

MINUTES OF THE MEETING
NATURAL RESOURCES
MONTANA STATE SENATE

January 29, 1977

The eighth meeting of the Natural Resources Committee was called to order by Senator Elmer Flynn, Chairman, at 9:30 a. m. on the above date in Room 405 of the State Capitol Building.

ROLL CALL: Upon roll call all members were present.

Mr. Larry Weinberg, Staff Attorney of the Legislative Council, and Tala Skari of the Environmental Quality Council, were also present. Miss Skari distributed statements on SJR 14 and SJR 18 to the Committee members. (See Attachment #1 and #1.)

CONSIDERATION OF SJR 14: Joint Resolution of Senate and House directing those state agencies required to prepare environmental impact statements and assessments to minimize duplication.

Senator Story, Sponsor of Senate Joint Resolution #14, stated that this is a simple little Resolution. The purpose of this resolution is to clarify the legislative intent in preparation of environmental impact statements. The environmental impact statement was created as a tool to educate the public as to any advantages or disadvantages of new developments. (See Attachment #3 and #4.)

Mr. Jim Mockler, Executive Director of the Montana Coal Council, stated that he was in full agreement with what Mr. Story has said. The Coal Industry supports the Joint Resolution.

Senator Flynn wondered if regarding the impact statement regarding a highway change - would different departments write up different phases of this. Would the Fish and Game be in charge to determine if it would affect wildlife.

Mr. Steven Perlmutter of the Environmental Quality Council, stated that generally there will be one agency that will be the lead agency. It would send proposals out to all other agencies that would be involved.

Senator Flynn said, in other words, it is the accumulation of comments of several agencies.

Mr. Perlmutter said, yes.

Senator Flynn asked what the cost of the impact statement would be.

Mr. Perlmutter said that he couldn't tell the Committee what the cost would be.

Senator Story had a sample Environmental Impact Statement and said that this statement was sent to every person within a two-mile radius which costs a bundle.

Senator Smith wondered who pays for all this.

Senator Flynn said the lead agency would be obligated for the impact statement.

Senator Smith added that it looks to him like some agency could have a heyday and they could write up information that didn't even pertain.

Senator Story said that with this resolution they would not be putting out this massive information at this huge cost.

At this time, Senator Story distributed sheet of figures explaining environmental impact statements. (See Attachment #5)

He stated that he hoped one of the things we will accomplish is to get the Courts the legislative intent so they will understand a simple impact statement is what we desire for most of these things.

Senator Roskie added that one of the purposes of this Resolution is to streamline the cost.

CONSIDERATION OF SJR 18: Joint Resolution of Senate and House requesting Congress of United States to refrain from usurping the authority of the State of Montana regarding regulation of surface mining.

Senator Paul Boylan, Sponsor of Senate Joint Resolution #18 stated that this Resolution is requesting the Congress of the United States to refrain from usurping regarding regulations of surface mining. Montana has got some real good regulations regarding surface mining of coal. I think every state is different, every state has different topography. I think you have people in Washington who don't realize the problems of the State of Montana. They do usurp a lot of our authority by Federal regulation. Every state has their own problems and when the Federal Government goes into these things when they don't know what they are talking about we have to be very careful.

Mr. Jim Mockler added that the people in the industry in Montana feel that the people in Montana are the only ones who should regulate the industry. We in the industry feel we would like to do it with a partnership of the people. In highway projects you are already charged with laws you must pass because of Federal control. We would hope that you would support this resolution of retaining the rights of the people in Montana. He continued, that right now we are at the very most six years away from leasing coal.

Mr. F. H. Boles, Executive Vice-President of the Montana Chamber of Commerce, said that this Fall they surveyed the membership of the Chamber of Commerce in the state. We would certainly hope that the Committee would support this Resolution to allow Montanans to run Montana.

Mr. Stan Turkiewicz, representing the Montana Association of Counties, stated we are looking at the principle of letting Montanans run Montana. We feel that that is the principle that should continue.

