MINUTES OF THE MEETING
NATURAL RESOURCES
MONTANA STATE SENATE

March 10, 1977

The twenty-sixth 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.

CONSIDERATION OF HB 558: An Act to convert the 1-year operating permits under the Montana Strip and Underground Mine Reclamation Act and Coal Conservation Act into 5-year permits with annual reporting requirements.

Representative Jay Fabrega, representing District 44, stated that this bill has an annual reporting requirement. The bill was amended at the suggestion of Commissioner Berry and also of the Northern Plains Council. This is a good bill.

Mr. Leo Berry, representing the Department of State Lands, stated that this is a good bill and will assist the department in planning of the companies. Environmental Impact Statements will be prepared on a 5-year basis instead of a 1-year basis. Certainly we support the bill.

Mr. Jim Mockler, Executive Secretary of the Montana Coal Council, stated that they are faced with a mountain of paperwork. The amendments are acceptable to me and to Mr. Berry and to Northern Plains. We agree with the bill as written and also hope you will pass this bill.

Mr. Gene Phillips, representing Pacific Power and Light and Decker Coal Company, said he likes the ease it will give them in obtaining financing in obtaining new mines. We do very much support this bill.

Mr. Joe Crosswhite, President of Montana Trades Association, said we are very much in support of this bill. He stated that the working people of today have enough problems with inflation, taxes, and so forth without having no job security from year to year. When you are on a 1-year permit you don't know whether you are going to get a permit for the second year so a person doesn't know whether to buy a home or what. This bill gives them better job security.

Sarah Ignatius, Staff Representative of the Northern Plains Council, stated they would like to lend their support to this bill also. A lot

of paperwork will be eliminated and some better planning will result over the five-year period.

CONSIDERATION OF HB 197: An Act extending the time for acting on operating permit applications under the Hard-Rock Mind Reclamation Law.

Representative Joe Quilici, representing District 84 and Chief Sponsor of HB 197, stated that within 60 days of complete application the department shall determine whether an Environmental Impact Statement is needed or in 120 days will either reject or grant the permit. The Department of Lands said that they could do an Environmental Impact Statement in 365 days. They don't ever call for an Environmental Impact Statement on a small operation, just a major operation. Since 1971 the Department has only prepared one Environmental Impact Statement and that was against the Anaconda Company. This isn't going to affect the small miner. They have sometime issued these permits in 39 days so this is not going to affect small miners.

Mr. Leo Berry, representing the Department of State Lands, stated that this bill extends the time for review of applications for operating permits which require an environmental impact statement from 60 days to 365 days. Environmental Impact Statements are prepared only on major state actions. This bill will not affect small miners, since they are exempt from the Act. (See Attachment #1.)

Mr. Steve Williams, representing the Anaconda Company, stated that this bill will affect his operation. He introduced Mr. LeRoy Wilkes.

Mr. LeRoy Wilkes, of the Anaconda Company, stated that the Anaconda Company opposes House Bill 197 because it would extend the time frame for a miner to secure an operating permit from the present 60 days to 365 days. HB 197 does not improve reclamation or add any new benefits to the reclamation law. The provisions of HB 197 would not make the present law supplementary to MEPA. (See Attachment #2.)

Mr. Gene Phillips, representing ASARCO, stated that he was not really here as an opponent. He stated that on Page 3 and the top of Page 4, we asked that the bill be amended in order to exempt ASARCO from this bill.

Mr. Neil Lynch, representing the Montana Mining Association, stated that he was opposed to this bill. There is no such thing as a small miner after the mine is a success. The costs of exploration are significant and if he had to wait one year you know you only wouldn't have any small miners, you just wouldn't have any miners.

Mr. John Clema, member of the mining industry in Missoula, Montana, stated that this bill doesn't help us. 60 days can be a very long time for someone operating on limited capital.

Mr. Norman Rogers, representing the small miners, stated that when the Legislature comes in here we are harassed with bills that we don't know which way is up.

At this time, Representative Quilici closed the hearing. He said that Mr. Wilkes stated that in the mining industry they have to act quickly. I don't think there is any operation of major size that you can't plan a year in advance. Picture of Dump in Butte was presented to the Committee. (See Attachment #3.) This dump in Butte has had an adverse effect in our community. When a company comes in the people should have some say in how that operation is going to affect their lives. I see no reason why they should oppose it. Any major corporation ought to be able to project one year ahead. This bill is not going to hurt the mining industry.

Senator Smith said, that in potash development in his area there has got to be better cooperation between companies and the State Land Department.

Senator Smith asked, how would this really affect the Berkeley pit and the operation of it.

Mr. Williams replied, I believe in the planning there.

