



**North Dakota Emergency
Response Commission
PO Box 5511
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State Emergency Response Commission Minutes

**Commission
Members**

Office of the
Governor

Division of
Homeland Security

Office of
the State Fire
Marshal

Division of State
Radio

ND Health
Department

State Highway
Patrol

Office of
Management
and
Budget

Office of
The Attorney
General

Workforce Safety
& Insurance

Department of
Agriculture

Department of
Transportation

Office of the
Adjutant General

Oil & Gas Division
of Industrial
Commission

ND Insurance
Department

Dakota Plains
COOP

Tesoro Refinery

ND Motor Carriers
Association

The 108th meeting of the State Emergency Response Commission (SERC) was called to order by the State Emergency Response Commission (SERC) Chairman, Greg Wilz, on Wednesday, September 16, 2015 at 1:30 pm in the North Dakota National Guard, The Adjutant General's (TAG) Conference Room, Building 30 Bismarck, North Dakota.

As the roll call was conducted, Chairman Wilz asked each member to introduce themselves and to identify the agency they represent. It was noted that a quorum was achieved; but the, Attorney General's Office, Workforce Safety and Insurance, ND Insurance Department, ND National Guard and private industry, Dakota Plains Coop, Tesoro Mandan Refinery, and ND Motor Carriers were not represented.

Chairman Wilz then had the guests in attendance introduce themselves. First was Jeff Soland, Chairman Bottineau County LEPC. The next person identified was the Bottineau County Emergency Manager, Rick Hummel and the third person was identified as the Ransom County Emergency Manager, Tricia Kriel.

Chairman Wilz then related that the Secretary had sent out a copy of the minutes from the 107th SERC Meeting and all members should have had a chance to read them. SERC members were given a few minutes to quickly read through the minutes and the Chairman related that he would entertain a motion to approve the minutes.

Secretary Ray DeBoer then related that he had been notified by Fred Anderson, Oil and Gas, that there are two corrections in the minutes. The first one being on Page 13, third line, it says, 'in areas 1 Providence that is interested,' it should be 'Province;' and then on Page 22, last page, on the fourth line, right after 'crude oil,' it should be 'response,' instead of "Esponse." Those corrections have been made.

Secretary DeBoer also related that he had been contacted by Ken Astrup, the Agriculture representative from Dakota Plains Coop has resigned his position with the State Emergency Response Commission (SERC) effective immediately. He will be retiring from Dakota Plains Cooperative the end of 2015. He indicated that he would attempt to find someone from Agriculture to replace him.

Captain Pederson representing the ND Highway Patrol made a motion to accept the minutes from the last meeting, which was seconded by Fred Anderson, NDIC Oil & Gas Division. The motion passed unanimously.

Chairman Wilz then asked the SERC Secretary, Ray DeBoer to identify the documentation in the packets provided to the members. All items were identified.

Committee Reports

Secretary DeBoer then provided copies of the ND Department of Emergency Services (NDDDES) Reporting, Planning & Outreach Activities Quarterly report which was discussed

Secretary DeBoer then went on to discuss the documentation in the folders provided to all SERC members and guests. The information in the committee report has been provided by the ND Department of Emergency Services (NDDDES) grants section, training section and lastly the hazardous chemical preparedness and response program section.

Renee Loh, representing the North Dakota Firefighter's Association (NDFFA) reported that NDFFA had spent all of the funding allotted to them for training. Renee also related that NDFFA had received a \$320,000 grant from an Assistance to Firefighter's Grant from FEMA. This grant will be utilized to purchase training equipment. Renee also related that the Fargo Fire School will be held October 16, 17 and 18th in Fargo and West Fargo.

Chairman Wilz then related that he had just learned that the ND Legislature had appropriated some funds for stipends for firefighters to train at (SERTC), the Security and Emergency Response Training Center. This will allow firefighter's to receive a stipend while they are away from their normal jobs for training.

Renee Loh then mentioned that there had been six (6) "Ethanol" throughout the state. The training was so well received that they have been asked to return to the state in the future. Lastly she related that there will be two (2) "anhydrous ammonia" training sessions. One in Garrison on October 6th, 2015 and the other one on October 8th, 2015 in Park River.

Old Business

Karen Hilfer representing the grants section for the Division of Homeland Security provided the following update on the Hazardous Materials Emergency Preparedness (HMEP) Program. For HMEP we had two things happening this quarter. First was an on-site audit. This is the first time they've ever been here for the HMEP Grants. Overall they were extremely pleased. I think we were one of their last visits for the year, but they were very pleased with our paperwork and actually said that we had, we actually had items to show them. Upon their arrival we handed them a packet when they walked in and they were a little shocked. Not too many states put a lot of effort into the HMEP Program. So they were really pleased. They only had some minor things that they wanted us to adjust within the files themselves versus any real changes. They reviewed a small amount of documentation and were pleased when it was provided to them. We should be getting that report from them soon; however, while they were here, they also announced some changes within the program which will be extremely helpful for us.

