

HOUSE NATURAL RESOURCES COMMITTEE MINUTES
February 7, 1983

The House Natural Resources Committee convened at 12:30 p.m., on February 7, 1983, in Room 224K of the State Capitol, with Chairman Harper presiding and all members present except Rep. Neuman, who was excused, and Rep. Nordtvedt, who was absent. Chairman Harper opened the meeting to a hearing on House Bill 373.

HOUSE BILL 373

REPRESENTATIVE ROBERT MARKS, District 80, chief sponsor, said he was sponsoring the bill for the Board of Water Well Contractors. It is to allow them to be unsunsetted. He suggested an amendment in the title, following "contractors" on line 6 through "therefore" on line 8. He said this is just extraneous language. He said the bill would reinstate the board and put them back into operation until July 1, 1989 when they would again be up for sunset. He said a few changes from the present law is one that would leave the fee to be charged up to the board instead of setting it by statute, increasing the bond from \$1000 to \$4000, and having a reciprocity agreement with other states that have similar requirements for their licensees.

WILLIAM R. MORSE, representing the State of Montana Water Well Drillers Association, spoke in support of the bill in its present form. He said they had just had an annual convention in Billings and this bill received a unanimous vote of support. He said one minor change they would suggest in the bill was to change from six months to three months the time an applicant must wait to retake an examination he had failed. He also said they wished to have the Board stay with the Licensing Bureau under the Department of Commerce rather than moved to the Department of Natural Resources. He said this board is totally self supporting. He said they have a budget of \$12,000 to \$14,000 a year and the members are willing to increase their dues if need be to engage an inspector to have in the field. He said the proposed change in the collection of fees is to give them a little elasticity in case more income is needed. He said this is much more reasonable than the state could do if they were to take on approximately the same job.

WES LINDSAY, President of the Water Well Board, said he was highly in favor of the bill in its present form which leaves the Board with the Department of Commerce. He said the Board was started in 1962 and has been in operation for twenty years at no cost to the taxpayer. He said the responsibility of the Board is to protect the underground water system by checking on well construction and protecting the people from fraudulent dealers by inspection and bonding. He felt there isn't any board that is run more efficiently and at a cost of \$12,000 to \$14,000 a year.

It is not economically feasible for Montana to develop and maintain a low-level radioactive waste disposal site for disposal of wastes generated within the state.

The Northwest Compact provides a reasonable, safe and economical option for Montana to provide for disposal capacity for its low-level radioactive waste generators. To maintain this option, the 48th Legislature must ratify the Northwest Compact.

Proposed legislation to maintain Montana's participation in the Northwest Compact will be submitted to the 48th Legislature for consideration.

REPRESENTATIVE GAY HOLLIDAY said she would like to go on record as favoring the bill.

There were no opponents.

REPRESENTATIVE MARKS closed.

Questions were asked by the committee.

Rep. McBride asked if there were currently inspectors in the field and Mr. Lindsay responded there is a part-time inspector connected with the Board. He said they have enough money promised this year so they can run one full time. Rep. McBride asked where they get the authorization to pay for someone like that. Mr. Lindsay replied they have the right to hire what their budget allows.

Rep. Addy asked why the Board was being sunsetted. Rep. McBride said it was a law passed in 1977 that all occupational boards will sunset in a six year cycle. This is the first time for this board. Rep. Addy asked what would happen to the state of Montana if there wasn't any such board. Rep. Quilici said there are a lot of water well contractors that could tell you explicitly what would happen. Mr. Morse responded that there would be a lot of fly-by-night drillers. He said the purpose of the Board is to improve the industry and protect the general public. He felt they had been quite successful.

Rep. Addy asked what specific evil would be inflicted on the public without this Board. Rep. Iverson said their most important function is the protection of the ground water. He said there is potential problems for aquifers and pollutions entering and destroying the water quality. He said the board should have more authority.

Chairman Harper closed the hearing on HB 373 and opened the meeting to a hearing on HB 615.

