NARO
National Association of Royalty Owners
NORTH DAKOTA

Issue 2 May 2014

**W**elcome to the second newsletter for the ND NARO Chapter. It looks like it will be a busy summer as lots of newsworthy events are starting to take shape. **If you have an article of interest for our newsletter you can send it to Gary Preszler at gpreszler@aol.com**

This newsletter is a service provided as a benefit for NARO ND members. To save costs, a newsletter will only be provided by electronic means. At least at this time, there will be no printed and snail mailed editions. **Remember to keep your email address current with the National NARO office at 1-800-558-0557 or naro@naro-us.org.**

This newsletter is intended to provide periodic updates to Williston Basin specific hot button issues. There may be some duplication with the monthly ROAR publication, but the newsletter will be more for areas of interest to ND property owners with links provided to web based information.

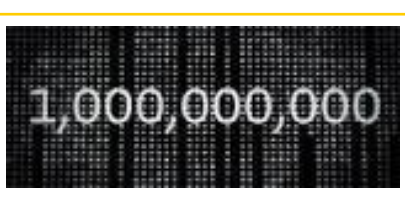
## NDIC Gas Flaring Hearing

On April 22, 2014, the North Dakota Industrial Commission heard Case No. 22058 requesting testimony on efforts to reduce the amount of gas that is being flared. Comments were received on production curtailment restrictions and how to best enforce gas capture plans that will be required starting this June 1. The hearing lasted most of the day with the industry solidly behind the recent Petroleum Council's Gas Flaring Task Force recommendations and emphasizing to allow the gas capture plans a chance to work and to address reduction targets on an operator-by-operator basis.

Your ND NARO Chapter did provide brief written comments suggesting that royalty payments, as required by state statute, should not be usurped administratively and instead allowed to fulfill the purpose of the law which is as an incentive for reducing flaring. The law provides for paying production taxes and royalties generally after one -year unless exemptions are ordered by the NDIC.

Also noteworthy was that the lack of gas gathering pipelines is not the sole contributing factor to flaring, as sales have been limited due to pipelines being at capacity.

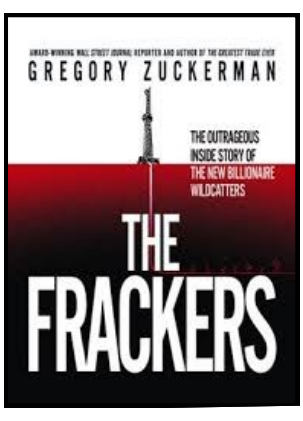
## Billion Barrel Club




Montana and North Dakota Bakken production has now reached the one billion barrel milestone. With North Dakota approaching the one million barrel per day (all formations) milestone, cumulative production from the Bakken will advance rapidly.

## Summer Reading

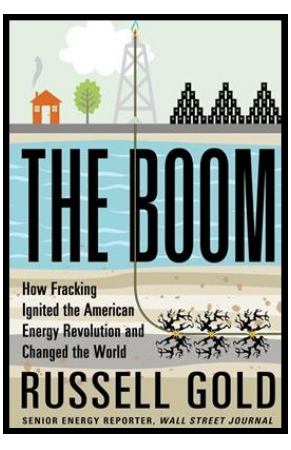
If you are looking for some summer reading there are a couple of recently released books on what fracking technology means to domestic and foreign energy resources. These books will be of particular interest for you mineral owners that are experiencing and a part of this amazing story of the enormous reserves that are now being captured.




The outrageous Inside Story of the New Billionaire Wildcatters, by Gregory Zuckerman. Mr. Zuckerman is a special writer for the Wall Street Journal.

*The Frackers* is about how fracking technology in tight shale evolved from the first attempts in Texas to how it is revolutionizing oil exploration around the world today. Those of us that have followed the Bakken play will recognize several of the companies as players as the Williston Basin is often mentioned.

*The Boom; How Fracking Ignited the American Energy Revolution and Changed the World,* by Russell Gold. Mr. Gold is also a Wall Street Journal reporter and has covered energy since 2002.




*The Boom* is about how fracking technology is driving natural gas shale development and is here to stay. It is also a personal story of the author growing up in rural Pennsylvania.

"*The Boom* recaps how the Sierra Club went from embracing fracking and taking tens of millions of dollars in secret donations from Chesapeake energy to opposing the process."
- San Jose Mercury News http://ow.ly/wxPIQ

Stay connected with us!
Keep up to date on trends, legislation and what NARO is doing for you.

## Did you know?

**There are an estimated 40,856 oil industry jobs in North Dakota**, plus an additional 18,000 jobs supporting the industry. The hub of the area—the 16,000 population -town of Williston—produced 14,000 new jobs alone between 2010 and 2012. The state has a 3 percent unemployment rate, and the Williston region's is around 1 percent.

**Each well requires about 2,000 truck trips in its first year of operation**. On the highway running through the area, traffic has gone from 1,400 cars a day to 14,000, and it's currently is being expanded from two to six lanes.