As you know, the grants are for one year and that in itself isn't going to change. However, they are going to allow us some flexibility in moving funds from training and planning. Before it was 2 tracks and they wouldn't meet, now they will allow us. We will probably have to request a change to move funds from year to year. There were times we ended the year with money left in planning with no place to spend it. This would allow us to move those extra planning dollars over to training. So that's going to be very nice for us. They are also going to allow us extensions. Before, it was the 12 months, and at best you could get one more

month, which really didn't help, especially in the planning areas. So they are going to allow us additional time. They said probably up to 6 months if we need it. That also will be helpful for some of our sub grantees. Then the other thing they said, in an effort to encourage some long range planning they are going, to announce three years of funding. The grants are going to stay one year long. Again, they are hoping that we will take a look at that and use that to do some long range planning and how we're going to spend these funds.

Karen Hilfer then mentioned, we have been talking the last few years about doing a statewide flow study. State wide, giving the state figures, but also for each county. We're considering, again, in the long range, being able to use those dollars and plan for the funding over the three year HMEP period. Potentially we could use all of the planning dollars in one year to do the study if we are using it for the benefit of the county. We don't have to actually give it to the counties. DOT does allow us, to use the funding if the State is doing the flow study for the county. We are considering doing this. There's also every other year, we do the Hazardous Materials Conference. If we need additional funds, one year we can use those funds to plug into this as well. What we're going to have to figure out is, how much the statewide study will cost and project how long it will take us to actually complete that flow study. So we'll be looking for ideas.

Chairman Wilz then stated, if the SERC has specific input there, we certainly welcome it. We have talked in the past as this committee has met about doing a statewide flow study. We've never really had the funding to be able to pull that off. There have been some awards provided to individual counties who have used them for county flow studies. But I think there's some real value for all of the counties that if the state would embark on completing the statewide and drill down to the county levels, the county level numbers, we can provide that to the local LEPCs for better planning. The options are, as Karen would say, we can plan a study over the course of a couple grant years. We'll have some issues there with Request for Purchases (RFP's), but I think they can be worked through. Another option would be, to attack it in a single year, but then there would not be a lot of localized planning dollars sent out. The state would consume them on behalf of the counties along with the state share. So if you've got some ideas there, we've thought all along there would be some good merit in doing this every so many years. We have a good feeling of what in terms of hazardous material is moving through our counties and so we're open for comments there.

Karen Hilfer then mentioned that the timeframe for doing this is; we will issue a formal announcement, usually in February with the grant due either in April or May and then awarded the first of October.

Chairman Wilz solicited thought, ideas and questions from the members present.

Kent Theurer representing the ND Department of Agriculture asked, with only a handful of counties, what kind of time period have the counties been doing the flow studies, over the last five years or so.

Karen Hilfer responded with stating; two to three years.

Kent Theurer responded with stating; potentially we'd be looking at spacing a little time out so that they had a kind of before and after for a statewide study, or would we start with other counties first, or is the State from a logistical standpoint, so they didn't just do one and then the State do one the following year and see the differences?

Chairman Wilz responded with "yes". He continued with, while production is not necessarily weighing

with slowdown in the development in the oilfield country the drilling and all of the associated work with getting the wells up and operational has. So I think there would be, in my mind anyway, there'd be enough change that it would probably warrant, even those counties that more recently have conducted one, and obviously, you know, you need more than two points of data to do trend analysis. This would allow us to get a feeling what the current items are compared to where they were just a few years ago when we were behind the boom.

Karen Hilfer stated that Stark County actually did a flow study three or four years ago.

Secretary DeBoer related that there was one in 2013.

Karen then related that Stark County is planning on doing one next summer in 2016, so we are planning one for them for next summer.

Karen then stated that Stark County sees the value of every three years and maybe we will be able to get an idea of the change.

Kent Theurer replied indicating that he agreed and continued with stating, I think it doesn't really help us to know spots, so I think it's good to look at statewide because that tells us the process and where things are leaving that path and where they are. You look at a flow study and it's actually the movement, it doesn't tell us necessarily things stop there. Doing statewide will give us a lot more idea about where things stop and actually potentially provide a lot more information than individual studies do.

Karen Hilfer then mentioned that the agency just received information that our grant for 2015-2016 had been approved and she was waiting for the final contract to arrive. The local contacts should all be notified by October 1, 2015.

Chairman Greg Wilz provided information on Homeland Security Grants. Beyond what was in the report, I just got a couple things I'd like to mention. We continue to live in kind of a dangerous world, everybody. I had the opportunity to go out to New York about three weeks ago now and do a Homeland Security Advisory Council meeting out there and it's always an educational time for me but literally, you know, terrorism is alive and well across the world and to include this country. The basic philosophy of the bad guys is changing or has changed. It's gone from a philosophy of directing terrorism attacks to inspiring them and that's a major shift in their ideology of thinking of how to effect harm overseas. Bottom line is, you know, we just all need to be vigilant and I keep talking about this to every group I get a chance to talk to. We had a report come through yesterday or the day before, I can't remember, but it was a report where we had a hazardous material incident and it was gun shots to the apparatus. Alright, so, I walked around wearing my 'Homeland Security' hat all the time and, you know, I think, okay, is this just criminal activity or is this something more. Eco-terrorism, you know, whatever, disgruntled employees that, you know, have a short fuse and that fuse could be lit in an unknown location and we could have more harm. That's what I get paid to do and think about everyday so I just want to tell you as you are all out there working, we all need to be vigilant.

