

MINUTES OF THE MEETING  
NATURAL RESOURCES  
MONTANA STATE SENATE

February 5, 1977

The eleventh meeting of the Natural Resources Committee was called to order by Senator Elmer Flynn, Chairman, at 9:30 a. m. on the above date in Room 405 of the State Capitol Building.

ROLL CALL: Upon roll call all members were present.

Mr. Larry Weinberg, Staff Attorney of the Legislative Council, was also present.

CONSIDERATION OF SB 257: An Act to extend greater protection to the surface owner and tenant and to revise the geophysical exploration laws by expanding the scope to encompass core hole drilling, requiring a permit from the department of state lands, and providing for fines and permit revocations.

Senator Tom Towe, from District 34 and Sponsor of Senate Bill No. 257, stated that this bill amends the existing protection for farmers and ranchers on geophysical exploration. The existing law is very loose. Senator Towe explained the bill section by section. He said that there are four things this bill does. First, it provides for the permits to be issued through the Department of State Lands rather than through the Clerk of Recorder. Second, it provides for the notification of the landowner. Third, it provides for the plugging under supervision of the department. Fourth, it provides for damages. Two telegrams and a statement from the Wibaux Area Council were read to the Committee. (See Attachments #1 - #2 - #3.)

Mr. Hans Haynie, farmer and rancher, farming Northwest of Circle in McCone County and a member of Land Protective Association, stated that he was in an area where seismograph work is being done quite extensively. We have had experience with many different seismograph crews. 90% of the time we have a problem in collecting damages and finding these people after they have left the country without paying. In 1962 we formed an organization to try to keep from getting run over by the seismograph crews. They would just leave and we would be held there to take care of our own cleanup. We tried to take some of the companies to Court but with the existing laws we had very little success. We support the bill and feel this will help us to take care of the environment for ourselves and for future generations.

Mr. Delno Pawlowski, rancher in McCone County, said that in Red Water the seismograph crews came in the Spring and they went to the landowner to get permission. We asked them to meet with the

Association and fill out an application giving their mode of operation and etc. (See Attachment #4.) They would not fill out this application. They offered us \$25 a hole which we felt was not enough. He said that in the last 10 to 12 years three holes had caved in on his place. Also, his brother-in-law had been checking out his cattle and a calf had fallen down the hole. Another fellow who had registered cattle in the Red Water area said they had moved one hole and made a cluster of five and this has reduced the flow of his well. He stated that they were not against development but that they were for fair treatment as landowners. He added that they think it is very important to plug these holes from the bottom up.

Mr. Mort Martinson, from McCone County, stated that he was in full agreement with what has been said.

Mr. Scott Nefzger, from McCone County, added that he feels the same.

Mr. Fred McCartney, from McCone County, testified in favor of this bill.

Mr. Pat Smith, from McCone County, stated that he favors this bill.

At this time opponents of SB 257 were heard.

Mr. James Mockler, Executive Director of the Montana Coal Council, stated that they are already very adequately covered by the laws of the Department of State Lands. We feel that with the bonding provision and with everything else we have to submit that the information that is required for core drilling is adequately covered. I think we are more than adequately controlled as far as core drilling is concerned.

Mr. Sid Groff, State Geologist, stated that he was opposed as we already have laws to handle core drilling. We are covered by the Department of State Lands and the Federal Government. I am worried about the expense to the state under this bill. If the Department of State Lands takes this bill on as written they are going to have to ask the Legislature for a rather large amount of money in order to enforce it.

Mr. Don Allen, Executive Director of the Montana Petroleum Association in Billings, stated that he opposes this bill. The petroleum industry is at a very difficult point in time. The real problem today is really supply. As far as this bill goes, if this bill is passed, 90% of the geophysical activity in the state will be shut down overnight. We care, we want business in the State of Montana. Our tax bite last year amounted to 30 million dollars. This bill would involve so much paper work. We think there is no need to pass something that will completely halt exploration. We need to do all we can to find more gas and oil. Anything we do to slow up the activity makes no sense to me.

Mr. Forrest Boles, Executive Vice-President of the Montana Chamber of Commerce, stated that they feel that SB 241 will solve the problem.

Mr. Leo Berry, representing the Department of State Lands, stated that he didn't know the impact the bill will have on the department staff but he was sure that it will need a boost. We are not proposing or opposing the bill. There are problems in this area that must be addressed. If it is placed in our Department, we will do our best to administer it.