HOUSE BILL 615

REPRESENTATIVE GAY HOLLIDAY, District 46, chief sponsor, said the bill was at the request of the Department of State Lands. She said the bill would authorize the Department of State Lands to waive civil penalties for minor violations of the Strip and Underground Mine Siting Act. This could be done only if the violation does not pose potential harm to public health, safety or the environment. She passed to the members copies of a suggested intent statement and a copy of this is Exhibit 1.

DENNIS HEMMER, Department of State Lands, spoke next in support, and a copy of his testimony is Exhibit 2.

JAMES D. MOCKLER, Montana Coal Council, spoke in support.

KENNETH WILLIAMS, Western Energy Company, spoke next in support. A copy of his testimony is Exhibit 3 of the minutes.

TIM STEARNS, Northern Plains Resource Council, spoke next in support. He said this was a fine opportunity for them to testify on the same side as the coal industry. He said they are concerned about the major problems and not the minor ones. He said they favor giving the department more flexibility. He said they would like to know how the rule making will establish the difference between a major and a minor violation.

There were no opponents.

REPRESENTATIVE HOLLIDAY closed.

Questions were asked by the committee.

Rep. Bertelsen asked if there was a time frame for making rules to define a major and a minor violation. Mr. Hemmer said until October 1. He said the distinction between the two would be based on harm to the environment, public safety and negligence on the part of the operator.

Rep. McBride asked if it were the intent that the department will make the distinction in the rules and say specifically these are minor violations that could be waived. Mr. Hemmer said they would have a system for evaluating. He said the federal government uses a point system which he didn't know if they would adopt or not.

Rep. McBride asked if this would mean the same violation would be treated uniformly for all. Mr. Hemmer said that is why rules will be laid out as there could be circumstances when a violation might be minor but you may need to go ahead and have the penalty.

Chairman Harper closed the hearing on this bill and opened the meeting to a hearing on HB 616.

HOUSE BILL 616

REPRESENTATIVE GAY HOLLIDAY, District 46, chief sponsor, said this is a bill to improve the legal position of lessees in oil and gas leases. It will incorporate a provision to assess a

penalty for delinquent payments. The only recourse for delinquent payments now is through the courts. She said Mr. Hemmer has some suggested amendments and she would support those amendments.

DENNIS HEMMER, Department of State Lands, spoke in support of the bill. A copy of his testimony is Exhibit 4 and Exhibit 5 is a copy of the suggested amendments.

MIKE STEPHEN, Montana Association of Counties, said this bill would be beneficial and would assist the court situation. He said many eastern counties are recipients of oil royalties.

TERRY MURPHY, Montana Farmers Union and Farm Bureau, said they support the bill and he was also speaking for PAT UNDERWOOD of the Farm Bureau.

REPRESENTATIVE GAY HOLLIDAY closed.

There were no questions from the committee.

Chairman Harper closed the hearing on this bill and as the sponsor of HB 630 was not present, he opened the meeting to executive action on the following bills.

EXECUTIVE SESSION

HOUSE BILL 616 Rep. Jensen moved the amendments suggested by the Department of State Lands. This motion carried unanimously with those present (absent were Reps. Neuman and Nordtvedt). Rep. Jensen then moved that the bill AS AMENDED DO PASS. This motion carried unanimously with those present (same absent).

HOUSE BILL 615 Rep. Metcalf moved the bill be amended to include a July 1 effective date. This motion carried unanimously with those present (same absent). Rep. Mueller moved the bill AS AMENDED DO PASS and this motion carried unanimously with those present (same absent). Rep. Quilici moved that the statement of intent be adopted. This motion also carried unanimously with those present.

HOUSE BILL 373 Rep. Iverson moved DO PASS. Rep. McBride said there is another bill dealing with this and she requested this bill be held until the other bill was heard. She said the other bill was requested by the audit committee and would place the licensing under the Department of Natural Resources and it would be a DNRC advisory board.

