

MINUTES OF THE MEETING OF THE NATURAL RESOURCES COMMITTEE
APRIL 1, 1981

The House Natural Resources Committee convened in Room 437 of the Capitol Building on Wednesday, April 1, 1981, at 1:00 p.m. with CHAIRMAN DENNIS IVERSON presiding and sixteen members present (REPS. NORDTVEDT and HUENNEKENS were absent).

CHAIRMAN IVERSON opened the hearing on HB 861.

HOUSE BILL 861 REP. BURT HURWITZ, chief sponsor, presented SENATOR DAVE MANNING, who, in turn, presented the bill. It would provide for analysis of the feasibility of generating hydroelectric power at off-stream sites in the Yellowstone River Basin and would appropriate funds accordingly.

SENATOR MANNING then presented the bill. See Exhibit 1. He also stated that the funding would require three hundred and fifty thousand dollars.

Speaking as a proponent of the bill was REP. AUBYN CURTISS who stated this is an extremely practical idea and bill.

LEO BERRY, Director of the Department of Natural Resources, said there is an appropriation to help with the project.

REP. TOM ASAY supported the bill saying this issue needs serious consideration and that it would be a wise use of one of Montana's natural resources.

CHARLES CRANE, Montana Water Developers Association, supported the bill stating that water is the one true natural resource that Montana has. We also have land but it is good only as long as we have water.

There were no OPPONENTS.

REP. HURWITZ closed on the bill.

During questions from the committee, REP. ROTH asked if the funding will come from the Resource Indemnity Trust Fund interest. SENATOR MANNING said yes and that the funds have been requested but not committed yet.

REP. QUILICI asked that in the event the R. I. T. money is not available, could the funding come from the Renewable Resource Fund. The answer was yes.

REP. QUILICI then asked if it possible to utilize this water for irrigation purposes. SENATOR MANNING said yes and that the water impounded would be on high ground. It is mostly high head hydro. The quality of the ground would be poor and therefore suitable for storage.

REP. QUILICI asked MR. BERRY if the DNRC should be the administering agency and who determines what the equitable rate will be. The answer was that the PSC would determine the rate and that FERC is the federal agency to help with the program.

The hearing on HB 861 closed and one on SJR 24 opened.

SENATE JOINT RESOLUTION 24 REP. DAVE BROWN presented the resolution for SENATOR JUDY JACOBSON. The resolution asks that federal funding of magnetohydrodynamics engineering test facilities in Montana be continued. See Exhibit 2. REP. BROWN stated that this resolution and this funding affects areas other than the Butte plant and that it is important to the state for funding to continue.

REP. JOE QUILICI supported the resolution.

There were no OPPONENTS.

The hearing on SJR 24 closed and one opened on SB 199.

SENATE BILL 199 SENATOR MARK ETCHART, chief sponsor, presented the bill which would allow the Department of Natural Resources to stop issuing applications and to close a source within the Milk River Basin to applications for a permit to appropriate water from the area under certain conditions. He said the Milk River is running out of water. There is simply not enough for those people who have permits and yet the department continues to issue applications. He stated that it is difficult to monitor the pumping and people are using water when they are not legally entitled to do so. This bill would give the department the authority to stop taking water applications. The department would conduct proper hearings and issue due notice.

Speaking as a proponent was CHARLES CRANE, Montana Water Developers Association, who said the problem is the result of an over-appropriate stream and will only continue to get worse.

REP. AUDREY ROTH favored the bill. She stated that the issue has been discussed at many public meetings in the area and that people with prior rights are the ones suffering.

LEO BERRY, Director of the Department of Natural Resources, said the bill will assist the department in solving the problem. The department's power is very limited and it needs guidelines.

There were no OPPONENTS.

SENATOR ETCHART closed on the bill.

During questions from the committee, REP. KEEDY asked if it is true that the department would first propose the suspension, then have a hearing, and then make the final decision. SENATOR ETCHART replied yes.

REP. KEEDY further asked if that did not just provide a ceremony. SENATOR ETCHART said the department would not take the procedure lightly and he felt that it would arbitrarily close down the permitting. MR. BERRY further stated that he felt there was significant criteria which must be met and followed. He said the department does not have enforcement capabilities.

REP. KEEDY then asked why the bill does not include more than just the Milk River Basin. MR. BERRY replied that this would be a trial case and perhaps at a later date the same procedures could be used in other areas.

REP. BERTELSEN said he felt a stream could not be over-appropriated. MR. BERRY said in theory that is true.

REP. CURTISS asked if the department had ever gone to court over the permitting. GARY FRITZ of the department said no.

The hearing on SB 199 closed and one opened on SB 244.

