

SB 14 -- TOWE -- AMENDING 46-18-201 PROVIDING FOR FINES AND ASSESSMENT OF COSTS IN FELONY CRIMINAL CASES....

PREFILED AND REFERRED TO COMMITTEE ON JUDICIARY: 12/30/80

HEARING: 1/9

REPORT: 2/9, DO PASS AS AMENDED

2ND READING: 2/11, YEAS: 47; NAYS: 2

3RD READING: 2/13, YEAS: 46; NAYS: 1

TRANSMITTED TO HOUSE: 2/13

REFERRED TO COMMITTEE ON JUDICIARY: 2/14

HEARING: 3/6

REPORT: 3/10, BE CONCURRED IN

2ND READING: 3/12, YEAS: 71; NAYS: 13

SEGREGATED: 3/12

ON MOTION, 3/14, PASSED FOR THE DAY.

2ND READING: 3/18, BE NOT CONCURRED IN -- YEAS: 39; NAYS: 53

BE CONCURRED IN -- YEAS: 56; NAYS: 37

3RD READING: 3/20, YEAS: 78; NAYS: 15

RETURNED TO SENATE: 3/20

TRANSMITTED TO GOVERNOR: 3/26/81

ACTION: 3/31, SIGNED

CHAPTER 198

SB 15 -- MAZUREK -- AMENDING 17-5-102 TO ELIMINATE INTEREST RATE CEILING ON POLITICAL SUBDIVISION BONDS.

PREFILED AND REFERRED TO COMMITTEE ON TAXATION: 12/30/80

HEARING: 1/12; 1/28

REPORT: 2/21, DO PASS AS AMENDED

2ND READING: 2/24, DO PASS AS AMENDED

3RD READING: 2/25, YEAS: 33; NAYS: 17

TRANSMITTED TO HOUSE: 2/25

REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 3/2

HEARING: 3/9

REPORT: 3/9, BE CONCURRED IN, AS AMENDED

2ND READING: 3/11, AS AMENDED, YEAS: 76; NAYS: 6

3RD READING: 3/14, YEAS: 83; NAYS: 11

RETURNED TO SENATE WITH AMENDMENTS: 3/14

2ND READING: 3/18, BE NOT CONCURRED

ON MOTION, 3/18, REFERRED TO CONFERENCE COMMITTEE

CONFERENCE COMMITTEE REPORT: 3/24

SENATE

2ND READING: 3/26, DO PASS

ON MOTION, 3/27, RECONSIDERED, REJECTED CONFERENCE COMMITTEE REPORT

ON MOTION, 3/27, FREE JOINT CONF. COMMITTEE APPOINTED

ON MOTION, 3/27, THE HOUSE RECONSIDERED ITS ACTION IN ACCEPTING THE CONFERENCE COMMITTEE REPORT. YEAS: 89 NAYS: 0

ON MOTION, 3/27, THE CONFERENCE COMMITTEE WAS DISSOLVED AND A FREE CONFERENCE COMMITTEE WAS APPOINTED.

FREE CONFERENCE COMMITTEE REPORT: 3/27

2ND READING: 3/28, YEAS: 77; NAYS: 0

3RD READING: 3/28, YEAS: 75; NAYS: 0

SENATE

2ND READING: 3/28, BE CONCURRED IN

1981  
ON MOTION, 3/28, RULES SUSPENDED, PLACED ON 3RD READING

3RD READING: 3/28, YEAS: 49; NAYS: 0

ON MOTION, 4/2, REFERRED TO COMMITTEE ON RULES

REPORT: 4/4, DO PASS AS AMENDED

2ND READING: 4/8, DO PASS

ON MOTION, 4/8, RULES SUSPENDED, PLACED ON 3RD READING

3RD READING: 4/8, YEAS: 49; NAYS: 0

RETURNED TO HOUSE: 4/8

ON MOTION, 4/9, RULES SUSPENDED TO ALLOW ACCEPTANCE FROM SENATE.

REFERRED TO COMMITTEE ON RULES: 4/9

HEARING: 4/13

REPORT: 4/15, DO PASS

2ND READING: 4/17, YEAS: 86; NAYS: 1

ON MOTION, 4/17, RULES SUSPENDED, PLACED ON 3RD READING

3RD READING: 4/17, YEAS: 91; NAYS: 3

RETURNED TO SENATE: 4/17

TRANSMITTED TO GOVERNOR: 4/21/81

ACTION: 4/23, SIGNED

CHAPTER 500

SB 16 -- SMITH -- TO REQUIRE MINERAL DEVELOPERS TO GIVE WRITTEN NOTICE TO SURFACE OWNERS OF INTENT TO BEGIN DRILLING OPERATIONS....

PREFILED AND REFERRED TO COMMITTEE ON NATURAL

RESOURCES: 12/30/80

HEARING: 1/28

REPORT: 2/6, DO PASS AS AMENDED

2ND READING: 2/10, DO PASS

3RD READING: 2/12, YEAS: 49; NAYS: 0

TRANSMITTED TO HOUSE: 2/12

REFERRED TO COMMITTEE ON NATURAL RESOURCES: 2/13

HEARING: 3/4

REPORT: 3/13, BE CONCURRED IN

2ND READING: 3/18, YEAS: 92; NAYS: 1

3RD READING: 3/20, YEAS: 92; NAYS: 1

RETURNED TO SENATE: 3/20

TRANSMITTED TO GOVERNOR: 3/26/81

ACTION: 3/31, SIGNED

CHAPTER 199

SB 17 -- THOMAS -- TO GENERALLY REVISE THE PROCEDURE FOR PAYMENT OF TAXES AND LICENSE FEES UNDER PROTEST....

PREFILED AND REFERRED TO COMMITTEE ON TAXATION: 12/30/80

HEARING: 1/9

REPORT: 2/21, DO PASS AS AMENDED

2ND READING: 2/24, DO PASS

3RD READING: 2/25, YEAS: 46; NAYS: 4

TRANSMITTED TO HOUSE: 2/25

REFERRED TO COMMITTEE ON TAXATION: 3/2

HEARING: 3/13

REPORT: 4/10, BE CONCURRED IN, AS AMENDED

2ND READING: 4/13, YEAS: 80; NAYS: 0

ON MOTION, 4/13, RULES SUSPENDED, PLACED ON 3RD READING

Senator Van Valkenburg stated the need for this bill is that there is an exemption for under five acres and they will be expanding beyond five acres. Are there any regulations that deal with peat under 5 acres?

Senator Turnage said not that he knows of. The only regulation is that you have to reclaim the land, especially on federal land.

CONSIDERATION OF SB 165:

AN ACT TO PROVIDE FOR COMPENSATORY ROYALTIES IN LIEU OF OFFSET DRILLING ON STATE OIL AND GAS LEASES

Senator Smith, District #1, gave a brief explanation of this bill and then asked for testimony from David Woodgerd, Department of State Lands. Mr. Woodgerd furnished a written statement which is attached.

Vice Chairman Etchart asked for any other proponents. There being no other proponents Vice Chairman Etchart asked for opponents. There were no opponents.

CONSIDERATION OF SB 16: Vice Chairman Etchart turned the meeting over to Chairman Dover.

AN ACT TO REQUIRE MINERAL DEVELOPERS TO GIVE WRITTEN NOTICE TO SURFACE OWNERS OF INTENT TO BEGIN DRILLING OPERATIONS; TO REQUIRE MINERAL DEVELOPERS TO COMPENSATE SURFACE OWNERS FOR DAMAGES CAUSED BY DRILLING OPERATIONS; AND TO ALLOW SUCH COMPENSATION TO BE MADE IN ANNUAL INSTALLMENTS UNDER CERTAIN CONDITIONS

Senator Smith, District #1, introduced this bill and submitted written testimony from the following: Russell Denowh, Sidney; David Kasten, Brockway; List of People from Westby; Glen Childers, Circle; James Nordhagen, Westby; Robert J. Coon, Sidney. Senator Smith also passed around amendments proposed to this bill and a copy of a news article on North Dakota law relative to this subject. (see attached)

Chairman Dover asked for any other proponents to this bill.

