

48th LEGISLATIVE SESSION

MINUTES OF
NATURAL RESOURCES COMMITTEE
MONTANA STATE SENATE

March 14, 1983

A regularly scheduled meeting of the Senate Natural Resources Committee was called to order at 12:30 p.m. by Senator Harold L. Dover, Chairman, on Monday, March 14, 1983 in Room 405, State Capitol, Helena, MT.

ROLL CALL: Chairman Dover asked the secretary to call the roll, a quorum of members was present.

HOUSE BILL 472: Chairman Dover opened the hearing and asked sponsor Rep. Dave Brown to speak. Representative Brown stated this bill had originated out of the Environmental Quality Council subcommittee. The committee heard HB 260 some time ago and this bill adds to the objectives of the committee to alleviate any problems that might arise. On page 4, lines 6 and 7, language was changed to clarify the law. The bill helps so that projects are not held up with too much paper work, and allows all people to become involved. There were some amendments added in the House, and Rep. Brown explained some of those. There is provision for everything to be routed through the counties, and there is provision for a petition for a 30 day extension of the review. Page 8, lines 14 and 15 clarify when attorney fees can be awarded. The House added ability to amend the impact plan if necessary. The fiscal note says the budget should be adequate.

PROPOSERS: Carol Ferguson, Administrative Officer of the Hard Rock Mining Impact Board spoke to the bill, stating there had been many participants in the forming of the bill through the subcommittee. Those people could not all be present, but she was asked to enter their names as well. Her testimony is attached, Exhibit '1'.

Gary Langley, Executive Director of the Montana Mining Association stated they had participated in the 18 month study and supported the bill.

Don Reed, Montana Environmental Information Center stated this bill has been through a lot of discussion and urged the committee concur.

OPPOSERS: There were no opposers.

Senator Van Valkenburg inquired if the bill would need a statement of intent, Rep. Brown said this was discussed in the House, however the Board already has rule making authority.

Minutes
Senate Natural Resources Comm.
March 14, 1983

-2-

HB 472 (cont.)

Senator Dover referred to page 5, lines 18-24 which says the mineral developer shall provide financial assistance as necessary for the development of the impact plan and inquired if this was up front money? Rep. Brown said the theory was that the development should work with the impacted area. In some areas they have been allowed to pay for schools and then take a tax credit for that, such as in Stillwater where there was no way they could come up with the cash. This does give the counties some up front money to pay for services. Rep. Brown stated the bill also helps the developer so they don't have to deal with so many entities, it is to keep the project simple.

Hearing was then closed.

HOUSE BILL 373: Chairman Dover opened hearing, calling on Rep. Bob Marks, Dist. 47. Rep. Marks said this bill is to reestablish the board of water well contractors, which was sunseted. The board will have two water well contractors, a member of the Dept. of Natural Resources, the Bureau of Mines and the Dept. of Health and Environmental Sciences. The board will terminate in 1989, unless further legislative action is taken for extension. This is to protect the public from drillers that are not qualified. A bond will be required with annual renewal. There is also a reciprocity with other states.

PROPOSERS: Bill Morse, Montana Driller's Association, said he has been counsel for the drillers and involved in the regulations for drillers. The water board has been successful previously, and is able to take complaints from the public, which were high in number a few years ago. The board has investigated these complaints, and they are now reduced to only 5-6 complaints per year. Bonds are required of drillers and fees are based on information that comes to the board. There may need to be additional funds for investigations of complaints.

OPPOSERS: There were no opponents.

Senator Van Valkenburg asked what the audit committee had recommended for fees? Rep. Marks stated there had been discussion that the board be put with the Dept. of Natural Resources. They felt this could be done. There are people here from the DNR and the Bureau of Mines if there are any questions of them. Mr. Morse responded that when the DNR had proposed to take over the job they set a budget of \$85-\$90,000 per year, and the Board Budget has only been \$8-\$10,000 per year. For doing the same job, the Board can operate for much less under the Dept. of Commerce as it has been.

HB 373 (cont.)

Senator Shaw asked if the Board would have authority to lift a license of an operator that was not performing properly? Mr. Morse stated they could, based on complaints.

Senator Eck said Mr. Moore had mentioned they would like to increase investigations, and asked how that would be carried on? Mr. Wes Lindsey, Chairman of the Water Well Board was present and asked to respond. He stated they have an investigator, which is shared with the Electrical Board. It had been recommended they do their own investigating and this was given to the audit committee with a budget increase request. There was no further discussion.

ACTION ON HOUSE BILL 373: Senator Mohar moved that HB 373 Be Concurred In. Vote was called, all present voted 'aye'. and motion carried.

ACTION ON HOUSE BILL 472: Senator Keating moved that House Bill 472 Be Concurred In. Senator Van Valkenburg said he would like to ask for a statement of intent to be added on second reading as he was not sure this bill does the job as is. Vote was called on the motion, all voted 'aye' and motion carried.

ACTION ON HOUSE BILL 8: Senator Story presented amendments he would propose for the bill. Senator Eck moved that sub-comm. amendments be adopted, 1 through 4, attached as Exhibit '1' and incorporated in the standing committee report. Page 4, line 5, page 7, line 23, page 7, line 24 and page 7, line 25. Vote was called, all voted 'aye' and motion carried. The subcommittee gave prepared amendments, attached as Exhibit '1'. Discussion followed on amendments attached as Exhibit '2'.