Rep. McBride said she agreed directly involved people should be involved with their industry yet sometimes these occupational boards have become protectors of their own industry first and the protection of the public interest comes second. She said she felt there should be a single occupational bill saying we want our industry run the way the legislature wants. She said

this bill doesn't address that.

Rep. Quilici said we should hear both bills but then take each bill on their own merits and not try to dribble one bill into another.

Rep. Iverson withdrew his motion but said it was beyond him that we are talking about taking the only expertise in this field and having them only on the advisory board. He hoped the committee would have the wisdom to leave them with their own industry.

HOUSE BILL 200 Rep. Brown moved the amendments, a copy of which is Exhibit 6 of the minutes. He said the amendment has 6 percent of the income interest from the RIT fund beginning in 1986 to fund this act. For the next two years the state's share of the 9 to 1 match will come from the junk vehicle tax. He said this superfund has great application for the state and we should be on record as saying we want to be part of it.

Rep. Quilici said if you can find the money in the RIT fund, fine.

Rep. Ream said Rep. Brown had discussed the amendment with him and he concurred with it. He said the reason we can't wait to ask for the money until next session is one has to get in before the budget is figured.

The motion to accept the amendments passed unanimously with those present. Absent were Reps. Neuman, Nordtvedt and Asay.

Rep. Metcalf moved the bill AS AMENDED DO PASS. This carried unanimously with those present (same absent).

Chairman Harper closed the executive session and opened the meeting to a hearing on HB 630.

HOUSE BILL 630

REPRESENTATIVE JERRY METCALF, District 31, introduced the bill on behalf of Rep. Donaldson, who was temporarily absent.

PAUL SPENGLER, Lewis and Clark County Flood Plain Administrator, spoke in support and a copy of his testimony is Exhibit 7.

GUS BYROM, Lewis and Clark County Planning Board, said there are 500 to 600 homes with 1500 to 2000 people in this area. He said this is an area where development should be prohibited. He said if the flood was likely to be over a foot they wouldn't want development. He felt the county needed the authority to have a floodplain management program to mitigate effects of future sheet

flooding.

BOB DECKER, Lewis and Clark County Commissioner, said he wholeheartedly supports the bill. He said after the flood of 1981 the state spent \$850,000 to clean up the mess and \$150,000 in our county. He said the federal government spent \$6,000,000 to clean up this area. He said this bill would save money by ameliorating potential flood damage.

GARY FRITZ, Department of Natural Resources and Conservation, spoke in support of the bill and a copy of his testimony is Exhibit 8.

REPRESENTATIVE GENE DONALDSON, District 29, chief sponsor, came. He opened and apologized for being late and closed.

Questions were asked by the committee.

Rep. Addy said it sounded like the developers have to a certain extent set the stage for the need of this legislation as they haven't wanted to be under the federal regulations.

Mr. Spengler said three years ago there was a lot of public opposition for legislation in this area. Then we were hit by the flood and then it really came home to people that we would have to have some coverage in the sheet flood area.

Chairman Harper closed the hearing on this bill and opened the hearing to executive session once again.

EXECUTIVE SESSION

HOUSE BILL 630 Rep. Fagg moved DO PASS. The motion carried unanimously with those present (Reps. Neuman and Nordtvedt were absent).

The meeting adjourned at 2 p.m.

Respectfully submitted,



HAL HARPER, CHAIRMAN

Emelia A. Satre, Secretary

TO: HOUSE NATURAL RESOURCES COMMITTEE

FROM: JOHN CARTER

RE: HOUSE BILLS 373, 615, 616, 630

DATE: February 7, 1983

HB 373
Marks

This bill seeks to reestablish the Board of Water Well Contractors for a period of six years. The Board is presently scheduled to terminate on July 1, 1983. The bill would also make the following changes in the laws regulating water well drilling:

- eliminate the set fees charged for issuance and renewal of water well licenses - fees would be set by the Board;
- increase the bonding requirement for licensees from \$1,000 to \$4,000;
- give discretion to the Board to require persons bringing complaints against licensees to do so in person - presently such persons must appear before the Board; and
- add a reciprocity provision that entitles well contractors licensed in other states to obtain a Montana license without satisfying examination and apprenticeship requirements.