Oral testimony was given by the following and their written statements are attached: Norman A. Nelson, Westby; Sherill Henderson, Sidney; Pat Underwood, Montana Farm Bureau, Bozeman; Douglas Johnson, Sidney; Bob Candee, Richey; James Deckert, Richey; Steve Christian, Shelby; John K. Wipf, Glacier Colony, Inc.; Ronald Olsen, Dagmar; and Senator Tveit, District #27.

Norman W. Jackson, Montana land and mineral owner, supports SB 16 with a recommendation that the right to collect for damages as damages occur be given to the land owner.

Harry Tuma, Cut Bank, gave a brief statement in support of this bill.

Written testimony was received from the following (copies attached) in support of SB 16: Lois J. Dynneson, Sidney; Donald Syme; Raymond A. Franz, Sidney; Sam Ritter, Sidney; William Petersen, Helena; Richard Boese, Richey.

Chairman Dover asked for opponents to SB 16.

Tom Dowling, Montana Railroad Association, gave a brief statement in opposition of this bill.

Don R. Lee, Shelby, Montana, opposes the bill as it is written and feels it will foster litigation. The main objectives of the bill, notification before drilling and reimbursement for surface damages, he has no objection to.

Don Allen, Executive Director of Montana Petroleum Association, explained that the problems this bill deals with includes only a very small portion of surface owners and oil industry dealings. Basically the dealings between oil industries and surface owners are fair and the oil industries follow good practices. The intention of the bill is good but he feels that the bill, even with the amendments proposed, could use a little revision.

Barry G. Ibsen, Montana Oil and Gas Association, agrees with the basic intent of the bill but feels it should be amended and has furnished an amended copy of the bill as he would like it to read. (copy attached)

W. F. Allen, Billings, Montana, has not encountered the problem of negotiating an agreement with the surface land owner. He requested that the committee at least not put the oil business in a straight jacket with paper work.

Senator Keating removed himself as a member of the committee to testify on this bill. As an oil and gas man he feels that legislation cannot be enacted that will satisfy all individuals concerned. He is not necessarily opposed to the intent of the bill but is it going to work into something that will prohibit the oil industries from doing their job.

In Senator Smith's closing statement he said that he has had dealings with the oil industries on his property and has a good working relationship with them. But that does not mean that all the oil industries dealings with surface owners have been fair, as has been witnessed here. If the bill is amended as Barrie Ibsen requests, we could just as well not pass it.

Written testimony was received from W. M. Vaughey, Jr., Havre, and from the Northern Plains Resource Council, in opposition of this bill. (copies are attached)

Chairman Dover asked for questions from the committee.

Senator Tveit addressed this question to Don Lee. You stated this piece of legislation is tying the oil company's hands and that the land owner would get extremely high prices for surface lands, more than is justified. Would you explain this statement.

Don Lee said that if a case comes up for hearing the oil company is responsible for court costs as stated in this bill. If the surface owner is demanding an exorbitant amount and we go to court and the court awards the surface owner a similar amount as was offered by the oil company, then the oil company should not be penalized by paying court costs.

Senator Tveit asked Mr. Lee if he thought the oil companies were paying competent damages now.

Don Lee said that it depended on each factual situation after negotiations. He questioned what would happen if the plan is not submitted to the surface owner, as there is no penalty if you do not submit the plan.

Senator Ryan asked Don Allen if his company agreed with the amendments proposed by Don Lee.

Don Allen said that the amendments were some suggested ways to reach what was thought to be the desire of the bill. The language presented by Mr. Lee has not been reviewed by the Montana Petroleum Association.

Senator Manley questioned that the oil companies have the right to go into a surface land owners property and build a road wherever they want to. Isn't there a law to protect the surface owner?

Senator Smith said there is no protection whatsoever for the surface owner. In certain cases the surface owner has gone to court and lost.

Don Allen said that this does not apply to most oil companies. They will try to arrange the best place for a road to go.

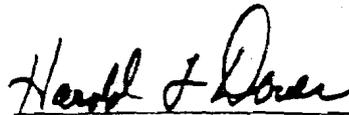
Chairman Dover closed the hearing to SB 16.

Natural Resources Committee  
January 28, 1981  
Page 5

EXECUTIVE SESSION: Chairman Dover advised the committee that a Joint Resolution, to affirm continued membership on the Western States Forestry Task Force, needed to be approved for drafting by the Legislative Council.

Senator O'Hara motioned that a Joint Resolution be prepared in this regard. The motion carried unanimously.

ADJOURNMENT: There being no further business, the meeting was adjourned at 3:10 P.M.



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HAROLD L. DOVER, Chairman

TESTIMONY

Mr. Chairman- Members of the Committee, I am Senator Ed Smith, District 1, sponsor of SB 16.

In no way is this proposed legislation being introduced to harass the oil industry or hinder oil and gas production.

We need them and we certainly need the product they produce. We also appreciate the tax monies that the oil industry contributes to run our school systems and to County, State and Federal Government.

However, I do feel there are some problems that need to be corrected so a better spirit of cooperation can be created between the oil industry and land owner.

I would be remiss if I didn't add that many oil companies are already doing what we are attempting to do with this legislation, and I congratulate them for it.

Oil production and agriculture production can be compatible and many problems can be eliminated if better communication is brought about.

I come from an area where there has and is a considerable amount of oil production and exploration.

There are a lot of problems and these same problems can develop in most areas of the state as increased oil and gas exploration continues.

I feel the surface owner should have rights and expect reasonable consideration when oil and gas development is experienced on their property, and more so when minerals are severed from the surface.

Some oil companies do comply with what is recommended in this proposed legislation.

Others have a complete disregard for the surface owners rights.  
This is what we hope to change by this legislation.

(read)

This type of legislation was introduced in the 1979 session of  
North Dakota legislature. It was passed, taken to court and upheld.

Their law is much more stringent then what we are proposing.

You will notice as I go through the bill that we have made  
several concessions to the oil industry.

Testimony by Russell Denowh  
Sidney, Mont.



I am sending this testimony in support of S. B. 16. We need legislation for fair compensation to land owners, for oil and gas exploration on their property.

I have had a disappointing experience with an oil company exploring for oil on my property. The company's land man contacted me about damages for the site, and asked what I wanted. I told him \$2500.00, as I had received \$2000.00 for a location in my grass land, they were going to drill in my summerfallowed farm land and I felt it was worth a little more. He told me that he was only authorized to pay \$1500.00 for a location, but that he would take it up with his superiors and let me know. I told him they could go ahead and make the location, but I wanted a settlement before they moved the rig on. He said O'K.

About a week went by, they had the location about built, and I still had not heard from him, so I called him. He said he hadn't gotten a chance to speak with his superiors yet, he just kept stalling. About a week after that they started moving the rig on. I went up to speak with the Tool Pusher and asked him if he would come with me to call to try and get my settlement. He said sure and quite moving the rig until after the conversation. In the phone conversation they said they would not pay \$2500.00. To try to get along I asked if they would give me \$2000.00 like I had received on the other location, They said no. This angered me so I told them to keep the rig off until they made settlement.

It took about 3 days for them to have the necessary papers served on me, so they could move the rig on. Then they sued me for the time they were kept off.

Testimony by Russell Denowh  
Sidney, Mont.

At the trial the Judge ruled that being I never had any crop planted in the summerfallow at the time they moved on, I never had any surface damages coming. Because of this ruling, the facts of what actually took place were inadmissible. We could not let the jury know that the whole thing came about over only \$500.00. Their lawyers made it look like we tried to rip the company off. They won the judgment. I was to pay them nearly \$16,000.00, I threatened to appeal the case and they settled for \$5000.00.

