

MINUTES OF THE MEETING
NATURAL RESOURCES
MONTANA STATE SENATE

February 16, 1977

The seventeenth meeting of the Natural Resources Committee was called to order by Senator Elmer Flynn, Chairman, at 7:30 p. m. on the above date in Room 405 of the State Capitol Building.

ROLL CALL: Upon roll call all members were present except Senators Devine and Ed Smith.

CONSIDERATION OF SB 324: An Act to revise the Montana Major Facility Siting Act.

At this time, the proponents of SB 324 were heard.

Senator Frank Dunkle, from District 15, and Chief Sponsor of SB 324, briefly explained the bill.

Mr. Ward Shanahan, representing Dreyer Bros, Inc., explained the bill. He stated that the Legislature came very close to eliminating Circle West from this law in 1975, but, after several conference committee meetings, the plant was left in the Act with certain amendments. He asked that the Committee give this bill favorable consideration. (See Attachments #1, #2, #3, and #4.)

At this time, the opponents of SB 324 were heard.

Mr. Ted Doney, Chief Legal Counsel for the Department of Natural Resources, stated that on Page 6 and 7 it will limit the authority of the Department of just doing the Environmental Impact Statement. Now, there is no money to pay for these hearings. Somewhere we have got to get that money. We will need an appropriation of several thousand dollars. This limits the participation of the public in these hearings. I seriously doubt if Mr. Shanahan's amendment is even constitutional. I really can't see any reason for this type of amendment.

Mrs. Helen Waller, from McCone County, appearing as a taxpayer, asked why she should have to demonstrate to anyone that she would be adversely affected before being allowed to participate in a public hearing. That infringes upon my constitutional right. (See Attachment #5 and #6.)

Mr. Tom Breitbach, of Circle, Montana, stated that he felt that he had a right to have an independent study done by a state agency, which will tell me what the potential impacts will be in my area.

I also feel that I have the right to participate by commenting on any of the studies prepared. (See Attachment #7.) Mr. Breitbach also submitted a letter. (See Attachment #8.)

Mr. Charles Yeager, farmer-rancher from McCone County, representing the Northern Plains Resource Council, stated that he thought Burlington Northern has shown that they can live with this Act. They have made contracts for Department of Natural Resources to make studies and that illustrates that they can live with the law. It seems senseless to change the law now. We would urge that you do not pass SB 324.

Joan Miles, from the Environmental Information Center, said it would be a crime to the people in the area if these studies are not required under the Siting Act.

Senator Dunkle, in summary, referred to Senator Melcher's statement that it would be a mistake for the state to establish a policy against exporting power generated in Montana to other states. Letter was also submitted to the Committee. (See Attachment #9.)

Senator Manley asked, is this actually removing all of the fees from the Natural Resources.

Mr. Shanahan replied, no, not as such.

Senator Roskie, wondered, if he drove to Circle from Great Falls would he be denied right to the hearing.

Mr. Sternhagen said, I have never been kept out of any hearing.

Senator Flynn asked, who makes the determination of whether you are adversely affected.

Mr. Shanahan said, the Hearings Examiner of the Board of Natural Resources.

Senator Roskie said, Mrs. Waller and Mr. Breitbach seem to feel very strongly that they are deprived of process. They have no ability to appear.

Mrs. Waller said, I could prove that I could be affected. I feel I should not have to prove this. It is my constitutional right whether I am affected or not.

Mr. Breitbach said, I would have to prove that I was adversely affected before I could participate simply because it wouldn't be in my county.

Senator Roskie said, it seems to me it says any person residing in an area receiving service. Do you feel you are denied these rights.

Mr. Breitbach said, yes, sir.

Senator Galt said, you could certainly be called in as a witness, couldn't you?

Mr. Breitbach said, yes, sir, but as a citizen of the state shouldn't I have a right without having to prove it.

CONSIDERATION OF SB 381: An Act to delete the cumulative definition of large opencut mining operations.

Senator Mark Etchart, from District #2, and principal sponsor of SB 381, explained the bill. He said this bill will also make it possible for a farmer to use his own gravel pit. This law can't cause any plants operating now to close.

Mr. Delmar Davis, of Fairfield, Montana, said, I am for this bill. It has held many of us down. I have waited as long as sixty days to get a permit.

Laureen France, representing Alfred Dougherty and the Montana Mining Association, stated that the Montana Mining Association is in favor of this bill. She said this Association has 400 members. SB 381 is very necessary. We hope you earnestly consider this proposal.

