

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Rep. Dick Knox, Chair, on January 9, 1995, at
3:00 p.m.

ROLL CALL

Members Present:

Rep. Dick Knox, Chairman (R)
Rep. Bill Tash, Vice Chairman (Majority) (R)
Rep. Bob Raney, Vice Chairman (Minority) (D)
Rep. Aubyn A. Curtiss (R)
Rep. Jon Ellingson (D)
Rep. David Ewer (D)
Rep. Daniel C. Fuchs (R)
Rep. Hal Harper (D)
Rep. Karl Ohs (R)
Rep. Scott J. Orr (R)
Rep. Paul Sliter (R)
Rep. Robert R. Story, Jr. (R)
Rep. Jay Stovall (R)
Rep. Emily Swanson (D)
Rep. Lila V. Taylor (R)
Rep. Cliff Trexler (R)
Rep. Douglas T. Wagner (R)

Members Excused: Rep. Carley Tuss

Members Absent: None

Staff Present: Michael Kakuk, Environmental Quality Council
Alyce Rice, Committee Secretary

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

Committee Business Summary:

Hearing: HB 80, HB 81
Executive Action: HB 80 Do Pass as amended
HB 81 Postponed
HB 72 Do Pass as amended
HB 75 Postponed

HEARING ON HB 80

Opening Statement by Sponsor:

REP. GARY FELAND, House District 88, Shelby, said HB 80 is an act

to change some language in the statute on oil and gas wells. It changes the appeal bond back to a conservation bond. He presented and explained amendments to HB 80. **EXHIBIT 1**

Proponents' Testimony:

Dennis Iverson, Northern Montana Oil and Gas Association (NMOGA), said the association supports HB 80 and its amendments. He explained that the bill and amendments will ensure that the bonds will be used for their intended purpose which is to make sure that an abandon well will be properly plugged and completed. Occasionally the Board of Oil and Gas uses the bonds for other administrative penalties. He urged the committee to pass HB 80.

Jim Jensen, Executive Director, Montana Environmental Information Center (MEIC), said the bonds were never intended to be used by the staff of the Board of Oil and Gas to induce penalties against people for administrative violations. The bonds are for the protection of ground water. The MEIC strongly supports HB 80.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

REP. HAL HARPER, House District 52, Helena, asked **Dennis Iverson** why it mattered if the June 30, 1989 date is left in or taken out of the bill. **Mr. Iverson** said the date applies to a change in the application of bonds. After June 30, 1989, a person has the option of paying cash or remaining with the bond for new wells. Any wells prior to 1989 would still require the bond. Removal of the date would also mean the bond would be optional for older wells. It is being re-inserted by the amendment because it was felt it wasn't appropriate to include the old wells in the option.

Closing by Sponsor:

REP. FELAND said he hoped the committee would adopt the amendments and put the bill back the way it used to be.

HEARING ON HB 81

Opening Statement by Sponsor:

REP. GARY FELAND, House District 88, Shelby, said HB 81 was requested by the Department of State Lands. The bill mainly cleans up some language.

Proponents' Testimony:

Monte Mason, Bureau Chief, Minerals Management Division,
Department of State Lands. Written testimony. Exhibit 2.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

REP. KARL OHS, House District 33, Harrison, asked Mr. Mason to clarify Section 7 of the bill. Mr. Mason said under the proposal only non-mechanized prospecting would be allowed.

REP. ROBERT STORY, JR., House District 24, Park City, asked Mr. Mason to explain the term "non-exclusive" that appears in the bill. Mr. Mason explained that non-exclusive means low-intensity work such as surface sampling. No one has an exclusive right to the area unless someone gets a mineral lease for the site.

REP. DOUGLAS WAGNER, House District 83, Hungry Horse, asked Mr. Mason if mechanized prospecting has been allowed in the past. Mr. Mason said he had been with the department for five years and as far as he knew prospecting has been restricted by the department to non-mechanized.

REP. SCOTT ORR, House District 82, Libby, referred to Section 5 (3) of the bill and asked Mr. Mason if the department would be conducting more audits. He also wanted to know what the effect would be on smaller mining companies. Mr. Mason said there would be no practical change in the level of audits that are being conducted currently. The Department of State Lands has an agreement with the Department of Revenue to use one of their auditors.