HB 615
Holliday

This bill seeks to authorize the Department of State Lands to waive civil penalties for minor violations of the Strip and Underground Mine Siting Act. A waiver, however, could only be granted if the violation does not pose potential harm to public health, public safety, or the environment.

HB 616
Holliday

This bill seeks to improve the legal position of lessees in oil and gas leases. Specifically the bill would:

- make royalty payments under oil and gas lease "of the essence";
- require lessors to pay interest on unpaid royalties in certain cases;
- authorize a royalty owner to bring an action for cancellation of lease for nonpayment of royalties; and
- provides for an award of attorney fees if the royalty ~~action~~ prevails in an action to cancel a lease.

HB 630
Donaldson

This bill seeks to authorize ^{political} ~~potential~~ subdivisions of the state to adopt land use regulations for the management of flood plains within deregulated sheetflood areas.

VISITOR'S REGISTER

HOUSE NATURAL RESOURCES

COMMITTEE

BILL HB 373DATE 2/7SPONSOR MARKS

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Sib Haggerty	Glenview	MWWDA	X	
Jack Barnes	BILLINGS	WELL DRILLING	X	
John Bennett	Boz	well driller	X	
Frank Boyce	Sidney	well driller	X	
Centerfield	Blair	well driller	X	
Buller	Blair	well driller	X	
Robert B. Murphy	Fishtail	well driller	X	
Don Davis	Billings	well driller	X	
Carl L. Jones	Boz	" "	X	
Pat Byrne	24 Falls	Well Drilling	X	
Hubert Jones	Home	well driller	X	
Terrell Johnson	Helena	well driller	X	
WILLIAM R. MORSE	HELSA 20 Kms	Cooper / for MWWDA	X	
Wesley Lindsey	Danney Mont	STATE BOARD	X	
Georgia Murphy	Fishtail	well driller	X	
Mark E. Frost	Roundup, MT	Pres MWWDA well driller	X	
Robert Chamberlin	Boz MT	Abston Well Driller	X	
Donna L. Jones	Boz MT	well driller	X	
Gregory H. Jones	Fishtail	Well Driller	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WITNESS STATEMENT

Name WILL R MORSE Committee On NAT. Res.
 Address Box 525 ALZAROTEC Date 2-7-83
 Representing Drillers, Mfgs + Suppliers Support X
 Bill No. HB 323 Oppose _____
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. We unanimously support HB
2. 373 in its present form
3. Present BOARD is self-supporting
4. We police the INDUSTRY & protect GROUND WATERS.
- the BOARD is comprised of PROFESSIONALS who police the TECHNICAL INDUSTRY.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name Wm Lindsay Committee On Water Well Board
Address Clancy Montana Date Feb 7 - 83
Representing Water Well Board Support X
Bill No. HB 373 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Board runs smooth and no cost to tax payer.
- 2.
- 3.
- 4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

VISITOR'S REGISTER

HOUSE NATURAL RESOURCES

COMMITTEE

BILL HB 615

DATE 2/7

SPONSOR HOLLIDAY

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

STATEMENT OF INTENT
House Bill 615
House Natural Resources Committee

A statement of intent is required for this bill because it grants rulemaking authority to the Board of Land Commissioners for the issuance of waivers of civil penalties for minor violations of the Strip and Underground Mine Siting Act.

Section 1 of the bill allows the Board to adopt rules concerning the issuance of waivers for civil penalties if the underlying violation does not pose potential harm to public health, public safety, or the environment or impair administration of the Act. It is the legislature's intent that the Board's rules prescribe specific criteria that will be used by the Department of State Lands in determining whether or not a violation poses potential harm to the public health, public safety, or the environment or threatens to impair the administration of the Siting Act. The rules must also establish a procedure for the issuance of waivers which must include a requirement that the Department of State Lands give notice of the violation and waiver to the permittee and place such notice in the permittee's file kept by the department.

