

MINUTES OF THE MEETING OF THE NATURAL RESOURCES COMMITTEE  
MARCH 11, 1981

The House Natural Resources Committee convened in Room 437 of the Capitol Building on Wednesday, March 11, 1981, at 12:30 p.m. with CHAIRMAN DENNIS IVERSON presiding and sixteen members present (REP. BURNETT was absent and REP. HUENNEKENS was excused).

CHAIRMAN IVERSON opened the hearing on SB 278.

SENATE BILL 278 SENATOR CARROLL GRAHAM, sponsor, presented the bill which would remove the prohibition against granting a mining permit because of ecological fragility of the area to be mined. He felt problems are caused to mining companies because of the part of the current law which reads "(b) ecological fragility, in the sense that the land, once adversely affected, could not return to its former ecological role in the reasonably foreseeable future". The department can deny a permit if it will adversely affect the area to be mined. He felt there now has to be excessive reclamation efforts. It has given the environmentalists a way to sue the state and prevent mining. They can file on general terms using the subsection as support.

Speaking as a proponent was JAMES MOCKLER, Montana Coal Council, who stated this same thing is covered in other parts of different acts. The areas that can become seepy must be replaced at company expense if used for livestock or people.

DANA CHRISTENSEN, an attorney for Westmoreland Resources, Inc., spoke in favor of the bill. See Exhibit 1.

LANNY K. ICENOGLE of Montco testified in support. See Exhibit 2.

PAT WILSON, Montco, read an article from the Billings Gazette which stated that Interior Secretary James Watt wants to change federal strip mining regulations to remove the requirement that mined land always be returned to its original contour. He said common sense should prevail in the government's enforcement of the 1977 strip mining law.

Speaking as an opponent was BILL GILLIN, a Colstrip area rancher. See Exhibit 3.

BOB TULLY, a representative of Northern Plains Resource Council, spoke in opposition of the bill. See Exhibit 4.

WILLA HALL, League of Women Voters, spoke against the bill stating that fragile land means just that. The purpose of the law is to help maintain the land as it is before mining begins.

JOHN NORTH, Department of State Lands, testified in opposition. In the eight years since the law passed, there have been 350 opportunities to stop permits. Only four times in that eight years has the law been used. Coal mining has been permitted on 22,000 acres of land

with approximately 150 acres denied under the law because of fragility. Subsection 2(b) applies to prospecting and uranium mining as well as coal mining. One of the critical areas covered by this section is hydrology. The one lawsuit instituted in eight years was concerning hydrology. The department does not use only one section when denying a permit but applies several. The department will not permit a mine unless proof is submitted that there will not be hydrology problems. There is protection in the law from unnecessary delays. The department has not abused its use of this section of law and the section should not be eliminated.

DON SNOW, Environmental Information Center, spoke in opposition to the bill. See Exhibit 5.

JEFFREY RENZ, an attorney for Friends of the Earth in a lawsuit against Westmoreland and the state, spoke in opposition also. The suit was brought under the Environmental Policy Act and under the Strip Mining Law. He stated that Westmoreland has never had to stop mining because of subsection 2(b). He felt the department has used proper methods of identifying areas covered by this law.

SENATOR GRAHAM closed on the bill.

During questions from the committee, REP. MUELLER asked MR. NORTH what problems occurred in the four cases when the section was used to stop permits. The answer was problems relating to drainage, wildlife habitat, and special game animals.

REP. SALES asked if those problems could have been handled without invoking this law. MR. NORTH replied that other sections only apply to coal mining. This section is used in dealing with hydrology.

REP. NORDTVEDT asked what is so special about something that is fragile. MR. RENZ replied that some things are unique and should be preserved.

REP. BROWN asked MR. NORTH what the differences are between 2(b) and 2(c). The answer was that 2(b) is dealing with the land itself. He felt that 2(c) stated that the land could be returned to its original role but that it might not be immediate.

REP. CURTISS asked why subsection (a) was not used regarding the wildlife problems. MR. NORTH said (a) is used only for rare and endangered species.

REP. KEEDY asked if other parts of the different acts are used. MR. MOCKLER said this part does not address what is needed and that he does not even understand exactly what it means.

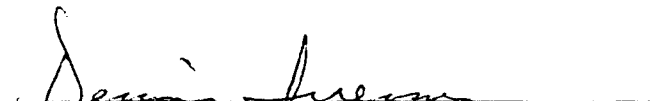
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REP. KEEDY asked if 2(b) has ever been evoked to slow progress of mining. MR. MOCKLER replied that injunctions have been filed but not granted.

