

MINUTES OF THE MEETING
NATURAL RESOURCES
STATE SENATE

February 7, 1979

The seventh meeting of the Natural Resources Committee was called to order by Senator Harold Dover, Vice-Chairman, at 12:35 P.M., on the above date in Room 405 of the State Capitol Building.

ROLL CALL: Upon roll call all members were present with the exception of Senators Roskie and Lockrem.

Mr. Jim Lear, Staff Attorney from the Legislative Council, was also present. See attached visitors' register for the names of visitors present.

CONSIDERATION OF SB 320: An act to amend section 75-20-104, MCA, clarifying definitions under the Montana Major Facility Siting Act.

Vice-Chairman Dover called on Senator Story, District 37, to explain SB 320 to the Committee. Senator Story explained that SB 320 would put two distinctions in the law where presently none exist, one for utility facilities and one for nonutility facilities, under the definition for certificate. It would also add a definition for gas and a definition for standard conditions.

Senator Story then called on Mr. Ward Shanahan to comment further on SB 320. Mr. Ward Shanahan, representing Dreyer Brothers Inc. and Northern Resources Inc., spoke in favor of SB 320 and submitted a written statement (see attachment). He then introduced Mr. Dick Anderson, President of Northern Resources Company, to speak in support of SB 320. Mr. Anderson also submitted a written statement (see attachment). Mr. David S. Gleason, Dreyer Brothers Inc. also spoke in favor of SB 320 and submitted a written statement (see attachment). Mr. Shanahan then summarized the statements he and Mr. Gleason and Mr. Anderson had made for the Committee.

Vice-Chairman Dover called for any other proponents. Mr. Don McIntyre, Department of Natural Resources stated that he was basically in favor of SB 320 but had some proposed amendments to submit to the Committee for their consideration (see attachment).

Janelle Fallan, representing the Montana Chamber of Commerce, spoke in favor of SB 320 and submitted a written statement (see attachment).

Vice-Chairman Dover called for any other proponents to SB 320 and, hearing none, called for the opponents.

Joan Miles, representing the Environmental Information Center,

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spoke in opposition to SB 320 and submitted a written statement (see attachment).

Vice-Chairman Dover called for any other opponents, and, hearing none, opened the hearing to questions from the Committee. A brief discussion followed concerning the amendments proposed by Don McIntyre from the Department of Natural Resources.

Vice-Chairman Dover then closed the hearing on SB 320 and opened the hearing on SB 323. Vice-Chairman Dover called on Senator Ed Smith, District 1, to explain the reasons for SB 323 to the Committee. Senator Smith summarized the proposed change in SB 323 and pointed out that he in no way intends this bill to exclude the major pipelines. Senator Smith then called on Mr. Don Allen, Executive Director of the Montana Petroleum Association, to comment further on SB 323. Mr. Allen explained to the Committee what the language intends to clear up and stated there is no desire to weaken the Major Facility Siting Act.

Mr. Ward Shanahan, attorney for the Northern Tier Pipeline, spoke in favor of SB 323 and submitted a written statement (see attachment).

Mr. Les Loble II, Montana Dakota Utilities, spoke in favor of SB 323.

Mr. Bob Ganon, Montana Power Company, spoke in favor of SB 323, and said he feels this would get things back in line with the Major Facility Siting Act.

Mr. Don McIntyre, Department of Natural Resources, was generally in favor of SB 323, but had some proposed amendments to submit to the Committee for their consideration (see attachments).

Vice-Chairman Dover called for any other proponents to SB 323 and, hearing none, called for any opponents. Mr. George Cramer from Melville told the Committee that the Major Facility Siting Act is the only protection a landowner has at present to fight a major corporation and asked the Committee to remember the landowner when considering both SB 320 and SB 323.

Mr. Norm Starr, also from Melville, requested some type of protection for the landowner that could possibly come in the form of a review board.