WITNESS STATEMENT

Name Dennis Hemmer Committee On Natural Resources
Address Helena Date 2-7-83
Representing Dept of State Lands Support ✓
Bill No. 615 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

EX. 2
JAN 10 1979

DEPARTMENT OF STATE LAND'S TESTIMONY ON HOUSE BILL 615

BEFORE THE HOUSE NATURAL RESOURCES COMMITTEE

House Bill 615 is at the request of the Department of State Lands. The purpose of the bill is to allow the department to waive civil penalties for minor violations of the Strip and Underground Mine Reclamation Act.

In 1979, Montana amended its existing strip mine reclamation law and adopted a comprehensive set of rules. This was done to comply with federal legislation and prevent the federal government from taking over Montana's reclamation program. Many of the rules adopted at that time are beneficial, but of a technical nature and a violation of such rules does not necessarily endanger the environment or hinder the reclamation of the mined land as long as the problem is corrected within a reasonable time.

As currently written, the act requires that a civil penalty be assessed against a mine operator for every violation of the law or rules. As an example, the rules require that signs be placed on topsoil stockpiles to identify the material. As the law currently exists, if a sign falls down a violation exists and a civil penalty must be assessed. Under this bill, the department could simply warn the mine operator that the sign must be put back up. If the mine operator heeds the warning, no civil penalty would be assessed. On the other hand, if a mine operator fails to save topsoil, this is a serious problem and a civil penalty should be assessed. Failure to salvage topsoil has the potential to hinder reclamation efforts.

Administrative rules would be necessary to provide a procedure for determining when a penalty should be waived. In this regard, the state must be careful that the process and procedure is acceptable to the federal government. If it does not meet federal requirements, Montana could lose its program and the program would be taken over by the Department of Interior.

In summary, this bill will allow the department to be more equitable in assessing civil penalties against mine operators and will not harm the environment or endanger reclamation. The authority to adopt rules is necessary to provide a procedure and to ensure that the program will be acceptable to the federal government.

The department urges the committee to approve this bill.

WITNESS STATEMENT

Name James D. Mockler Committee On Nat Res.
Address 2301 Colonial Date 3/7
Representing MT. Coal Council Support ✓
Bill No. HB 615 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name Kenneth Williams Committee On Natural Resources
Address Western Energy ^{107 E Granite, Butte MT} Date 2/7
Representing Western Energy Support ✓
Bill No. HB 615 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. support flexibility for Dept.
2. will avoid unnecessary expense & paperwork
3. benefit both the Dept. and the operator
- 4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

TESTIMONY OF
KENNETH WILLIAMS FOR
WESTERN ENERGY CO.

BEFORE

HOUSE COMMITTEE ON NATURAL RESOURCES

2/7/83

The purpose of my testimony is to speak in favor of House Bill 615.

Western Energy Company supports the Department of State Lands' desire to have administrative flexibility in dealing with violations. We would like to stress that this bill does not reduce the number of violations, but gives the Department the option to waive civil penalties for minor violations. Additionally, rule making will define the procedures for dealing with these situations.

Such an option will grant the Department needed flexibility in dealing with minor violations such as the case of a topsoil sign which has fallen down. Presently such a situation would result in the Department issuing a Notice of Violation, the operator responding and the Department assessing a penalty. Much administrative and legal expense is incurred by both the Department and the operator. Adopting this bill would reduce paperwork for both parties. Western urges the passage of House 615.

WITNESS STATEMENT

Name Dennis Hemmer Committee On Natural Resources
Address Helena Date 2-7-83
Representing Dept of State lands Support ☒
Bill No. 616 Oppose _____
Amend ☒

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

DEPARTMENT OF STATE LANDS TESTIMONY ON HOUSE BILL 616

BEFORE THE HOUSE NATURAL RESOURCES COMMITTEE

The Department of State Lands supports House Bill 616. This bill would give the Department added leverage in getting timely payments for oil and gas royalties, a significant part of the income to the state school trust.