Senator Roskie said, part of the problem is to delay this idea of nationwide strip mining of coal to more or less no development program. I don't know how to suggest to Senator Boylan to incorporate to change it.

Senator Boylan said that anything the Committee wishes to incorporate will be fine with him.

Senator Flynn asked what is the procedure. How is a Resolution handled in Washington now. Some of these Resolutions we direct to our delegates - some to the Department of Interior.

Mr. Mockler said a Resolution passed by the state is a request to the entire Congress. It will become part of the Congressional Record.

Mr. Weinberg added that he did not want to have it directed to anybody who might be offended by it.

Senator Jergeson asked Mr. Mockler if he would oppose efforts by the Federal Government to reduce Montana's Coal Tax.

Mr. Mockler replied, yes, sir.

Senator Smith wondered if it wouldn't be good to send copies of the Resolution to all other states who are in the coal business.

Senator Dover said we have the Western States Energy Commission, this would be something good for them.

Mr. Mockler said a copy of this Resolution has been sent to all representatives in all the Rocky Mountain States.

DISPOSITION OF SJR #14: Motion was made by Senator Jergeson that SJR #14 be amended by adding a new sub-section 4 and that previous sub-section 4 be stricken and changed to number 5. Motion was seconded by Senator Manley and motion carried successfully. (See Committee Report.)

Motion was made by Senator Manley and seconded by Senator Dover that we accept the amendment to SJR #14. Motion carried.

Motion was made by Senator Galt and seconded by Senator Dover that SJR #14 be further amended on Page 1, Line 11 and Line 12, by adding the word "Montana" and motion carried. (See attached standing committee report.)

Motion was made by Senator Roskie and seconded by Senator Dover that SJR #14 AS SO AMENDED, BE ADOPTED. Motion carried.

DISPOSITION OF SJR #18: Motion was made by Senator Jergeson that Senate Joint Resolution #18 be amended on Page 1, Line 20, following the word "legislation". Motion was seconded by Senator Manley and motion carried. (See attached standing committee report.)

Motion was then made by Senator Jergeson and seconded by Senator Devine that the same amendment be inserted in the title. Motion carried. (See attached standing committee report.)

Motion was then made by Senator Roskie and seconded by Senator Manley that SJR #18 be amended to send the Resolution to every member in Congress. 5 Senators voting no, and 3 Senators voting yes, the motion lost. (See attached roll call vote.)

Motion was made by Senator Jergeson that SJR #18 be amended on Page 1, following Line 21 by adding a new line. Motion was seconded by Senator Dover and carried. (See attached standing committee report.)

Motion was then made by Senator Manley that SJR #18 AS SO AMENDED, BE ADOPTED. Motion was seconded by Senator Galt and motion carried.

Motion was made by Senator Jergeson and seconded by Senator Manley that the words "And Thereby" be added to the amendment on Line 6 in the title and Line 20. Motion was seconded by Senator Manley and carried. (See attached standing committee report.)

Motion was then made by Senator Manley and seconded by Senator Smith that SJR #18 AS SO AMENDED, BE ADOPTED. Motion carried.

ADJOURNMENT: There being no further business, Senator Flynn adjourned the meeting at 11:00 a. m.



SENATOR ELMER FLYNN, CHAIRMAN

NATURAL RESOURCES COMMITTEE

Date 1/29/77

[illegible]

STANDING COMMITTEE REPORT

.....January 22..... 1977.....

MR.PRESIDENT.....

We, your committee onNATURAL RESOURCES.....

having had under considerationSENATE JOINT RESOLUTION..... Bill No. 14.....

Respectfully report as follows: That.....SENATE JOINT RESOLUTION..... Bill No. 14,.....

be amended as follows:

1. Amend Page 1, Line 11.

Following: " ,the" "

Insert: "Montana"

2. Amend Page 1, Line 12.

Following: " the" "

Insert: "Montana"

3. Amend Page 2, Line 20.

Following: Line 19

Insert: "(4) That the lead agencies avoid the duplication of errors, omissions, and mistakes of previous environmental impact statements."