Vice-Chairman Dover called for any other opponents to SB 323 and, hearing none, opened the hearing to questions from the Committee. Several questions were addressed to Mr. Cramer and Mr. Starr about the problems they had encountered with the natural gas line that was to cross Mr. Cramer's property.

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Senator Manley asked Senator Smith if he had pipelines on his property. Senator Smith said he had pipelines and oil developments. He then elaborated on his intent with this bill and stated he did not want to see energy wasted by making it so expensive for smaller operations that it would be necessary for them to continue burning the natural gas.

With no further opponents to SB 323, Vice-Chairman Dover closed the hearing on SB 323. He then asked Senator Story to Chair the hearing on SB 185 as he was the sponsor of that bill.

CONSIDERATION OF SB 185: "An act to add 'sewage effluent' to the definition of water as used in Title 85, Chapter 2, MCA; and amending Section 85-2-102, MCA."

Senator Story opened the hearing on SB 185 and called on Senator Dover, District 24, to present the bill to the Committee. Senator Dover submitted his comments in written form (see attachment).

Senator Story then called for any other proponents to SB 185. Mr. Zack Stevens, Montana Farm Bureau, spoke in favor of SB 185. Mr. Peter Jackson, WETA, also spoke in favor of SB 185. Mr. Ron Waterman, Montana Railroad Association, also spoke in favor of SB 185.

Senator Story then called for any further proponents and, hearing none, called for any opponents.

Mr. Don McIntyre, Department of Natural Resources, spoke and said he was neutral on SB 185 but was there for informational purposes for the Committee. He also pointed out that the Department of Natural Resources presently does allow sewage effluent.

Senator Story called for any other opponents and, hearing none, opened the hearing to questions from the Committee.

Senator Manley asked Mr. McIntyre if this bill was even necessary in view of the fact that the Department of Natural Resources already allowed sewage effluent. Mr. McIntyre said he did not feel it was.

DISPOSITION OF SB 185: Senator Lowe moved that SB 185 receive a DO PASS recommendation. Senator Brown made a substitute motion that SB 185 be amended on page 3, line 9, by inserting "but not limited to" following "including". Motion carried unanimously. Senator Lowe then moved that SB 185 receive a DO PASS as Amended recommendation. All Senators present (Senators Thiessen and Jergeson left the meeting prior to the vote) voted in favor of the motion with the exception of Senator

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Manley.

ADJOURNMENT: There being no further business, the meeting adjourned at 2:05 P.M.



SENATOR HAROLD L. DOVER, VICE-CHAIRMAN

sun 21/7/79

ROLL CALL

Natural Resources COMMITTEE

46th LEGISLATIVE SESSION - 1979

Each Day Attach to Minutes.

STANDING COMMITTEE REPORT

February 7

19 79

MR. President.....

We, your committee on.....Natural Resources.....

having had under consideration.....Senate

Bill No. 185

Respectfully report as follows: That.....Senate

Bill No. 185,

introduced bill, be amended as follows:

1. Page 3, line 9.
Following: "including"
Insert: "but not limited to"

And, as so amended,

DO PASS *Pa.*

SENATE

COMMITTEE

BILL 6 P 125

VISITORS' REGISTER

DATE

Please note bill no.

SENATE

COMMITTEE

BILL

VISITORS' REGISTER

DATE _____

Please note bill no.

NAME: Steve Burwick DATE: 2/7/79

ADDRESS: Box 5027

PHONE: 443-3760

REPRESENTING WHOM? Research Associates

APPEARING ON WHICH PROPOSAL: _____

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

COMMENTS: _____

NAME: John Lamm DATE: 2-8-71

DATE: 2-8-99

ADDRESS: 40 E. Broadway - Biltmore

PHONE: _____

REPRESENTING WHOM? John Dyer Co

APPEARING ON WHICH PROPOSAL: SB323

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

COMMENTS: _____

NAME: Don L. Allen DATE: 2/7/79

ADDRESS: 1802 - 11th Ave

PHONE: 442-7582

REPRESENTING WHOM? Mortgage Petitioners A/B/C.

