

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Carolyn McGinn at 8:30 a.m. on March 19, 2009, in Room 446-N of the Capitol.

All members were present.

Committee staff present:

Kristen Kellems, Revisor of Statutes Office
Jason Thompson, Revisor of Statutes Office
Corey Carnahan, Kansas Legislative Research Department
Alissa Vogel, Committee Assistant

Others attending:

See attached list.

The meeting began with the approval of minutes. Senator Francisco moved to approve the minutes from February 13, February 26, March 5, and March 12, 2009. Senator Lee seconded the motion, and the motion carried.

Senator McGinn requested that **SB 2050 – Adjusting fees for water rights, applications for term permits for appropriating water** be passed out of Committee. Senator Francisco moved to pass SB 2050 favorably out of Committee. Senator Teichman seconded the motion. After discussion, the motion carried.

Senator McGinn asked the Committee if they had any interest in working **SB 184 – Surface owner notice act**. The Committee members responded that there was an interest, and discussion ensued. Senator Bruce stated that **SB 184**, in its current form, would rewrite many private leases and agreements and change provisions of numerous titles already filed with registers of deeds. This raises concerns regarding the constitutionality of **SB 184** in that the legislation impairs contractual agreements made between two parties and impairs an individual's property interest. He stated that the current legislation would have to be made prospectively, rather than retrospectively, leaving the issue unresolved.

Senator Bruce presented a substitute for **SB 184**. (Attachment 1) The proposed substitute places the burden on the mineral owner to include on the application of intent to drill, filed with the Kansas Corporation Commission (KCC), the name and address of the surface owner. The KCC would then send a letter of notification to the surface owner.

Senator Bruce answered questions from Committee members regarding **SB 184**. Bob Krehbiel stood before the Committee to assist in answering the questions.

Discussion was held on the impact **SB 184** would have on the right to access the land agreed upon in a lease. Senator Francisco stated that the language contained in **SB 184** does not prevent access to the property, and an agreement may be made in the lease that waives the right to notification. Senator Taddiken stated that it does change the conditions on which the oil and gas operator has the right to ingress.

Senator Taddiken moved to amend SB 184 by adding the language "July 1, 2010" on page 4, paragraph b, section 6. He deferred to the staff from the Revisor of Statutes Office for the proper placement of the date into the language. Senator Francisco seconded the motion. Discussion ensued.

Senator Bruce moved to make a substitute motion for the amendment, in which section 6 would be removed. Senator Teichman seconded the motion. By a hand vote, the motion carried.

Senator Taddiken moved to replace the language "48 hours" located on page 4, section 5, line 14, with "two business days." Senator Lee seconded the motion, and the motion carried.

Senator Taddiken asked for discussion to be held on language located on page 4, starting on line 7, stating that "Such agreement shall only be enforceable for one year and must be renegotiated annually." Discussion ensued.

CONTINUATION SHEET

Minutes of the Senate Natural Resources Committee at 8:30 a.m. on March 20, 2009, in Room 446-N of the Capitol.

Senator Francisco moved to amend the time requirements for notification, located on page 2, section 3, lines 10 and 38, increasing the required amount of time prior to notification to "15 business days." The motion was seconded by Senator Lee. After discussion, the motion failed.

Senator Francisco move to amend the language on page 3, line 26, from "ten days" to "five days." Senator Bruce seconded the motion, and the motion carried.

Senator Francisco informed the Committee that a surface owner's contact information can be obtained online. She also informed the Committee that there is an electronic way for oil and gas operators to receive a 20-digit number, through delivery confirmation, in which the post office can confirm that the letter of notification was sent and received.

Senator Francisco moved to amend **SB 184** by adding the language "delivery confirmation" to the list of acceptable types of mail located on page 3, line 18. Senator Bruce seconded the motion, and the motion carried.

