

# Standard Language in Oilfield Agreements

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# Presenter Background

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- Lawyer in Watford City
- Represent landowners and the occasional zoning board
- Familiar with variety of oilfield land use agreements

# Audience Background

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- Vision West exists “to mobilize western North Dakota towards a resilient and prosperous quality of life for all residents.”
- You want your own county to have a stable and sustainable economy
- You want the people and businesses who come to your county to navigate the rules easily, so they can follow the rules without needing a team of lawyers
- You want to stay in your lane, guiding the economy without getting in its way

# Presentation Background

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- Types of oilfield agreements
- Why the word “standard” is always suspect
- Parts of the agreements that really matter for local governments
- Common problem areas

# Types of Agreements

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- Oil and Gas Lease
- Surface Use Agreement
- Pipelines
- Layflat Lines and Water Depots
- Saltwater Disposal

# The “Standard” Lie

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- Producers 88
- Every document stands on its own
- Every document can be customized to specific land and specific concerns
- Exhibits and side letter agreements
- Extrinsic evidence

# Oil and Gas Lease

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- Can govern surface rights
- Can depend on whether lessor owned the surface or only minerals
- Lots of litigation about what surface rights an operator has under the lease
- If the only document you have is an OGL, you should be looking for more before you can say if the alleged surface rights are valid or not

# Surface Use Agreement

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- Gives the operator rights to build a pad and drill oil and gas wells
- Lease holders automatically get some rights
  - 20-day notice
  - Drilling operations
- Written agreement
  - Clearer understanding of rights and responsibilities
- Without a written agreement, there is a risk of litigation



# Pipelines

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- Many types
- Transmission lines
  - State regulated
  - Power of eminent domain
- Gathering systems
  - Private agreements or leasehold rights
  - Generally not regulated
- Freshwater pipelines
  - Permanent or temporary

# Gathering Systems

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- Oil, gas, and saltwater from the well to the market or disposal
- Some operators claim pipeline rights under leases or SUAs
- Express easements are more common
- Without an express easement, there is a risk of litigation over specific rights

# Layflat Lines and Water Depots

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- Layflat, temporary water pipelines are the most common way to get freshwater to the well site for fracking
- Water depots are anything from a pump at the creek up to a gigantic system of ponds
- Easements and public right-of-way
- Private agreements
- Lease rights – risk of litigation

# Saltwater Disposal

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- Well pad with storage and facilities to put production water back into the ground
- Private agreement
- Pore space and subsurface easements

# Problem Areas

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- NDIC jurisdiction
- Disagreements about scope of rights under a lease
- Not all easements are equivalent
- People bring their disputes to the wrong forum

# Conclusion

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- “Standard” is a lie
- Stay in your lane
- Questions?

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