

2009 HOUSE NATURAL RESOURCES

HCR 3045

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 3045

House Natural Resources Committee

Check here for Conference Committee

Hearing Date: 2-26-09

Recorder Job Number: 9777

Committee Clerk Signature

*Nancy L. Gerhardt*

Minutes:

Chairman Porter –Open the hearing on HCR 3045.

Rep. Drovdal – Severed & abandoned minerals and how to locate all the owners and whether these are to be taxed. Every time the discussion comes up I look into the face of my fellow legislatures and I get a blank look. It's very complicated and there are a number of sections of the law that deal with the severed and abandoned minerals. Therefore I introduced the study resolution so we can look at what we have and find out if there's a better way to locate the owners. We want to get the minerals back to the proper owners if possible, if not is our process allowing our surface owner to claim the abandoned minerals. Is it fluent, is it easy to follow, and does it do justice to those people they can't find? In severed minerals, the debate was on the floor about severed minerals tax, are they paying their fair share? I don't know if we need to go into that debate, basically the law was unconstitutional if we were to pass it. It's something I thought the legislatures, for their own knowledge, would be worthwhile looking into. One thing we moved the trust from the oil companies into the treasurer's office. I don't think they had a lot of input in it. Was that the right thing to do? Was it working smoothly? There are a lot of areas we could look at here. My hope was that maybe if the study does go out maybe the committee it is assigned to could possibly go out into the rural areas, talk to

some of the mineral owners, and talk to some of the land owners instead of just the lobbyists. We are good people and we rely on a lot, but sometimes we take their word a little more than we should. We don't take the word of our constituents as much as we should. I would hope this study would be done in the rural areas where we could actually find out what the people really feel about this problem. I ask a Do Pass on this resolution. Questions?

Chairman Porter - The study is focusing on severed and abandoned mineral rights, but your conversation is way more expounded more on minerals as a whole. Do you want time to put some amendments on this so it covers all mineral rights? The other question in conjunction to that is the chapters of the century code that are affected are in more than just in 38-18, do we want to look at doing at, like what we did with energy, and move everything to do with minerals into chapters so they are all together and do you want that to be looked at by this study also?

Rep. Drovdal – My goal, when I talked to Legislative Council, was it would be all inclusive. We would touch on all this. Should they all be in the same chapter that is something the study should determine? I would hope it would be inclusive of all areas of the severed and abandoned minerals. Whether we need other language, I thought mineral rights would include a broad enough definition that would include all those other areas.

Chairman Porter – On line 16 the meat of the study is that we study severed and abandoned mineral rights, it doesn't say we study all mineral rights. It doesn't go into those other areas.

Rep. Drovdal – I thought it did, but if my definition is inconsistent, then yes I would like to see it include all areas of the severed and abandoned mineral portfolio.

Bill Ongstad – A farmer from Harvey – I came today to ask you to support this bill. The people who have severed mineral rights, it's like holding a lottery ticket – virtually forever with no cost.

Maybe they had some cost in the beginning, maybe if they bought them now they have costs. The fact is many mineral rights are severed and they are held at no cost for years and years.

The cost is born by the surface owner, and all the tax payers in the in the area of the oil development is. I would like to see them taxed. We definitely need to study these issues, so I urge you to support this study resolution.

Ron Ness – ND Petroleum Council – We stand in support of this study. We want to make a few comments about what we think about this study. We have continued to see an on slot of bills relating to minerals and severed minerals. An erosion of the rights of those who own those severed minerals, in preference to those who own the property. In our industry it would be better if the surface owner owns the mineral rights. The reality is those rights have been severed over time for various purposes. People have purchased that land, either at discounted prices, or were able to purchase that land because the minerals were severed. I would contend today it would be pretty hard to buy a piece of property today if you wanted to buy the mineral rights with it. There may not be a lot of sales anywhere across an area that include mineral rights for a while, because of the cost and value of those minerals is much greater and dominant to that surface estate. I hope this study isn't only looking at what we are going to continue to do to try and move the pendulum more over to reclaiming those rights. What is the issue and when are the rights that belong to those severed mineral owners. The dormant minerals act has problems. I don't believe the actions we have taken in recent legislative sessions have made it any better. We think it's flawed badly on both sides. When you find minerals that have been dormant often notify the surface owner that they can go through that process, but the process isn't clear. You can talk to the governor's legal council and the judge basically said "You may own these and you may not own these." You have people claiming minerals without doing diligent searches for minerals. There's a lot more to this issue other than what we see in bills coming before you. People have passed these rights on to their heirs, who have passed away without properly doing probate. You saw the title

opinions we brought in this year on some previous bills. It is a complicated issue. We are seeing a lot of legislation gets passed through the body that isn't necessarily improving the situation for the surface owner and the mineral owner. Questions

Rep. Pinkerton – It would seem the business section portion of oil production, actually getting it out of the ground and getting it sold, the cleaner we can make these acts the easier it would be for the producer. I would like some real solid regulations to be able to move this on through and not have 15 owners for every parcel of land out there. Is there a way we can do that?