The Department would however suggest the bill be amended. While in fairness to the producer, the provision that interest not be assessed until after the division order is signed, it is not clear if interest would be paid on subsequent late royalty payments. A proposed amendment is attached which would make it clear that interest would be paid on all late royalty payments.

In recent times the prime rate has vascillated at frequent intervals. The Department suggests that it be specified that interest be 2% over prime rate on the date due. A suggested amendment is attached.

The Department urges the committee to adopt the amendments and vote in favor of passage of this bill.

AMENDMENTS TO HOUSE BILL 616

INTRODUCED BILL

1. Page 2, line 2
Following: "to pay"
Insert: "initial"
2. Page 2, line 6
Following: line 5
Insert: "on the date due"
3. Page 2, line 9
Following: line 8
Insert: (3) Following initial payment of royalties, if the operator under an oil and gas lease fails to pay oil or gas royalties to the royalty owner or his assignee within 90 days following the time for such payments as prescribed under the terms of the lease, the unpaid royalties thereafter bear interest at a rate that is 2% above the prime lending rate on the date due until paid. The operator may remit semi-annually to a person entitled to royalties the aggregate of 6 months royalties whenever the aggregate amount is less than \$50.
4. Renumber: all subsequent subsections

Brown and
E16

4/11/86

PROPOSED AMENDMENTS TO HOUSE BILL 200:

1. Title, line 11.
Following: "ENVIRONMENT;"
Insert: "PROVIDING FOR FUNDING OF HAZARDOUS WASTE PROGRAMS;"

2. Title, line 12.
~~Following: line 11~~
~~Strike: "SECTION"~~ Strike: "SECTION"
Insert: "SECTIONS 15-38-202 AND"

3. Page 7, line 12.
~~Following: "health"~~
Strike: "and"
Insert: "or"

4. Page 7, line 22.
~~Following: "will"~~
Strike: "provide"
Insert: "assure"

5. Page 9.
Following: line 12
Insert: "Section 6. Section 15-38-202, MCA, is amended to read:

"15-38-202. Investment of resource indemnity trust account--expenditure--minimum balance. (1) All moneys paid into the resource indemnity trust account shall be invested at the discretion of the board of investments. All the net earnings accruing to the resource indemnity trust account shall annually be added thereto until it has reached the sum of \$10 million. Thereafter, only the net earnings may be appropriated and expended until the account reaches \$100 million. Thereafter, all net earnings and all receipts shall be appropriated by the legislature and expended, provided that the balance in the account may never be less than \$100 million.

(2) Beginning in fiscal year 1982, provided the amount in the resource trust account is greater than \$10 million, 30% of the interest income of the resource indemnity trust account must be allocated to the water development earmarked account created by 85-1-604.

(3) Beginning in fiscal year 1986, 6% of the interest income of the resource indemnity trust account must be allocated to the department of health and environmental sciences to be used to implement the Montana Hazardous Waste Act and the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 in accordance with [sections 1 through 4]. Any funds remaining unexpended at the end of each fiscal year will revert to the resource indemnity trust interest account."

Renumber: subsequent section

VISITOR'S REGISTER

HOUSE NATURAL RESOURCES

COMMITTEE

BILL HB 630

DATE^{2/7}

SPONSOR DONALDSON

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Statement by Paul Spengler, Lewis & Clark County Floodplain Administrator,
On HB 630, Floodplain Management.

The 1981 Legislature deleted sheet flood (less than one foot of flooding) from the floodplain at the request of Lewis and Clark County because of public opposition in the county to floodplain management. The public was opposed to the inclusion of sheet flooding in the definition of a floodplain because the State Health Department Subdivision Review Bureau does not allow septic tanks in the floodplain. This would have prevented development in large areas of the Helena Valley, because this area has a amount of sheet flooding. The County Health Department does allow septic tanks in sheet flood areas.