I have no minerals under the well, I have never received any surface damages, I pay the taxes on the land, and they can be there for 50 years if the well lasts that long.

Oil companys have been using this case as leverage over other farmers in the area. I have visited with several of them that told me this.

*Russell Denowh*

COMMITTEE ON NATURAL RESOURCES

I am a Rancher in McCone and Prairie counties. At present there is quite a lot of gas and oil activity in the area.

In the 1960's when this area was seismographed the land owners, in many cases, didn't know to what extent their land was to be used or when they were coming in. Sometimes the surface owners did not even know of the activity until it was completed. If necessary specific examples can be given. This resulted in court cases and hard feelings. Also in some cases surface owners banding together to keep out seismic crews.

Therefore I support Senate Bill #16 as it will "...give the surface owner written notice of the drilling operations that he plans to undertake Page 3 Section 3 lines 11@12.

This I feel will eliminate problems and foster better cooperation.

I also like the idea of being able to break the payments into annual instalments.

Thank you for considering my testimony.

*David K. Kasten*

David K. Kasten

Brockway, Montana

59214

Westby, Montana 59275  
January 23, 1981

Senator Ed Smith  
Capitol Station  
Helena, Montana 59601

Dear Ed,

This past fall we negotiated with Chevron Oil Company on a settlement for surface damages due to pipeline construction and oil exploration activities. We asked for an annual rental on oil well sites, but were told that Chevron would not pay an annual rental.

We are in support of Senate Bill 16, which would allow the option of an annual rental or a lump sum payment for surface damages caused by oil and mineral development.

Yours truly,

Robert Leininger  
Richard Westgard  
Maynard Eggen  
Lawrence Heppner  
Edmer Westgard  
Marlow N. Brown  
Esther Hansen  
Alford Jorde

# Garfield - McCone Legislative Association

Circle, Montana 59215

Phone (406) 485-2227

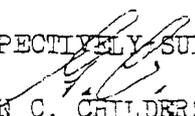
Jan. 28, 1961

SB (16)

MR. CHAIRMAN AND COMMITTEE MEMBERS I AM GLEN C. CHILDERS, PRESIDENT OF GARFIELD  
McCONE LEGISLATIVE ASSN., AN ORGANIZATION OF APPROX. SIXTY TWO AGRICULTURAL  
MEMBERS, AND I AM AUTHORIZED BY THE BOARD OF DIRECTORS TO TESTIFY IN THEIR  
BEHALF.

DUE TO PAST SURFACE DAMAGES AND LIVESTOCK DAMAGES CREATED BY PAST EXPLORATION  
FOR BOTH OIL AND GAS WITH NO JUST COMPENSATION TO THE LAND OWNER BY SOME EX-  
PLORATION COMPANIES THE GARFIELD-McCONE LEGISLATIVE ASSN. STRONGLY ENDORCES  
SB (16).

RESPECTFULLY SUBMITTED,

  
GLEN C. CHILDERS, PRES.

Visited this person  
looked at situation Jan 23, 1981  
Westby Mont

Dear Mr Smith

Just a word to let you know what's been going on with the oil company's. I let them put water lines across my land several years ago without charge which was my first mistake. (Cotton oil) there's been many salt spills & oil also which has ruined I guess \$2000. worth of my land which they simply refuse to pay one cent damages. also my mother (Marie) had an oil well that was poor so they told her if they could use it for salt they would give her much more than oil was bringing also saving them the expense of drilling another disposal. She never has got a penny from them, also they made a graded road a whole mile down the middle of her wheat field to get to the disposal (without her permission) also without payment also she has much ruined land from spills. I would like to know why I can't tear the salt line up on my land?

yours truly  
James Nordhagen

January 22, 1981

Senate Committee on Natural Resources  
Montana State Capitol  
Helena, Montana 59601

Re: Senate Bill # 16

Dear Committee Members:

I am writing in support of Senate Bill # 16. I strongly urge the passage of this bill.

On one occasion, an oil company began building a road across our property to get to a lease on someone else's land. We were not even notified.

We urgently need a bill of this type to protect the surface owner's rights. I believe this bill would help to create better communications between surface owners and oil producers.

We need oil to produce food and fiber, but without food, where are we?

Sincerely,

  
Robert J. Coon  
Girard Rte. Box 145  
Sidney, Mt. 59270

May 14, 1979

MR. NORMAN A. NELSON  
Westby, Montana 59275

RE: Coal Ridge Prospect  
#1 C. W. Nelson  
Sheridan County, Montana

Dear Mr. Nelson:

You are correct in your understanding that your location will be smoothed out. I suspect that by the time you receive this letter you will have been contacted by our dirt contractor.

However, your estimate and our estimate of the damage to your surface are way out of line. When I originally talked with you, before we had moved any equipment onto your property, we had tentatively agreed on damages if a location were built. The terms we discussed are as follows:

- 1) The access road would be less than 30 feet wide;
- 2) A five acre location would be \$450.00. (5 acres x 28 bushels per acre = 150 bushels x \$3.00 per bushel = \$450.00)
- 3) In the event we completed the well as a producer we would pay a one-time rental fee for a surface easement.

During the same conversation you told me that you would send me your "standard damage agreement" to look over and discuss further. I never received any form of damage agreement from you.

Because our well on an offset location was a dry hole, we never built a location or moved in an actual "drilling rig." We merely leveled a location and moved in a spud unit. We did not dig any pits; we did not spill any salt water or drilling fluids; we did not spread any gravel, caliche or other surface material; and there were no crops on the location to damage.

SETTLEMENT OF DAMAGES

KNOW ALL MEN BY THESE PRESENTS: The undersigned hereby acknowledge receipt from SUN OIL COMPANY (DELAWARE), a corporation, Four Thousand and no/100----- Dollars

(\$4,000.00), which is accepted by each of them in full settlement and compensation for all damages of every kind caused by, incident to, or that may result from the activities set forth below on the land described below, and do hereby fully release Sun Oil Company (Delaware), its joint operators, associates, agents, employees, successors and assigns, from all claims therefor.

Payment of damages to wheat caused from the drilling of the State A-3 well and access road.

NOTE: It is agreed there will be no charge for the lease road along the section line.

NOTE: It is also understood and agreed between both parties that if Sun exceeds three (3) acres for the location of the said State A-3 well that Sun will pay C. W. Nelson & Sons, Inc. for the additional acreage.

Center of SE 1/4 of Section 16, Township 35 North, Range 58 East, Sheridan COUNTY, STATE OF Montana.

WITNESS our hands this \_\_\_ day of December, 1980.

WITNESSES:

x C. W. NELSON & SON INC
x By:
Name
Title

January 28, 1981

Testimony before the Natural Resources Committee.

I'm Steve Christian, Shelby, Montana, Director of Northern Montana Land and Mineral Owners Association, Inc.

Mr. Chairman and Member Senators:

I support Senate Bill 16 because I feel it will aid in communication between oil operators and landowners, which at present, I feel is the major problem with their relationship. It asks nothing from either party that is not carried on at this time by conscientious operators and landowners. It will be a definite aid for better relations between inexperienced or inconsiderate people.

This type of legislation has been sorely needed for some time, and will be especially valuable in areas of new exploration.

Therefore, I feel it is timely when we are locally and nationally conscious of the need for energy supplies. I also feel it will promote smoother relations and in many cases expedite operations.

I encourage this committee to send this bill to the floor with a Do Pass recommendation.

Thank you.

/s/ Steve Christian

Mr. Chairman, members of the Committee:

I am Sherill Henderson from Sidney. I am a land and mineral owner in Richland County. I serve as a director of the NE Montana Land and Mineral Owners Association, and also as a State Director of Montana Farm Bureau Federation, representing over 4 thousand 5 hundred member families.

