

MINUTES OF THE MEETING  
NATURAL RESOURCES COMMITTEE  
MONTANA STATE SENATE

February 4, 1987

The meeting of the Senate Natural Resources Committee was called to order by Chairman Thomas Keating on February 4, 1987, at 1:00 p.m., in Room 405 of the State Capitol.

ROLL CALL: All members were present except for Senator Halligan who was excused.

CONSIDERATION OF SENATE BILL 221: Sen. Cecil Weeding, District 14, introduced SB 221 by explaining that the bill would provide some compensation to land owners whenever they have unproductive oil or gas facilities on the surface. SB 221 would be an amendment to existing laws which would cover the interim period between production and the period when wells are deemed abandoned. In section a, page 2, "temporarily abandoned" was defined because that is the portion of law that needed to be remedied. Section b, page 5, included a schedule of compensation to the surface owner that had been established. Sen. Weeding said that SB 221 was suggested by members of the Northeast Land and Mineral Association who have inactive facilities lying on surface properties in which the landowners have not been receiving any damages because wells had not been deemed abandoned; and there can be no action to cause the owners to remove equipment and reclaim the land. If a company maintains inactive wells with the intent to reuse at a later date, Sen. Weeding explained wells are not "abandoned" and the landowners have to tolerate the inconvenience of the wells on the land, some of which have been inactive for 30 years. There are powerlines and roads in the middle of fields and pasture lands. Sen. Weeding said that SB 221 is a catalyst piece of legislation that would force the issue of determining whether wells are active or abandoned. It was Sen. Weeding's contention that if operators would have to pay money for wells that were "temporarily abandoned," wells would be determined to be abandoned or surface owner would receive compensation.

PROPOSERS: Bud Lien, Poplar, former State Representative, and surface landowner, stated that over the years Legislature had found it necessary to protect the environment and the landowners from the practices of the oil and gas companies, but the Oil and Gas Board had been historically unable or unwilling to correct problems. Mr. Lien said that SB 221 is a moderate and reasonable attempt to protect landowners. Mr. Lien had telephoned Mr. Hughey, Board of Oil and Gas, Billings, who told Mr. Lien that the only requirement for plugging is that abandonment must start within 90 days after the last well had gone dry or had been capped. Mr. Lien stated that there no "push" for the oil companies to plug

wells and many of the shotholes have contaminated water in Montana. Mr. Lien listed the problems with the "temporarily abandoned" wells in North Poplar that have existed since the 1950's: wells are usually in the middle of the field; weeds are not being controlled; power lines still remain; and roads still exist.

Herschel Robbins, Association of Oil, Gas, and Coal Counties, favored the bill and the concept, but did not agree with the figures for compensation included in the bill.

Jim Jensen, Executive Director of Montana Environmental Center, explained the best example of the enormity of the problem of "temporarily abandoned" wells is the number of Resource Indemnity Trust Grant Program requests. (Exhibit 1)

OPPONENTS: John S. Hauptman, independent oil and gas explorer and producer from Billings, proclaimed that SB 221 is the wrong kind of signal to be sending out at this time of economic depression. Mr. Hauptman continued and said that passage of SB 221 would cause premature plugging and abandonment of wells and loss of royalties and taxable revenue to the mineral owner, counties, and State. (Exhibit 2)

Janelle Fallan, Executive Director of the Montana Petroleum Association, agreed with Mr. Hauptman. Ms. Fallan also stated that passage of SB 221 would present a hardship to the small operators. Ms. Fallan explained that primarily the reason wells are left for five years or more without the operator's deeming them abandoned is because the operator is holding the wells to make them a temporary or secondary or tertiary recovery project. Ms. Fallan also said that perhaps an attempt is being made to unitize an area. To reiterate Mr. Hauptman's testimony, this kind of restriction could lead to premature abandonment and not be in the best interest of well reserves. Furthermore, Ms. Fallan stated that dollar amounts do not belong in the statutes because negotiation is between surface owner, mineral owner, and the operator.

