MINUTES

MONTANA HOUSE OF REPRESENTATIVES
59th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON LONG RANGE PLANNING

Call to Order: By **CHAIRMAN JACK WELLS**, on January 21, 2005 at 8:30 A.M., in Room 350 Capitol.

ROLL CALL

Members Present:
Rep. Jack Wells, Chairman (R)
Sen. Mike Cooney (D)
Rep. Ralph L. Lenhart (D)
Rep. John E. Witt (R)

Members Excused: None.

Members Absent: Sen. Jon Tester, Vice Chairman (D)
Sen. John Brueggeman (R)
Rep. Carol C. Juneau (D)
Sen. Bob Keenan (R)

Staff Present: Laura Dillon, Committee Secretary
Catherine Duncan, Legislative Branch
Amy Carlson, OBPP

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

Committee Business Summary:
Hearing & Date Posted: HB 7, 1/21/2005
Executive Action:

Reference book is: Governor's Budget State of Montana, Fiscal Years 2006-2007, Reclamation and Development Grant Program (RDGP), Volume 6.

CHAIRMAN WELLS called the meeting to order and directed committee attention to the Department of Natural Resources and Conservation (DNRC) presentation of HB 7, Reclamation and Development Grants.

John Tubbs, DNRC, presented the RDGP reference book to the committee (Exhibit 1). There have been a total of 21 project applications received for this biennium, totaling about $5.5 million. The earned interest income from Resource Indemnity Trust (RIT) funds is the main funding source for the program. Applicant projects must provide benefits in at least one of three categories (outlined on page one of the RDGP reference book) to be eligible for funding.

EXHIBIT(jlh16a01)

Mr. Tubbs went through some of the proposed projects and explained the funding and ranking criteria to the committee.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 14.3}

REP. LENHART asked why the state was held financially responsible for some of the projects listed.

Mr. Tubbs responded that the state is held responsible by default, when no other party is found liable.

Mr. Tubbs continued with his presentation. HB 7 has a minimum allocation of $3 million required by law. A $4 million allocation has been recommended by the executive branch for this biennium. The additional money has been recommended because the account has received higher than usual revenues and the allocation can be afforded.

CHAIRMAN WELLS asked how the new budget office felt about the numbers.

Mr. Tubbs replied that the new office agreed with the recommendation.

Mr. Tubbs discussed the new section of the bill dealing with fund transfers. He reminded the committee that the Legislative Fiscal Division (LFD) and OBPP predictions vary as to whether a balance transfer is necessary.

{Tape: 1; Side: A; Approx. Time Counter: 14.3 - 25.1}

Montana Board of Oil and Gas Conservation Project #2 Page 7

Greg Mills, DNRC, explained that this was the first of two requests by the board for plugging abandoned oil wells. Funding of $300,000 has been recommended for this project, which will address wells in the Northern District.

Proponents' Testimony:

Tom Richmond, Montana Board of Oil and Gas (MBOG), gave the committee some history on how MBOG projects began to appear in HB 7 (Exhibit 2). Bonding and permitting requirements were not used before the state inherited the program. The orphaned well program ranks abandoned oil wells in the state based on their potential to cause damage. Funds through HB7 are used to plug the highest priority wells first. There were around 400 abandoned wells in the state when the program first started, and that number has been reduced to about 150.

EXHIBIT(jlh16a02)

{Tape: 1; Side: A; Approx. Time Counter: 25.1 - 30.4}

Steven Sasaki, MBOG, stated that the project proposed to plug 20 wells in the Northern District. Drilling rigs are used to set cement in the wells, and the outside of the well is further reclaimed when necessary. Any funds not used on priority projects will be used to plug additional wells.

REP. LENHART; SEN. GLENN ROUSH, SD 8; REP. WITT; SEN. JERRY BLACK, SD 14; and **REP. LLEW JONES, HD 27,** went on record in support of the well-plugging projects.

{SEN. TESTER entered the meeting at 9:10 A.M.}

Opponents' Testimony: None.

Questions from Committee Members and Responses:

SEN. TESTER asked how much money the program had received for the last biennium.

Mr. Richmond answered that the program had received $600,000 total, for both districts.

SEN. TESTER asked how many wells had been plugged with that money.

Mr. Sasaki responded that the money allocated to the program was enough to plug all of the priority wells. There was about $120,000 left over, which was spent plugging additional wells.

SEN. TESTER commented that he had heard the Board of Oil and Gas had $4 million in reserves. He asked Mr. Richmond if this was correct.

Mr. Richmond replied that about $4 million is available in the state short-term investment pool.

SEN. TESTER asked if that money is available to plug wells.

Mr. Richmond stated that the board would need to ask for an appropriation of the money before it could be used. Currently, the money has not been appropriated for this use.