The other piece that they keep harping on us nationally is cyber, cyber security. The mere fact that a lot of our systems out there are cyber driven, the bottom line is, nationally what they're telling us is that the bad guys are

in your systems at least 205 days before you recognize it. That's on an average nationally. So it kind of behooves us to think that at some point in time, the bad guys are either in our system or have been in our system. Maybe they didn't find what they like but we've got to do what we can to stay current and protected in all of those systems. I know a lot of us don't individually touch the owner/operators out there but, they've got to be doing what they can do to secure those systems or else the bad guys will someday be able to wreak havoc. The other comment that I would make is, through a very wide sweeping stakeholder involved attempt, we have approved and sent to the print shop yesterday the new North Dakota Fire Danger Guide and this is going to get printed out, we're going to provide up to a thousand copies initially to all the counties, to the Emergency Manager's. They can get them out to everything from, you know, the court house, down to the restaurant. We want people to understand what the current rules and restrictions are as they relate to fires and fire danger, as it would relate to having a burn ban or a Governors' proclamation in play. I think a significant improvement has been made over what we had. I'm sorry I don't have any copies to hand out but I'll leave this one here if you're interested in looking at it. This is just one of the drafts before we went to the print shop but we define what all things mean, open burns, recreational burning, all of that kind of stuff so it gets everybody on the same sheet of music. And then we also provide very clearly what's restricted when. What you can do and when it's not restricted.

And then beyond that, we've taken the opportunity to put just some basic suggestions in there and those are all good, it covers pretty much everything, to include, the petroleum industry, who we work with and monitor quite heavily, and as an example they do seismic blasting and they have flares and well pads and we provide direction as to what they should be doing and I think this will go a long ways eventually here with getting everybody on the same sheet of music. We're coming up on fire season again and someone's already saying we're in it. But at the end of the day, this last spring when the Governor had to put out a proclamation, we had a ton of phone calls and you'd be surprised how many of those actually came from folks concerned about the energy industry in the State of North Dakota. Flares burning and all of that, over and off road activity and in areas where probably the fire danger was extremely high. Anyway, an attempt to do things better and better educate the public.

Kent Theurer then asked what Chairman Wilz's thoughts were on delivery of the Fire Danger Guide. Is it going to go out through the counties?

Chairman Wilz replied that yes, it would go out to the EM's and have them distribute them throughout the county. Some will be given to state agencies, it's going on the ND Department of Emergency Services webpage where other state agencies have links to the NDDDES webpage. Obviously the ND Firefighter's Association will have this on their webpage as well.

You know, we really want to get this out as much as possible. I think as soon as we start pushing it out, we'll try to get a media release on it and get people to understand that this is out on the street now and it will help them in talking with some of our partners. The Forest Service as an example. They still have the grant program that allows for the purchase of the signs, with the arrow, indicating whether the fire danger is low, medium, or high. The signs are, red, green, blue, and orange and are usually posted at the Rural Fire Department locations. I

think we need to work with our community, especially those that are in areas of higher risk. Areas that have grasslands, state parks, whatever the case may be. We need to get more of those out there so people understand. Can you image what's going on in California or in Washington and Montana and Colorado? I mean, it's crazy. Now, the terrain is different here in North Dakota, but the fires are just as bad if they get out of control and people have got to be smart. I know it's not a direct link to what the SERC does, but there is a nexus somewhere in there between hazardous material and hazardous material handling industries that have responsibility to keep fires down.

Mary Kae Kelsch representing the ND Attorney General's Office stated, it would be handy to have. I remember the fire ban this spring, just living out in the country and people were confused about what that meant. I would go to your website or something, but I'm not sure a lot of people would know that stuff. I was thinking those pamphlets should be given to like convenience stores where they are selling the fishing license and lottery tickets or stuff like that. That's where the public goes. Beside the NDDDES and NDFA web sites, can we get them on other sites?

Renee Loh then asked Chairman Wilz if there was any consideration of possibly doing a 30 second Public Service Announcement (PSA) announcing that it's out there and available?

Chairman Wilz replied that a media release would be accomplished and see if we can get somebody to join in on a PSA with us.

Chairman Greg Wilz then stated, let's move on and go Hazardous Materials Spill Maps.

Secretary Ray DeBoer then reported to the SERC members that there were five maps in their packets showing the four separate regions and the entire state, where hazardous materials incidents had occurred.

Jeff Thompson, the Haz-Chem Officer for the Department of Emergency Services provided some information. He related that when he is running trends he noticed that there had a big upturn in vehicle accidents. More vehicle accidents are occurring more frequently and are including fatalities as well which the Highway Patrol can attest to. In the Environmental Incident Reports (EIR's) the figures were up 20% in July 2015 and 15% in August of 2015. Spills are down and have been since December of 2014.

Chairman Wilz mentioned that he is not an experienced firefighter or hazardous materials person like Jeff, he finds this information alarming. Even though things are down we still need to be aware of things that are occurring.

Jeff then mentioned that DES is still receiving oil and production water spills, we are still not getting any spills of acids that occur.

Chairman Wilz continued with, at the local level, we need to take this very seriously and we've got to be prepared. We can look across from a geographical area and we know that there are fewer incidents in other parts of the state, still, never say never. It's just a matter when, and not if they occur.

