

MINUTES OF THE MEETING
SENATE NATURAL RESOURCES COMMITTEE
MONTANA STATE SENATE
February 1, 1985

The third meeting of the Senate Natural Resources Committee was called to order at 1:01 p.m., February 1, 1985, by Chairman Dorothy Eck in Room 405, State Capitol Building.

ROLL CALL: All members were present with the exception of Senators Fuller and Stimatz, who were absent, and Senator Manning, who was excused.

CONSIDERATION OF SB236: Senator Conover, sponsor of SB236, opened the hearing by informing the committee that SB236 has two purposes: (1) It enables the State Land Board to terminate a renewed lease for misuse of state land during the previous lease period; and (2) it suspends all renewal procedures until cancellation procedures are completed. Senator Conover submitted written testimony (Exhibit 1) and background information (Exhibit 2) to the committee. Senator Conover stated that at the present time there are approximately 10,000 state leases, and these leases are only evaluated once every ten years.

PROPOSERS: Dennis Hemmer, Commissioner for the Department of State Lands, circulated photographs of land leased for the purposes of grazing, which is being used for agricultural purposes. Mr. Hemmer submitted written testimony (Exhibit 3) and stated the Department of State Lands is very concerned about the misuse of state lands.

There being no further proponents and no opponents, the hearing was opened to questions from the committee.

Senator Gage questioned Mr. Hemmer as to whether there was a provision in SB236 for canceling the original lease. Mr. Hemmer replied that SB236 will allow for the cancellation of a state lease anytime there is an abuse of the land. Mr. Hemmer also stated that at the present time, if renewal of a state land lease comes up during the hearing process, there is no way the Department of State Lands can stop the renewal process. Upon question from Senator Gage, Mr. Hemmer explained that under SB236 a second period lease could be cancelled for misuse of the land during the first lease period, even though the abuse may have ceased during the second period.

Senator Harding asked about the status of the land when the lease expires during a hearing process. Mr. Hemmer replied it is still leased land, but it becomes a non-renewed lease.

Senator Gage inquired how many persons from the Department of State Lands were available to investigate state leases. Mr. Hemmer replied that at the current time, five persons inspect state lands for possible abuses.

Upon question from Chairman Eck, Mr. Hemmer explained that there are only one or two major violations of leased state land a year; however, many minor violations occur. These minor violations may involve only a monetary penalty as opposed to cancellation of the lease.

Mr. Hemmer informed Senator Tveit that permission is needed from the Department of State Lands before any type of use or alteration is done on leased state lands.

There being no further questions from the committee, the hearing on SB236 was closed.

CONSIDERATION OF SJR12: Senator Severson opened the hearing on SJR12 by submitting a summary of the Western States Legislative Forestry Task Forces' activities for the last two years (Exhibit 4). The Forestry Task Force has dealt with such issues as RARE II, the pine beetle, spruce bud worm, forest fires and the timber industry. SJR12 would keep the task force in effect for another two years by providing funding from the legislative council budget. Although California and Oregon are the major funders of the Task Force, Montana's share would be \$25,000--\$5,500 for Montana's dues and \$19,500 for the members travel.

PROPONENTS: Senator Lane testified that although he has been in agriculture all his life, he now knows that the industries of agriculture and forestry share the same problems. Senator Lane feels the Forestry Task Force is a worthwhile cause and is a benefit to Montana.

Ms. Leta Livoti submitted written testimony (Exhibit 5) from Don Allen, representing the Montana Wood Products Association.

Mr. Keith Olson, representing the Montana Logging Association, submitted written testimony (Exhibit 6) and testified that the Forestry Task Force is one way to protect one of our major resources through the sharing of knowledge.

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February 1, 1985
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Bill Kirkpatrick, representing Champion International, testified that he has been acquainted with Western States Legislative Forestry Task Force since its inception. Mr. Kirkpatrick supports the Task Force's good, sound emphasis on forest management.

There being no further proponents and no opponents, the hearing was opened to questions from the committee.

Senator Shaw inquired where the funding for the task force comes from. Senator Severson replied that the \$25,000 budget request comes from Legislative Council.

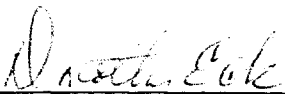
Senator Mohar questioned whether the Task Force drafts any resolutions that come before the state Legislature. Senator Severson stated that it does, although the Task Force is not responsible for any Resolutions introduced this session. Upon further question from Senator Mohar, Senator Severson informed the committee that although the Task Force does go to the U.S. Congress, they are not a lobbying group.

