

March 7, 1979

The House Natural Resources Committee convened in room 3 of the Capital Annex, on March 7, 1979, at 12:30 p.m., with Chairman Sheldon presiding and seventeen members present (excused was Rep. Huennekens and absent was Rep. Fagg), for a hearing on the following bills:

SENATE JOINT RESOLUTION 18

SENATOR GEORGE ROSKIE, Senate District 21, introduced his cosponsor Representative Joe Kanduch.

REPRESENTATIVE JOE KANDUCH, Sr., District 89, spoke in support of the bill.

SENATOR GEORGE ROSKIE said this is a joint effort between the houses to try to solve the long standing differences as to how the land should be used. He said this determination should be done expeditiously and not delayed any longer than necessary.

ROBERT N. HELDING, Wood Products Association, passed to the committee members a draft report (exhibit 1) from the Division of Forestry on what would happen if all RARE II proposed land would go into the wilderness category--which he said is unlikely but does give us the potential of what we face in Montana. Exhibit 2 shows an estimate of national forest receipts that Montana is in line to receive this year. A sheet attached to this exhibit shows what each county's share would be. Mr. Holding said these receipts show a 17% drop this year as timber sales were less due to RARE II and inability to harvest the timber. Exhibit 3 is an Independent Record article which he said pointed out how high timber prices have jumped, which Mr. Holding attributed to a limited supply of timber due at least partly to indecision on RARE II areas. On a BLM map he indicated land being inventoried by that federal agency. He also passed for the committee's perusal a U.S. Forest Study report (exhibit 4). Mr. Holding said Montana could end up with a significant problem in that a lot of our area would be set-aside land. He mentioned a possible problem with ambient air standards--if there are over 5,000 acres in a park, the air is classified as pristine. He said while under the law RARE II lands would be Class 2, if there was enough acreage a petition could change the classification. This, he felt, would permit the federal government to have a say on private land that is up wind. Therefore, he said, they would like a speedy resolution to these problems so that we can get on with the problem of keeping people working and paying bills.

PETER JACKSON, WETA, said in the opinion of his organization this is a resolution that shows a lot of common sense. He said it is addressing some very important points that should be addressed in the RARE II situation.

G. T. NEILS, Montana Logging Association, said he had met with independent contractors from California, Washington and Idaho who had similar problems and they are in accord with the resolution. He said they heartily concur with the resolution.

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AL KINGTON, Wickes Forest Ind., spoke in support of the bill. He said basic industries are on a decline in Montana and studies are on an upcline. He said we just study some things to death.

NINA SMITH, International Snowmobile Council and Montana Snowmobile Association, spoke in support. She said they are concerned because if these areas are classified as wilderness their group is out. She said they are affected not only for their recreation but for their livelihood. She felt there should be a time table and things should be settled. She said delays and indecisions will lead to further controversy.

DON ALLEN, Montana Petroleum Association, said they endorse passage of the resolution. He said in view of the Iranian situation we should make every effort to explore and perhaps discover a field that could furnish enough gas for fifty or more years. He felt delay should be avoided.

Chairman Shelton left to testify at another hearing and Vice-Chairman Harper assumed the chair.

BILL CUNNINGHAM, The Wilderness Society, spoke in opposition. He said there is a need to recognize the wilderness designation as a legitimate use of the land. He said most of the land being considered for this designation is in the higher elevations and has low timber production. He said the problem in the timber industry is inefficient timber management and not wilderness areas. He said the air is designated Class 2 (Absarokee) and can't receive a higher designation unless for a reason separate from the wilderness designation. He said the late Senator Lee Metcalf started this and there was four years of hard work before the studies even begun. He said there are nine high quality roadless areas in the study. He said it doesn't make good sense to say to heck with anything. He said it will take time to be fair to all the people who work and live in Montana.

