

**MINUTES**

**MONTANA SENATE  
52nd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON NATURAL RESOURCES**

**Call to Order:** By Lawrence Stimatz, on February 6, 1991, at 3:00 p.m.

**ROLL CALL**

**Members Present:**

Lawrence Stimatz, Chairman (D)  
Cecil Weeding, Vice Chairman (D)  
John Jr. Anderson (R)  
Esther Bengtson (D)  
Don Bianchi (D)  
Lorents Grosfield (R)  
Bob Hockett (D)  
Thomas Keating (R)  
John Jr. Kennedy (D)  
Larry Tveit (R)

**Members Excused:** Steve Doherty (D)

**Staff Present:** Michael Kakuk (EQC).  
Roberta Opel, Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Announcements/Discussion:** Amendments for SB 210 and SB 165 were distributed to the committee. Don MacIntyre, Department of Natural Resources and Conservation, told the committee he was available for questions.

**HEARING ON SB 210**

**Presentation and Opening Statement by Sponsor:**

Senator Bill Yellowtail, District 15, presented SB 210. This bill, Yellowtail stated, was the result of work done in the past biennium by the Environmental Quality Council (EQC) regarding geothermal groundwater. Under current law, Yellowtail stated, there are no means to protect the heat and byproduct value of geothermal resources. Modification of state water law is

necessary to require a water use permit for users of geothermal resources, Yellowtail told the committee.

Opponents'/Proponents' Testimony:

Susan Brooke, Montana Stockgrowers and Woolgrowers Association, appeared neither in support of nor opposition to SB 210. A definition of "beneficial use" will be needed to address the heat value, Brooke stated. Many ranchers in southwestern Montana drill for a well, tap into geothermal water and use this water for irrigation, Brooke said. Under the proposed legislation, the rancher would have to prove that groundwater (other than geothermal) was not reasonably available. Brooke told the committee she understood the intent of the bill but was not comfortable with the phrase "reasonably available" (regarding groundwater) used throughout the bill.

Questions from Committee Members:

Senator Bengtson asked Michael Kakuk, Environmental Quality Control counsel, what precipitated the drafting of this bill and what the threat to geothermal resources truly is. Kakuk explained that the EQC's study was precipitated by the Church Universal and Triumphant's proposed developments in Park County. The study was part of the governor's request to the EQC to check the adequacy of state laws as they relate to development in rural Montana regarding four issues. One of those issues, Kakuk stated, is geothermal development. Montana is one of the few states in this area that has unprotected geothermal resources Kakuk continued. The quantity of the water is protected but not the quality of the water Kakuk added. EQC feels that the geothermal resources available in Montana are unique and should be protected as such, Kakuk concluded.

Senator Keating asked if there were provisions for a landowner to appropriate geothermal water on his property. Van Jamieson, Administrator of the Energy Division, DNRC, explained to the committee that only if you use geothermal water to generate power would you need to come under a Major Facility Siting Act. Jamieson explained that rather than regulate all geothermal users using 25 million B.T.U.'s per hour, the focus would be on regulating only those who use that heat to generate electricity.

Senator Keating asked Jamieson if someone found water at 1,000 feet and the water was at 85 degrees, would this water be classified as geothermal and therefore, not useable to water stock? Jamieson explained that geothermal water could be used for stock watering if it was the only water available. What I am trying to find out, Keating inquired, is if SB 210 passes, will water coming out of the hole in the ground at 85 degrees F be considered geothermal and subject to restrictions other than just a normal water permit? Jamieson stated that would be true.

SENATE NATURAL RESOURCES COMMITTEE

February 6, 1991

Page 3 of 5

Senator Grosfield told committee members that the state of Montana has always had questions about "how much water" and now there is another aspect being added....temperature. Might we not also protect water at 32 degrees, Grosfield inquired. Grosfield added that geothermal resources needed to be protected and was in support of SB 210, but was "uncomfortable doing it in this manner."

Senator Bengtson asked legal counsel, Michael Kakuk, what precipitated this particular bill and why are we talking about permitting?

Michael Kakuk told the committee that the Environmental Quality Council research on geothermal resources in Montana was originally driven by the Church Universal Triumphant's use of geothermal water on their lands. EQC found, as a result of their study, that geothermal resources are unique and deserve statewide special protection, Kakuk stated.

Senator Weeding noted that the only people who testified at EQC hearings that they would be adversely affected by passage of this bill were those in the CUT area. Legal counsel, Michael Kakuk, concurred.

Senator Bianchi asked if someone drilled a well, would they have to go through a process of applying for water rights? Van Jamieson, DNRC, responded that up to 100 gallons per minute a Notice of Completion would have to be applied for. Over 100 gallons per minute would require a permit process. Groundwater is currently regulated, Jamieson said. The regulation of the heat content of water would be added with the adoption of SB 210, Jamieson added.