Mr. Alan Dahlstrand, Director of Planning for the Butte Operations of the Anaconda Company, said that our ability to react quickly is the key to keeping mining operation competitive within the United States industry and also in the world industry.

Senator Flynn said, it was stated that some people from Butte went to Arizona - does Anaconda have a reclamation plan.

Mr. Dahlstrand said, yes, we have a reclamation plan at this time and we are trying to reclaim the lower lifts at this time.

Senator Smith asked, if a small miner starts and later on increases in size what happens then if this bill passes.

Mr. Berry stated, it will depend Senator Smith, on the operation. We have issued some 85 operating permits - we have never done an impact statement on those.

Senator Galt asked, what is the criteria between big and small miners.

Mr. Berry said, small miners definition is to stay under 5 years and 100 ton a day. If they exceed that they have to get an operating permit. If there is a major effect on environment we do an impact statement.

Senator Roskie said, this question of major versus minor. That is the question bothering everybody. It disturbs me that this could be applied at your discretion at any time.

Mr. Berry said, that is correct.

Senator Roskie said, you will bring EPA under this.

Mr. Berry said, no sir.

Senator Roskie asked Mr. Clema how he feels as the small miner.

Mr. Clema said, what you want to do is take advantage of the price. All of a sudden I have to go through bureaucracy to take advantage of a situation. If the price goes down you cut her down and walk away.

Senator Dover asked, with ASARCO you said 18 months - why couldn't this be some way to do it.

Mr. Berry answered, if each company did it would solve all the problems but there is no guarantee of that.

Senator Dover said, 365 days - because of the time permitted, are you going to feel free to examine more because you have the time to do it.

Mr. Berry said, I honestly don't think so.

Senator Devine stated, the first man that makes application, he does the ground work.

Mr. Berry said, that's right.

Senator Dover wondered, is there some way that we could put in here that time limit will be established.

Mr. Berry said, I think it would be difficult to do and make it work administratively. It is difficult to tell you what kind of problems you are going to run into. I agree with you entirely. You may have a valid suggestion and we would have to sit down and see how in each individual case.

Senator Flynn asked, how would you revert to small and large operation if you go over a 100,000 ton today.

Mr. Berry said, there is a big difference between major operation and other people who have to obtain a permit. There are 43 operating permits right now and only one has had an impact statement.

Senator Manley asked, when he goes over that do you stop him from mining while he is getting the permit.

Mr. Berry said, the last one was processed in 39 days after we received the application. The Environmental Impact Statement has never been used by the Department as a tool. We are caught in a bind. We are required to do impact statements but do not have enough time.

Senator Roskie said, apparently this concept based on the time frame is the basis for issuing the permit.

Mr. Berry said, the problem is the time frame. Right now we are required to do the impact statement but we do not have enough time.

Senator Dover asked, these impact statements, do they influence the decision of the permit.

Mr. Berry said, we do not deny or grant impact statements on the basis of the permit.

Senator Smith added, if we could in some way on smaller projects or expansion of present mines, speed this up but not stand in the way of progress - this is what concerns me.

Representative Quilici said, in talking about the 365 days, if you can find an amendment that will do the job do it but I think it is really necessary to have this 365 days.

ADJOURNMENT:: There being no further business, the meeting was adjourned at 10:50 a. m.

Elmer Flynn

SENATOR ELMER FLYNN, CHAIRMAN

ROLL CALL

NATURAL RESOURCES COMMITTEE

45th LEGISLATIVE SESSION - - 1977 Date 3/10/77

NAME	PRESENT	ABSENT	EXCUSED
FLYNN, Elmer, Chairman	✓		
ROSKIE, George, Vice-Chairman	✓		
Devine, John	✓		
Dover, Harold	✓		
Galt, Jack	✓		
Jergeson, Greg	✓		
Manley, John	✓		
Smith, Ed	✓		

HB 197 SENATE Natural Resources COMMITTEE

BILL HB 558 VISITORS' REGISTER DATE 3/10/77

Please note bill no.

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPPOSE
Grace M. Jonkuff	Texaco	197 558	yes	
Joe Conner Jr.	WETA - Open Gov.	558	X X	
[illegible]	League of Wm. Voters			
Laureen Lance	Mt Mining Assoc	197		✓

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

NAME: STEPHEN M. WILLIAMS DATE: 3-18-77

ADDRESS: 1625 11th Avenue Helena

PHONE: 443-5820

REPRESENTING WHOM? ANACONDA Co.

APPEARING ON WHICH PROPOSAL: _____

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

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: LeRoy E. Wilkes DATE: 3-10-77

ADDRESS: 3010 Moulton St. Butte, MT

PHONE: 723-5066

REPRESENTING WHOM? The Anaconda Co.