In closing, Senator Towe stated that bringing this into the Department of State Lands is avoiding duplication to which Mr. Mockler refers. The landowners are entitled to protection from core drilling for coal and this is not covered in the other bill. In reply to Mr. Groff's comments, I agree that the State Lands will have to administer this bill. I specifically did not provide for a check for every single operation simply because of the financial situation. Mr. Allen's remark dismays me the most. The bill does not at all require all damages to be assumed by the exploration companies. The companies who are responsible are paying that now. Companies who are responsible are filling out that information sheet that was given by Mr. Pawlowski. I don't think anyone should leave anyone on their land before they have that information. The farmer and the rancher is the one that needs this information. As far as shutting down 90% of the exploration, that's humbug. It is about time we require people to act decently before we let them come on your ranch, and we can't do it under the existing law. Mr. Berry is most helpful of all. The Department of State Lands has a history of doing a good job of taking care of mining in the state.

Senator Flynn asked, what are the kinds of drilling we are talking about.

Mr. Groff said, we core drill in coal fields and that is different than seismograph holes.

Senator Flynn said, basically then there are two kinds of drilling, oil and gas, and coal.

Mr. Groff stated, you could say that.

Senator Manley asked, when these people come in there they own the mineral rights. Don't they even have to ask permission or anything.

Senator Towe answered, saying, they claim they don't and that's what we are requiring. They feel they have a right to come in there whether you like it or not and we are going to come in whether you like it or not.

Senator Flynn asked if core drilling is ever done by itself.

Mr. Allen replied that 75% to 80% is done by a contractor. You are going to run a lot of business out of the State of Montana. I think \$100 is too much, you are going to drive business out of Montana.

Senator Towe said the \$100 is not the crucial part of this bill. The important point is farmers don't want to go to Court.

Senator Galt asked, whether the seismograph or core drilling operator is not prohibited by the trespass laws.

Senator Towe said, that's my position but Burlington Northern feels if they have the mineral rights they feel they have the right.

Senator Smith said, remember the landowner leased that land before the exploration.

Senator Roskie asked, isn't it a requirement at present that anyone desiring to core drill must make that fact known to the Department. They may insist on including plugging.

Senator Towe said, I am not sure the state law says anything about plugging.

Senator Roskie said, I think there is a difference between core drilling and oil and gas.

Mr. Berry said, that would be generally correct.

CONSIDERATION OF SB 241: An Act to extend and further describe the requirements for plugging and reclaiming "shot holes"; establishing additional penalties for failure to comply with those requirements.

Senator Ed Smith, Chief Sponsor of SB 241, stated that there are six landowners that have signed this particular bill. Our particular problem is with seismograph shot hole plugging. I feel as a landowner, if I want to leave them in for \$5.00 or for \$100 a hole or whatever - that I can. I sympathize with these people as I have had problems with that too. I think this can be taken care of in a one-page bill. We had landowners from Northeastern Montana come up and help write this bill and they comprised 2 million acres of land. The North Central Landowners also appeared. If this doesn't do it we will come back two years from now and take a different approach.

Senator Smith briefly went through the bill for the Committee. I actually think that if we go as far as SB 257 it will have the same effect as a moratorium. I am sure the State of Montana will need those tax dollars on all exploration being done in my section of the state. I, as a landowner, have the right to check the seismograph crews to see if they are plugging holes or not. We can kill an industry.

Mr. Groff said, that there is a possibility that on top of the bill there can be rules and regulations set up and if I have my way I am going to take care of the landowners. I feel SB 241 will do the job. We have to keep an eye on it and we will be back two years from now if it doesn't do the job.

Mr. Allen said, that at the meeting they had every group represented and we feel that everyone had a chance to say what their problems were. Again it is very important to have an atmosphere to continue to develop the oil and gas reserves in this state. We thought this was the way to put teeth into it. We like SB 241 and feel it will solve the problem without creating new problems.

Mr. Forrest Boles, Executive Vice-President of the Chamber of Commerce, stated that the business community in general is under an extremely heavy paper workload. We were pleased to see Senator Smith reduce paperwork. I certainly hope the Committee will adopt Senator Smith's bill.

Mr. Delno Pawlowski stated, that he didn't think this bill was going to help the landowner one bit. This bill is too vague. We would be just where we were ten years ago.

Mr. Hans Haynie stated, that after the work is done if we don't accept the settlement we have no recourse but to go to Court. This bill is not strong enough to protect us.