APPEARING ON WHICH PROPOSAL: SP 323

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

NAME: Zack Stevens DATE: 2-7-79

DATE: 2-7-79

ADDRESS: Box 1207, Bozeman, Mt.

PHONE: 587-3153

REPRESENTING WHOM? Farm Bureau

APPEARING ON WHICH PROPOSAL: SB 125

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

NAME: Mark Shawahan

DATE: 2-7-79

ADDRESS: 301 First Ave N, Suite 1000, Minneapolis

PHONE: 402-8560

REPRESENTING WHOM? Brainerd Big Line, Inc.

APPEARING ON WHICH PROPOSAL: SB 320 SD 320

DO YOU: SUPPORT? AMEND? _____ OPPOSE? _____

COMMENTS: Nothing

NAME: P. E. Anderson DATE: 1-7-79

ADDRESS: 704 1st N.W. Bank Bldg, Billings MT

PHONE: 259 4521

REPRESENTING WHOM? NORTHERN RESOURCES INC.

APPEARING ON WHICH PROPOSAL: SB 326

DO YOU: SUPPORT? AMEND? _____ OPPOSE? _____

COMMENTS: _____

NAME :

NAME: Les Loble II DATE: 2-7-79

ADDRESS: 716 Power Helena

PHONE: 4412 0070

REPRESENTING WHOM? BDC, Tennessee Coal Co.

APPEARING ON WHICH PROPOSAL: SB 320 & SB 323

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

NAME: Ron Wittenauer DATE: 7 Feb 79

ADDRESS: Kicoma

PHONE: 442-8650

REPRESENTING WHOM? MONT R R CO. LTD

APPEARING ON WHICH PROPOSAL: SB183

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

NAME: John DeLance DATE: 7/16/71

ADDRESS: U.S. 1

PHONE: 442-4810

REPRESENTING WHOM? Mont R R Club

APPEARING ON WHICH PROPOSAL: SB 1 & S

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

COMMENTS: _____

NAME: Beth Jackson DATE: 2-7-74

ADDRESS: 1804 11TH AVE

PHONE: 443-5541

REPRESENTING WHOM? Walter Mard

APPEARING ON WHICH PROPOSAL: SB 185

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

NAME: John Stern DATE: Feb 7-79

ADDRESS: Wolville, Mont.

PHONE: 537-4483

REPRESENTING WHOM? self

APPEARING ON WHICH PROPOSAL: 320 - 323

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

COMMENTS: _____

NAME:

George Cremer

DATE: 2-7-1

ADDRESS:

Mcsville

PHONE:

537 4453

REPRESENTING WHOM?

SehF

APPEARING ON WHICH PROPOSAL:

320-323.

DO YOU: SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Joan Miles DATE: Feb 7, 1979

DATE: Feb 7, 1979

ADDRESS: 438 Hayes Ukela

PHONE: 443-5687

REPRESENTING WHOM? ENVIRONMENTAL INFORMATION CENTER

APPEARING ON WHICH PROPOSAL: 3A 330

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

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Janelle Fallon DATE: 2/7

ADDRESS: Box 1730, Helena

PHONE: 442-2405

REPRESENTING WHOM? Mont. Chamber of Commerce

APPEARING ON WHICH PROPOSAL: SB 320, 323

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

COMMENTS: _____

NAME: Don MacIntyre / Bob Anderson DATE: 2/7/79

ADDRESS: Helena

PHONE: 449-3712

REPRESENTING WHOM? DNRC

APPEARING ON WHICH PROPOSAL: 320 323 185 (Injunctional)

DO YOU: SUPPORT? _____ AMEND? OPPOSE? _____

COMMENTS: _____

NAME WARD A. SHANAHAN

BILL NO. SB 320

ADDRESS 3rd Flr First Nat'l Bank Helena Mt DATE 2-7-79

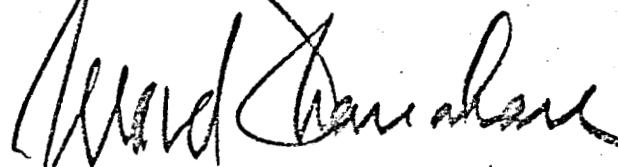
WHOM DO YOU REPRESENT DREYER BROS INC A Montana Corporation
Northern Resources Inc.