The hearing on SB 278 closed.

The meeting was adjourned at 2:00 p.m.

Respectfully submitted,

  
DENNIS IVERSON, CHAIRMAN

Ellen Engstedt, Secretary

## VISITORS' REGISTER

HOUSE NATURAL RESOURCES COMMITTEEBILL SB 278Date 3/11/81SPONSOR GRAHAM

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
<del>James M. Hall</del>	<del>Helena</del>	<del>Montana Council</del>	✓	
Kenneth J. Jerniglo	Billings	MONTCO	✓	
Pat Wilson	Billings	Montco	✓	
Steve Elliot	Billings	Wesco	✓	
Dana Christensen	Billings	Westmoreland	✓	
Paul Stoll	Helena	BN Natural Resources & Minerals	✓	
Willa Hall	Helena	LWU of MT		✓
Bob Tully	Roundup	NPRC		✓
Bill Gifford	Rosebud County	N.P.R.C.		✓
JEFFREY T. REAZ	Billings	NPRC		✓
John North	Helena	State Lands		✓
MORRIS W. GUALICKSON	LIVESTON	UNITED TRANSPORTATION UNION	✓	
Don Snow	Helena	EIC		✓

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WITNESS STATEMENT

NAME James D. Meckler BILL No. SB 278  
ADDRESS Helena DATE 3/11/81  
WHOM DO YOU REPRESENT Mt. Coal Council  
SUPPORT ✓ OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

TESTIMONY OF:

Dana L. Christensen  
Attorney at Law  
Moulton, Bellingham, Longo & Mather  
P. O. Box 2545  
Billings, Montana 59103

Before the House Natural Resources Committee  
Senate Bill No. 278

Submitted on behalf of:

Westmoreland Resources, Inc.  
March 11, 1981

I.

INTRODUCTION

Westmoreland Resources, Inc. (WRI), a Montana partnership located in Billings, Montana, operates the Absaloka Coal Mine in Big Horn County Montana. Because the coal is held by the United States in trust for the Crow Tribe of Indians, and the surface is fee land located off the Crow Reservation, the mining operation is subject to regulation both by the Montana and by the federal Office of Surface Mining. The mine has not only been subject to overlapping federal and state rules, but also it has been confronted with a series of environmental lawsuits brought to challenge the legality of the state and federal mining and reclamation permits which have been issued to WRI.

The most unpredictable aspect of the mining and reclamation requirements applicable to the mine arises from the continuing uncertainties surrounding the application of Montana's selective denial provisions, found in §82-4-227 (2) MCA of the Montana Strip and Underground Mine Reclamation Act. One subsection of §227 (2) does not conform to the legislature's narrow purpose of selectively denying mining to protect truly unique Montana resources. To the contrary the non-conforming subsection has been seized upon by those opposed to mining in general as a device to stop mining on lands which are in fact not unique, but rather lands which are entirely typical of lands found throughout southeastern Montana.

The non-conforming subsection of § 227 (2) (§227 (2) (b)) should be repealed because it strays beyond the legislative purpose of §227 (2) and because the other subsections of §227 (2) adequately protect truly unique lands. Once the repeal is accomplished, §227 (2) will read as follows:

The department shall not approve the application for a prospecting, strip-mining, or underground-mining permit where the area of land described in the application includes land having special, exceptional, critical, or unique characteristics or that mining or prospecting on that area would adversely affect the use, enjoyment, or fundamental character of neighboring land having special, exceptional, critical, or unique characteristics. For the purposes of this part, land is defined as having such characteristics if it possesses special, exceptional, critical, or unique:

(a) biological productivity, the loss of which would jeopardize certain species of wildlife or domestic stock

~~(b) ecological fragility, in the sense that the land, once adversely affected, could not return to its former ecological role in the reasonable foreseeable future;~~

(c) ecological importance, in the sense that the particular land has such a strong influence on the total ecosystem of which it is a part that even temporary effects felt by it could precipitate a system-wide reaction of unpredictable scope or dimensions; or

(d) scenic, historic, archeologic, topographic, geologic, ethnologic, scientific, cultural, or reactional significance. (In applying this subsection, particular attention should be paid to the inadequate preservation previously accorded Plains Indian history and culture.)