Mr. Bill sternhagen, Attorney for Anaconda Company, stated I think this bill is a very good idea. I think we should have an exemption for each different project.

At this time, opponents to SB 381 were heard.

Mr. Leo Berry, representing the Department of State Lands, stated that if the cumulative definition were deleted, approximately 45.4% or 484 individual pits would be exempted from reclamation responsibilities covering approximately 2,000 acres. If the cumulative definition were deleted from the Act an incentive would be present to create pits less than the 10,000 cu/yd size limitation. (See Attachment #10.)

At this time, Senator Etchart in summary, read a letter from Mr. Gus Albert Contractor in Miles City, Montana, in favor of this bill.

Senator Flynn asked, what does this bonding amount to on a gravel pit.

Mr. Berry answered, it generally runs about \$500 an acre.

Mr. Davis said, 10,000 gives a man a chance to start. If he is going to take over 10,000 out of that pit then he should get a reclamation plan.

Senator Flynn asked, what does a reclamation plan amount to.

Mr. Berry replied, to slope it, revegetate it.

CONSIDERATION OF SB 298: An Act to amend sections to transfer certain administrative duties from the department of Administration to the department of natural resources and conservation under the renewable resource development program.

Mr. Orrin Ferris, representing the Department of Natural Resources, briefly explained the bill. He said, we have no objection of the responsibility being shifted over to our department. If it was shifted to our department we would try to lay out some rules.

Mr. Jack Crosser, Director of the Department of Administration, spoke briefly in favor of the bill also.

DISPOSITION OF SB 298: Motion was made by Senator Galt and seconded by Senator Manley that Senate Bill 298 DO PASS. Motion carried unanimously.

At this time, Senator Manley presented the Hard Rock Mining Bill to the Committee. Discussion followed on whether to sponsor this bill as a Committee Bill.

Motion was made by Senator Manley and seconded by Senator Roskie that the Hard Rock Mining Bill be introduced as a Committee Bill. Motion carried unanimously.

DISPOSITION OF SB 324: Motion was then made by Senator Galt and seconded by Senator Roskie that SB 324 DO PASS. Upon roll call vote, four voting yes, and two voting no, the motion carried. (See attached roll call vote.)

DISPOSITION OF SJR 4: Motion was made by Senator Manley and seconded by Senator Roskie that SJR 4 BE ADOPTED. Motion carried unanimously.

DISPOSITION OF SJR 20: Motion was made by Senator Manley and seconded by Senator Roskie that SJR 20 BE ADOPTED. Motion carried unanimously.

DISPOSITION OF SJR 21: Motion was made by Senator Galt that SJR 21 BE NOT ADOPTED. Motion was then withdrawn.

Substitute motion was then made by Senator Roskie and seconded by Senator Dover that Amended SJR 21 be amended following U.S. in Line 5 of the title, by striking everything in lines 6, 7, and 8, and inserting "CONGRESS BAR HYDROELECTRIC POWER DEVELOPMENT ON THE KOOTENAI RIVER AT THE KOOTENAI FALLS SITE." Motion carried.

Motion was then made by Senator Roskie and seconded by Senator Jergeson that Amended SJR 21 AS AMENDED BE ADOPTED. Roll call vote was taken, three voting yes, and three voting no, the bill was reported out WITHOUT RECOMMENDATION. (See Attached Roll Call Vote.)

DISPOSITION OF SB 247: Motion was made by Senator Dover and seconded by Senator Jergeson that SB 247 BE AMENDED. Motion carried. (See attached standing committee report and committee of the whole report.)

Motion was then made by Senator Dover and seconded by Senator Roskie that SB 247 AS AMENDED DO PASS. Upon roll call vote, four voting yes, and two voting no, the motion carried.

DISPOSITION OF SB 284: Motion was made by Senator Roskie and seconded by Senator Manley that SB 284 DO PASS. Upon roll call vote, five voting yes and one voting no, the motion carried. (See Attached Roll Call Vote.)

DISPOSITION OF SB 295: Motion was made by Senator Jergeson and seconded by Senator Manley that SB 295 be tabled. Motion carried.

Senator Manley suggested that the Committee withhold action on SB 381 until the next meeting.

ANNOUNCEMENTS: Hearing on SB 317 will be held at 9:30 a. m. tomorrow, February 17, 1977.

ADJOURNMENT: There being no further business, the meeting was adjourned at 11:45 p. m.