Brett A. Boedecker said he knows of a number of wells that have been shut in with every expectation to bring the wells into the mainstream when economics dictate. With adding the restriction of SB 221, Mr. Boedecker claimed the operators would be forced to abandon wells; and once wells are abandoned, the wells are lost forever.

Jerome Anderson, attorney from Billings, represented Shell Western Exploration Company, which is responsible for 30% of crude oil production in the State of Montana. Mr. Anderson stated that Cedar Creek anticline facility (Glendive/Baker area) is undergoing secondary recovery, and Shell anticipates tertiary recovery. Mr. Anderson said there are 200 wells in that area, many of which had been shut down, but are being held for injection purposes. If Shell would have to pay \$1,000 a year for each well that had been temporarily capped, Mr. Anderson said he was not certain of what Shell's resulting decision would be. Under 82-10-5, MCA, the landowner and companies are supposed to negotiate, and Mr. Anderson stated that the present statute is indeed adequate.

Mike Zimmerman, Montana Power Company and North American Resources Company Representative, emphasized that setting statutory damages is improper because these are matters that should be left to negotiation between operators and owners, and some lands would merit more money and some lands would merit less money depending on the use of the land.

Doug Abelin, Montana Oil and Gas, testified that the statutes should be left the way they are. Mr. Abelin said that Montana Oil and Gas has many wells shut in because of the economic decline, and it is not feasible to produce at present.

QUESTIONS (OR DISCUSSION) FROM THE COMMITTEE: Sen. Gage asked Mr. Lien how much of the water in Montana had been contaminated by shotholes. In response, Mr. Lien stated that when he had studied the shothole bill there were over a million wells, and Northeast Montana is riddled with shotholes and for many years they were never plugged. Calves had fallen in the holes, and there has been intermingling of good water with bad water over a good percentage of the State; and even though he didn't have the figures with him, Mr. Lien volunteered to mail the statistics to Senator Gage.

Sen. Gage also asked Mr. Lien about the salt water in the Poplar area and asked for figures. Mr. Lien said he could state facts only about his own farm. Mr. Lien had drilled 10 different wells to try and get decent water. Water is pumped a mile from Mr. Lien's residence, and it is getting saltier. The Lien's carry all their cooking and drinking water. Mr. Lien stated that Poplar is downstream from his farm, and Poplar's water is getting saltier every year.

In response to Sen. Gage's request, Jim Jensen, MEIC, indicated he would supply Sen. Gage with a copy of the RIT grant requests that have been submitted.

Sen. Gage asked Sen. Weeding whether any other land is included in the bill besides crop land and grazing land. Sen. Weeding had no occasion to address this and said if someone would have requested that other land be included, he would have been glad to oblige.

Sen. Lynch expressed his concern about lack of oil development and asked Mr. Robbins whether his company would support the bill if compensation amounts were decreased. Mr. Robbins said that he would like to see landowners protected.

Sen. Lynch asked Mr. Lien whether the dollar amounts listed in the bill should be negotiable between lessor and lessee. Mr. Lien explained that leases continue as long as production continues and wells would not then be "temporarily abandoned" but SB 221 refers to old wells where negotiations for leases were made 30 years ago. Presently, Montana does have laws in which companies have to negotiate with the surface owner before well is drilled. In response to Sen. Lynch's next question, Mr. Lien answered that leases are forever; i.e., a lease can be negotiated for three years or five years, but once oil or gas is being produced, the lease continues and wells do not need to be "abandoned" until 90 days after the last well is capped according to regulations. Mr. Lien further stated that landowners cannot negotiate on old leases.

Sen. Lynch asked Mr. Zimmerman how is it possible to resolve the problem when old leases are impossible to negotiate. Mr. Zimmerman explained that in his company's system, the company is in the process of negotiating with a landowner, deciding how much of the land that is not utilized because of an operation.

Sen. Lynch asked if the company was obligated to negotiate or was it because the company is a reasonable corporation. Mr. Zimmerman replied that the company is a reasonable corporation, but company is also obligated to negotiate.

Mr. Lien said the bill does nothing more than collect for wells that have been abandoned for many years, and dollar figures should make it worthwhile to consider abandonment or pay the landowners compensation. Mr. Lien said he recognized that oil companies were in an economic slump, but reminded the committee that the farmers were not getting rich either.

