Shannon Roers Jones	Y
Representative Matthew Ruby	Y

Motion carried 13-1-0

Representative Conmy is the bill carrier.

Chairman Porter adjourned at 10:51AM.

Kathleen Davis, Committee Clerk

Minutes completed by Mary Brucker, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1520: Energy and Natural Resources Committee (Rep. Porter, Chairman)
recommends **DO NOT PASS** (13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB
1520 was placed on the Eleventh order on the calendar.

TESTIMONY

HB 1520

February 5, 2023

Honorable Todd Porter
House Energy and Natural Resources
North Dakota Legislative Council
State Capitol
600 East Boulevard
Bismarck, ND 58505-0360

Dear House Energy and Natural Resources, Representative Todd Porter, Chairman:

I am writing to voice my support for House Bill 1520. We the mineral acre owners in North Dakota should not struggle with getting information related to their royalties from oil companies. Legislators in past sessions have updated the Century Code for the benefit of the state and I would hope that you will now offer the same benefits for individual mineral owners like me.

I strongly encourage this committee to approve HB 1520 so we can receive better information related to our royalties from the oil companies.

Sincerely,

Carl H. Dahl, Jr.
221 E. Owens Ave.
Bismarck, ND 58501

P.S. The Mineral acres I own are in Divide County

House Energy and Natural Resources Committee

North Dakota Legislative Council

State Capitol

600 East Boulevard

Bismarck, ND 58505-0360

Dear House Energy and Natural Resources Committee Members,

I am writing in support of **HB 1520**. I live in Minot, but own minerals in Williams and Mountrail Counties. The minerals that I and my siblings own were inherited from our parents and grandparents. I have a copy of a lease, signed by my Grandfather in 1948, with Hunt Oil (bought out by Hess Corporation) that states:

In consideration of the premises the said lessee covenants and agrees:

- 1. To deliver to the credit of lessor, **free of cost**, in the pipeline to which lessee may connect his wells, the equal one-eighth part of all oil produced and saved from leased premises, or at the lessee's option, pay to the lessor for each one-eighth royalty, the market price for oil of like grade and gravity prevailing on the day such oil is run into the pipeline or into storage tanks.*
- 2. To pay lessor one-eighth, at the market price of the well for the gas soused, from the gas from each well where only gas is found, while the same is being used off the premises, and the lessor to have gas free of cost for all stoves and all inside lights in the principal dwelling house on said land during the same time by making his own connections with the wells at his own risk and expense.*
- 3. To pay lessor, for gas produced from any oil well and used off the premises or for the manufacture of casing-head gas, one eighth, at the market price, at the well for the gas so used, for the time during which said gas shall be used, said payments to be made monthly.*

This lease cannot be changed or re-negotiated, yet companies, such as Hess have taken the liberty of deducting ever increasing owner deductions. The reasons for the deductions are not shared with royalty owners. **In January, the owner deductions, from Hess, equaled 37% of our royalty earnings.** This simply is not acceptable.

I am fully aware that HB 1520 does not specifically address the legality of owner deductions, but it does allow royalty owners, the same benefit as the State of North Dakota, the right to know why owner deductions are being taken and what costs they are covering. I will circle back to the lease my Grandfather signed, stating that no deductions would be taken, but that situation is likely for another day.

My hope and trust lies with my North Dakota legislators to right some wrongs that are occurring. My statements should not be heard as complaints against the Oil and Energy businesses in North Dakota, quite the opposite. Oil and Energy production has changed our lives, mostly for the good. I, along with thousands of mineral owners in our state, simply want to be treated fairly; to receive what Oil companies agreed to pay, through leases signed in the past. We request honesty and transparency from companies doing business in North Dakota.

Sincerely,

Lisa M. Olson

Minot ND

Lisa.Marie.Olson.7@gmail.com

Dear House Energy and Natural Resources, Representative Todd Porter, Chariman:

I am writing to voice my support for House Bill 1520 . The mineral owners in North Dakota should not struggle with getting information related to their royalties from oil companies. Legislators in past sessions have updated the Century Code for the benefit of the state and I would hope that you will now offer the same benefits for individual mineral owners like me.

I strongly encourage this committee to approve HB 1520 so we can recieve better information related to our royalties from the oil companies.

Sincerely,
Robert Sheldon

February 8, 2023

Honorable Todd Porter
House Energy and Natural Resources
North Dakota Legislative Council
State Capitol
600 East Boulevard
Bismarck, ND 58505-0360

Dear House Energy and Natural Resources, Representative Todd Porter, Chairman:

I am writing to voice my support for House Bill 1520. The mineral owners in North Dakota should not struggle with getting information related to their royalties from oil companies. Legislators in past sessions have updated the Century Code for the benefit of the state and I would hope that you will now offer the same benefits for individual mineral owners like me.

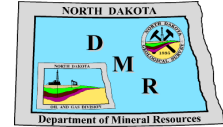
Specifically, I have had continual problems with Oasis Oil regarding production and payment information for the Jeanette Kjorstad Family Mineral Trust in Williams County. In 2022 they paid our Trust erroneously for another Kjorstad Trust (different name) in which we have no interest. I called them when we received the first payment and was assured everything was correct. Then 6 months later they completely reversed the payments without first sending new Division Orders. The revised Division Orders were eventually sent but my repeated calls and emails for an explanation were never answered or returned. To this date I have received no information however I do communicate with other family members and figured out for myself what was happening.

I strongly encourage this committee to approve HB 1520 so we can receive better information related to our royalties from the oil companies.

Sincerely,

Eileen Craven Kjorstad

Trustee for the Jeanette Kjorstad Family Mineral Trust



House Bill 1520

Date of Testimony: 2-09-2023

Good morning Chairman Porter and members of the House Energy and Natural Resources Committee. I offer the following for informational purposes only:

Page 2, Line 27—Section 1: Amends 38-08-02 (Definitions)

- Definition of “Operator” doesn’t include pipelines, facilities, or treating plants—why is the definition necessary?

Page 5, Lines 14-21—Section 3: Amends 38-08-06.3 (Information Statement to Royalty Owner)

- The proposed addition prohibits charges for capital costs, overhead, risk, interest, cost of money, rate of return, and prohibits a negative payment.
 - Commission can’t enforce lease terms (contract), therefore should be moved to 47-16-39.1 (Obligation to Pay Royalties – Breach).

Page 5, Lines 26-30—Section 3: Amends 38-08-06.3 (Information Statement to Royalty Owner)

- The proposed addition allows the “court” to award reasonable attorney’s fees and actual damages of no less than \$200.
 - Commission is not a “court” and we should not be awarding attorney’s fees and determining actual damages.

Page 6, Line 31 and Page 7, Lines 1-6—Section 4: Amends 38-08-06.3 (Information Statement)

- Limits deductions and costs to day-to-day operating costs, excluding overhead, risk capital, cost of money, rate of return, and cost adjustments after 3 years of marketing.
 - Commission can’t enforce lease terms (contract), therefore should be moved to 47-16-39.1 (Obligation to Pay Royalties – Breach).

Page 8, Lines 14-15—Section 5: Amends 38-08-06.6 (Ownership Interest Information Statement)

- The Department of Mineral Resources shall make orders and cases searchable by well name and legal description free of charge.
 - Cases are not searchable—they can contain hundreds (some thousands of pages).
 - Cases and orders do not contain well names or all spacing units, therefore this ask is nearly impossible.
- We could modify our website to include well spacing unit available as proposed (Page 8, Lines 11-13), although it is already available to our website subscribers with Basic Service.

Please let us know if you have any questions or comments.

Sincerely,

Bruce E. Hicks

Assistant Director

NDIC-DMR-OGD

Bruce E. Hicks
ASSISTANT DIRECTOR
OIL AND GAS DIVISION

Lynn D. Helms
DIRECTOR
DEPT. OF MINERAL RESOURCES

Edward C. Murphy
STATE GEOLOGIST
GEOLOGICAL SURVEY

HB 1520 HEARING

TESTIMONY PROVIDED BY COREY J DAHL

A LITTLE ABOUT COREY

- Early Life & Education – Born in Crosby ND, Worked on farm until HS graduation, College at UND-Accounting Degree (Go Sioux!!)
- Career
 - Weber Spaulding (Minot) – Public Accounting
 - ANG Coal Gasification(Bismarck) – Listed Consortium
 - Gold Seal Company (Bismarck)– Private Company
 - Charles Bailly (Bismarck) – Public Accounting
 - Bobcat Company (Bismarck) – Listed Company (7 years)
 - CNH Industrial (Fargo) – Listed Company (17 years) CNH stands for Case – New Holland
 - Retired 2013

A LITTLE MORE ABOUT COREY

- Land owner in Divide County, North Dakota (land was homesteaded by ancestors)
- Mineral Owner in Divide County, North Dakota
 - Have mineral ownership that is held under a lease which pays royalties.
 - Have mineral ownership that is producing under the terms of an unleased mineral interest pursuant to NDCC 38-08-08

TOPIC ONE – LEASED MINERAL INTERESTS

- Lease is for mineral ownership that covers three contiguous 1280 acre spacing units.
- Lease was negotiated for the benefit of parties that controlled > 50% of each spacing unit.
- Lease contains specific language that prohibits the operator from making any deductions whatsoever from the royalty payment.

North Dakota Board of University and School Lands: Minerals Policy Manual, Page 13

4. Lessee agrees that all royalties accruing to lessor under this policy shall be without deduction for the cost of producing, gathering, storing, separating, treating, dehydrating, vapor recovery, compressing, processing, transporting, conditioning, removing impurities, depreciation, risk capital, and otherwise making the oil, gas and other products produced hereunder ready for sale or use.

TOPIC TWO – UNLEASED MINERAL INTERESTS

- Similarities to Topic One
 - Mineral interests are contiguous to the three spacing units in topic one.
- Dissimilarities to Topic One
 - Mineral owners were unable to negotiate as a group that controlled >50% of the spacing unit.
 - Operator made several offers to lease which were determined by the remaining mineral owners' to be unacceptable offers and were rejected. In late August 2021 I met with a representative of the Operator in Bismarck and expressed our frustration with their tactics and their unwillingness to negotiate in good faith. (Note: During my tenure as Controller for Bobcat and CNH Industrial I was at the negotiating table for 4 Union Contracts, believe me I know what negotiating in good faith vs bad faith is).
 - At that meeting I was instructed by the Operator's representative to sign the lease they offered as it was their last and final offer.

AND NOW THE FUN STARTS

BIG BULLY OIL. LLC

P.O. Box 935

Bismarck, ND 58502-0935

Phone: (701) 255-5662 FAX: (701) 258-1562

Email: [REDACTED].com

Less than 10 days later

September 8, 2021

CORRECTED

RE: Well Proposal

[REDACTED]
T162N-R100W

Sec. 04 & 09: ALL Divide
Co., ND

Dear Owner:

[REDACTED] hereby proposes to drill the [REDACTED] as Three Forks formation horizontal well with a spacing unit described as Section 04: All and Section 09: All, Township 162 North- Range 100 West, Divide Co., ND. The surface location of the well will be 425' FSL, 1,450' FWL of Section: 33, Township 163 North, Range 100 West. The bottom hole location will be 50' FSL, 1,600' FWL of Section: 09, Township 162 North, Range 100 West with a total horizontal offset length of 11,000'. This well has been drilled but not completed with completions planned sometime this month.

██████████ would prefer to secure a lease on your minerals but in the alternative, you can elect to participate in the operation and pay your share of the drilling costs. After multiple unsuccessful lease negotiation attempts, our final lease offer to you is ██████████/acre for a █-year lease with a ██████ royalty on an approved Big Bully Oil, LLC ██████████ lease form.

According to the title information available, you own an unleased mineral interest of ██████████ net acres or a ██████████ working interest the proposed 1,280.16 spacing unit. ██████████ invites your participation in this well. The Title Opinion is being worked on for this well and your final working interest percentage and any resulting accounting change to your billings will be based on the opinion. As such, you should verify your interest in the proposed spacing unit prior to making your election as your election will be based on your full actual working interest in the spacing unit. Enclosed is a cost estimate (AFE) for the drilling (\$2,222,000) and completion (\$3,859,533) of this well; totaling \$6,081,533 gross. If you elect to participate, please provide this office with a signed AFE and payment for your estimated share of the AFE drilling and completion costs (\$950,239.53) based on our title information.

[REDACTED] would like to have your response as soon as possible, but at least within 30 days from receipt of this notice. Should you fail to make an election during that period, your interest may be subject to penalties under Joint Operating Agreement or force pooled under the applicable statutes of the state of North Dakota. In the event, your working interest will be subject to a risk

penalty as allowed by Section 38-08-08 of the North Dakota Century Code, as promulgated by the North Dakota Industrial Commission (NDIC). If you object to the risk penalty, then you have the right to respond in opposition to any petition for a risk penalty that [REDACTED] could file with the NDIC regarding this well. In the event no risk penalty petition is filed, you may file a petition with NDIC requesting a hearing on this matter.