Senator Story explained intention of his proposed amendments, that he does not want to be giving away rights of someone and giving them to a person who does not have the right to take them. He is in agreement that if a family line has run out and there are no heirs, then property would be definitely abandoned, and that he would rather see that type go back to the surface owner rather than to the state. His idea is to amend the bill so that a surface owner who has larceny in his heart will not be able to take away from rightful heirs severed mineral interests. The amendments would require that the surface owner prove they had done a thorough search for heirs, and if there are heirs that could have been notified, they can come back and go to court to protect their interest. He also stated he was not in agreement with the 60 day provision, because many people who do not live here would not know all this is going on. The 60 days should be changed to one year. It should be a burden on the surface owner to prove he made a diligent search for the heirs.

Minutes
Senate Natural Resources Comm.
March 14, 1983

-4-

HB 8 (cont.)

Senator Keating pointed out that he has acquired leases from people who didn't live here, that it does take some searching, but it can be done.

Senator Story said that if the amendments are not on the bill, it wouldn't allow people to reclaim their rights.

Senator Van Valkenburg said he didn't think the burden should be on the surface owner. Senator Story explained it should. Say a person has been given severed mineral rights, a young person inherits those, knows he has them and goes to the Navy for a while, thinking they are still his rights. If he knows nothing about this law, then he would not file and lose his rights.

Senator Shaw inquired as to what would happen if someone came along and said they were an heir. Senator Story said that in that case allowing a person to go to court would place the burden of proof where needed. The only surface owner or landman that would be hurt would be those who didn't make the proper search. There was further discussion as to what would happen to severed interest owners who were out of state and didn't receive notice.

Senator Towe asked to speak to the committee and presented proposed amendments to the bill, attached as Exhibit '3'.

Senators then began further discussion on proposed amendments. Senator Halligan moved amendment that page 8, line 2 be amended to strike "60 days" and insert "one year". Vote was called, all voted 'aye'. Motion carried.

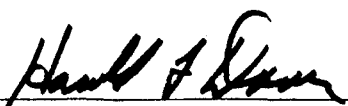
Senator Halligan also moved amendments on title, line 8, strike 60 days and insert "one year", all voted aye and motion carried. Senator Halligan then moved amendment on page 5, line 11, strike "deemed" and insert "considered". All voted 'aye' and motion carried.

Senator Keating then moved to pass the balance of the proposed amendments presented, a complete listing of all amendments passed shown on attached committee report. All voted 'aye' and motion carried.

Senator Keating then moved that House Bill 8 Be Concurred In as amended, vote was called, A majority voted aye, Senators Shaw, Halligan, Tveit and Van Valkenburg voted no, motion carried.

There being no further business to come before the committee the meeting was duly adjourned.

Patricia Hatfield


SENATOR HAROLD L. DOVER, CHAIRMAN
SENATE NATURAL RESOURCES

ROLL CALL

SENATE NATURAL RESOURCES COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 3-14-83

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)	✓		
STORY, Pete (R)			✓
TVEIT, Larry J. (R)	✓		
VAN VALKENBURG, Fred (D)	✓		
ETCHART, Mark (R) Vice Chairman	✓		
DOVER, Harold L. (R) Chairman	✓		

DATE 3-14-83

COMMITTEE ON NATURAL Resources

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Rosanne K Jewett	Olgs Drilling (formerly)	HB-373	✓	
Sue Schelle	Billings Drilling	"	✓	
Antioch	Billings Drilling	"	✓	
Lavern Jewett	Billings Drilling	"	X	
E B CHAMBERLIN	OKEEFE DRILLING	H-373	X	
Douglas Davis	DAVIS Drilling	H373	X	
Ed Barnes	Digger Drilling	373	X	
Bill Morse	MONT. Drillers Ass'n.	"	✓	
Wm Sundry	Mont. Water Well Board	373	X	
Pat Byrne	Mont Water Well Drilling	373	X	
Hubert Trein	Mont. Water Well Drilling Ass'n.	373	X	
Terry Lindsay	Lindsay & Son Drilling	HB 373	X	
Bob J Boyce	Boyce Drilling	HB 373	X	
Perry J. Potter	Boyce Drilling	HB 373	X	
Earle E. Hunt	Hunt Drilling	HB 373	X	
Dennis Iverson	Dist. 9	HB 373	✓	
J D Mahan	Mahan Drilling	HB 373	✓	

(Please leave prepared statement with Secretary)

3-14-83

COMMITTEE ON

HB-472

VISITORS' REGISTER

[illegible]

Ex #1
3-1483
Not Rec.

submitted by: *Carol L. Ferguson*
Carol L. Ferguson
Administrative Officer
Hard Rock Mining Impact Board

March 14, 1983

TESTIMONY IN SUPPORT OF HB472 AS AMENDED AND TRANSMITTED TO THE SENATE

As many of you know, the process of developing and refining the Hard Rock Mining Impact Act (formerly HB718) has been a long one, involving meetings in many current or potential hard rock mining communities and involving the continuing participation of representatives of both the mining industry and the affected local governments. HB472, as amended, and before you at this time, received unanimous support from these groups when it was heard in the House. That support has not diminished, to my knowledge, however, some of the regular participants in the development of this legislation are unable to be here today and have asked me to convey to you their full support of HB472 as amended and provided that HB472 sustains no further amendments: these people include Jim Richard, representing Stillwater County; Ward Shanahan, representing PGM Resources, a consortium proposing a major mineral development in the Stillwater Complex; and Andy Epple, Sweet Grass County planner. The Hard Rock Mining Impact Board has preferred to remain neutral on the substantive issues addressed by the bill, in recognition of their quasi-judicial function but not out of indifference to the quality of the revisions being proposed to the existing act. The Board has, however, expressed their full support of those revisions which would clarify and improve the procedural aspects of former HB718. In summary, HB472 represents a great deal of work by a number of people representing those groups most affected by the Legislation and they ask for your support of HB472 as you have it before you.