4. Amend Page 2, Line 20.

Following: Line 19

Strike: "(4)"

Insert: "(5)"

~~DO PASS~~

AND AS SO AMENDED, ~~DO PASS~~ BE ADOPTED

STANDING COMMITTEE REPORT

.....January 29..... 1977.....

MR.PRESIDENT.....

We, your committee onNATURAL RESOURCES.....

having had under considerationSENATE JOINT RESOLUTION..... Bill No. 18.....

Respectfully report as follows: That.....SENATE JOINT RESOLUTION..... Bill No. 18,

be amended as follows:

1. Amend title, page 1, line 6.

Following: "FROM"

Insert: "WEAKENING THE APPLICATION OF MONTANA'S SURFACE MINING STATUTES
AND THEREBY"

2. Amend page 1, line 20.

Following: "legislation"

Insert: "weakening the application of Montana's surface mining statutes
and thereby"

3. Amend page 1.

Following: line 21

Insert: "Be it further resolved that the secretary of state be directed
to send a copy of the resolution to each member of the Montana Congressional
Delegation and to the Chairman of the United States Senate and House
Interior Committees.

~~DOXKASGX~~

AND AS SO AMENDED, ~~DOXKASGX~~ BE ADOPTED

SENATE COMMITTEE NATURAL RESOURCES

Date 1-29-77 Bill No. SJR 18 Time 10:40 a. m.

NAME	YES	NO
Flynn, Elmer, Chairman		✓
Roskie, George, Vice-Chairman	✓	
Devine, John		✓
Dover, Harold		✓
Galt, Jack		✓
Jergeson, Greg	✓	
Manley, John	✓	
Smith, Ed		✓

Beverly Braut
Secretary

Elmer Flynn
Chairman

Motion: Motion was made by Senator Roskie and seconded by
Senator Manley that SJR 18 be amended to send copies
of the Resolution to every member of Congress.
5 voting no and 3 voting yes, Motion lost.

(include enough information on motion--put with yellow copy of committee report.)



(Attachment #1)
MONTANA ENVIRONMENTAL QUALITY COUNCIL
CAPITOL STATION
HELENA, MONTANA 59601
JOHN W. REUSS, EXECUTIVE DIRECTOR

GOV. THOMAS L. JUDGE
(OR DESIGNATED REPRESENTATIVE)
G. STEVEN BROWN

HOUSE MEMBERS
THOMAS O. HAGER, CHAIRMAN
WILLIAM M. DAY
GARY N. KIMBLE
A. T. RASMUSSEN

SENATE MEMBERS
LARRY M. ABER
TERRY MURPHY
ED B. SMITH
MARGARET S. WARDEN

APPOINTED MEMBERS
G. W. DESCHAMPS
CHARLES DOHENY
HARRIET MARBLE
JACK D. REHBERG

To: Senate Natural Resources Committee:

From: Legislative Unit, Environmental Quality Council

SENATE JOINT RESOLUTION 14: MINIMIZING DUPLICATION OF EFFORT, EXPENSE,
AND TIME IN THE PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS

To Be Heard In Committee: January 29, 1977

SUMMARY:

This resolution requests that agencies required to prepare Environmental Impact Statements (EIS's) take measures to reduce duplication of effort, expense, and time spent in the preparation of such reports. The agencies should exercise cooperation in providing summaries of their reports to interested and affected citizens who request them. Full reports will be supplied directly to affected parties, to the public libraries and county clerk and recorders of each county affected.

ANALYSIS:

The following discussion on agency coordination in Environmental Assessment and EIS preparation is an excerpt from an EQC staff report.

With the exception of the Highway Department, none of the agencies interviewed have worked out formal procedures or understandings for interagency coordination of their activities which affect the environment. Most communication is on an ad hoc basis and comes when those preparing EIS's need specific information from other departments. The result is that departments may be considering permits or programs which affect or will be affected by those of other departments without adequate consideration given to cumulative impacts.