SENATOR ELMER FLYNN, CHAIRMAN

ROLL CALL

NATURAL RESOURCES COMMITTEE

45th LEGISLATIVE SESSION - - 1977

Date 2-16-77

[illegible]

SB 275
SB 324
BILL 321

SENATE Natural Resources COMMITTEE

VISITORS' REGISTER

DATE 2 Jan 77

Please note bill no.

(check one)

NAME

REPRESENTING

BILL #

SUPPORT

OPPOSE

Frank Jones

Al Dougherty

381

1

Tom Wilson

Montana Chamber

324

✓

Doc Bingham

DSL

Ward Smith

Mayor Bros Inc.

324

✓

W 52/0000

Mayor Bros

NAME: ~~Don~~ Tom Breitbach DATE: 2-16-77

ADDRESS: Circle Montana

PHONE: _____

REPRESENTING WHOM? Self

APPEARING ON WHICH PROPOSAL: SB 324

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME:

Walter M. Waller

DATE:

2-16-77

ADDRESS:

Concha, N.M.

PHONE:

485-3490

REPRESENTING WHOM?

Farmers, ranchers & business men
of the McCreary County area.

APPEARING ON WHICH PROPOSAL:

S.B. 324

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

X

COMMENTS:

I appreciate the opportunity to
testify on this issue which is most
important to the people of McCreary County.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

DATE: 2/26/21

ADDRESS: Chico, Oregon

PHONE: 755-3427

REPRESENTING WHOM? Northam Plains Resource Council

APPEARING ON WHICH PROPOSAL: DB, 324

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? A

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Laureen France DATE: 2/16/77

ADDRESS: 938 11th Ave

PHONE: 443-3515

REPRESENTING WHOM? Alfred Dougherty - Legal Counsel for NITM

APPEARING ON WHICH PROPOSAL: SB 381

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: William Olson DATE: 2/16/77

ADDRESS: Helena, Montana

PHONE: 442-4162

REPRESENTING WHOM? Montana Contractors Assn.

APPEARING ON WHICH PROPOSAL: SB 381

DO YOU: SUPPORT? ✓ AMEND? OPPOSE?

COMMENTS: This is good, practical legislation. By removing the aggregate total requirement, small contractors are able to provide contracting services to small communities without undue delay or extra expense. The aggregate total concept is not enforceable. A situation could conceivably arise whereby the removal of one truck load at one location would require a permit and a bond, which is not the intent of the bill. Passage of SB 381 is desirable to small operators, ^(contractors) and their customers. I urge the committee to recommend passage of this bill.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME

ORRIN FERRIS

DATE:

2-16-77

ADDRESS:

32 S. Ewing

PHONE:

449-2872

REPRESENTING WHOM?

DNRC

APPEARING ON WHICH PROPOSAL:

S 298

DO YOU:

SUPPORT?

✓

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Ted J. Dorsey DATE: 2/16/77

ADDRESS: 32 S. Ewing

PHONE: 449-3712

REPRESENTING WHOM? JNR&C

APPEARING ON WHICH PROPOSAL: S.B. 324

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Leo Berry

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State Land.

2

100% of the respondents were female, and 90% were aged 18 years or older. The majority of the respondents were students (60%), followed by employees (20%), and the remaining 20% were categorized as "other." The majority of the respondents were from the United States (60%), followed by Canada (20%), and the remaining 20% were from other countries.

38/

Abstract

NAME:

DATE:

ADDRESS:

PHONE:

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: WARD SHAWHAN DATE: 2-16-77

ADDRESS: 3rd Floor 1st Nat'l Bank

PHONE: 442-8560

REPRESENTING WHOM? Meyer Bros. Inc.

APPEARING ON WHICH PROPOSAL: SB-324

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: Written Information Provided

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

STANDING COMMITTEE REPORT

February 15 19 77

MR. President

We, your committee on Natural Resources

having had under consideration Senate Bill Bill No. 247

Respectfully report as follows: That Senate Bill Bill No. 247, introduced bill, be amended as follows:

1. Amend the title, lines 4 through 9.
Following: "AN ACT TO"
Strike: lines 4 through 9 in their entirety
Insert: "amend section 70-806, R.C.M. 1947, to provide that filing fees collected under the Montana Major Facility Siting Act shall be used only to collect information required to render a decision on a certificate."
2. Amend the bill, pages 1 through 6.
Strike: all of the bill following the enacting clause
Insert: "Section 1. Section 70-806, R.C.M. 1947, is amended to read as follows:
70-806. Application for certification-filing and contents-filing fees-notice of completion of facility-further fees-refund-proof of service on municipalities-amendment of application or certification. (1) (a) An applicant for a certificate shall file with the department a verified application, in such form as the board by rule or the department by order prescribes, containing