Please indicate your participation election in the space below and return one executed copy of this letter to my attention at the address shown above. If your decision is to participate, return a signed copy of the AFE as well

If you elect to participate, please provide a check in the amount of **\$950,239.53** to the following:

[REDACTED]
Department #41404
P.O. Box 650823
[REDACTED]

EMAIL DATED APRIL 21, 2022

We have had a chance to review the first Royalty payments made by PHLLC on the below referenced well. We have several questions and I was wondering if you could take some time to address them. I am available to clarify the questions if you need further information or perspective. Feel free to call me at 701-306-3986.

Regards,
Corey

Questions regarding the Royalty Payments on UMI for MURPHY 162-100-4B-9-H (WELL#26059)

Volumes Royalty Paid On:

Below is the information PHLLC provided the State of ND. The Oil volumes seem to agree with the volumes on the Royalty Statement. The Casinghead Gas volumes do not seem to agree. The volumes paid on were significantly below the volumes produced. The understanding is that PHLLC owes the mineral owner a royalty on all gas produced. Please explain the discrepancy in gas produced vs gas paid on Royalty Statement.

Oil price used to determine royalty payment:

It appears that PHLLC is using a "Price after Deductions" to base the royalty calculation on. The understanding is that PHLLC should be using the "Gross Price Received" as the statutes call for a cost free royalty to be paid to the mineral owner. Please explain the term "Price after Deductions" and detail the deductions that are being taken to determine this value.

Casinghead Gas price same questions as Oil above.

Casinghead Gas Processing Fees:

Deductions were taken at a straight 25% for "Processing Fees". The statute calls for a cost free royalty to be paid to the mineral owner. What methodology is PHLLC using to make a 25% deduction from a price that already included deductions before calculating the royalty payment? Please explain in detail the calculation of the Casinghead Gas royalty.

Products:

Same situation and questions as the Casinghead gas category.

EMAIL DATED MAY 11, 2022

Can you provide a time line of when PHLLC will respond to the questions that were raised on the above referenced well?

Regards,
Corey

EMAIL DATED MAY 11, 2022

Good Afternoon, Mr. Dahl,

I will address part of your email, but the explanation of the deductions and payout statements are not my department. I will discuss the statutory royalty and “cost-free” issue below:

Under North Dakota law, unless an **oil and gas lease has a specific provision** restricting certain costs from being deducted from royalty payments on production, an operator may deduct certain costs associated with marketing, processing, transportation, etc. **This has been established numerous times in the ND courts including the case Petro-Hunt v. Bice. Petro-Hunt's deductions on royalty payments are within the boundaries of the law.**

Also under ND law, statute doesn't provide a “cost-free royalty” in the sense of gross proceeds at the wellhead. However, your statutory royalty of 16% (or average weighted royalty in the unit per operator's choice) does not bear the costs to drill, complete, or operate the well; the 84% **PHLLC** receives does. As a non-consent unleased mineral owner, you are not responsible for the costs associated with drilling and completion the well until the well pays out 150% of those costs to drill/complete. During this non-consent penalty period, **PHLLC** carries the liabilities and costs to operate while receiving an operational cost bearing 84% royalty to cover the non-consent costs your whole interest bears. Also under the law, the operator has certain lien rights if costs are not paid by partners in the well, which provides the operator a royalty percentage of non-consent unleased owners to recoup those costs.

PHLLC deducts what is allowed under law and you are paid a royalty on the same basis as PHLLC post deductions. You are being treated as any other non-consent mineral owner under the force pool statutes of North Dakota. Should you have any other issues regarding deductions, you should reach out to your attorney for advice. PHLLC is deducting what is allowable under the law and will continue to do such.

Kevin will have to address the more specific deductions and payout information. **However, I can tell you that the state's website is not always up to date.** Also, produced vs. sold comes into play. Just because it was produced, doesn't mean we sold the product yet. That's where there could be some discrepancy on volumes v sold.

Thank you,

Derick J. Rolley, Esq
Professional Landman

Type	Production Date	Property Values			
		BTU	Volume	Price	Value
Property: 118*23513		ORLYNNE 2-3H, State: ND, County: DIVIDE			
CASINGHEAD GAS					
ROYALTY INTEREST	Nov 22		464.59	4.52	2,101.05
		<i>Price After Deductions: 3.39; Property Value Less Deductions: 1575.79;</i>			
SEVERANCE TAX	Nov 22				(83.52)
OIL SALES					
ROYALTY INTEREST	Dec 22		356.76	79.47	28,351.04
		<i>Price After Deductions: 77.35; Property Value Less Deductions: 27593.88;</i>			
SEVERANCE TAX	Dec 22				(1,379.69)
ROYALTY INTEREST	Dec 22		356.76	79.47	28,351.05
		<i>Price After Deductions: 77.35; Property Value Less Deductions: 27593.89;</i>			
SEVERANCE TAX	Dec 22				(1,379.69)
PRODUCTS					
ROYALTY INTEREST	Nov 22		8,154.28	0.59	4,802.46
		<i>Price After Deductions: 0.12; Property Value Less Deductions: 948.61;</i>			

Interesting math: Severance tax on Casinghead gas is 3.397515% which is a number found nowhere in ND Statute. Per NDCC 57-51-02.2 the Production Tax should be .0905 cents per MCF. Thus $464.59 * .0905 = \$42.04$ Royalty is paid on Gross Value. Severance Tax is paid on Net Value. $(356.76 * 79.47 = 28,351.04)$ $(28351.04 * 5\% = 1,417.52)$ $(356.76 * 77.35 = 27,595.54)$ $(27,595.54 * 5\% = 1379.69)$

CASINGHEAD GAS

UNLEASED MINERAL INTEREST	Nov 22	2,061.10	4.52	9,321.09	0.0
<i>Price After Deductions: 3.39; Property Value Less Deductions: 6990.22;</i>					
SEVERANCE TAX	Nov 22			(516.18)	0.0
PROCESSING FEE	Nov 22			(2,330.87)	0.0
<i>Transaction Code Interest Type Summary Code: Processing</i>					

Amount is exactly 25% of Revenue

OIL SALES

Property Values

Type	Production Date	BTU	Volume	Price	Value
UNLEASED MINERAL INTEREST	Dec 22		6,174.69	77.41	477,971.03
<i>Price After Deductions: 77.41; Property Value Less Deductions: 477971.03;</i>					
SEVERANCE TAX	Dec 22				(23,898.55)
EXTRACTION TAX	Dec 22				(23,898.55)

PRODUCTS

UNLEASED MINERAL INTEREST	Nov 22	42,978.78	0.63	27,205.22	0.0
<i>Price After Deductions: 0.18; Property Value Less Deductions: 7877.34;</i>					
PROCESSING FEE	Nov 22			(19,327.88)	0.0
<i>Transaction Code Interest Type Summary Code: Processing</i>					

Amount is 71% of Revenue

More Interesting math: Severance tax on Casinghead gas is 5.53776% which is a number found nowhere in ND Statute. Per NDCC 57-51-02.2 the Production Tax should be .0905 cents per MCF. Thus $2061.1 * .0905 = \$186.52$.

[REDACTED]
 DETAIL PAYOUT STATEMENT
 Period End Date
 As of 12/31/2021

Date Range
12/31/2021 - 12/31/2021

Owner Number:
Payout Master ID: [REDACTED] 150%

Description	Volume Current Month/Range	Current Month/Range	Inception to Date	Fctr/ Penlt%	Payout Amount
REVENUE					
OIL	30,053.19	2,220,521.19	2,220,521.19		
LESS: TAXES & DEDUCT		222,052.12	222,052.12		
LESS: ROYALTY/ORRI	5,509.75	366,386.01	366,386.01		
WORK INT OIL PRICE	24,543.44 73.89	1,632,083.06	1,632,083.06	100	1,632,083.06
CASINGHEAD GAS	4,654.91	26,270.82	26,270.82		
LESS: TAXES & DEDUCT		7,143.95	7,143.95		
LESS: ROYALTY/ORRI	853.40	3,506.59	3,506.59		
WORK INT CASINGHEAD GAS PRICE	3,801.51 5.64	15,620.28	15,620.28	100	15,620.28
PRODUCTS	96,285.93	85,165.54	85,165.54		
LESS: TAXES & DEDUCT		48,765.72	48,765.72		
LESS: ROYALTY/ORRI	17,652.42	6,673.30	6,673.30		
WORK INT PRODUCTS PRICE	78,633.51 0.88	29,726.52	29,726.52		29,726.52
TOTAL REVENUE		1,677,429.86	1,677,429.86		1,677,429.86

TOTAL REVENUE	1,011,423.00	1,011,423.00		1,011,423.00
EXPENSE				
PROD LEASE WIP - IDC				
PROD LEASE WIP - IDC	17,858.50	1,786,341.53	150	2,679,512.30
	-----	-----		-----
TOTAL 807	17,858.50	1,786,341.53		2,679,512.30

Payout Master ID: [REDACTED] 150%

Description	Volume Current Month/Range	Current Month/Range	Inception to Date	Fctr/ Penlt%	Payout Amount
INTANGIBLE COMPLETION COST					
INTANGIBLE COMPLETION COST		61,872.89	2,794,242.14	150	4,191,363.21
		-----	-----		-----
TOTAL 808		61,872.89	2,794,242.14		4,191,363.21
DRILLING EQUIPMENT - ACP - TCC					
DRILLING EQUIPMENT - ACP -		42,094.72	1,074,643.55	150	1,611,965.33
		-----	-----		-----
TOTAL 810		42,094.72	1,074,643.55		1,611,965.33
DRILLING EQUIPMENT - BCP - TDC					
DRILLING EQUIPMENT - BCP -			493,328.05	150	739,992.08
		-----	-----		-----
TOTAL 809		0.00	493,328.05		739,992.08
LEASE OPERATING EXPENSE - LOE					
LEASE OPERATING EXPENSE - L		114,812.47	121,036.26	100	121,036.26
		-----	-----		-----
TOTAL 905		114,812.47	121,036.26		121,036.26
GEN LIABILITY INSURANCE					
GEN LIABILITY INSURANCE		59.65	178.95	100	178.95
		-----	-----		-----
TOTAL GLI		59.65	178.95		178.95
OEE INSURANCE					
OEE INSURANCE		10.39	31.17	100	31.17
		-----	-----		-----
TOTAL INS		10.39	31.17		31.17
OVERHEAD - COMBINED FIXED RATE					

Owner Number:
Payout Master ID: [REDACTED] 150%

Description	Volume Current Month/Range	Current Month/Range	Inception to Date	Fctr/ Penlt%	Payout Amount
OVERHEAD - COMBINED FIXED R		1,403.38	4,210.14	100	4,210.14
TOTAL OH		1,403.38	4,210.14		4,210.14
WORKOVER EXPENSE - WIP		570.25	7,262.61	150	10,893.92
WORKOVER EXPENSE - WIP					
TOTAL 938		570.25	7,262.61		10,893.92
TOTAL EXPENSE		238,682.25	6,281,274.40		9,359,183.36
Payout Balance					-7,681,753.50

Please Direct Inquires
Concerning this Statement to:

[REDACTED]

Address is a PO box in TX

EMAIL DATED MAY 17, 2022

Mr. Dahl,

Please see attached payout statement for the well's 100% payout and 150% non-consent penalty period. As of this statement, the remaining balance for 150% payout is over \$7.6 million dollars. This will take some time to recoup but feel free check back in a year for an update on payout.

Sincerely,

; Esq

Professional Landman

EMAIL DATED AUGUST 25, 2022

Gentlemen,

It has been awhile since I sent my first inquiries to you and I must say I was not overwhelmed by your response. I was expecting a little more of a professional response from [REDACTED], but on the other hand given our history the response seemed fitting. I was looking for a detailed payout statement for only my share of the drilling costs which is obviously not in the 7.6 million range. Thus I have been forced to "run the numbers" on my own based on the partial deck that I am privy to . Please see attached the results of my assessment of the well data through the month of June for oil and May for the casinghead gas and products. In a nutshell the data would indicate that the well has reached payout for [REDACTED] and that my share of the drilling of the well has a couple of months left at the current rate of production. This would seem to be a far cry from the "check back in a year for an update". Thus we seem to once again have a disconnect that may or may not blossom into a trust issue depending on [REDACTED] reply to this inquiry. I know that [REDACTED] keeps meticulous records on all aspects of the operation of each well. Therefore it should be no great burden for you to share that information with me as a participant in this endeavor.

