

The House Natural Resources Committee convened on February 14, 1979, in room 3 of the Capitol Annex, at 12:00 noon with Chairman Sheldon presiding and 18 members present (Rep. Thoft was absent) to hear testimony on the following bills:

HOUSE BILL 605

REPRESENTATIVE KATHLEEN McBRIDE, the chief sponsor, said this is an amendment to the Facility Siting Act dealing with geothermal energy. She said there was a minor amendment on page 4, line 13 where the word "delivered" should be "derived". The bill excludes any geothermal facility that would produce less than 25 million BTU an hour or cost less than \$250,000 from the need of being reviewed under the Major Facility Siting Act. These facilities would still be covered by a number of water use laws. It would ordinarily take more than this amount of heat per hour to generate electricity to essentially produce steam which would restrict this to more or less direct use. She said one thing she wanted to emphasize was that though the bill exempts these small facilities if there is any question about exploration being exempted an amendment should be added--reports are now required and these should continue to be given by those exploring.

KEITH BROWN, representing self, said he had been working on geothermal for the past year. He passed to the committee members (ex.1) some pages dealing with geothermal resources found in the state that runs around 300° F which is low for generating electricity, so would be used more for providing space heat for different kinds of projects. About 150° F heat is needed to get the best space heating. There are four projects using geothermal in Montana, one of which is Warm Springs. He said he would like to see this type of development encouraged as it releases higher quality fuel for other things. An average house takes about 50,000 BTU an hour, and so the 25 million BTU could conceivably heat 250 to 400 houses in a subdivision. If the subdivision was any larger it would have to come under the Facility Siting Act, which he said is a good idea as we are concerned about the effects of larger installations. He also compared the nurseries--it takes about 8 million BTU an acre. To generate electricity a field that is high enough in heat produced would need to be located.

STEVE PERLMUTTER, Montana Energy Research and Development Institute, spoke in support. He said the Major Facility Siting Act deals with major facilities and as the act is written it included any use of geothermal resources, no matter how small. So the reason for this bill is to put on a lower limit to exclude the smaller facilities, although not necessarily completely excluding them for if they generate power they would come under the Siting Act. They would still report exploratory activities as they are required to now and submit them to the DNR. Then if the geothermal project is located on state lands it would have to get a state geothermal lease and there are various environmental protection regulations. Other acts that would apply are the Water Use Act. In drilling of a water well a water use would have to be applied

for. That requirement would still apply for projects if they come under the projects of the Water Use Act. Then there is a waste water review where the heat is extracted and the water may be reinserted into the ground and come under the provision of the Water Quality Control Act. Finally the Air Pollution Control Act would be used as there are sometimes emissions of hydrogen sulfide. So, he said, even though they are removed from the Siting Act there would still be a handle on these projects.

JOHN MAC INTYRE, DNR&C, said they fully support this particular bill. The people in their energy division have worked up the figures that have been used.

RONAL POGUE, Alternative Energy Resources Organization, said they thoroughly support this bill. He said they have no qualms about where the cutoff point is--could be higher or lower than those proposed.

During questions from the committee, Ray Breuninger, DNR&C, responded to a question by saying they are not sure where the cutoff needs to be as we do not have any geothermal projects going on in the state so don't know what the impacts would be. They have studies from other states, but there are differences in source of water and trace elements, etc.

Rep. McBride closed on House Bill No. 605.

HOUSE BILL 676

REPRESENTATIVE DENNIS NATHE, District #1, the chief sponsor, said this bill would give a landowner who has had land taken by eminent domain, like for a reservoir, the right to the land up to the pool of water--so he can water his cows in the reservoir or build a cabin by it.

PAT SMITH, Northern Plains Resource Council, said they support the bill.

TED DONEY, DNR, said they support the bill, however they have one minor problem and that is the way the bill is worded--up to the maximum pool of the reservoir. They would prefer "by metes and bounds." This is because the maximum level of the reservoir is hard to survey.

Questions were asked by the committee.

Rep. Nathe closed by saying he was opposed to the wording "metes and bounds."

HOUSE BILL 694

REPRESENTATIVE WILLIE BAY, District #54, the bill's chief sponsor, said the bill delegates the decision making authority to the board

of Natural Resources and Conservation for inter-basin transfers of water from the Yellowstone basin. The Intake Water Company has applied for an inter-basin transfer. They were told the Montana decision was a legislative matter and he felt it was the duty of the legislature this session to set up some method to deal with Article 10 of the Yellowstone Compact. Rep. Day read Article 10. He said Mr. Ted Doney and his staff had drafted the bill and he would like him to speak on it.

JOE ROBERTS, Governor's Office, spoke next in support and said for the reasons that will be stated by Mr. Doney they support the bill.

TED DONEY, DNR&C, said under the current Compact the legislature would have to approve the applications, North Dakota has already delegated its authority and Wyoming also does it by way of its legislature. This bill would delegate Montana's authority to the Board of Natural Resources. In case something comes up in the interim somebody should have the authority to work on the applications. Use outside the state of Montana would not be authorized in this bill. They are in support of the bill as it is presently drafted.

LES LOBLE, Intake Water Company, spoke next as an amender. A copy of his testimony and suggested amendment is exhibit 2 and part of the minutes. He introduced Jack L. Adams and Brett A. Boedecker and said they would be glad to try to answer any questions.

RONALD F. WATERMAN, Montana Railroad Association, spoke as a supporter and an amender. A copy of his suggested amendments is exhibit 3 and part of the minutes.

PAT SMITH, NPRC, spoke next as an amender, also. He said they had some serious concerns about this extremely important bill. A copy of his testimony is exhibit 4 and part of the minutes. He left copies of his suggested amendments with the committee and a copy of these is exhibit 5 and part of the minutes. As testimony he also presented a letter from the Wibaux Area Council which had been sent to members of the committee. A copy of this letter is exhibit 6 and part of the minutes.