DO PASS

CONTINUED

Ed.

the following information:

- (i) a description of the location and of the facility to be built thereon;
- (ii) a summary of any studies which have been made of the environmental impact of the facility;
- (iii) a statement explaining the need for the facility;
- (iv) a description of any reasonable alternate location or locations for the proposed facility, a description of the comparative merits and detriments of each location submitted, and a statement of the reasons why the primary proposed location is best suited for the facility; and
- (v) such other information as the applicant considers relevant or as the board by rule or the department by order requires. A copy or copies of the studies referred to in clause (ii) above shall be filed with the department, if ordered, and shall be available for public inspection.

(b) An application may consist of an application for ~~two (2)~~ or more facilities in combination which are physically and directly attached to each other and are operationally a single operating entity.

(2) (a) The applicant shall pay to the department a filing fee with the application, which shall be deposited in the earmarked revenue fund for the use of the department in administering this chapter. This fee shall be based upon the estimated cost of the facility according to the declining scale which follows: two per cent (2%) of any estimated cost up to ~~one million dollars (\$1,000,000)~~; plus ~~one per cent (1%)~~ of any estimated cost over ~~a million dollars~~ and up to ~~twenty million dollars (\$20,000,000)~~; plus ~~one-half of one per cent (0.5%)~~ of any estimated cost over ~~twenty million dollars (\$20,000,000)~~; and up to ~~one hundred million dollars (\$100,000,000)~~; plus ~~one-quarter of one per cent (0.25%)~~ of any amount of estimated cost over ~~one hundred million (\$100,000,000)~~ and up to ~~three hundred million dollars (\$300,000,000)~~; plus ~~one-eighth of one per cent (.125%)~~ of any amount of estimated cost over ~~three hundred million dollars (\$300,000,000)~~. The revenues derived from the filing fee shall be used by the department in compiling the information required for rendering a decision on a certificate ~~and for carrying out its other responsibilities under this chapter with respect to the facility covered by the certificate for a period not to exceed five (5) years after the certificate is issued for facilities defined in 76-803-(3) (b) and (c) or not to exceed ten (10) years after the certificate is issued for facilities defined in 76-803-(3) (a), (d), and (e).~~ If an application consists of a combination of ~~two (2)~~ or more facilities, the filing fee shall be based on the total estimated cost of the combined facilities.

(b) The applicant is entitled to an accounting of moneys expended and to a refund of that portion of the filing fee not expended by the department in carrying out its responsibilities to compile information under this chapter.

(c) The department may contract with a potential applicant under this chapter, in advance of the filing of a formal application, for the development of information or provision of services required hereunder. Payments made to the department under such a contract shall be credited against the fee payable hereunder.

(3) An application shall be accompanied by proof of service of a copy of the application on the chief executive officer of each municipality and the head of each government agency, charged with the duty of protecting the environment or of planning land use, in the

area in which any portion of the facility is to be located, both as primarily and as alternatively proposed. The copy of the application shall be accompanied by a notice specifying the date on or about which the application is to be filed.

(4) An application shall also be accompanied by proof that public notice thereof was given to persons, residing in the municipalities entitled to receive notice under subsection (3) of this section, by the publication of a summary of the application, and the date on or about which it is to be filed, in those newspapers as will serve substantially to inform those persons of the application.

(5) Inadvertent failure of service on, or notice to, any of the municipalities, government agencies or persons identified in subsections (3) and (4) of this section may be cured pursuant to orders of the department designed to afford them adequate notice to enable their effective participation in the proceeding. In addition, the department may, after filing, require the applicant to serve notice of the application or copies thereof or both upon such other persons, and file proof thereof, as the department may deem appropriate.

(6) An application for an amendment of an application or a certificate shall be in such form and contain such information as the board by rule or the department by order prescribes. Notice of such an application shall be given as set forth in subsections (3) and (4) of this section. If an amendment to an original application would result in a substantial change of the original application, such an amendment shall be considered as a new application and new filing fee shall be required."

AND AS SO AMENDED, DO PASS

BA.