Fred Anderson representing NDIC Oil & Gas Division then asked if the SERC thought it might be worthwhile to put the transportation related incidents on the map as well. Maybe with something like that we

will be able to see some trends this could also allow the SERC to see corridors that are more heavily tracked. Most already know that, but it's something that doesn't get conveyed just looking at the map at dots. The dots are all over the maps. What's bringing that together? Is it, transportation routes, like US Highway 85, Highway 2, US Highway 83, Interstate 94, etc.?

Captain Eric Pederson representing the ND Highway Patrol related that he could speak anecdotally, it's anywhere there's a road or a well pad. The Highway Patrol studies this constantly and there is nothing to gain on by laying this information on the map, but again as previously stated it's what the Highway Patrol does 24/7 and it's just where the industry is. Where they are busy, is where the spill sites are. It's sounds simplistic, but it's truly what it is.

Chairman Wilz then provided information on the Grand Forks Training Site/Oil Train Derailment. He started by saying that since the last meeting he has had the opportunity to apply for a grant, it's of the national continuing training and education grant. He related that some agency funds had been expended and solicited a contract to write a grant for us and it has been submitted. It is a grant that would come to the state and then essentially be provided to Grand Forks County, Grand Forks City, and we have submitted for approximately 2.1 million dollars. It's to aid in the construction/development of the train derailment training site at Grand Forks and I've addressed that at previous meetings. This would be a site that is owned by the City/County but operated by Security and Emergency Response Training Center (SERTC) under a partnership between the City/County/SERTC and the State of North Dakota and would provide similar training as is provided at SERTC in Colorado. So we hope to know in October whether we get that grant. Our planning is really on hold for the development of that site until we know if we receive that grant because it will mean significant improvements in terms of how we develop the actual site. So that's kind of where that's at, hopefully at the next SERC meeting we will know and be able to brief you as to where we're going next with that training items. That would be a huge thing if the State of North Dakota could procure and secure that site.

The State of Minnesota is also working on something very similar and they have yet to see or receive any funding from their legislature to make that happen. I'm really at some point needing to talk to the folks in Minnesota because it would really be a shame if we duplicate the same type of training site, in the same national geographical area. However, if they are wanting to do something other and different than what we're moving out on, then I would be very supportive of that. So we'll engage them over the next 30 days here, and see where they're going as they seek to get funding for what I believe is a similar training site.

New Business

Chairman Wilz commented, let's move on to New Business and this is an opportunity for us again as a SERC to hear from a couple of the local emergency planning committees and on the docket first up is Bottineau County. The Bottineau County Emergency Manager (Rick Hummel) then introduced himself. Mr. Hummel related that his LEPC is in the process of reforming right now. He stated that Bottineau County had come up with a new set of by-laws last fall and one of the things in the by-laws is attendance of members. If a member does not attend so many meetings, they can no longer be a part of the LEPC. He continued and stated that he sent out a copy of the new by-laws and asked members to respond to the attendance change within a one

month time frame on whether they wanted to remain on the LEPC. The LEPC members that did respond to his request he knew would respond as they have been the key players in everything. After receiving the response he and his LEPC Chairman (Jeff Soland) went through the membership and they made a decision to redo the LEPC membership. They took off the members who did not attend regularly and they are in the process of rebuilding the LEPC membership. Mr. Hummel continued with stating that they presently have approximately 15 members on their LEPC. He also stated that he is trying to get more private industry, like oil & gas companies, agricultural industry on his LEPC.

Mr. Hummel also related that at their last meeting they would be meeting quarterly in the future, where previously they were one to two times a year. At our last meeting, Al Hanson, the Northeast Regional Coordinator attended and we went over the THIRA step 2. We discussed all of that and we're in the process right now working out the THIRA step 2 and that will be completed by the end of this month and by the deadline it will be done. And then one other thing that we're working on right now is, I'm working with, we're putting together an exercise, a tri-county exercise, or a regional type exercise that we're going to be working on. Something dealing with hazardous material so that way we can utilize our Tier II funds for that and work together with the other counties. Bring numerous counties together and have a good exercise. He related that he is working with Amanda Schooling from Ward County and they're going to determine what direction they want to go. After we've determined the direction, we'll invite in the rest of the EM's and just discuss the direction of the exercise.

We're in the process of completing our multi-hazard mitigation plan and about 90% of the LEPC are on the committee. We have a contractor doing the plan with input from the LEPC. Rick then asked Jeff Soland if he had anything to add?

Jeff Soland, the Bottineau County LEPC Chairman started out by stating that Bottineau County has done more with Rick Hummel as the Emergency Manager than has been done previously. He related that they completed an "Active Shooter" course at the college in Bottineau where they learned things that needed to be changed in their planning.

Rick Hummel then related that with Jeff Soland and the core group that he has in Bottineau County are very active. They have a "let's get this done attitude". One person on his LEPC travels approximately 50 miles from his farmstead to attend the LEPC Meetings. He never misses a meeting. Mr. Hummel went on to relate that Bottineau County had an exercise approximately three weeks prior to the SERC meeting and it was a real learning experience for the responders. Rick related that he told the people involved to not feel disgusted with what wrong but to take the exercise as a learning experience and make the changes that are necessary. That's why there are exercises. He also related that what they learned were just minor changes. Communications, like always was a problem, but the Active Shooter Exercise was a big help in identifying their communications deficiencies.