SEN. TESTER asked what the money was being saved for. He felt that many clean-up projects could use the money.

Mr. Richmond responded that the program had been allocated more money in past years, but this proved to be inefficient because there was only so much that could be addressed with the limited staff. He said that this money is currently used to fund studies and community outreach projects. He added that if the price of oil dropped, the money in the reserve account would go down quickly.

SEN. TESTER commented that he has been approached by citizens concerned about environmental problems in the Eastern District. He asked if it would be possible to use some of the reserve funds to address these issues.

Mr. Richmond answered that he was aware of the project SEN. TESTER was referring to and understood that it had not been recommended for funding.

SEN. TESTER replied that this was because the project had fallen below the funding line.

Mr. Richmond stated that he did not feel reserve money would be appropriate to be used for the research required for the project.

REP. WITT asked if the wells that had been plugged with the remaining $120,000 last biennium were on the list in the reference book.

Mr. Sasaki replied that work on those wells had been contracted out, and they were listed separately.

SEN. COONEY asked for a review of the well-plugging procedure.

Mr. Richmond explained that wells were plugged with cement pumped through tubing. After the cement sets, the surface of the well is also restored.

REP. LENHART asked for the life expectancy of the plugs.

Mr. Richmond responded that well plugs are considered permanent.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 24.2}

Montana Board of Oil and Gas Conservation Project #1 Page 7

Mr. Mills stated that this was the second part of the board's project. Funding of $300,000 is recommended for the plugging of 27 abandoned wells in the Eastern District.

Proponents' Testimony:

Mr. Sasaki reiterated that the project will plug 23 orphaned wells and provide for surface restoration. The work should be completed within two construction seasons.

Gail Abercrombie, Montana Petroleum Association, explained that petroleum industry taxes go toward funding for RDGP. The priority list was created partly because the industry wanted to insure that their taxes were not spent on unrelated programs. She assured the committee that the RDGP funds were being used efficiently. The process moves slowly at times due to the limited construction season in the northern part of the state.

REP. LENHART went on record in support of the projects.

Opponents' Testimony: None.

Questions from Committee Members and Responses:

SEN. COONEY asked Mr. Richmond how big the abandoned well problem was within the state.

{Tape: 1; Side: B; Approx. Time Counter: 24.2 - 31.2}

Mr. Richmond responded that the program has been plugging wells since 1991. There were about 400 wells when the program began and that number has been reduced to around 130.

SEN. COONEY asked if current operators plugged their own wells.

Mr. Richmond replied that the operators were required to plug their wells in the presence of a quality inspector.

SEN. COONEY asked Mr. Richmond if he felt the program would be necessary in the future.

Mr. Richmond said he was reasonably certain the wells on the priority list would be plugged, but there was always the possibility of more wells needing to be addressed.

REP. LENHART asked how much time usually passed between when the operators stop using the well and it is actually plugged.

Mr. Richmond answered that wells were allowed to remain unplugged for one year if the operator could justify any potential for future use.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 6.2}

Teton County Project # 11 Page 39

Mr. Mills said the full amount of $50,000 has been recommended to Teton County. The proposed project will address plugging and reclamation of abandoned oil and gas wells throughout Teton County.

Proponents' Testimony:

Corrine Rose, Teton and Pondera County Conservation, explained that the goal of the project was to reduce the number of non-productive wells in Teton and Pondera Counties. The wells are a contamination risk and a liability to the operators. Plugging the wells now will save money in the future. Operators will be reimbursed for some of the funds spent on properly plugged wells. There are 50 wells in Teton County and 100 wells in Pondera County that need to be plugged. Ms. Rose distributed letters in support of the projects (Exhibit 3).

EXHIBIT(jlh16a03)

Patrick Montalban, Northern MT Oil and Gas Association, explained that nearly 80 percent of the Resource Indemnity Trust is paid by the industry. The fund was supposed to be capped at $100 million, but this was not done during past biennia. He feels there is a significant abandoned oil well problem within the state. This is a result of the lack of bonding and regulations during the early part of the century. In many instances wells that were started by large corporations decades ago are now owned by small independent operators. Many non-producing wells came as part of the purchase,

and the small operators are faced with the responsibility of plugging the wells. Under the proposed project, grants are given to help small independent owners plug the wells before they become a bigger problem for the state.

{Tape: 2; Side: A; Approx. Time Counter: 6.2 - 19}

REP. LLEW JONES, HD 27, stated his support for the project.

Mr. Richmond claimed that the project was an efficient use of money. Helping fund private owners to plug the wells is cheaper than completing the projects as part of the state program.

SEN. JERRY BLACK, SD 14 and **Ms. Abercrombie** both stated their support for the project.

Opponents' Testimony: None.

Questions from Committee Members and Responses:

REP. LENHART asked what the average depth of the wells to be plugged in the two counties was.

