

MINUTES OF THE MEETING  
NATURAL RESOURCES COMMITTEE  
MONTANA STATE  
HOUSE OF REPRESENTATIVES

March 20, 1985

The meeting of the House Natural Resources Committee was called to order by Chairman Dennis Iverson at 4:30 p.m. in Room 312-1 of the State Capitol.

ROLL CALL: All members of the committee were present except for Rep. Asay, who was excused.

SENATE BILL 258: Senate Bill 258 was introduced by the sponsor, Sen. Larry Tveit, District 11. He told the committee that SB 258 would revise laws governing payment for surface damage done in the process of oil and gas development. He told the committee that in many cases, surface owners do not hold the rights to minerals that lie below that land. The mineral rights may supercede surface rights, he said, and occasionally, surface owners receive no notification of a developer's intent to commence drilling for minerals. SB 258 would require notification of intent to develop mineral rights, and spell out the terms of compensation for damage done to surface land in developing those mineral rights.

No proponents nor any opponents addressed SB 258.

Rep. Addy asked how much notice a developer must give to the surface owner, and Sen. Tveit told him that no notice was necessary under current law. Rep. Addy then asked if there would be a penalty under SB 258 for failure to give such notice. Sen. Tveit told him that no penalty could be included in the bill, because the mineral developer would be exercising his option to develop his legal mineral rights. Rep. Addy commented that without a penalty, it appears that SB 258 is "just giving advice."

Rep. Krueger maintained that the holder of the mineral rights is exercising a right to enter property through lease or contract, and lease and contract rights can be overridden by statutory provision. Therefore, he said, the legislature can impose a penalty for failure to give notice.

Rep. Raney suggested that the committee add a time period to the notice provision of the bill. In that way, he said, the penalty could be imposed for failure to give the proper notice, and not imposed for the actual entry onto the land.

Rep. Miles said a notice provision already exists in the general provisions covering oil and gas leasing and exploration.

Senator Tveit closed the hearing on SB 258 by noting that the bill could be delayed until the committee confirms whether notice provisions are covered elsewhere, but urged passage of the other terms of the bill.

SENATE BILL 96: SB 96 was introduced by Sen. Del Gage, District 5. He explained that the bill updates laws pertaining to seismic exploration by making it clear that exploration done by nonexplosive means is covered under the same statutes that cover exploration done with explosives. The bill is basically a response to technological developments in the field of mineral exploration, he said. In addition to covering exploration done with both explosives and nonexplosives, SB 96 makes a needed distinction between seismic and geophysical exploration, said Sen. Gage.

There were no further proponents of the bill, no opponents, and no questions from committee.

Sen. Gage closed by urging a favorable vote on SB 96.

SENATE BILL 377: Sen. Del Gage introduced SB 377, which he sponsored. He explained that the bill provides for 100% recovery of equipment above ground, 300% recovery of other well costs, and 100% recovery of operating costs on oil and gas wells in pooled spacing units if an owner of an interest in the unit refuses to join the unit.

Dennis Hemmer, speaking on behalf of the department of state lands, said the department supports SB 377, because the bill makes the burdens and profits of participation in pooled spacing units equitable to all, and protects the rights of the mineral owner.

No opponents appeared to speak against SB 377.

Rep. Driscoll asked who the owner would be in the situations covered by SB 377, and Sen. Gage told him the owner is the owner of the working interest in the well involved.

Sen. Gage closed without comment.

#### EXECUTIVE ACTION

SENATE BILL 377: Rep. Jones moved that SB 377 BE CONCURRED IN. Rep. Iverson said that page 3, line 20 should be amended for clarity, and Rep. Addy moved that the line be amended to read "300% of the refusing owner's share". That amendment was unanimously approved.

Researcher Hugh Zackheim suggested that an extension of rulemaking authority be added to the bill to cover the inclusion of 82-11-111 MCA. Rep. Kadas so moved, and that amendment passed unanimously.

Rep. Addy moved that SB 377 BE CONCURRED IN AS AMENDED.