With respect to the issues surrounding the deductions from our royalty portion of the well's operations I will defer them to a later date as to not overburden [REDACTED], but do not consider them dropped. I will point out that your reference to PHLLC vs Bice does not convince me, as it is clearly a lease term dispute. As you will recall we do not have a lease between us and I have already stated [REDACTED] does not have the power to unilaterally establish the terms by which we will do business. I would prefer to establish those terms in a businesslike manner as opposed to letting a bunch of attorneys go back and forth trying to figure out what the legislature intended. If you feel so inclined feel free to reach out to me to discuss the options that we may have to resolve these differences of opinion.

Regards,

ACCOUNT	AFE	ACTUAL	DIFFERENCE	TOTAL UMI
				0.15625
118.807	1,859,700.00	1,786,341.53	(73,358.47)	418,673.80
118.808	2,677,362.00	2,794,242.14	116,880.14	654,900.50
118.809	362,300.00	493,328.04	131,028.04	115,623.76
118.810	1,182,171.00	1,074,643.55	(107,527.45)	251,869.58
	6,081,533.00	6,148,555.26	67,022.26	1,441,067.64
	950,239.53			490,828.11
118.905		121,036.26		18,911.92
GLI		178.95		27.96
INS		31.18		7.31
OH		4,210.14		657.83
118.938		7,262.61		1,702.17
		132,719.14		21,307.19
TOTAL		6,281,274.40		1,462,374.83

Cost represents 23% of the cost to drill

TOTAL PRODUCTION \$	OIL	\$10,852,325.01
	GAS	164,200.81
	PRODUCTS	477,792.73
		<u>\$11,494,318.55</u>
Royalty "simple math" ($11,494,318.55 * .15625 * 16\% = 287,357.93$)		
Actual Royalty		258,190.60

13 months of production – 122,491 bls of oil sold at an average price of \$89.33. Yet the well has not “paid out”.

Life to date of well-Owners of the mineral rights under 15.625% of the spacing unit have received a little over 2% of the total proceeds.

HB 1520 HEARING

TESTIMONY PROVIDED BY COREY J DAHL

TO: North Dakota Gas Producers and Purchasers

FROM: North Dakota Office of State Tax Commissioner

SUBJECT: Notification of Gas Tax Rate for Fiscal Year 2023

DATE: June 1, 2022

In keeping with the provisions of North Dakota Century Code (N.D.C.C.) § 57-51-02.2, the Tax Commissioner has determined that the gas tax rate for the fiscal year beginning July 1, 2022, through June 30, 2023 is \$.0905 per mcf. The gross production tax on gas produced during this time period must be calculated by taking the taxable production in mcf times the \$.0905 tax rate.

North Dakota Board of University and School Lands: Minerals Policy Manual, Page 13

4. Lessee agrees that all royalties accruing to lessor under this policy shall be without deduction for the cost of producing, gathering, storing, separating, treating, dehydrating, vapor recovery, compressing, processing, transporting, conditioning, removing impurities, depreciation, risk capital, and otherwise making the oil, gas and other products produced hereunder ready for sale or use.

HOUSE BILL 1203 APPROVED APRIL 14, 1983

House Bill No. 1203
Before the Senate Natural Resources Committee

Testimony of
Douglas L. Johnson
Assistant Attorney General
Oil and Gas Division
North Dakota Industrial Commission

House Bill No. 1203 amends Subsection 1 of Section 38-08-08 of the North Dakota Century Code to provide that when the Industrial Commission force pools a spacing unit unleased mineral owners are to be treated as royalty owners as to 1/8 of their interest and are to be treated as working interest owners as to the other 7/8 of their interest. As everyone may not understand the terms "spacing" and "pooling" I will briefly explain the terms.....

The problem that House Bill 1203 addresses is what happens to an unleased mineral owner when a spacing unit is force pooled.....

Putting this into actual dollar figures, assume that the well drilled by Gulf cost \$2 million to drill and complete and produced 60,000 barrels of oil before being plugged. Assume that the oil sold for an average of \$30 per barrel for a total revenue of \$1.8 million. In other words the well does not pay out.

Under the Industrial Commission's order, the money from the sale of the oil would have been divided as follows:

N/2 of the Section

Mr. Smith — $1/8 \times 1/2 \times \$1,800,000 = \$112,500$

Gulf----- $7/8 \times 1/2 \times \$1,800,000 = \$787,500$

y

S/2 of the Section

Mrs. Black — $1/8 \times 1/2 \times \$1,800,000 = \$112,500$

Gulf----- $7/8 \times 1/2 \times \$1,800,000 = \$787,500$

\$1,800,000

If Mrs. Black's unleased minerals are treated entirely as a working interest, as some oil companies want, the proceeds from the 60,000 barrels of oil would be divided as follows:

N/2 of the Section

Mr. Smith — $1/8 \times 1/2 \times \$1,800,000 = \$112,500$

Gulf..... $7/8 \times 1/2 \times \$1,800,000 = \$787,500$

S/2 of the Section

Mrs. Black -- 0

Gulf $8/8 \times 1/2 \times \$1,800,000 = \$900,000$

\$1,800,000

The Industrial Commission has felt that It is "just and reasonable" to include a 1/8 - 7/8 provision in its pooling orders because such a provision is necessary to ensure that all mineral interest owners received their 'just and equitable share" of production. The Industrial Commission does not feel that it is ever just and equitable for a mineral owner to receive nothing from a well that produces close to \$2 million worth of oil when the mineral owner owns half the minerals under the well.

North Dakota Board of University and School Lands: Minerals Policy Manual, Page 11

Royalties. If a sale of gas, carbon black, sulfur, or any other products produced or manufactured from gas produced and marketed from the leased premises, including liquid hydrocarbons recovered from such gas processed in a plant, does not constitute an arm's length transaction, the royalties due lessor shall be as follows:

1. On any gas produced and marketed (except as provided herein with respect to gas processed in a plant for the extraction of gasoline, liquid hydrocarbons or other products), the royalty, as determined by the Board, shall be based on the gross production or the market value thereof, at the option of the lessor, such value to be based on the highest market price paid for gas of comparable quality and quantity under comparable conditions of sale for the area where produced and when run, or the gross proceeds of sale, whichever is greater; provided that the maximum pressure base in measuring the gas under this lease contract shall not at any time exceed 14.73 pounds per square inch absolute, and the standard base temperature shall be sixty (60) degrees Fahrenheit, correction to be made for pressure according to Boyle's Law, and for specific gravity according to a test made by the Balance Method or by the most approved method of testing being used by the industry at the time of testing.
2. On any gas processed in a gasoline plant or other plant for the recovery of gasoline or other liquid hydrocarbons, the royalty, as determined by the Board, is based on the residue gas and the liquid hydrocarbons extracted or the market value thereof, at the option of the lessor. All royalties due herein shall be based on eighty percent or that percent accruing to lessee, whichever is greater, of the total plant production of residue gas attributable to gas produced from the leased premises, and on forty percent or that percent accruing to lessee, whichever is greater, of the

North Dakota Board of University and School Lands: Minerals Policy Manual, Page 12

total plant production of liquid hydrocarbons attributable to the gas produced from the leased premises; provided that if a third party or parties are processing gas through the same plant pursuant to arm's length transaction and one such transaction accounts for an annual average of ten percent or more, or all such transactions collectively account for an annual average of thirty percent or more of the gas being processed in such plant, the royalty shall be based on the gross proceeds of sale that would accrue to lessee if the gas were processed under the terms of the most remunerative third party transaction for processing gas in such plant. Respective royalties on residue gas and on liquid hydrocarbons where the requirements for using third party transactions cannot be met shall be determined by

- a. The highest market price paid for any gas (or liquid hydrocarbons) of comparable quality and quantity under comparable conditions of sale in the general area F.O.B. at the plant after processing;
- b. The gross proceeds of sale for such residue gas (or the weighted average gross proceeds of sale for the respective grades of liquid hydrocarbons), F.O.B. at the plant after processing; or
- c. The gross proceeds of sale paid to a third party processing gas through the plant, whichever is greater. Lessee shall furnish copies of any and all third party gas processing agreements pertaining to the plant upon lessor's request.

TESTIMONY
HOUSE BILL 1520
ENERGY AND NATURAL RESOURCES COMMITTEE
REPRESENTATIVE PORTER, CHAIRMAN
FEBRUARY 9, 2023

Chairman Porter, members of the Energy and Natural Resources Committee, thank you for the opportunity to testify before you today. My name is Shane Leverenz. I currently reside in Aubrey, TX and my family owns land and mineral rights in North Dakota. I am here in favor of House Bill 1520. My testimony will include examples to support each of the six provisions contained in the bill and provide background information for why royalty owners are asking for your support in passing House Bill 1520.

Section 1 is a new subsection that addresses the Industrial Commission and its jurisdiction in comparison to a district court. After researching this topic and reviewing several court cases and commission documents, I support this addition to section 38-08-04 of the North Dakota Century Code. A direct quote from a letter I received March 18, 2022, from the Department of Mineral Resources stated, "The Commission does not have jurisdiction to enforce lease terms, division orders, or other agreements regarding the payment of royalties; that jurisdiction lies with a district court." In the North Dakota Supreme Court ruling for Schank v. North American Royalties, Inc. 201 N.W.2d 419 (1972), the Court stated, "Furthermore, the Industrial Commission is an administrative agency and, as such, is not empowered by the statutes to determine the legal relationship between a lessor and a lessee. This is a matter for the courts in an appropriate action." Adding this section to the Century Code will minimize claims that a mineral owner has not exhausted administrative remedies by clearly defining where these disputes belong and save the courts, and the commission, time.

Section 2 will provide an immense help for royalty owners by providing electronic data and information they need to contact an operator. While every royalty check comes with an information

statement as required in section 38-08-06.3 of the North Dakota Century Code, it is far from helpful for many reasons which I will illustrate in a moment. Requiring a portable document format and comma-separated values file, more commonly known as a PDF and Excel CSV file, is essential for a royalty owner to analyze their payment information. Paper statements we have received have been hundreds of pages with over 14,000 lines of data covering adjustments that go back ten years.

To illustrate how difficult it can be for a royalty owner to understand whether they are being paid correctly, I have pasted a page from a statement we received to show some of the challenges.

ROYALTY INTEREST	Oct 17	(2,298.32)	51.22	(117,726.50)	0.00038922	0.00038922	(0.89)	(45.82)	
<i>PPH: OWNERSHIP CHANGE: Gross Value After Deductions: -111166.30; Price After Deductions: 48.37; Gross Net: -100469.66; Owner Value After Deductions: -43.27; Owner Price After Deductions: 48.62; Owner Net: -37.96</i>									
ND MINERAL EXTRACTION TAX	Oct 17			5,558.32	0.00038922	0.00038922		2.16	
SEVERANCE TAX	Oct 17			5,558.32	0.00038922	0.00038922		2.16	
TRANSPORTATION/GATHERING EXP	Oct 17			6,560.20	0.00038922	0.00038922		2.55	
ND - STATE NON RESIDENT WITHHOLDING	Oct 17			0.00	0.00038922	0.00038922		0.99	
AMOUNT									
ROYALTY INTEREST	Jan 20	(2,166.28)	54.67	(118,423.04)	0.00038922	0.00038922	(0.84)	(46.09)	
<i>PPH: OWNERSHIP CHANGE: Gross Value After Deductions: -106462.30; Price After Deductions: 49.16; Gross Net: -114145.05; Owner Value After Deductions: -41.44; Owner Price After Deductions: 49.33; Owner Net: -36.31</i>									
ND MINERAL EXTRACTION TAX	Jan 20			5,323.12	0.00038922	0.00038922		2.07	
SEVERANCE TAX	Jan 20			5,323.12	0.00038922	0.00038922		2.07	
TRANSPORTATION	Jan 20			20.64	0.00038922	0.00038922		0.00	
TRANSPORTATION/GATHERING EXP	Jan 20			8,222.33	0.00038922	0.00038922		3.20	
TRANSPORTATION	Jan 20			3,717.72	0.00038922	0.00038922		1.45	
ND - STATE NON RESIDENT WITHHOLDING	Jan 20			0.00	0.00038922	0.00038922		0.99	
AMOUNT									
ROYALTY INTEREST	Jan 18	(102.83)	63.25	(132,998.34)	0.00038922	0.00038922	(0.82)	(51.77)	
<i>PPH: OWNERSHIP CHANGE: Gross Value After Deductions: -126677.83; Price After Deductions: 60.31; Gross Net: -114145.05; Owner Value After Deductions: -49.37; Owner Price After Deductions: 60.21; Owner Net: -43.34</i>									
ND MINERAL EXTRACTION TAX	Jan 18			6,341.39	0.00038922	0.00038922		2.46	
SEVERANCE TAX	Jan 18			6,341.39	0.00038922	0.00038922		2.46	
TRANSPORTATION	Jan 18			61.34	0.00038922	0.00038922		0.02	
Represented Unit of Measure: Gas = MCFs, Plant Products = GALs, Oil = BBLs									
Generated on Friday, May 27, 2022 7:25 PM									
© 2022 Enverus. All rights reserved. Unauthorized use prohibited.									
4	Owner	Operator							
		Property Values				Owner Share			
Type	Production Date	BTU	Volume	Price	Value	Owner Interest	Distribution Interest	Volume	Value
TRANSPORTATION/GATHERING EXP	Jan 18				6,109.17	0.00038922	0.00038922		2.38
ND - STATE NON RESIDENT WITHHOLDING	Jan 18				0.00	0.00038922	0.00038922		1.11
AMOUNT									
ROYALTY INTEREST	Oct 19	(2,083.06)	50.12	(104,411.63)	0.00038922	0.00038922	(0.81)	(40.64)	
<i>PPH: OWNERSHIP CHANGE: Gross Value After Deductions: -94886.91; Price After Deductions: 45.60; Gross Net: -85488.71; Owner Value After Deductions: -36.98; Owner Price After Deductions: 45.65; Owner Net: -32.41</i>									
ND MINERAL EXTRACTION TAX	Oct 19				4,749.35	0.00038922	0.00038922		1.85
SEVERANCE TAX	Oct 19				4,749.35	0.00038922	0.00038922		1.85
TRANSPORTATION	Oct 19				7.50	0.00038922	0.00038922		0.00
TRANSPORTATION/GATHERING EXP	Oct 19				6,145.11	0.00038922	0.00038922		2.39
TRANSPORTATION	Oct 19				3,272.11	0.00038922	0.00038922		1.27
ND - STATE NON RESIDENT WITHHOLDING	Oct 19				0.00	0.00038922	0.00038922		0.87
AMOUNT									

This is one of 98 pages for the payment on a single well that had adjustments that spanned nearly eight years from May 2014 through March 2022.

