

February 18, 1977

The Natural Resources Committee convened at 8:00 a.m. in the auditorium of the SRS Building on February 18, 1977, with Chairman Sheldon presiding and all members present or excused (excused was Rep. Huennekens) for a hearing on the following bills:

HB 662 REP. DENNIS NATHE, DISTRICT NO.1, the chief sponsor of this bill, said this bill directs the EQC to conduct an environmental policy planning and legislation study. He then turned the testimony over to the people from the EQC.

STEVE PERLMUTTER, staff attorney for the EQC, said there have been problems with the way state agencies implement the Montana Environmental Policy Act. He said EISs have served, for the most part, as descriptive documents with little substantive impact on policy or decision making. A copy of his testimony is exhibit 1 of the minutes, and a problem identification paper is exhibit 2.

JOY BRUCK, League of Women Voters, next spoke in support and a copy of their testimony is exhibit 3.

Rep. Nathe in closing handed in an amendment (exhibit 4) which changed the request for appropriation from the renewable resources fund to the general fund.

HB 717 REP. MIKE MELOY, DISTRICT NO. 29, the chief sponsor of the bill, said this act would add certain railroad tracks to facilities subject to the Major Facility Siting Act. He said this would only cover tracks over 25 miles in length that aren't covered by the Facility Siting Act or within the preview of the Strip Mining Act. He said at present there is no planning process to make sure the railroad tracks are sited in places with the least environmental impact.

WALLACE D. MCRAE, Forsyth, spoke as a proponent of the bill. He mentioned a feasibility study being done which will cross his land going from Colstrip to Birney. He said the primary concern is dollar economics and not any of the peripheral effects on others. He said the conductor of the study didn't even plan to talk to the ranchers whose land would be crossed. He said when using eminent domain three things should be kept in mind: need, minimal impact, and environmental compatibility. If the lines were under the siting act, there would be criteria to judge the long term economics.

GORDON SWANBERG, Montana Railroad Association, spoke as an opponent. A copy of a fact sheet he presented is exhibit 5 and part of the minutes.

In closing, Rep. Meloy emphasized that trucks don't ship coal--only railroads. He said a required EIS doesn't ensure that the track will be so placed as to interrupt the farmer's operations the least.

Rep. Harper assumed the chair while Rep. Sheldon testified on the following bill.

HB 604 REP. ARTHUR SHELDEN, DISTRICT NO. 22, said the bill had been changed many times since it was first written. He went through the bill explaining the latest amendments. He said he was sorry a reading bill couldn't have been ready, but the changes came late. He said except for these few items, the bill was going back to the original

law. 1. expands the meaning of mining by including the construction and operation of all crushers, concentrators, tailings ponds, and dams, leach dumps, conveyor systems and pipelines associated with and in reasonable proximity to the mine; 2. a program to monitor water quality before, during and after exploration and mining; 3. includes solution mining; 4. the department may notify the Department of Health and Environmental Sciences and other state agencies at its discretion of any apparent water quality violations.

LEO BERRY, Department of State Lands, said they support the bill with its amendments. He said they would like to address a couple of them. Page 6, line 19, "primarily native and diverse vegetation"--would rather have the old reinserted; and on page 16, line 2, would like to insert, "all known aquifers" to clarify; and we do need the flexibility of notifying the other agencies.

BILL MACKAY, JR., rancher from Roscoe and representing the Montana Carbon County Planning Board, said they applaud the bill as it will help them get a little more handle on their problems. He especially liked the annual review measure.

MARY DONOHOE, Beartooth and Stillwater Planning Board, said she felt very strongly about this bill. She especially liked the part that put tailings dumps under the act, as no one at present has jurisdiction over them. She also liked that it would give protection for their water.

BILL MARTIN, from near Troy, representing the Cabinet Resource Group, spoke next in support. He, too, liked having the tailings dumps and pipelines brought under the law. He said the small miner was deleted from the bill and wouldn't be affected.

TOM KELLY, Stillwater County, said he supported the bill.

LAURIE BLAZICH, Lake Creek near Troy, representing the Cabinet Resource Group, said they were concerned about their health and safety if the tailings dump is developed like it's presently planned. She felt HB 604 was essentially for the health of the people of a mining area.

FAY ELLIS, rancher on the Stillwater, representing the Stillwater Protective Association, and the NPRC, said they husband the land and pass it on in good condition to future generations and she would like to see the mining industries do the same.

NOLA SLOAN, Troy, said she lived on beautiful Bull Lake, and directly across from the lake is a mine. She said she hoped that what has happened in other areas won't happen here. She said we want our rivers, our air, and scenic beauty protected as much as possible.

MILES KEOGH, Nye, Stillwater Planning Board, said they have a uranium tailings dump in their area that has dried up and is still blowing--it was just left to the wind and the residents to choke on.

Acting chairman Hal Harper opened the meeting to the opponents.

