

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Senator Thomas Keating, Chairman, on
February 20, 1989, at 1:00 p.m. in the State Capitol

ROLL CALL

Members Present: Senators: Thomas Keating, Larry Tveit,
Fred Van Valkenburg, Loren Jenkins, Darryl Meyer, Pete
Story and Jerry Noble.

Members Excused: none

Members Absent: Senators: Lawrence Stimatz, Bill
Yellowtail, Elmer Severson, Cecil Weeding, and Dorothy
Eck.

Staff Present: Bob Thompson and Helen McDonald

HEARING ON SENATE BILL 435

Presentation and Opening Statement by Sponsor: Senator
Larry Tveit, District #11, introduced this bill that
creates an oil and gas owners lien. This bill came out
of a law in Oklahoma and was meant to give a legal
vehicle to a royalty owner if the oil company doesn't
pay him after a certain amount of time. Montana has a
law that states after a well comes in and the owners
have an interest in it they should get their money
after 120 days, and after 60 days on wells that are
producing that have changed hands from one company to
another. The bill is complicated and deals with the
process of how to record the lien with the county
recorder. If you don't get your check for your share of
royalty from the well, page 5 tells you the process to
go through. This lien does not affect the priority
holder. On page 7, line 16, the lien will be good for
one year and will have to be applied for again in
another year.

Senator Tveit said that this bill came to him on behalf
of land and mineral associations, which consist of land
owners both in northeast Montana and the Havre area.
He added that a lot of language has to be cleaned up,
the bill will help oil companies as well as royalty
owners.

List of Testifying Proponents and What Group they Represent:

None

List of Testifying Opponents and What Group They Represent:

Janelle Fallon, Montana Petroleum Association
Ward Shanahan, Chevron Oil
Jerome Anderson, Shell Western E & P
Doug Abelin, Montana Oil and Gas Association
John Alke, MDU Resources

Testimony:

Janelle Fallon stated this bill raises a number of questions. The first question would be what is meant by "against the proceeds." On the top of page 3, buyers are not subject to the lien yet the first purchaser of the oil or gas would usually be the one who distributes the proceeds to the working interest owners and mineral owners and not the operator out there operating the well. If the working interest owner is not paid, what's a person to do if he is bankrupt. Ms. Fallon thought the question about how the well fits in with the uniform commercial codes should be considered at some depth. The uniform commercial codes ensure the oil and gas business is consistent with Title 30, chapters 1 through 9 from the Montana Code annotated.

Senator Tveit mentioned that mineral owners get interest payments when royalties are late. Ms. Fallon's understanding of section 5,--perfection of lien--from talking to lawyers is that the uniform commercial code would be strictly construed. According to the language "interest owner shall deliver by certified mail to the operator, the first purchaser, a purchaser, and any other interest owner," what would happen if the mineral owner missed a payment? There would be a date on which the lien was filed but not a date the lien attaches.

Ms. Fallon also asked if in Section 8, a lien would take priority over financial institutions. Also, in Section 11, she noted there was a small grammatical error stating that oil or gas "have" should be "has". Ms. Fallon wasn't sure what the last sentence meant.

Ms. Fallon summarized by saying she saw a lot of problems with this bill since it was not introduced in answer to a specific problem or in response to a

situation where owners were not getting their royalty checks.

Doug Abelin opposes bill.

Ward Shanahan stated there are additional questions in respect to the well spacing requirement. A well might be on one person's property and not on another's with several people sharing in the proceeds from the well. He wondered what remedy a court would use but suspected the court could only act on the well itself, which would probably hold up payments for everybody who was receiving anything. This bill has a number of legal problems.

John Alke stated that he sees problems with this bill. MDU's standard production is handled by division orders, and he shares the concern that it would be very difficult to apply the lien provisions.

Jerome Anderson opposed the bill.

Questions From Committee Members:

Senator Keating asked if there was anything wrong with the way royalties are delivered and wondered if a lien in the statutes on behalf of royalty owners was really needed.

Senator Tveit answered there have been some isolated instances in eastern Montana. In Oklahoma, the royalty money has stopped when oil companies have gone bankrupt and taken their share with them. That is the purpose of this lien act.

Senator Keating asked if Senator Tveit was aware of any instances in Montana.

Senator Tveit did not name any.

Closing by Sponsor: Senator Tveit closed by saying this was a complicated bill and Oklahoma was having problems in this area. There are some serious problems with this bill, and he recommended that the bill be tabled.

Senator Keating closed the hearing on SB 435.

Senator Van Valkenburg made the motion to table SB 435. The motion passed unanimously.

ADJOURNMENT

Adjournment At: 1:20 p.m.


THOMAS F. KEATING, Chairman

TFK/hmc

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ROLL CALL

NATURAL RESOURCES COMMITTEE

~~50th~~ LEGISLATIVE SESSION -- 1989

Date 2-20-89

NAME	PRESENT	ABSENT	EXCUSED
Chairman Tom Keating	✓		
Vice-Chairman Larry Tveit	✓		
Senator Fred VanValkenburg	✓		
Senator Loren Jenkins	✓		
Senator Darryl Meyer	✓		
Senator Lawrence Stimatz		✓	
Senator Pete Story	✓		
Senator Bill Yellowtail		✓	
Senator Elmer Severson		✓	
Senator Cecil Weeding		✓	
Senator Dorothy Eck		✓	
Senator Jerry Noble	✓		

Each day attach to minutes.