

48TH LEGISLATIVE SESSION

MINUTES OF
NATURAL RESOURCES COMMITTEE
MONTANA STATE SENATE

January 28, 1983

A regularly scheduled meeting of the Senate Natural Resources Committee was called to order by Senator Harold L. Dover, Chairman, on Friday, January 28, 1983 at 1:00 p.m. in Room 405, State Capitol.

ROLL CALL: Roll was called with a majority of the members of the Committee being present, Senators Lee and Manning absent, Senator Etchart excused.

SENATE BILL 164: Senator Dover asked Senator Tveit to present the bill for Senator Shaw, who had been detained. Senator Tveit explained some of the definitions, and stated the bill is to require payment to leaseholders for the right to conduct exploration by each party exploring. There was some concern about geophysical exploration and damages, and apparently this was of personal concern to Senator Shaw. The seismographic damage on undeveloped land or grazing land is also included. Senator Eck noted that some of these problems had been brought to the Environmental Quality Council this year and the session before. The landowners are very concerned about damage to their property caused by exploration.

PROPOSERS: Chairman Dover called for further proposers. There were none.

OPPOSERS: Chairman Dover inquired if there were any opposers. Don Allen, Montana Petroleum Association said SB 16 last session involved some discussion, however nothing concrete was ever decided. This bill would be a problem for those doing geophysical exploration as there would be double payment, they have leases to explore for oil and gas, these leases between the landowner and those doing the exploration. A contract for a person leasing land from the landowner is their own contract and shouldn't be in the law. If they were required to give half of the fees for damages to the leaseholder, then they would probably charge twice as much, for that activity. This bill would be asking the legislature to police and solve legal concerns between landowners and leaseholders.

Dave Woodgerd, Department of State Lands also spoke in opposition of the bill or for an alternative to exclude state land. His testimony is attached as Exhibit '1'.

SB 164 (cont.)

Bill Brook, Association of State Grazing Districts stated they also opposed, that they are not necessarily opposed to the idea, but oppose the problem that would be caused for state land lessees.

Chairman Dover called on Senator Shaw, who stated he was not now certain this was such a good bill, that it arose from problems with leases of B-N land, and he has since been told how to resolve those problems.

Discussion was opened for Committee members. Senator Keating spoke to some concerns that Senator Eck had addressed, and inquired if there could be some way to settle damages with both parties, that if there are damages the tenant and landowner could split damages according to their contracts, and both parties could sign on the permit. This could be handled possibly through rules and regulations of the oil and gas commission. Most seismic operators work with the oil associations, certain damage perimeters could be outlined, and they could work along those guidelines with the people. The bill would be unoperable as presented as it would be interfering with private contracts.

Senator Shaw stated the bill arose due to a large area leased from B-N, where B-N gave permits to exploration, without regard for the lessee, there were cases of gates being left open.

Senator Eck pointed out during the groundwater conference last spring the problem was brought up of oil and gas and others exploring, and some recommendations were to be made to protect the groundwater.

Senator Keating stated those rules were done with the bureau of mines and the oil and gas commission to specify how shot holes should be plugged to avoid groundwater contamination.

It was pointed out there are several bills coming up dealing with both subjects. Senator Tveit stated he was on the study commission regarding those rules, that he is Director of the Mineral Association of NE Montana, that they would like to see something like this in place, but are aware this particular bill wouldn't work.

Minutes
Senate Natural Resources
1-28-83

p.3


SB 164 (cont.)

Senator Eck pointed out this was a good example of previous discussion on the bill.

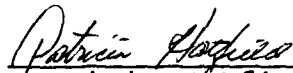
Senator Shaw moved do not pass on SB 164. Vote was called, all present voted aye, motion carried.

ACTION ON SENATE BILL 164: SB 164, do not pass, carried, 9 voting yes, 3 absent.

There being no further business to come before the committee the meeting was duly adjourned at 1:40 p.m.



SENATOR HAROLD L. DOVER, CHAIRMAN
SENATE NATURAL RESOURCES



Patricia Hatfield
Committee Secretary

ROLL CALL

SENATE NATURAL RESOURCES COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 1-28-83

NAME	PRESENT	ABSENT	EXCUSED
ECK, Dorothy (D)	✓		
HALLIGAN, Mike (D)	✓		
KEATING, Thomas F. (R)	✓		
LEE, Gary P. (R)		✓	
MANNING, Dave (D)		✓	
MOHAR, John (D)	✓		
SHAW, James N. (R)	✓ / atc		
STORY, Pete (R)	✓		
TVEIT, Larry J. (R)	✓		
VAN VALKENBURG, Fred (D)	✓ / atc		
ETCHART, Mark (R) Vice Chairman			✓
DOVER, Harold L. (R) Chairman	✓		

1-28-83

NATURAL RESOURCES

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

NAME: Dave Woodford DATE: 1-28

ADDRESS: Dept. of State Lands, Helena

PHONE: 449-2074

REPRESENTING WHOM? Dept. of State Lands

APPEARING ON WHICH PROPOSAL: SB 164

DO YOU: SUPPORT? ☐ AMEND? ☐ OPPOSE? ☒

COMMENTS: Testimony provided

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

TESTIMONY OF THE MONTANA DEPARTMENT OF STATE LANDS
CONCERNING SB 164

BEFORE THE SENATE NATURAL RESOURCES COMMITTEE

The Department of State Lands opposes Senate Bill 164 and requests a do not pass recommendation or in the alternative that the bill be amended to exclude state land. The reason the department opposes the bill is that state lessees are already fully compensated for any harm which may be caused by geophysical exploration and because payment of half the access fee to the lessee may violate the constitutional requirement that the state receive full market value for all interests in state land.

The department currently charges an access fee of \$50 per hole or \$100 per mile of vibroseis work for geophysical exploration. In addition to paying this fee to the state, the geophysical company must also pay a damage fee to the lessee. The purpose of the damage fee is to compensate the lessee for any harm to his leasehold interest or his improvements. Thus, the lessee on state land is currently fully compensated and no further payment is necessary.

The department is also concerned that the state and the school trust be adequately compensated for any interests in land which are granted. The Montana Constitution requires that full market value be received for all interests in state land. This bill may be unconstitutional since the state would only receive one-half of the value of the interest granted. In addition, unless the department raised the fees the schools of Montana would only be receiving one-half of the revenue they are now receiving from geophysical permits. In 1982 the department collected approximately \$140,000 which was distributed to the school fund for the support of education.

In light of the above considerations the Department of State Lands urges a do not pass recommendation or an amendment excluding state land from the bill.

STANDING COMMITTEE REPORT

January 28 1983

MR. **PRESIDENT**

We, your committee on **NATURAL RESOURCES**

having had under consideration **Senate** Bill No. **164**

Respectfully report as follows: That **Senate** Bill No. **164**

SDO NOT PASS
DO PASS
XXXXX