There being no further questions to come before the committee, the hearing on SJR12 was closed.

ACTION ON SJR12: Senator Tveit moved that SJR12 DO PASS.
The motion carried.

ACTION ON SB236: Senator Gage moved that SB236 DO PASS.
The motion carried.

There being no further business to come before the committee, the meeting was adjourned at 1:45.



Senator Dorothy Eck, Chairman

ROLL CALL

Natural Resources

COMMITTEE

48th LEGISLATIVE SESSION -- 1985

Date 02/01/85

SENATE
SEAT
#

NAME	PRESENT	ABSENT	EXCUSED
ECK, Dorothy (Chairman)	✓		
HALLIGAN, Mike (Vice Chairman)	✓		
MANNING, Dave			
MOHAR, John	✓		
DANIELS, M. K.	✓		
FULLER, David		✓	
STIMATZ, Larry		✓	
TVEIT, Larry	✓		
GAGE, Delwyn	✓		
ANDERSON, John	✓		
SHAW, James	✓		
HARDING, Ethel	✓		

Each day attach to minutes.

DATE _____

COMMITTEE ON _____

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary.)

Senate Bill 236, introduced by Senator Max Conover

A bill for an act entitled: "AN ACT PROVIDING THAT A RENEWED STATE LEASE MAY BE CANCELED FOR VIOLATIONS BY THE SAME LESSEE DURING THE PRIOR LEASE; AMENDING SECTION 77-6-205, MCA."

This bill does two things. First, it enables the State Land Board to terminate a renewed lease for misuses of the leased state land during the previous lease. Second, it suspends all renewal procedures until cancellation procedures for misused state lands are complete.

As the law reads now, the lessee is forgiven for all past sins when he renews his lease. The state cannot cancel a renewed lease for misuse on the previous lease and if cancellation procedures are not completed before the lessee's renewal process is culminated, no action can be taken by the State Land Board.

Leases and renewal leases can be canceled for reasons stated in 77-6-113, 77-6-208, 77-6-209 and 77-6-210.

SB 236 is essential because it gives the State Land Board the ability to go back and cancel the renewed lease of a lessee who has abused state land in the previous lease.

SENATE NATURAL RESOURCES COMMITTEE

EXHIBIT NO. 1

DATE 020185

BILL NO. SB236

BACKGROUND

Senator Max Conover
Senate Bill No. 236

An act providing that a renewed State lease may be cancelled for violations by the same lessee during the prior lease term; amending Section 77-6-205, MCA.

Senate Bill No. 236 would amend Section 77-6-205, MCA, by adding a paragraph stating that in cases where a lessee of State lands has violated the terms of the lease, cancellation procedures may be allowed to extend into a new lease renewal period.

The Department of State Lands administers approximately 10,000 surface leases. These leases are evaluated in the field once in a ten year period, usually in the year preceding the expiration of the lease. An inspection may find an abuse on State lands, such as unauthorized subleasing, illegal breaking, improper management practices, etc., that may require cancellation. Often, there is not enough time to carry out the cancellation procedures before the lease must be renewed.

Section 77-6-205, MCA, provides that if a lessee has paid all rentals due to the State, he is entitled to have his lease renewed for a 5 or 10 year period any time within 30 days prior to expiration, if no other applications for lease of the land have been received. The issuance of a new lease eliminates any chance of taking action on the prior lease, even if any wrong doing has occurred.

The passage of this bill would allow the Department to carry out actions against a lessee who has violated the terms of the lease even though the lease has been renewed for another term. It would also provide that the Department can delay renewal if cancellation procedures are in progress.

SENATE NATURAL RESOURCES COMMITTEE

EXHIBIT NO. 2

DATE 020185

BILL NO. SB236

TESTIMONY ON SENATE BILL 236

FROM DENNIS HEMMER, COMMISSIONER, DEPARTMENT OF STATE LANDS

The Department of State Lands supports the passage of Senate Bill No. 236 establishing the ability for the Department to cancel surface leases for violation by a lessee during a previous lease term.