In contrast, the Highway Department, because of its federal requirements, has formal coordinating mechanism called the Action Plan. Under the Plan, monthly meetings of individuals representing other state agencies (including EQC), review proposed Highway Department projects and are given the opportunity to comment upon them. Although projects have not been cancelled because of agency comments, the procedure is



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To: Senate Natural Resources Committee

From: Legislative Unit, Environmental Quality Council

SENATE JOINT RESOLUTION 18: Federal Usurpation of Surface Mining Regulations

To Be Heard in Committee: January 29, 1977

Summary:

This resolution is requesting the United States Congress to refrain from usurping the surface mining regulations of the state of Montana.

Analysis:

Recently, there have been introduced two new Federal Strip Mining Acts to the U.S. Congress. Representative Morris Udall from Arizona and Montana's Senator Lee Metcalf are the two bills chief sponsors. Both pieces of legislation are similar in their provisions regarding federal pre-emption over existing state laws.

Included in the proposed act is a two year phase-in program. During that period states will be required to submit a plan of implementation to the Department of the Interior who will either approve or disapprove such plans. If they are unsatisfactory, the state in question will be given an additional two months to prepare a new program.

If you have any questions concerning this resolution which are not covered by the report, please feel free to call upon the EQC Legislative Unit:

Eileen Shore, Legislative Liason
Tala Skari, Legislative Intern assigned to the Senate Natural Resources Committee

1228 11th Avenue
449-3742

(Attachment #3)

THIS IS A SIMPLE LITTLE RESOLUTION WHICH CAN BE EXPLAINED IN A COUPLE OF MINUTES.

THE PURPOSE OF THIS RESOLUTION IS TO CLARIFY LEGISLATIVE INTENT IN THE PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS.

NOW, I HAVE NO DISAGREEMENT WITH THE ORIGINAL CONCEPT AND PURPOSE OF THE ENVIRONMENTAL IMPACT STATEMENT. THE LEGISLATURE RECOGNIZED THAT NEW PROJECTS AND DEVELOPMENTS IN THE STATE PRODUCED SIDE EFFECTS THAT WERE NOT ALWAYS BENEFICIAL. AND IT RECOGNIZED A NEED FOR THE PUBLIC TO BE AWARE OF THE TRADE OFFS - OF WHAT WAS BEING GIVEN UP TO GAIN THE BENEFITS OF A NEW DEVELOPMENT.

SO THE ENVIRONMENTAL IMPACT STATEMENT WAS CREATED AS A TOOL TO EDUCATE THE PUBLIC AS TO ANY ADVANTAGES OR DISADVANTAGES OF NEW DEVELOPMENTS.

IT WAS NOT INTENDED TO CREATE A HUGE NEW INDUSTRY IN CREATIVE WRITING,

NOR TO BUST THE BUDGETS OF OUR KEY DEPARTMENTS OR CREATE AN INSTANT 4% INCREASE IN THE COST OF CAPITAL INVESTMENT IN THE STATE, AND CREATE YEARS OF DELAY IN THE DECISION MAKING PROCESS,

NOR TO BE A RELIEF ACT FOR THE PAPER INDUSTRY,

NOR TO BE A SORT OF LEGAL VOLLEYBALL COURT FOR MINISCULE GROUPS OF PEOPLE TO PLAY THEIR LITTLE GAMES AT THE TAXPAYERS' EXPENSE.

AND YET THIS IS WHAT THE IMPACT STATEMENT IS COMING TO DO.
INFORMING THE PUBLIC IN A MEANINGFUL MANNER IS ENTIRELY LOST.
99% OF THE PUBLIC DOES NOT HAVE THE TIME OR ENERGY TO EXTRACT
ANYTHING USEFUL FROM THIS HUGE MOUNTAIN OF PAPER THE IMPACT
STATEMENT HAS BECOME.

AND IT IS MY HOPE THAT THIS RESOLUTION WILL REDIRECT THE IMPACT
STATEMENTS INTO SOMETHING BRIEF AND THEREFORE, USEFUL TO THE MAN IN
THE STREET - AND SAVE A BUNDLE OF TIME AND MONEY IN THE PROCESS.

