

March 24, 1977

The Natural Resources Committee convened on March 24, 1977, at 8:10 a.m., in room 437, with Vice-Chairman Harper presiding and all members present except Reps. Sheldon, Hirsch, Huennekens, excused; and Rep. Quilici, absent. Vice-Chairman Harper opened the meeting to an executive session on SB 173.

SENATE BILL 173

Rep. Curtiss moved Be Not Concurred In. She said the Fish and Game have the option to lease and acquire land now and she can see no reason why they need this additional authority.

Rep. Metcalf made a substitute motion to amend page 2, line 22, following "subsection" to insert "except development rights may not be acquired by condemnation".

Rep. Hurwitz expressed a feeling this may be a way to get land for hunting. Rep. Davis felt, too, this was a foot in the door to provide hunting lands at taxpayers' expense. Rep. Harper said this could clarify the law and specify the amount. Rep. Metcalf reminded the committee there had been no opponents and the Fish and Game had testified as proponents.

Rep. Burnett suggested changing the amendment by adding on page 2, line 20, following "rights" the words "from willing sellers". Rep. Metcalf added this to his motion. The question was called and the motion passed unanimously with Quilici, Hirsch, Huennekens and Sheldon absent.

Rep. Metcalf spoke against the motion of Be Not Concurred In. He said the Fish and Game want to insure there will be game areas and that these are well managed. He said he didn't see any reason not to give them this authority and urged the bill be concurred in.

Rep. Davis said they have this right now and this bill simply says at least 10% has to be spent on development rights. Rep. Metcalf said he didn't believe they have the authority to get development rights. Rep. Curtiss mentioned that 75% of their county is state and federal land and big companies own another chunk so only 12% of the land is privately owned. She said they couldn't afford to lose any more tax base.

Since the Senator sponsors of the bills to be heard were now present Vice-Chairman Harper postponed the executive session until later and opened the meeting to a hearing on the following bills:

SB 247 SENATOR HAROLD DOVER, Senate District 24, said this bill provides that filing fees collected under the Major Facility Siting Act shall be used only to collect information required to render a decision, and after the completed hearing by the Board all fees left will be returned to the company. He said at times companies have paid moneys in advance in an endeavor to get these things done and it doesn't seem fair to hold onto the money and become a banker for it.

TOM WINSOR, MT Chamber of Commerce, said they felt it was a step in the right direction. He said the companies need to get their money back so they can get something going. He said we need a lot of jobs in this state and having the money just set doesn't help in solving this job problem.

TED DONEY, DNR, spoke as an opponent. He said the bill has been adequately explained--it restricts the use of the filing fee to pay for the cost of the compilation of the EIS and the hearing of the Board. According to the bill no filing fee money could be spent after this, and monitoring comes after the hearing and those costs must come from someplace. There are also appeals and lawsuits. He said the bill has been amended so it is not nearly as drastic as it was but he said there will be a fiscal impact if this bill passes--which will require replacement funds from the general fund.

PAT SMITH, Northern Plains Resource Council, spoke as an opponent. He said the siting act mandates monitoring which is now paid for out of the filing fee--if that requirement is removed the general taxpayer will have to cover the expense. He also mentioned decisions would be challenged and there would be court cases which again would have to be covered by the taxpayer if this bill passes.

In closing Senator Dover said the idea of using the company's own money to pay for the court cases against them is not the way our society is made up.

During questions Rep. Kessler asked how much money are we talking about. Mr. Doney said the filing fee on Colstrip 3 and 4 was 1.2 million dollars.

SB 324 SENATOR FRANK DUNKLE, Senate District 14, the chief sponsor of this bill, said the bill would take fertilizer plants out of the Major Facility Siting Act. The fertilizer plant, namely Circle West, would still need to come under numerous other regulatory acts like those dealing with clean air, water and strip mining. He suggested the language deleted on page 7, lines 5 through 14 be put back. This allows the moneys paid by the company to be used for environmental studies but not other administrative tasks by the department. Included back in was that any person can be a party in a hearing if they give advance notice.

WARD SHANAHAN, Dreyer Bros., spoke next in support and a copy of his testimony is exhibit 1. He said the company plans to utilize lignite coal to make primarily fertilizer with alternate plans to make methenol and diesel fuel. He said Circle West is the only non-energy utility under this Major Facility Plant Siting Act. He said the feeling is that companies should pay for the impacts they cause. He asked what about saline seep--should agriculture be held responsible.

TOM WINSOR, MT Chamber of Commerce, said he felt Circle West was incidental to this bill. He felt the real potential was in encouraging coal connected industries--like the Germans produced during World War II. He said this exciting potential is blocked by the Major Facility Siting Act. He felt this act should be kept where

it belonged--on energy which can recover its extra costs from the consumer. These other products would be free market products and would need to be priced competitively.

PETER JACKSON, WETA, said it is the mass of rep tape that makes it hard for the economy to keep producing. He felt Circle West should not be covered by the Major Facility Siting Act.

LYNN A. BRANT, Dept. of Nat. Res., spoke in opposition. He said his main objection is on pages 1 and 2 which exempts fertilizer plants and the fact that Dreyer Bros. is proposing to eventually have also a methanol and diesel fuel plants and if the bill goes through all would be excluded from this act. He said the utility act considers the whole process. It allows the state to look at and point out impacts and to assist in lessening them. He said Circle West has been removed from having to show a need so this act does not threaten their existence.