Chairman Wilz then asked Mr. Hummel, on a scale of 1 to 10. Given the likely scenario involving a hazardous materials incident in your county, what do you believe your local level of preparedness is?

Rick responded by stating "5" at the best.

Chairman Wilz then asked Jeff Soland if he agreed with Rick's response.

Mr. Soland related that he thought it would be little bit higher. He continued with the statement, "We know enough to stay away".

Chairman Wilz then asked, "Is there anything that the SERC can do to be helping Bottineau County? Is it more training, more what? Do you have any requests of the SERC?"

Rick Hummel responded with "training". That never hurts. It's always needed. There is always something more than can be learned. He related that Secretary DeBoer had been to Bottineau County and talked with the LEPC previously and that was very well received.

Secretary DeBoer responded with stating that training can be provided at any time. All Bottineau County has to do is ask. Secretary DeBoer then asked Mr. Hummel if he has been getting the training information that is sent out to all the Emergency Managers that he feels is pertinent to North Dakota.

Rick replied that he has and he forwards that information on to the LEPC members and the Bottineau County Commissioners.

Chairman Wilz stated, let's move on to Ransom County and Tricia Kriel.

Tricia related that her LEPC is similar to the Bottineau County LEPC. We have about 15-20 LEPC members. Our sheriff, who couldn't be here today, is our chairman right now. I'm lucky and I have two county commissioners who sit on my LEPC. They both might not attend meetings at the same time but usually one will be at almost all of our meetings. We have a hospital in Lisbon, CHI, we have a representative that always comes from there. The ambulance is privately owned in Ransom County and they always send a representative. Public Health, our school superintendent in Lisbon is really good about coming. We do have a separate school district for Enderlin, he comes periodically. Our law enforcement's very good, well our sheriff is our chair, so he's always there along with the Lisbon Police Chief. Lisbon City Council usually tries to send someone if the Mayor can't come. He'll send a council member. Our fire departments all send someone. We have four different fire departments, two are kind of combined, Enderlin/Sheldon, they share people and resources. Rick Gillen, Enderlin Public Works, he is usually there, and then I'm the secretary/treasurer for our LEPC, which works out because I'm usually the one organizing the meetings anyway. We do try to invite church pastors. We try to get our church community involved. They will rarely attend, but it's maybe once a year, or if we specifically ask them to. Civic leaders, we struggle with all jurisdictions attending. We will get the City of Lisbon and our County Commission is good about coming. We try to get private industry involved (like Bobcat) but we've not had anyone attend or get involved, which I'm kind of surprised. They do employ over a hundred people in our community so it's one of our biggest employer. We struggle with private sector business as well as agricultural. I don't know if I'm just reaching out to the wrong people or they just don't know who to send. So that's something that we struggle with and we'd like to get more involvement from them. We have 21 facilities who reported last year. It went up by 2 and we knew about the 2 new facilities and new things being brought in. Our biggest issue is, or my biggest issue I should say, our LEPC's. We get the Tier II reports, we get maps and where everything is, we get that they do a plan, I don't know how trained the local facilities staff is on their plan? A lot of my reports come from where their headquarters are, so I'm not sure how well the local personnel at the

facilities are aware of what to do in case of an emergency or a hazardous materials incident.

Secretary DeBoer stated that this is an issue that the DES Haz-Chem Division will be addressing.

Tricia Kriel responded by saying great. That's just one of the issues we've had, when you go to the actual facility or talk to someone who works there, they go, "what are you talking about?" She continued with stating that she tells the facility personnel that she and the Fire Department will be coming their facility. She tells facility personnel that the emergency responders are showing up expecting you to lead them, not them leading you. On training and exercising. We did four full scale active shooter exercises between a four county area over the last couple years. Our last one finished up last year in Sargent County. We just did a haz-mat full scale exercise with LaMoure County which included the ND Department of Agriculture, which was awesome. Something that we're looking into is a train derailment. We do have oil trains that go through CP Rail in Enderlin. We get a lot of other hazardous materials that come through as well. So we're looking at starting with a tabletop exercise and getting involvement and work up to a full scale exercise. One exercise that we've always talked about because Ransom County has a lot of grasslands, would be a search and rescue, which wouldn't necessarily be haz-mat but it would affect most of our agencies that are a part of our LEPC. We did just finish our hazard mitigation plan, and multi-hazard mitigation plan for the county pending final FEMA adoption. FEMA just received our adoption letter so hopefully that will go through. I can pass this around as well, this is something our LEPC asked for. We do have a bulk anhydrous plant in the City of Lisbon. It was grandfathered in years ago. Our LEPC does not think it should be there. They want it moved. It's something that we talked about so we specifically asked for this map. The first ring would show an evacuation area to a half mile, and then a mile hazard area. If we would need to evacuate a mile out, that's the entire City of Lisbon. If anybody is interested in seeing this map, I can pass this around. This is something I know that the City Council has had issues with because they gave them a time frame. That time frame, I believe, is either expired or coming up on expiration as to when they were supposed to have a plan to move that bulk plant. This is something our LEPC is very passionate about and there's a lot of push to get some action or figure out why nothing is happening.