Sen. Tveit asked if Mr. Lien was dealing with one or several companies and if there had been an effort with negotiation. Mr. Lien replied that there was nothing to "negotiate from," but company powerlines, roads, and some equipment had been left on the surface of the land. Mr. Lien further stated that he "took it for granted that trying to negotiate would be a waste of time."

In response to Sen. Keating's question, Mr. Lien said he had three or four abandoned wells on his land and Mr. Lien is the surface owner; however, the mineral owner may be deceased.

Sen. Keating explained that when an oil and gas well lease is granted, the primary term is extended through the life of production. Once the production ceases, a temporarily abandoned well does not hold an oil and gas lease. When that production ceases, unless there is a reworking clause in the lease form that says company has to reestablish production within 90 days, that lease terminates at that point. The lease provides that the landowner be compensated for damages in spite of the fact landowner doesn't own the minerals. The law specifies that surface owner is entitled to damages; and if the lease is not producing any longer, a "temporarily abandoned" well will not hold it. A normal oil and gas lease specifies that equipment has to be cleaned up within 180 days or landowner can take the person to court for damages or that equipment is considered abandoned and owner can take title to the equipment. Sen. Keating carefully explained that Mr. Lien does have redress and suggested that Mr. Lien examine the lease filed at the county courthouse to ascertain terms and also to find out if there has been any gas or oil production coming from the land.

Mr. Lien mentioned that there is a problem in that the wells have become unitized.

Sen. Keating stated Mr. Lien's recourse would be to seek redress for damages under the lease under application of the existing law. Sen. Keating said that surface owners are entitled to damages for a producing, plugged, or temporarily abandoned well.

Sen. Gage recommended to Mr. Lien that if these wells are in fact unitized, that as a surface owner, Mr. Lien should contact mineral owner and ask him to do whatever is necessary in order to cancel that lease and notify the owner of that lease that it is being canceled; then the operator would be forced to clean up the property.

CLOSING: Sen. Weeding said that it is obvious that a problem exists and a great number of people who had encountered this problem reported to Sen. Weeding that a remedy could not be found even in the courts. Sen. Weeding said he failed to see that the bill was a bad economic signal since bill wouldn't apply unless a well had been shut in for five years. Sen. Weeding recognized that there was some concern about specified monetary amounts in the law, but he reported that the landowners who reviewed the bill had decided on the "happy medium" figures. Sen. Weeding said the people who had communicated with him felt they were at the mercy of the oil and gas companies. To summarize, if the figures for compensation are not acceptable, Sen. Weeding said figures could be changed, but property owners needed some relief.

CONSIDERATION OF SENATE BILL 151: Sen. Jack Galt, District 10, said that SB 151 authorizes DNRC to issue a permit in Musselshell County for water to be pumped from abandoned mines. Sen. Galt explained that anyone who wishes to use 3,000 acre feet of water from an underground source must get permission from Legislature. There is a problem in the lower Musselshell, and Sen. Galt invited the proponents to explain the details.

PROPOSERS: Doug Parrot, Roundup, a member of the Deadman Basin Water Users Association, announced that the association had applied for a permit for 13,363 acre feet of water to be pumped from abandoned mines in Roundup. The water is needed to perform pump testing of underground water to determine whether the mines can function as an off-stream storage for supplemental water to be pumped or siphoned into the Musselshell River during periods of high irrigation demand and/or drought.

Gordon Eklund, Deadman's Basin, said that the method is the only feasible way of supplying water down to Melstone. Eight out of ten years, there has not been enough water supplied, and passage of the bill would certainly alleviate many water problems in Musselshell Valley.

Dick Walker, County Commissioner, Musselshell, explained he was a rancher, but not an irrigator, and supported the bill for the following reasons.

- 1) Musselshell drainage system begins in Meagher County and runs through seven counties--360 miles of river. Water demands are many and the existing storage amounts to only three basic sites.
- 2) The underground cavern is vast and will hold a great volume of water; in fact, it is a macrochasm.