REP. AUBYN CURTISS, House District 81, Fortine, asked Mr. Mason how many non-mechanized mining permits he thought the department would get in the biennium. Mr. Mason replied probably less than 100 a year.

Closing by Sponsor:

REP. FELAND closed.

EXECUTIVE ACTION ON HB 42

Motion: REP. HAL HARPER MOVED HB 42 DO PASS.

Discussion:

CHAIRMAN KNOX said problems have surfaced with HB 42. He

appointed a subcommittee to resolve on the problems. The subcommittee members are REP. BILL TASH, Chairman, REP. HAL HARPER, REP. DAVID EWER, REP. ROBERT STORY and REP. DOUGLAS WAGNER. CHAIRMAN KNOX said he would like to take executive action on the bill Friday, January 13.

EXECUTIVE ACTION ON HB 80

Motion/Vote:

REP. HAL HARPER MOVED THE AMENDMENTS TO HB 80 DO PASS. Question was called. Voice vote was taken. Motion carried unanimously.

Motion/Vote: REP. HARPER MOVED HB 80 DO PASS AS AMENDED. Question was called. Voice vote was taken. Motion carried unanimously.

EXECUTIVE ACTION ON HB 81

Motion :

REP. DAVID EWER MOVED HB 81 DO PASS.

Discussion:

REP. ROBERT STORY said he was uncertain about some parts of the bill and would like to postpone executive action.

REP. EWER withdrew his motion.

CHAIRMAN. KNOX postponed executive action on HB 81.

EXECUTIVE ACTION ON HB 72

Motion:

REP. SCOTT ORR MOVED THE FIRST AMENDMENT TO HB 72 DO PASS.

Discussion:

REP. ORR explained the amendments.

REP. HARPER asked Jerome Anderson, Attorney, Shell Western Exploration and Production Company, how the Board of Oil and Gas knows if a driller drills 200, 180 or 300 feet. Mr. Anderson said drilling companies have to file on a continuous basis a complete report of the logs on the well.

TAPE 1, SIDE B

Vote:

Question was called. Voice vote was taken. **Motion carried unanimously.**

Motion:

REP. ORR MOVED THE SECOND AMENDMENT TO HB 72 DO PASS.

Discussion:

REP. ORR explained that the amendment changed the change of operator fee from \$50 to \$25.

REP. RANEY said charging a flat fee of \$25 didn't seem reasonable for inspecting one or two leased wells. If the inspection was for 600 leased wells, the \$25 would be reasonable.

REP. SWANSON said it was her understanding that if the Board of Oil and Gas had the authority of not to exceed \$50 for the change of operator fee, it can vary the rates. She said she didn't understand why the fee was \$50 when the standard rates around the region are \$25.

REP. RANEY said it seemed wrong to restrict the fee to \$25.

REP. SWANSON asked **Jerome Anderson, Attorney, Shell Western Exploration and Production Company** to enlighten her regarding the change of operator rates. **Mr. Anderson** said the reason the Board of Oil and Gas put the \$50 fee in the bill was because the fees had not been changed since 1954.

REP. WAGNER said if the bill is left as written, the Board could charge up to \$50. He said he was concerned that if the Board has the authority to raise the fee they will whether they have the need or not.

REP. EWER said under certain circumstances maybe the Board should be able charge \$50.

REP. FUCHS said if the standard regional fee is \$25 he didn't think the fee should be raised, especially since oil production hasn't increased.

REP. RANEY said the fee is assessed for service. If the service being received is worth more than \$25 the Board should be allowed to collect more than \$25. He asked **Mr. Anderson** to comment. **Mr. Anderson** said the fee is \$25 per well. The change of operator fee for 200 wells at \$50 a well would be \$10,000. **REP. RANEY** said he understood the fee would be on a sliding scale so there wouldn't be a \$50 fee for each well. The fee could possibly be only \$5 for each well.

REP. FUCHS said he thought the confusion was over the Board's ability to go to a sliding scale. He pointed out that the part of the bill that was deleted was the part where the sliding scale was used for depths of wells. He said his understanding was that the fee is a fixed fee.