The principle of protection for surface owners in mineral development was adopted by Montana Farm Bureau at the State Convention in 1979, and reaffirmed this year, as follows from the Montana Farm Bureau Policy book:

"Montana Farm Bureau shall work for enactment of legislation which will provide for annual arbitrated payments to surface land owners. The annual arbitrated payments are to cover the costs of surface land damages incurred by oil, gas and mineral exploration and development and for loss of agricultural production due to the same exploration and development."

Many landowners in our state who have been severely damaged by the irresponsible among the producers, could not attend this hearing on SB 16, some of them have given me written statements detailing their situation, which Senator Ed Smith, sponsor of SB 16 has on file.

I urge the passage of SB 16, will be open to questions from this committee. Thank you.

Sherill Henderson  
P.O. Box 111  
Sidney Mont 59270

SENATE BILL 16

I am Douglas Johnson, farmer from Sidney, Montana and executive board member of the Montana Farmer's Union, headquarters in Great Falls.

Senate Bill 16 affects our members as they are surface owners and many do not have title to the minerals under their land. This bill would give the surface owner notification of entry and a procedure of assuring just compensation for damages incurred by them.

Many times the surface owner is not included in the site and road selection and often times it can be worked out to a beneficial solution for both parties.

Many times the total operation of the field is disrupted as long as the well site is there and therefore, the surface owner should be compensated in annual installments.

This bill also spells out the liability of the surface owner, the mineral developer and producer, to the mutual benefit of all parties concerned.

Therefore, the Montana Farmer's Union supports SB 16.

Thank you.

walked out - saying we will not set a precedent and we will not improve on our first offer - which doesn't even cover what the land would sell for and be in production.

By the same token - the actual well site which is 500 feet square (it was 400 feet square until a recent settlement on 500 feet square held up in Court on the Erickson Well Site near Vida, Mt.) brought \$2,000 for 5.74 acres - or \$348 per acre - well below the saleable price. They have set a precedent here - because Well site No. 3 received \$3900. This is to prove - that unless words are put on paper etc. - any verbal agreement is worthless. And yet - \$3900 equals an \$679.44 per acre. This all is a one shot deal - no annual lease of land etc. - or compensation for production loss or taxes, etc.

As you can see - we have no bargaining power at all. In my case - Amoco - is now driving 15 miles from Richey to reach this new well site - imagine the extreme extra cost as against compensating me fairly to have access of only 4 miles from Richey.

We - are not asking for the moon in this bill - we are asking for a chance to get a foot in the door - not for today alone - but that the younger generation in the future, - including my 12 year old twin boys, that they can say - at least our Fathers got their foot in the door - now let's work together and improve on the situation.

I ask this Committee to approve Senate Bill 16 unanimously for when an Oil Company wants your property they don't care whether you are Republican or Democrat.

1-28-81

Testimony of Richard Boese - Richey, Mt.  
pertaining to Senate Bill 16

During the first part of 1981 - early January - Amoco Oil Co. arrived at my home - without notice - and said we want to build a road through my property for access to a well site just 670 feet beyond the end of my land. The length of the road was one mile. They asked for a 60 ft. right away. Amoco's offer was \$8.00 a running rod which amounted to \$2560. The number of acres lost is 7.28 acres, which means I would receive \$351.65 per acre to retire this land. No damages would be paid for the winter-wheat torn out and the whole harmless clause was excluded - which means - I - the land-owner am liable for any accident or whatever that could happen on this road. Amoco - said - we need your O.K. today as the rig - crew - surveyors etc. are ready to come in tomorrow. I - then - asked for \$1 extra per rod - which would add \$320 and damages - to my winter-wheat of 35 bu. per acre times \$4.50 per bu. yield. Total amount for 2 acres - \$315.00. I was turned down - with the words - we will get in there some other way.

Two weeks later - Amoco - returns. They want to know if I'll re-consider. I said - Yes - but under different terms. I asked for \$5.00 a square rod the first year which equals \$799.20 per acre lost to production and retiring the land plus an annual rental of \$3.00 per acre which equals \$479.52 per acre and should the well be a dry one and they back out of there - our annual rental agreement is null and void. Now - remember I would still own the land - they would pay no taxes for its use - I would lose 7.28 acres of land - and production and this would not improve the land if it went up for sale. Amoco

SB #16

I believe our Constitution forbids the taking of another person's property without just compensation-----

This is the principle we address in this SB#16, as mineral developers and producers who enter upon the surface of a land owner, develop their wells and extract the oil and gas to which their mineral estate entitles them, without compensating the surface owner for the property they deprive him of by reason of their operation, are truly taking another person's property without just compensation, contrary to our protection under our Constitution.

We in no way wish to hamper the utilization of our nation's mineral wealth, but we must have the protection of the laws of our land for our property, so we can continue our farming and ranching operations.

Many of the mineral producing companies have of their own volition, recognized the rights of the surface owners, and have done a good job of working with them. It is the "my rights make your rights null and void" type of operators who make this SB#16 necessary.

Wesley Henderson  
Bill Ball  
Audrey Montano

Mr. Chairman, my name is Bob Candee from Richey. I appreciate the opportunity to speak on behalf of Senate Bill 16. I represent myself and my neighbors. The purpose of my testimony is to point out that surface owners need further protection under the law.

Although I don't totally agree with Senate Bill 16, I think it is a step in the right direction. Montanans need a law to protect surface owners in oil development areas, where the minerals are owned by someone other than the surface owner.

In the past, land has been purchased when the buyer was unaware of what was to follow. He did not realize the impact of the OPEC nations and the surge of oil-related activity that has come since. The price of gas has jumped from around 30¢ a gallon to over a dollar a gallon, and the oil company profits have soared. He can also see the damage done by the old oil fields 30 years ago and the scars that were left on the land.

There are many land owners who don't own a single mineral acre, and yet have to put up with all the impact of the oil activity such as the destruction of his land, the traffic, the smell, and the stained and rusted out buildings due to the gas flares and the ruined water wells.

Cost of production should include compensation to the surface owner. Surface owners do not want to deny oil developers and mineral owners their legal rights or to stop any development. We wish to establish that the surface owner is entitled to fair compensation.

Compensation should be based on what the land is worth to the drilling company to set up on and use, rather than use for agricultural purposes. If someone wanted to buy your land for housing development, a trailer court, or gas plant, you wouldn't sell it to them for an agricultural price.

Fair compensation, in the eyes of Amoco, was for me to take their first offer or go to court. They refused to negotiate a ~~any~~ more, and refused to pay ~~an~~ annual rental. They agreed to notify me when they were going to move on, and didn't; I came home from Billings and they were digging up my field. They had my phone numbers, and knew where to locate me. Amoco was going to pay the surface damage amount to the former owner of the land because of the contract for deed. They gave me about 5 days notice. Other companies are paying annual rental in my area, and Amoco absolutely refused.

Wouldn't the oil companies and mineral owners be willing to share a small percentage of the profit to greatly improve the relations between the farmers and themselves... and wouldn't that be a better investment than giving it to the Federal Government? I strongly believe as much as anyone, in the free enterprise system, and making a profit, but I can't sit still while big oil plunders.

Can the oil companies, by virtue of a mineral lease, dictate how individual surface owners can use their land? The oil companies have constantly imposed their own settlements on surface owners, and it's time that we do something about it. They are so out of touch, and so isolated from the surface land, that they don't know the problems of the local people.

Who is better qualified to receive fair compensation: (1) the mineral owner who probably lives in Minneapolis or Seattle; (2) the oil company with its offices in Dallas or Denver; (3) the lease hound who lives in Billings; (4) or the farmer who lives on the land and has to try and reclaim it afterwards?

We would like to be friendly towards the oil companies, but we are constantly frustrated by the way that this bunch has been walking on us. It's incredible, in this day and age, that a surface owner has no rights.