NEIL LYNCH, Montana Mining Association, said he was very concerned about growing bureaucracy, and rules and regulations growing to monstrous

proportions. He said this bill would increase this,

STEVE WILLIAMS, Anaconda Company, introduced LEROY WILKES, general superintendent of their mines in Butte. Mr. Wilkes said they haven't had a chance to show what can be done under the Hard Rock Mining Act. HB 604, he felt, would change the rules and regulations before they have had a chance to comply with those on the books. He said their ability to compete with other states and foreign countries could be adversely affected by this legislation. He also felt the bill could have a serious impact on employment in Montana.

STEVE WILLIAMS, Anaconda Company, said the mandamus provision changes the burden of proof--people who file the claim do not have to prove harm has been done.

WARD SHANAHAN, Dreyer Brothers, Inc., and Energy and Minerals Development BN, spoke next in opposition. A copy of his testimony is exhibit 6.

ERNEST NELSON, professional geologist from Missoula, spoke next in opposition. He said he was completely completely opposed to the way this bill is written. He said there seemed to be a lack of understanding of the powers given by the existing law and a lack of knowledge of the work that went into that law. He felt this law would make law breakers out of a lot of people.

GENE PHILLIPS, ASARCO, said he concurred with the remarks of the opponents. He said a number of provisions of the bill are taken from coal mine reclamation and there is quite a difference in the two types of mining. On reclamation on page 18, line 5--all final grading shall be done by certified seed--he said you don't grade with certified seed; and certified seed can mean many things.

JOHN CLEMA, Missoula, said this bill seems to be making second class citizens out of mining people. He left a paper showing mining acreage figures and this is exhibit 7 of the minutes.

D.L. REBER, Montana Barite Co., Missoula, said he was a small miner who employed about 20 people. He opposed the bill--said he had worked 25 years to get enough money to come back to Montana and have his own business and this bill could take it all away from him.

TED NYQUIST, Boulder, opposed the bill.

J.D. MULRYAN, Ennis, opposed the bill. Testimony, exhibit 8.

GILES E. WALKER, Helena, opposed the bill.

DONALD E. JENKINS, Whitehall, opposed and a copy of his testimony is exhibit 9 of the minutes.

R.H. ROGERS, Alder, spoke next in opposition and a copy of his testimony is exhibit 10 of the minutes.

PHIL R. FIKKAN, Spokane, Washington, said he felt the bill unnecessary because of the existing regulations and he felt it would cripple the mining industry.

THOMAS A. DALE, Dillon, Pfizer, Inc., and a copy of his testimony is exhibit 11 and part of the minutes.

JOHN LEWIS, Boulder, President of Elkhorn Mining, said he concurred with most that he had heard from the opponents. He felt all needed to be thoroughly reviewed by everybody concerned on both sides.

LARRY HOFFMAN, Blue Range Mining Co., said he was a mining engineer from Butte and owned one mine and opposed the bill.

H.M. SHERBURNE, Montana Mining Association, said the state needs a comprehensive mineral policy and something like that should be developed before legislation like this is proposed.

Rep. Sheldon in his closing statement said most of Mr. Lynch's remarks referred to problems with regulations and not to the bill. He said he would like to point out that he is a member of the Montana Mining Chapter. He said if we get together and talk these things over, there isn't much of a problem. He said the bill will end up in a subcommittee and they will try to get the different sides together.

Sending letters supporting HB 604 were:

John Mohar, Troy, exhibit 12

Vicotr Bjornberg, Missoula, exhibit 13

Steve Loken, Troy, exhibit 14

Rodney Fink, County Sanitarian, County of Stillwater, exhibit 15

Joe Flanagan, Chairman, Stillwater Conservation District, exhibit 16

Lynn Robson, Libby, exhibit 17

Lincoln Valley--8 people--exhibit 18

Stillwater and Carbon County--30 people--exhibit 19

Signing testimony opposing HB 604 was:

Harvey Allen, Sheridan, exhibit 20

HB 592 REP. MIKE MELOY, DISTRICT NO. 29, the bill's chief sponsor, said Environmental Impact Statements have been fragmented and uncoordinated. This bill will direct the Governor to coordinate the work--decide at the outset what each agency will do and hold them accountable for that. The Governor would sort out the differences between the agencies and so shorten the delay time. He didn't feel any extra help would be needed as the Governor has the counsel of different agencies able to do this.

STEVEN J. PERLMUTTER, EQC, spoke next in support and a copy of his testimony is exhibit 21.

ROBERT LAHN, Governor's staff, said since the Governor will be called on to make the policy decision, he will need technical people on his staff to assist him. He said if you are willing to give the staff, we will try to handle the job. Without the proper staff, he felt it would just be one more barrier in getting out the EISs.

Rep. Meloy in closing said he thought Mr. Lahn was saying there is a serious problem but the only way we can resolve it is to hire more people. He said this is incredible with all the resources of the executive branch

that are available to the Governor. Mr. Meloy stressed again the lack of coordination and fragmentation existing as far as EISs are concerned.

Meeting adjourned at 10:40 a.m.

Respectfully submitted,



ARTHUR H. SHELDEN, Chairman

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