Rep. Cobb then questioned whether 300%, as specified on page 3, line 20, regarding the costs and expenses of developing a well, is an optimum figure. He moved that figure be amended to 200% on that line and throughout the bill. Rep. Raney said 200% does not allow for proper punishment of the refusing party. Rep. Cobb said those people should be penalized, but that 300% is too high a figure. Rep. Cobb's motion to amend was passed 10-7 on a roll call vote. A copy of that vote is attached hereto, following the standing committee reports.

The committee then voted on Rep. Addy's motion that the bill be concurred in, which was unanimously approved.

The committee then went out of executive action, and opened the hearing on SB 326.

SENATE BILL 326: Senate Bill 326 was introduced by the sponsor, Sen. Matt Himsl, District 3. The bill provides that ground water may be appropriated only by a person who is or has the consent of the exclusive owner of the ground water development works. Sen. Himsl told the committee that the bill was prompted by a situation that occurred in the Kalispell area in which a single homeowner was able to appropriate 1/3 of the water allocated for a subdivision of 15 homes, leaving the remaining 2/3 to be distributed among 14 homeowners. The DNRC had no choice but to issue the certificate of appropriation under current statute, said Sen. Himsl.

There were no proponents and no opponents to speak on SB 326.

Rep. Miles commented that Section 1(3) of the bill does not appear to address groundwater, and is inconsistent with the title, which specifically refers to the appropriation of groundwater.

Sen. Himsl closed without comment.

#### EXECUTIVE ACTION

SENATE BILL 326: Rep. Cobb moved that SB 326 BE CONCURRED IN. Rep. Miles moved to amend the bill on page 1, lines 11 and 12, by striking the phrase "Appropriation of groundwater -- " and reinserting previous language that would apply to all parts of the bill. That motion was passed unanimously.

Rep. Kadas moved that the bill BE CONCURRED IN AS AMENDED.  
That motion was unanimously approved.

Rep. Smith agreed to carry the bill on the floor of the House.

SENATE BILL 96: Rep. Cobb moved that SB 96 BE CONCURRED IN.  
That motion was passed unanimously, and Rep. Cobb agreed to  
carry the bill on the floor of the House.

SENATE BILL 258: Rep. Miles said she would like to draft  
an amendment for presentation to the committee, and asked  
that executive action on SB 258 be postponed.

HOUSE BILL 312: Chairman Iverson told the committee he  
would entertain a motion on HB 312, which was heard in  
committee on February 23 and tabled at that hearing. Rep.  
John Harp moved DO NOT PASS on HB 312, reminding the committee  
that HB 312 was the bill sponsored by Rep. Devlin that  
would require that federal mineral royalty payments be  
paid to counties based on each county's contribution through  
mineral extraction. Rep. Harp referred to HB 312 as "just  
another run on the highway reconstruction trust" that was  
instituted in 1983. Under HB 312, highway reconstruction  
money would go to high-wealth counties with low mill levies,  
he said.

Rep. Kadas agreed, saying that the four counties that would  
benefit most by HB 312 are already enjoying low mill levies.  
Those counties are Phillips, with a mill levy of 94.76;  
Powder River, with a mill levy of 77.17; Rosebud, with a  
mill levy of 70.33; and Fallon, with a mill levy of 73.18.  
Conversely, the counties that stand to lose the most through  
HB 312 are Daniels, with a mill levy of 168.36; Judith  
Basin, with a mill levy of 171.94; Treasure, with a mill  
levy of 131.04; and Yellowstone, with a mill levy of 136.52.  
HB 312 would reward the counties that are the best off now,"  
said Rep. Kadas.

There was no further discussion, and Rep. Harp made a  
substitute motion to table the bill, which passed unanimously.

There being no further business before the committee, the  
hearing was adjourned at 6:10 p.m.