Mr. Richmond responded that the wells in that area are generally not more than 3,500 feet deep.

SEN. TESTER asked why a different amount of funding was being proposed for each county.

Mr. Montalban replied that this accounted for the differences in the depth of the wells between the two counties.

Ms. Rose added that there were different numbers of wells in each county.

SEN. TESTER asked why there had not been a similar proposal from Liberty County.

Ms. Rose answered that Liberty County had sought their funding through Bear Paw Development.

Karen Salo, Contracting Representative, commented that she had originally proposed writing the grant for Liberty County. The funding reverted back to RDGP because Bear Paw Development did not notify the county, in a timely manner, that they had received a grant.

SEN. TESTER asked if this meant the well problem in Liberty County had not been addressed.

Ms. Salo replied that the problem was still there, but the county will address the problem with funds from the next grant cycle.

SEN. TESTER asked who provided the oversight for the independent operators who are plugging the wells.

Mr. Montalban responded that The Montana Board of Oil and Gas was responsible for project oversight.

SEN. COONEY asked if operators today were expected to post bond to cover the plugging and reclamation expenses.

Mr. Montalban responded that every operation that is permitted within the state is now required to post a cash bond for this purpose.

{Tape: 2; Side: A; Approx. Time Counter: 19 - 30.2}

SEN. COONEY asked if the project was dealing with wells that had been permitted prior to bonding requirements.

Mr. Montalban answered, "Yes."

SEN. TESTER asked for Mr. Montalban to clarify his earlier statements. He had commented that without grant assistance the independent well owners would be put out of business trying to plug the abandoned wells.

Mr. Montalban explained that small businesses, which had acquired the old wells as part of the operation purchase, would be unable to afford to plug the wells within the required time constraints without financial assistance.

{SEN. BRUEGGEMAN entered the meeting at 10:05 A.M.}

{Tape: 2; Side: B; Approx. Time Counter: 0 - 6.1}

Toole County Project #12 Page 42

Mr. Mills described the Toole County project for plugging abandoned oil and gas wells. The county still has funding left over from the last biennium, so the project is being recommended for a reduced grant amount this year.

Proponents' Testimony:

Ms. Salo distributed copies of written testimony from project proponents (Exhibit 4). She read one of the letters, which said that because the price of oil increased, construction services

were tied up for much of the season creating new wells. This explained why all of the funding was not used for th project during the last funding cycle.

EXHIBIT(jlh16a04)

Rick Rice, Independent Oil Company, said that his small business was able to plug two wells with funds from a grant last year. He urged the committee to support the program. His oil operation resulted from an inheritance, and he is not able to plug all of the abandoned wells that were part of the operation. If he is forced to leave the wells to the Abandoned and Orphaned Wells Program, the costs will be greater for the state.

{Tape: 2; Side: B; Approx. Time Counter: 6.1 - 12.7}

Gary Feland, Kipling Energy, gave his support to the project. Rising service and construction rates make financial assistance more necessary than before.

Mr. Montalban described the old well-drilling techniques to the committee members.

Mr. Richmond, SEN. BLACK, REP. JONES, and **REP. WITT** all went on record in support of the Toole County Projects.

Opponents' Testimony: None.

Questions from Committee Members and Responses:

SEN. TESTER asked who set the reimbursement rates for well plugging, and whether it would be possible to reimburse the independent operators at higher rates.

Ms. Salo replied that the rates are determined by the applicant and DNRC.

SEN. TESTER asked if the rates had ever been changed to accommodate unusual circumstances.

Mr. Mills answered that the rate was based on consultations, and could be re-calculated if necessary.

Mr. Tubbs added that a fixed rate was used for simplicity, so the projects could be managed without such high administration costs.

REP. WITT suggested that the rates may need to be re-evaluated in response to inflation.

Mr. Tubbs commented that there probably was a need to re-address the rates. He added that the rates should not be increased to fund 100 percent of the projects because this would give the operators no incentive for responsible well management. Established oil and gas companies supply the majority of the trust money for these grants.

Mr. Montalban added that the larger companies could bear the costs related to well plugging much more easily than smaller operators, and this should be taken into account if the rates are re-evaluated.

{Tape: 2; Side: B; Approx. Time Counter: 12.7 - 30.8}

Custer County Project #6 Page 35

Mr. Mills discussed the Custer County Project. Funding of $299,965 has been recommended to pay for a geomorphic study of the Yellowstone River.

Proponents' Testimony:

Steve Story, Yellowstone River Conservation District, gave the committee a brief history of the project. The district is working with the Army Corps of Engineers to complete the project and is receiving additional funds from outside agencies. The grant money will allow for mapping of the watershed and additional environmental impact studies.

