

February 8, 1977

The Natural Resources Committee convened on February 8, 1977, at 10 a.m., in room 437, with Chairman Sheldon presiding and all members present except Rep. Burnett who was excused for a hearing on the following bills:

HB 561 REP. JERRY METCALF, District 31, the chief sponsor of this bill, said this is the simplest bill that the committee will hear--only one word is changed in the Coal Conservation Act. The word change is to change economically feasible to technically feasible. He said Colstrip has two seams of coal (McKay and 15 feet below the Rosebud) and Peabody is mining both but Western Energy is taking only the top seam. He said sulfur content varies from .3%, which is compliance coal, to 1.1%, which is not. He said Mr. Plunkett has said scrubbers are available that can make this last compliance coal. He said this bill would prevent a waste of our coal resources and eliminate the possibility the land would be disturbed again to get the seams that were left. He said the bill is not out to break any coal company or cause them undue hardship but just to be sure that the coal that is available is mined.

SARAH IGNATIUS, Northern Plains Resource Council, spoke in support. She said this bill would help State Lands in working out this problem as it would clarify and make more specific the coal expected to be taken. The intent is not to force the company to mine at a loss--the phrase "fit for sale" she felt would take care of that. The intent, she felt, is to get seams directly under the seams being mined. She mentioned Decker West which is mining the first two of three seams and proposing to take the third. She hoped the committee would give the bill a do pass.

ALAN JOSCELYN, Dept. of State Lands, spoke as an amender. He said he was there to answer questions. He felt the proposed wording will give the department the same problems as existing language, i.e., administratively impossible to make the required determination. He said either proposed or existing language could perhaps be further clarified to make it possible for the agency to make the required determination.

ARTHUR K. NEILL, Western Energy Co., spoke as an opponent. He said the word change from economically feasible, meaning within the financial capability of the company, to technically feasible, capable of being done, could have far reaching results. Technically feasible--it is within the operator's ability to mine a 2 to 3" seam hundreds or thousands of feet beneath the surface--but a company can't afford to do this. He said this unfortunate change of wording could render entire areas unsuitable for mining for if there is a thin seam under the economically feasible ones it could make the whole operation uneconomical. He mentioned the lower seam which his company isn't mining because they can't sell it--he said the other company had sold the coal before the air standards were put into effect.

JIM MOCKLER, Montana Coal Council, spoke as an opponent. He said the chemical content of the seams vary a great deal. He said the lower seam at Colstrip can vary from .3 to 5% in sulfur content. He said

present law doesn't require mining this but the technology to do it is there. He felt no one should be required to do something that is not economical. He felt if they had to mine it pollution standards should be lowered so they could use it in their own power plants.

GENE PHILLIPS, Pacific Power and Light and Decker Coal, said where it is economically feasible to take all seams companies will do so. He felt the present wording is sufficient.

GORDON MCGOWAN, Montana Railroad Assn., spoke as an opponent. He said the bill could have some far reaching effects. He found the phrase "feasible to mine and fit to use" difficult to pin down--how do you determine this. He said the cost has to be considered as you can't sell coal if it costs too much to mine.

In closing Rep. Metcalf said the bill is not forcing any company to do anything that is not economical; not forcing them to go deep down into the ground. He said present day technology like wet scrubbers make this second seam at Colstrip usable and salable.

During questions C. C. McCall, State Lands, said there is no law on the books that says land cannot be mined again at a later date. Mr. Mockler said the only compliance coal being mined is at Decker, the other all requires wet scrubbers.

HB 577 REP. TOM CONROY, District 58, said this bill is to allow the landowner who will eventually be the operator to have some input as to how the land will be reclaimed after mining. He said this concept was endorsed in a resolution by the Montana Stockgrowers' Assoc.

MARK NANCE, rancher from the Tongue River, Birney, MT, said the nature of the land changes after mining--may become good for irrigated land--but under the present law it would have to be planted to native species. He said the object of the reclamation law should be to put it back in the most reproductive manner possible. He said the reclamation plan should start with the engineering plan so it is important to consider this now as there are several proposed mines in his area.

JACK LESTER, Lodge Grass, Dist. Supervisor of Conservation Districts, spoke in support of the bill.

MONS TEIGEN, Montana Stockgrowers, said this particular bill doesn't completely enter into the thrust of their resolution. He said they would like to see it amended so the owner will be the operator of the land. He said they don't want it to be a cop-out by the companies so they can sprinkle a few barley seeds and feel their reclamation is done.

JIM MOCKLER, Coal Council, said they wished to go on record as supporting the bill. He said their reclamation process will be improved with this concept.

C. C. McCALL, State Lands, said he was speaking for Mr. Berry. He said they weren't proponents or opponents but would like to see the bill amended. Their suggested amendments are exhibit 1 and a copy of his testimony is exhibit 2.