As an elected official, Mr. Walker explained he had to be cognizant of the pros and cons. Two basic concerns are quality of water and how this will affect existing water supplies. Mr. Walker said that indications show that quality of water is better than Melstone or Roundup, and further studies will show the effect, if any, on wells, etc. Mr. Walker concluded that water can be used at a minimum of cost for the whole area.

Gary Fritz, DNRC, confirmed that the department had received the request for the project and request is going through normal channels to determine if an environmental impact statement will be required. Mr. Fritz explained that the Water Policy Act had placed additional requirements on applicants for this size of a request. Mr. Fritz reported that DNRC does support SB 151.

OPPONENTS: There were no opponents present.

QUESTIONS (DISCUSSION) FROM THE COMMITTEE: Sen. Walker asked Mr. Parrot if water is part of an aquifer filling the mines. Mr. Parrot replied that this would be a part of the study; however, Bureau of Mines had done some preliminary pumping, but had not yet identified the source. Mr. Parrot said that old mine records indicated that recharge rate was good--each mine had 3,000-4,000 gallons-a-minute pump that ran 12-14 hours a day to keep mines dry.

Sen. Walker asked if the mines were located near the river or a place that water could be diverted and used for recharge. Mr. Parrot's reply was affirmative and he explained that the water level in the mine is 1 1/2 feet above the level of the Musselshell River.

Sen. Gage wanted to know if the association had already determined the cost of the process in getting water out of the mines into the river.

Mr. Parrot answered that the initial study showed in order to get the water out of the mines, maintenance of pump and power required would be \$2.30 an acre foot. Mr. Parrot explained that their present O&M is about \$1 an acre foot and water could be sold out of the mine for less than \$2 per acre foot. Mr. Parrot added that if a dam were built, cost would amount to \$30-\$40 an acre foot.

Sen. Lynch asked Commissioner Walker if he had any additional comments.

Mr. Walker said there was one concern about surrounding areas--it seems that back in the mining days when water was being pumped out of the mines, Hatfield Creek, a small stream, dried up and it could possibly happen again.


In response to Sen. Severson's questions, Mr. Parrot stated that new water would be melded in and everyone up and down stream is happy because the alternative would have been to build a dam.

Sen. Keating asked about ownership and Mr. Parrot explained that the State owns Deadman's Basin; and the mines have been abandoned and the landowners are agreeable to allow the pumping of the water from the mines.

Sen. Keating asked if there were another bill in legislature this session on this particular issue and Mr. Fritz replied that there was and the bill would delete the necessity for legislature approval. Requests for 13,000 acre feet or more of water would go to DNRC and be processed. Mr. Fritz added that the Water Policy Act did add criteria to determine reasonable use.

DISPOSITION OF SENATE BILL 151: Sen. Lynch moved that SB 151 DO PASS. Motion carried unanimously.

There being no further business before the committee, Sen. Keating adjourned the meeting at 2:46 p.m.

  
THOMAS F. KEATING, Chairman



ROLL CALL

NATURAL RESOURCES

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 2-4-87

NAME	PRESENT	ABSENT	EXCUSED
Sen. Tom Keating, Chairman	X		
Sen. Cecil Weeding, Vice Chairman	X		
Sen. John Anderson	X		
Sen. Mike Halligan			
Sen. Delwyn Gage	X		
Sen. Lawrence Stimatz	X		
Sen. Larry Tveit	X		
Sen. "J.D." Lynch	X		
Sen. Sam Hofman	X		
Sen. William Yellowtail	X		
Sen. Elmer Severson	X		
Sen. Mike Walker	X		

Each day attach to minutes.