Questions were asked by the committee. In response to a question Mr. Doney said he had not had an opportunity to review the amendments of the other witnesses as yet. Rep. Scully asked concerning the criteria that would be used in judging an application; Mr. Doney responded it would be made consistent with the Water Use Act which has a provision for people filing objections. Rules would be adopted by the department. He said the North Dakota Water Commission is the one delegated in that state.

In closing Rep. Day said no one knows more than he does about the low flow of the Yellowstone. He would never consider legislation that he felt would harm the users. The average annual flow is 8.8 million feet. During the June rise we can't start using all the flood waters at that time and perhaps a transfer could occur at that time. The water was divided between the three states when they drew up the Compact. He had seen some of the coal leases the Keneco Company has that overlap into North Dakota and would caution this committee to take into consideration that if we are going to use Montana water to be sure we are going to get benefit from its use. He felt it was a workable bill--flexible enough to set up the criteria to protect the water users of the state of Montana.

HOUSE BILL 739

REPRESENTATIVE WILLIAM DAY, District #54, the chief sponsor, said this is a State Land Department bill. He asked Mr. Leo Berry of the State Land Department to explain the bill. He added that he had talked to Gene Phillips who represents ASARCO and they have no objection to the bill in any way.

LEO BERRY, State Lands, discussed the bill. A copy of his testimony is exhibit 7 and part of the minutes. He said they unequivocally support this bill.

PAT STUART, Montana Coal Council, said they support the bill.

Representative Burnett left to attend another meeting.

Representative Day closed after a few questions from the committee.

EXECUTIVE SESSION

HOUSE BILL 739 Rep. Cooney moved do pass. Motion carried unanimously with those present (absent were Reps. Curtiss, Huennekens, Thoft and Burnett).

HOUSE BILL 605 Rep. Nathe suggested amending the amount of BTUs that can be produced to stay under the limit of 170 million. Rep. McBride did not believe this should be done as she said some adverse impacts could occur at that level. 25 BTU was a fairly reasonable number and seemed to be a good starting point. She would not be opposed to raising it but would like to have some input from people who know more than she did about it--she did not want to exempt all geothermal projects. Concern was expressed that State Nursery in Helena who uses geothermal might fall just beyond the limit. Rep. Spilker also expressed this concern.

Rep. McBride moved that House Bill 605 do pass and the motion carried with Reps. Spilker and Johnson voting NO and absent now were Reps. Burnett, Curtiss and Thoft.

HOUSE BILL 675 Rep. Scully moved do pass. Motion carried.
Rep. McBride abstained as she had not heard
the testimony and absent were Curtiss, Thoft and Burnett.

HOUSE BILL 694 Hold for the day.

Rep. Scully moved that the committee bill on the
sunset date of the Sanitariums do pass. An error
had been made on the bill so it had been returned for corrections,
the date was to be 1981 instead of 1979. Motion carried unanimously
with those present, absent were Reps. Burnett and Thoft.

HOUSE BILL 160 Rep. Iverson moved do not pass. Rep. McBride
made a substitute motion of tabling it. Rep.
Scully moved a substitute motion for all motions pending to post-
pone action until the 50th day. Rep. Huennekens objected to that.
Rep. Scully withdrew his motion and action was taken on Rep. McBride's
motion of tabling. This motion passed with Reps. Keedy and Cooney
voting NO. Absent were Reps. Burnett and Thoft.

HOUSE BILL 555 Rep. Johnston moved do pass. Ms. Schmidt was
asked concerning an amendment by the bill's
sponsor. She said she did not have a copy but the gist of it was
that it would be a new section on page 3, section 2, and would
permit the DNR to loan to somebody to generate power. Rep.
Johnston moved the amendment be adopted. Mr. Doney on being asked
said this is a clarifying amendment they agree on. Rep. Shelden
said this amendment would authorize the DNR to lease to somebody
who could generate power. Motion carried unanimously with those
present (absent were Reps. Thoft and Burnett).

Action was then taken on the motion to pass as
amended and a roll call vote was taken. The
motion carried with 8 voting NO, 9 voting YES, and 2 were absent.
Those voting NO were: Reps. Cooney, Harper, Huennekens, Keedy,
Kessler, McBride, Metcalf, and Shelden.

HOUSE BILL 583 Rep. Harper moved do not pass. Rep. Kessler also
stated he had problems with the bill. Rep. Bertlesse
felt there could be some real dangers with this piece of legislation.
Rep. Scully felt there was a need and wondered if there were any
other pieces of legislation dealing with this. There is a Senate
Bill No. 44. Rep. Scully moved that House Bill 583 be tabled.
This motion passed with Rep. Huennekens voting NO and Reps. Thoft
and Burnett were absent.

HOUSE JOINT RESOLUTION 26 Rep. Iverson moved do pass. Rep. Harper
moved a substitute motion of do not
pass. Rep. Quilici rose in opposition to the substitute motion.
He said if he thought this resolution in any way could hurt the
workers he would never vote for it, but he felt some of the

regulations were a bit ridiculous. Rep. Cooney said he agreed with what Rep. Donaldson is getting at, but he believes OSHA is working at cleaning up its act and maybe a resolution should go forth encouraging them to continue. Rep. Harper withdrew his motion and left. Rep. Iverson's motion to do pass carried with Reps. McBride and Cooney voting NO and Reps. Thoft, Burnett and Harper were absent.

The meeting adjourned at 2:07 p.m.

Respectfully submitted,



ARTHUR H. SHELLEN, Chairman

Emelia Satre, Secretary