TOM ADSIT, Decker, representing self, said he had reclaimed over 2000 acres of land to 10 times better than the original. He said what we need on this problem is common sense and so to reclaim the land as profitably as possible. He said it was cheaper for the coal companies to leave the land level as it is hard to control erosion on 20% slopes. He mentioned that some wild species of grass takes six to seven years to sprout and the cost of these native species seed is high.

PETER JACKSON, Harrison, representing self, said he was happy to see people finally beginning to look at profit in reclamation and to think of diverse cover. He endorsed the stockgrowers' amendment and felt the State Lands would be very capable of handling reclamation under this law.

GENE PHILLIPS, Pacific Power and Light and Decker Coal, said they support this bill as it gives them some flexibility. He said at their Dave Johnson mine in Wyoming they have had reclamation plots since 1965 and last year the production rates on some of these were higher than on the adjacent areas. He said they use both native and introduced species. He said the reclamation plan came first and the mining plan was tailored to the reclamation plan. He felt it would be beneficial to the state of Montana to have the reclamation meet the needs of the particular sites.

GORDON MCGOWAN, Montana Railroad Assn., spoke in support. Copies of a proposed amendment were passed to the committee (exhibit 3), and exhibit 4 is a copy of testimony from Ward Shanahan, Dreyer Bros., which Mr. McGowan presented as Mr. Shanahan was unable to be present. He said this bill will give the owner a little more say about what can be done with his land. He felt this flexibility is needed and will be even more needed as the years pass.

DON BAILEY, Northern Plains Resource Council and himself, spoke in opposition to the bill. A copy of his testimony is exhibit 5.

HELEN WALLER, representing self as farmer/rancher and the McCone Agricultural Protection Agency, spoke in opposition and a copy of her testimony is exhibit 6.

LYLE QUICK, McCone County Commissioner and McCone Conservation District, spoke in opposition and a copy of his testimony is exhibit 7.

TOM BREITBACK, Circle, representing self, spoke in opposition and a copy of his testimony is exhibit 8.

CHARLES YARGER, Northern Plains Resource Council, spoke in opposition and a copy of his testimony is exhibit 9.

GAIL M. STOLTZ, Montana Farmers Union, spoke in opposition and a copy of her testimony is exhibit 10.

MAX CONOVER, Broadview, spoke in opposition. He said the concept might have some value but the timing isn't right. He said we have a good strip mine law and it should be given the time to prove itself --no land has been reclaimed under it as yet. He said adding the word "irrigated" disturbs him as in all the mine areas there is no irrigated pasture--water would need to be brought in. He felt the words "or dryland" should be added.

In closing Rep. Conroy mentioned there were saline seep problems in the area previous to the Decker mine's operations and this land when reclaimed does not have the problem. He said in his ranching experience his livestock has done better on introduced than on native grasses. He said just because Montana has the best strip mine law doesn't mean we have the best reclamation.

During questions Mr. Bailey mentioned there has been some problems with molybdenum balance when planting legumes, especially alfalfa, on spoils. Mr. Conroy said this bill would not let the companies off the hook--this was in response to a question concerning the fact that the companies are primarily the landowners. Mr. Mockler said neither the owner or operator will make the decision--they would just have more input--the DSL would still make the decision. Jack Westwood, Big Horn County Conservation District, in response to a question said the introduced grasses produce high protein.

HOUSE BILL 155

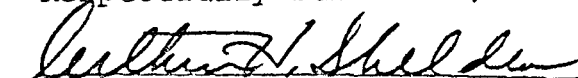
Rep. Metcalf said the Renewable Resource Advisory Council met with the bankers and worked out any problems. He said this fund provides seed money for alternative energy ideas; and would allow much better use of the money as the money would turn over more than once. He said the council would make the decision on whether to award the loans. He moved the bill do pass and Rep. Bengtson seconded the motion.

Rep. Davis felt the state shouldn't be in the lending business. Chairman Sheldon expressed the feeling if the council remains as careful as they have been there won't be too many loans--also they would be for only one year's time and this would cut down on quantity. Rep. Hurwitz said he was not too familiar with the council and asked if there was some measure of their activity. Chairman Sheldon said he had been talking to the press and learned there has been 50 articles on this program through the year. Rep. Davis said he felt it was doing a good job but should grant the money--no loans. Rep. Ernst agreed. Rep. Davis made a substitute motion of pass for the day until a fiscal note is available. This motion failed with 8 voting no, 6 yes (Cox, Curtiss, Davis, Ernst, Hurwitz, Nathe), 1 abstain (Harper), 2 absent (Quilici and Burnett). Action was then taken on the motion of do pass and this motion carried with 8 yes (Sheldon, Harper, Bengtson, Cooney, Frates, Huennekens, Kessler, Metcalf), 7 no and 2 absent (same). This bill receives a DO PASS recommendation.

Chairman Sheldon said the two bills heard today will go into Rep. Kessler's subcommittee on extraction and conversion.

Meeting adjourned at 12:45 p.m.

Respectfully submitted,


ARTHUR H. SHELDEN