The Department is concerned that lessees who have abused or violated the terms of their lease cannot have the lease cancelled as required under Section 77-6-113, 77-6-208, 77-6-209 or 77-6-210, because the lease has been renewed. In cases where abuses are detected very late in the lease term, the Department does not have the authority to extend the renewal period and legal actions such as notification, hearings, and formal Land Board action cannot be taken before the renewal of the lease. Passage of the bill would allow the Department to take action against a lease even though the lease has been renewed for another 5 or 10 year lease term, or to delay renewal if cancellation procedures are being pursued.

The passage of this bill would allow the Department to conduct more thorough investigations of abuses of State Trust lands which will be more protective of the land and therefore the School Trust.

SENATE NATURAL RESOURCES COMMITTEE

EXHIBIT NO. 3

DATE 020185

BILL NO. SB236

WESTERN STATES LEGISLATIVE FORESTRY TASK FORCE

Established 1974

January 21, 1985

CHAIRMAN

Senator Elmer Severson

WESTERN STATES LEGISLATIVE FORESTRY TASK FORCE

VICE CHAIRMAN

Assemblyman Norm Waters

BACKGROUND

MEMBERS

ALASKA

Senator Dick Ellison
Senator Bob Ziegler
Representative Ben Grussendorf

CALIFORNIA

Senator Barry Keene
Assemblyman Pat Johnston
Assemblyman Norm Waters

The Task Force was organized on July 12 & 13, 1974, in San Francisco. Senator Randy Collier, California, was elected Chairman and Senator Ted Hallock, Oregon, Vice Chairman. Five states were represented at the first meeting: California, Oregon, Washington, Idaho and Montana. Alaska joined the task force in 1978. Two of the founding delegates are still Task Force members; Senator Barry Keene of California, and Senator Lowell Peterson of Washington.

MONTANA

Senator Elmer Severson
Senator Leo Lane
Representative Robert Ream

The Task Force consists of two Senators and two Representatives (Assemblymen) from each of six Western states. These delegates are appointed, respectively, by the President of the Senate and Speaker of the House (Assembly) of each state.

OREGON

Senator Mae Yih
Senator Bill Bradbury
Representative Bob Brogotti

GOVERNMENT/OPERATIONS

The Task Force is governed under a set of By Laws which are reviewed periodically. The Chair and Vice Chair are required to be from different states and are elected for one year terms. No person can serve more than one year in either office. Officers are rotated among the member states.

WASHINGTON

Senator Lowell Peterson
Senator Scott Barr
Representative Doug Sayan

EXECUTIVE DIRECTOR

James B. Corlett

SENATE NATURAL RESOURCES COMMITTEE

EXHIBIT NO. 4

6950 S.W. Hampton Street, Suite 105, Portland, Oregon 97221 DATE June 5, 1985 (503) 620-6616 020185

BILL NO. SJR 12

Four or five meetings are held each year; these are rotated among the member states, except that, one meeting each year is held in Washington, D.C.. Normally meetings are public hearings with knowledgeable persons or organizations invited to discuss current forestry issues which have regional interest or significance. The public is invited.

An Executive Director is appointed by the Task Force and serves as its Secretary. The Executive Director is employed on an independent contractor-contractee basis. The Task Force office is currently located in Portland, Oregon.

POLICIES

Task Force policies are determined by vote of the membership, following issue review at one or more meetings. Decisions of the Task Force do not necessarily bind either the legislatures or state governments of the member states.

MEETINGS 1983-1984

The Task Force held nine meetings during 1983-1984. A brief description of each meeting follows:

1. Sacramento, CA, State Capitol, Feb. 18-20, 1983

Forty-four persons attended. Issues considered included: A Review of the Western timber economy; Congressional Legislative Review; Canadian lumber imports; U.S. Forest Service appropriations; forest animal damage research, and forest genetic development.

Resolutions adopted

- Support allocation of U.S. Forest Service funds for state and private forestry.
- Support flexibility in federal timber contracts.
- Support continued forest animal damage research.

2. Washington D.C., Bellevue Hotel, May 1-3, 1983

The Task Force held a public hearing in the Capitol Building. Witnesses from Idaho discussed the Idaho Wilderness Bill and RARE II relationships. Proposed wilderness criteria, proposed by Oregon's Governor, were considered. National Forest Products Association officials explained U.S. Forest Service contract relief legislation and a timber sale contract buy-out proposal. Other speakers included the Montana State Forester, re: state and private appropriations, and a report from the Associate Deputy Chief of the USFS. The Task Force enjoyed lunch with the Chief of the U.S. Forest Service. Members met with Congressional delegations.