We do have 5 pipelines in our county. We have Kinder Morgan, Alliance, TransCanada, and then a gas pipeline that goes from the Cass County line to the ADM plant, which is our Archer/Daniel/Middleton and is a sunflower processing plant in Enderlin. TransCanada does also have a pump station by Fort Ransom so the 5 is technically, considered 2 separate pipelines.

Hazardous materials funds, what we've used them for in the past. We've used them for radio programming, tower repairs, etc. We struggle with that as well because everybody wants them for their agency. We have to do a lot compromising and we struggle with who gets what. Something else that we've talked about is; we only have one decontamination shower and it's located in our hospital in the county. We've talked about purchasing additional decontamination equipment so that if we did have a hazardous material incident it could either be with a fire department or possibly on a trailer that it could be brought to a scene to help with that.

I do have something else. It's not mine. Kimberly Robbins, who is the LaMoure County Emergency Manager, made this and she shared it with me. They were kind of struggling with getting Tier II reports from

facilities or knowing what they needed from them so they made a tri-fold pamphlet. I brought that and I can pass it around. She graciously gave it to me and said, 'you can borrow it, do what you want with it, tailor it to Ransom County,' and that's something our LEPC is considering. They did send this out and got 100% reporting after they sent it out. She also received a lot of calls on "what is this", "Why am I receiving this", so it was effective.

Chairman Wilz then asked Tricia, on a scale of 1 to 10, where are you at?

Tricia responded with, you know what, now that you bring that up, we did have 6 firefighters in Lisbon, just one fire department, go to Pueblo and they won't stop talking about it. They all want to go back. She continued with stating that there was no cost to them and they absolutely could not stop talking about the training. They've shown me all their pictures and so it's a great training. In regards to a scale of 1 to 10, I would say a 5 or a 6. There are somethings that we have dealt with. Obviously hazardous material spills but there are things that they are not prepared for. We only have volunteer fire departments. They have limited resources. We are over 2 hours away from a full haz-mat team with operations level experience.

Chairman Wilz then stated, but when you think of Ransom County, you don't think about the number of pipelines you have. Processing centers, the fact that you've got rail, all of that stuff, I mean, that's in the southeastern part of the state. You're not supposed to have any of that.

Tricia Kriel responded with 'yes' and one pipeline does run, well, actually three of them, Kinder Morgan, TransCanada, and Alliance all run through our entire county north to south. Tricia completed her presentation and thanked the SERC for inviting her.

Chairman Wilz thanked Tricia Kriel for coming in today and stating, I know it's a long ride for the little time you spend with us but it's pretty important that this group gets the real feel for, what's occurring locally and if there's ways we can help we want to do that.

Chairman Wilz then moved on to Project Safesend with Kent Theurer from the ND Department of Agriculture. Kent related that the ND Department of Agriculture just finished Project Safesend and once again received a record amount of pesticides. They received 192 tons (384,000 pounds) statewide which was a 40% increase over 2014. Out of that 384,000 pounds, 93,000 pounds came from the City of Mayville. Kent continued with stating we're definitely starting to see pockets that came from or they did collections from 12 communities throughout the state. Project Safesend is funded by pesticide manufacturing registration fees. ND Agriculture Commissioner, Doug Goehring is in full support of continuing the project. There is some concern about, at what point can we continue to sustain Project Safesend at 192 tons? Kent related that he did not think the program would go away. They may have to set limits as the amount of pesticides that can be brought in at these locations, Try to get the chemicals that are sitting in a garage somewhere and not get everything from the distributor's dumping extra product. He continued on and stated that limiting the amount of product may be the way to go, not that the Project Safesend Program will o away. Other states are now having their own Project Safesend Programs as they have seen the results of the North Dakota initiative. The program provides value, not only with getting the pesticides out of storage environmentally, but also stopping when there are fires and other sorts of incidents.

Secretary Ray DeBoer then provided information on a New Federal Court Case on Public Disclosure of EPCRA Tier II Data. In your folders on the right hand side, at the top it says Lexus Nexus and this was forwarded by Tim Gablehouse, who, those of you that have met him or have been at some conferences, he's been up here and given some presentations to us. He's an environmental attorney plus he's a member of the Colorado State Emergency Response Commission. What this letter basically says is when requesting information on Tier II's, the people have to be very specific about what they are requesting. You can't get a request for, 'I want everything that's in your database,' and boom, 'we want it now.' If they want everything, you're basically going to have to have, the ability to say, 'okay, tell me what you want, what the facility name is,' and you have a separate letter or request for that and it has to be in writing. So they're just, I believe its Pennsylvania that this ruling came from that allows an LEPC, a SERC, whatever, to limit what they can get. And they can't ask for the same thing 5 times in a row.

Secretary Ray DeBoer related that he had attended a meeting where an Assistant Attorney General who is very well versed on open records and request for records. If somebody has a request every day for the same document, you can limit the requestor to just one request for the same document. You can limit just about anything. There have been questions in the past and we had a hard time getting an answer from EPA attorneys, so that's why I provided this for EM's and SERC members.

Chairman Wilz asked Mary Kae Kelsh from the Attorney General's Office if she had a chance to review the document?