SUPPORT X X X X X OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: This bill is intended to clarify the definitions under the Major Facility Siting Act. It makes clear the question of "public need" does not involve "non-utility" facilities and it also exempts low BTU gas manufacture in the same way that the act now exempts electric lines lower than 69 KV.

I will introduce Mr Dick Anderson President of Northern Resources Company and Mr David Gleason Vice President of Dreyer Bros Inc. to discuss these matters further.


WARD A. SHANAHAN
Tel(406) 442-8560
Registered Lobbyist

NAME R. E. Anderson BILL NO. SB 320

ADDRESS 704 First N.W. Bank Center, Billings DATE 020779

WHOM DO YOU REPRESENT Northern Resources, Inc.

SUPPORT XX OPPOSE AMEND

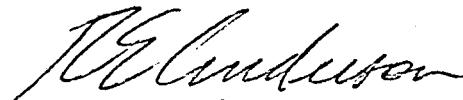
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

The bill now leaves open to interpretation the size of a gas from coal plant because it does not define the kind of gas.

Small, low/medium BTU coal gasifiers present a means for local Montana industry to convert to coal with a clean burning facility which will not add significantly to air pollution in Montana. The clarification of the BTU value at 900 BTU/CuFt, will allow industry to utilize these small coal gasifiers without involving them in the Major Facility Siting Act and the costly and time-confining requirements of that Act.

Respectfully submitted,



R. E. Anderson

NAME David S. Gleason BILL NO. SB 320
ADDRESS Billings, Montana DATE 020779
WHOM DO YOU REPRESENT Dreyer Bros., Inc.
SUPPORT XX OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

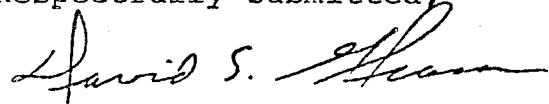
We support the proposed amendment to the definition of "Certificate" so as to clearly identify the distinction between a franchised market area utility as compared to a competitive market non-utility.

A utility can establish a need for their service because their customers have no alternative source for that service.

A non-utility cannot establish a need, using the connotation of the word used in the Major Facility Siting Act, because they are supplying a product to a competitive market and the customers do have alternative sources.

We wish to make it clear that a certificate application by a non-utility does not involve need in any way. We do not wish to modify the requirements relating to environmental compatibility.

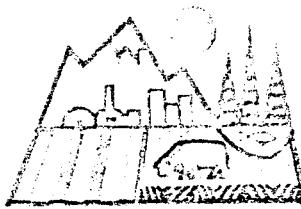
Respectfully submitted



David S. Gleason

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
PROPOSED AMENDMENTS TO SB 320
AMENDMENTS TO INTRODUCED BILL

- (1) Page 2, line 4.
Following: "need"
Strike: ", location, type,"
- (2) Page 4, line 9.
Following: "means"
Strike: "commercial grade pipeline"
- (3) Page 4, line 22.
Following: "gas"
Insert: "provided from coal"
- (4) Page 4, line 23.
Following: "exceeding"
Strike: "900"
Insert: "200"



MONTANA CHAMBER OF COMMERCE

P. O. BOX 1730

HELENA, MONTANA 59601

PHONE 442-2405

TESTIMONY ON SB 320

SENATE NATURAL RESOURCES COMMITTEE

FEBRUARY 7, 1979

BY JANELLE FALLAN

The Montana Chamber of Commerce originally opposed the inclusion of non-utilities in the Major Facility Siting Act, believing that the need for private industry should be regulated by the free-market system, not by the same laws governing utilities. A company with a product to sell must fulfill some public need or it will simply go out of business.