DATE February 4

COMMITTEE ON Natural Resources

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
JOHN HAAPTMAN	Self	221		X
Doug PARROTT	DEADMAN'S BASIN	151	X	
Jeff Thompson	Deadman's Basin	151	X	
Dick Walker	Musselshell Co. Comm	151	X	
Gordon Elkhart	Deadman's Basin	151	X	
Jamie-Marie Sumpster	Sierra Club of MT	221		
Davey Rivlin	Montana Oil Dept	221		X
Jamie Anderson	Shell Truck Exp	221		X
Mike Zimmerman	MPCA	221		X
Hershey Rivlin	Oil Dept + Coal Counter	221	X	
Bud Linn	Self	221	X	
Gardner Fuller	MPCA	221		X
Scott A. Broedtker	SELF	221		X
Gary Fritz	MDNR C	151	✓	
Larry Helman	DNRC	151	✓	
Jim Jensen	MEIC	221	X	



The Montana Environmental Information Center Action Fund

• P.O. Box 1184, Helena, Montana 59624

(406)443-2520

SENATE NATURAL RESOURCES

EXHIBIT NO. 1

DATE February 4, 1987

BILL NO. SB 221

February 4, 1987  
Senate Natural Resources Committee  
RE: SB 221

Mr. Chairman, members of the committee, my name is Jim Jensen and I am here representing the members of the Montana Environmental Information Center this afternoon.

MEIC supports SB 221. It is a simple measure to address the problem of well abandonment. Abandoned wells present a serious threat to ground water as evidenced by the number of Resource Indemnity Trust grant program requests every Session.

This is a problem for many landowners, especially in areas that have had oilfield development for a number of years. There are some farmers and ranchers with wells on their land which have been out of production for up to 20 years. Many of these are never intended to be put back into production.

Many landowners receive virtually nothing for allowing surface occupation if they do not hold mineral rights, as is often the case. However, they must suffer the inconvenience of working around these old wells and the powerlines, the weeds which spread from unused well sites, and the continued loss of production and income from the land.

For companies that own temporarily abandoned wells and intend to put them back into production this small payment will not be burdensome. But for those who do not, this bill may provide the incentive to declare the well abandoned, plug it, and allow the land to go back to productive use.

Again, MEIC supports SB 221 and urges a "do pass" recommendation. Thank you.

SB 221

SENATE NATURAL RESOURCES

EXHIBIT NO. 2

DATE February 4, 1987

BILL NO. SB 221

January 4, 1987

TO: Montana State Senate  
Natural Resources Committee  
Thomas F. Keating, Chairman

RE: Senate Bill #221

Mr. Chairman; respected members of the committee, my name is John Hauptman. I am an independent oil & gas explorationist and producer from Billings. I have lived in Billings for 35 years and have been active in this business here in Montana since 1971. I am also the immediate past president of The Montana Association of Petroleum Landman. I am here today to voice my opposition to passage of Senate Bill #221.

Gentlemen:

This type of bill, at this time of economic depression within my industry, is in my opinion exactly the wrong kind of signal for this legislative body to be sending out. We don't need another hurdle.

Let me give you a few facts about Montana: 1) Only 2 or 3% of Montanas perspective lands have been tested by the drillers bit for oil and gas. 2) The U.S. Geological Survey conservatively calculates that easily as much oil and gas is left to be found and produced in Montana as has already been produced. Considering the half dozen or so "giant" fields in Montana, what remains is undiscovered is tremendous in volume. 3) The oil and gas industry in Montana produces almost  $\frac{1}{4}$  of this states tax revenue. We simply cannot afford to discourage a industry with this impact on our state.

In light of these facts I believe that Montanas new progressive approach to oil and gas should be to encourage where possible and take a smaller piece of a larger pie. Believe me, given the right signals and business climate that pie will be much larger.

Now, as a practical matter, the reason that an operator would temporarily abandon a productive oil and or gas well for five years or more is that the remaining oil and or gas in the well cannot be recovered economically. For example the well may have a major mechanical problem or current volumes and well head price does not make operation of the well economic at the time. Here two possibilities exist.

If the surface owner is also involved in the mineral ownership of the well, he has already been compensated for this eventuality by the payment of surface damage and right-of-way settlements, lease bonuses, actual royalties and in the case of natural gas wells, shut-in royalties. All of the above under the terms of a normal oil and gas lease.

If the surface owner is not the mineral owner such as in the case of the minerals owned by a non-resident, the State of Montana or the Federal Government the operator has a problem that the industry is very aware of. This type of ownership is very common in Montana and operators address it by surface damage agreement and right-of-ways at the time of drilling so that a marginal well cannot be held "hostage" by that surface owner.