ELMER FLYNN, Chairman

COMMITTEE OF THE WHOLE AMENDMENT

MR. CHAIRMAN: I MOVE TO AMEND Senate Bill No. 247, second reading, as follows:

1. Amend title, line 13.

Following: "CERTIFICATE"

Insert: "AND TO CARRY OUT THE RESPONSIBILITIES OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION UNTIL THE CONCLUSION OF THE HEARING BY THE BOARD OF NATURAL RESOURCES"

2. Amend page 3, section 1, line 22.

Following: "certificate"

Insert: "and for carrying out its other responsibilities under this chapter with respect to the facility covered by the certificate until the conclusion of the hearing by the board of natural resources"

SENATE COMMITTEE NATURAL RESOURCES

Date 2-16-77 SB Bill No. 247 Time 10:00

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 was made by Senator Dover and seconded by Senator
Motion:
Roskie that SB 247 AS AMENDED DO PASS. Upon roll call vote, four
voting yes, and one voting no, the motion carried.

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

STANDING COMMITTEE REPORT

..... February 17 19 77

MR. PRESIDENT

We, your committee on NATURAL RESOURCES

having had under consideration SENATE Bill No. 298

Respectfully report as follows: That SENATE Bill No. 298

DO PASS

P.A.

STANDING COMMITTEE REPORT

.....February 17..... 19 77.....

MR. PRESIDENT.....

We, your committee on NATURAL RESOURCES.....

having had under consideration SENATE..... Bill No. 324.....

Respectfully report as follows: That SENATE..... Bill No. 324,.....

DO PASS

PA.

STANDING COMMITTEE REPORT

February 17 19 77

MR. PRESIDENT

We, your committee on NATURAL RESOURCES

having had under consideration SENATE JOINT RESOLUTION Bill No. 21

Respectfully report as follows: That SENATE JOINT RESOLUTION Bill No. 21,

WITHOUT RECOMMENDATION

DO PASS

OK

SENATE COMMITTEE NATURAL RESOURCES

Date 2-16-77 Bill No. SJR 21 Time 10:35 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 Jergeson that Amend
SJR 21 As Amended By Adopted. There being
yes, and three voting no - motion lost

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

STANDING COMMITTEE REPORT

February 17

1977

MR. PRESIDENT

We, your committee on NATURAL RESOURCES

having had under consideration SENATE JOINT RESOLUTION Bill No. 20

Respectfully report as follows: That SENATE JOINT RESOLUTION Bill No. 20

BE ADOPTED

~~XXX MASSXX~~

GU.

STANDING COMMITTEE REPORT

February 17 19 77

MR. PRESIDENT

We, your committee on NATURAL RESOURCES

having had under consideration SENATE JOINT RESOLUTION Bill No. 4

Respectfully report as follows: That SENATE JOINT RESOLUTION Bill No. 4

BE ADOPTED

APPROPRIATE

G.A.

STANDING COMMITTEE REPORT

February 17 19 77

MR. PRESIDENT

We, your committee on NATURAL RESOURCES

having had under consideration SENATE Bill No. 284

Respectfully report as follows: That SENATE Bill No. 284

DO PASS

SENATE COMMITTEE NATURAL RESOURCES

Date 2-12-11 SB Bill No. 284 Time 11:00

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

Beverly Braut Elmer Flynn
 Secretary Motion was made by Senator ~~Roskie~~ Chairman and seconded by Senator
Manley that SB 284 DO PASS. Upon roll call vote, five voting yes
 Motion: and one voting no, the motion carried.

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

(Attachment #1.)

THE REASONS WHY THE CIRCLE WEST PLANT SHOULD BE
TAKEN OUT OF THE MAJOR FACILITY SITING ACT

AND

THE REASON WHY THE MAJOR FACILITY SITING ACT SHOULD BE
AMENDED WITH RESPECT TO THE PARTIES
WHO MAY APPEAR AT A HEARING

1. WHY CIRCLE WEST SHOULD BE OUT OF THE ACT: House Bill 581 (1975) made a general revision to the Utility Plant Siting Act before the first test of that law was finished on Colstrip Units 3 and 4. The Circle West plant which is not a utility was added by changes of definition and a change in the title.

2. The Legislature came very close to eliminating Circle West from this law in 1975; but, after several conference committee meetings, the plant was left in the Act with certain amendments. One of these was that considerations of need, public need or public convenience and necessity, and a demonstration thereof by the applicant, shall apply only to utility facilities. (70-810[4]) However, the definition of "utility" in 70-803(8) is so broad that it tends to defeat the definition of "need":

"8. 'Utility' means any person engaged in any aspect of the production, storage, sale, delivery or furnishing of heat, electricity, gas, hydrocarbon products or energy in any form for ultimate public use."

(Attachment #2.)

MEAC REPORT JANUARY 1977

Recommendation

Montana's policy of encouraging load center conversion of our coal should be maintained for the present.