The blue highlighted box is to call attention to how the production dates are not in any sort of chronological order which forces you to search page by page for other adjustments tied to the same date. On this particular check there were multiple adjustments related to oil production in October 2017. These adjustments appeared on pages 39, 53, 62, 75 and 76 with no apparent rhyme or reason for being scattered throughout the statement. If this data were provided in an Excel format it would take seconds to sort the data by the date and see exactly what all the adjustments were.

The yellow highlighted areas illustrate how there is no total included for each date of production so those figures would need to be manually calculated by the royalty owner. I point these things out to illustrate how time consuming it is to reconcile the information statement and how unrealistic it is to expect a royalty owner to be subject to manually calculating the data contained on paper copies in today's digital age.

Most operators have moved their reporting to a third party such as EnergyLink where costs to download an Excel file can be \$80 or more for each statement. These reports were available free of charge from many oil companies in the past. The North Dakota Trust Lands Revenue Compliance Division stipulates that the only accepted form for submitting royalty data is Excel. There is no reason the industry should oppose providing royalty data to private mineral owners in Excel as well. We should not have to pay an oil company, or their third-party administrator, for our royalty data so we can determine what is included in our payment and verify it is accurate.

The second request in this section is the requirement for an operator to provide their contact information to the commission and royalty owners. Unfortunately, it is not as easy as it should be to find contact information for many companies. Lynn Helms, Director, North Dakota Industrial Commission Department of Mineral Resources, in his testimony for Senate Bill 2194 on January 20, 2023, made the following statement regarding requests from mineral owners, "The most common

concern is the inability to find and maintain a consistent and helpful contact within the operator's mineral owner department."

Recently I sent certified mail with a return receipt on three separate occasions to a company only to have each letter returned to me as undeliverable. The address that was on paperwork filed with the commission, which was found in the well file located on the Department of Mineral Resources website, should have been valid. I spoke with someone at the Department of Mineral Resources who told me that the department also struggles with obtaining valid contact information for some companies. I am definitely in favor of adding a penalty for any company that does not maintain valid contact information with the department and specifying that they must make the information available to the commission.

Section 3 relates to the verification of a royalty owners' interest in a well and the calculation used by the operator to pay the correct amount of royalty for the oil and gas produced. When a royalty owner finds a discrepancy in the decimal interest being paid, they must have a way of contacting the company to resolve the dispute which is another reason it is important to require the contact information contained in Section 2 of the bill. I have spent the past several years working through decimal interest disputes with many companies. There are some companies that are very easy to work with and willing to update their records when they realize the title work that was completed when the well was drilled was incorrect. But there are many more companies that have shown little interest in resolving a valid dispute and either will not answer a request or will not provide information even when you have provided copies of every deed recorded back to the patent for the mineral rights you own. Below are portions of correspondence with various companies:

- "I really have no other information to give you. **We are not obligated to mail each owner a calculation as to how their interest was calculated,**"

- **“I apologize that only the WI owners seemed to be in the loop in regard to the allocation, but there is not more I can tell you, except the acreage noted when the allocation well was set up.”**
- **“There is no spreadsheet to provide. The computer took separate wells that were already set up, and pulled in certain percentages and created the numbers for us.”**
- **“If you’re still under the impression that the acres are wrong, we would have to know who we need to be taking acres “away from” in order to give it to you”**

Companies have the information that was used to calculate the interest for a royalty owner. When there is a dispute over the decimal interest being paid, they should provide the relevant information to the royalty owner so the issue can be resolved amicably. When companies are unwilling to do so it creates distrust because there is no transparency. If a mineral owner’s only recourse is to take the matter to court and the court finds information was wrongfully withheld, then the court should have the ability to assess a penalty.

The final request in this section is equally important. There are three components to determining the decimal interest used to pay a royalty. The number of mineral acres owned, the percentage agreed to on the lease and the spacing unit determined by the commission. A royalty owner is responsible for knowing what acres they own and the lease they signed but they have no control or input over the spacing unit even though that must be known to calculate their interest. The Department of Mineral Resources maintains a robust website that has an incredible amount of information. However, there are essential pieces of information that are not accessible unless a subscription is paid for. This includes the spacing unit and any orders or cases that the commission used in determining the spacing unit. An individual mineral owner should not be required to pay for access to this information because without it they have no way of verifying if they are being paid correctly. The Department of Mineral Resources told me that the legislature approved charging a fee in

1985. I have not been able to find that information but believe the fee would be appropriate for accessing certain portions of the website though not appropriate for the spacing information.

Section 4 is a straightforward request to hold industry accountable for paying the royalties they owe in a timely manner as defined in Section 47-16-39.1 of the North Dakota Century Code. Something that should be taken for granted is painfully not adhered to by many companies. The requirement is for companies to pay interest on unpaid royalties without the mineral owner having to request the interest be paid. Not only do companies fail to comply with this requirement, they outright ignore making the interest payment when they are asked to do so. Hiring an attorney to send a demand letter to a company requesting the payment of interest can cost more than the interest that is owed. And taking the matter to court is even more expensive. For these reasons, I agree with the language stipulating that the mineral owner is entitled to recover court costs and reasonable attorney's fees if the company chooses to ignore what they are required to do so there will be a consequence for not complying with the statute.

In Section 5 there is a simple requirement for records to be sent electronically upon request if a royalty owner asks to inspect the oil and gas production and royalty payment records. It also adds a provision for a penalty if the district court finds a company did not comply with the requirements. This additional language for the benefit of royalty owners matches the same protections afforded the board of university and school lands in subsections 3 and 4 which was passed by the legislature in the 2019 session as Senate Bill 2212. Since the industry is required to provide records electronically to the state, there should be no hardship for them to provide the same information to those of us that own mineral rights in North Dakota. As for the penalty provision, Chair Unruh stated in the 2019 Senate Standing Committee Minutes, "Every other state has some type of penalty for these types of violations. I think

it's appropriate for us to have something in code." It would be appropriate to have something in code to protect individual mineral owners as well as the state, which is why I support this addition.

In Section 6 the bill adds the provision for a penalty when a company does not comply with the requirement to provide information to the royalty owner to help resolve spacing unit ownership disputes. My support for this portion of the bill is to provide a consequence for noncompliance as mentioned in earlier sections. With this addition, the court will determine what the fine should be for wrongfully withheld information.

I want to leave the committee with some final thoughts. In 1983 the legislature was asked for the first time to require that certain information be provided on royalty statements. There were some comments captured in the minutes related to that bill that I feel are important to share with the committee today. In a Letter from Shell Oil Company to Allen I. Olson, Governor, State of North Dakota, "Testimony offered by Representative Jack Murphy and other royalty owners at the hearing indicated that their main concern was the lack of meaningful communication between the royalty owner and producer when the royalty owner posed a question regarding his royalty payment. Representative Murphy testified that many times he would have to wait long periods of time for a response to his royalty-related inquiries and, in some instances, he testified he never received a reply." Royalty owners still face this same issue today. I would submit to the committee that the reason for this dilemma is the absence of any consequences or remedies when an oil company chooses to ignore current statutes. Adding a penalty to the century code will make it difficult for a company to ignore these statutes in the future.

In a Letter from Rocky Mountain Oil & Gas Association, Inc., "Until recently, the industry had perceived North Dakota as a state which welcomed exploration and development of this and other industries. Unfortunately, the regulations being considered now by the Industrial Commission further

damage this perception and will, I fear, have a further chilling effect in the consideration of North Dakota as a choice for exploration whenever alternatives exist.many purchasers will find the paperwork to be unjustified, and....will undoubtedly direct their crude oil purchases out of State. Secondly, the expense of maintaining these per well records, will undoubtedly result in the decision to eliminate purchases of small quantities from stripper and marginal wells with the result we predict with certainty the plugging of many of these wells, with the resultant loss of production and loss of tax revenue to the State as well as income to the royalty owner.”

The oil industry did not plug wells or cease production in the state because they were required to provide information to royalty owners in 1983 and they will not do so if the initial version of House Bill 1520 passes in this session. If industry representatives testify in opposition to House Bill 1520 today, or in future hearings, I hope you will question their reasons for doing so because similar requirements are already in the Century Code or required by the board of university and school lands. The individuals who own mineral rights in North Dakota respectfully ask you to provide the same rights to verify their royalty payments that the state has given itself.

Finally, there have been several occasions during hearings or on the floor when legislators have commented that royalty owners should simply settle disputes in court. This is a baffling response considering the overwhelming advantage a multibillion-dollar corporation has over an ordinary royalty owner in North Dakota. I would hope that in the future, legislators would keep in mind that numerous families own their mineral rights because they homesteaded in North Dakota or were farmers and ranchers that settled in western North Dakota decades ago. There may be some Jed Clampetts that could pack up the family and move to Beverly Hills but for many of the rest who may receive a few hundred or few thousand dollars a year from royalties it would cost them far more in attorney fees

than they are paid to take an oil company to court. Passing House Bill 1520 will provide royalty owners access to their information, so they do not need to go to court to request it.

Thank you for the opportunity to present testimony today. I welcome any questions the committee may have, and I ask for your favorable consideration of House Bill 1520.

Testimony of Madeline Bugh on Behalf of Dorchester Minerals, L.P.

House Bill No. 1520

Energy and Natural Resources Committee

Representative Porter, Chairman

February 9, 2023

Chairman Porter and members of the Energy and Natural Resources Committee, thank you for the opportunity to testify before you today in support of House Bill 1520. My name is Madeline Bugh, and I am in-house counsel for Dorchester Minerals, L.P. (“Dorchester”), which is located in Dallas, Texas. Dorchester actively owns and manages minerals, or some form of working interest or royalty interest associated with minerals located in roughly 37 counties in North Dakota. Dorchester has experienced many of the issues that House Bill 1520 seeks to address. My testimony, on behalf of Dorchester, is in favor of House Bill 1520 and will provide some key examples and explanations for the importance of the proposed amendments.

Section 1: Amendment to Section 38-08-04

Section 38-08-04 as currently written has caused confusion regarding whether issues of post-production deductions and various other issues regarding oil and gas royalty payments are properly within the jurisdiction of the North Dakota courts or whether they are within the jurisdiction of the North Dakota Industrial Commission (“NDIC”). The specific language of 38-08-04(b)(1) granting the NDIC the power to regulate “all other operations for the production of oil or gas” is confusing and misleading. In my own experience the current wording of this statute has caused both a delay in time and additional expense trying to determine proper jurisdiction. This is the crux of the issue. Whether a claim is within the jurisdiction of the NDIC versus the courts should be clear. The amendment as proposed would clear up much of this unnecessary confusion with regards to where jurisdiction is proper, thus saving mineral owners collectively an undoubtedly large amount of both time and money.