PROCEEDINGS OF GAO
SYMPOSIUM ON ENVIRONMENTAL
PROTECTION ISSUES

REMARKS BY BRIGADIER

GENERAL KENNETH E. MCINTYRE

DEPUTY DIRECTOR OF CIVIL WORKS

U.S. ARMY CORPS OF ENGINEERS

As the professional auditors for the U.S. Government, I am sure you do not often hear someone tell you that he welcomes an opportunity to talk with you. In the rare case where that might happen, I am sure you immediately become suspicious of that person's motives. Nevertheless, I intend to risk my creditability with you by beginning with the statement that I am pleased Roy Kirk asked me to participate on this morning's panel about NEPA.

The U.S. Army Corps of Engineers has had a great deal of experience with NEPA which Steve Jellinek can verify. The Corps has submitted more EISs to the CEQ than any other Federal agency, with the exception of the Department of Transportation, and covered a greater variety of engineering undertakings than any other agency. As of January 1, the Corps had on file with CEQ 611 draft and 857 final EISs for a total of 1,468. This figure, however, does not quite tell the story, since each draft replaced by a final EIS is dropped from CEQ's filing system. So, actually the Corps has produced a total of 2,215 separate statements since the passage of NEPA.

That number should dispel any doubt that the Corps is one of the most experienced agencies in terms of implementing NEPA. Speaking sincerely, the Corps regards the EIS as a key document in our decisionmaking process. We feel that NEPA gave us a mandate to give the environment proper consideration in making our own decisions and also in forwarding our recommendations to the Congress. Were it not for such a mandate, the Corps would not have had the justification to expend as much effort as it has in trying to identify all of the effects produced by our proposed actions.

(Attachment #5)

DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

	1972	1973	1974	1975	1976
all AIDs	3	17	81	60	21

PERs

DEISSs	54	46	23	4	2
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FEISSs	4	15	19	1	1
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subdiv AIDs	1	17	46	22	1
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PERs

DEISSs	46	38	18	3	2
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FEISSs	3	11	15	0	1
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DEPARTMENT OF STATE LANDS

AIDs	0	1	6	0	1
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PERs

DEISSs	5	8	2	3	1
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FEISSs	2	2	1	1	1
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DEPARTMENT OF NATURAL RESOURCES

AIDs	1	0	0	1	0
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PERs

DEISSs	4	4	7	2	1
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FEISSs	2	3	1	1	3
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DEPARTMENT OF HIGHWAYS

AIDs	91	62	47	122	76
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PERs

DEISSs	4	8	1	1	1
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FEISSs	10	6	7	1	0
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DEPARTMENT OF FISH AND GAME

AIDs	27	15	4	2	3
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~~NATURAL RESOURCES~~

SJR 18

REGISTER

1/29/77

NAME

REPRESENTING

BILL #

(check one)

SUPPORT

OPPOSE

Von Mochter

Mar. 1944 Coa / Coar. /

1818

✓

Sharon M. Van Tuyl

Tenneco

5 JR 14
5 JR 18

neither

Tom Collins

Mont. Assoc. of Realtors

STP 14



Les Plats

200

Netre

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

NAME:

Peter R. Stoney

DATE:

1/29/77

ADDRESS:

Emigrant

PHONE:

333-11341

REPRESENTING WHOM?

Senate District 37

APPEARING ON WHICH PROPOSAL:

STR 114

DO YOU:

SUPPORT?

☒

AMEND?

☐

OPPOSE?

☐

COMMENTS:

written statement

NAME: Jim Mockler DATE: 1/29/77

ADDRESS: 2301 Colonial Dr.

PHONE: 442-6223

REPRESENTING WHOM? Montana Coal Council

APPEARING ON WHICH PROPOSAL: SJR 18

DO YOU: SUPPORT? ✓ AMEND? OPPOSE?

COMMENTS: _____

CONFIDENTIAL

NAME: John Turpin DATE: _____

ADDRESS: 1802 11th Ave

PHONE: 442-5209

REPRESENTING WHOM? MT Association of Counties

APPEARING ON WHICH PROPOSAL: SJR 18

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____