(Attachment #3.)

SUBCOMMITTEE PROPOSALS

13. The State of Montana's energy policy is to encourage load center conversion of coal and to limit energy conversion facilities to only those needed to meet Montana energy needs.

DREYER BROS INC. REPLY

13. The State of Montana's Energy Policy is to encourage load center conversion of coal and to limit energy conversion facilities to only those needed to meet Montana's energy needs.

This is a restatement of the "export only" policy. We don't believe this is a realistic policy recommendation.

The United States is one of the largest and most complex markets in the world. The inter-dependence of the market should be recognized so that Montana coal can compete on a fair basis with coal produced in other states. The distance of Montana from markets and the transportation costs involved is a serious problem. If the baking industry decided to prepare its products in Montana for export to other states, should there be a policy against it, or the meat packing industry? No serious consideration would be given to these proposals.

The sole reason for discrimination against coal is because of the feared environmental pollution associated with it. Environmental pollution can be substantially minimized. Montana should not be denied the right to participate in the tax base created by investment in mine-mouth generation plants or conversion facilities. This state is short of capital, and people need economic opportunity. The economic opportunity in agriculture is progressively available to fewer and fewer people; it makes good sense to provide opportunity in a mixed economy. From a tax standpoint, the revenue sources would be multiplied also.

A large portion of Montana's coal resource is lignite coal, which can only be economically developed by mine-mouth facilities. The Circle West plant can't be built if it has to sell fertilizer to Montanans only.

Limits to export 'a mistake'

HELENA (AP) — Sen. John Melcher, D-Mont., said he thinks it would be a mistake for the state to establish a policy against exporting power generated in Montana to other states.

"We'd be cutting off our nose to spite our face," he said.

"We can only eat a small fraction of the wheat we raise and we depend on the rest of the states for understanding on price supports and for developing a U.S. policy toward putting a worldwide price floor under wheat," Melcher said in an interview.

Melcher said Montana depends heavily on other states for goods and services "so we can survive."

Pending in the state legisla-

ture is a bill that would prohibit construction of energy plants designed to export more than 10 per cent of their production, except on an occasional emergency basis.

During the day's visit to Helena, Melcher told a joint session of the Montana House and Senate of efforts in Congress to pass a national strip-mining control law. He said the law is needed partly to assign authority to the states to run their own control programs over coal mined on federal, state, federal and private lands.

He said leadership is needed from the White House to help clear the way for construction of a pipeline to bring oil from Alaska to the Northern Tier states.

Melcher also spoke of a need for federal action to stabilize wheat prices. He said it is beginning to appear that there will be a surplus of a billion bushels at the start of this year's harvest.

Melcher, a former state legislator, drew applause when he said he hopes Congress and the administration can make federal regulations more sensible and easier to work with, and preferably with less paper work.

Melcher said he and senators from other Northern Tier and Midwest states met last Friday with James R. Schlesinger, President Carter's chief energy adviser, to discuss the urgency of getting federal and state permits needed before a pipeline can

be built to bring Alaska oil to the region.

Melcher noted that there is opposition in the state to Washington to allowing the to be taken off ships in Puget Sound for delivery into the pipeline.

"We've got to have some leadership, some positive federal action that would the stage for the state, Washington and other states, make rapid decisions on necessary state permits," he said.

Melcher said so refineries will be so low on in 15 to 30 months that it be economically impossible them to continue operating

TESTIMONY OF HELEN WALLER IN OPPOSITION TO SB 324

Mr. Flynn and Members of the Committee:

My name is Helen Waller. My husband, Gordy and I own and live on our farm in McCone County. I am here as a resident and taxpayer of McCone County to testify in opposition to SB 324.

I also submit as a part of my testimony this letter from people in my area who are as concerned as I am about the problems that we would be faced with if the proposed McCone County fertilizer plant is exempt from public review, comment or examination.

The Major Facility Siting Act was amended in 1975 to include fertilizer plants for the reason that fertilizer plants which utilize 500,000 tons of coal per year cause tremendous social, economic and environmental impacts and should therefore be answerable to the Department of Natural Resources.

The same reasoning applies today. According to information from the prospective applicant, the fertilizer plant being planned for McCone County projects an increase in population of our area of about 3600 people by the year 1985. We are indeed, subject to massive social, economic, and environmental impacts. Considering the fact that the present population of our entire county is below 3,000 people, this increase in population would pose a serious problem to us. So I feel that it is of paramount importance that when industry moves in to an area and causes such tremendous impacts, it is essential that the social and economic impacts, as well as environmental impacts be studied under the direction of an impartial department of our state government--in this case the Department of Natural Resources. How else can we in McCone County, or anywhere else, cope with the stress on our school systems, hospital, housing or any other service facilities?