C

E. #1
HB8
3-14-83
Nat. Res.

PROPOSED AMENDMENT

HOUSE BILL 8

1. Page 4, line 5.
Strike: "DEEMED"
Insert: "considered"
2. Page 7, line 23.
Following: ";"
Insert: "and"
3. Page 7, line 24.
Strike: ";AND"
Insert: ". """
4. Page 7, line 25.
Strike: "(E)"
Insert: "(3)"

AMENDMENTS TO HOUSE BILL 8

1. Title, line 8.

Following: "PERIOD;"

Insert: "PROVIDING FOR CIVIL ACTIONS TO SET ASIDE THE REVERSION
OF OWNERSHIP"

P. 4, line 5.
Strike: DEEMED
Insert: considered

2. Page 5, line 6.

Following: "[section 4]"

Insert: "and the right to bring a civil action provided for in
[section 5]"

P. 5, line 11
Strike: EXECUTED, ACKNOWLEDGED, AND

3. Page 7, lines 3 and 4.

Strike: "Any person"

Insert: "A surface owner"

P. 7, line 23,
Following:
Insert: and

4. Page 8, line 2.

Strike: "60 DAYS"

Insert: "one year"

P. 7, line 24
Strike: AND
Insert:
P. 7, line 25
Strike: (E)
Insert: (3)

5. Page 8.

Following: line 9 NEW SECTION.
Section 5.

Insert: "THERE IS A NEW MCA SECTION THAT READS:

"Section 5. Action challenging defective notice of
reversion. (1) Within one year of receipt of notice in fact of
the reversion pursuant to this part of any mineral interest
owned by him, a mineral owner qualifying under this subsection
may petition the district court of the county in which any of
that interest is located to set aside the reversion of the
interest. The petition may be filed by the owner of a mineral
interest who

(a) is not a resident of this state;

(b) has received no other prior notice in fact of the
reversion; and

(c) has not received a copy of a notice pursuant to [section
4(1)(b)] of the reversion of that interest.

(2) Upon the filing of a petition alleging the matters set
forth in subsection (1) and alleging that the address of the
mineral owner is of record or could be ascertained by a diligent
search of records, the burden is on the surface owner to whom the
interest has reverted to disprove those allegations. The ability of
the surface owner to determine the address of the mineral interest
owner by reasonable inquiry may be disproved only by proof that
the surface owner employed a competent petroleum landman who after
a diligent search was unable to locate the mineral interest owner.
If the surface owner fails to disprove the allegations of the mineral
owner, the court shall set aside the reversion of the interest.

(3) A court setting aside the reversion of an interest pursuant
to this section shall

(a) determine the amount or value of any payment made or owed
to such surface owner as a result of the reversion and order the
same paid to the petitioner if the surface owner to whom an
interest has reverted under this part has:

(i) sold his interest to another; or

505 on
insert down

Amendments to HB 8

Page 2

(ii) received payment or a right to payment in money or product upon the production and marketing of any minerals from the property in which the interest lies.

(b) award the petitioning mineral interest owner the costs of bringing the petition, including his reasonable attorney fees, and interest thereon.

(4) The remedy provided in this section may be exercised only once by an owner of a mineral interest."

Renumber: subsequent sections accordingly

6. Page 9, line 4.

Strike: "[act]"

Insert: "provisions"

Strike: "limit."

Insert: "limits. (1)"

7. Page 9, line 5.

Strike: "this [act]"

Insert: "[sections 1 through 4 and 6 through 8]"

8. Page 9.

Following: line 7

Insert: "(2) The provisions of [section 5] may not be waived."

Renumber: subsequent sections accordingly

HOUSE BILL NO. 8
INTRODUCED BY RYAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE TERMINATION OF CERTAIN SEVERED MINERAL INTERESTS OWNED BY PERSONS OTHER THAN THE SURFACE OWNER, AND REVERSION OF SURFACE OWNERSHIP TO THE SURFACE OWNER, ~~FOR A~~ FOR NOTICE AND A 60-DAY REDEMPTION PERIOD, ~~AND PROVIDING FOR REVERSION OF~~

601-82-07-109
amending sections 70-1-91 and 70-2-109
m2A.

WHEREAS, there exist in some of many fractional interests in severed minerals such as coal, oil and gas, and other minerals; and

WHEREAS, difficulty in locating the owners of fractional mineral rights may prevent or delay development of scarce natural resources and the proper payment of taxes;

and

WHEREAS, the United States Supreme Court, in the case of Iowa v. LaSalle, US __ (decided January 12, 1982), recently upheld the constitutionality of the Indiana Dormant Minerals Interests Act, which provides for a lapse of severed mineral rights unless these rights are used, or registered by the owners.

THEREFORE, it is in the Interest of the Legislature to enact a dormant minerals interests act. priority--identical

Providing for a filing and registration of severed mineral interests and the payment of a fee therefor; Providing for adverse possession of unrecorded, unfiled, and unregistered mineral interests; and quieting title to

~~Statement of the President of the United States~~
In order that the owners of fractionalized mineral interests may be determined and chances for development of those minerals increased.