SENATE BILL 244 SENATOR CARROLL GRAHAM, sponsor, presented the bill which would amend the Montana Strip and Underground Mine Reclamation Act to comply with the Federal Strip Mine Act and with conditions of approval by the Secretary of Interior. See Exhibit 3. He stated that this is an attempt to put the act into compliance with the federal law. He further stated that the bill is upon request from the Department of State Lands.

Speaking as a proponent of the bill was JOHN NORTH, Department of State Lands. He explained the changes as indicated in Exhibit 3. He felt the enforcement mechanism must be made to apply to prospecting as well as mining. There is no commitment to funding. The department feels the federal time frames are impossible to deal with and this amends that problem.

MARGARET MACDONALD, Northern Plains Resource Council, supported the bill.

There were no OPPONENTS.

SENATOR GRAHAM closed on the bill.

During questions, REP. BROWN asked what would happen if this bill does not pass. MR. NORTH replied the state must comply with the federal law.

The hearing on SB 244 closed and one opened on SJR 31.

SENATE JOINT RESOLUTION 31 SENATOR HAROLD DOVER presented the resolution which would direct the Department of Natural Resources to conduct a feasibility study on ethacoal and methacoal processing in Montana. He stated that our biggest problem in the future will not be fuel but rather food. Research indicates that combining methanol and ethanol with coal could improve the BTU value of coal; reduce sulphur content of coal; improve the feasibility of transporting coal via slurry pipelines; increase the market for alcohols derived from agricultural products; and, improve the marketability of our lignite coal. Funding will come from the Alternative Energy Fund and five thousand dollars should cover the costs.

There were no other PROPONENTS.

MARGARET MACDONALD, Northern Plains Resource Council, opposed the resolution stating that the use of alternative energy funds cannot be allowed for non-renewable resources. It is basically a synfuel product and does not qualify.

JOAN MILES, Environmental Information Center, opposed the resolution because of the proposed funding.

SENATOR DOVER closed on the resolution saying this resolution addresses how we can stretch our fuel and food supplies. He felt funding would not be a problem and that some other fund could be used.

During questions, REP. SHELDEN asked if this would be mainly an informal gathering of information. The answer was yes.

REP. NEUMAN asked if there would be enough product to slurry. SENATOR DOVER said it could be possible for a short distance.

REP. ASAY asked exactly how much this would cost. MR. BERRY replied that five thousand dollars would be enough for the initial study and then more would be needed if it looked promising. The first step is the feasibility study.

REP. QUILICI questioned the use of alternative energy funding. SENATOR DOVER said that it did not matter and that possibly other funding would be available.

The hearing on SJR 31 closed.

EXECUTIVE SESSION SENATE BILL 244 REP. SALES moved BE CONCURRED IN.

The motion PASSED with REPS. BROWN and HARP opposing.


Natural Resources
April 1, 1981
Page 5

SENATE JOINT RESOLUTION 24 REP. CURTISS moved BE CONCURRED IN.

The motion PASSED with REPS. MUELLER and SHELDEN opposing.

The meeting adjourned at 2:35 p.m.

Respectfully submitted,


DENNIS IVERSON, CHAIRMAN

Ellen Engstedt, Secretary

VISITORS' REGISTER

HOUSE NATURAL RESOURCES COMMITTEE

BILL HB 861

Date 4/1/81

SPONSOR HURWITZ

[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 SB 244

Date 4/1/81

SPONSOR GRAHAM

[illegible]

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PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE NATURAL RESOURCES COMMITTEE

BILL SJR 31

Date 4/1/81

SPONSOR DOVER

[illegible]

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PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE NATURAL RESOURCES COMMITTEE

BILL SB 199

Date 3/30/81

SPONSOR ETCHART

[illegible]

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PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.



The Big Sky Country

MONTANA STATE SENATE

Senator Dave Manning

District No. 25; Garfield, McCone,
Petroleum, Rosebud, Treasure and the
Roy-Grass Range Area of Fergus County.
Hysham, Montana 59038

Committees:

Oversight Committee
on Coal Taxation,
Chairman
Natural Resources
Highways

HEARING ON HOUSE BILL NO. 861

12:30 P.M. - April 1, 1981

TO THE MEMBERS OF THE HOUSE STANDING COMMITTEE ON NATURAL RESOURCES

Some of you may recall that in the closing hours of the last legislative session and again in this session, I recommended that here within the tier of high altitude headwater states our typical state, now so seriously involved in the depletion of its fossil fuels, should initiate a new concept in the use of water's enormous re-curring potential.

In the interest of time, I will quickly summarize just a few of the points.