Private companies should not be forced, through state law or regulation, to reveal their "trade secrets." The Department of Natural Resources and Conservation has attempted, through its rules implementing the Major Facility Siting Act, to protect confidential information supplied by an applicant under the public need criterion. However, we question the fundamental right of the bureaucracy to determine the need for a privately manufactured product.

SB 320 answers this particular problem and we urge its support.

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Mr. Chairman and Members of the Committee:

For the record, my name is Joan Miles, and I appear today in opposition to SB 320 as a representative of the Environmental Information Center. The EIC is a statewide citizens' organization with some 1500 members from all areas of Montana. For your information, the organization of EIC consists of an elected Board of 18 Directors, elected annually by the membership from 15 districts in the state and 3 at-large districts. The election of these Board members is similar to your own representation in that these Board members, in turn, vote on and set the policy for EIC decisions. EIC works year round, researching, analyzing, lobbying and monitoring all levels of our government and organizes citizen action in many communities across the state.

Also for your information, I have a BS degree in Medical Technology and am presently a candidate for a Master of Science degree from the University of Montana. I have worked extensively for three years on the botanical and biological effects of air and water pollution and have done field research in several areas of Montana on particular types of air contaminants from various coal conversion facilities and other industrial activities.

EIC opposes subsection 8, page 4, lines 22 through 25 of SB 320, which defines gas as commercial grade pipeline gas with a heating value exceeding 900 BTU per cubic foot under standard conditions of temperature and pressure. We are concerned about incorporating such a definition of gas in the MFSA in view of its relation to Section 75-20-104, subsection 7a of the MFSA, which requires that any facility producing 25 million cubic feet of gas per day or more come under review of the Siting Act. Incorporating the proposed definition of gas would exempt any facility producing low BTU gas with a heating values less than 900 BTU. If one understands the basis of converting coal to gas in the gasification process, there is no justification to exempt a low BTU facility from state review. This is based on the system requirements involved, kinds of equipment needed, consumption of water and water pollution. The basic gasification process is the same whether the end products are low or high in BTU value.

Coal and steam are combined in a reaction involving heat and some oxygen source to produce carbon monoxide and hydrogen. This is the bulk of the gasification process. At this point, four basic options are available as a final step in the process.

1. The CO can be used as a burnable fuel source with a low BTU value.
2. A reaction with a nickel catalyst can be utilized, producing methane with a heating value of 900 BTU.
3. A reaction can be utilized to produce methanol for a liquid fuel source.
4. The hydrogen can be mixed with nitrogen to produce ammonia and utilized in other chemical processes.

Since any one of these four options merely requires a relatively small variation at the end of a very complex process and the options involve the same equipment, the same water consumption and the same potential pollution problems, we are opposed to arbitrarily exempting everything but the high BTU methane option from state review.

Another concern of EIC is that Western coal is more desirable to use in gasification processes. Western coal does not clog the equipment as much as higher BTU eastern coal, and Western coal does not require as much heat to convert it to synthetic gas. Because of this, there is an incentive to use Western coal and to use the end-products on-site in "industrial park" situations for economic reasons.

The federal government is now funnelling more monies into low BTU gasification systems because they have proven to be economically viable as compared to high BTU systems, particularly using western coal, on-site. We are opposed to incorporating a definition of gas as proposed in SB 320 into the MFSA. We feel any definition of gas should involve extensive review, evaluation and result from major state energy policy decisions.

We urge you to consider giving SB 320 a do-not-pass recommendation.