## II.

### DISCUSSION

Reading §227 in its entirety suggests that the Montana legislature was intent on protecting on and off site resources directly affected by mining, but only under those circumstances where the lands affected have special, exceptional, cultural, or unique characteristics. Unfortunately the statute as currently written permits the triggering of the selective denial provision even where mining operations will not, in fact, affect unique lands. Here is the problem.

Subsections (2) (a) through (d) define those lands which are deemed to have special, exceptional, critical, or unique characteristics. Subsection 227 (2) (a), (c), and (d) each require as a condition to finding unique status, that mining trigger a unique injury independent of an injury to the land itself.

Subsection 227 (2) (a) identifies lands whose unique quality lies in its biological productivity. The subsection provides that if the lands support unique biological growth which if destroyed would jeopardize certain species of wildlife or domestic stock, then the lands may be characterized as special, exceptional, critical or unique. The independent injury in §227 (2) (a) occurs then when unique biology on the land is threatened and a

specific class of wildlife or livestock may be lost as a result.

Subsection 227 (2) (c) identifies lands whose unique quality arises because of the land's special ecological connection to a broader ecosystem. §2 (c) is like §2 (a) in that both envision the uncommon situation where the loss of land, water and/or vegetation would give rise to serious and far-reaching repercussions affecting the survival of wildlife or the preservation of a larger ecological system.

Subsection 227 (2) (d) selects lands whose critical characteristics are defined by the presence on the lands of areas of special scenic, historic, archeologic, topographic, geologic, ethnologic, scientific, cultural or recreational significance.

Subsections 2 (a), 2 (c), and 2 (d) all identify lands that possess a special characteristic so that mining it or adversely affecting it will trigger some greater injury independent of an injury to the land itself. In §2 (a) the independent injury is to a species of wildlife or livestock, in §2 (c) the independent injury is to a total ecosystem and in §2 (d) the independent injury is to a special cultural or aesthetic presence on the land.

Subsection 227 (2) (b) creates a fourth basis for selective denial. §227 (2) (b), as presently written, does not conform to the three subsections previously discussed,

because §227 (2) (b) does not require an independent injury. Subsection 2 (b) identifies land as having unique characteristics if after mining the land cannot return to whatever ecological role it had prior to mining. Because §2 (b) does not provide standards for determining what ecological roles should be protected, the subsection permits selective denial upon the showing that any ecological role will be substantially affected.

Environmental groups have sought to influence the Montana Department of State Lands to prohibit mining by WRI on certain lands because the environmentalists claim that mining will eliminate certain springs and neighboring coulees. The groups have seized upon §2 (b) because they know that it, unlike §2 (a), §2 (c), and §2 (d) does not require a showing of a substantial independent injury. They claim that §2 (b) as it is presently written operates to prohibit mining whenever it can be shown that mining will result in the land having a different ecological role once mining is completed. WRI, like all other coal companies, is presently vulnerable to this contention because §2 (b) only requires that the land's ecological role be changed. There is no requirement in the first instance that the ecological role of the lands be special, cultural or unique. Unless §2 (b) is deleted or altered, it will continue to be utilized not to protect unique Montana resources, but rather to harass mining companies who have otherwise complied with the selective denial provisions.

Subsection 2 (a) protects injury to wildlife and livestock and §2 (c) protects valuable ecosystems affected by mining. Any lands with a truly unique ecological role will be protected by these provisions. We are unaware of any realistic situation where truly critical lands could not be protected under §§227 (2) (a), (c) and (d). Further, the repeal of §2 (b) will not eliminate the long list of mandatory state and federal reclamation standards which presently exist in the Reclamation Act. Thus, for example, coal mining companies in the future will still have to satisfactorily revegetate and reclaim the mined areas, (§227 (1)), protect the areas' hydrologic balance and alluvial valley floors (§227 (3)), avoid mining on prime farmlands (§227 (5)), and eliminate mining on any areas otherwise designated as unsuitable for mining (§227 (9)). To conclude, this proposal to repeal §227 (2) (b) merely corrects a legislative oversight. Hence the repeal will not lower the level or intensity of environmental control which Montana currently exercises over coal mining.

TESTIMONY OF:

Lanny K. Icenogle

Montco

P. O. Box 31572

Billings, Mt. 59107

Before the House Committee On Natural Resources

Senate Bill No. 278

Submitted on behalf of:

Montco

March 11, 1981

Mr Chairman, committee members, for the record my name is Lanny Icenogle and I represent Montco in support of SB 278. Montco is a Billings based Montana partnership who has just recently filed a strip coal mining permit application with the Montana Department of State Lands. I have a degree in Wildlife Management and Natural Resources. Prior to joining Montco 3 years ago, I was an Environmental Coordinator for Peter Keiwit Sons' Mining Division. My responsibilities with Montco have included the design and administration of Environmental Baseline Studies and preparation of the Reclamation Plan for the proposed Montco Mine.