Mr. Ness – That's what we are suggesting. We really need to look at this. As an operator you're better off if the surface owner owns those minerals it's easier, cleaner. The reality is, you have to make completely sure of who you are paying that royalty to and who are leasing.

You have to have all possible owners leased. If we create a situation where the surface owner has claimed ownership of those minerals under the dormant minerals act, but it is unclear if it was done properly, or if it is unclear whether there's heirs out there that do exist, you start paying royalties over here to this party and if another party comes along later and shows you have paid those royalties in error, good luck getting it back. Companies issue protectively since it is a very complicated lengthy process, but we agree with what you are saying. Having laws in place that that don't really address and clarify the situation, we're piecing meeling it together. You know what you've seen come through here in the last 3 or 4 sessions. We are taking bits and pieces and start laying these things out. You are changing the landscape out there. It's fine as long as you clarify who is the owner.

Chairman Porter – My question still is – is this language enough for a study that will look at what needs to be looked at, or do we need to expand this language so that all aspects get

looked at?

Mr. Ness – I sat down yesterday with a pen and looked at this with the intent of trying to add some language to it, and I ultimately decided a study is a study. We have had bills to tax minerals, ND supreme court has overruled that twice. There have been seven attempts over the last 101 years to try to tax severed minerals. We had a bill in this session to try to set property taxes to severed minerals. The bill would have required a severed mineral owner who receives royalties to pay 50% of the property tax. We are getting more of these every session. I don't know if it is worth our time and effort to try to address this in the bill. Let's us just study it.

Chairman Porter – Further testimony in support of HCR 3045? Opposition? We will close the hearing on HCR 3045.

Rep. DeKrey – Move to calendar.

Chairman Porter – I have a motion for a Do Pass and to be placed on the consent calendar.

Rep. Pinkerton – 2<sup>nd</sup>.

Chairman Porter – 2<sup>nd</sup> from Rep. Pinkerton. Discussion All those in favor Yea – Unanimous voice vote – opposed – none. Motion carries. Carrier Rep. DeKrey.

Date: 2-26-09  
Roll Call Vote #: \_\_\_\_\_

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HCR 3045

House Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken  Do Pass  Do Not Pass  As Amended

Motion Made By DeKrey Seconded By Pinkerton

| Representatives        | Yes | No | Representatives | Yes | No |
|------------------------|-----|----|-----------------|-----|----|
| Chairman Porter        |     |    | Rep Hanson      |     |    |
| Vice Chairman Damschen |     |    | Rep Hunskor     |     |    |
| Rep Clark              |     |    | Rep Kelsh       |     |    |
| Rep DeKrey             |     |    | Rep Myxter      |     |    |
| Rep Drovdal            |     |    | Rep Pinkerton   |     |    |
| Rep Hofstad            |     |    |                 |     |    |
| Rep Keiser             |     |    |                 |     |    |
| Rep Nottestad          |     |    |                 |     |    |
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Total (Yes) 13 No —

Absent —

Floor Assignment DeKrey

If the vote is on an amendment, briefly indicate intent:

*Consent Calendar*

**REPORT OF STANDING COMMITTEE**

**HCR 3045: Natural Resources Committee (Rep. Porter, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3045 was placed on the Tenth order on the calendar.**

2009 SENATE NATURAL RESOURCES

HCR 3045

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 3045

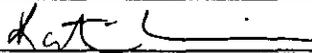
Senate Natural Resources Committee

Check here for Conference Committee

Hearing Date: March 20, 2009

Recorder Job Number: 11325

Committee Clerk Signature



Minutes:

**Senator Lyson** opens the hearing on 3045, directing the Legislative Council to study severed and abandoned mineral rights.