Resolutions adopted

- Draft and circulate a letter to the Western Governors re: the Oregon Governor's proposal for wilderness criteria to be used as a means for resolving the RARE II issue.

3. Big Sky Montana, July 8-9, 1983

Thirty-Five persons attended. A public hearing produced information on the Montana fire control system, prescribed fire procedures and the relationship of federal funding to state and private programs. Speakers discussed Montana RARE II Legislation, USFS timber sales, salvage logging on USFS lands, reforestation

programs, and wildlife management. A forest bus tour included Mountain pine beetle devastation, various harvesting practices, commercial thinning, and visit an active logging operation.

Resolutions adopted

- Honoring Senator Kermit Kiebert (outgoing Task Force Chairman) for his accomplishments as Chairman.
- Senator Richard Eliason, Alaska was elected Chairman.
- Senator Elmer Severson, Montana was elected Vice Chairman.

4. Vancouver, Washington, Inn At The Quay, October 21-22, 1983

Forty-Four persons attended. On October 21, twenty-five members and guests were hosted by Weyerhaeuser Co. on a bus tour of the Mt. St. Helen's blast zone. The recovery of vegetation, reforestation and the strong reproduction of elk in relatively bare terrain, were viewed and explained.

A Task Force public hearing on October 22, received information on U.S. Forest Service management of its lands in the St. Helens blast zone; elk recovery following the St. Helen's eruption; economic predictions from U.S. League of Savings Institutions; an overview of RARE II; Washington and Oregon wilderness proposals; new federal policies on timber contracts; national legislation and a report on the federal timber dilemma.

Resolution adopted

- Reaffirmation of Task Force interest in settling RARE II.

5. Sacramento, California, Mansion Inn, February 2, 1984

Thirty one persons attended. The meeting was planned principally to interview candidates for the position of Executive Director. However, interviews were postponed at the request of some member states. An Executive Session was held part of the day.

A public hearing developed considerable information on federal timber supplies, public timber sale policies, and potential company bankruptcies resulting from high bids on federal timber. Both large industrial association, and small mill owner views were heard.

Resolution adopted

- Support of California Legislative resolutions regarding the Federal RARE II Process.

6. Portland, Oregon, Sheraton Airport Inn, March 24, 1984

The Task Force met to interview candidates for the position of Executive Director. The proposal and bid of James B. Corlett was accepted effective April 1, 1984. He replaced Richard Robyn who had faithfully served the Task Force for nearly seven years.

7. Washington, D.C., Bellevue Hotel, May 13-16, 1984

Testimony on Wilderness legislation and on forestry issues affecting the states, was received during a public hearing at the Bellevue Hotel. Members met for lunch with their Congressional

representatives, then met with the Deputy Secretary of Agriculture. The next day, a breakfast business meeting was followed by a Task Force meeting with the Office of Intergovernmental Affairs in the Old Executive Office Building; lunch with the Chief of the U.S. Forest Service, and four of his Deputy Chiefs. Later meetings were held with the Deputy Asst. Secretary of Interior; the Special Asst. Secretary for Wildlife and Parks; Deputy Director of the BLM; Director, office of Trust Responsibilities, Bureau of Indian Affairs and his Chief Forester. On invitation, a Task Force delegation met with a Presidential Assistant - the Chairman of the Council on Environmental Quality. Additional meetings were held with members of Congress.

Resolutions adopted

- Requested the council on Environmental Quality to clarify immediately its regulations regarding "Worst Case Analysis" in Environmental Impact Statements.
- Supported retention of the present 25% formula for federal timber sale distribution to the counties.

8. Ketchikan, Alaska, City Council Chambers, August 31-September 2, 1984

Forty-six persons attended two days of public hearings. Ten persons testified on an update of Alaska logging and the condition of the timber industry. Other testimony included the following: "Worst Case Analysis" impacts on forest management from U.S. Forest Service staff, the National Wildlife Federation, and the Chief of the USFS; resolution of conflicts between recreation and

mining; the Alaska National Interest Land Conservation Act; BLM programs in Alaska, and a report from the National Association of State Foresters.