Section 2: Amendment to Section 38-08-06.3

Dorchester supports the proposed amendments to Section 38-08-06.3, which seek to provide valuable information to mineral owners via electronic means rather than cumbersome paper checks. On their own, revenue checks are nearly impossible to determine the actual value attributable to a single well's monthly production. It is common to see reversals and rebooks going back several years—sometimes as much as eight or more years. When reversals and rebooks occur on a monthly basis, stretching back over the span of almost a decade, it becomes impossible to calculate what you are actually being paid for each month's production. Dorchester is fortunate to have an accounting system that puts together the “puzzle pieces” of each month's reversals and rebooks to see the full picture, but herein lays the issue: a fancy accounting system should not be necessary to see what you are getting paid. Further, it is egregious to expect mineral owners to pay for a service such as EnergyLink, when instead they could undoubtedly be provided this same information from the operator in excel format.

Additionally, Dorchester supports the amendment to Section 38-08-06.3 requiring an operator to keep its contact information current with the NDIC, as well as the associated penalty for non-compliance. Through my experience in dealing with operators, unfortunately, the general trend seems to be that operators are not concerned with compliance unless a penalty is associated with non-compliance.

Section 3: Amendment to Section 38-08-06.6

The creation of Section 38-08-06.6 as proposed is particularly important for mineral owners to verify that their ownership in a well is being calculated and paid correctly. Currently, there are no requirements that operators provide this necessary information, nor are there any penalties if an operator fails to respond to these inquiries. Thus, there is no incentive for operators to be responsive, because they have no liability or accountability for failure to respond. And unfortunately, this seems to be the modus operandi. Recently, Dorchester inquired with an operator regarding several Division of Interest (“DOI”) calculations contained on a composite Division Order which did not match Dorchester's understanding of

its ownership, as analyzed by various Professional Landmen. Despite sending several emails requesting assistance, the only response Dorchester received merely stated that the operator forwarded Dorchester's inquiry:

We have forwarded your inquiry to the respective geographical analyst to review and respond. If additional information is needed, the analyst assigned will be in contact with you. We are experiencing an increase in inquiries so your patience is appreciated.

Should you have any further questions, please visit our new

[ASSISTANCE FOR OWNERS SITE](#)

Sincerely,

However, nearly five months after this reply, despite sending several more emails, Dorchester still had yet to receive a substantive response from the operator. In fact, the only reason this issue was resolved (after more than nine months), was due to an unrelated mineral interest (located in a different state) for which the operator needed Dorchester's consent to assign a lease. Over the course of nine months, no progress was made in what Dorchester can only assume was the operator's error in calculating the DOI—Dorchester still has not been told why the DOI calculations had severely decreased Dorchester's interest. Unfortunately, this is not a single occurrence. This is a common issue, for which there is no redress under the current statute. The creation of Section 38-08-06.6 as proposed in this bill will provide much needed protection for the common mineral owner who does not have the added protection of an unrelated mineral interest to force an operator to fix an issue that is solely within their power to control and is their fault to begin with. This is why the creation of Section 38-08-06.6 is so important, particularly the penalty provision, without which leaves little incentive for operators to comply with the statute.

Section 4: Amendment to Section 47-16-39.1:

The proposed amendments to Section 47-16-39.1 seek to redress multiple issues with the current language of the statute. The first of which is the exclusion of Overriding Royalty Interest ("override") owners in the protections allotted by this statute, namely, the right to receive interest on wrongly withheld royalty payments. Currently, the case *Sunbehm Gas, Inc. v. Equinor Energy, LP*, No. 1:19-CV-94, 2020 WL 2025355 (D.N.D. Apr. 27, 2020) stands for the proposition that Section 47-16-39.1 does not apply to the holder of an override. But I implore you to ask yourself, why override owners are excluded from this

same protection allotted to royalty owners? Yes, an override is different from a royalty interest because it is carved out of a lease rather than the mineral estate directly. However, an override, just like a royalty interest, is paid to the owner directly by the operator/payor and in the same manner as a royalty. Why then can an operator hold onto the override owner's "royalty" interest free for years upon years but not a royalty owner's? Dorchester has unfortunately run into this issue frequently. Most recently, an operator failed to make payments to Dorchester for approximately 10 years for no apparent reason, yet due to current case law of this statutory language, was not entitled to any interest for the wrongly withheld revenue. As you can imagine, such interest *would* have amounted to tens of thousands of dollars. Although an override stems from a different part of the minerals estate than a royalty interest, there is no logical reason why an override owner should be excluded from receiving interest on late payments that have been wrongfully withheld by the operator/payor.

The second issue this amendment accomplishes is providing much needed clarity regarding what the applicable statute of limitations is for interest on late royalty payments. Recently, Dorchester commenced an action against an operator for failure to pay interest on late royalty payments. The operator argued that the applicable statute of limitations is 3 years, but if not, then it is 6 years from the time that the royalty payment was *due*, not when the (late) royalty payment was actually paid. The Court's opined that a determination regarding which statute of limitations applied was unnecessary because Dorchester's claims were not barred under either. However, the applicable statute of limitations for the time in which a royalty owner has to bring suit should be known. It should not be a guessing game for the mineral owner, much less the judiciary branch. This simple amendment stating that "a claim for relief for compensation brought under this chapter must be commenced within the limitations period provided under Section 28-01-15" will provide much needed clarity to mineral owners and alleviate the need for a judicial determination as to which limitations period applies.

The third issue this amendment seeks to address is the outright refusal and denial by operators that interest on late royalty payments are due upon rendering the late royalty payment. This is a very common

issue that Dorchester faces. Despite the clear statutory language mandating the payment of interest on late royalty payments—"*without the requirement of needing to request the interest*"—even upon such request, operators/payors will flat out refuse to pay interest. Another common argument operators/payors will employ is that the statute of limitations for interest begins to run when the late royalty payment was *missed* (rather than when it was actually paid). This means that if a royalty owner gets paid 10 years late, the royalty owner would have lost all claims to interest, *before they even receive the late royalty payments*. This is great for operators/payors because they can avoid liability for interest on late royalty payments by merely waiting until after the limitations period has run out, and just like magic, they have absolved themselves from any liability for their own malice.

As you can see, due to operators blatant disregard for the statutory mandate of interest on late royalty payments, as well as the confusion regarding when the statute of limitations begins to accrue and for how long it continues, the suggested amendments to Section 47.16.39.1 are necessary in affording minerals owners the intended protections of this statute.

Section 5: Amendment to Section 47-16-39.2:

The proposed amendments to Section 47-16-39.2 are needed in order to resolve multiple issues that have in essence defeated the intent of this statute. The intent of 47-16-39.2 was undoubtedly to protect mineral owners by forcing operators to provide transparency through mandatory audits. However, the statute fails to provide the protection for which it was created due to several issues.

The first issue is that the current language does not allow an unleased owner to inspect the production and payment records of the operator/payor. The proposed amendment would provide unleased mineral owners with the same rights as a leased mineral owner under this statute. This amendment is justified because unleased mineral owners are entitled to a statutory royalty under the North Dakota Century Code, yet with the statute as written, have no right to audit the records to ensure they are being paid correctly. The proposed amendments will eliminate an operator's/payor's ability to refuse audits merely

because the mineral owner is unleased. Regardless of whether a mineral owner is leased or not, if they are receiving royalties from the operator, then the right to audit is essential to providing the transparency and protection this statute intended to provide.

Second, the current language has created uncertainty regarding whom the lessor can audit. Operators have claimed that the statute as currently written only allows the mineral owner to audit its lessee. This interpretation is especially problematic. What happens when the operator, who is responsible for paying your royalties, is not your lessee? You have no recourse available to audit their records, even though they are paying your royalties. Dorchester has encountered this issue on more than one occasion. Below is an excerpt of a response to Dorchester's demand to audit the operator's records. Even though Dorchester was leased, the current statutory language provided a loophole through which the operator was able to avoid the audit requirement, merely because the operator was not Dorchester's lessee:

...rights against the lessee, those audit rights do not apply to Petro-Hunt, as the company is not a party to the contract. No statute or law in North Dakota provides a royalty owner with a right to audit the records of a well operator in the absence of a lease or other contractual arrangement that establishes that right. That said, your client's monthly royalty statements from Petro-Hunt

As you can see, the intent of the statute has been completely circumvented, thus rendering this statute essentially useless.

The final issue with this section is that the audit procedure is unduly burdensome because it requires the mineral owner to go to the physical location and look through the documents. Especially when the documents are already in a digital format. Companies routinely use this as a means to discourage audits. Thus, the requirement to provide the electronic versions, when available, is a crucial amendment.

In summary, Dorchester supports House Bill 1520 for the reasons previously stated. Thank you for the opportunity to testify before you today.



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House Bill 1520
Testimony of Ron Ness
House Energy and Natural Resources Committee
February 9, 2023

Chairman Porter and members of the Committee, my name is Ron Ness, president of the North Dakota Petroleum Council. The North Dakota Petroleum Council represents more than 600 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 House Bill 1520.

The responsibility for the correct payment and distribution of proceeds related to oil and gas production falls with the operator. We estimate that there are somewhere between 150,000 and 200,000 royalty owners in the Williston Basin who receive monthly royalty checks related to their mineral interests. It is not uncommon for a single Bakken operator to be responsible for the payment and distribution of around 25,000 royalties to mineral owners. Based on the Economic Petroleum Study conducted by North Dakota State University in 2021, operators in our state are responsible for the annual payment and distribution of approximately \$1.4 billion in royalties to private owners and \$3.77 billion in royalties to private and governmental mineral owners. **Total gross private royalties paid in 2021 were \$4.1 billion.**

As you can imagine, this is a complex issue, with title and ownership under a given drilling spacing unit that could include from one to fifteen hundred owners. Operators must take the time to get payments and distributions of proceeds done right and not pay the wrong party at the expense of another party. The royalty distribution process is not going to keep everyone happy – that is simply an impossible task. At times, the process will be delayed and even reset on account of the sale or transfer of mineral interests or the death of a

mineral or royalty owner. We have an expert in the room who can describe in greater detail the complexity of this process if the committee would like that testimony.

House Bill 1520 as presented before the Committee today is punitive in nature with serious unintended consequences. We adamantly oppose this bill and the extreme shifting of costs to operators and other working interest owners, as well as the harsh punitive fees and processes that will ultimately result in reduced royalty interest leasing offered to royalty owners and undoubtedly lead to increased litigation in our already overwhelmed courts. Our members indicate they have never seen a bill this punitive in an oil-producing state.

The bill sponsor was kind enough to share a copy of the amendment with us. The issue of contention, including that of deductions allowed for by lease contracts, has been before this body numerous times. As you are likely aware, private contract interpretation and reformation does not fall under the purview of the legislature, and such issues must be decided by the courts. It may be true that the amendment acknowledges that changing lease contracts and the terms of the lease contracts dating back to the 1940s is not in the purview of the legislature. However, the issues relating to HB 1520, as amended or not, must be decided in a court of law. Currently, I know of at least four cases relating to this issue that are now in court, and many of the parties advocating for this bill are involved in those cases. I urge this body to let the courts decide what are reasonable post-production deductions and what are not. Each operator and midstream company has a unique contractual lease agreement establishing what will generate the best value for the commodity being sold. Additionally, each royalty owner, overriding royalty owner, and working interest owner also has a unique contract establishing value and payment. It is impossible to derive a single process or formula that works for all the various parties and lease agreements. The proposed amendment to HB 1520 shifts the bill from that of a contractual dispute to a process that will utilize unreasonable timelines, massive penalties, and litigation costs that will necessarily lead to court intervention.

The North Dakota Industrial Commission made substantial changes to the Administrative Code a few years ago that were intended to improve the clarity and accessibility of data relating to royalties. The parties

advocating for this bill did not engage in that process. In my opinion, some changes to the regulations made at that time were positive. However, others resulted in substantial changes to royalty statements that only served to confuse mineral and royalty owners. This process is simply too complex to create a one-size-fits-all formula, a situation very similar to what you may see in your investment statements.

There are some parties that are never going to be satisfied regardless of the amount of data or communication they receive. This is because it is the bottom line with which they are unhappy. We believe that the majority of mineral and royalty owners simply want a place where they can seek support. The Senate Energy and Natural Resources Committee has passed Senate Bill 2194, which creates a Royalty Owner Ombudsman Program within the Department of Agriculture. We have seen this type of program prove successful in resolving issues related to pipelines and wind farms. The Petroleum Council supported that bill understanding there is a critical role for an ombudsman to serve. There are also businesses like Mineral Tracker in North Dakota that provide support for mineral owners and help track owners' production and royalties, a service not unlike using an accountant for your taxes or a lawyer for legal issues. This type of expertise is invaluable.

Finally, the various disputes that may occur between mineral owners and operators are often couched as "David versus Goliath" type situations, with many in favor of shifting liability and costs towards the operator. However, I know firsthand that many of our member operators and working interests owners are local individuals and companies that do not have the financial resources or wherewithal of the larger operators. You will hear directly from some of those individuals today and how this bill, if enacted, will make it impossible for them to continue to thrive as a small operator in this state.