REP. TAYLOR asked Mr. Anderson how many wells are actually inspected. Mr. Anderson said he wasn't sure how many well are inspected, but there is an examination made of all well records. REP. TAYLOR said if all the wells aren't being inspected the Board would be collecting a lot of money for a service it isn't giving.

REP. SWANSON suggested action on HB 72 be postponed until someone from the Board could answer the questions the Committee has.

REP. TASH recalled that Tom Richmond, Board of Oil and Gas, said that the \$25 fee would recover the Board's costs and that was what he was going to base his decision on.

Vote:

Question was called. Roll call vote was taken. Motion carried 15 to 3.

Motion:

REP. HARPER MOVED A THIRD AMENDMENT TO HB 72.

Discussion:

REP. HARPER said that "The legislature urges the Board's consideration of sliding scale fees where appropriate." should be added to the bill on page 1, line 16 following "operator."

Vote:

Question was called. Voice vote was taken. Motion carried unanimously.

Motion/Vote:

REP. ORR MOVED HB 72 DO PASS AS AMENDED. Question was called. Voice vote was taken. Motion carried 16 to 2.

EXECUTIVE ACTION ON HB 75

Motion:

REP. SLITER MOVED THE AMENDMENT TO HB 75.

Discussion:

CHAIRMAN KNOX asked **REP. SLITER** if he was referring to the amendment by **Ronna Alexander, Executive Director, Montana Petroleum Marketers' Association**. **REP. SLITER** replied yes, but didn't think **Michael Kakuk, EQC**, had ever been asked to put it in proper format.

Michael Kakuk said he wasn't asked. He said the amendment looked fairly straight-forward but couldn't guarantee it.

CHAIRMAN KNOX reminded the Committee that it is responsible for ensuring amendments are properly drafted.

REP. HARPER agreed with the motion. He said the amendment makes the bill easier to understand in regard to hazardous and non-hazardous oil.

REP. FUCHS said there is oil that is hazardous and oil that is non-hazardous. Hazardous oil would be oil from a vehicle that has metal chips in it; non-hazardous oil would be diesel oil that hasn't been exposed to metal.

REP. HARPER asked how anyone would know if oil was hazardous or non-hazardous. All oil should be treated as if it is hazardous.

REP. SLITER said the words "that is not hazardous" in the amendment are redundant.

REP. RANEY said the Department of Health and Environmental Sciences should explain what "that is not hazardous" means. Both the department and the researchers have said they don't know if that is the right language to put in the bill.

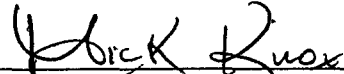
CHAIRMAN KNOX said if the committee is uneasy with the amendment and would like to give **Michael Kakuk** more time to research the amendment, executive action can be postponed.

REP. SLITER withdrew his motion.

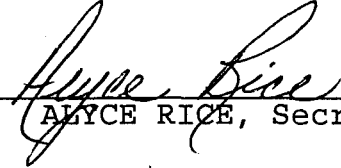
CHAIRMAN KNOX suspended executive action on HB 75.

ADJOURNMENT

Adjournment: 4:20 p.m.



REP. DICK KNOX, Chairman



ALYCE RICE, Secretary

DK/ar

HOUSE OF REPRESENTATIVES

Natural Resources

ROLL CALL

DATE 1-9-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Dick Knox, Chairman	✓		
Rep. Bill Tash, Vice Chairman, Majority	✓		
Rep. Bob Raney, Vice Chairman, Minority	✓		
Rep. Aubyn Curtiss	✓		
Rep. Jon Ellingson	✓		
Rep. David Ewer	✓		
Rep. Daniel Fuchs	✓		
Rep. Hal Harper	✓		
Rep. Karl Ohs	✓		
Rep. Scott Orr	✓		
Rep. Paul Sliter	✓		
Rep. Robert Story	✓		
Rep. Jay Stovall	✓		
Rep. Emily Swanson	✓		
Rep. Lila Taylor	✓		
Rep. Cliff Trexler	✓		
Rep. Carley Tuss			✓
Rep. Doug Wagner	✓		



HOUSE STANDING COMMITTEE REPORT

January 10, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that House Bill 80 (first reading copy -- white) do pass as amended

And, that such amendments read: .

