

MINUTES OF THE MEETING
NATURAL RESOURCES COMMITTEE
HOUSE OF REPRESENTATIVES
50TH LEGISLATIVE SESSION

January 23, 1987

The meeting of the Natural Resources Committee was called to order by Chairman Tom Jones on January 23, 1987, at 1:00 p.m. in Room 312 of the State Capitol.

ROLL CALL: All committee members were present.

HOUSE BILL NO. 230: Rep. Marion Hanson, District #100, sponsor, stated HB 230 was at the request of the Department of State Lands, which generally revises the Montana Strip and Underground Reclamation Act, in order to bring it in compliance with federal law. Currently, the strip, underground coal, and uranium mining are regulated under the Montana Strip and Underground Reclamation Act. However, several related activities are not, including the remining of previously mined abandoned sites and the processing of coal prior to end use, either on or off-site. She stated both have the potential for impact including the damaging of hydrologic resources and the potential for sites to remain unreclaimed. Minor changes have been proposed to amend the act, under which coal and uranium mining are regulated. The net effect of the changes is to allow regulation of remining activities of coal preparation. By adding these two activities to the list, it insures Montana the reclamation of the sites where these activities take place, as well as insure minimization of off-site impact. Some of the sites would be abandoned mine sites, and by requesting reclamation, monies from the abandoned sites are potentially a greater significance. The U.S. Office of Surface Mining Reclamation, which oversees the Montana program, is requiring such regulation. As a result of several court cases, state law must conform with federal law in order to insure the state's ability to continue the regulating of coal reclamation activities within the state. In addition, the fee for mining related activities is purposed to increase \$50 which would bring the application fee in line with other fees provided for in the act. The proposed change would make the fee equitable for both types of operation.

PROPOSERS: Dennis Hemmer, Director, Department of State Lands, submitted testimony (Exhibit #1). He stated the major effect of these changes is to allow regulation of remining activities and of coal preparation (prior to end use). By adding these two activities to the list of regulated activities, Montana is able to assure the reclamation of the sites where these activities take place, as well as

assure minimization of off-site impacts. The other main reason for requiring remining and coal preparation activities to be regulated is because the U.S. Office of Surface Mining Reclamation and Enforcement, which oversees the program, is requiring such regulation. Much of this, at the federal level, is the outgrowth of several court decisions. The state act must conform to the federal act. The Department recommends approval of the bill.

JIM MOCKLER, Executive Director, Montana Coal Council, stated they had no objections to the bill, and obviously, must comply with federal laws.

KEN WILLIAMS, on behalf of Western Energy, stated support for HB 230 as amended by the Department.

NO OPPONENTS

REP. SIMON asked what would happen if they did not change the laws to comply?

MR. HEMMER stated they are being required by OSM, and if they did not have their law as effective, at that point, the federal officers of OSM would come in and take over the state program.

REP. COBB asked Mr. Hemmer what a "gob pile" was.

MR. HEMMER stated "gob pile" was coal waste usually related to underground activities and composed mostly of dirt and coal.

REP. HARPER questioned the amendment and felt it was taking out something the bill was written to put in.

DENNIS HEMMER stated what was involved was the concern of getting into an act drafted primarily for the mining operation without covering those facilities. Primarily, it was trying to take out an area that may be confusing and make it very clear that they apply to the whole spectrum of the mining facilities.

REP. HANSON closed by stating it was important for the state to have the control to keep in compliance with the federal requirements, and not turn our "at hand" authority over to someone out of state.

HEARING WAS CLOSED ON HB 230.

HOUSE BILL NO. 246: Rep. John Cobb, District #42, sponsor, stated HB 246 was at the request of a private citizen, and required applicants who wish to establish a well spacing

unit for an oil and gas well or for the pooling of interest in well spacing unit, to give actual notice to inform parties effected by the application. At this time, he asked the committee to hold the bill until, at which time, some of the oil companies might have a chance to look into more detail of what "notice" actually meant in order to clarify existing language. He stated there were several questions in that area, and he would like to be able to hear from these companies and report to the committee before they make a final decision. He added the bill simply clarified the need to give better notice to those parties who have the units. Notice was important, due to the fact these units had a large effect on original revenue and types of payments. He reserved the right to close.

PROPOSERS: Tommy Butler, attorney for the Department of State Lands, stated he appeared that day as a private citizen. He stated he was surprised there were not notice provisions available at the present time. To clarify, HB 246, spacing established an area of a single producing or gas formation that can efficiently and economically drain from one well. The other function of the board was to pool the interests within the space unit that establishes specific fractions of production in that single well, to which each owner was entitled to receive. The reason for the bill was to give the farmers and ranchers constitutional protection. Other states have had the same set up. The Oklahoma court case stated that if an oil company knew the actual address of the owner of mineral interests and intended to pool the well without giving that person actual notice, that would be unconstitutional and could not be done. Enacting HB 246 would require those companies to give actual notice to the farmers and ranchers. He did suggest more explicit language to alleviate specificity including at least 20 days prior to the hearing date so applicants can establish a well spacing unit for pooling, and written notice be served to record holders of the oil tax and lease hold interests sought to be spaced or pooled.