I said, "We have made progress in capturing a small portion of the energy in our great rolling water resource but have not demonstrated, so far, an objective approach toward mastering its real potential. With the finiteness of fossil fuel, the dependence upon foreign sources of oil, the world's unrest, the atomic set back, "we have a new ball game". The time has arrived when we dare not judge our future energy capabilities by standards we have built to in the past. Our enormous untapped hydro possibilities in Montana and high altitude states of the nation cannot be measured by inventories of what we may, at this time, consider to be our remaining natural river dam sites.

The major economic deterrents to development of hydro power in the past have been fast disappearing this last decade, if not already gone, when currently compared with the lesser capital costs of thermal development with much higher energy escalating operating cost in use of finite fuel."

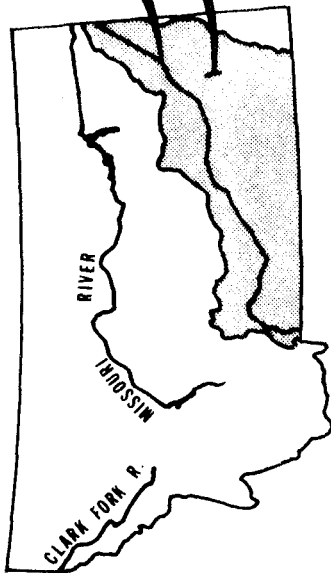
In 1973 when I served on the legislative Coal Tax committee, Montana's cost per unit of Canadian gas was 23¢. Yesterday it was \$4.47. By a strange coincidence, just now, on this day, it became "Opechized" to \$4.92 a unit.

I cannot overemphasize: "White oil hydro fuel is dispursed to us inflation free."