The North Dakota Petroleum Council urges your support and a **Do Not Pass recommendation** for House Bill 1520. I would be happy to answer any questions.

HB 1520
2/9/23 AA

My name is Representative Bert Anderson from District 2, which includes Divide County, Burke County, and portions of Williams and Montrail Counties.

Chairman Porter and members of the House Energy and Natural Resources Committee, I am submitting HB1520 at the request of constituents who are oil and gas royalty owners. HB1520 seeks to address concerns from royalty owners regarding their interaction with the oil industry. In addition, since the introduction of HB1520, my constituents would also ask the proposed amendments be considered.

Chairman Porter and committee members, thank you for the opportunity to present HB1520. I would defer to the others present to answer any questions or concerns relating to the bill and its amendments.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1520

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 38-08-04 and section 38-08-06.6 of the North Dakota Century Code, relating to jurisdiction of the industrial commission and payment for production from wells; to amend and reenact sections 38-08-06.3, 47-16-39.1, 47-16-39.2, and 47-16-39.4 of the North Dakota Century Code, relating to royalties; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 38-08-04 of the North Dakota Century Code is created and enacted as follows:

The commission may not determine the legal relationship between a lessor and a lessee or enforce lease terms or division orders.

SECTION 2. AMENDMENT. Section 38-08-06.3 of the North Dakota Century Code is amended and reenacted as follows:

38-08-06.3. Information statement to accompany payment to royalty owner - Penalty.

1. Any person ~~who~~that makes a payment to an owner of a ~~royalty~~an interest in land in this state for the purchase of oil or gas produced from that royalty interest shall provide with the payment to the royalty owner an information statement ~~that, including a portable document format and comma-separated values file which are unlocked and editable by the recipient free of charge, which~~ will allow the royalty owner to ~~clearly~~ identify clearly the amount of oil or gas sold and the amount and purpose of each deduction made from the gross amount due.
2. The statement must be on forms approved by the industrial commission and contain ~~the~~ information that the commission prescribes by rule.
3. The name, address, telephone number, electronic mail address, and, if available, facsimile number of the oil and gas operator and its designee must be made available by the operator or designee to the industrial commission.
4. A person ~~who~~that fails to comply with the requirements of this section is guilty of a class B misdemeanor.
5. If the mineral owner, mineral owner's assignee, or the owner of an overriding royalty interest prevails in a proceeding under this section, the mineral owner, mineral owner's assignee, or the owner of an overriding royalty interest is entitled to recover court costs and reasonable attorneys' fees.

SECTION 3. Section 38-08-06.6 of the North Dakota Century Code is created and enacted as follows:

38-08-06.6. Ownership interest information statement - Penalty.

1. Within one hundred twenty days after the end of the month of the first sale of production from a well or change in the spacing unit of a well or a decimal interest in a mineral owner, the operator or payor shall provide the mineral owner with a statement identifying the spacing unit for the well, and the effective date of the spacing unit change or decimal interest change if applicable, the net mineral acres owned by the mineral owner, the gross mineral acres in the spacing unit, and the mineral owner's decimal interest that will be applied to the well.
2. An address provided under section 38-08-06.3 also must provide where additional information may be obtained regarding how the operator or payor has calculated the mineral owner's decimal interest and for any questions pertaining to the information provided on the statement. Upon request of the mineral owner, the operator, payor, or the operator's or payor's agent must provide the relevant document number or book and page number of any recorded document and the county in which it was recorded which relates to the owner's decimal interest. If information is requested by certified mail, the answer must be mailed by certified mail within thirty days of receipt of the request.
3. A person who fails to comply with the requirements of this section is liable to the affected owner of an interest, except for the working interest, in the amount of five hundred dollars for each violation and an additional five hundred dollars for each month the court determines the person was not in compliance with this section or wrongfully withheld information under this section. If a mineral owner brings an action to enforce this section and prevails, the court shall award reasonable attorneys' fees and court costs.
4. The department of mineral resources shall make spacing information available, including any orders or cases pertaining to the spacing unit, free of charge on its website, to allow any individual mineral owner to verify the information provided on the statement. The department shall make orders and cases searchable by well name and legal description.

SECTION 4. AMENDMENT. Section 47-16-39.1 of the North Dakota Century Code is amended and reenacted as follows:

47-16-39.1. Obligation to pay royalties - Breach.

1. The obligation arising under an oil and gas lease to pay oil or gas royalties to the mineral owner ~~or~~ the mineral owner's assignee, or the owner of an overriding royalty interest, to deliver oil or gas to a purchaser to the credit of the mineral owner or the mineral owner's assignee, or to pay the market value ~~thereof~~ of the oil or gas is of the essence in the lease contract, and breach of the obligation may constitute grounds for the cancellation of the lease in cases in which it is determined by the court that the equities of the case require cancellation.

2. If the operator under an oil and gas lease fails to pay oil or gas royalties to the mineral owner, ~~or~~, the mineral owner's assignee, or the owner of an overriding royalty interest within one hundred fifty days after oil or gas produced under the lease is marketed and cancellation of the lease is not sought or if the operator fails to pay oil or gas royalties to an unleased mineral interest owner within one hundred fifty days after oil or gas production is marketed from the unleased mineral interest owner's mineral interest, the operator thereafter shall pay interest on the unpaid royalties, without the requirement that the mineral owner, ~~or~~, the mineral owner's assignee, or the owner of an overriding royalty interest request the payment of interest, at the rate of eighteen percent per annum until paid. If the aggregate amount is less than fifty dollars, the operator may remit semiannually to a person entitled to royalties the aggregate of six months' monthly royalties. Payment of a claim for unpaid royalties does not relieve liability for unpaid interest and a separate action may be maintained for the interest.
3. The district court for the county in which the oil or gas well is located has jurisdiction over any proceeding brought under this section. ~~The prevailing party in any proceeding brought under this section is entitled to recover court costs and reasonable attorney's fees. If the mineral owner, mineral owner's assignee, or the owner of an overriding royalty interest prevails in any proceeding brought under this section, the mineral owner, mineral owner's assignee, or the owner of an overriding royalty interest is entitled to recover court costs and reasonable attorney's fees.~~
4. This section does not apply if mineral owners or their assignees elect to take their proportionate share of production in kind, in the event of a dispute of title existing that would affect distribution of royalty payments, or if a mineral owner cannot be located after reasonable inquiry by the operator; however, the operator shall make royalty payments ~~to these mineral owners whose title and for any ownership interest that~~ is not in dispute.
- 2-5. This section does not apply to obligations to pay oil and gas royalties under an oil and gas lease on minerals owned or managed by the board of university and school lands.
6. Payments made under this section must identify interest and royalty amounts separately.
7. A claim for relief for compensation brought under this chapter must be commenced within the limitations period provided under section 28-01-15.

SECTION 5. AMENDMENT. Section 47-16-39.2 of the North Dakota Century Code is amended and reenacted as follows:

47-16-39.2. Inspection of production and royalty payment records - Penalty.

1. A royalty owner, a royalty owner's assignee, an unleased mineral interest owner, or a designated representative, upon written notice, is entitled to inspect and copy the oil and gas production and royalty payment records ~~for the lease of the person obligated to pay royalties under the lease or~~

~~division orders~~ required by section 47-16-39.1. The person obligated to pay royalties under the lease shall make that person's oil and gas royalty payment and production records available for inspection and copying at that person's usual and customary place of business within the United States. Upon request of a royalty owner, records available in an electronic format must be electronically transmitted to the royalty owner. A royalty owner may bring an action to compel the person obligated to pay royalties to allow inspection and copying of oil and gas production royalty payment records. In order for the royalty owner to prevail in such an action, the royalty owner must establish that:

- a. The royalty owner ~~or the royalty owner's assignee~~ complied with the notice requirements of this section;
 - b. The notice specified the leaselands involved, the time period under review and the records requested;
 - c. The royalty owner notified the person obligated to pay royalties at the address printed on the information statement as prescribed by rules adopted by the industrial commission pursuant to section 38-08-06.3; and
 - d. The person obligated to pay royalties denied inspection of the records or failed to respond within thirty days of service of the notice.
2. The district court for the county in which the oil or gas well is located has jurisdiction over all proceedings brought pursuant to this section. If the royalty owner ~~or the royalty owner's assignee~~ is successful in any proceeding brought pursuant to this section, the district court shall allow the royalty owner ~~or the royalty owner's assignee~~ to recover court costs; reasonable costs, fees, disbursements, and expenses incurred by the royalty owner ~~or the royalty owner's assignee~~ or a designated representative in inspecting and copying the oil and gas production and royalty payment records of the person obligated to pay royalties ~~under the lease~~; and reasonable attorney's fees. The district court shall assess a civil penalty of two thousand dollars per day for any period the court determines royalty record payment records requested under this section were wrongfully withheld.
3. If a royalty owner, a royalty owner's assignee, or a designated representative is the board of university and school lands:
- a. The records in subsection 1 must be sent electronically, or in a manner acceptable to the board, to a location designated by the board.
 - b. Notwithstanding subsection 2, at the discretion of the board, a proceeding brought under this section may be brought in the district court of Burleigh County or in the county in which the oil or gas well is located.
4. If the board of university and school lands is successful in any proceeding brought under this section, the district court shall allow the board to recover court costs; reasonable costs, fees, disbursements, and expenses incurred by the board in inspecting ~~the~~ and copying the oil and gas

production and royalty payment records of the person obligated to pay royalties under the lease; and reasonable attorney's fees.

- a. The district court also shall assess a civil penalty of two thousand dollars per day for each day the person obligated to pay royalties under the lease failed to send the oil and gas royalty payment and production records to the board in accordance with subsection 1.
- b. The civil penalty under subdivision a ceases to accrue on the date the proceedings are initiated under subsection 1.

SECTION 6. AMENDMENT. Section 47-16-39.4 of the North Dakota Century Code is amended and reenacted as follows:

**47-16-39.4. Resolution of spacing unit ownership interest disputes -
Penalty.**

1. If the mineral owner and mineral developer disagree over the mineral owner's ownership interest in a spacing unit, the mineral developer shall furnish the mineral owner with a description of the conflict including the document number or book and page number of any recorded documents relevant to the dispute and the proposed resolution ~~er~~along with that portion of the title opinion that concerns the disputed interest, if available to the mineral developer.
2. A mineral developer shall pay the mineral owner five hundred dollars per day for each day the court determines the mineral developer was not in compliance with this section or wrongfully withheld information under this section. If a mineral owner brings an action to enforce this section and prevails, the court shall award reasonable attorney's fees and court costs."

Renumber accordingly



House Bill 1520
Testimony of Barbara True
House Energy and Natural Resources Committee
February 9, 2023

Chairman Porter and Members of the Committee,

My name is Barbara True, and I am the Director of Marketing of Eighty-Eight Oil. I appear before you today in opposition of House Bill 1520.

Eighty-Eight Oil is a crude oil marketing company that purchases crude oil production in North Dakota and pays thousands of royalty owners each and every month. We've been purchasing crude oil in North Dakota for decades, and we take seriously our obligations of paying our royalty and tax payments accurately, legally, and promptly. Ultimately, we believe the proposed legislation is unnecessary, imposes exorbitant fees and penalties, creates confusion, potentially exposes royalty owners to cybercrimes, and ultimately fails to aid the royalty owner. In short, we do not support the proposed legislation.

Each month, we send out thousands of royalty checks to owners from our North Dakota production purchases. Each check includes specific check details such as the lease name and location, volume, price, total deductions, date, taxes, and royalty payment amount. This is the source document that provides the royalty owner the information and details outlining the royalty check payment amount. To date, we have not had any additional requests for additional check details information. Providing an additional, editable document will likely confuse royalty owners. Intentional or unintentional manipulation of data in the CSV file can change payment detail amounts and cause confusion, as it is not the primary, source document. Additionally, not all royalty owners can receive – nor desire – a portable document. The process of adhering to this legislation is ill-defined, unduly cumbersome, and unrealistic to achieve within the specified timeline. From experience working at Eighty-Eight, most owners only desire the hardcopy check and its accompanying check details. This legislation is unhelpful to them. Finally, in this day of heightened cyber security concerns, conveying payment information and interest ownership into unsecured personal email accounts opens electronic and financial vulnerabilities to royalty owners. In summary, this proposed legislation is unhelpful to royalty owners.

Moreover, the proposed legislation would significantly impact our lease purchasing operations in North Dakota and would likely curtail any purchases in which we couldn't pay the operator/producer 100% of taxes and royalties. The administrative burden, penalty amounts, and misdemeanor charge threats induce a level of cost and risk that Eighty-Eight is not comfortable assuming. Additionally, the \$2,000 per day penalty regarding university and school lands is exorbitant. A company could accumulate a \$60,000 penalty in a single month. This poses too great a risk for companies such as Eighty-Eight Oil.