A 1982 report on floodplain mitigation measures by the engineering firm of Morrison-Maierle recommended to the county commissioners that they have a floodplain management program in the sheet flood areas to prevent flooding of buildings constructed in the future. This would eliminate basements and buildings would be placed on two feet of suitable fill above the height of the 1975 flood (this data will not be available for the 1981 flood for two more years).

The county is unable to adopt floodplain management in the sheet flood areas because these areas are no longer part of the official floodplain. Allowing counties this option would be of great help in preventing the future flooding of newly constructed buildings. Lewis and Clark County is the only county in the State with extensive sheet flood areas.

Ex. 8

An act to authorize a political subdivision to adopt floodplain management regulations within areas subject to sheetflooding as determined by the Federal Emergency Management Agency; Amending Section 76-5-301, MCA.

Testimony by the Department of Natural Resources and Conservation.

The 1981 legislature amended the definition of floodplain in the State Floodplain and Floodway Management Act to read: "Floodplain" means the area adjoining a watercourse or drainway which would be covered by the floodwater of a flood of 100-year frequency, except for sheetflood areas that receive less than 1 foot of water per occurrence and are considered Zone B by the federal emergency management agency. The amendment excluded sheetflooding areas which receive shallow flooding of 1 foot or less and/or are within the 500 year floodplain. This definition is interpreted to mean that political subdivisions cannot apply floodplain regulations to sheetflooding areas pursuant to Title 76-Chapter 5 because they are not part of the floodplain. Counties would have to use their zoning authority if they wished to regulate these areas but this is a very cumbersome means to apply land-use regulations. The proposed amendment would allow political subdivisions the option of regulating development in sheetflooding areas using the State Floodplain Law as the statutory authority.

DNRC urges your support of this legislation.

STANDING COMMITTEE REPORT

February 16, 19 83

SPEAKER:

MR.

NATURAL RESOURCES

We, your committee on

HOUSE

Bill No. 373

having had under consideration

First reading copy (white)
Color

A BILL FOR AN ACT ENTITLED: "AN ACT TO REESTABLISH THE BOARD OF WATER WELL CONTRACTORS; TO ALLOW THE BOARD TO ESTABLISH RULES ON THE DISCLOSURE OF WATER WELL CONSTRUCTION AND PAYMENT THEREFOR; TO DELETE SPECIFIC FEES AND PROVIDE THAT THE BOARD ESTABLISH FEES; TO DECREASE THE TIME FOR LICENSE REAPPLICATION AFTER THE FAILURE TO PASS AN EXAMINATION; TO INCREASE THE BOND REQUIREMENT; TO ELIMINATE THE REQUIREMENT THAT A COMPLAINANT MUST APPEAR PERSONALLY BEFORE THE BOARD; TO ALLOW LICENSURE BASED UPON RECIPROCITY; AMENDING SECTIONS 2-8-103, 37-43-303, 37-43-305 THROUGH 37-43-307, AND 37-43-311, MCA; AND PROVIDING AN EFFECTIVE DATE."

HOUSE

Bill No. 373

Respectfully report as follows: That.....

be amended as follows:

1. Title, lines 6, 7 and 8.

Following: "CONTRACTORS;"

Strike: "TO ALLOW THE BOARD TO ESTABLISH RULES ON THE DISCLOSURE OF WATER WELL CONSTRUCTION AND PAYMENT THEREFOR;"

AND AS AMENDED
DO PASS

~~XXXXX~~
DO PASS

STANDING COMMITTEE REPORT

February 7,

19 83

SPEAKER:

MR.

NATURAL RESOURCES

We, your committee on

HOUSE

Bill No. 615

having had under consideration

First

reading copy (white)

color

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE DEPARTMENT OF STATE LANDS TO WAIVE CIVIL PENALTIES FOR MINOR VIOLATIONS OF THE MONTANA STRIP AND UNDERGROUND MINE SITING ACT AND REQUIRING THE BOARD OF LAND COMMISSIONERS TO ADOPT RULES TO IMPLEMENT WAIVER OF PENALTIES; AMENDING SECTION 82-4-254, MCA."