LEONARD SARGENT, EIC, said they also rise in opposition. He didn't believe the resolution is necessary. He said timber and mining have always complained about the wilderness areas. He said the way the RARE II studies is going is not encouraging to people concerned about the wilderness but should be a real encouragement to the industries.

Rep. Kanduch said that 80% of the people who testify for wilderness areas do not know what a wilderness is--they expect roads and camping spots. He said there hasn't been a timber sale in the Beartooths since the start. He said what they are asking now is that they can go ahead on the multiple use areas--and if it is wilderness area to put it down as such.

During questions Rep. Kanduch said he had no problem with instant wilderness. Rep. McBride asked why then the language on page 2, lines 14 through 19.

SENATE BILL 185

SENATOR HAROLD L. DOVER, District 24, said this bill could have quite an impact as water is one of our most cherished resources and in great demand by our neighbors. He said sewage effluent is a large source of water--up to 18 million gallons a day discharged back into the main stream at Billings. He said if this were taken out and diverted, say for coal slurry or some such thing, it could have an effect on our downstream flows.

RONALD WATERMAN, Montana Railroad Association, spoke next in support. Copies of his testimony were passed to the committee members and a copy is exhibit 5 and part of the minutes.

PETER JACKSON, WETA, spoke in support. He said this point should be made clear now.

KENNETH D. CLARK, Montana Railroad Brotherhoods, said they concurred in the bill.

DON MACINTYRE, Natural Resources and Conservation, said they support the bill as amended and he said he hopes the amendments stay in.

Senator Dover closed and the committee asked questions. Rep. Harger asked if this means that a sewage plant that receives sewage is going to have to file a water right claim. Rep. Scully said there was no point of diversion on this water.

Also signing as supporting the bill were:

John Delano, Montana Railroad Assn.

Carl Knutson, BMWWE, Glendive

SENATE BILL 323

SENATOR ED SMITH, District 1, said this bill would provide that certain natural gas or crude oil facilities and associated facilities are not within the definition of "facility" under the Montana Major Facility Siting Act. He said a recent court decision by Judge Schanstrom interpreted the MSFA to include certain oil and gas pipelines which he said were never intended to be covered. He said this poses serious problems as these fields tend to permit flaring and rather than comply with the MSFA they are even more likely to. He said we need to encourage production and not set up roadblocks. He said the DNRC would not be able to handle the EISs and extra cost involved in including all these consumer pipelines. He said all the large pipelines would still be included. He said they have a collection plant at Culbertson and plan to run more lines in and the clarification in this bill is needed.

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DON ALLEN, Montana Petroleum Association, spoke in support. He said this recent court ruling said that under MFSA the conversion facility applied to a field of oil and gas. He said this is an unreal interpretation and could cause all kinds of havoc. He said he had attended a meeting in Shelby to try to work to solve some of the problems. He said MFSA was not intended to apply to the facilities in the oil and gas fields. He said the language in the bill was agreed to by the people of DNRC and there was no intent to weaken the act but merely to clarify it. He said two others had hoped to be present--one from Choteau and a representative of the Great Falls Gas Company but were unable to.

LESTER LOBLE, Montana Dakota Utilities, spoke in support. He said in regard to the gas associated with oil production, MDU has found a significant edge in their ability to get into the oil field and connect the associated gas. He said the competitive edge will be lost unless this clarification of the MFSA is made.

WARD SHANAHAN, Northern Tier Pipeline Company, spoke in support saying the bill was amended to the satisfaction of their company and the DNR&C in the Senate. He said his company is complying with the Montana Environmental Act in the preparation of their project.

BOB GANNON, Montana Power Company, spoke in support. He said the language of the siting act very clearly pointed out that the pipelines we are talking about are not included. He said the DNR attempted to make clear that water pipelines from Richie to Colstrip were covered by the siting act and two deleted words gave grounds for the conclusion that pipelines are now in the siting act. He said they are trying to get more gas into the area between Big Coulee and Red Lodge. He said they have been unable to reach an agreement with two landowners in the Reedpoint area--their brief is before the judge now.