Paul Gilbert, Yellowstone River Conservation District, stated that the proposed study was necessary to allow the district a clear picture of the river. They need to be able to predict and address the effects of development along the river.

{Tape: 3; Side: A; Approx. Time Counter: 0 - 9}

Luther Waterland, Montana Association of Conservation Districts, commented that the project was a good example of state and federal agencies working together on a locally-led project. The study must be in place in enable future projects along the river.

Clint McFarland, Mike Penfold and **Stan Danielson,** were all members of the Yellowstone River Conservation District who voiced support for the project. Mr. Danielson distributed an outline of the reclamation project (Exhibit 5).

EXHIBIT(jlh16a05)

REP. LENHART and **SEN. ROBERT STORY, SD 30** went on record in support of the project.

Opponents' Testimony: None.

Questions from Committee Members and Responses: none.

{Tape: 3; Side: A; Approx. Time Counter: 9 - 20.3}

Butte-Silver Bow Project #7 Page 28

Mr. Mills explained that the proposal has requested funding to cap four open shafts all in the City of Butte. The project has been recommended for funding of $300,000.

Proponents' Testimony:

Tom Malloy, Butte Reclamation Manager, said that this was a project to plug and cap mine shafts. The shafts in the area are dangerous and are caving-in. Several residents have experienced sinkholes in their yards as a result of these shafts.

Mr. Malloy distributed copies of the Belmont Project (Exhibit 6). The shaft was plugged in the 1980's, but the method was of poor design and is beginning to collapse. The problems in Butte are further compounded by the fact that many shafts are unrecorded and are unknown until they begin to collapse. Included in the handout was a news article describing a man who had lost his dog down one of the shafts.

EXHIBIT(jlh16a06)

REP. JON SESSO, HD 76 explained that five major shafts will be addressed with the grant. He offered a written statement on behalf of area legislators in support of the project (Exhibit 7).

EXHIBIT(jlh16a07)

Opponents' Testimony: None.

Questions from Committee Members and Responses:

REP. LENHART asked if the horizontal tunnels were causing problems as well.

Mr. Malloy responded that some areas in Butte have been mined too close to the surface, and portions of the city are experiencing sinking as a result.

{Tape: 3; Side: A; Approx. Time Counter: 20.3 - 30.9}

REP. LENHART asked if this project would address those problems.

Mr. Malloy replied, "No."

Mr. Tubbs added that the Belmont Shaft was of high priority because of its close proximity to the town's senior center and a school event center.

Butte-Silver Bow Project #14 Page 49

Mr. Mills presented this project for cleanup and reclamation of the Excelsior mine site in Butte. The site is not a high enough priority to be eligible for federal funds. The project is recommended for funding of $29,800.

Proponents' Testimony:

Mr. Malloy claimed that a significant amount of funds have already been spent on rehabilitating the site, and said that RDGP grants are needed to complete the job. Copies of the proposed project outline (Exhibit 8) were handed out to the committee members.

EXHIBIT(jlh16a08)

REP. SESSO pledged his support for the project. He stated that RDGP funds are necessary because the project is not being given any federal assistance through the Superfund Program.

Opponents' Testimony: None.

Questions from Committee Members and Responses: none.

{Tape: 3; Side: B; Approx. Time Counter: 0 - 10.4}

City of Lewistown Project #9 Page 21

Mr. Mills described this project to restore the Brewery Flats section of Big Spring Creek. The proposed project will address cleanup of heavy metal contamination and has been recommended for funding of $300,000.

Proponents' Testimony:

Duane Ferdinand, Lewistown Planning Board, distributed copies of the project plans (Exhibit 9). He supports the project because it will address public safety concerns as well as conservation. The

community supports the project and is volunteering to help with the cleanup efforts.

EXHIBIT(jlh16a09)

Opponents' Testimony: None.

Questions from Committee Members and Responses:

REP. WITT asked if the railroad had contributed any funding towards the project.

Mr. Ferdinand replied that the railroad, which had contributed to the pollution of the area, was now bankrupt. The city has agreed to fund the cleanup with the understanding that they will own the property once it is completed.

REP. WITT asked what kinds of laws were available to protect communities from similar situations.

Mr. Tubbs responded that the Department of Environmental Quality has strong laws regarding contamination liability. If the railroad is not contributing funding for the project, it is because they have not been found responsible by law to do so.

Mr. Tubbs went on to explain how the Lewistown project was related to a bill currently being heard in another committee.

{Tape: 3; Side: B; Approx. Time Counter: 10.4 - 30}

CHAIRMAN WELLS concluded the hearing and the meeting was adjourned.

ADJOURNMENT

Adjournment: 11:15 A.M.

_____
REP. JACK WELLS, Chairman

_____
LAURA DILLON, Secretary

JW/ld

Additional Exhibits:

EXHIBIT(jlh16aad0.PDF)