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

Section 1. Definitions. As used in [this act], unless the context clearly indicates otherwise, the following definitions apply:

ity--"Savered-in interest--means--the-interest--that
is--created--by--a--transfer--by--granty--assigment--reservatony
the interest--operation--of--law--or--otherwise--of--an--interest
of--any--kind--in--a--property--and--any--other--interest--to--any
person--other--than--the--surface--owner--of--the--land--in--which
that interest--lies

A fee simple

A few simple

11) "SEVERED MINERAL INTEREST" MEANS ^{ANY} INTEREST IN MINERALS OWNED BY A PERSON OTHER THAN THE OWNER OF THE SURFACE OF THE LAND IN WHICH THE MINERAL LIES, ~~EMBRACING BOTH MINERAL INTERESTS AND EASEMENTS AND OTHER CONTRACTUAL RIGHTS FOR~~

22. "MINERALS" MEANS ALL FORMS AND VARIETIES OF MATERIALS AND SUBSTANCES FORMED OR DEPOSITED IN THE CRUST OF THE EARTH BY NATURAL AGENCIES ALONE, WHICH HAVE VALUE WHEN SEPARATED FROM THE CRUST OF THE EARTH AND EXCLUDING ONLY WATER AND COMMON FORMS OF SAND AND GRAVEL.

1 ~~1. "severed mineral interest" means~~
2 ~~an interest in mineral rights which~~
3 ~~is owned by a person or persons~~
4 ~~under a lease, agreement, or other instrument~~
5 ~~which provides for the production of~~
6 ~~oil, gas, or other minerals from~~
7 ~~land, and which is subject to a~~
8 ~~lease, agreement, or other instrument~~
9 ~~which provides for the production of~~
10 ~~oil, gas, or other minerals from~~
11 ~~land, and which is subject to a~~
12 ~~lease, agreement, or other instrument~~
13 ~~which provides for the production of~~
14 ~~oil, gas, or other minerals from~~
15 ~~land, and which is subject to a~~
16 ~~lease, agreement, or other instrument~~
17 ~~which provides for the production of~~
18 ~~oil, gas, or other minerals from~~
19 ~~land, and which is subject to a~~
20 ~~lease, agreement, or other instrument~~
21 ~~which provides for the production of~~
22 ~~oil, gas, or other minerals from~~
23 ~~land, and which is subject to a~~
24 ~~lease, agreement, or other instrument~~
25 ~~which provides for the production of~~

1 ~~2. "severed mineral interest" means~~
2 ~~an interest in mineral rights which~~
3 ~~is owned by a person or persons~~
4 ~~under a lease, agreement, or other instrument~~
5 ~~which provides for the production of~~
6 ~~oil, gas, or other minerals from~~
7 ~~land, and which is subject to a~~
8 ~~lease, agreement, or other instrument~~
9 ~~which provides for the production of~~
10 ~~oil, gas, or other minerals from~~
11 ~~land, and which is subject to a~~
12 ~~lease, agreement, or other instrument~~
13 ~~which provides for the production of~~
14 ~~oil, gas, or other minerals from~~
15 ~~land, and which is subject to a~~
16 ~~lease, agreement, or other instrument~~
17 ~~which provides for the production of~~
18 ~~oil, gas, or other minerals from~~
19 ~~land, and which is subject to a~~
20 ~~lease, agreement, or other instrument~~
21 ~~which provides for the production of~~
22 ~~oil, gas, or other minerals from~~
23 ~~land, and which is subject to a~~
24 ~~lease, agreement, or other instrument~~
25 ~~which provides for the production of~~

1 ~~3. "severed mineral interest" means~~
2 ~~an interest in mineral rights which~~
3 ~~is owned by a person or persons~~
4 ~~under a lease, agreement, or other instrument~~
5 ~~which provides for the production of~~
6 ~~oil, gas, or other minerals from~~
7 ~~land, and which is subject to a~~
8 ~~lease, agreement, or other instrument~~
9 ~~which provides for the production of~~
10 ~~oil, gas, or other minerals from~~
11 ~~land, and which is subject to a~~
12 ~~lease, agreement, or other instrument~~
13 ~~which provides for the production of~~
14 ~~oil, gas, or other minerals from~~
15 ~~land, and which is subject to a~~
16 ~~lease, agreement, or other instrument~~
17 ~~which provides for the production of~~
18 ~~oil, gas, or other minerals from~~
19 ~~land, and which is subject to a~~
20 ~~lease, agreement, or other instrument~~
21 ~~which provides for the production of~~
22 ~~oil, gas, or other minerals from~~
23 ~~land, and which is subject to a~~
24 ~~lease, agreement, or other instrument~~
25 ~~which provides for the production of~~

1 ~~4. "severed mineral interest" means~~
2 ~~an interest in mineral rights which~~
3 ~~is owned by a person or persons~~
4 ~~under a lease, agreement, or other instrument~~
5 ~~which provides for the production of~~
6 ~~oil, gas, or other minerals from~~
7 ~~land, and which is subject to a~~
8 ~~lease, agreement, or other instrument~~
9 ~~which provides for the production of~~
10 ~~oil, gas, or other minerals from~~
11 ~~land, and which is subject to a~~
12 ~~lease, agreement, or other instrument~~
13 ~~which provides for the production of~~
14 ~~oil, gas, or other minerals from~~
15 ~~land, and which is subject to a~~
16 ~~lease, agreement, or other instrument~~
17 ~~which provides for the production of~~
18 ~~oil, gas, or other minerals from~~
19 ~~land, and which is subject to a~~
20 ~~lease, agreement, or other instrument~~
21 ~~which provides for the production of~~
22 ~~oil, gas, or other minerals from~~
23 ~~land, and which is subject to a~~
24 ~~lease, agreement, or other instrument~~
25 ~~which provides for the production of~~