JANELLE FALLON, Montana Chamber of Commerce, said they support the bill.

DON MACINTYRE, DNR&C, said it has always been their position that this type of facility is not covered under the present law. He said he is not going to stand before the committee and say we do not have the staff nor the desire to cover natural gas pipelines. He said they do support this amendment to the MFSA, although they think there are some problems with taking out this particular language.

BILL FRASER, Grey Cliff, spoke in opposition to the bill. He said he was one of the landowners whose land lay in the path of the proposed MPC gas pipeline. He said he was a rancher who did not like to have his toes stepped on. He said if they have any stalling action at all it is from the Montana Facility Siting Act. He said except for the recent ruling of Judge Shanstrom they would probably be lost now. He said the MPC came to them and said they were going to build the pipeline across us. He said they told us what they would offer and we could take it or leave it. He said they offered a ridiculously low figure and did not observe any of the rulings of the MFSA. He said his family has been in Montana for 101 years and they don't like to be told what to do, although they don't have the resources to fight a big company and so need a law like this.

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GEORGE CREMER, Melville, spoke in opposition. He said he was the Cremer in the recent court decision. He said he had asked the company where the pipeline was going on his land and as it was through a buffalo jump, he asked them to consider moving it but there was no negotiation. He said the understanding was that all would be paid alike, but he knew this was not so. He said the MFSA is the only tool the rancher has to protect his land--the only opportunity they have to have their say--to get a change made or whatever. He said for this reason he is against the bill.

MORRIS TRONRUD, Jr., Big Timber, spoke in opposition saying the siting act is a good tool for ranchers who do not have the money to fight a company.

In closing Senator Smith said he sympathized with the problems, but unless the bill passes there could be a moratorium on oil and gas development. He mentioned a recent shortage of number 1 diesel fuel in Shelby.

During questions from the committee, Rep. Scully asked why natural oil and gas pipelines should be exempted and not all pipelines. He asked if it isn't the construction of the pipeline that concerns us. Mr. MacIntyre said the main concern is if they are covered under another act so protection is afforded. Bob Gannon said the only reason the bill is here today is because of the recent court decision. These pipelines, he said, are already out and this bill is designed to clarify things back to ground zero. If the bill passes, he said, everything would be as before and he said the proposed language is limited to the language in the judge's decision. Mr. Cremer said the bill was introduced by the power company because of the judge's ruling on their pipeline. Sen. Smith said the bill was not introduced because of a particular case and he hoped this bill would not have any affect on the case. Rep. Harper suggested adding a reference to keep things "derived from coal" under the act as it covered pipelines. Mr. Allen said they would have no objection to that.

Chairman Sheldon resumed the chair and opened the meeting to a consideration of the following bills:

EXECUTIVE SESSION

SENATE JOINT RESOLUTION 18 Rep. Burnett moved be concurred in. Rep. Keedy moved to postpone consideration of the bill to see what is happening to HJR 6 in the Senate. Motion carried with Rep. Johnston, Curtiss, Bertelson, Spilker and Burnett voting no and Rep. Fagg was absent.

SENATE BILL 185 Rep. Scully moved be concurred in. Rep. Nathe asked if this bill resulted from a fear that effluent would be used to slurry coal. Rep. Scully said they don't know what

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the impact would be if the effluent is missing. He said it could have a great impact on the underground aquifers. He said the department has taken the stand that they have control of this water. This bill will try to keep it that way--under the control of the state rather than the city. Question was called and a roll call vote was taken. The motion carried with Rep. Harper voting no and Rep. Fagg and Rep. Huennekens absent.

Chairman Sheldon asked if there would be interest in a helicopter trip. He said the National Guard has to put in so many hours of flying time and would be willing to take the committee.

Meeting adjourned at 2:35 p.m.

Respectfully submitted,


ARTHUR H. SHELDEN, Chairman

Emelia A. Satre, Sec.