Thus, given the onerous administrative processing requirements and severe penalties, including criminal misdemeanor convictions, Eighty-Eight would likely not purchase from producers/operators who aren't paid 100%. This will significantly impact our business – and producer business – in North Dakota. From a wider perspective, this bill will likely also disproportionately impact smaller operators/producers, which would likely ultimately hurt royalty owners. We do not support this proposed legislation as it ultimately does more harm than good to royalty owners.

I urge your support and a Do Not Pass Recommendation for House Bill 1520. I would be happy to answer any questions. Thank you for your time and consideration.

Testimony of Troy Coons on behalf of
Northwest Landowners Association
in favor of
HOUSE BILL NO. 1520
House Energy and Natural Resources
2/9/2023

Chairman Porter 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 525 farmers, ranchers, and property owners in North Dakota. Northwest Landowners Association is a nonprofit organization, and I am not a paid lobbyist.

We support HB 1520 because something should be done to address this growing issue. We have heard from our members in growing numbers that they are seeing higher and higher deductions on their royalty paystubs. At our recent annual meeting, we surveyed our membership and asked what issues they felt were important. Although our organization focuses on surface estate issues, more of our members asked us to support legislative efforts to address this deductions issue than any other issue. This is a complicated issue but it is clear that mineral owners need real solutions.

Our understanding is that HB 1520 has a proposed amendment and with that amendment we support HB 1520 and ask you for a do pass.

Thank you,

Troy Coons
Northwest Landowners Association

**HOUSE BILL 1520
ENERGY AND NATURAL RESOURCES COMMITTEE
FEBRUARY 9, 2023**

TESTIMONY FROM A NORTH DAKOTA LAND & MINERAL OWNER

HOUSE BILL 1520

North Dakota Century Code Updates and Additions

- ❑ Six main provisions in the bill
 - 1) Clarify Industrial Commission's relationship between a lessor and lessee
 - 2) Provide revenue statements in an electronic format
 - 3) Resolution for disputes involving how royalties are calculated
 - 4) Clarifies the obligation to pay royalties and interest
 - 5) Provide production and royalty records in electronic format
 - 6) Specifies information to be provided to royalty owner in spacing unit disputes
- ❑ HB 1520 brought forth to address noncompliance with existing statutes

HOUSE BILL 1520 – SECTION 1

38-08-04 of the North Dakota Century Code

New subsection addressing the Industrial Commission

Regarding disputes between a Lessor (mineral owner) and a Lessee (oil company)

- ❑ Clearly defines where the Commission does not have jurisdiction to minimize claims that a mineral owner has not exhausted administrative remedies
- ❑ **Statement from Commission letter:**
“The Commission does not have jurisdiction to enforce lease terms, division orders, or other agreements regarding the payment of royalties; that jurisdiction lies with a district court.”
- ❑ **North Dakota Supreme Court ruling for Schank v. North American Royalties, Inc. 201 N.W.2d 419 (1972):**
“Furthermore, the Industrial Commission is an administrative agency and, as such, is not empowered by the statutes to determine the legal relationship between a lessor and a lessee. This is a matter for the courts in an appropriate action.”
- ❑ Adding subsection will save time for the courts and the Commission

HOUSE BILL 1520 – SECTION 2

38-08-06.3 of the North Dakota Century Code

Information statement to accompany payment to royalty owner - Penalty

HB 1520 will require that statements be provided in Excel format:

- ❑ Issues with paper copies and PDF files:
- ✓ Data not easy to review
- ✓ Single well with adjustments spanning 98 pages from May 2014 – March 2022
- ✓ Blue pop out box shows dates not printed in any chronological order
 - Adjustments for Oct 2017 production on pages 39, 53, 62, 75 & 76
- ✓ Yellow highlighted area - amounts are not totaled leading to manual calculations
- ✓ Excel would take seconds to sort and tabulate data

ROYALTY INTEREST	Oct 17	(2,298.32)	51.22	(117,728.50)	0.00038922	0.00038922	(0.89)	(45.82)																																																																																																																																									
<i>PPA OWNERSHIP CHANGE: Gross Value After Deductions: 111188.30; Price After Deductions: 48.37; Gross Net: 102540.66; Owner Value After Deductions: 43.37; Owner Price After Deductions: 48.62; Owner Net: 31.96</i>																																																																																																																																																	
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ROYALTY INTEREST	Jan 20	(2,166.28)	54.67	(118,423.04)	0.00038922	0.00038922	(0.84)	(46.09)																																																																																																																																									
<i>PPA OWNERSHIP CHANGE: Gross Value After Deductions: 106467.85; Price After Deductions: 49.81; Gross Net: 99161.11; Owner Value After Deductions: 41.44; Owner Price After Deductions: 48.33; Owner Net: 36.37</i>																																																																																																																																																	
ND MINERAL EXTRACTION TAX	Jan 20			5,323.12	0.00038922	0.00038922		2.07																																																																																																																																									
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<i>PPA OWNERSHIP CHANGE: Gross Value After Deductions: 120627.65; Price After Deductions: 60.31; Gross Net: 114745.05; Owner Value After Deductions: 49.37; Owner Price After Deductions: 60.21; Owner Net: 43.34</i>																																																																																																																																																	
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Represented Unit of Measure: Gas = MCFs, Plant Products = GALS, Oil = BBLs Generated on Friday, May 27, 2022 7:25 PM © 2022 Enerus. All rights reserved. Unauthorized use prohibited.																																																																																																																																																	
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th rowspan="2">Type</th> <th rowspan="2">Production Date</th> <th colspan="4">Property Values</th> <th colspan="4">Owner Share</th> </tr> <tr> <th>BTU</th> <th>Volume</th> <th>Price</th> <th>Value</th> <th>Owner Interest</th> <th>Distribution Interest</th> <th>Volume</th> <th>Value</th> </tr> </thead> <tbody> <tr> <td>TRANSPORTATION/GATHERING EXP</td> <td>Jan 18</td> <td></td> <td></td> <td></td> <td>6,109.17</td> <td>0.00038922</td> <td>0.00038922</td> <td></td> <td>2.38</td> </tr> <tr> <td>ND - STATE NON RESIDENT WITHHOLDING</td> <td>Jan 18</td> <td></td> <td></td> <td></td> <td>0.00</td> <td>0.00038922</td> <td>0.00038922</td> <td></td> <td>1.11</td> </tr> <tr style="background-color: yellow;"> <td>AMOUNT</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>ROYALTY INTEREST</td> <td>Oct 19</td> <td></td> <td>(2,083.06)</td> <td>50.12</td> <td>(104,411.63)</td> <td>0.00038922</td> <td>0.00038922</td> <td>(0.81)</td> <td>(40.64)</td> </tr> <tr> <td colspan="9"><i>PPA OWNERSHIP CHANGE: Gross Value After Deductions: 84888.01; Price After Deductions: 45.67; Gross Net: 85488.21; Owner Value After Deductions: 38.98; Owner Price After Deductions: 45.65; Owner Net: 32.41</i></td> </tr> <tr> <td>ND MINERAL EXTRACTION TAX</td> <td>Oct 19</td> <td></td> <td></td> <td></td> <td>4,749.35</td> <td>0.00038922</td> <td>0.00038922</td> <td></td> <td>1.85</td> </tr> <tr> <td>SEVERANCE TAX</td> <td>Oct 19</td> <td></td> <td></td> <td></td> <td>4,749.35</td> <td>0.00038922</td> <td>0.00038922</td> <td></td> <td>1.85</td> </tr> <tr> <td>TRANSPORTATION</td> <td>Oct 19</td> <td></td> <td></td> <td></td> <td>7.50</td> <td>0.00038922</td> <td>0.00038922</td> <td></td> <td>0.00</td> </tr> <tr> <td>TRANSPORTATION/GATHERING EXP</td> <td>Oct 19</td> <td></td> <td></td> <td></td> <td>6,145.11</td> <td>0.00038922</td> <td>0.00038922</td> <td></td> <td>2.39</td> </tr> <tr> <td>TRANSPORTATION</td> <td>Oct 19</td> <td></td> <td></td> <td></td> <td>3,272.11</td> <td>0.00038922</td> <td>0.00038922</td> <td></td> <td>1.27</td> </tr> <tr> <td>ND - STATE NON RESIDENT WITHHOLDING</td> <td>Oct 19</td> <td></td> <td></td> <td></td> <td>0.00</td> <td>0.00038922</td> <td>0.00038922</td> <td></td> <td>0.87</td> </tr> <tr style="background-color: yellow;"> <td>AMOUNT</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>									Type	Production Date	Property Values				Owner Share				BTU	Volume	Price	Value	Owner Interest	Distribution Interest	Volume	Value	TRANSPORTATION/GATHERING EXP	Jan 18				6,109.17	0.00038922	0.00038922		2.38	ND - STATE NON RESIDENT WITHHOLDING	Jan 18				0.00	0.00038922	0.00038922		1.11	AMOUNT										ROYALTY INTEREST	Oct 19		(2,083.06)	50.12	(104,411.63)	0.00038922	0.00038922	(0.81)	(40.64)	<i>PPA OWNERSHIP CHANGE: Gross Value After Deductions: 84888.01; Price After Deductions: 45.67; Gross Net: 85488.21; Owner Value After Deductions: 38.98; Owner Price After Deductions: 45.65; Owner Net: 32.41</i>									ND MINERAL EXTRACTION TAX	Oct 19				4,749.35	0.00038922	0.00038922		1.85	SEVERANCE TAX	Oct 19				4,749.35	0.00038922	0.00038922		1.85	TRANSPORTATION	Oct 19				7.50	0.00038922	0.00038922		0.00	TRANSPORTATION/GATHERING EXP	Oct 19				6,145.11	0.00038922	0.00038922		2.39	TRANSPORTATION	Oct 19				3,272.11	0.00038922	0.00038922		1.27	ND - STATE NON RESIDENT WITHHOLDING	Oct 19				0.00	0.00038922	0.00038922		0.87	AMOUNT									
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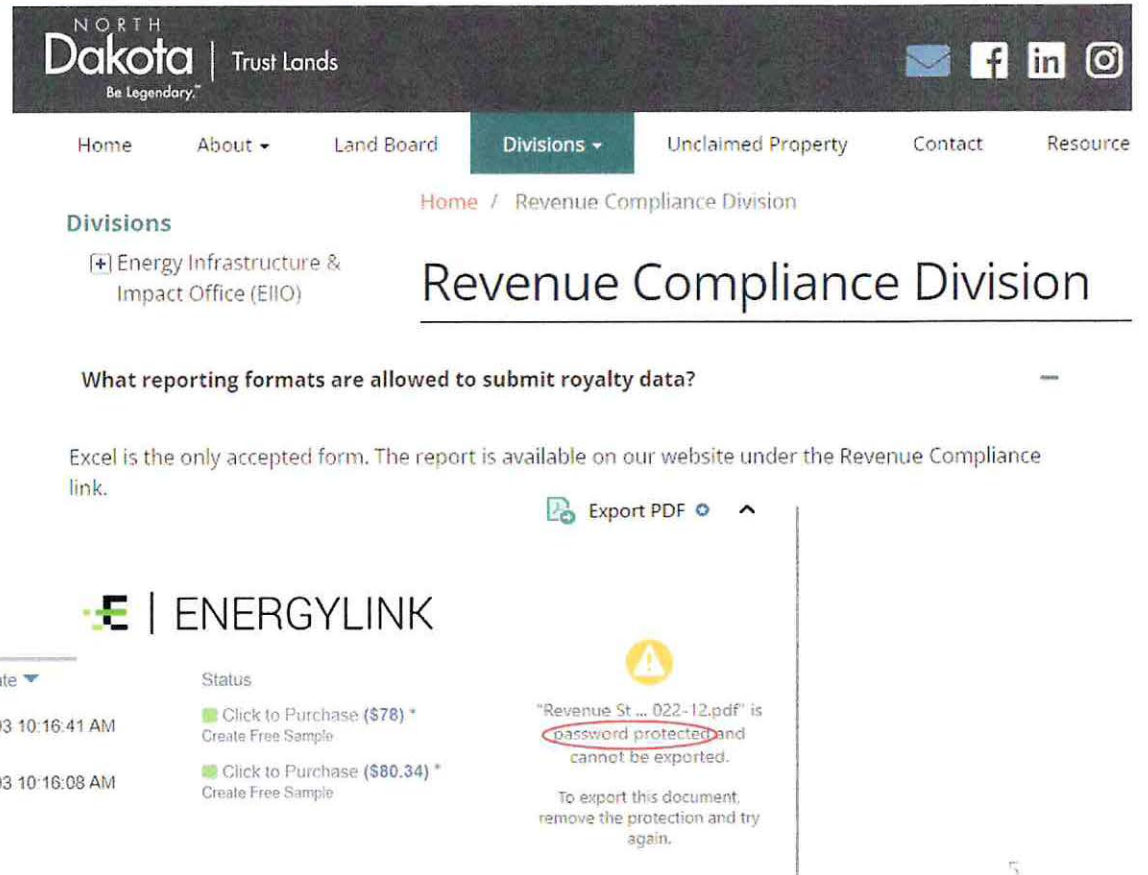
HOUSE BILL 1520 – SECTION 2

38-08-06.3 of the North Dakota Century Code

Information statement to accompany payment to royalty owner - Penalty

Excel is required by North Dakota Trust Lands Revenue Compliance Division:

- ❑ Excel reports were provided free prior to companies moving to EnergyLink
- ❑ Vast majority of industry now uses EnergyLink for reporting
- ❑ Companies can easily send similar Excel data to individual royalty owners
- ❑ Data should be unlocked and editable with no password required



NORTH Dakota Trust Lands
Be Legendary.