APPEARING ON WHICH PROPOSAL: HB 197

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

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Lee Berry DATE: _____

ADDRESS: _____

PHONE: _____

REPRESENTING WHOM? State Lands

APPEARING ON WHICH PROPOSAL: 197, 558

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

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Gene Phillips DATE: 3/10/77

ADDRESS: Box 759 Kalispell

PHONE: 755-6644

REPRESENTING WHOM? Pacific Power & Light and Decker Coal

APPEARING ON WHICH PROPOSAL: HB 558

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

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Gene Phillips DATE: 3/10/77

ADDRESS: Box 759 Kalispell

PHONE: 755-6644

REPRESENTING WHOM? ASARCO

APPEARING ON WHICH PROPOSAL: HB197

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

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Joe Pudwill DATE: _____

ADDRESS: _____

PHONE: _____

REPRESENTING WHOM? Dist 84

APPEARING ON WHICH PROPOSAL: HB197

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

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Jim Vocker DATE: 3/10/77

ADDRESS: 2301 Colonial Dr

PHONE: 442-6223

REPRESENTING WHOM? Montana Coal Council

APPEARING ON WHICH PROPOSAL: HB538

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

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Sarah Ignatius DATE: 2/[illegible]/[illegible]

ADDRESS: Northern Plains Resource Council
101 E. Front Lawrence

PHONE: 443 5428

REPRESENTING WHOM? NPRC

APPEARING ON WHICH PROPOSAL: HB 558

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

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: John Bell DATE: 9 Mar 10

ADDRESS: Helena

PHONE: 442-2220

REPRESENTING WHOM? self

APPEARING ON WHICH PROPOSAL: H. 197

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

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Dorian Rogge DATE: Dec 6

ADDRESS: Box 1719

PHONE: 1102596

REPRESENTING WHOM? Self

APPEARING ON WHICH PROPOSAL: ZB 197

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

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: John Clerx DATE:

ADDRESS: 2430 W. Central, Missoula

PHONE: 549-5139

REPRESENTING WHOM? Self

APPEARING ON WHICH PROPOSAL: HB 197

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

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

ATTACHMENT #1.

HR 197

BEFORE THE SENATE NATURAL RESOURCES COMMITTEE

This bill extends the time for review of applications for operating permits which require an environmental impact statement (EIS) from 60 days to 365 days. EIS's are prepared only on major state actions. Since the Hard Rock Act was passed in 1971, only one permit application out of the 86 submitted has required an EIS. In that case, the 60-day time frame did not allow sufficient time to prepare the EIS and to allow public participation. As a result, the Department of State Lands and the permittee have been sued on the grounds that the EIS was inadequate. Three hundred sixty-five days is a minimum period for preparation of an EIS.

Those operating permits not requiring an EIS would have to be approved or denied within 120 days under the bill. A preliminary environmental review (PER) has to be prepared on these. The time required for review and preparation of the PER varies with the nature of the proposed operation, the urgency, and staff availability, but the last 10 of these permits have been issued in an average of 39.5 days after receipt of the complete application.

Since 1971, the department has processed approximately 900 small miner exclusion statements and 200 exploration licenses. This bill will not affect small miners, since they are exempt from the Act. Nor will it affect the issuance of exploration licenses, since they are confidential and thus not subject to public review.

In summary, this bill is to cure the statutory conflict between the Hard Rock Act and the Montana Environmental Policy Act in the rare situation

ATTACHMENT #2.

SENATE NATURAL RESOURCES COMMITTEE

March 10, 1977

TESTIMONY OF:

L. E. WILKES
Superintendent of Mines
THE ANACONDA COMPANY
Butte, Montana

The Anaconda Company opposes House Bill 197 because it would extend the time frame for a miner to secure an operating permit from the present 60 days to 365 days.

The purpose of the Hard Rock Mining Act (R.C.M. 1947, 50-1201, et seq.) is to ensure reclamation of lands that are disturbed by mining - not to regulate and control mining operations. House Bill 197 does not improve reclamation or add any new benefits to the reclamation law. This proposed delay in granting permits for mining relates directly to the preparation of environmental assessments under the Montana Environmental Policy Act (MEPA). At this time it is important to note that when MEPA was initially passed, it was specifically stated that the provisions of MEPA were supplementary to existing law, and that agencies of the state were to comply with the provisions of MEPA to the fullest extent possible. MEPA was never intended to change the statutory operating provisions under which state agencies continue to work.

The provisions of HB 197 would not make the present law supplementary to MEPA.

Attached to this memorandum is a copy of a chart showing the fluctuations of the price of copper since 1972. The operations of

ATTACHMENT #3.