

Ag Consultant Marvin Nelson regarding Closure of Old Oil Wells Also Known As Decommissioning

March 19, 2014

1. Decommissioning Authority: The point in time that the Lynn Helms, Director of the North Dakota Industrial Commission's Oil and Gas Division seems to point to for cleaning up the salt problem is the point where the well is decommissioned. When asking him about the salts in Bottineau County at the 2013 hearing in Stanley, he just kept saying he hasn't signed off on those wells yet. I am not really sure the Oil and Gas Division has authority to control timing of a salt cleanup and off-site, off the well pad spill, but he was acting like they did.

1a. **Jurisdiction:** I am still not often clear when the Oil and Gas Division has the say and when the Health Department has the say.

2. Exceptions for Noneconomic wells: There are wells in Bottineau County that are clearly noneconomic, some even to the point of having their machinery removed, yet the Oil and Gas Division is not decommissioning them. Lynn Helms seems to believe these forgotten wells, forgotten by his enforcement officers, have potential value. He isn't willing to force companies to follow the law and decommission noneconomic wells. The law allows Helms to make exceptions, but the exception seems to be the norm.

3. Rationale: The noneconomic wells seem to be continuing on the hope of controlling the oil and cashing in on the next round of drilling.

4. Effect of Delayed Decommissioning of Nonproductive Wells: This sets up a major problem. If the point where the company has to clean up the mess is at decommissioning, if another round starts that well might not be abandoned for another 50 years or so.

5. Valuation for County Taxing Purposes: Taxes on the land are a problem. The salt makes the land nonproductive; however, by law our farmland taxes are based on soil maps. The addition of a salt pit or plume doesn't change the soils map. And there are no plans for any new soil maps which might or might not classify the land differently. The County would have to decide to make an adjustment on those lands and then others of course would have to make up the difference. Plus the county commissioners would be open to criticism that they are the ones reducing their tax base since they are not forced to make adjustments.

5 a. **Lost Tax Base:** There is nothing in place to compensate the county for the lost tax base. Lynn Helms has made a couple of comments that he thinks we should just declare the land as wasteland. The idea there is the cost of reclamation is very likely much more than the price of land. It seems to me though that without regard to the cost, there is moral obligation to restore the land.

5b. **Cost of Reclamation of coal mined and oil field salted lands:** The cost of restoration of

strip mined land is also many times more than the price of the land, yet it is done and widely supported. Why should oil be treated differently than coal?

5 c. **Dominant Servient Estate:** The mineral owner has a right to his property but while it includes the right to use the surface it does not include the right to destroy the surface.

6. **Questions regarding Successful Remediation Oil and Salt Damaged Land:** One problem is the different viewpoints of what is a successful remediation. The State Health Department basically looks at the topsoil. Does the top inch aggregate? Are the salts acceptable in the top 6 to 8 inches? That's pretty much where it stops. In my land restoration the depths of restoration are much greater. The underlying material in a restored coal mine is clay and although it contains some salt and heavy metals it is not as toxic as is the water spilled from oil wells containing salt or oilfield chemicals.

6 a. **Soil Profiles:** A farmer is concerned with the soil profile down to at least 6 feet. He needs water storage during period of excess water and the ability of the plants to use that water during dry periods. His concerns are measured in feet not inches.

7. **The Economics of Reclamation:** Growth of a relatively salt tolerant perennial grass doesn't constitute reclamation compliant with North Dakota law. Economics of crop production mean a 25% or even a 10% drop in production of grain can easily take land from making a profit for the farmer to losing money. Land that would be considered a resounding success by the Health Department concerning reclamation is a disaster for a farmer.