1 ~~5. "severed mineral interest" means~~
2 ~~an interest in mineral rights which~~
3 ~~is owned by a person or persons~~
4 ~~under a lease, agreement, or other instrument~~
5 ~~which provides for the production of~~
6 ~~oil, gas, or other minerals from~~
7 ~~land, and which is subject to a~~
8 ~~lease, agreement, or other instrument~~
9 ~~which provides for the production of~~
10 ~~oil, gas, or other minerals from~~
11 ~~land, and which is subject to a~~
12 ~~lease, agreement, or other instrument~~
13 ~~which provides for the production of~~
14 ~~oil, gas, or other minerals from~~
15 ~~land, and which is subject to a~~
16 ~~lease, agreement, or other instrument~~
17 ~~which provides for the production of~~
18 ~~oil, gas, or other minerals from~~
19 ~~land, and which is subject to a~~
20 ~~lease, agreement, or other instrument~~
21 ~~which provides for the production of~~
22 ~~oil, gas, or other minerals from~~
23 ~~land, and which is subject to a~~
24 ~~lease, agreement, or other instrument~~
25 ~~which provides for the production of~~

1 ~~6. "severed mineral interest" means~~
2 ~~an interest in mineral rights which~~
3 ~~is owned by a person or persons~~
4 ~~under a lease, agreement, or other instrument~~
5 ~~which provides for the production of~~
6 ~~oil, gas, or other minerals from~~
7 ~~land, and which is subject to a~~
8 ~~lease, agreement, or other instrument~~
9 ~~which provides for the production of~~
10 ~~oil, gas, or other minerals from~~
11 ~~land, and which is subject to a~~
12 ~~lease, agreement, or other instrument~~
13 ~~which provides for the production of~~
14 ~~oil, gas, or other minerals from~~
15 ~~land, and which is subject to a~~
16 ~~lease, agreement, or other instrument~~
17 ~~which provides for the production of~~
18 ~~oil, gas, or other minerals from~~
19 ~~land, and which is subject to a~~
20 ~~lease, agreement, or other instrument~~
21 ~~which provides for the production of~~
22 ~~oil, gas, or other minerals from~~
23 ~~land, and which is subject to a~~
24 ~~lease, agreement, or other instrument~~
25 ~~which provides for the production of~~

1 ~~7. "severed mineral interest" means~~
2 ~~an interest in mineral rights which~~
3 ~~is owned by a person or persons~~
4 ~~under a lease, agreement, or other instrument~~
5 ~~which provides for the production of~~
6 ~~oil, gas, or other minerals from~~
7 ~~land, and which is subject to a~~
8 ~~lease, agreement, or other instrument~~
9 ~~which provides for the production of~~
10 ~~oil, gas, or other minerals from~~
11 ~~land, and which is subject to a~~
12 ~~lease, agreement, or other instrument~~
13 ~~which provides for the production of~~
14 ~~oil, gas, or other minerals from~~
15 ~~land, and which is subject to a~~
16 ~~lease, agreement, or other instrument~~
17 ~~which provides for the production of~~
18 ~~oil, gas, or other minerals from~~
19 ~~land, and which is subject to a~~
20 ~~lease, agreement, or other instrument~~
21 ~~which provides for the production of~~
22 ~~oil, gas, or other minerals from~~
23 ~~land, and which is subject to a~~
24 ~~lease, agreement, or other instrument~~
25 ~~which provides for the production of~~

1 by-the-owner-of-the-severed-mineral-interest
2 (f)-on-which-no-taxes-are-being-paid-by-the-owner-and
3 (f)-for-which-no-statement-of-claim-has-been-filed
4 pursuant-to-section-33 WHICH IS NOT USED. A MINERAL
5 INTEREST SHALL BE DEEMED TO BE USED WHEN ANY OF THE
6 FOLLOWING EXIST:

1 (a) MINERALS ARE PRODUCED THEREFROM OR FROM LANDS
2 POOLED OR UTILIZED THEREWITH OR OPERATIONS ARE CONDUCTED
3 THEREON, OR ON LANDS POOLED OR UTILIZED THEREWITH, IN
4 FURTHERANCE OF DEVELOPMENT OF ANY MINERAL INTEREST INCLUDING
5 INJECTION, WITHDRAWAL, STORAGE, OR DISPOSAL OF WATER, GAS,
6 OR OTHER FLUID SUBSTANCES;

1 (b) THE MINERAL INTEREST IS SUBJECT TO A LEASE OR
2 OTHER CONTRACT HAVING AS ITS OBJECT THE DEVELOPMENT OF SUCH
3 INTEREST AND WHICH LEASE OR OTHER CONTRACT FOR A MEMORANDUM
4 THEREOF IS RECORDED IN THE OFFICE OF THE CLERK AND RECORDED
5 OF EACH COUNTY WHEREIN THE INTEREST IS LOCATED;

1 (c) IN THE CASE OF COAL OR OTHER SOLID MATERIALS WHEN
2 THERE IS PRODUCTION FROM A COMMON VEIN OR SEAM BY THE OWNER
3 OF THE SEVERED MINERAL INTEREST OR BY THE OWNER'S LESSEE OR
4 PERMITEE;

1 (d) TAXES ARE BEING PAID BY THE OWNER OR
2 (e) A STATEMENT OF CLAIM IS FILED PURSUANT TO SECTION
3 33.