Signed: _____

Dick Knox
Dick Knox, Chair

Amendments to House Bill No. 80
First Reading Copy

Requested by Representative Feland
For the Committee on Natural Resources

Prepared by Greg Petesch
January 9, 1995

1. Title, line 6.

Strike: "SECTIONS"

Insert: "SECTION"

Strike: "AND 82-11-162"

2. Page 1, line 28.

Following: "."

Insert: "The bond must be a performance bond and may not be a penal bond or be penal in nature."

3. Page 2, line 5.

Following: "~~1989~~,"

Insert: "if the well is completed after June 30, 1989,"

4. Page 2, lines 17 through 22.

Strike: section 2 in its entirety

-END-

DB
Committee Vote:

Yes 18, No 0.

080903SC.Hdh



HOUSE STANDING COMMITTEE REPORT

January 10, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that House Bill 72 (first reading copy -- white) do pass as amended.

Signed: _____

Dick Knox
Dick Knox, Chair

And, that such amendments read:

1. Page 1, line 15.

Strike: "\$50"

Insert: "\$25"

2. Page 1, line 16.

Following: "operator."

Insert: "The legislature encourages the board to adopt a sliding scale based on actual costs to establish the fees authorized in [section 1]."

3. Page 1, line 24.

Following: "hole."

Insert: "The board may not require a permit for drilling, redrilling, deepening, or horizontal recompletion of an existing well if that activity deepens or extends a well 200 feet or less. Each drilling permit issued under this section is effective for 12 months after issuance unless terminated for cause by the board."

4. Page 2, line 1.

Strike: "\$50"

Insert: "\$25"

<END>

JD
Committee Vote:

Yes 16, No 2.

080902SC.Hbk

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Natural Resources

DATE 1-9-95 BILL NO. HB81 NUMBER _____

MOTION: DO PASS - AMENDMENT

NAME	AYE	NO
Rep. Dick Knox, Chairman	✓	
Rep. Bill Tash, Vice Chairman, Majority	✓	
Rep. Bob Raney, Vice Chairman, Minority		✓
Rep. Aubyn Curtiss	✓	
Rep. Jon Ellingson		✓
Rep. David Ewer		✓
Rep. Daniel Fuchs	✓	
Rep. Hal Harper	✓	
Rep. Karl Ohs	✓	
Rep. Scott Orr	✓	
Rep. Paul Sliter	✓	
Rep. Robert Story	✓	
Rep. Jay Stovall	✓	
Rep. Emily Swanson	✓	
Rep. Lila Taylor	✓	
Rep. Cliff Trexler	✓	
Rep. Carley Tuss		
Rep. Doug Wagner	✓	

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Following: "~~1989,~~"

Insert: "if the well is completed after June 30, 1989,"

4. Page 2, lines 17 through 22.

Strike: section 2 in its entirety

**Testimony Submitted in Support of House Bill 81:
An Act Revising Oil and Gas Leasing and Prospecting Permits on State Lands**

Monte Mason, Minerals Management Bureau Chief, Department of State Lands
House Natural Resources Committee
January 9, 1995

The Department of State Lands is responsible for managing approximately 6.2 million acres of mineral trust land to generate revenue for the schools. HB81 is introduced to improve the Department's ability to manage mineral and oil & gas leasing on these State lands. As such, HB81 contains several statutory revisions, which I will briefly address:

Metalliferous Leasing - Under Title 77, Chapter 3, Part 1, the Department of State Lands has the authority to issue prospecting permits and leases for metalliferous minerals, such as gold, silver, and gems.

Section 1 of HB81 would revise section 77-3-131 to provide that prospecting permits will authorize only non-mechanized prospecting, such as geologic mapping, surface rock sampling, magnetic or sonar surveys, etc. It would also provide that the permit would be non-exclusive.