NAME WARD A. SHANAHAN BILL NO. SB 323

ADDRESS 3rd Flr First Nat'l Bank Helena MT DATE 2-7-79

WHOM DO YOU REPRESENT NORTHERN TIER PIPELINE CO-Billings Montana

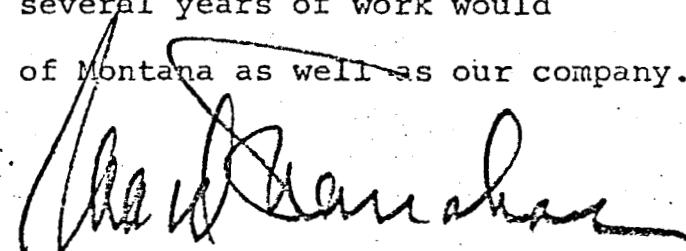
SUPPORT XXX OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: We support this bill because we wish to remain in an exempt status under the Major Facility Siting Act.

Northern Tier Pipeline is not exempt from its Environmental Responsibility in Montana. It is presently preparing data for an Environmental Impact statement with the Department of Natural Resources as "lead agency" under the Montana Environmental Policy Act which governs permits issued by state agencies..for air..water..right of way... flood plains--forests...road crossings and stream crossing.

Attempts to place our project under the Facility Siting Act at this time after several years of work would be a disservice to the people of Montana as well as our company.



WARD A. SHANAHAN
Attorney
Tel (406) 442-8560
Helena.

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
PROPOSED AMENDMENTS TO SB 323
AMENDMENTS TO INTRODUCED BILL

- (1) Page 3, lines 7 through 11.
Strike: underlined material in its entirety.
- (2) Page 3, line 17.
Following: "gas"
Insert: "produced from coal"

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
PROPOSED AMENDMENTS TO SB 323 (alternate amendments)
AMENDMENTS TO INTRODUCED BILL

- (1) Page 3, lines 7 through 11.
Strike: underlined material in its entirety.
Page 3, line 17.
Following: "gas"
Insert: "produced from coal"
- (2) Page 4, between lines 17 and 18.
Insert: "(8) "Gas means gas produced from coal with a heating value exceeding 200 British Thermal Units (btu) per cubic foot under standard conditions, temperature and pressure."
- (3) Page 4, line 18.
Strike: 8
Insert: 9
- (4) Page 4, line 20.
Strike: 9
Insert: 10
- (5) Page 4, between lines 23 and 24.
Insert: "(11) "Standard conditions" means a temperature of 60 degrees F (15.5 degrees C) as a pressure of 14.73 pounds per square inch absolute."
- (6) Page 4, line 24.
Strike: 10
Insert: 12

Mr. Chairman, members of the Committee, water is one of our most cherished possessions in Montana. We are the source of water for much of the western part of the United States so our H_2O is in great demand by our neighbors. SB 185 gives an accountability of one large source of water that we may not have considered within the definition of H_2O in Title 85. This is sewage effluent. Billings has an average of 13-14 million gallons a day with a peak of 18 million gallons per day in the summer. Great Falls has 8 1/2 million gallons in the winter and 10 1/2 million gallons in the summer. This quantity of sewage effluent is received daily by the sewage treatment plants in the cities. These plans have "secondary discharge" or discharge back into the water source of approximately the same amount per day. This secondary discharge must meet certain requirements established by the Department of Health. The discharged water is appropriate for irrigation, but must be treated for domestic use.

$$14 \text{ million gallons per day} \times 365 = 5.11 \text{ billion gallons per year.}$$

The diversion of sewage effluent out of state will have an adverse impact upon downstream water users of the water source into which the treated water would have flowed. Sewage effluent is primarily water, and after treatment the water continues as a part of our state's water resource. This bill would remove the doubt in Section 85-2-102, MCA, and extend the definition of water to include "sewage effluent".

The City of Billings has had some contact with a Texas concern interested in obtaining sewage effluent from the city for use in a coal slurry pipeline to Texas. The diversion of sewage effluent would have an adverse impact on the downstream water users on the Yellowstone. This bill would prevent the use of sewage effluent in coal slurry pipelines, and other diversions which could deplete the state's water resource.

In 1974, the Legislature expressed its intent that Montana water not be used as a medium for the transportation of coal by slurry pipelines. This bill would effectuate the intention of the 1974 amendment to the definition of "beneficial use".