JEROME ANDERSON, attorney, representing Shell Oil Company, stated they understood the problem, but would like to have the opportunity to look and see what has been done in other surrounding states so notice provisions would be reasonable and capable of being carried out. Shell supported HB 246 with the amendment.

NO OPPONENTS

REP. ADDY asked what other notices were required to be given to the record holder per the amendment. He also wondered if there were other kinds of notices required to be given the same way.

MR. BUTLER stated the notice would not be given through the Clerk and Recorder's Office, but mailed directly to the address. If the leases were updated frequently there was less chance of the address being incorrect or obsolete. If they were not, other notices were required giving addresses to those people having a lease hold interest who were more likely to keep their address accurate knowing they could expect to get all notices at that address. It should be made clear how important it is to update the addresses on a periodic basis.

REP. MILES asked Mr. Butler to elaborate on what the consequences of inadequate notice would be and, if notice was given, what opportunities did they have that they would otherwise not have.

MR. BUTLER stated the opportunities are to actually appear with the chances of possible overreaching on the part of unethical individuals. He stated, as in Oklahoma, people look at the poolings and determine who the unleased mineral interest owners were. If those owners were in other states, they then offer to buy the mineral interests for a ridiculous sum. Therefore, if you did not know what was going on, you would be selling away a valuable right.

REP. ASAY stated a case of an unrecorded mineral interest where someone had the minerals and sold their property with no present mandate recorded. Then, two or three at a time, people could actually own the mineral rights with there being no record of it. Presently, they have tried to correct it with not too much success; however, he wondered what would happen if a pooling arrangement were perhaps set up that was not recorded.

MR. BUTLER stated generally, most people, before attempting to drill a well, usually tried to add at least 95% of the leaseholder interest. Otherwise, it was not prudent to drill a well. There are a number of significant interests outstanding; however, sometimes title changes just did not show up regarding mineral interests and that was when the attorneys step in and go to work.

REP. COBB closed by asking the committee to hold taking any action until Monday or Wednesday to allow these companies to work out the language. He stated it was important to give accurate notice if it could not be worked out. The law could stay the way it was.

HEARING WAS CLOSED ON HB 246.

EXECUTIVE ACTION

HOUSE BILL NO. 208: Rep. Harp moved HB 208 DO PASS. Rep. Addy moved the amendment suggested by DSL.

QUESTIONS (OR DISCUSSION) ON HOUSE BILL NO. 208: Rep. Harp asked if the new section was a grandfather clause.

Rep. Addy stated it did apply to existing oil leases and if they were going to be fair to one, they must be fair to all.

Rep. Harper asked why change "will" to "may"?

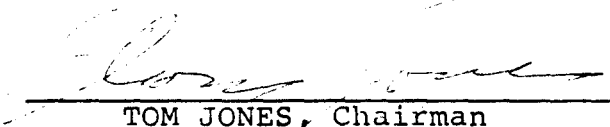
Hugh Zackheim, researcher, stated the language gave extension of authority and also extended the department's existing authority.

Question was called on the amendment. The motion CARRIED unanimously. See Standing Committee Report No. 1.

Rep. Addy moved HB 208 DO PASS AS AMENDED. Question was called. The motion CARRIED unanimously. See Standing Committee Report Nos. 1-3.

HOUSE BILL NO. 230: Rep. Harp moved HB 230 DO PASS and moved the amendment offered by DSL. Question was called on the amendment. The motion CARRIED unanimously. Rep. Roth moved HB 230 DO PASS AS AMENDED. Question was called. The motion CARRIED unanimously. See Standing Committee Report Nos. 1-7.

ADJOURNMENT: There being no further business to come before the committee, the hearing was closed at 1:55 p.m.



TOM JONES, Chairman

DAILY ROLL CALL

NATURAL RESOURCES COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Jan 23, 1987

NAME	PRESENT	ABSENT	EXCUSED
TOM JONES, CHAIRMAN	X		
CLYDE SMITH, VICE CHAIRMAN	X		
KELLY ADDY	X		
TOM ASAY	X		
JOHN COBB	X		
BEN COHEN	X		
ED GRADY	X		
JOHN HARP	X		
HAL HARPER	X		
MIKE KADAS	X		
AL MEYERS	X		
JOAN MILES	X		
MARY LOU PETERSON	X		
BOB RANEY	X		
RANDE ROTH	X		
ANGELA RUSSELL	X		
BRUCE SIMON	X		
BILL STRIZICH	X		
STAFF: EQC HUGH ZACKHEIM			

STANDING COMMITTEE REPORT

JANUARY 23

19 57

Mr. Speaker: We, the committee on NATURAL RESOURCES

report HB 200

do pass
 do not pass

be concurred in
 be not concurred in


as amended
 statement of intent attached

REP. TOM JONES

Chairman

"AN ACT ALLOWING STATE OIL LESSEES TO DEDUCT PROPORTIONALLY THE COSTS OF TRANSPORTING OIL TO MARKET; AND AMENDING SECTION 77-3-412, ACA."