Closing by Sponsor:

The fundamental policy question raised is shall we or shall we not recognize that geothermal water has a unique value (heat) that is worthy of protection, Yellowtail asked the committee. SB 210 would recognize that value and apply similar processes already in effect in state law for permitting, etc. as to the use of water as well as to geothermal water. There is a value to geothermal resources, Yellowtail stated. The matter of water quality is an important one, Yellowtail said, and these issues need to be addressed now. SB 210 would protect geothermal resources in the same vein as other water sources are now being protected, Yellowtail concluded.

EXECUTIVE ACTION ON SB 114

Motion:

Senator Weeding made a motion that SB 114 DO PASS.

Discussion:

Senator Grosfield told the committee that he would "hate to see Montana having local referendums on whatever project comes along. Basically what we're talking about, Grosfield added, is importing garbage." Are we interfering with interstate commerce laws if we pass this senate bill, Grosfield asked, and do we, therefore, have a constitutional problem? Grosfield stated that he would like to see an EIS (Environmental Impact Statement) done on the landfill issue. Senator Grosfield said he simply did not find the bill "workable."

Senator Hockett asked Michael Kakuk, legal counsel, what requirements would be necessary as far as "being a good neighbor" to someone who has a development adjacent to the landfill. Kakuk responded there were "fairly strict" requirements as to the type of soil testing, groundwater protection, etc. that are currently being proposed through other legislation dealing with megalandfills.

Amendments, Discussion, and Votes:

Senator Weeding told the committee that he was not going to move any amendments before the committee. After the hearing on SB 114 there were concerns about the possible effects of megalandfills on people in neighboring counties, said Weeding. Weeding continued by saying that he had not seen any options that satisfied his intent to address this concern and asked the committee for a DO PASS without amendments.

Recommendation and Vote:

The motion made by Senator Weeding to pass SB 114 resulted in a tie vote: 5 in favor and 5 against. Senator Steve Doherty cast the deciding vote in favor of passing SB 114.

EXECUTIVE ACTION ON SB 165

Motion:

Motion by Senator Grosfield to move the amendments to SB 165 carried unanimously.

Senator Bengtson made a motion to pass SB 165 as amended.

Discussion:

There was no discussion of SB 165.

Amendments, Discussion, and Votes:

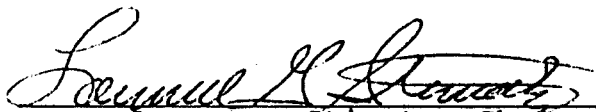
There was no discussion on adoption of the amendment to SB 165.

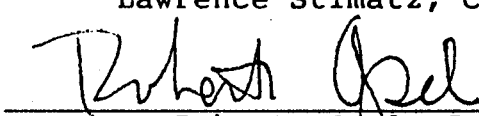
Recommendation and Vote:

The motion made by Senator Bengtson carried unanimously.

ADJOURNMENT

Adjournment At: 5:00 p.m.

  
Lawrence Stimatz, Chairman

  
Roberta Opel, Secretary

LS/ro

ROLL CALL

Natural Resources COMMITTEE

DATE 2-6-91

52nd LEGISLATIVE SESSION \_\_\_\_\_

NAME	PRESENT	ABSENT	EXCUSED
Senator Anderson	✓		
Senator Bengtson	✓		
Senator Bianchi	✓		
Senator Doherty			✓
Senator Grosfield	✓		
Senator Hockett	✓		
Senator Keating	✓		
Senator Kennedy	✓		
Senator Tveit	✓		
Vice Chairman, Weeding	✓		
Chairman, Stimatz	✓		

Each day attach to minutes.

# ROLL CALL VOTE

SENATE COMMITTEE Natural Resources

Date 2/6/91 Bill No. SB 114 Time 4:45 PM

NAME	YES	NO
Senator Anderson		✓
Senator Bengston	✓	
Senator Bianchi	✓	
Senator Doherty	✓	
Senator Grosfield		✓
Senator Hockett	✓	
Senator Keating		✓
Senator Kennedy	✓	
Senator Tveit		✓
Senator Weeding, Vice Chairman	✓	
Senator Stimatz, Chairman		✓

Secretary

Chairman

Motion:

To pass SB 114 — Did pass w/ Senator Doherty's vote

DATE February 6, 1990  
COMMITTEE ON Natural Resources (SB 210)

# VISITORS' REGISTER

[illegible]



SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 7, 1991

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration Senate Bill No. 165 (first reading copy - white), respectfully report that Senate Bill No. 165 be amended and as so amended do pass:

1. Page 1, line 22.

Following: "and"

Insert: "of not more than"

Signed: Lawrence G. Stimat  
Lawrence G. Stimat, Chairman

2-7-91  
Amd. Coord.

6B 2-7-91 100  
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 7, 1991

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration Senate Bill No. 114 (first reading copy -- white), respectfully report that Senate Bill No. 114 do pass.

Signed: Lawrence G. Stimatz  
Lawrence G. Stimatz, Chairman

AL 2-7-91  
Amd. Coord.

SB 3-2-91 9:00  
Sec. of Senate