Section 7 would repeal section 77-3-132, which currently provides a prospecting permittee with a preference right to a mineral lease, allows the permittee to obtain a lease on 40 acres without competitive bidding, and provides compensation to the permittee for his exploration work if a lease is awarded to another party. Since only non-mechanized prospecting would be allowed under a prospecting permit, the provisions in 77-3-132(2) dealing with removal of machinery, equipment, improvements, and other property are unnecessary; the permittee is not allowed to place such property on the tract in the first place. Likewise, the provisions in 77-3-132(1), dealing with preference rights to a lease and obtaining a lease to 40 acres without competitive bidding, are not consistent with the issuance of a non-exclusive permit.

The net effect of these proposed revisions would be to establish a logical and clear distinction between permits and leases. Exclusive mineral exploration and production rights would be conveyed only through the leasing process, which could be issued on a competitive basis, depending on the degree of speculative potential for the tract of land in question, and the level of exploratory interest.

Oil and Gas Leasing - Under Title 77, Chapter 3, Part 4, the Department of State Lands has the authority to lease State lands for oil and gas development.

Section 2 would revise 77-3-423(4), which currently provides that a lease terminates automatically upon failure to pay the annual rental unless there is a producing well on the lease. This may be unduly harsh in those instances where a lessee is diligently drilling a well or has established a well that the Department has approved for temporary shut-in. The proposed revision allows the Department to provide notice and an opportunity to correct the non-payment of rental in these specific instances.

Section 3 would remove unnecessary language from 77-3-432. This section establishes a statutory floor for royalty rates on oil and gas leases. The minimum royalty rate applies regardless of whether a well produces less or more than 3000 barrels of oil each month. Therefore, this revision simply clarifies the existing statutory language.

Section 4 would revise 77-3-433 to provide that a lease shut-in payment would be imposed on a lease basis and not on a per well basis. This revision would bring the shut-in payment provision into conformity with common law and the industry norm for shut-in provisions. Oil and gas leases are issued with a primary term of five to ten years and remain in effect so long thereafter as oil or gas in paying quantities is produced. As long as diligent production in paying quantities is maintained, no additional shut-in payment is needed to consider the lease a producing lease under the lease terms. If a lessee reaches the end of the primary term of the lease and has a well capable of production, but despite all diligent efforts, is unable to produce any gas from the lease, then a shut-in payment would be considered by the Department, and if accepted, will hold the lease in good standing.

Section 5 would add language to 77-3-435 that sets out a five year limitation for royalty audits. The Department has authority under its leases to audit its lessee's royalty payments. There is currently no specific statute of limitations on these audits. A specific statute of limitations is necessary to give both the Department and its lessees certainty as to when audits can and cannot be conducted. The proposed five year time frame is consistent with tax audits and provides a clear and equitable standard for both the Department and the lessee. The five year time frame would not apply if the lessee purposely or knowingly files a false report with the intent to evade payment of royalties.

Section 6 provides two revisions to 77-3-442. This statute establishes the procedure for disposition of property belonging to the lessee upon termination of the oil and gas lease. Section 6 proposes a revision to 77-3-442(2) to provide for the Commissioner of the Department of State Lands to choose a third arbitrator if the two arbitrators chosen by the former and subsequent lessees fail to do so within 15 days. This revision will improve the Department's ability to keep the transfer process of lease improvements moving in those instances where the former and subsequent lessees are not cooperative. Section 6 also proposes a revision to 77-3-442(3) to allow a former lessee to continue to operate a lease while a lease transfer is in process, but only with the authorization of the Department. Obviously, if the reason a lease was canceled was because the lessee was operating the lease in a manner that is not in the best interest of the trust (such as producing the lease but failing to pay royalties), the Department would not want the former lessee to continue operating in that manner.

That concludes my testimony in support of HB81. I would be happy to answer any questions you may have.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Natural Resources COMMITTEE BILL NO. HB 81
DATE 1-9-95 SPONSOR(S) Rep. Seland

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
MONTE G. MASON	DEPT of STATE LANDS	HB 81		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Natural Resources COMMITTEE BILL NO. HB 80
DATE 1-9-95 SPONSOR(S) Rep. Ireland

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
<u>Jim Jensen</u>	<u>MEIC</u>	<u>HB 80</u>		<input checked="" type="checkbox"/>
<u>DENNIS TUERSON</u>	<u>NMOGA</u>	<u>HB 80</u>		<input checked="" type="checkbox"/>

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.