Senate Bill 16 will not address all the issues ~~\_\_\_\_\_~~. It is, however, a step in the right direction, and I would urge this Committee to give Senate Bill 16 a "Do Pass" recommendation.

Mr. Chairman and Members of the Senate Natural Resources Committee

Thank you for the opportunity to speak on behalf of Senate Bill 16.

My name is James Deckert, I live near Richey in Dawson County and I address you on behalf of the Northern Plains Resource Council, the Dawson Resource Council, my neighbors and myself.

I wish to establish that our intention is not to stifle energy exploration or development. As farmers we are large volume energy consumers and we understand the importance of decreasing American dependence on foreign oil.

What we desire is a cooperative effort on the part of mineral development companies and surface owners. In eastern Montana sub-surface rights are held by private individuals, the State of Montana, the United States Government, and Burlington Northern Railroad. As a result, much of the development takes place on land with severed mineral rights and the surface owner has very little negotiating power. However, the surface owner must live with the activity, in some cases the inconvenience or risk, and in most cases a disruption of the normal life style which is part of the compensation of being an agricultural producer while receiving very little compensation. In addition to this, when I bought my farm I did not do so with the intention of breaking off little plots here and there. Each well requires roads, in some cases pipe lines, storage tanks, pits, treators, etc. Heavy concentrations of development get in the way of normal farming practices and decrease the over-all value of land.

I would like to see a stronger bill but this one is a step in the right direction. I believe Senate Bill 16 will help foster a climate of equality between the surface owner and the mineral developer and several years down the road the oil companies will find the improved relations will enhance their efforts to recover gas and oil. I urge you to give Senate Bill 16 a do pass recommendation in its present form.

JAMES DECKERT

In the fall of 1978 an oil company consultant came to me and said they had an oil well site staked in my pasture.

This site was 1 mile from any existing roads.

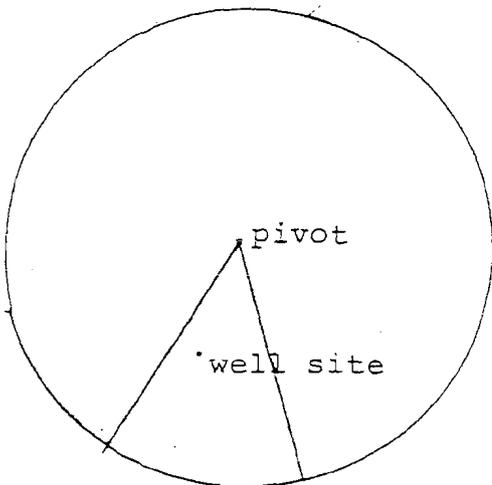
The consultant agreed to pay \$2500 for the well site and \$1000 for use of temporary road.

In the winter of 1978 they drilled an offset 600 feet from well #1. I got no damages for this site.

In the winter of 1978 Gulf drilled a well on adjacent property. They said that they wanted to use the temporary road but they should not have to pay damages since the lease company had farmed out part of the lease on my property to them and therefore, they had already shared in expense for the temporary road.

My property loss related to these two sites and road amounted to 18.15 acres and an additional 5.5 acres was damaged by the road. This would amount to a loss of about 2 grazing units to me so I asked for \$1000 a year since calves were bringing about \$500 a head at the time. They refused to pay this since they said that they have no bookkeeping system to handle annual payments.

I also recently installed a pivot irrigation system on adjacent property. If a well were drilled on this property it could involve a loss of about \$2000 per year to me.



80 bu.	(duram yield our area under irrig.
10 Ac.	Loss to site
<u>800 Bu</u>	loss
<u>\$5</u>	market price for duram
\$4000	gross loss per year
<u>2000</u>	expenses in production
\$2000	net loss per year
\$2000	yearly loss
<u>20</u>	year est. well life
\$40,000	loss over 20 years

/s/ Ronald Olsen  
Dagmar, Montana

January 28, 1981

Testimony before the Natural Resources Committee.

I'm Steve Christian, Shelby, Montana, Director of Northern Montana Land and Mineral Owners Association, Inc.

Mr. Chairman and Member Senators:

I support Senate Bill 16 because I feel it will aid in communication between oil operators and landowners, which at present, I feel is the major problem with their relationship. It asks nothing from either party that is not carried on at this time by conscientious operators and landowners. It will be a definite aid for better relations between inexperienced or inconsiderate people.

This type of legislation has been sorely needed for some time, and will be especially valuable in areas of new exploration.

Therefore, I feel it is timely when we are locally and nationally conscious of the need for energy supplies. I also feel it will promote smoother relations and in many cases expedite operations.

I encourage this committee to send this bill to the floor with a Do Pass recommendation.

Thank you.

/s/ Steve Christian

HEARING SB 16

SMITH

Notice of Intent & Damage Rental

I am Larry Tveit, Senator, District #27. I would like to remove myself from the committee for the purpose of testifying for the bill.

The bill, like Sen. Smith says, addresses two points of major concern with surface owners. The problems being encountered are:

1. Notice of intent to drill. Some oil companies or operators have shown that they have no consideration for the land or surface owner. They drive the stake, dirt moving equipment is standing by the field and the surface owner wonders what is going on. A surface owner should be notified in advance so he or she can evaluate the situation, so he can discuss with the operator in advance ways in which to enter the land not only to disturb the least amount of surface but also pointing out to developer ways to reach that stake (where the well is to be dug) for the operator's benefit.

2. The other part of the bill addresses the damages due to loss of production disturbance of land - land taken out of production and road right-of-ways. Several companies, not all companies, are not willing to negotiate fair compensation for these damages. They tell surface owners we have the right to "take it or leave it".

I'm not standing here in an attempt to harrass oil companies and operators. Over the past two years I've had a good relationship with four oil companies. The companies and myself have

discussed the problems at the beginning. We both understand the concerns.

I have annual rental agreements with the last two companies that I have dealt with so it is being done by some companies now. Both sides agreed that the annual compensation was fair and equitable. Everything is in writing.

I believe the oil companies, surface and mineral owners, must work together. They must be able to communicate with one another and I know of no better way than to start communication between two people is to begin the right way. The oil companies I've dealt with told me we want to be fair. This bill addresses those concerns and I urge the committee give a Do Pass on SB 16

Thank you.

## TESTIMONY

On April 18, 1978, we received a telephone call from an oil company stating they had staked a well site on our place. He said they were starting on the site the next day, which they did. During the conversation, we asked them to have a representative from the company to stop in and discuss the well and damages. He said someone would and not to worry, they would pay for damages. No one came and after repeated attempts to get someone, three months passed.

July 18, 1978, the well was called a dry hole and abandoned. July 19 we received a call from their claims man who said he would be there the next day. He came on the 20th and during the discussion of damages, I asked what they were paying. He said about "\$800.00 to \$900.00." I told him that it wasn't enough and I asked him if he had seen the site and he said he hadn't. I told him what I wanted and he said he would take it back to his company. They sent me a check for \$1125.00. We returned the check and told them it was insufficient and did not want payment until the site was leveled and completed to our satisfaction.

During the fall they hauled about 50% of the water out of the pit and it was left for the winter.

In the spring of 1979, run-off filled the pit and spread onto the site. I called the company and they hauled enough water to lower it about one foot. Nothing was done the rest of 1979, after repeated calls.

In the spring of 1980, they lucked out. There wasn't enough water to fill the pit and run over.

In July of 1980, they emptied the pit and levelled the site and finished the end of July.

As of this day I haven't heard from the company. We have turned this over to our attorney.

The site is in no condition to raise a crop in 1981 and will not be in full production for years to come.

The land owner should not have to subsidize the oil companies for their exploration.

DONALD SYME

When oil development started in the area, interest and curiosity led me to visit the operations. The main thing to my interest and concern in the two locations visited was the liners in the sump pits being torn and rendered useless. The same thing happened on the first location on my place. This allows the waste disposals to saturate the soil.