Page 6 line 15 allows that application fees may be used only in preparing the required Environmental Impact studies, evaluations and statements. Then page 7, line 4 through 13 would prohibit the Dept. of Natural Resources, as a state agency from the ability to defend their recommendation at public hearings. Private citizens depend upon our state agencies to protect public interests. Without the right to defend their recommendation, who will represent the people of this state?

In regard to page 10, line 5, how do you define a person who can demonstrate that he will be adversely affected by the applicant, and to whom do we demonstrate this adverse affect? And without the applicant having to comply with the provisions of the Major Facility Siting Act, where do we get enough factual information to determine whether we will or will not be adversely

affected? Now, why should I have to demonstrate to anyone that I would be adversely affected before being allowed to participate in a public hearing? That infringes upon my constitutional right.

Senate Bill 324, with its proposed ammendments has been designed to stifle citizen input, which concept is contrary to the purpose which the Major Facility Act was to ensure.

Considering these pounts, I urge you to vote "do not pass" on Senate Bill 324.

Thank you.

Circle, Montana

February 12, 1977

Mr. Elmer Flynn, Chairman

To: The Members of the Senate Natural Resources Committee,

cc: Senator Dave Manning.

We, the undersigned urge that the Senate Natural Resource Committee vote "do not pass" on Senate Bill 324. We believe this action is necessary for the following reasons:

1. It is a narrowly pointed, short sighted, and ill-advised bill. This bill was introduced solely for the benefit of one special interest. SB 324 would exclude a major facility from public review, comment, and examination. No one is above the law. The laws of the State of Montana were not meant to be subverted for the profit of any one individual, whether he be a farmer, a rancher, or an out of state corporation. By exempting fertilizer plants from the Major Facility Siting Act, we at the local level will be unable to get the information we need to adequately plan to cope with any potential impacts.
2. SB 324 excludes non-profit organizations and citizens groups from becoming parties to the hearing. Such exclusionary tactics fly in the face of our democratic process. With these tactics, the only voice that will be heard in the public hearings is the voice of those who have the time and money to either openly or secretly influence decisions.
3. It excludes the Montana State Department of Natural Resources and Conservation from defending the conclusions it has reached in its study of the proposed facility. Such an exclusion guarantees that the people of the State of Montana cannot even hope to be adequately represented at such hearings; they will simply not be represented.

NAME	ADDRESS	OCCUPATION
Judson Tounley	Circle	dentist
Harrold Schilling	Circle	farmer
Jerry Schilling	Circle	farmer
Harrold Schilling	"	farmer
Mrs. Robert Schriener	Circle	Farmer & Rancher
Robert Schriener	Circle	Farmer & Rancher
Norma Waller	Circle	Housewife
Norma Waller	Circle	Rancher
P. H. Roseland	Circle	Former Rancher, Contractor
Wanda Roseland	Circle	Farmer's Wife
Karen Schilling	Circle	School teacher
Richard Roseland	Circle	farmer

McCONE COAL



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(Attachment #7.)

My name is Tom Breitbach, I live in Circle, Montana and I would like to thank the Senate Natural Resources Committee for the opportunity to present testimony on Senate Bill 324.

In reviewing this bill, I am filled with a sense of distrust and frustration. Should not our State government, and the people it serves, have some part in the decision making process as it relates to the location of large industrial facilities, and their resulting social, economic and environmental impacts? Yet, the first two ammendments deprive me of this very process.

I feel that I have a right to have an independent study done by a state agency, which will tell me what the potential impacts will be in my area. I also feel that I have the right to participate by commenting on any of the studies prepared. It also seems nessary that the state agency require the applicant to look at alternatives and to do everything possible to minimize adverse impacts. The Major Facility Siting ACT grants me all of these rights. This is why BN's fertilizer plant was put under the Siting Act in 1975 and why I feel it should stay there.

The amendment on Page 6, lines 15 and 16 would result in an inefficient way to run state government because the Department of Natural Resources would not, under this amendment, be allowed to defend their own recommendations. Consequently, the citizens would have to research, study and reevaluate all of the material use for preparation of the original position taken by the department. This amounts to doing the same job twice and would be nearly impossible for citizens to do.

The amendment that "any other perosn who can demonstrate that he will be adversely affected by the application" is an absolute impossibility. How can an adverse affect be proven until after the effect has taken place. This will limit the participation in the

(Attachment #8.)