**Representative Drovdal** introduces the resolution. This will allow the Legislative Council to study all the aspects of abandoned and severed minerals to see how we can help all the parties. Hopefully they will go out to the rural areas where the problems are actually at and studied it in some detail to find a solution. I put this resolution in to help fellow legislators get a better handle on the issues and topic. I have heard a lot of complaints of the difference in the West Texas crude oil prices and the prices North Dakota gets for their product. There are a number of reasons but we still can't quite put our finger on it. I have prepared an amendment to the resolution to allow the Legislative Council to study this issue also.

**Senator Triplett** Do you have any suspicion that there is anything to the discount other than the issue of difficulty in transporting?

**Representative Drovdal** replies that is why we need the study. There may be other legitimate reasons, but I think we should know that because it is affecting our state and our citizens considerably.

**Senator Lyson** closed the hearing on HCR 3045.

# 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR3045

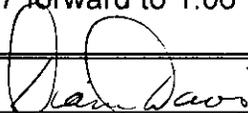
Senate Natural Resources Committee

Check here for Conference Committee

Hearing Date: 3/20/09

Recorder Job Number: 11327 forward to 1:06

Committee Clerk Signature



Minutes: **Senator Lyson, Chairman**

Committee Work

Senator Schneider – Comments that it seems like two studies but both are beneficial.

Senator Triplett – She is sure this study will show that it is difficult getting oil out in an efficient manner that is the cause of this.

Senator Triplett motions to accept the amendment .0101

Senator Freborg seconds

Verbal vote – yes passes

Senator Freborg – motions do pass as amended

Senator Schneider seconds

Vote – 7 - 0

PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3045

Page 1, line 2, after "rights" insert "and methods to reduce the discount for oil produced in North Dakota"

Page 1, line 13, after the semicolon insert "and"

Page 1, after line 13, insert:

**"WHEREAS, North Dakota produces a very high grade of crude oil but the sales price of that oil is substantially discounted for several reasons, including the cost of transporting the oil to the point of sale, and an examination of the feasibility and desirability of state assistance or incentives to reduce the discount should be undertaken;"**

Page 1, line 16, after "rights" insert "and methods to reduce the discount for oil produced in North Dakota"

Renumber accordingly

Date: 3/20/2009

Roll Call Vote #: 111 Amendment .0101

# 2009 SENATE STANDING COMMITTEE ROLL CALL VOTES

Senate \_\_\_\_\_ Natural Resources \_\_\_\_\_ Committee HCR 3015

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken  Do Pass  Do Not Pass  Amended  Amendment

Motion Made By Sen. Triplett Seconded By Sen. Freborg

| Senators                              | Yes | No | Senators                   | Yes | No |
|---------------------------------------|-----|----|----------------------------|-----|----|
| Senator Stanley W. Lyson,<br>Chairman |     |    | Senator Jim Pomeroy        |     |    |
| Senator David Hogue,<br>Vice Chairman |     |    | Senator Mac Schneider      |     |    |
| Senator Robert S. Erbele              |     |    | Senator Constance Triplett |     |    |
| Senator Layton W. Freborg             |     |    |                            |     |    |
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Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

*Voice vote - all yes*

Date: 3/20/2009

Roll Call Vote #: #2 3045

## 2009 SENATE STANDING COMMITTEE ROLL CALL VOTES

Senate Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken  Do Pass  Do Not Pass  Amended  Amendment

Motion Made By SF Seconded By SS

| Senators                              | Yes | No | Senators                   | Yes | No |
|---------------------------------------|-----|----|----------------------------|-----|----|
| Senator Stanley W. Lyson,<br>Chairman | /   |    | Senator Jim Pomeroy        | /   |    |
| Senator David Hogue,<br>Vice Chairman | /   |    | Senator Mac Schneider      | /   |    |
| Senator Robert S. Erbele              | /   |    | Senator Constance Triplett | /   |    |
| Senator Layton W. Freborg             | /   |    |                            |     |    |
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Total (Yes) 7 No 0

Absent \_\_\_\_\_

Floor Assignment SP

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HCR 3045: Natural Resources Committee (Sen. Lyson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3045 was placed on the Sixth order on the calendar.

Page 1, line 2, after "rights" insert "and methods to reduce the discount for oil produced in North Dakota"

Page 1, line 13, after the semicolon insert "and

**WHEREAS**, North Dakota produces a very high grade of crude oil but the sales price of that oil is substantially discounted for several reasons, including the cost of transporting the oil to the point of sale, and an examination of the feasibility and desirability of state assistance or incentives to reduce the discount should be undertaken;"

Page 1, line 16, after "rights" insert "and methods to reduce the discount for oil produced in North Dakota"

Renumber accordingly