

MINUTES OF THE MEETING OF THE NATURAL RESOURCES COMMITTEE
FEBRUARY 18, 1981

The House Natural Resources Committee convened in Room 104 of the Capitol Building on Wednesday, February 18, 1981, at 12:40 p.m. with CHAIRMAN DENNIS IVERSON presiding and eighteen members present.

CHAIRMAN IVERSON opened the hearing on HJR 18.

HOUSE JOINT RESOLUTION 18 REP. CARL SEIFERT, chief sponsor, presented the resolution which urges that the Federal Energy Regulatory Commission relicense the Kerr Hydroelectric Project to the Montana Power Company. Kerr is one of the larger dams in the state and it has been operating under a license which expired in May of 1980. The federal government regulates it because it is on the Flathead reservation. It does, however, provide a portion of the tax base in Lake County and in Flathead County. The people in the area feel it would be in the best interest of the State of Montana to relicense this project.

Speaking as a proponent was MARK CLARK, Montana Power Company. He said that the Kerr project represents about 40 percent of the hydroelectric power in Montana. The federal government can take over a project at the end of a term. There has been no mention of a takeover by the federal government yet but an Indian tribe has filed for a license. If the federal government takes over, the taxes will be lost to the counties and to the state. Production of Kerr would be lost to the greater pacific northwest. Likewise, if the tribes take over, the taxes will be lost.

There were no OPPONENTS.

REP. SEIFERT closed on the resolution. The hearing on HJR 18 closed.

HOUSE BILL 628 REP. HAROLD BRIGGS, chief sponsor, presented the bill which would prohibit the Department of Natural Resources from constructing, operating, and maintaining water projects for the development of power, to provide specific authority for the department to lease water projects for the development of power, and establishing the requirements of such leases.

WILBUR ANDERSON, General Manager of Vigilante Electric, testified in support of the bill. See Exhibit 1.

BILL HAND of Beaverhead County spoke in favor of the bill. Production and distribution should be left in private hands.

BOB QUINN, Montana Power Company, supported the concept in the past and still does support it.

PETER JACKSON, Western Environmental Trade Association, said he has not seen a large demand for the state to get into this type of business. There are people in the private sector who are interested.

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BOB ELLIS of the Montana Water Association supported the bill.

Speaking as an opponent was GARY FRITZ of the Department of Natural Resources. See Exhibit 2.

DON SNOW, Environmental Information Center, opposed the bill saying that there is a potential for development of hydro-electricity that may be fairly large over the long run. This bill might be a way of eliminating the development of this type of project.

REP. BRIGGS closed on the bill. He did refer to the fiscal note which indicates nothing for construction or operating costs.

During questions from the committee, REP. ASAY asked MR. FRITZ if there is a conflict with this bill and HB 397. The answer was yes.

REP. SHELDEN asked MR. ANDERSON if under the Northwest Power bill his company could sell power to the Bonneville Power Company and then buy it back. The answer was that Bonneville buys from people who can supply power.

REP. SHELDEN then asked if this bill passes, would the department be at a disadvantage because they could not bid on a project. The answer was yes.

REP. QUILICI asked MR. ANDERSON to explain what a notice of insufficiency is. He replied that Bonneville is required to give eight years' notice of insufficiency in the amount of power they sell to their customers. Vigilante Electric received its notice in 1976 that it would have to look for other sources of power by 1983.

REP. MUELLER asked what the rationale is for keeping the royalty payments at 10 percent. MR. ANDERSON said that Bonneville would not be willing to pay anything above that amount. MR. FRITZ said the problem with the 10 percent is that the state built the dams. The projects simply go on top of the dam. These projects should return a reasonable amount to the state.

REP. BERTELSEN asked if anyone felt there should be compensation to the state for their dam sites. REP. BRIGGS said the 10 percent is the amount the state would receive.

REP. QUILICI asked if Vigilante Electric would keep and maintain the dam. MR. ANDERSON said that was the intent.

REP. QUILICI said these dams were originally used for water projects. Would that change. The answer was no.

REP. HARP asked MR. FRITZ if it was the intention of state government to get into the power business. The answer was no but that the state should run in a businesslike way and should make a fair return on the water projects.

REP. HUENNEKENS asked MR. FRITZ if it was his position that the 10 percent cost of generation is not adequate for the total cost of production. The answer was yes.

REP. CURTISS told MR. FRITZ the state would have to find somebody to lease these projects. How much would they have to pay? He said that 35 mills would be the cost to the utilities.

REP. HUENNEKENS asked if there is any other method of computing the royalty. MR. FRITZ said perhaps splitting the savings would be the way to go.

The hearing closed on HB 628.

HOUSE BILL 600 REP. AUBYN CURTISS, chief sponsor, presented the bill which would impose additional constraints on the making of renewable resource development grants or loans and to establish the uses for which such grants or loans may be proposed. She said there is a lack of direction as to how the grants and loans are used. Parks and recreational developments are not considered enough.

PETER JACKSON, Western Environmental Trade Association, supported the bill saying funds are available but some direction is needed in making priorities.