The first location on my land disrupted the irrigation system and they promised it would be put in order. Attempts were made to correct it and I was asked if it looked like it might work. My reply: "I don't know until I run water in it and no one will know until it is surveyed and put on grade." After two years of not being able to irrigate my field, it was surveyed and put in right. The company's representative told me they felt they had fulfilled their obligation and have refused to compensate for production which was lost those two years that the field couldn't be irrigated. This amounts to approximately 5 Ton an acre for 2 years on 12 acres.  $10 \times 12 = 120$  tons at \$100 a ton.  $120 \text{ tons} \times 100 = \$12000.00$ .

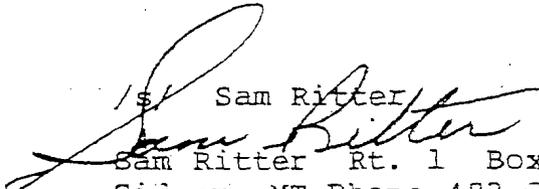
A second well was drilled on my place in a dryland area. It was non-productive and abandoned. The site wasn't cleaned up in two months after the rig had moved out and pits were full and ready to spill waste over the land and downstream into fish stocked water. I contacted the company and they said they would get it done right away. Nothing happened for another two weeks. I was informed that a Joe Simonson in Glendive, Montana was the man to police these matters. In a phone call he told me he would take care of the matter. In another two weeks I called him again and was informed that it was so far out they couldn't get trucks to haul the liquids from the sump pits but the pits could be trenched and it

would seep away. I said if this were an acceptable procedure, fine - get it done. It was done in this manner. The site is left with paper sacks, cans, bottles and other trash scattered all around.

When the third site was to be staked, I was notified at 9 A.M. that the survey crew would be there at 1 P.M. that same day. This was the day which I was to be a pallbearer for my neighbor's funeral. No consideration was given to try to make it possible for me to be included in the process.

It seems there is no action for me to take to have these problems corrected, therefore, I support SB 16.

/s/ Sam Ritter

  
Sam Ritter Rt. 1 Box 56  
Sidney, MT Phone 482-3119

1-28-81

Testimony of Richard Boese - Richey, Mt.  
pertaining to Senate Bill 16

During the first part of 1981 - early January - Amoco Oil Co. arrived at my home - without notice - and said we want to build a road through my property for access to a well site just 670 feet beyond the end of my land. The length of the road was one mile. They asked for a 60 ft. right away. Amoco's offer was \$8.00 a running rod which amounted to \$2560. The number of acres lost is 7.28 acres, which means I would receive \$351.65 per acre to retire this land. No damages would be paid for the winter-wheat torn out and the whole harmless clause was excluded - which means - I - the land-owner am liable for any accident or whatever that could happen on this road. Amoco - said - we need your O.K. today as the rig - crew - surveyors etc. are ready to come in tomorrow. I - then - asked for \$1 extra per rod - which would add \$320 and damages - to my winter-wheat of 35 bu. per acre times \$4.50 per bu. yield. Total amount for 2 acres - \$315.00. I was turned down - with the words - we will get in there some other way.

Two weeks later - Amoco - returns. They want to know if I'll re-consider. I said - Yes - but under different terms. I asked for \$5.00 a square rod the first year which equals \$799.20 per acre lost to production and retiring the land plus an annual rental of \$3.00 per acre which equals \$479.52 per acre and should the well be a dry one and they back out of there - our annual rental agreement is null and void. Now - remember I would still own the land - they would pay no taxes for its use - I would lose 7.28 acres of land - and production and this would not improve the land if it went up for sale. Amoco

walked out - saying we will not set a precedent and we will not improve on our first offer - which doesn't even cover what the land would sell for and be in production.

By the same token - the actual well site which is 500 feet square (it was 400 feet square until a recent settlement on 500 feet square held up in Court on the Erickson Well Site near Vida, Mt.) brought - \$2,000 for 5.74 acres - or \$348 per acre - well below the saleable price. They have set a precedent here - because Well site No. 3 received \$3900. This is to prove - that unless words are put on paper etc. - any verbal agreement is worthless. And yet - \$3900 equals an \$679.44 per acre. This all is a one shot deal - no annual lease of land etc. - or compensation for production loss or taxes, etc.

As you can see - we have no bargaining power at all. In my case - Amoco - is now driving 15 miles from Richey to reach this new well site - imagine the extreme extra cost as against compensating me fairly to have access of only 4 miles from Richey.

We - are not asking for the moon in this bill - we are asking for a chance to get a foot in the door - not for today alone - but that the younger generation in the future, - including my 12 year old twin boys, that they can say - at least our Fathers got their foot in the door - now let's work together and improve on the situation.

I ask this Committee to approve Senate Bill 16 unanimously for when an Oil Company wants your property they don't care whether you are Republican or Democrat.

From the Desk of . . .

W. M. VAUGHEY, JR.

P.O. BOX 46

(406) 265-5421

HAVRE, MT. 59501

M. VAUGHEY, JR.

P.O. BOX 46  
HAVRE, MONTANA 59501  
(406) 265-5421

January 27, 1981

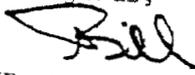
Senator Dover:

I am naturally tickled to death that you are back in Helena representing the Lewistown area. As you know, I have long felt it most important <sup>that</sup> more individuals who are in business, men and women, serve in our Legislative bodies.

Linda and I plan to be over towards the end of February and will be certain to call by the Senate to pay our respects.

Sincere good wishes for a productive session this time around.

Best regards,



business in North-landman representing ng in our state been images incurred both closely involved with compensation the result of drilling operations on their land and the production of oil and gas discovered as a result of that drilling.

While I salute the avowed end of proposed Senate Bill 16, that is, fair compensation to landowners for these type damages, I write to respectfully submit that in my opinion, the measure as drafted cannot be practically applied to achieve this end. I will comment on this bill as follows:

### Section 3. Notice of drilling operations

A cardinal sin in drilling operations is to move on the land of a lessor without giving him prior notice. No prudent operator fails to do so, and the telephone is normally the means by which this is done.

The matter of actual delivery of the notice outlined in this section raises questions in my mind. First the surface owner within the definition of the act is often, say in the case of the winter months, out of the state for extended periods of time. Some protection, therefore, in my opinion, should be given the lessee in that he should be required to only accomplish a specific act, like posting a registered letter to the surface owner, in order to satisfy this section. If this section is not correctly drawn, I can see a lot of resultant undue delays in drilling operations, which inures to the benefit of no one.

### Section 4. Surface damage and disruption payments

In both the unsuccessful exploratory test and the producing well situation in our area, damages are universally paid the surface owner, regardless of whether he is the mineral owner, on the basis of damages as damages occur. That is, after a dry hole has been plugged and abandoned and the site restored, payment is made to the surface owner on the basis of actual damage to the land. In the case of a producing well, damage to the land is reviewed on the ground by the surface owner and the well operator on an annual, bi-annual, or tri-annual basis, and damages are awarded the surface

W. M. VAUGHEY, JR.  
P. O. BOX 46  
HAVRE, MONTANA 59501  
(406) 265-5421

January 27, 1981

The Honorable Harold Dover, Chairman  
Senate Natural Resources Committee  
Montana State Senate  
Capital Station  
Helena, MT 59601

RE: Senate Bill 16

Dear Senator Dover:

As you know, I have been in the oil and gas exploration business in North-central Montana for 13 years. Because I came here as a landman representing a company which drilled many wells, I have since arriving in our state been closely involved with compensation to landowners for damages incurred both the result of drilling operations on their land the from production of oil and gas discovered as a result of that drilling.