We foresee that one of the most unpredictable aspects of the mining and reclamation requirements arises from the continuing uncertainties surrounding the application of Montana's selective denial provisions, found in § 82-4-227 (2) MCA of the Montana Strip and Underground Mine Reclamation Act. Subsection (2) (b) of § 227 does not conform to the legislatures's specific purpose of selectively denying mining to protect identifiable unique Montana resources.

Subsection (2) (b) states;

" The Department shall not approve the application for a prospecting, strip-mining or underground-mining permit where the area of land described in the application includes land having ecological fragility, in the sense that the land, once adversely affected, could not return to its former ecological role in the reasonable foreseeable future."

Section (1) of § 227 states;

" The applicant for a permit or major revision has the burden of establishing that his application is in compliance with this part and the rules adopted under it."

No where in the rules adopted by the Board of Land Commissioners pursuant to the Montana Strip and Underground Mine Reclamation Act are there regulations or definitions describing criteria to be utilized in addressing "ecological fragility." As a result, this nonconforming subsection has been used by those opposed to mining as a political device to stop and delay mining on lands which are not truly unique, but rather lands which are entirely typical of lands found throughout southeastern Montana.

An ecologist might define all of eastern Montana as ecologically fragile in the sense that any lands affected, whether by mining, cropland development or modified grazing plans, could not return to their former ecological role in the reasonable foreseeable future. Obviously, if there are no standard definitions or criteria by which to measure "ecological fragility", "ecological role", and "reasonable foreseeable future", this subsection becomes nothing more than an arbitrary political crutch seized upon to oppose mining.

Subsections (2) (a), (c) and (d) of § 227 adequately protect truly unique lands and specifically require as a condition to finding unique status, that mining would result in specific identifiable injury independent of routine mining operations on the land itself.

Subsection (2) (a) identifies lands with unique biological productivity. The subsection provides that lands with unique biological productivity, the loss of which would jeopardize certain species of wildlife or domestic stock, may be characterized as special, exceptional, critical, or unique. The identifiable independent injury in Subsection (2) (a) occurs when the loss of unique biological productivity threatens a specific species of wildlife or domestic stock.

Rule 26.4.304 of the Montana Strip Mine Reclamation Regulations requires baseline study information on environmental resources, including vegetation surveys, wildlife surveys, soil surveys, and land use studies. However, none of these disciplines address the study or meaning of "ecological fragility".

Subsection (2) (c) identifies lands which have a strong influence on the total ecosystem. Subsection (2) (c) is like Subsection (2) (a) in that the loss of unique land, water and/or vegetation may precipitate a specific system-wide reaction.

Rule 26.4.304, in addition to those studies I have previously referenced, also requires baseline study information on groundwater, surface water, water quality, erosion and sedimentation, and many others. Again, none of these disciplines address "ecological fragility."

Subsection (2) (d) identifies lands with scenic, historic, archeologic, topographic, geologic, ethnologic, scientific, cultural, or recreational significance. Again these disciplines are required to be studied under the Montana Strip Mine Reclamation Regulations, but the Rules do not address "ecological fragility."

Therefore, Subsections (2) (a), (c), and (d) all address lands that possess a special identifiable characteristic which if adversely affected will create some greater injury independent of mining to the land itself. The Montana Strip Mine Reclamation Regulations require baseline studies on lands to determine if these special characteristics exist and if they will be adversely affected. However, Subsection (2) (b) creates a fourth basis for selective denial but does not conform to the three subsections previously discussed.

Subsection (2) (b) does not identify an independent injury and the regulations do not define "ecological fragility", "ecological role" and "reasonable foreseeable future." Since Subsection (2) (b) does not provide standards for such, the subsection allows selective denial if any ecological role would not be returned to its exact original status.

Such a selective denial is in direct conflict with certain Montana Strip Mine Reclamation Regulations.

In particular, those rules which require that no final graded slopes be steeper than 5:1, uniform distribution of topsoil and prevention of erosion. These rules are intended to accomplish successful reclamation. However, these rules obviously prevent the return of topographical features such as steep slopes, breaks, and badlands which certain ecological types are dependent upon. Therefore, the natural ecological role is not necessarily returned.