Resolutions adopted

- Support continued federal funding for cooperative forestry programs with the states.
- Commended John A. Sandor, retired Alaska Regional Forester.
- Commended Senator Richard Eliason for services as Task Force Chairman.

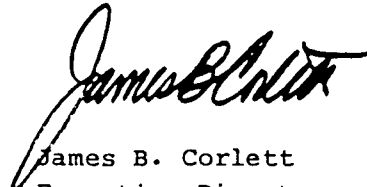
9. San Francisco, California, Travelodge At The Wharf, November 30-December 2, 1984

Testimony was received on state vs. local control of state forest practices; update on herbicides; forest insect, threats including Western budworm and Gypsy Moth; 1984 Montana fire storms; archeology and forestry relationships; programs of California Women In Timber; "below cost timber sales"; impacts of timber relief legislation; reports from Regional Forester USFS and the California State Forester.

Resolutions adopted

- Requested that the USFS conduct economic analyses in a timely manner so that Western budworm control efforts can be undertaken as needed. Requested federal funding for budworm control.
- Supported continued animal damage research at Olympia, Wash. and Bend, OR; requested a supplemental appropriation and contractual arrangement between Fish and Wildlife Service and U.S. Forest Service.

- Recommended the US Forest Service identify public interest benefits from timber sales and supported below-cost timber sales under certain conditions.
- Urgently recommended that Congress fund the USDA Animal and Plant Health Inspection Service for Gypsy Moth abatement in Oregon and in order to remove the threat to adjacent states.
- Recommended funding continuation of the current level of national fire weather service.
- Supported a balanced approach to air quality regulations that recognizes the vital role of prescribed burning in forest management.



James B. Corlett
Executive Director

JBC:ljn

TESTIMONY BEFORE SENATE NATURAL
RESOURCES COMMITTEE RE: SJR #12

February 1, 1985

Madam Chairman and members of the Committee: My name is Don Allen, and I am appearing here today on behalf of the Montana Wood Products Association.

The timber industry is one of the basic industries in Montana and it is absolutely vital that every effort is made to make sure that our state is represented in the continuing dialog about the future proper management of our forests. The Western States Legislative Forestry Task Force provides the opportunity for the western states in which forest lands are located to discuss issues of common interest.

I have personally observed the work of the task force in past years and feel that Montana's representatives have presented the concerns of our citizens very well. It is important for Montana's voice to be heard and for all members of the legislature to be kept abreast of forest issues.

These are continuing tough times for the timber industry and it makes sense to utilize a regional approach in dealing with key forest land subjects since many concerns of forest management cannot be resolved at the state level.

Therefore, on behalf of the Montana Wood Products Association, I urge you to give this resolution your enthusiastic approval.

Thank you.

SENATE NATURAL RESOURCES COMMITTEE
EXHIBIT NO. 5
DATE 020185
BILL NO. SJR 12

WITNESS STATEMENT

Name KEITH L. OLSON Committee On Natural Resources
 Address P.O. Box 17116 - Kalispell Date 2-1-85
 Representing MT. Logging Assn. Support ✓
 Bill No. SJ 12 Oppose _____
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Forests know no borderlines
2. The innumerable resources our forests contain and the problems inherent in providing for and protecting those values are mutually
3. inclusive of all forested states.
4. The Task Force provides a valuable forum for sharing knowledge on forest management.

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

STANDING COMMITTEE REPORT

FEBRUARY 1, 19 85

MR. PRESIDENT

We, your committee on **NATURAL RESOURCES**

having had under consideration **SENATE BILL** No. **236**

FIRST reading copy (**WHITE**)
color

ALLOW CANCELLATION OF STATE LEASE FOR VIOLATION OF PRIOR LEASE

Respectfully report as follows: That **SENATE BILL** No. **236**

DO PASS

~~XXXXXXXXXX~~

Senator Dorothy Eck

Chairman.

STANDING COMMITTEE REPORT

FEBRUARY 1, 19 95

MR. PRESIDENT

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

having had under consideration..... **SENATE JOINT RESOLUTION** No. **12**

FIRST reading copy (**WHITE**)
color

**APPOINT FOUR LEGISLATORS TO WESTERN STATES LEGISLATIVE
FORESTRY TASK FORCE**

Respectfully report as follows: That..... **SENATE JOINT RESOLUTION** No. **12**

DO PASS

~~DO NOT PASS~~

.....
Senator Dorothy Eck

.....
Chairman.