Section 2. Lapse of mineral interest -- prevention.

FD
3-M-83

county in which the severed mineral interest is located.
Upon the filing RECORDING of the statement of claim within
the time provided, the mineral interest is considered to be
used on the date the statement of claim is filed RECORDED.
Section 4. Exception to topsoil of severed mineral
interests. Failure to file a statement of claim within the
time provided in section 3 does not cause a severed
mineral interest to be extinguished if the owner of that
interest
(1) was at the time of the expiration of the period
provided in section 3 the owner of 10 or more severed
mineral interests in the same county in which the mineral
interest in question is located;
(2) made a diligent effort to preserve all of such
interests as were not being used and within a period of 10
years prior to the expiration of the period provided in
section 3 preserved other mineral interests in the same
county by the filing of statements of claim as heretofore
required;
(3) failed to preserve the interest in question
through inadvertence; and
(4) filed the statement of claim required by section
2 within 60 days after publication of notice as provided in
section 5; if such notice is published and if no such
notice is published within 60 days after receiving actual

Such reversion may be established in court
in an action for quieting title under the provisions
of Title 20, Chapter 23, subject to the conditions
of 70-28-109.

Unless a statement of claim is filed in accordance
with [section 3], or [section 4] is filed, a severed
mineral interest in county and containing minerals
that is continuously unused for a period of 20 continuous
years is extinguished, SUBJECT TO THE REVERSION
PROVIDED FOR IN SECTION 4, and owner of the interest
reverts to the surface owner of the land out of which the
severed mineral interest was carved.
Section 3. Statement of claim -- FILING RECORDING --
requirements. (1) The statement of claim provided for in
[section 2] must be filed EXECUTED AND ORDERED AND
RECORDED by the owner of the severed mineral interest prior
to the end of the 20-year period set forth in [section 2] or
within 2 years after [the effective date of this act],
whichever is later, and must contain:
(a) the name and address of the owner of the interest;
(b) the nature of the interest;
(c) a description BY LEGAL INTERESTION IDENTITY
AND RANGE of the land on or under which such mineral
interest is located; and
(d) a statement that the owner intends to
preserve and not abandon the mineral severed mineral
interest IS OWNED BY THE CLAIMANT.
(2) The statement of claim must be filed RECORDED in
the office of the county clerk and recorded in the EACH

but not less
than \$10

LC 022470

[section 2] before October 1, 1983, and at the time of filing pays a one-time fee of ~~one cent~~ ^{ONE CENT} per mineral acre. It is forever exempt from payment of the annual registration fee. However, no one person may claim an exemption under this section for any interest in excess of 20,000 mineral acres in the entire state. If a person owns more than 20,000 mineral acres, he may choose the mineral acres to which the exemption will apply. The mineral acres exempted or to be exempted under this section must be designated by the owner of those acres on a form provided for that purpose by the department of revenue and filed with the clerk and recorder of the county in which the acres are located and with the department of revenue. An exemption claimed for any acreage exceeding that allowed by this section must be disallowed by the department, which shall inform the owner and the appropriate county clerk and recorder of such disallowance.

REV. SECTION 4. County not required to determine ownership of severed mineral interests -- filing by surface owner. A county is not required to conduct a title search to determine the owner of a severed mineral interest for any tract of land within the county. If no person has filed a severed mineral interest as required by [section 2] by October 1, 1988, or 5 years prior to the filing by the surface owner under [section 5], the surface owner may pay the annual registration fee for the patent

before he may do so, he

- (2) ONCE THE INTEREST HAS BEEN FILED, IT NEED NOT BE FILED AGAIN UNLESS THERE IS A CHANGE OF OWNERSHIP.
- (3) ANY INTEREST SHOWN IN A PROPERLY RECORDED MINERAL LEASE, CONTINUING THE OWNER'S NAME NEED NOT BE FILED UNLESS THE RECORDED INSTRUMENT IS OVER TEN YEARS OLD.

- 1 years and must file a notice setting forth as much
- 2 information concerning the chain of title and current
- 3 ownership as a diligent title search and reasonably thorough
- 4 search for lost or missing heirs or owners would produce.
- 5 The search or searches may not be conducted at the expense
- 6 of the county and may not be charged to the owner of the
- 7 severed mineral interest.

Section 3. (1) Any person owning a mineral interest in land shall file with the county clerk and recorder of the county in which the mineral interest is situated a request and must include:

- (a) the name and address of the owner of the mineral interest;
- (b) the number of mineral acres owned in the county;
- (c) a legal description of each mineral interest and the fractional ownership claimed in each parcel;
- (d) a description of the instrument, the book and page of the index where the instrument is located, by which the mineral interest was severed from the surface and the chain of title owners through which the person filing the form claims his interest.

Except as provided in [section 3], the owner of a severed mineral interest, except the state, shall pay to the county clerk and recorder the annual registration fee of 5 cents per mineral acre with a minimum annual fee of \$10. In each county in which an interest is claimed, the annual fee may be paid on or before July 30 of each year.