Chairman Fipps and members of the Committee:

All of you to whom this letter is addressed have been elected to your positions by the citizens of this state of Montana. I'm sure that you will be the first to agree when I say it is a job of many responsibilities with duties and obligations to not only the voters of your special district but to each and every citizen of our state. For you hold in your hands the great and terribly grave responsibility of changing the laws by which we all are governed. I'm sure you realize that before any such action can be taken you must carefully weigh and consider all of the possible effects that any such change would have on the citizens of this state.

You have before you now a proposal to amend the major facility siting act. This proposal is called SB 324. This bill, if passed, would completely remove fertilizer plants from this law. On the surface this doesn't sound too bad for we all agree that fertilizer is very necessary for the growing of our food here in Montana and throughout the United States as well. However, the fertilizer plant to be excluded in this bill would be the only such facility in our state in our country, and in fact in the entire world. It is Burlington Northern's Circle West project. It is not a fertilizer plant, it is a huge gasification complex. It is designed not only to manufacture anhydrous ammonia for fertilizer, which is not even used by the farmers of our state, but synthetic natural gas (methanol-methyl fuel) and synthetic diesel fuel as well. These fuels are to be used by BN in the operation of their railroad. It would also be necessary to build a coal-fired power plant approximately the size of Westinghouse 1 or 2 to operate these plants. I hardly feel that these siting

(Attachment #9.)

Feb. 16, 1977

TO: Natural Resources Committee,
Montana State Senate

FROM: The Montana Cattlemen's Assoc. Int'l.

Cattlemen can be classed among the most avid environmental interests in the State of Montana, however, we do recognize the great demands to meet the needs of society in prudent and reasonable development of our natural resources.

The imposition of undo hardship, harrassment, restrictions etc., through legislation on those interests seeking ways to develop Montana natural resources is allowing regressive attitudes to influence "no improvement or advancement" in Montana; eg; no progress in that there is no new tax base that can be created, our young college trained people must leave Montana to find employment in more progressive areas; leaving the farms and ranches to be run by older folks who want to look forward to retirement but can't afford to retire because of the higher and higher taxes.

By the same token, those Montanans who wish to develop a natural resource are oppressed with so many regulations and restrictions, they end up either finding it necessary to create a monopoly market in Montana just to develop or they can't afford to develop at all because by the time they meet all the regulatory reservations, technology changes have created an additional burden and a probable additional need for revision of the impact outlined in the initial application.

We urge the Committee to consider the astucious solution to good conservation and sensible development of our natural resources. We support the amendments proposed in Senate Bill 324.

SB 381
DEPARTMENT OF STATE LANDS TESTIMONY

There are approximately 1065 pits presently contracted under the Open Cut Act. If the cumulative definition were deleted, approximately 45.4% or 484 individual pits would be exempted from reclamation responsibilities covering approximately 2,000 acres.

If the cumulative definition were deleted from the Act an incentive would be present to create pits less than the 10,000 cu/yd size limitation. This could result in even more acres of disturbance to secure the needed products. Montana's Constitution states in Article IX, Section 2, that "All lands disturbed by the taking of Natural Resources Shall be Reclaimed." The proposed deletion of the cumulative definition is questionable in light of the Constitutional provisions.

Inspectional problems will be greatly increased. One illustration would be where an operation, unknown to the Department, excavates a pit of less than 10,000 cu. yds. and in later months or years returns to excavate additional quantities from the now orphan pit. This could continue with the same or different operators until a significant disturbance and sizable excavation has been realized. The operator could also open up a new pit rather than contract and bond the old pit.

(Attachment #11.)

AMENDED SJR 21

February 11, 1977

WHEREAS, Libby Dam has already impounded 90 miles of the Kootenai River, leaving only 40 miles of free flowing river left in Montana;

WHEREAS, the Northern Lights Power Company is planning to build a dam and powerhouse at Kootenai Falls, a unique scenic, geological and recreational area;

WHEREAS, the Katka Dam Site, in Idaho, ten miles from the Montana State Line, is being seriously considered for development by the Idaho Water Resources Board;

WHEREAS, the scenic and recreational qualities of the remaining free flowing Kootenai River is of local, state, and national significance;

WHEREAS, this locally, regionally, and nationally significant scenic and recreational resource should not be impacted by a small hydroelectric development which will have only local value;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

THAT, the Montana legislature request the United States Congress bar hydroelectric power development on the Kootenai River at the Kootenai Falls Site.