In addition, selective denial under Subsection (2) (b) precludes those rules which require and/or allow alternative reclamation, introduced vegetation species, increased vegetation diversity, and wildlife habitat enhancement. It is quite evident that the implementation of these measures would not return an area to its exact former ecological role, even though they are meant to increase the diversity and production of the reclaimed area.

It is our understanding that in past application reviews, the Department of State Lands has not utilized Subsection (2) (b) in a great number of cases, and when they have applied the subsection, it has been done in conjunction with other portions of the statute. This is quite understandable, since it would be most difficult to apply Subsection (2) (b) on its own merits when there are no criteria, definitions or complete understanding of "ecological fragility" and the "ecological role" to be protected.

The Department of State Lands has indicated that they can administer this subjective subsection on a case-by-case basis as the opportunity arises. Our concern is not necessarily with the Departments' current intent, but with the fact that personalities and personnel change within the Department, and that special interest groups will continue to utilize this non-conforming subsection as a device to harass, delay, and prevent mining on lands which are not in fact unique.

Montco has conducted the studies required under the Reclamation Act statutes and regulations for inclusion in their strip mine permit application. This effort involved 3 to 4 years of study at a cost of 4 million dollars. However, these same statutes and regulations simply do not provide for the collection of complex information which may attempt to determine if an area is ecologically fragile as is broadly stated in Subsection (2) (b). To embark on such a subjective study would require a most comprehensive effort to determine trophic levels, nutrient cycles, energy cycles, biogeochemical analysis, and many more research oriented assessments that could consume 20 years of research and 10 million dollars.

Any lands with identifiable unique characteristics will be protected by Subsections (2) (a) (c) and (d). The repeal of Subsection (2) (b) will not weaken the Department's ability to protect unique lands or eliminate the standards which presently exist in the Reclamation Act, but would merely correct a legislative oversight.

Subsection (2) (b) is a perfect case in point of how special interests have, and will continue, to invade the intent of good laws for the purpose of self-serving causes. Therefore, we ask the committee to give SB 278 a do-pass recommendation.

Comments on S. B. 278 by Bill Gillin, Colstrip area rancher.

One of Murphy's laws is, if it isn't broke, don't fix it. The law that this bill would amend does not need fixing. This bill would repeal a section of a law that has been in effect since 1973; a law that has worked very well and has not in any way stopped mining in Montana. It has only been invoked four times and in no case has it prevented any mine from operating or opening. To pass this bill would be a serious step backwards for Montana.

Many areas in the Appalachia region have been severely damaged or ruined because they lack such a law as we have here in Montana. The only mining operations that the present law would interfere with are the "Rip, Ruin, and Run" type of operation. We don't need that type in Montana.

About ten years ago Montana Power and Burlington Northern held a meeting at Colstrip and invited the ranchers of the area to acquaint them with the possible effect on their operations of mining in the area. At this meeting I asked what precautions would be taken to avoid destruction to downstream meadow lands in the event of 100 year rainfall and flood. I was told that mining would be done in such a manner that the disaster I was so apprehensive about simply could not happen. One week later the very type of incident I was inquiring about happened in a coal mining operation in West Virginia and it not only wiped out an entire valley but also ~~wiped~~ wiped out 128 people. To this day liability has not been established. If the present law is left intact I will be able to rest a lot easier.

Thank you,

Bill Gillin  
Route 2  
Forsyth, Montana  
59327

SB 278

Comments by the Northern Plains Resource Council  
Before the House Natural Resources Committee  
March 11, 1981

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SB 278 would remove Section 227(2)(b) from the Montana Strip and Underground Mine Reclamation Act. NPRC opposes this bill.

Section 82-4-227(2)(b) of the strip mine act is only a few lines, but plays an important function in the law. It is a part of the act that responds to the legislative findings stated in the "Policy-Findings" portion of the law, wherein is stated:

"The legislature hereby finds and declares that:...certain lands because of their unique or unusual characteristics may not be strip-mined or underground-mined under any circumstances..." (82-4-202(2)(a))

The removal of 227(2)(b) from the act could be likened to sawing one leg off a chair. The chair might still stand upright, but it is structurally weakened significantly.

Section 227(2) lists four areas in which mining shall not be permitted if the land possesses special, exceptional, critical, or unique:

(a) biological productivity...

(b) ecological fragility ...

(c) ecological importance ...

(d) scenic, historic, archaeologic, topographic, geologic, ethnologic scientific, cultural, or recreational significance ...