The county clerk and recorder shall record of all fees paid and by whom paid. If the interest has been filed, annual registration fees considered delinquent. The owner of a mineral interest may pay delinquent fees at any time.

The filing and annual registration fees collected pursuant to this section must be deposited in the general fund of the county in which they are collected. **REV. SECTION 3. Limitation** Any person owning a mineral interest on October 1, 1983, who files that interest in accordance with

RECEIVED Section 6.6 Adverse possession
severed mineral interest. (1) Adverse possession
severed mineral interest may be established
directly or through proper conveyances of
overlying the mineral interest for 5 years
after October 1, 1983, if the owner of the severed
interest has not:

(a) filed the mineral interest pursuant to
section 4; or
(b) paid the annual registration fee or registered the
interest and acreage pursuant to (section 4 or 5) in the
5-year period and the surface owner has:

(1) filed the notice of severed mineral interest
provided in (section 6) and

(11) paid the annual registration fee for the interest
next preceding the filing of an action
possession.

(2) Ownership of the surface is adverse to the
exclusive, hostile, and continuous possession of the severed
mineral interest if the severed mineral interest has
been recorded pursuant to (section 4 or 5) or the annual
registration fee has been paid or registered pursuant
pursuant to (section 4 or 5) has been filed in the
owner rather than by the owner of the severed mineral
interest.

(3) The provisions of Title 70, chapter 23, apply
to a claim of adverse possession of a severed mineral
interest.

(4) An action for quieting title to a severed mineral
interest may be brought under the provisions of Title 70,
chapter 23.

Section 70-109-109.1. If a person is assessed in respect
to occupancy and payment of taxes necessary
to prove adverse possession. If in no case shall tax
adverse possession be considered established
under this code unless it shall be shown that the land
has been occupied and claimed for a period of 5 years
continuously and the party or persons, their predecessors,
and grantors have during such period paid all the taxes
state, county, or municipal, which taxes have been legally
levied and assessed upon said the land.

(21) A claimant under (section 7) need not have paid
taxes on the parcels to establish adverse possession of a
severed mineral interest.

Section 10. Section 70-20-109, MCA, is amended to

read:
"70-20-109. Who bound by judgment. If every person
and a defendant to such action by name and every unknown
claimant or possible claimant upon whom service has been
made by publication, in accordance with Rule 4, M.R.Civ.P.,
and who has not appeared in such action shall be bound by
the judgment or decree entered in such action, subject to
the right of any such defendants to apply for relief in any
manner provided by the statutes applicable to the case of a
defaulting defendant served only by publication.

(11) Within 60 days after service of notice to named
defendants or within 90 days after the first publication of
the summons with regard to persons served by publication or
within a reasonable period prior to final judgment as the
court may allow a person owning or claiming a mineral
interest to which plaintiff has commenced a quiet title
action may appear and make himself a party to the action
in order to defeat the action the defendant need only
appear and present evidence of his ownership of the mineral
interest in question and evidence that the fees have been
paid. The statement required by section 70-20-109 has been
filed, recorded or the statement required by section 70-20-109

3. If the plaintiff has paid the fees required
by Section 2, the defendant must reimburse the
plaintiff for the fees paid at the rate of 10% per
year.
4. No person holding a severed mineral interest on the effective
date of this act can be bound by the judgment, unless
such person has been personally served, or has entered
an appearance in the lawsuit.

5. This act was filed
10/15/83
10/15/83

knowledge--that-the-mineral-interest-in-questi-
Section 4. Successor in Interest
requirements -- prima-facto--evidence RECD (1) Any
person who succeeds to the ownership of any mineral
interest may PURSUANT TO THIS PART SHALL,
SUCCEEDING TO that interest, give notice of
that-interest SAME:
(a) by publishing the same in a new
circulation in the county in which the mineral is
located; and
(b) if the address of the mineral is
shown of record or can be determined by
by mailing a copy of such notice to the owner of the mineral
interest within 10 days after publication.
(1) BY RECORDING IN THE OFFICE OF THE
RECORDER IN EACH COUNTY IN WHICH THE
LOCATED, A COPY OF THE NEWSPAPER NOTICE
AFTER DAY OF COMPLIANCE WITH SUBSECTION
(2) The notice must state:
(a) the name of the owner of the interest as
shown of record;
(b) a description of the land;
(c) the nature of the interest; and
(d) the name of the person giving notice.
(1) THE OWNER OF A Lapsed SEVERED

1 REDEM THAT INTEREST BY RECORDING A STATEMENT OF CLAIM AS
2 PROVIDED FOR IN SECTION 21 WITHIN 60 DAYS OF THE
3 RECORDATION PURSUANT TO SECTION 21(1).
4 (3) If a copy of the notice together with an
5 affidavit of compliance with subsection 11 is filed in the
6 office of the county clerk and recorder in the county in
7 which the mineral interest is located, the record is prima
8 facie evidence in any legal proceedings begun after that
9 notice was given.
10 Section 5. Statement of claim--filing--duty
11 RECORDING DUTIES of clerk and recorder. Upon the filing
12 RECEIPT of the statement of claim provided for in [section
13 3], [affidavit of compliance of compliance with
14 [section 11] in the clerk and recorder's office--of--the
15 county--in--which--the--interest-is-located, the clerk shall
16 record the same in a book to be kept for that purpose, which
17 shall be known as the "Dormant Mineral Interest Record", and
18 shall indicate--by--marginal--notation--on--the--instrument
19 creating--the--original--mineral--interest--the--filing--of--the
20 statement--of--claim--or--affidavit--of--publication--and--service
21 of--notice.