An action like this bill will cause premature plugging and abandoning of wells and loss of royalties and taxable revenue to the mineral owner, the counties as well as the State. Once these wells are plugged and abandoned the remaining oil and or gas will not be recovered.

This bill, in its attempt to be specific, raises more questions than it attempts to answer. It also ignores all of the prior agreements made between the surface owner and the operator of a well.

I urge you to all vote against passage of Senate Bill #221 as it sends the wrong message. The matter is already taken care of within the industry and its passage will cause the loss of recoverable oil and gas in Montana.

Thank you,



John S. Hauptman

# Lower Musselshell Conservation District



109 Railway East  
Roundup, Montana 59072

SENATE NATURAL RESOURCES

EXHIBIT NO. 3

DATE Feb. 4, 1987

BILL NO. SB151

# FACT SHEET

GROUNDWATER FROM ABANDONED MINE WORKINGS FOR IRRIGATION AND INSTREAM FLOWS

*PBWUA - PERMIT - 13,303 AC FT.*

For more information:

**WHAT:** To perform pump testing of underground waters from abandoned coal mines to determine whether the mines can function as off-stream storage for supplemental water to be pumped or siphoned into the Musselshell River during periods of high irrigation demand and/or drought.

**HOW:** Monitor the discharge quality and quantity and report to the Department of Health and Environmental Sciences on a regular basis. The flow shall be monitored daily by instantaneous measurement and PH and specific conductance shall be monitored daily by grab sample.

**FUNDING:** The Lower Musselshell Conservation District is requesting \$242,320.00 from the Resource Indemnity Trust program. Other monies have been gathered from USGS, SCS, Deadman's Waterusers, Montana Bureau of Mines and Geology, and Water Resources Research Center for a total project cost of \$343,280.00.

**WHY:**

- The Musselshell River supplies water for irrigation, livestock, rural domestic use, and several municipalities. Most of the water is used for irrigation. A serious deficiency of water in 1985 forced reduction of irrigation upstream from Roundup to maintain river flows supplying water to the municipality of Melstone.
- From statistics gathered, there may be <sup>BY Bu. Mines</sup> ~~11,360~~ <sup>ANYWHERE FROM 100,000 TO 40,000 AF</sup> 11,360 acre feet of water stored in the mine workings. Records of the mine workings are incomplete. *WE ARE STILL RESEARCHING ADDL RECORDS*
- Two potential offstream storage sites were evaluated, to provide alternative solutions to the annual shortage of water in the river. The Willow creek site near Roundup and Woman's pocket site near Lavina. Conclusions reached by these studies were that the costs of water from either site are economically prohibitive.

- DNRC reports that irrigation will not be met in 8 out of 10 years along a 50 plus mile reach of the Musselshell downstream from Roundup. *+ INSTREAM FLOWS ARE INADEQUATE FOR DOMESTIC + LIVESTOCK USE ALSO WATER QUAL DETOUR BECAUSE OF INSUFFICIENT INSTREAM FLOW WITH*
- Based on preliminary investigations this project will have no (negative effects on natural resources).
- If quantities of water are sufficient and water quality remains suitable, the project will be pursued on a long-term bases. *BY IRON REG*

*BID CARMA'S B.W.U.A.*

*DNRC  
MONITORING  
TO DM BWUA  
TO SELL SHARE  
TO OPEN TO  
65 WATER  
PROJECT  
56000 AF  
26000 AF*

*Acid*

# STANDING COMMITTEE REPORT

February 4 ..... 19 87

MR. PRESIDENT

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

having had under consideration **SENATE BILL** ..... No. **151**

**FIRST** reading copy ( white )  
color

**AUTHORIZES DNRC TO ISSUE A LARGE GROUNDWATER PERMIT IN MUSSELSHELL COUNTY**

Respectfully report as follows: That **SENATE BILL** ..... No. **151**

DO PASS  
~~XXXXXXXX~~  
DO NOT PASS

**SENATOR TOM KEATING** .....  
Chairman.