1. Page 1, line 25 through line 2, page 2.
Following: "month." on line 25
Strike: remainder of line 25 through "then the" on line 3,
page 2
Insert: "The"
2. Page 2, line 2.
Strike: "will"
Insert: "may"
3. Page 2, following line 5.
Insert: "NEW SECTION. Section 2. Applicability to existing and new leases. Section 1 is applicable to state oil and gas leases existing on [the effective date of this act] and to state oil and gas leases entered into after [the effective date of this act]; however, transportation charges paid before [the effective date] shall not be refunded."
Renumber: subsequent section


FIRST

WHITE

reading copy (_____)
color

STANDING COMMITTEE REPORT

JANUARY 23

19 87

Mr. Speaker: We, the committee on NATURAL RESOURCES

report SB 230

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

REP. TOM JONES

Chairman

"AN ACT TO GENERALLY REVISE THE MONTANA STRIP AND UNDERGROUND MINE RECLAMATION ACT IN ORDER TO BRING THE ACT INTO COMPLIANCE WITH FEDERAL LAW; AND AMENDING SECTIONS 82-4-203 AND 82-4-221 THROUGH 82-4-223, MCA."

1. Page 3, line 7.
Following: "preparation."
Insert: "The term does not mean the conversion of coal to another energy form or to a gaseous or liquid hydrocarbon, except for incidental amounts that do not leave the plant; nor does the term mean processing for other than commercial purposes."
2. Page 3, line 8.
Following: "a"
Insert: "commercial"
3. Page 3, line 9.
Following: "includes"
Insert: "commercial"
4. Page 5, line 13.
Following: "area"
Insert: ", including coal preparation plants,"
5. Page 7, line 13.
Following: "includes remaining"
Insert: "and coal preparation"
Following: "The"
Strike: "term 'remaining' is"
Insert: "terms 'remaining' and 'coal preparation' are"
6. Page 9, line 17.
Strike: "or" through "preparation" on line 13.
7. Page 12, line 5.
Strike: "or" through "plant" on line 6.

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TESTIMONY FOR HB 230

Several minor changes have been proposed to amend the Strip and Underground Mine Reclamation Act, under which coal and uranium prospecting and mining are regulated. The major effect of these changes is to allow regulation of remining activities and of coal preparation (prior to end use). By adding these two activities to the list of regulated activities, Montana is able to assure the reclamation of the sites where these activities take place, as well as assure minimization of offsite impacts. In addition some of the sites would be abandoned mine sites. By requiring reclamation, monies in the Abandoned Mine fund would be freed to reclaim other abandoned sites of potentially greater significance.

The other main reason for requiring remining and coal preparation activities to be regulated is because the U.S. Office of Surface Mining Reclamation and Enforcement, which oversees the Montana program, is requiring such regulation. Much of this, at the federal level is the outgrowth of several court decisions. The state act must conform to the Federal Act.

In addition, the fee for mining-related applications is proposed to increase \$50. This would bring the application fee in line with other fees provided for in the Act. Currently the mining application fee is \$50 and the prospecting fee is \$100. The proposed change would make the fees equitable for both types of operations.

The Department recommends approval of the bill.

EXHIBIT (2)
DATE 1.23.87
HB 230 (HANSON)

Department of State Lands: Proposed Amendments to House Bill 230
Introduced bill, white copy

1. Page 3, line 7.
Following: "preparation."
Insert: "The term does not mean the conversion of coal to another energy form or to a gaseous or liquid hydrocarbon, except for incidental amounts that do not leave the plant; nor does the term mean processing for other than commercial purposes."
2. Page 3, line 8.
Following: "means a"
Insert: "commercial"
3. Page 3, line 9.
Following: "includes"
Insert: "commercial"
4. Page 5, line 18.
Following: "area"
Insert: "including coal preparation plants,"
5. Page 7, line 18.
Following: "includes remining."
Strike "."
Insert: "and coal preparation"
Following: "The"
Strike: "term "remining" is"
Insert: "terms "remaining" and "coal preparation" are"
6. Page 9, lines 17 and 18.
Strike: "or coal preparation"
7. Page 12, lines 5 and 6.
Strike: "or the coal preparation plant"

VISITOR'S REGISTER

NATURAL RESOURCES

COMMITTEE

BILL(S) HB 230; HB 246

DATE JANUARY 23, 1987

SPONSOR(S) HANSON; COBB

NAME	REPRESENTING	BILL NO.	SUP-PORT	OP-POSE
<i>Jim Klockner</i>	<i>Mt. Carl Council</i>	<i>230</i>	<i>✓</i>	
<i>Tommy Battle</i>	<i>self</i>	<i>246</i>	<i>✓</i>	
<i>Deborah Riche</i>	<i>self</i>	<i>230</i>		<i>✓</i>
<i>Ken Williams</i>	<i>Entech. WFCO</i>	<i>230</i>	<i>✓</i>	
<i>James Hudson</i>	<i>Shell Fuel Exp</i>	<i>246</i>		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR VISITOR'S STATEMENT
 IF YOU HAVE WRITTEN COMMENTS, PLEASE GIVE A COPY TO THE SECRETARY.