Mary Kae Kelsch responded by stating it's interesting, I'm not quite sure actually what the interplan would be. This is a US District Court and I'm not sure what Pennsylvania's laws are. The interaction between the federal law versus the North Dakota Open Records Law, not quite sure how this would fit in with it, and you know, in reading it, it comes down to some sort of media asked for Tier II records under the Emergency Planning and Community Right to Know Act and there's a whole section that explains what they are able to get. No one said that they couldn't get the information they asked for, but instead of saying, 'I want it from the Ransom County whatever censure,' they said, 'We want this information for 67 counties.' So it was very general. And so the court said, 'well, the law is very clear and it says you have to specify what place you're asking it from.' Now, what's kind of the part about the facts scenario that is troubling to me is they had the records. They had the records. And it says, if the media would have come in and asked just to see them, there's no requirement to put it in writing and they would have had to give it to them. They could have gone to each individual place and got the record because under the law as they have a right to this information. And so it really is a technicality that the media, and it kind of is absurd when you think about it, I mean, it's why people hate government. You know, you go in and you say, 'well, I put it in writing and I asked and you say well, you're going have to walk down here and then we'll let you look at it,' so it's, you know, if you called me up and said, 'well, I'm sitting here looking at it, but they're writing me a letter so I'm not going to give it to them. Just give them the dang records. I believe the reason that the request, when they are put in writing, have to be specific, is because the idea is if you're putting it in writing, you're sending it from some sort of distance. You're not in the location, you're not having a conversation with someone, and so the receiver just might not know what you're

talking about. So the law, I think it says, so you should be specific so they know, because the law also requires, if you get this letter and it says, the specific 'I want such and such and Ransom County and such and such in Stark County,' if you don't have it, you're supposed to go get it under the law. So unless you know specifically, how are you supposed to know what they want? I think there's a practical reason that the law requires you to be specific whereas if they come in and talk to you, there right there and when they say I want something from Stark County, you're able to say to them, 'Well where in Stark County? Which one are you looking for?' So I think there's a practical reason that the law has this different requirement in writing and a different requirement for in person. It just, it's here, I think there was, what often happens, the media was being stubborn and the Entity was being stubborn and the records sat on a desk somewhere collecting dust. So it is, an interesting case but I guess, if overall the law says you're supposed to get records and, you know, we want to try to be cooperative and transparent and make sure the public has the records they need to get so, that would be my slant on it.

Chairman Wilz then stated, let's move on to North Dakota Tier II changes. .

Jeff Thompson related that DES will be changing the Tier II form. Most of that's not going to mean anything for us. Some of the things we're going to change that means something for us, is review of the Tier II form. There's going to be a new format to the way it's reviewed so that Ray and myself and some other people can help do the reviews. We're working on building our standard operating procedures, standard operating guidelines on how we're going to do that. We're going to get a lot more stringent on facility maps. I wasn't very happy with some of the facility maps that I observed, when I helped started reviewing. A Google map that just shows some streets and shows a little dot where the facility is, isn't a facility map. That's a great street map to get there. Great for a dispatch center. Doesn't tell us which tank has the crude oil in it or has the ammonia in it or whatever it has to be. Some of these sites have several warehouses and the chemicals are only in one warehouse and we'd just get a picture that showed all of the warehouses. So we're going to tighten that up.. It's definitely one of the things that I felt needed to be changed. We're having weekly meetings within the Hazchem program now to help figure all that out and how that's going to look. We're going to change, the forms so that the emergency contact has to be addressed every single year. They can't just leave it filled in. People come and go and things change so we wanted them to make sure that that the emergency contact was looked at so our responders had accurate emergency contacts. With numerous personnel reviewing the Tier II form, we're going to randomly check some of the emergency contacts and call them. We want to make sure that somebody answers that phone. They are supposed to be 24 hour contacts. Some of them that we did this year, nobody answered. We ended up calling the company the next day during business hours and asking them, "Why is nobody answering the emergency contact number". We're not sure how we're going to do that. It's going to be random. We're going to have about 3 people doing reviews, so there's a lot of discussion on how many we're going to try and do. Obviously we are trying to get them reviewed and approved so they can go out to the EM's which is also important so we don't want to spend too much time holding them up trying to do every single emergency contact.

The next two issues I'm actually looking at, I'm looking for some input on. One item is the non-receipt of the

Tier II and the other item is with payments, or non-payment if you prefer. Right now we have a company, Enduro Operating that has 168 facilities that they reported last year that still haven't been reported this year. At this time, under the law, we have the right to fine them, but we aren't. I'd like to change that. We're still in the process of figuring out what that would look like. We've talked to a lot of different states to see if they even fine or not. There's numerous different ways that it's being done. Some of them, very extreme. ND Century Code says we can go \$15,000 a day per facility. A lot of the states are not going to that extreme for obvious reasons. You could really hurt a company. The discussion that we've had in our meetings is a fine \$100 a week per facility. A facility like Enduro Operating would be \$168,000 fine a week. But if you were a mom and pop convenience store/gas station, it would be \$100 for that one facility. Our main goal is not putting somebody out of business that missed it by 2-3 days. But we would like some input from the group and see if they think that's something we should be looking at.