Senator Towe said, he didn't care if the Committee passed Senator Smith's bill or his bill. He asked, pertaining to Senator Smith's bill, who is going to supervise this. In my bill there is a provision of the Department of State Lands to go out and inspect and see if they actually are plugging the holes and doing it right. It doesn't appear to me to require plugging from the bottom up. I really think it is important to put it into some agency. I suggested the Department of State Lands as just keeping it in the Clerk of the Recorder's Office is not enough. There should be some way that a farmer can get recourse without going to Court.

Senator Smith at this time closed, by saying, that he realizes there is a problem with Burlington Northern lands. However, in this bill the big thing is, what is proper plugging and what is a shot hole. They have told me that they are going to require that every shot hole is plugged in the State of Montana. When there is a possibility of loosing their permit I don't think they aren't going to have that hole properly plugged. I think this is something that should have been done years ago. I hope that this Committee gives SB 241 a DO PASS.

Senator Flynn wondered if there isn't such a thing that different holes require different kinds of plugging.

Mr. Groff said, yes, there is.

Senator Flynn asked, how important is different water mixing from different wells.

Mr. Groff said, it could be very important.

Senator Flynn said, it could be different in different areas.

Mr. Groff said, that's right.

Senator Flynn asked, if there is pending litigation in this state.

Senator Towe said there is two sets of lawsuits.

Senator Dover asked if SB 241 will give enough protection.

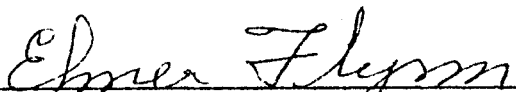
Mr. Groff said, yes, but we have got to get some rules and regulations to go with it.

Senator Towe said, maybe he could work with these people and maybe we could have something these people could agree on.

Senator Galt said, these landowners when they bought that land must have known that the Burlington Northern had the mineral rights.

Senator Towe said, the point is that's fine. Many exploration companies cause no problems. But when somebody comes and says we would like to get your permission but we will do it whether you like it or not, then the landowner gets upset.

ADJOURNMENT: There being no further business, Senator Flynn adjourned the meeting at 11:10 a. m.

  
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SENATOR ELMER FLYNN, CHAIRMAN



SENATE NATURAL RESOURCES COMMITTEE

S. B.

BILL 241 &amp; 257

# VISITORS' REGISTER

DATE 2-5-77

Please note bill no.

(check one)

OPPOSI

NAME	REPRESENTING	BILL #	(check one)	
			SUPPORT	OPPOS
John S. [unclear]	Adm. for Cons. Guard	241 257		
Charles L. Maid	oil & Gas Cons. Board	241 257		
Scott J. DeJager	Land Protection Assn	257	✓	
Robert [unclear]	" " "	257	✓	
Frank M. [unclear]	" " "	257		
AL ART 215	Newton Exploration	241 257		
James [unclear]	Delta Exploration	241 257		
Jim Webb	Petroleum Geophysical Co.	241 257		
W.H. [unclear]	WASAT CHAMBER	241	✓	
" "	" "	257		✓
Bob Laing	Self			
Lytle [unclear]	"			
W. J. Mills	"			
W. J. Mills	"			
W. J. [unclear]	Farmer	257	✓	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY



NAME: Dr. S. L. Graft DATE: Feb 5

ADDRESS: 225 W. Quartz

PHONE: 28791 (Home) Business 7928321

REPRESENTING WHOM? National Bureau of Mines & Geology

RELATING ON WHICH PROPOSAL: 241 257

YOUR: SUPPORT? X ☒ AMEND?        ☐ OPPOSE? X ☒

REMARKS: Support 241 because

241 the partially  
1. It was result of work done

by the Bureau of Mines and Geology

2. I was involved in meetings leading

up to the Bill (241)

3. The Bill <sup>(241)</sup> is needed to correct

a problem

4. The Trade Bill 257 is difficult

will cause time delays and undue

expense etc.

5. 257 covers areas already covered

other statutes and regs.

NAME:

WARD SHANAHAN

DATE:

2-5-77

ADDRESS:

3RD FLOOR 1ST NAT'L BANK HELGA

PHONE:

442-8560

REPRESENTING WHOM

Dwyer Bros. Inc.

APPEARING ON WHICH PROPOSAL:

241, 257

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

NAME: Harry Wayne

DATE: Feb. 5 77

ADDRESS: Box 91

Circle most

PHONE: 485 2485

REPRESENTING WHOM? \_\_\_\_\_

APPEARING ON WHICH PROPOSAL: SB 257

58 291

DO YOU: SUPPORT? ☒

AMEND?

