

N.D.A.G. Letter to Brovold (Feb. 7, 1985)

February 7, 1985

Mr. Jay V. Brovold
Billings County State's Attorney
Billings County Courthouse
P.O. Box 187
Medora, North Dakota 58645

Dear Mr. Brovold:

Thank you for your letter of January 10, 1985, regarding the authority of a board of county commissioners to promulgate rules and regulations for reserve pit reclamation on oil well sites.

An examination of the North Dakota Century Code has revealed no specific authority for counties to regulate the reserve pit reclamation on oil well sites. Rather, the North Dakota Legislature has granted specific authority to the State Industrial Commission to regulate the drilling, producing, and plugging of wells, the restoration of drilling and production sites, and all other operations for the production of oil and gas. N.D.C.C. § 38-Q8-04. The Industrial Commission also has the authority to require the furnishing of a reasonable bond with good and sufficient surety conditioned upon the full compliance with the provisions of N.D.C.C. Ch. 38-08, and the rules and regulations of the Industrial Commission of the State of North Dakota prescribed to govern the production of oil and gas on state and private lands within the State of North Dakota. N.D.C.C. §38-08-04(1)(d). Therefore, counties have no authority to regulate the reserve reclamation of oil well sites.

However, it should be noted that a board of county commissioners of any county has the power to regulate and restrict within the county the location and use of buildings and structures and the use, condition of use, or occupancy of lands for residents, recreation, and other uses. N.D.C.C. §11-33-01. The regulations shall be made in accordance with a comprehensive plan and may be designed to conserve and develop natural resources. These regulations shall be made with a reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses. N.D.C.C. §11-33-03.

However, notwithstanding the counties general authority to regulate land use within the county, a board of county commissioners has no authority to regulate the development, production, or utilization of natural resources of oil and gas in the State of North Dakota.

Sincerely,

Nicholas J. Spaeth

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