Section 6. Rerecording not to revive lost interests;
filing under [Section 5], or registration under [Section
Rerecording under [section 3] serves only to preserve a
severed mineral interest from extinguishment under the
AND preserve A mineral interest from adverse possession
provisions of [section 21] A lease or other terminable
under
Section 8
HB 8

NEW-SECTION 4. Section 11. Severability. If any part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

STANDING COMMITTEE REPORT

March 14 19 83

MR. PRESIDENT:

We, your committee on **NATURAL RESOURCES**

having had under consideration **HOUSE** Bill No. **373**

Marks (Dover)

Respectfully report as follows: That **HOUSE** Bill No. **373**

BE CONCURRED IN

D. RASS
XXXXX

STANDING COMMITTEE REPORT

March 14 19 83

MR. **PRESIDENT:**

We, your committee on **NATURAL RESOURCES**

having had under consideration **HOUSE** Bill No. **472**

D. Brown (Halligan)

Respectfully report as follows: **HOUSE** Bill No. **472**

BE CONCURRED IN
~~XXXXXX~~

STANDING COMMITTEE REPORT

.....March 14..... 19..83....

MR.**PRESIDENT:**.....

We, your committee on.....**NATURAL RESOURCES**.....

having had under consideration**HOUSE**..... Bill No. **8**.....

Ryan (Tveit)

Respectfully report**HOUSE**.....

third reading, be amended as follows:

1. Title, Amend

Strike: "Amend"

Insert: "Amend"

2. Title, Amend

Following: "PERIOD:"

Insert: "PROVIDING FOR CIVIL ACTIONS TO SET ASIDE THE REVERSION
OF OWNERSHIP"

3. Page 4, line 5.

Strike: "DEEMED"

Insert: "considered"

4. Page 5, line 6.

Following: "[SECTION 4]"

Insert: "and the right to bring a civil action provided for in
[section 5]"

~~XXXXXX~~

(cont.)

Mc

Page 2
HOUSE BILL 8
NATURAL RESOURCES COMMITTEE
(cont.)

5. Page 5, line 11.
Strike: "EXECUTED, ACKNOWLEDGED, AND"

6. Page 7, lines 3 and 4.
Strike: "Any person"
Insert: "A surface owner"

7. Page 7, line 23.
Following: " ; "
Insert: "and"

8. Page 7, line 24.
Strike: "AND"
Insert: "."

9. Page 7, line 25.
Strike: "(E)"
Insert: "(3)"

10. Page 8, line 2.
Strike: "60 DAYS"
Insert: "one year"

11. Page 8.
Following: line 9
Insert: Section 4. (1) (b) is a new MCA section that reads:

Section 5. Action challenging defective notice of reversion.
(1) Within one year of receipt of notice in fact of the reversion of an interest owned by him, the surface owner shall file with the department any petition for a determination of the validity of the notice of reversion. The department shall determine the validity of the notice of reversion and shall publish the determination in the official gazette.

- (a) is not a resident of this state;
- (b) has received no other prior notice in fact of the reversion; and
- (c) has not received a copy of a notice pursuant to [section 4 (1) (b)] of the reversion of that interest.

(2) Upon the filing of a petition alleging the matters set forth in subsection (1) and alleging that the address of the petitioner was shown as of record or could have been reasonably ascertained under [section 4 (1) (b)], the burden is on the surface owner to whom the interest has reverted to disprove those allegations. The ability of the surface owner to determine the address of the mineral

J.C.

interest owner by reasonable inquiry may be disproved only by proof that the surface owner employed a competent petroleum landman who after a diligent search was unable to locate the mineral interest owner. If the surface owner fails to disprove the allegations of the mineral owner, the court shall set aside the reversion of the interest.

(3) A court setting aside the reversion of an interest pursuant to this section shall

(a) determine the amount or value of any payment made or owned to such surface owner as a result of the reversion and order the same paid to the petitioner if the surface owner to whom an interest has reverted under this part has:

(1) sold his interest to another; or

(ii) received payment or a right to payment in money or product upon the production and marketing of any minerals from the property in which the interest lies.

(b) award the petitioning mineral interest owner the costs of bringing the petition, including his reasonable attorney fees, and interest thereon.

(4) The power provided in this section may be exercised only once by an individual or married couple.
Number: _____

13. Page 9, line 5.

Strike: "this [act]"

Insert: "[sections 1 through 4 and 6 through 8]"

14. Page 9.

Following: line 7

Insert: "(2) The provisions of [section 5] may not be waived."

And, as so amended,
BE CONCURRED IN

.....
J.C.

SENATE COMMITTEE SENATE NATURAL RESOURCES

Date 3-14 House Bill No. 8 Time 2:40

NAME	YES	NO
ECK, Dorothy (D)	✓	
HALLIGAN, Mike (D)		✓
KEATING, Thomas F. (R)	✓	
LEE, Gary P. (R)	✓	
MANNING, Dave (D)		
MOHAR, John (D)	✓	
SHAW, James N. (R)		✓
STORY, Pete (R)	✓	
TVELT, Larry J. (R)		✓
VAN VALKENBURG, Fred (D)		✓

Secretary
 Patricia A. Hatfield

Chairman
 Harold L. Dover

Motion: As Amended Be Concurred.

(include enough information on motion--put with yellow copy of committee report.)