While I salute the avowed end of proposed Senate Bill 16, that is, fair compensation to landowners for these type damages, I write to respectfully submit that in my opinion, the measure as drafted cannot be practically applied to achieve this end. I will comment on this bill as follows:

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State Senator Harold Dover  
January 27, 1981

owner on the basis of actual damages suffered. Since these vary greatly, mainly with conditions of wetness during equipment moves, this is the only way that fair compensation can be made. It would be impossible in our area to accurately forecast what dollar amount would properly get the job done.

Section 5. Damages for negligence and nuisance

This section, it would seem to me, opens a Pandora's Box welcome only to a damage suit lawyer or a landowner seeking unjust reward. Protections in any oil and gas lease suffice to make this section unneeded and I think it should be eliminated.

Section 6. Notification of injury

My feelings about this section are similar to those of Section 5, except stronger. This section should be eliminated.

Section 7. Agreement - offer of settlement.

I think this section would create a great deal of unnecessary paper work for both parties concerned. At worst, allowance for the parties to amicably agree without formal paper work should be incorporated into this section.

Section 8. Rejection - legal action - fees and costs

The converse of the last sentence of this section should certainly be allowed for, or an unfair advantage is given the surface owner as well as a great incentive to negotiate for compensation through the courts.

In closing, it certainly should be the sense of this act that its effect in no way will serve to discourage exploration for oil and gas in Montana. No "veto right" or "stalling power" should be awarded the surface owner, for to do so is not in the best interest of the people of our state.

Sincerely,



W. M. Vaughey, Jr.  
Independent Oil & Gas Producer

WMV:lls

cc: All members of the Senate Natural Resources Committee

MINUTES OF THE MEETING OF THE NATURAL RESOURCES COMMITTEE  
MARCH 4, 1981

The House Natural Resources Committee convened in Room 437 of the Capitol Building on Wednesday, March 4, 1981, at 12:45 p.m. with CHAIRMAN DENNIS IVERSON presiding and fourteen members present (REP. NEUMAN was excused and REPS. NORDTVEDT, QUILICI, and HUENNEKENS were absent).

CHAIRMAN IVERSON opened the hearing on SB 16.

SENATE BILL 16 SENATOR ED SMITH, sponsor, presented the bill which would require mineral developers to give written notice to surface owners of the intent to begin drilling operations, to require mineral developers to compensate surface owners for damages caused by drilling operations, and to allow such compensation to be made in annual installments. See Exhibit 1.

Speaking as a proponent was DON ALLEN, Montana Petroleum Association, who said his organization had worked with the sponsor to develop this bill and that it is a compromise. He supported the bill without amendment.

SENATOR LARRY TVEIT spoke in favor of the bill. See Exhibit 2.

JO BRUNNER, Women Involved in Farm Economics, spoke in favor. See Exhibit 3.

PAT UNDERWOOD of the Montana Farm Bureau testified in support of the bill. See Exhibit 4.

Also speaking in favor of the bill were CHRIS JOHNSON, Montana Farmers Union; REP. JOHN SHONTZ; PAT OSBORNE, Northern Plains Resource Council.

There were no OPPONENTS.

SENATOR SMITH closed on the bill.

During questions from the committee, REP. KEEDY questioned the method by which owners can reach an agreement with the company. He asked what does happen when the companies and the people cannot agree. SENATOR SMITH answered that the courts will solve that type of problem.

REP. ROTH asked how the law would be enforced. SENATOR SMITH again stated that the courts would handle it.

REP. KEEDY questioned the part of the bill which referred to the impacted land only being covered. There could be direct impact on only a small area and yet a large impact on the rest of the ranch. SENATOR SMITH said the landowner would be paid for the inconvenience and disruption.

Natural Resources  
March 4, 1981  
Page 2

REP. KEEDY asked about the effective date of June 1. SENATOR SMITH said that would give the companies time to get the word out.

REP. SHELDEN asked if the Senator felt the recourse of going to court will have to be used often. REP. SHONTZ answered that interest will be paid from the date of injury to the person or property which will help prevent long court cases.

The hearing closed on SB 16 and opened on SB 165.

SENATE BILL 165 SENATOR ED SMITH, sponsor, presented the bill which would provide for compensatory royalties in lieu of offset drilling on state oil and gas leases. The Legislative Finance Committee went over the income of the Department of State Lands and felt the department was not getting fair compensation for oil leases.

DAVID WOODGERD, Department of State Lands, spoke as a proponent of the bill. See Exhibit 5.

DON ALLEN, Montana Petroleum Association, supported the bill saying the state should have the options provided.

SENATOR LARRY TVEIT also spoke in favor.

There were no OPPONENTS.

SENATOR SMITH closed on the bill.

During questions from the committee, REP. KEEDY questioned the language referring to non-producing leases. REP. BROWN explained that non-producing means there is not a well actually producing gas or oil.

REP. SHELDEN asked if this problem arises with owners of private lands. MR. ALLEN replied that private owners can go to the gas and oil board to handle their problems.

The hearing closed on SB 165.

EXECUTIVE SESSION SENATE BILL 16 REP. MUELLER moved DO PASS on the bill.

REP. KEEDY stated that he felt people could do without the bill. If the parties cannot make agreement, they must go to court. He suggested adding a section that was previously stricken.

CHAIRMAN IVERSON said there are two different types of property rights at issue. It is impossible to say which is superior.

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Page 3

REP. ROTH mentioned that there is no enforcement clause.

DEBBIE SCHMIDT, staff researcher, said the court has the authority to award fees and costs now. The language could be added to the bill but it is already implied.

REP. SHELDEN said he felt the surface owner should have notice and that the bill does not address that.

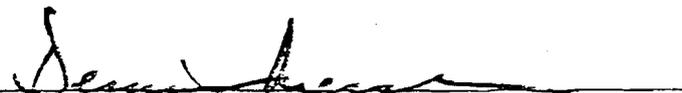
REP. HARP made a substitution motion of DO NOT PASS.

The committee decided to withdraw all previous motions and discuss the bill at a later date.

SENATE BILL 165 REP. MUELLER moved DO PASS on the bill. After some discussion on the definition of non-producing lease, the committee voted unanimously that the bill BE CONCURRED IN.

The meeting adjourned at 1:45 p.m.

Respectfully submitted,

  
DENNIS IVERSON, CHAIRMAN

Ellen Engstedt, Secretary

TESTIMONY

Mr. Chairman- Members of the Committee, I am Senator Ed Smith, District 1, sponsor of SB 16.

In no way is this proposed legislation being introduced to harass the oil industry or hinder oil and gas production.

We need them and we certainly need the product they produce. We also appreciate the tax monies that the oil industry contributes to run our school systems and to County, State and Federal Government.

However, I do feel there are some problems that need to be corrected so a better spirit of cooperation can be created between the oil industry and land owner.

I would be remiss if I didn't add that many oil companies are already doing what we are attempting to do with this legislation, and I congratulate them for it.

Oil production and agriculture production can be compatible and many problems can be eliminated if better communication is brought about.

I come from an area where there has and is a considerable amount of oil production and exploration.

There are a lot of problems and these same problems can develop in most areas of the state as increased oil and gas exploration continues.

I feel the surface owner should have rights and expect reasonable consideration when oil and gas development is experienced on their property, and more so when minerals are severed from the surface.

Some oil companies do comply with what is recommended in this proposed legislation.

Others have a complete disregard for the surface owners rights.  
This is what we hope to change by this legislation.

(read) *pass out letter*

This type of legislation was introduced in the 1979 session of  
North Dakota legislature. It was passed, taken to court and upheld.