OPPOSE? ✓

COMMENTS: \_\_\_\_\_

NAME: Delko Paulinski DATE: 5 Feb 77

ADDRESS: Circle, Mont.

PHONE: 485-3442

REPRESENTING WHOM? Land Protective Assn. Inc.

APPEARING ON WHICH PROPOSAL: S.B. 257 241

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS:

NAME:

Don J. Allen

DATE:

2/5/77

ADDRESS:

Billings

PHONE:

442-1770 (Helena)

REPRESENTING WHOM?

Montana Petroleum Assoc.

APPEARING ON WHICH PROPOSAL:

SB 241 & SB 257

DO YOU:

SUPPORT?

SB 241

AMEND?

OPPOSE?

257

COMMENTS:

NAME: AL ARTZIS DATE: 2/6/57

ADDRESS: Box 754 - Phillips

PHONE: 237-5060

REPRESENTING WHOM? *Newton Exploration*

APPEARING ON WHICH PROPOSAL: 241

DO YOU:    SUPPORT? \_\_\_\_\_                      AMEND? \_\_\_\_\_                      OPPOSE? \_\_\_\_\_

COMMENTS: \_\_\_\_\_

COMMENTS:

NAME: Bob Gannon DATE: 2-5

ADDRESS: 400 Broadway

PHONE: 443-4230 (Helena)

REPRESENTING WHOM? Mont Power & Western Energy

APPEARING ON WHICH PROPOSAL: SB 257

DO YOU: SUPPORT? \_\_\_\_\_ AMEND? \_\_\_\_\_ OPPOSE? X

COMMENTS: \_\_\_\_\_

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(Attachment #1)

PRC210(1724)(2-044434E034)PD 02/03/77 1724

ICS IPMMTZZ CSP

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PMS TOM TOWE

HELENA MT

MCCONE AGRICULTURAL PROTECTION ORGANIZATION SUPPORTS THE PASSAGE OF  
SB257

HELEN WALLER PRESIDENT MCCONE AGRICULTURAL PROTECTION ORGANIZATION  
CIRCLE MT 59215

NNNN+

MSHR HEL

(Attachment #2)

WU TXA PTL+  
MSHR HEL

315P PST FEB 3  
PRC223(1806)(2-047530E034)PD 02/03/77 1806  
ICS IPMRNCZ CSP  
4063652603 TDRN GLENDIVE MT 9 02-03 0235P MST  
PMS SENATOR TOM TOWE  
CAPITOL STATION  
HELENA MT 59601  
THE NORTHERN PLAINS RESOURCE COUNCIL REPORTS PASSAGE OF SB257  
CHARLES YARGER CHAIRMAN  
NNNM+  
MSHR HEL

Give this to  
Natural Resource Committee

M  
WJ TXA PTL+  
MSHR HEL  
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ICS IPMRNCZ CSP  
4063652603 POM TDRN GLENDIVE MT 9 02-04 0100P MST  
PMS SENATOR TOM TOWE  
CAPITOL STATION  
HELENA MT 59601  
YELLOWSTONE BASIN WATER USE ASSN SUPPORTS PASSAGE OF SB257  
PRESIDENT HAROLD WIND BOX 606 GLENDIVE MT 59330  
NN+  
MSHR HEL

(Attachment #3)

Statement from Wibaux Area Council as prepared by Tom Weir, Chairman

The Wibaux Area Council is a coalition of ranchers, farmers and townspeople in the Wibaux area. The council would like to express its strong support for SB 257. All too often when seismographers are finished in an area, they leave in their wake damaged wells, ruined wheat, disrupted aquifers and other damages. Unfortunately, a landowner has little recourse under present laws. These companies should be made responsible for damages done and should be required to leave the area in reasonable condition when they have finished.

SB 257 will provide for this and we strongly urge the passage of this bill.

As dictated to Vicki Johnson, aide to Senator Tom Towe



Helena, Montana  
Feb. 7, 1977

Senator Tom Towe  
Capitol Building  
Helena, Montana

Dear Senator Towe:

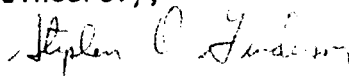
I am writing to you today to express Montana Farmers Union's strong support for SB 257, your bill revising the geophysical exploration laws to strengthen the protection of the interests of the owners and lessees of the land surface where oil and gas exploration is being conducted.