  
Rep. DENNIS IVERSON, Chairman

## DAILY ROLL CALL

HOUSE NATURAL RESOURCES

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date MARCH 20, 1985

| NAME                        | PRESENT | ABSENT | EXCUSED |
|-----------------------------|---------|--------|---------|
| IVERSON, Dennis (Chairman)  | X       |        |         |
| KADAS, Mike (Vice-Chairman) | X       |        |         |
| ADDY, Kelly                 | X       |        |         |
| ASAY, Tom                   |         |        |         |
| COBB, John                  | X       |        |         |
| DRISCOLL, Jerry             | X       |        |         |
| GARCIA, Rodney              | X       |        |         |
| GRADY, Edward               | X       |        |         |
| HARP, John                  | X       |        |         |
| JONES, Tom                  | X       |        |         |
| KRUEGER, Kurt               | X       |        |         |
| MILES, Joan                 | X       |        |         |
| MOORE, Janet                | X       |        |         |
| O'HARA, Jesse               | X       |        |         |
| PETERSON, Mary Lou          | X       |        |         |
| RANEY, Bob                  | X       |        |         |
| REAM, Bob                   | X       |        |         |
| SMITH, Clyde                | X       |        |         |
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# STANDING COMMITTEE REPORT

MARCH 20 19 85

MR. SPEAKER:

We, your committee on NATURAL RESOURCES

having had under consideration SENATE BILL 96 Bill No. ....

THIRD reading copy ( BLUE )  
color

AN ACT TO CLARIFY THAT THE LAWS PERTAINING TO SEISMIC EXPLORATION  
APPLY TO EXPLORATION DONE BY MEANS OF NONEXPLOSIVES AS WELL AS  
EXPLORATION DONE BY MEANS OF EXPLOSIVES

Respectfully report as follows: That SENATE BILL 96 Bill No. ....

BE CONCURRED IN

~~XXXXXX~~  
~~XXXXXX~~

# STANDING COMMITTEE REPORT

.....MARCH 30..... 19 85.....

MR. SPEAKER

We, your committee on NATURAL RESOURCES

having had under consideration SENATE BILL 326 Bill No. ....

THIRD reading copy ( BLUE )  
color

AN ACT PROVIDING THAT GROUND WATER MAY BE APPROPRIATED ONLY  
BY A PERSON WHO IS EXCLUSIVE OWNER OF THE GROUND WATER  
DEVELOPMENT WORKS

Respectfully report as follows: That.....SENATE BILL 326..... Bill No. ....

BE AMENDED AS FOLLOWS:

1) Page 1, lines 11 and 12.

Strike: ~~"appropriation"~~ on line 11 through "exceptions" on  
line 12.

Insert: "Exceptions"

AND AS AMENDED,

BE CONCURRED IN

XXXXXX  
DO PASS

# ROLL CALL VOTE

HOUSE COMMITTEE NATURAL RESOURCES

DATE 3/20 BILL NO. SB 377 TIME 5:20

| NAME                        | AYE | NAY          |
|-----------------------------|-----|--------------|
| IVERSON, Dennis (Chairman)  |     | <del>X</del> |
| KADAS, Mike (Vice-Chairman) |     | <del>X</del> |
| ADDY, Kelly                 |     | <del>X</del> |
| ASAY, Tom                   |     |              |
| COBB, John                  | X   |              |
| DRISCOLL, Jerry             | X   |              |
| GARCIA, Rodney              | X   |              |
| GRADY, Edward               | X   |              |
| HARP, John                  | X   |              |
| JONES, Tom                  |     | X            |
| KRUEGER, Kurt               |     | X            |
| MILES, Joan                 | X   |              |
| MOORE, Janet                | X   |              |
| O'HARA, Jesse               |     | X            |
| PETERSON, Mary Lou          | X   |              |
| RANEY, Bob                  |     | X            |
| REAM, Bob                   |     |              |
| SMITH, Clyde                | X   |              |
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11 1

Secretary

Chairman

Motion: Amend 300% to 200% - Cobb



## VISITORS' REGISTER

HOUSE NATURAL RESOURCES COMMITTEE

LL SB 346  
ONSOR Sen. Himsi

Date 3/20/85

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITORS' REGISTER

NATURAL RESOURCES

COMMITTEE

BILL NO. SB 377DATE 3/20/85SPONSOR Sen. Gage

| NAME (please print)  | RESIDENCE                           | SUPPORT | OPPOSE |
|----------------------|-------------------------------------|---------|--------|
| <i>Lee Rickman</i>   | <i>Helena</i>                       | ✓       |        |
| <i>Dennis Hemmer</i> | <i>Helena - Dept of State Lands</i> | ✓       |        |
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IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