HOUSE

615

Respectfully report as follows: That..... Bill No.
be amended as follows:

1. Page 5,

Following: line 23

Insert: "NEW SECTION. Section 2. Effective date. This act is effective July 1, 1983."

AND AS AMENDED

DO PASS

XIXIX

STATEMENT OF INTEREST ATTACHED

HAL HARPER

Chairman.

MR. SPEAKER:

WE, YOUR COMMITTEE ON NATURAL RESOURCES, HAVING UNDER
CONSIDERATION HOUSE BILL NO. 615, FIRST READING COPY (WHITE),
ATTACH THE FOLLOWING STATEMENT OF INTENT:

STATEMENT OF INTENT
HOUSE BILL No. 615

A statement of intent is required for this bill because it grants rulemaking authority to the Board of Land Commissioners for the issuance of waivers of civil penalties for minor violations of the Strip and Underground Mine Siting Act.

Section 1 of the bill allows the Board to adopt rules concerning the issuance of waivers for civil penalties if the underlying violation does not pose potential harm to public health, public safety, or the environment or impair administration of the Act. It is the legislature's intent that the Board's rules prescribe specific criteria that will be used by the Department of State Lands in determining whether or not a violation poses potential harm to the public health, public safety, or the environment or threatens to impair the administration of the Siting Act. The rules must also establish a procedure for the issuance of waivers which must include a requirement that the Department of State Lands give notice of the violation and waiver to the permittee and place such notice in the permittee's file kept by the department.

HAL HARPER.....

Chairman.

STANDING COMMITTEE REPORT

February 7,

19.. 83

SPEAKER:

MR.

NATURAL RESOURCES

We, your committee on

having had under consideration HOUSE Bill No. 616

First reading copy (white)
color

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE OBLIGATION TO MAKE PAYMENTS TO ROYALTY OWNERS IS OF THE ESSENCE IN OIL AND GAS LEASES; REQUIRING OIL AND GAS PRODUCERS TO PAY INTEREST ON ANY UNPAID ROYALTIES; REQUIRING A ROYALTY OWNER TO BRING ANY ACTION TO CANCEL A LEASE OR COLLECT PAYMENTS IN THE DISTRICT COURT OF THE COUNTY IN WHICH THE WELL IS LOCATED, AND PROVIDING FOR COURT COSTS AND ATTORNEY FEES IN ANY SUCH ACTION; AMENDING SECTION 82-18-102, MCA."

HOUSE

616

Respectfully report as follows: That Bill No.
be amended as follows:

1. Page 2, line 2.

Following: "to pay"

Insert: "initial"

2. Page 2, line 5.

Following: "rate"

Insert: "on the date due"

3. Page 2.

Following: line 8

Insert: "(3) Following initial payment of royalties, if the operator under an oil and gas lease fails to pay oil or gas royalties to the royalty owner or his assignee within 90 days following the time for such payments as prescribed under the terms of the lease, the unpaid royalties there-
after bear interest at a rate that is 2% above the prime lending rate on the date due until paid. The operator may remit semiannually to a person entitled to royalties the aggregate of 6 months royalties whenever the aggregate amount is less than \$50.

XXXXXRenumber: all subsequent subsections

DO PASS

DO PASS

..... NAL HARPER

Chairman.

STANDING COMMITTEE REPORT

February 7, 19 83

SPEAKER:
MR.

NATURAL RESOURCES

We, your committee on

having had under consideration **HOUSE** **630** Bill No.

First reading copy (**white**)
color

**A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE A POLITICAL
SUBDIVISION TO ADOPT FLOODPLAIN MANAGEMENT REGULATIONS WITHIN AREAS
SUBJECT TO SHORTFLOODING AS DETERMINED BY THE FEDERAL EMERGENCY
MANAGEMENT MANAGEMENT AGENCY; AMENDING SECTION 76-S-301, MCA."**

Respectfully report as follows: That **HOUSE** **630** Bill No.

DO-PASS