

THE MINUTES OF THE MEETING OF THE AGRICULTURE COMMITTEE
January 26, 1981

The meeting was called to order by CHAIRMAN SMITH on January 26, 1981 at 12:30 p.m. in Room 431 of the Capitol.

Roll call was taken and all members were present but REPRESENTATIVE RYAN.

SENATE BILL 59 was introduced by SENATOR BROWN. A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 85-2-306; MCA, TO PROVIDE THAT THE EXEMPTION FOR A STOCK WATERING PIT OF LESS THAN 15 ACRE-FEET APPLIES ONLY IF THE PARCEL ON WHICH THE IMPOUNDMENT IS TO BE CONSTRUCTED IS 40 ACRES IN SIZE OR LARGER: AND TO PROVIDE RETROACTIVE APPLICATION." (EXHIBIT A)

SENATOR BROWN stated a case that showed his reason for this bill, and a map showing a small parcel of land that a permit was given for diggin a watering pit or pond. This land was in turn sold to a sand and gravel mining operation that dug the pond to its specifications. Standing water problems have arisen in and around that area that could be contributed to such a pond. SENATOR BROWN said that it was his contention that this bill would eliminate anyone with a parcel of land less than 40 acres from digging a pond without a proper permit. This bill would possible connect with Representative Burnett's House Bill 324.

There being no proponents or opponents, the meeting was opened for Discussion.

It was confirmed that the standing water was ground water SENATOR BROWN said. He said that he would have no objections to a 20 acre permit providing they are digging ponds for livestock purposes. These permits would be obtained from the Natural Resource Department.

It was the Committee's decision to hold this bill.

HOUSE BILL 265 (EXHIBIT A, January 23, 1981 Minutes) "AN ACT TO PROVIDE FOR THE CREATION AND OPERATION OF RODENT CONTROL DISTRICTS; REPEALING SECTIONS 7-22-2201 THROUGH 7-22-2206, MCA," sponsored-by REPRESENTATIVE ELLISON and REPRESENTATIVE RYAN, was opened for discussion.

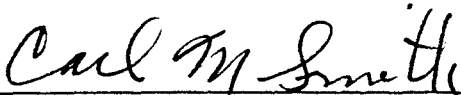
DISCUSSION in regards to the way the 51% was stated on page 2 and page 3 of the bill; page 2 stating "51% of the owners of the land within the proposed district" and page 3, stating "51% of the land within the district." DAVE COGLEY, legal counsel, stated that this was intentional in order that 51% of the land owners could petition to adopt the rodent control, but that in turn it left the law open so that owners of 51% of the land could petition against it. REPRESENTATIVE

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BENGTSON asked whether assessments for previous rodent control programs would be diminished in light of the new assessment in House Bill 265. Dave Cogley explained that the former law, including its funding mechanism, was repealed by this bill; so there would be no double assessment. It was also stated that the Department of Livestock and counties have to work together on this.

MOTION was made by REPRESENTATIVE ELLERD and seconded that HOUSE BILL NO.265 DO PASS. MOTION PASSED UNANIMOUSLY.

MOTION was made and seconded to adjourn the meeting. Meeting adjourned at 1:00 p.m.

A handwritten signature in cursive script, reading "Carl M. Smith", is written over a horizontal line.

CARL SMITH, CHAIRMAN

lmw

1 SENATE BILL NO. 59

2 INTRODUCED BY S. BROWN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
5 85-2-306, MCA, TO PROVIDE THAT THE EXEMPTION FOR A STOCK
6 WATERING PIT OF LESS THAN 15 ACRE-FEET APPLIES ONLY IF THE
7 PARCEL ON WHICH THE IMPOUNDMENT IS TO BE CONSTRUCTED IS 40
8 ACRES IN SIZE OR LARGER; AND TO PROVIDE RETROACTIVE
9 APPLICATION."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 85-2-306, MCA, is amended to read:
13 "85-2-306. Exceptions to permit requirements. (1)

14 Outside the boundaries of a controlled groundwater area, a
15 permit is not required before appropriating groundwater by
16 means of a well with a maximum yield of less than 100
17 gallons a minute. Within 60 days of completion of the well
18 and appropriation of the groundwater for beneficial use, the
19 appropriator shall file notice of completion on a form
20 provided by the department at its offices and at the offices
21 of the county clerk and recorders. Upon receipt of the
22 notice, the department shall automatically issue a
23 certificate of water right. The original of the certificate
24 shall be sent to the county clerk and recorder in the county
25 where the point of diversion or place of use is located for

1 recording. The department shall keep a copy of the
2 certificate in its office in Helena. After recording, the
3 clerk and recorder shall send the certificate to the
4 appropriator. The date of filing of the notice of completion
5 is the date of priority of the right.

6 (2) A permit is not required before constructing an
7 impoundment or pit and appropriating water for use by
8 livestock if the maximum capacity of the impoundment or pit
9 is less than 15 acre-feet, and the appropriation is from a
10 source other than a perennial flowing stream, and the
11 impoundment or pit is to be constructed on and will be
12 accessible to a parcel of land that is owned or under the
13 control of the applicant and that is 40 acres or larger. As
14 used in this subsection, a perennial flowing stream means a
15 stream which historically has flowed continuously at all
16 seasons of the year, during dry as well as wet years.
17 However, before constructing the impoundment or pit, the
18 appropriator shall apply for a permit as prescribed by this
19 part. If the department determines after processing the
20 application that the rights of other appropriators have been
21 or will be adversely affected, it may require the applicant
22 to modify the construction of the impoundment or pit and
23 issue the permit subject to such terms, conditions,
24 restrictions, or limitations it considers necessary to
25 protect the rights of other appropriators.

1 (3) A person may also appropriate water without
2 applying for or prior to receiving a permit under rules
3 adopted by the board under 85-2-113."

4 Section 2. Application. This act applies to
5 applications pending with the department on the effective
6 date of this act, as well as applications filed with the
7 department after the effective date of this act.

-End-

SECTION CORNER OF RECORD
IN RAHALL CO. COURTHOUSE

OWNERS

ANNAS R & NINA MARIE
WOFFORD

N 00° 40' 26" W 2635.55'

1317.77'

N 89° 53' 46" E 1322.07'

N 89° 53' 46" E 1322.07'

N. R.

NORTH

Dr. Richards
Sp. Road

00° 33' 31" E, 1245.42'

1318.89' S 00° 35' 31" E

George G. Brown
Property

Ostrow
1559.69'

13.85
ACRES

OWNERS

CE 1/8 CORNER, SEC. 8

967.17'

1320.20'

1320.20'

N 89° 56' 42" E, 2640.39'

Bitter Root Stock Farm
Property