



DRC Acknowledges Surface Rights Gains, Warns of Major Loopholes

Dakota Resource Council points to critical, overlooked shortcomings of oil and gas legislation

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Bismarck--- In the final days before crossover, Dakota Resource Council (DRC) issues cautious reviews about potential legislation thought to protect surface owners. This legislative session, DRC worked to empower common landowner voices on a myriad of bills urging for responsible oil and gas development. What has emerged from that effort is a two-faced coin.

The five major surface rights bills have been engrossed into HB 1241, or the “package deal,” as dubbed by the North Dakota Petroleum Council. Those bills tackled the top surface and mineral rights issues including damage compensation, royalty interest, notification of drilling, lost production compensation, and annual payments. The bill passed in the House.

“The thing to note is since HB 1241 incorporates many issues into one, if it doesn't pass, then all those issues fail,” said Jim Stenslie, New Town. “There's a lot to lose.”

Another bill being touted as a surface rights win is HB 1462, a bill creating a mediation service for surface disputes. This bill language specifically omits 'agriculture' out of 'agriculture mediation service.' The bill does not address specifically the mechanics of how the service will handle cases, including compensation or compliance. Additionally, should any party asked to mediate deny the request, mediation *does not* occur and the initiator is directed to litigation. Furthermore, the service has the right to *refuse* cases- because it uses federal funding, the service can rule on what are 'allowable' cases. The bill passed on the House floor.

“This is smoke and mirrors- it doesn't change the current situation. If a company doesn't want to mediate, then we are still forced to sue,” said Donny Nelson, Keene. “Plus there's no way of ensuring that the service will choose to help us, if they even have the capacity to do so.”

No matter what the bill, citizens and legislators have agreed that enforcement of rules is a primary issue. Only one bill this session, SB 2290, has addressed the Department of Mineral Resources' (DMR) lack of enforcement power. The bill provided the DMR with punitive measures in order to compel industry compliance. The bill failed in the Senate.

“Without enforcement, what good is passing legislation?” said Gregg Tank, Keene. “Laws with no teeth are pointless, and we can pass bills until we're blue in the face, but if no one cares to enforce them, there's no point.”

DRC holds that oil and gas development must be safe and responsible and that our state government and agencies must protect people and land of North Dakota. The heart of North Dakota will always be the land and the people who work the land come first. It essential to have fair agreements, leases, and compensation. In order to protect the land and landowners, there must be adequate enforcement, regulation, and oversight. Agencies need effective, punitive means to enforce rules. DRC believes in order to safeguard North Dakotans and the land they live on, there must be sufficient means to enact rules designed to protect them.

DRC members, including Donny Nelson, Jim Stenslie, and Gregg Tank, will be visiting the capitol on Wednesday morning, February 23rd, to speak with legislators on the aforementioned bills and provide statements on surface rights issues before crossover. Members will bring collected evidence, including legal cases, bad leases, royalty statements, damage calculations, colorful pictures of land damages, decrepit well sites, spills, and other development impacts.

All three members will be available for interview and can be reached through DRC at 701.212.3871.

Dakota Resource Council Dakota Resource Council is a nonprofit, grassroots activist organization. The mission of DRC is to form enduring, democratic local groups that empower people to influence decision-making processes that affect their lives. DRC works to protect North Dakota's land, air, water, rural communities and agricultural economy.

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