Home About Land Board Divisions Unclaimed Property Contact Resource

Home / Revenue Compliance Division

Revenue Compliance Division

What reporting formats are allowed to submit royalty data?

Excel is the only accepted form. The report is available on our website under the Revenue Compliance link.

Export PDF

ENERGYLINK

File Type	Description	Create Date	Status
Excel Report	Data Analysis Revenue XLS for E570187359	2023-02-03 10:16:41 AM	Click to Purchase (\$78) * Create Free Sample
Excel Report	Data Analysis Revenue XLS for E570203599	2023-02-03 10:16:08 AM	Click to Purchase (\$80.34) * Create Free Sample

"Revenue St ... 022-12.pdf" is password protected and cannot be exported.

To export this document, remove the protection and try again.

HOUSE BILL 1520 – SECTION 2

38-08-06.3 of the North Dakota Century Code

Information statement to accompany payment to royalty owner - Penalty

HB 1520 adds requirement that mailing addresses be made available to the commission:

- ❑ There is no current requirement for industry to provide contact information
- ❑ No penalty or recourse when certified mail is undeliverable
- ❑ Director Lynn Helms provided the following testimony on January 20, 2023, for SB 2194:
 - “The most common concern is the inability to find and maintain a consistent and helpful contact within the operator’s mineral owner department.”
- ❑ The commission and royalty owners should have easily obtainable, up-to-date contact information for all companies to address concerns



HOUSE BILL 1520 – SECTION 3

38-08-06.6 of the North Dakota Century Code

Resolution for disputes involving how royalties are calculated

Commission role and requirements

- ❑ **Three components in determining a decimal interest which is used to pay royalties:**
 - 1) The number of mineral acres owned
 - 2) The royalty percentage agreed to on the lease
 - 3) The spacing unit information
- ❑ **Mineral owner responsible for:**
 - Knowing what they own, i.e., copies of the mineral deeds and leases
- ❑ **Commission responsible for:**
 - Determining the spacing unit
 - Issuing cases and orders related to spacing units
 - Currently no search function for specific wells or land descriptions
 - The information is behind a paywall but should be made available for free to individuals
 - Department said legislation in 1985 requires them to charge a fee

HOUSE BILL 1520 – SECTION 3

38-08-06.6 of the North Dakota Century Code

Do companies comply with existing requirements to resolve disputes?

Individual mineral owners can research data at the county courthouse

T-R	Sec	Doc No	Doc Date
149-97-17	SW4, SE4	35669	2/14/1916
149-97-17	S2	83982	6/16/1924
149-97-17	S2	102356	2/28/1929
149-97-17	S2	124253	7/26/1945
149-97-17	S2	125097	3/29/1946
149-97-17	S2	128030	3/29/1948
149-97-17	S2	134689	7/20/1951

Or they can hire a company to do the research

	DECIMAL INTEREST	NET ACRES	LEASE STATUS
Tract 21-5 154-100-21: W2SB4, NE4SE4		120.00 gross	
	.007576	0.91	Citation et al HBP Exp. 1/4/85 Book 257M, Page 1

Note: The wells are located in NE4NW4-21, SW4SW4-22, NE4SW4 & NE4NE4-23-154-100

Industry completes a title opinion for ownership in well

OWNERSHIP

Our examination of the aforesaid records and documents of title reflect that, as of _____, _____, at 8:00 a.m. CST, record title to the captioned land, consisting of **640.00 acres**, more or less, was vested as follows, subject to the Comments and Requirements hereinafter set forth:

SURFACE

Joe Allen Mixon et ux, Gayla J. Mixon

FRACTION

8/8

INTEREST

1.00000000

OIL AND GAS: LEASED

OWNER / FRACTION

Geneva Ashby Smith
(1/2 x 3/4)

INTEREST

.37500000

NET ACRES

240.0000

LEASE ROYALTY

1/6

LEASE

L1

Robert H. Ashby
(1/2 x 3/4)

.37500000

240.0000

1/6

L2

Sherry G. Lundberg
(1/2 x 1/4)

.12500000

80.0000

1/6

L3

Joe Allen Wilson et ux, Gayla J. Wilson
(1/2 x 1/4)

.12500000

80.0000

1/6

L4

1.00000000

640.0000

HOUSE BILL 1520 – SECTION 3

38-08-06.6 of the North Dakota Century Code

Example of constructive dialogue and resolution of dispute

❑ Initial response – company sticking by the title opinion:

Our title opinion captured all of the documents in your write up, however, it appears there were previous conveyances which would have lowered the amount of interest which Minnie had available to convey. For starters, the tract was only 160 acres as opposed to the 240 that was reflected in the conveyances. The opinion credits [REDACTED].

Req.	LANDOWNER ROYALTY INTERESTS ("LOR")	Tract Lease(s)	Address	Lease Recording	Mineral Interest Covered by Lease(s)	Lease Royalty	Tract Acres	Unit Acres	NPRI Burden	Tract LOR	TRACT FEE MINERAL ACRES ("FMA")	TOTAL UNIT LOR	UNIT NET MINERAL ACRES ("NMA")	Type of Interest
	[REDACTED]	3	5122	[REDACTED]	0.02030777	0.2	160	1280	0.004666	3.333	0.00052003	0.6667	LOR	

❑ Follow-up response after relevant information was pinpointed:

Yes, we are planning on making the updates in February for the February check write, we are having to review who all through the chain needs to be updated as we will follow the dates in the chain of title for the increase/decreases in interest.

❑ What caused the discrepancy?

- The data in the title opinion showed 10 mineral acres for all three deeds conveying mineral acres to other parties
- Incorrect because one of the deeds was for 5 mineral acres

of Epping, North Dakota
 hereinafter called Grantee (whether one or more) an undivided 10/240 (ten mineral acres) interest in and under and that may be produced from the following described lands situated in Burke County, State of North Dakota:
 Township 161 North, Range 92 West of the 5th P.M.
 Section 34: SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$
 Section 35: SW $\frac{1}{4}$
 It is the intent of the grantor to convey ten mineral acres.

of Epping, North Dakota
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 Section 35: SW $\frac{1}{4}$
 It is the intent of the grantor to convey ten mineral acres.
 Grantor reserves unto himself all gravel rights on this property.

of Epping, North Dakota
 hereinafter called Grantee (whether one or more) an undivided 5/240 (five mineral acres) interest in and under and that may be produced from the following described lands situated in Burke County, State of North Dakota:
 Township 161 North, Range 92 West of the 5th P.M.
 Section 34: SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$
 Section 35: SW $\frac{1}{4}$
 It is the intent of the grantor to convey five mineral acres.
 The grantor reserves unto himself all gravel rights on this property.

HOUSE BILL 1520 – SECTION 3

38-08-06.6 of the North Dakota Century Code

Examples of companies unwilling to help resolve disputes

- ❑ **Too many companies refuse to provide information or ignore requests altogether** even though 47-16-39.4 requires them to help resolve disputes:
 - “I really have no other information to give you. **We are not obligated to mail each owner a calculation as to how their interest was calculated,**”
 - “**I apologize that only the WI owners seemed to be in the loop** in regard to the allocation, but there is not more I can tell you, except the acreage noted when the allocation well was set up.”
 - “**The computer took separate wells that were already set up, and pulled in certain percentages and created the numbers for us.**”
 - “**If you’re still under the impression that the acres are wrong, we would have to know who we need to be taking acres “away from” in order to give it to you**”
- ❑ When companies will not respond or refuse to provide relevant information it creates distrust
 - There needs to be a remedy to cross check documents and verify where the discrepancy lies
- ❑ If the only remaining recourse is to go to court, then the court can assess a penalty for wrongfully withheld information

HOUSE BILL 1520 – SECTION 4

47-16-39.1 of the North Dakota Century Code

Obligation to pay royalties – Breach.

- ❑ Legislature previously declared companies are obligated to pay royalties within 150 days and if they fail to do so must pay interest on the unpaid royalties without the mineral owner having to request it
 - Many companies do not comply with the statute and ignore requests for payment of the interest
- ❑ Clarifies that payment of the royalty does not relieve liability for unpaid interest
- ❑ Provides the relevant section of the Century Code related to the limitations period
- ❑ Inserts a penalty for noncompliance
 - Current statute has no recourse or remedy when it is ignored
 - Hiring an attorney to send a demand letter can cost more than the interest owed

HOUSE BILL 1520 – SECTION 5

47-16-39.2 of the North Dakota Century Code

Inspection of production and royalty payment records – Penalty.

- ❑ Section 5 adds individual mineral owners to the existing statute
- ❑ Senate Bill 2212 was passed in the 2019 Session
 - The updates requested today are the same that were added in 2019 for the board of university and school lands
 - Requires records be made available in electronic format
 - Adds a penalty for wrongfully withheld information
 - Chair Unruh stated, “Every other state has some type of penalty for these types of violations. I think it’s appropriate for us to have something in code.”
 - Individual mineral owners in North Dakota respectfully request the same rules be applied for them

HOUSE BILL 1520 – SECTION 6

47-16-39.4 of the North Dakota Century Code

Resolution of spacing unit ownership disputes - Penalty

- ❑ Section 6 adds additional language to the existing statute
- ❑ Provides clarity for the information companies are required to provide to help resolve disputes
- ❑ Adds a penalty for noncompliance or wrongfully withheld information which the court can determine

HOUSE BILL 1520 – FINAL COMMENTS

- ❑ Legislature required certain information be provided on royalty statements in 1983
- ❑ Comments from the minutes related to the 1983 legislation:
 - Letter from Shell Oil Company to Allen I. Olson, Governor, State of North Dakota, “Testimony offered by Representative Jack Murphy and other royalty owners at the hearing indicated that their main concern was the **lack of meaningful communication** between the royalty owner and producer when the royalty owner posed a question regarding his royalty payment. **Representative Murphy testified that many times he would have to wait long periods of time for a response to his royalty-related inquiries and, in some instances, he testified he never received a reply.**”
- ❑ Royalty owners still face these same issues today
- ❑ There are no consequences or remedies in the Century Code when companies choose to ignore statutes
- ❑ The proposed penalties in HB 1520 are either already in the Century Code for the board of university and school lands or are similar amounts that other states impose

HOUSE BILL 1520 – FINAL COMMENTS

- ❑ Additional comments from the minutes related to the 1983 legislation:
 - Letter from Rocky Mountain Oil & Gas Association, Inc., “Until recently, the industry had perceived North Dakota as a state which welcomed exploration and development of this and other industries. Unfortunately, the regulations being considered now by the Industrial Commission further damage this perception and will, I fear, have a further **chilling effect in the consideration of North Dakota as a choice for exploration whenever alternatives exist.many purchasers will find the paperwork to be unjustified, and....will undoubtedly direct their crude oil purchases out of State.** Secondly, the expense of maintaining these per well records, will undoubtedly result in the decision to eliminate purchases of small quantities from stripper and marginal wells with the result we predict with certainty the plugging of many of these wells, with the resultant loss of production and loss of tax revenue to the State as well as income to the royalty owner.”
- ❑ Industry did not leave the state as a result of the legislation that was passed to protect mineral owners
 - If industry opposes the changes requested in HB 1520 today, then what is their solution for solving the issue of companies not complying with current statutes?

HOUSE BILL 1520 – FINAL COMMENTS

Perceptions can distort reality

- ❑ Royalty owners should just litigate these issues and have the courts resolve the disputes
 - A multi billion-dollar corporation has an overwhelming advantage
- ❑ Numerous families own mineral rights because they homesteaded in North Dakota or were farmers and ranchers that settled in western North Dakota decades ago
 - Many receive a few hundred or few thousand dollars a year in royalty payments
 - Costs far more to hire an attorney then they receive in royalties
- ❑ House Bill 1520 will provide royalty owners access to their information, so they do not need to go to court to request it

Thank you for the opportunity to present testimony today.
I respectfully ask for your favorable consideration of House Bill 1520.