KEITH OLSON, Montana Logging Association, said timber management is needed and is a great renewable resource.

BOB ELLIS, Montana Water Association, spoke in favor of the bill.

RAY BECK, Montana Association of Conservation Districts, supported the idea of additional restrictions in the use of water.

Speaking as an opponent was GARY FRITZ of the Department of Natural Resources. See Exhibit 3.

JOAN MILES, Environmental Information Center, was concerned if the bill, as written, would allow for demonstration projects.

WILBUR REHMAN, Montana Wildlife Federation, was concerned with the language that said "provide a pecuniary return to the state or its citizens". Recreation and tourism are parts of this state and its economy.

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REP. CURTISS closed on the bill. She stated that any time there is water, there are benefits to recreation. Water is a multiple use resource and we should take advantage of it.

During questions from the committee, REP. ROTH asked if the purpose of the bill is to eliminate some of the grants that do not benefit the state. The answer was yes.

The hearing on HB 600 closed.

EXECUTIVE SESSION HOUSE BILL 641 REP. QUILICI moved DO PASS on an amendment that would delete the provision of the council members working full-time. He said the council members would be paid on a per diem basis and at the rate of pay suggested, it would be better if they only were paid when they were actually working. The motion PASSED.

REP. MUELLER moved DO PASS AS AMENDED on the bill.

REP. ROTH asked if Montana would have equal representation. The answer was yes.

REP. HUENNEKENS asked if there are requirements as to experience necessary. REP. QUILICI replied no but that those appointed would have to abide by the code of ethics.

REP. ASAY said the appointment and removal sounded political. REP. QUILICI stated the governor must have some leeway to appoint and remove.

REP. ASAY then asked what benefits will be derived from this bill. REP. QUILICI said plants such as the Stauffer Chemical would be able to have guaranteed power.

REP. HUENNEKENS asked if there is a set of guidelines for the people on the council. REP. QUILICI said yes and that the people will go into it on an administrative level.

REP. BURNETT suggested deleting the language that would allow the governor to appoint someone to assume office before the senate meets in its next regular session to approve the appointment. REP. QUILICI objected to that because if someone quit in the middle of a term, the governor could not appoint anyone to serve until the next legislative session.

DEBBIE SCHMIDT, staff researcher, said the language is from existing laws. The new member is appointed but would have to be confirmed by the senate. The member could serve in full capacity until then, however.

REP. ASAY moved to amend the bill deleting that language. The motion failed 3 to 15.

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The motion DO PASS AS AMENDED PASSED with REP. ASAY opposing.

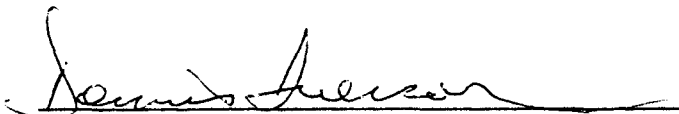
HOUSE JOINT RESOLUTION 18 REP. HARP moved DO PASS.

REP. QUILICI stated that the Consumer Council has convened on behalf of the Montana Power Company. The filing from the tribes will be handled through proper channels.

The motion PASSED.

The meeting adjourned at 2:45 p.m.

Respectfully submitted,


DENNIS IVERSON, CHAIRMAN

Ellen Engstedt, Secretary

VISITORS' REGISTER

HOUSE

NATURAL RESOURCES

COMMITTEE

BILL

HJR 18

Date _____

2/18/81

SPONSOR

SEIFERT

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE

NATURAL RESOURCES

COMMITTEE

BILL

HB 600

Date _____

2/18/81

SPONSOR

CURTIS

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE NATURAL RESOURCES COMMITTEE

BILL HB 628

Date 2/18/81

SPONSOR BRIGGS

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

HEARING

H.B. 628

Testimony By

Wilbur Anderson

Vigilante Electric Cooperative, Inc.

Helena, Montana

February 18, 1981

Mr. Chairman, members of the Committee; my name is Wilbur Anderson. I am General Manager of Vigilante Electric Cooperative at Dillon, a member of the Legislative Committee of Montana Associated Utilities, and I am first Vice President of the Northwest Public Power Association. We fully support H.B. 628 introduced by Representative Briggs and a number of other House members.

Vigilante Electric serves in portions of 9 counties in southwestern Montana and into northern Clark County, Idaho. We serve about 1500 square miles and our system was first energized 43 years ago in 1938.

Vigilante is one of 115 northwest public power systems that was sent the notice of wholesale power insufficiency by the Bonneville Power Administration in June, 1976. This notice is, among other things, a mandate to all systems that they must secure other power resources for their load growth after June 30, 1983.

The Cooperatives in Montana have worked several years trying to secure the permits for development of small hydro generation resources. Vigilante started work on Toston Dam in 1976, and

applied to the Federal Power Commission for a Preliminary Permit in September, 1977. At the expiration of the time period for comments and petitions, the Department of Natural Resources and Conservation objected to the Application, then filed their own application on the same project, and applied to themselves for a Water Use Permit on this project. Up to this point, the Department assured the Cooperatives they would help, cooperate, and assist in the development of such small renewable projects.