REP. ED LIEN, Dist. No. 49, spoke as an opponent saying this project is in the center of his district and there is much opposition to this bill. He felt any project of this magnitude should come under a siting act even if it is only one of a kind. He said it should be to their advantage to have it under one act instead of running around to twelve different ones. He said he was not an opponent to the Circle West project as he thought it would be a good project for the state and nation if properly planned and handled (and the siting act would help do this).

HELEN M. WALLER, McCone Agricultural Protection Organization, NPRC, spoke next in opposition. She said she was speaking for the people whose names appeared on the petition she presented, exhibit 2. She said these people would have to cope with the impacts of Circle West and they strongly oppose SB 324. She said Dreyer Bros. want preferential treatment--already have the concession that they do not have to prove need. She said if the bill passes other special interests could come in and also ask to be exempted from the act. She said to them it makes no difference what the facility produces --fertilizer or diesel fuel--the impacts will be the same. They just want adequate social and economic studies to minimize the impacts.

LYLE QUICK, McCone County Commissioner, said the total membership of the school board and the district board of supervisors asked him to express their opposition to this bill. He said they had been granted \$42,000 in coal tax money to study and plan. He said they had a good planner and a planning board but this does no good if they don't get adequate material with which to plan. He said unless it is law Dreyer Bros. won't pass out the information needed. He said, too, they weren't concerned about the end products but about the impacts such a massive development will cause on their county. He said Dreyer Bros. had suggested an irrigation development in conjunction with the neighboring farmers--the cost was too high for the farmers.

SANDRA PAWLOWSKI, Resident of McCone, representing self, spoke next in opposition and a copy of her testimony is exhibit 3.

ROGER EISSINGER, representing self and a resident of McCone, member of the Stockgrowers, said he couldn't see the difference between this and the Colstrip plants as it could require the same amount of coal. He said he wanted to know what effect a plant this size will have on him as a resident of McCone.

DON TEW, farmer from McCone, representing self, said this bill concerns him more than loosing a few calves or he wouldn't be here today. He said all they really want is a little information so they can start planning.

PAT SMITH, Northern Plains Resource Council, spoke next and a copy of his testimony is exhibit 4.

In closing Senator Dunkle said he had nothing further to say except the fertilizer plant should be excluded.

During questions Rep. Hurwitz asked Mr. Shanahan why they won't tell these people what they are doing. Mr. Shanahan responded that every bit of information has been filed in the county library at Circle. He said they have told them as far as they know. He mentioned a list of laws they have to comply with (part of exhibit 1) and said some of these laws require public hearings which could determine impacts. He said they have to pay taxes three years in advance to help mitigate impacts. He said the Major Facility Siting Act is not a one stop shopping center--they still have to meet requirements of other acts. He said if they had their own plan they could say what they will be doing but to fit all the rules and regulations they have had to go back and redesign.

Rep. Metcalf said under the siting act they do get information on local impacts that is not available under the other acts. Rep. Kessler asked concerning the amendment on page 2, lines 20 and 21, definition of utility facility. Mr. Shanahan said this would keep a utility that wasn't selling under a rate structure from being classified as a public utility.

In response to a question Mr. Quick said it was of the utmost importance to their area that Dreyer Bros. comply with the siting act for if not social and economic needs won't be studied. He felt there should be an independent analysis done--in addition to the company one to get a true picture. Rep. Davis asked if he was aware of how this would increase the cost to the company. Mr. Quick asked if Rep. Davis thought the people of McCone County should bear the additional cost. He said Dreyer Bros. have chosen to come into McCone County they were not asked to come. Rep. Davis expressed his feeling that all this duplication of efforts increases the cost to the industry. He said the local environmental impact would be the same regardless and when you add the Major Facility Siting Act it could become so expensive as to stop the industry. Mr. Quick emphasized the only place they can get what they need done is under the Major Facility Siting Act. Rep. Davis suggested the fertilizer would cost them more. Mr. Quick said he would be willing to pay more for the

fertilizer but not increased taxes from the impacts. Rep. Hurwitz asked Mr. Quick about the prepaid taxes--if this wouldn't help. Mr. Quick responded he didn't feel prepaid taxes would solve the problem. He said counties have to go into long term debts and the local people pay the debts.

Mrs. Pawlowski in response to a question said the only way they can get what they need is to remain under the siting act. She said as far as fertilizer is concerned--anhydrous ammonia fertilizer is usually used on irrigated lands so the benefits would go to agriculture elsewhere.

In response to a question on increase in population, Dave Gleason, Dreyer Bros., said they expect to employ about 164 in the fertilizer plant; 100 in the mine; and if they go into the methanol and diesel fuels perhaps a total of 750 people. Construction labor could be 3000 for two years; however, he said with the Kellogg study they feel with proper scheduling this could be limited to about 1000. Then, he said, it depends on the multiplier used--how big the families.

Mr. Brant in response to a question said they have no wish to deny this facility, they only want to make sure that the rules and regulations are complied with. He said this is a new process and there could be different air and water pollutants that aren't covered by our present acts. The Major Facility Siting Act could look at these additional impacts and try to point out how they could be mitigated.

Vice-Chairman Harper closed the hearing on SB 324 and opened it again to the executive session on SB 173.

Rep. Nathe moved to pass SB 173 for the day. Motion carried.

Rep. Burnett moved that SB 284 be reconsidered. Motion carried with the following voting for: Cox, Curtiss, Burnett, Hurwitz, Nathe, Ernst and Davis; absent were Shelden, Hirsch, Huennekens, Quilici and Cooney.

Meeting adjourned at 10:05 a.m.

Respectfully submitted,


ARTHUR H. SHELDEN, Chairman