This section of Montana's law was enacted in 1973 when the reclamation law was overhauled. The bill was carried by Republican Senator George Darrow of Billings.

Since its passage, 227(2)(b) has been invoked by the Department of State Lands only four times out of 357 permit applications. In no case has it been

used to close or prevent the opening of a mine. Its use has been limited to protecting relatively small areas within a proposed mining plan. Although three of the four times it was used 227(2)(b) was protecting a drainage or hydrology, it has applicability that goes beyond hydrology to other important variables in the ecosystem.

The Department's careful usage sets a strong precedent for the strict construction of the term "ecological fragility." Ecology is not some vague notion. It represents an important branch of science concerned with the interrelationships between organisms and their environment, grounded in the scientific method and the rigors of academic discipline.

The Montana Strip and Underground Mine Reclamation Act deals with some specificity in certain areas, hydrology being one example. However, it is neither practical nor feasible to catalogue in statute the full range of vital variables at work in an eco-system. Section 227(2)(b) plays an important role in the Act. Its removal would significantly weaken the state's authority in regulating strip mining.

The aforementioned section was mentioned in litigation filed against the Department of State Lands by the Friends of the Earth. It was only mentioned and was not central to the argument. The suit has not stopped any mining at the Westmoreland Company's Absaloka Mine on Sarpy Creek.

SB 278 represents special interest legislation in the classic sense of the word. It is designed to serve the bidding of a single coal company. It does not stand up in the light of broad public interest.

Montana has a strong strip mine law. Montanans of both political parties and of persuasions both pro- and con- industrialization have supported our strong law. Some who support strip mining base their endorsement partly on the knowledge that we have, intact, a tough law and on their confidence that it will promote high standards. The law should not be weakened. Vote against SB 278.



EXHIBIT 5

## The Montana Environmental Information Center

March 11, 1981

• P.O. Box 1184, Helena, Montana 59601 (406) 443-2520  
• P.O. Box 8166, Missoula, Montana 59801 (406) 728-2644

### Testimony In Opposition To SB 278 Before House Natural Resources Committee

My name is Don Snow, I am Staff Coordinator of the 1,300 member M.E.I.C. based in Helena. I rise in opposition to SB 278, a simple little bill aimed, we hear, at stealing tools from obstructionists. We haven't heard yet what other motives might be behind the bill or what other effects it might have.

Ecology is not a political movement. It's a science. Ecologists are people who study the interrelationships of living things with each other and their natural environment. Ecologists recognize that man and his activities are parts of the overall system. We influence it. Strip Mining in fact can be quite an influential activity, in an ecological sense.

The Montana Legislature once recognized this possibility and wrote into our Coal Reclamation Act some provisions to treat it. One of those is the subject of SB 278.

Ecologically fragile lands, by their very definition in the law, are probably unreclaimable. The law says that once such lands are affected they cannot return to their former ecological role "in the reasonable foreseeable future." If one considers the highest aim of reclamation to be returning lands approximately to their original condition and ecological productivity, then one must agree that ecologically fragile lands are probably unreclaimable.

SB 278, then, does what previous Legislatures have refused to do: to allow certain lands in Montana to be sacrificed, ie., to be mined and then not reclaimed.

In the newspapers today we read that the Interior Department is contemplating a big change in the federal Surface Mining Act. Secretary Watt wants the provisions for restoring lands to approximate original contours removed. Secretary Watt apparently would like to make level parking lots out of Kentucky hills. He also wants variances to be granted more easily.

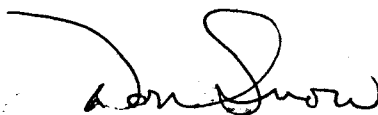
Is this the direction Montana wants to go? For almost a decade now this state has prided itself on its protective reclamation laws. We have allowed companies to take the coal, and they have - to the tune of almost 30 million tons last year. That's an increase of a few thousand percent over pre-1970 levels. But we have insisted that mining be done properly and lands be restored.

SB 278 runs counter to those goals, just like Secretary Watt's new policies. I am not convinced that other parts of the law will cover the delicate question of ecological fragility. Does this Committee know?

Again I reiterate: This bill in concept will allow for the mining of lands that probably cannot be restored. Is that the sort of legislation that this body wants to be remembered for?

Thank you.

Respectfully submitted

A handwritten signature in dark ink, appearing to read "Don Snow", is written over a horizontal line.

Don Snow  
Staff Coordinator