The only significant activity the Department has accomplished to date is the delay of every project proposed for development in Montana. A recent employee of the Department of Natural Resources, who was assigned by the Department to the Kootenai River Project, proposed by the eight western Montana systems, even testified at a public hearing in opposition to the project authorization.

This same Department now suggests that they should be the one to develop small hydro resources in our state and still function also as a regulatory agency on behalf of the citizens. How much of this type of "help" can we stand? The costs of additional studies they demand and the delay is staggering.

The Department has no staff, no expertise, no transmission system, substations, distribution system, nor utility responsibility to the people in our state. They do not belong in the business of generation.

We ask your favorable consideration and support of this legislation.

Thank you.

EXHIBIT 2

HOUSE BILL 628

TESTIMONY OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

AN ACT TO PROHIBIT THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FROM CONSTRUCTING, OPERATING AND MAINTAINING WATER PROJECTS FOR THE DEVELOPMENT OF POWER...

The Department of Natural Resources and Conservation opposes House Bill 628 for the following reasons:

1. House Bill 628 directly contradicts House Bill 397 which received a unanimous do pass recommendation by this committee earlier. House Bill 397 was passed by the House and is now in the Senate Natural Resources Committee.
2. House Bill 628 subsidizes Montana Power Company and Vigilante Electric Cooperative.
3. House Bill 628 keeps the state from realizing a reasonable rate of return on its investment in water projects.
4. House Bill 628 keeps the state from operating its water projects in ^a ~~the~~ business like manner as it does with other assets like oil, gas, coal and timber resources.
- 5.* House Bill 628 would reduce anticipated income to the general fund by \$52 million over a 50 year period.

The statement has been made that the state, as a public entity, should not get into the power production business. Let's call a spade a spade. The apparent intent of this bill is to subsidize Montana Power Company

and Vigilante Electric Cooperative and not merely to keep public entities out of the power production business.

If the real purpose of the Montana Power Company and Vigilante Electric Cooperative were to keep public bodies out of the power generation business they would have to take the following action:

1. Oppose Senate Bill 138. This bill allows municipalities and counties, public entities, to sell industrial development bonds for small-scale hydroelectric production.
2. Introduce a bill prohibiting the federal government, a public entity, from developing additional hydropower at Canyon Ferry, Yellowtail Reservoir, Tiber Dam, Libby Dam and others.
3. Introduce a bill prohibiting municipalities like Helena, a public entity, from developing hydropower on their water supply system. Chessman Reservoir supplies part of Helena's water and the pipeline from the reservoir to town would make a great place to put a small generator.
4. Introduce a bill prohibiting irrigation districts, public entities, from developing hydropower on their projects. The Greenfield Irrigation District in Representative Neuman's area wants to do this.
5. Introduce a bill prohibiting conservation districts, public entities, from developing hydropower on any project they develop with their water reservations.

None of these actions have taken place. Why? Because Montana Power Company and Vigilante Electric aren't interested in these other projects at this time, right now they're only interested in leasing, at a minimal rate, dams built by the state.

The Department also believes our water projects should be leased for hydropower generation. Only if the Board of Natural Resources could not negotiate a reasonable rate of return on the lease should the Department be allowed to construct the facilities. Both HB 397 and SB 229 take this approach. In no case would the Department transmit or retail the electricity.

Through the years the state has invested in its water projects, projects that are used for agricultural purposes-primarily irrigation. These projects, however, now need some rehabilitation to maintain these agricultural benefits. Any revenue generated by leases of state projects should be plowed back into these projects to the benefit of Montana's agricultural industry.

The Department's interest is not to gouge Montana Power or the electric cooperatives but to try to operate the state's water projects on a business like basis so that we can continue to provide the agricultural benefits these projects were built for.

HOUSE BILL 600

TESTIMONY OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

"AN ACT TO IMPOSE ADDITIONAL CONSTRAINTS ON THE MAKING OF RENEWABLE
RESOURCE DEVELOPMENT GRANTS OR LOANS; TO ESTABLISH THE USES FOR WHICH
SUCH GRANTS OR LOANS MAY BE PROPOSED"

House Bill 600 would allow renewable resource grants or loans only
to projects that provide a dollar return unless funding is not available
from any other source. Because it would be difficult, if not impossible,
to prove that some funding is not available from any other source the
bill may well preclude the following type of projects from being
funded:

1. The Muddy Creek Erosion Control Program sponsored by the Cascade
County Conservation District in Representative Newman's area.
2. The Bluewater Creek Erosion Control Program sponsored by the
Carbon County Conservation District in Representative Burnett's area.
3. The Saline Seep Control Project sponsored by the Triangle
Conservation Districts.
4. The Rangeland Resource Development Program sponsored by the
Conservation Districts.

House Bill 600 is consistent with Senate Bill 409, the Governor's
Water Development Bill, in that it would earmark one-half of the RRD
funds into a separate water development account. The committee
should note however that if SB 409 passes it would eliminate water
projects and programs from the remaining RRD program. The differences
in these two bills would have to be resolved if the bills progress.