A number of our members, particularly Mr. Mort Mortenson of Circle, have indicated to us that oil and gas exploration crews have not been living up to their obligation to leave the surface of the land in as good a state after they complete their work as it was in when they began. They have also informed us that these crews have not been properly plugging test holes, and that in many cases this has led to fouling of nearby water supplies. They have told us that they have not been able to get their problems redressed in the courts, and that there is a vital need for legislation such as yours.

We feel that your bill addresses most of the problems which our people have had with oil and gas exploration on their property, and that it provides much needed protection for the owners and lessees of the surface land, without imposing any undue hardships on the people in the oil and gas exploration business.

We hope you will work diligently to get this bill passed, and we will be happy to be of any assistance we can in carrying the bill. Feel free to contact us if we can be of any help, and to circulate this letter to the members of the committee working on the bill if you so desire.

Sincerely,

  
Stephen O. Gunderson  
Legislative Assistant

# WIBAUX AREA COUNCIL

Post Office Box 54

Wibaux, Montana 59353

February 3, 1977

Senator Tom Towe  
Capitol Station  
Helena, Montana 59601

Dear Senator Towe:

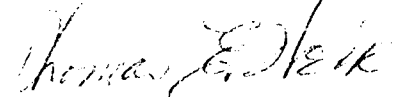
The Wibaux Area Council is a coalition of ranchers, farmers and townspeople in the Wibaux area. The Council would like to express its strong support for SB 257.

All too often when seismographers are finished in an area, they leave in their wake damaged wells, ruined wheat, disrupted aquifers and other damages. Unfortunately, a landowner has little recourse under present laws.

These companies should be made responsible for damages done, and should be required to leave the area in reasonable condition when they have finished. SB 257 will provide for this, and we strongly urge the passage of this bill.

Sincerely,

WIBAUX AREA COUNCIL



Thomas E. Weir, Chairman

TEW:lmh

(Attachment #4)

MINERAL ACQUISITION

Land Owner and Exploration Company named below, hereinafter referred to as "Land Owner", and Exploration Company named below hereby mutually agree to permit exploration according to the terms, conditions and covenants set forth below:

Date: \_\_\_\_\_

1. Name of Land Owner (or tenant): \_\_\_\_\_

Address: \_\_\_\_\_

2. Name of Exploration Company: \_\_\_\_\_

Address: \_\_\_\_\_

3. Type of mineral sought: \_\_\_\_\_

4. If Exploration Company holds no mineral interests, name and address of client or employer holding such rights:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

5. Lease or other instrument granting authority to Exploration Company from \_\_\_\_\_

Dated \_\_\_\_\_

Prior assignments reaching back to surface owner:

Date: \_\_\_\_\_ Assignor: \_\_\_\_\_

My name is Delno Pawlowski

I am a Farmer and Rancher who lives in N. E. Mont. in McCone County.

I am a Director on the Board of the Land Protective Asso. Inc. in Circle, Mont.

I am here to testify for approval of Senate Bill 257, titles

This bill would do for the land owner by law what we have been trying to do as individuals and then by forming an Association and acting collectively for years. Our Asso. was formed in 1963 out of what we felt was necessity. Since then we have tried about every means we could think of to get fair treatment from Seismograph Companies and Coal Exploration Companies and have run up against a brick wall so to speak every time. We are not out to gouge any one, all we ask is that these Exploration Company treat the land owner in a fair and business like manner.

Our Asso. has drafted an Exploration Agreement that contains questions we feel the Land Owner has a right to know about the Company wishing to do Exploring. I have a copy here of such an agreement. We also have a letter of authorization giving the Asso. the right to bargain on the land owners behalf.

The last Exploration Co would not recognize our Asso., even though we are duly incorporated. Would not fill out our Exploration Agreement for the Asso. or for the land owner as an individual. Would not negotiate for damages.

These Exploration Companies even though they cause surface and underground damages are only working for some other Company or Corporation and these Companies or Corporations set the amount they will pay for damages and will not negotiate for any amount more even though our costs have risen as much if not more than theirs. If the land owner has damages such as wells going dry or producing less, Springs that have reduced flow, Cracked basement from blasting shock waves, Holes caving in, Holes not plugged, Drill site not cleaned up, Debris not removed, Water veins intermingling, House and Stock well water that has lost purity or drinking quality. The Oil Co. or Railroad Co. or whichever Co. that owns the coal or Gas and Mineral rights or lease to these mineral say if you have damages prove it. This involves a law suit and legal action and in all suits we have filed and that have come to trial or hearing it is almost impossible to prove most underground damages. Damages such as to water veins, Springs and wells.