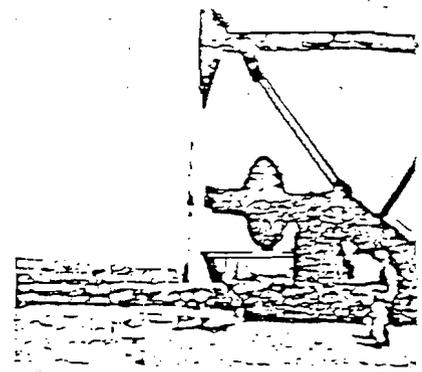
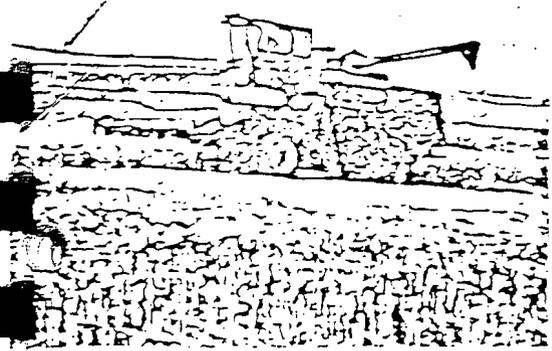
Their law is much more stringent then what we are proposing.

You will notice as I go through the bill that we have made  
several concessions to the oil industry.

Northeast

Montana Land And Mineral  
Owners Association, Inc.

Westby, Montana 59275



I am Norman A. Nelson, a farmer in Northeast Montana. I'm in favor of Senate Bill #16. I am chairman of the Northeast Montana Land and Mineral Owners Association, Inc. The association represents about 3 million acres in Northeast Montana. The association was organized in 1975 because of the interest in the problems farmers and ranchers were having with oil activity.

Some of the members have tried to obtain an annual rental payment from several oil companies due to land taken out of production. But, they have been flatly refused time and time again. Few oil companies are already making these annual payments.

When an oil company can come and take up to 15 acres of your land out of production, and use it like Sun Oil Company has on our land, and use it for a period up to 35 years for an offer payment of \$1450.00, and call that an honest and fair payment, something is wrong. We did receive a payment from Sun Oil in 1965, which we thought was for the location or drill site only. Then we discovered it was for all damages done on the first location.

That location consisted of about 5 acres. Since that time they have built 2 more locations—one was dry and the other is in production. So a total of about 18 acres has been involved.

Sun Oil then offered us a payment, a one-time payment, of \$1450.00. We still pay taxes on the 640 acres of prime farm land. I might add all we have ever asked for was an annual payment based on loss of production.

Mr. Chairman, I have presented you with a copy of that check from Sun Oil which involves that \$500.00 payment. Also, you have a letter from Centura Oil Company dated May 14, 1979. The letter states on line three they would pay a one-time rental fee for a surface easement. I might add that we have never signed any kind of easement. After all, we do own the land.

On page two of the same letter you will also note they did offer us \$200.00 on this site after tearing up that amount of land. As I see it, an offer of \$200.00 is ridiculous. Through the efforts of the landowner's association, we did finally receive a \$2,500.00 payment after negotiations.

In another related matter, again pertaining to SunOil Company, in a letter dated December 12, 1980, you will note a settlement of damages. It states, if we accept, full settlement and compensation for all damages of every kind caused by incident to, or that which may result from the activities set forth below on the land described below, and do hereby fully release Sun Oil Company (Deleware) its joint operators, associates, agents, employees, successors, and assigns, from all claims therefore, which, I might add, is forever!

Again we tried to obtain an annual rental but Sun Oil refused.

I also would like to add we do not want to sell this land to anyone, at any price, but to farm the land in the best possible manner.

The Northeast Montana Land and Mineral Owner's Association has tried to persuade the oil companies to give the land owner an annual rental fee. Still, some of the companies have flatly refused. So we ask this committee to vote in favor of this Senate Bill #16.

In summing this up, 2 years ago the oil companies argued that they could not give the surface owner a  $2\frac{1}{2}$  percent overriding royalty. They argued, and maybe rightly so, that you cannot take property from someone and give it to someone else. Is that not what they are doing? Taking our land using it themselves—for nothing???

Thank you.

*Norman A. Nelson*

HEARING ON SB 16

(SMITH)

Notice of Intent & Damage Rental

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

I am Larry Tveit, Senator, District #27. This bill, like Senator Smith says, addresses two points of major concern with surface owners. The problems being encountered are:

1. Notice of intent to drill. Some oil companies or operators have shown that they have no consideration for the land or surface owner. They drive the stake, dirt moving equipment is standing by the field, and the surface owner wonders what is going on. A surface owner should be notified in advance so he or she can evaluate the situation, so he can discuss with the operator in advance, ways in which to enter the land, not only to disturb the least amount of surface but, also, pointing out to the developer ways to reach that stake (where the well is to be dug) for the operator's benefit.

2. The other part of the bill addresses the damages due to loss of production disturbance of land -- land taken out of production and road right-of-ways. Several companies, not all companies, are not willing to negotiate fair compensation for these damages. They tell surface owners we have the right to come on your land and, if we feel like it, we'll pay you something.

I'm not standing here in an attempt to harrass oil companies and operators. Over the past two years, I've had a good relationship with four oil companies. The companies and myself have discussed the problems at the beginning. We both understand the concerns.

I have annual rental agreements with the last two companies that I have dealt with, so it is being done by some companies now. Both sides agreed that the annual compensation was fair and equitable. Everything is in writing.

I believe the oil companies, surface and mineral owners, must work together. They must be able to communicate with one another, and I know of no better way than to start communication between two people is to begin the right way. The oil companies I've dealt with told me, we want to be fair. This bill addresses those concerns, and I urge the committee to give a DO PASS on SB 16.

Thank you.

NAME Jo Brunner BILL No. ~~XXX~~ SB 16  
 ADDRESS 531 South Oakes- Helena DATE 3/4  
 WHOM DO YOU REPRESENT Women Involved in Farm Economics  
 SUPPORT  X OPPOSE                      AMEND                     

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Mr. Chairman, members of the committee, my name is Jo Brunner and I represent Women Involved in Farm Economics. We wish to go on record today as being in support of SB 16. We feel that not only agriculture but the mineral developers will benefit from this bill. Many times, we will be able to move our livestock out of a field, to turn off our sprinklers or water, perhaps to ask the developers to wait a few days until the fields dry before moving in with their heavy machinery, ~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~ and thus eliminate a tremendous amount of damage to our lands, much of it irreparable.

If such cooperation is not possible, or is not participated in by the developers, we feel <sup>we</sup> the need ~~for~~ protection for our crops and our lands.

Certainly, it would be better for all if such legislation were not necessary, human nature being what it is and business being what it is though, we ask that you pass SB 16.

Thank you.

WITNESS STATEMENT

NAME Pat Underwood BILL No. SB16  
 ADDRESS Box 1207 Bote Mountain, MT. DATE MAR 4, 81  
 WHOM DO YOU REPRESENT Montana Farm Bureau  
 SUPPORT  OPPOSE  AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Montana Farm Bureau supports  
 SB16 and recommends a "no pass"

TESTIMONY

SB 165

Pursuant to Section 77-3-427 MCA as it currently exists, the state provides in all oil and gas leases that the lessee is required to drill an offset well to prevent damage to state property. Therefore, when an oil or gas well is drilled adjacent to a state tract the state can require its lessee to drill a well to produce the mineral and prevent it from being drained away by the adjacent well.

In some instances the drilling of a well may not be economical or may be very risky considering the expense involved. However, in order to prevent the loss of its minerals the state can require the drilling of a well or cancellation of the lease. In some instances, especially when the owner of the adjacent well is also the lessee of the state land, a much simpler solution is to allow the lessee the option of paying compensatory royalties instead of drilling an offset well. The royalty payment will compensate the state for the minerals that are being drained away and the lessee is not required to drill a well which may not pay off.

The bill would give the Board of Land Commissioners authority to accept compensatory royalties in lieu of a drilling requirement if the lessee chose this option. The amount of compensatory royalties would be determined by the board based upon the amount of drainage which was occurring.