**The population is expected to climb 50 percent over the next 20 years in North Dakota's oil producing region.**
Source: *The Fiscal Times*

## 2014 State Convention
## June 26 & 27
## Mandan, ND

### -Session Schedule-

**Thursday, June 26**
**3:00 PM** CMM Exam/
**3:00 pm** NARO ND Business Meeting

**5:30 PM** Dinner & Program
Jerry Simmons, NARO Executive Director
*National Update*

**6:00 PM**
Speaker TBA
*Negotiations*

**7:00 PM**
Bill Britain CEO EnergyNet
*Royalty Values,*
*Oil and Gas Metrics and Markets*

**Friday, June 27**
**7:30 AM** Breakfast

**8:00 AM**
Stephanie Dassinger and
**Kimberly A. Backman**
Crowley Fleck Law Firm
*Title Issues*

**9:00 AM**
Jannell Combs Attorney, Steger Law office
*Probates*

**10:00 AM** Break

**10:15 AM**
David Straley, North American Coal
*Royalties Don't Just Come from Oil and Gas*

**11:00 AM**
Jeff Jennings, Harris, Brown, Klemer Inc
Evaluating the Mineral Estate

**11:45 AM** Lunch

**1:00 PM**
Lynn Helms, ND Industrial Commission
North Dakota Hydrocarbons

**2:00 PM**
Ron Ness, ND Petroleum Council

**2:45 PM** Break

**3:00 PM**
ND Department of Trust Lands
*Division Orders*

**4:00 PM**
Industry Panel

Convention Registration is Limited!
**Reserve your spot today!**
Online at
**www.naro-us.org/northdakota**
or
**Click Here**
for a printable version
of the registration.
See you in Mandan!

## *Transfer on Death Mineral Deeds*

Following is a guest article written by attorney David Ganje. Mr. Ganje's comments pertain to legislation enacted in 2011 by the ND Legislature. Mr. Ganje's office is located in Rapid City, SD and he is admitted to the North Dakota State Bar. His contact information can be found on his website: http://www.lexenergy.net/

The bill (HB1138) was at the request of the Commission on Uniform State Laws that amends the Uniform Probate Code can be found at: http://legis.nd.gov/assembly/62-2011/session-laws/documents/UNFPC.pdf#pagemode=bookmarks&CHAPTER241

**NARO-ND thanks Mr. Ganje for his article and counsel.**

## *New Legislation Favorably Affects Mineral Interest Owners*

"This new transfer law makes these issues easier to address."

Sometimes it actually happens. Sometimes new laws actually make things better. No law is perfect and most are problematic. Some however work to their purpose. A better method of transferring mineral interests upon death would be good. North Dakota now provides such a law. And the same legislation is pending in South Dakota which I anticipate will pass this year. The underlying purpose of the Real Property Transfer on Death Act is to simplify a transfer of real property on the death of the owner. It is done not by probate and not by a will but by the drafting of a deed. The law as written has a second important benefit in the area of oil and gas interests. Real property rights include mineral rights (oil and gas rights). Such property rights may be split or "severed" into surface estate rights and mineral estate rights. Surface rights and mineral rights to one property parcel may be owned by two separate parties. These different ownership rights may be independently transferred or developed. The new law creates a workable method of transferring mineral interests without the use of a will or without having to go into probate court. Transfer on Death deeds are a practical way to transfer property to a beneficiary upon death without probate. Mineral interests and mineral deeds are sometimes mishandled in the context of planning for future use of property and are often overlooked in an estate planning review. This new transfer law makes these issues easier to address. The law allows for the nonprobate transfer of both real estate and mineral interests by the proper writing and recording of a transfer deed.

"This law allows an owner of real property, and importantly an owner of mineral interests which are real property in the eyes of the law, to "will" the property or mineral interests to a designated beneficiary. The transfer takes effect upon the owner's death without probate."

This law allows an owner of real property, and importantly an owner of mineral interests which are real property in the eyes of the law, to "will" the property or mineral interests to a designated beneficiary. The transfer takes effect upon the owner's death without probate. The property passes at the grantor's death to the beneficiary by drafting and recording a special deed. This action does not require the writing of a will or the creating of an estate trust. During the owner's lifetime, the named beneficiary in the deed has no interest in the property. A property owner during his life still keeps the power to transfer the property or mineral interests to other parties or to deal with it for other purposes. After recording such a transfer deed an owner may during his life also revoke the recorded transfer on death deed. On the owner's death, the property passes to the named beneficiary. The process is similar to but more comprehensive than a traditional joint tenancy ownership of property.

Unlike joint tenancy the transfer deed does not convey immediate ownership to the beneficiary. While the grantor is alive the named beneficiary has no ownership interest in the property. The grantor may also 'change his mind' at any time during his life by in effect changing the terms of the deed. A named beneficiary receives the deeded property subject to any conveyances, oil and gas leases and other contracts that the grantor may have done during his lifetime. The transfer of such a deed is deemed to have occurred at the time of the grantor's death, so it is subject to those acts that the grantor took during his life even though he had previously drafted and recorded such a transfer deed. The transfer law allows the grantor to fully manage the mineral interests, enter into deals regarding the mineral interests during his or her lifetime, and still have a deed recorded which allows the nonprobate transfer of those rights on his death.

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