The other one is late payment. Nalco/Champion is a good company, as they sent in their report on time. The first invoice for payment was mailed out on the 4th of March. They've had 7 notices since and still haven't paid. Whiting Oil was another example of that. They were \$146,000 in fees and it took us 6 months to get paid. So we want to look at a late fee type of program so that if they don't pay within so many days of us sending them the invoice, there would be late fees attached to that for them. This is basically the company not following the law. We've discussed this quite a bit. We have discovered that the trend for most business would be 10% beyond 60 days or something similar to that. We've had discussion on having the late payment be \$100 per week. We're still looking for ideas and thoughts on whether we should pursue that or not.

Renee Loh then responded by saying, You know, I really think if you started fining them you would really get your payments a lot quicker because that's only going to jeopardize them even further and it might get them moving forward quicker.

Secretary Ray DeBoer then stated that Jeff Thompson has brought a fresh pair of eyes and a lot of the ideas to the Hazardous Chemical Section since he has been with the agency. Another thing that we are going to do is start accepting credit cards for payment. This will change how fast payment is received in the future. We've been asked by reporting facilities for the last several years, when are you going to accept credit cards? Now what will happen with that, once it's up and running, we have to pay the banks their percentage, but the 50% that goes to the counties, any fees going to credit card companies, Bank of North Dakota, is going to come out of the state side. It's not going to come out of the county side. They are going to get 100% of that 50% that is collected from payments. We have drafted a letter to send out to the reporting facility owner/operators providing them with the changes that are taking place for the new reporting year. That will provide them 90 days to get ready for the changes and then right after the 1st of the year we'll send out another letter reiterating and advising reporters that the changes are in effect. We will also provide them points of contact in the section if they should have any questions.

Jeff Thompson then related, he had failed to mention we are talking about an extension program with this fining as well. There's going to be circumstances beyond the reporting facilities control, but we do want them to have to contact us and ask for an extension. Our goal is that we don't want them calling us March 15th

and saying, “Hey, we need an extension, we missed the March 1st deadline.” We want them to contact us in February or earlier and say, “This person is no longer with the company,” or whatever the situation happens to be and ask us for an extension so that those fines can be pushed off per our approval.

Chairman Greg Wilz then stated, “As we develop this change, Mary Kay, we’re going to need to look at it as it would relate to Century Code. That our authorities outlined within because I think right now in general, if we have people that are failing to file Tier II reports; we have the ability to turn that over to the Attorney General’s (AG’s) office and the AG’s office then can take legal action, to secure the reports. I think, probably 20 years ago, when that came to play, it wasn’t a huge business in the State of North Dakota. Now it’s becoming a nightmare at some level towards staff. They have to continue to chase payments or chase reports and it may require, a change in Century Code, possibly, next session. But if we do have some authorities to put into place, we’ll need to look at that, so know we’re going in that direction.

Bottineau County EM, Rick Hummel then asked if there was going to be anything done with GPS information being put into the Tier II forms.

Jeff Thompson related that we changed the mapping for GPS so that the location is more accurate for the latitude and longitude. Reporting entities will now have the ability to go into the software and be able to move a pin on the map around and place on the actual facility. This can be done using Google Maps. We know there has been problems in the past with this. That’s one of the things we addressed in the first changes that they are going to see, is that mapping. We also added physical address, as well as the legal description to the form. Some counties are issuing 911 addresses so they are both on the form now. That’s why the legal description is required. Physical address is on there as well. We’re hoping that that will help as well as clear up some of those problems.

Chairman Wilz then stated, “That’s been an issue for a while so that’s a good change.

Secretary DeBoer then mentioned that some counties are already enforcing having the physical address on the Tier II form. But all an oil company has to do is say is state that they have applied for that physical address and we can’t do anything in regards to it.

Chairman Wilz stated that the 911 Coordinators will be busy providing this information to the oil companies.

Jeff Thompson then stated that there might be a struggle this first year, but we’re working on solutions for that as it is a required field right now on the form. What we’re doing this first year is, an email will be sent out shortly to the EM’s asking them which ones are and which ones aren’t issuing the physical addresses.. If they are a county that at this point is not issuing those addresses, we’re instructing the reporting personnel to fill in the form with the county name so that we can confirm this county told us they haven’t done this. That way th providing the physical address for the well site.

Chairman Wilz then stated, then it also allows us, as an agency, me as a SERC Chair, to call the county commission and say, “Contact your 911 coordinator and stress to them that we need to get these address from them so everyone is in compliance with the law”.

Chairman Wilz stated this stuff is all important at some level and someday maybe we may need it so

we've got to do it.

Chairman Wilz continued with mentioning we've pretty much gone through the formal agenda items here. Is there any other discussion at this time that would be relevant to the SERC and/or are there any other ideas that you would like to see on the next meeting's agenda? The Secretary has provided me the dates of potential next meetings. It could either be December 2nd, 9th, or 16th. Do any of those dates cause a problem for anybody?

Captain Eric Pederson from the ND Highway Patrol made a motion for the 109th SERC Meeting to be held on Wednesday, December 2, 2015, with a back-up date of Wednesday, December 9th, 2015 if the December 2nd meeting needed to be postponed. The motion was seconded by Kent Theurer from the ND Department of Agriculture. The motion passed unanimously.

Adjourn

A motion was made by Captain Eric Pederson to adjourn, with a second from Kent Theurer. The 108th SERC meeting adjourned at 3:00 p.m.

Respectfully submitted:

_____ - S - _____

Greg Wilz, Chairman