

March 14, 1979

The House Natural Resources Committee convened on March 14, 1979, at 12:30 p.m., in room 3 of the Capital Annex, with Chairman Sheldon presiding and sixteen members present (absent was Rep. Fagg and excused were Reps. Huennekens & Scully) for a hearing on the following bill:

SENATE BILL 515

SENATOR CARROLL A. GRAHAM, District 29, the chief sponsor, said this was an act to make the amendments needed to bring the Montana Strip and Underground Mine Reclamation Act into compliance with the federal law. A copy of his testimony is exhibit 1 and part of the minutes.

LEO BERRY, State Lands, spoke next in support with a few suggested amendments. A copy of his testimony is exhibit 2 and a copy of the suggested amendments is exhibit 3 of the minutes.

TERRY MURPHY, Chairman of the Laborer's Council, said their council had voted unanimously to support Senate Bill 515.

JIM MOCKLER, Montana Coal Council, spoke in support. He presented a copy of a newspaper clipping from the Casper, WY, Star Tribune (exhibit 4) for March 7, 1979, which was Governor Herscher's press release blasting the U.S. Office of Surface Mining for incompetence and flagrant violation of federal law. Mr. Mockler said the clipping spells out his exasperation with the OSM. He said they met with the State Lands Department and the State Lands met with the environmental concerns and together a consensus was arrived at and the bill was the result. He didn't feel the amendments suggested are necessary, especially not the third amendment.

DAVID ALBERSWORTH, Northern Plains Resource Council, spoke in support with a suggested amendment. A copy of his amendment is exhibit 5 and part of the minutes. Exhibit 6 is the federal code the amendment is taken from. Exhibit 7 is a copy of the facts presented by Mr. Albersworth. Exhibit 8 is a copy of the letter Mr. Berry received from Donald Crane, Regional Director of the Office of Surface Mining, outlining points of deficiency in the state program.

GENE PHILLIPS, Decker Coal Co. and NERCO, said they support the bill and urged that it be concurred in.

Senator Graham closed. He said he hoped the bill wouldn't be substantially changed with the amendments. He said he hadn't had a chance as yet to check out the proposed amendments to see what they would do--he expressed a wish that proposed amendments would be given to the sponsor ahead of time.

During questions from the committee, Mr. Berry said the reason for their suggested amendments is they were specifically mentioned in their most recent letter from Mr. Crane as needing to be in the statutes. He said the other points mentioned in the letter which is exhibit 8 he felt could be handled by their rules and regulations authority. He did not feel the amendment suggested by the NPRC was necessary and could be limiting. Mr. Berry said in drafting the bill

he only added those things necessary to get the program in compliance and so approved by the Office of Surface Mining.

Chairman Sheldon left to attend a Senate hearing and Vice-Chairman Harper took the chair.

Vice-Chairman Harper said he had talked by telephone with Mr. Crane that morning and Mr. Crane had said he couldn't assure him that the program would be accepted--they would need to see and study the whole program. Rep. Harper felt the remaining 13 points on exhibit 3 would be definitely gray areas--the more points left out of statutory law the more possibility of not being accepted. Rep. Harper added that Mr. Crane had said the State Lands staff in Montana is the best staff in the United States. Rep. Harper also questioned how the passage of HB 406 on accepting differing revegetations would affect the program, or how the program would affect the bill.

Rep. Metcalf asked if there should be a statement of intent with the bill. He felt there would be a lot of rule making authority needed by the Department of State Lands to bring all the other needed points into compliance. Mr. Berry felt the present Strip Mine Act's rule making authority would suffice so didn't feel a statement of intent was needed. Mr. Mockler pointed out this would need to come from the originating house and he also did not feel a statement of intent was needed.

In response to a direct question from Vice-Chairman Harper as to whether the department had the clear statutory authority upon which to base the rules needed to meet the minimum standards of the federal act, John North (lawyer for State Lands) replied to the affirmative. Mr. North did question the authority and the interpretation of the OSM to require what they are requiring.

Rep. Quilici asked Mr. Berry if he felt he had the existing authority without this act and Mr. Berry responded "yes."

Rep. Keedy questioned why the amendment suggested by the NPRC which included "on an experimental basis" should not be included. Mr. Berry felt this would limit the application to just experimenting so it could not be used even if successful. Mr. Berry didn't see any value in the amendment. He said the present law permits experimenting. Mr. Albersworth responded that the language in the amendment does limit the department's discretion in the use of introduced species and grasses. They feel, he said, this should be in the statutory law. Rep. Curtiss questioned if we need to stay in the experiment stage forever. Rep. Metcalf suggested this language would allow the experimenting and next session if it works it could become a proposed alternative. Mr. North said in discussing the point with Mr. Crane he said it is a concern but not necessarily one that needs to be in statutory law.

Meeting adjourned at 2:05 p.m.

Respectfully submitted,

Ernest L. Berry, Sec.

*Sheldon*