Senator Bruce moved to remove the language "Such agreement shall only be enforceable for one year and must be renegotiated annually" located on page 4, section 4, lines 7 and 8. Senator Morris seconded the motion, and the motion carried.

Senator Bruce moved to remove the language "separate and apart from an oil and gas lease" located on page 4, section 4, line 3. Senator Teichman seconded the motion. After discussion, the motion carried.

Senator Bruce asked for clarification on what is meant by well-site preparation. Senator Lee asked for more information on what is involved in geophysical operations to determine the potential for oil and gas operations. Bob Krehbiel and Terry Holdren stood before the Committee and answered questions regarding the oil and gas operations.

Senator Lee moved to remove the language contained in lines 21 through 22 located on page 2, section 3. Senator Teichman seconded the motion. After discussion, the motion carried.

Senator Abrams asked whether maintenance was implied in lines 23 through 26 located on page 2, section 3. Terry Holdren responded that maintenance was not implied, but rather the language refers to the reworking of any facility, structure or operation which substantially disturbs the surface or substantially expands the use of the surface from conditions existing prior to such operation. Senator Abrams requested new language that would clarify lines 23 through 26, so that when oil and gas operators stay on existing roads and sites, then notification to the surface owner would not be necessary.

Senator Bruce brought to the attention of the Committee an issue of whether surface owners should be required to give notification to the mineral rights owner prior to an activity that is disruptive to the mineral owner's estate.

Discussion on **SB 184** will continue at the next meeting.

The next meeting is scheduled for March 20, 2009.

The meeting was adjourned at 9:30 a.m.

2009

Proposed

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Substitute for SENATE BILL NO. 184

By Committee on Natural Resources

AN ACT enacting the Kansas surface owner notice act; relating to oil and gas operations; state corporation commission; amending K.S.A. 2008 Supp. 55-151 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. The state corporation commission shall require an oil and gas operator to file an application for a notice of transfer of operator or a notice of intention to plug and abandon a well. Such application shall include the name and address of the taxpayer of record of the surface estate as determined by the county treasurer at the time of filing. The commission shall, upon receipt of such application, send a copy of such notice to the named taxpayer. The commission need not send a copy of such notice if the oil and gas operator verifies that the application filed with the commission has been delivered to the taxpayer of record.

New Sec. 2. The state corporation commission, with input from the advisory committee on the regulation of oil and gas activities authorized under K.S.A. 55-153, and amendments thereto, shall adopt or amend such forms and rules and regulations deemed necessary to carry out the provisions of this act.

Sec. 3. K.S.A. 2008 Supp. 55-151 is hereby amended to read as follows: 55-151. (a) Prior to the drilling of any well, every operator shall file an application of intent to drill with the commission. Such application shall include such information as required by the commission ~~and~~, including the name and address of the taxpayer of record of the surface estate as determined by records of the county treasurer at the time of filing. Such application shall be on a form prescribed

Senator Bruce
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by the commission. No change in the use of a well shall be made without express approval of the commission. The state corporation commission shall have the authority to adopt rules and regulations to fix, charge and collect a fee for an application of intent to drill a well, except that such fee for an application of intent to drill a well shall not exceed \$300. No drilling shall be commenced until the authorized agents of the commission have approved the application. The agent, in giving approval, shall determine that the proposed construction of the well will protect all usable waters. Such approval shall include the amount of pipe necessary to protect all usable water, plugging requirements upon abandonment and such other requirements deemed appropriate by the commission. The commission may refuse to process any application submitted pursuant to this section unless the applicant has been in compliance with all rules and regulations adopted pursuant to this act.

(b) The commission shall make available to the secretary of the department of health and environment information related to all notifications of intents to drill. The commission shall make available to the clerk of any county in which a well will be drilled information related to the intent to drill for such well.

Sec. 4. K.S.A. 2008 Supp. 55-151 is hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

2008 SUPP. 55-151
REPEALED
K.S.A. 2008 SUPP. 55-151
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