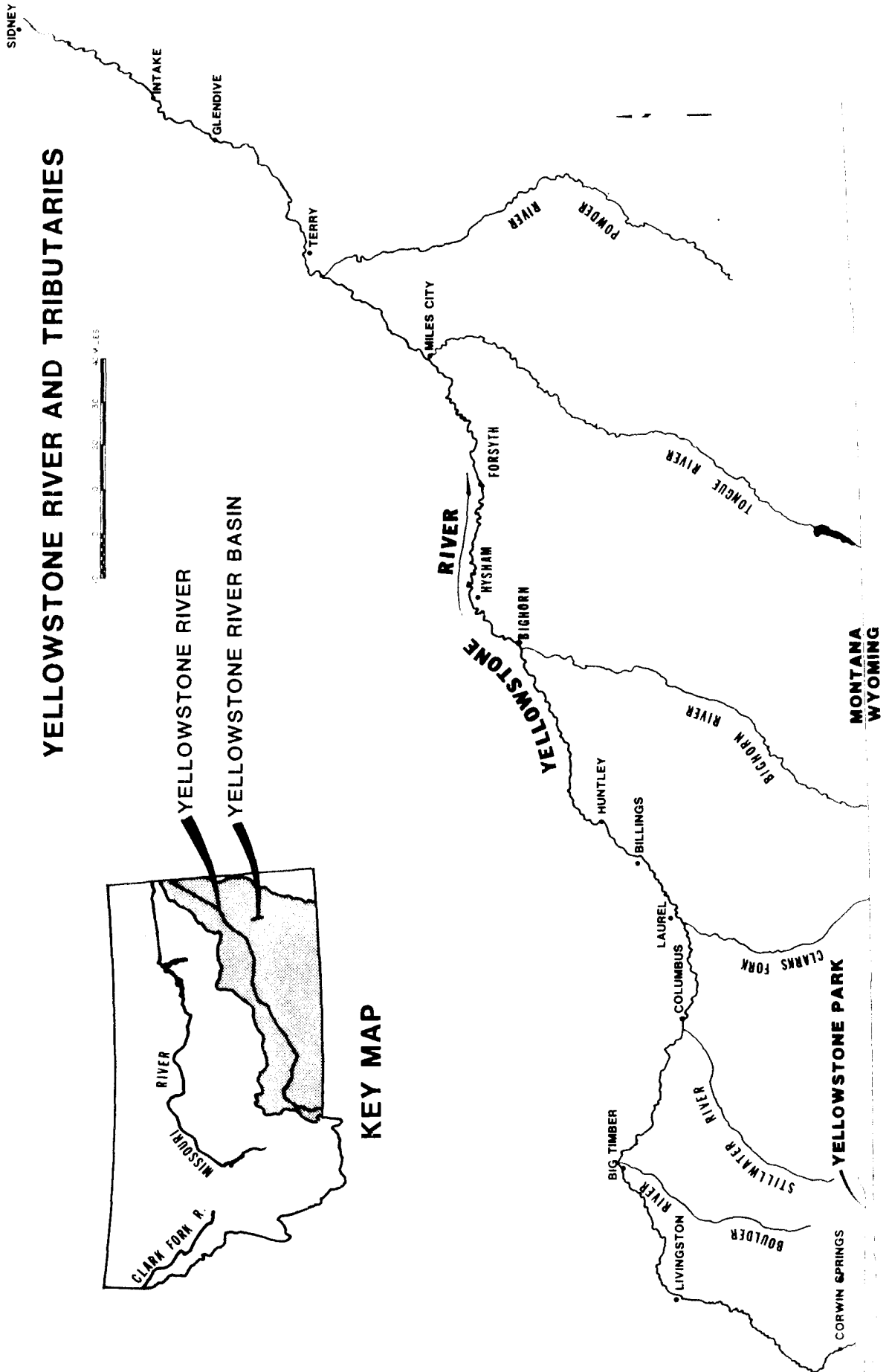
BY SENATOR DAVE MANNING

Dave Manning

YELLOWSTONE RIVER AND TRIBUTARIES

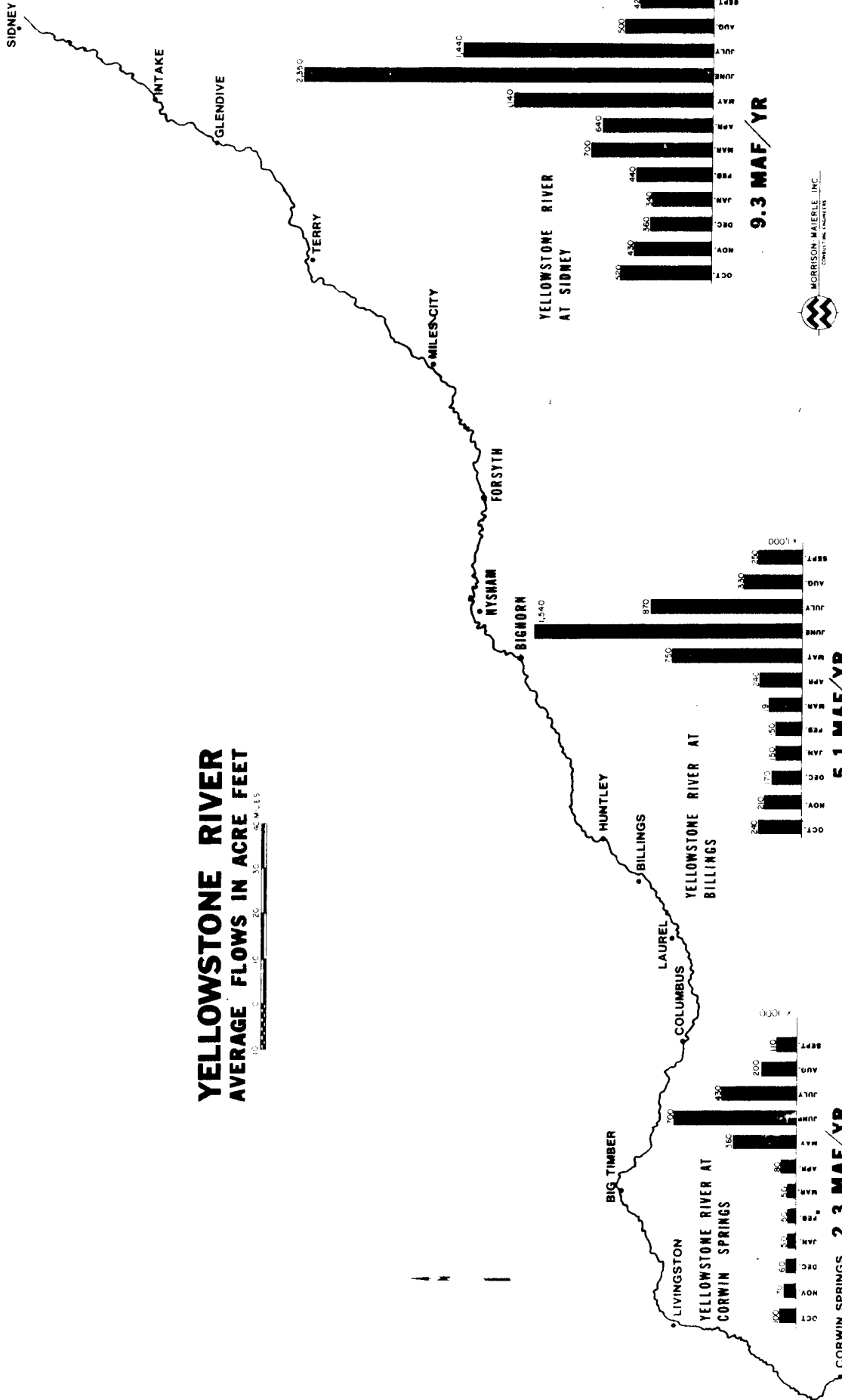


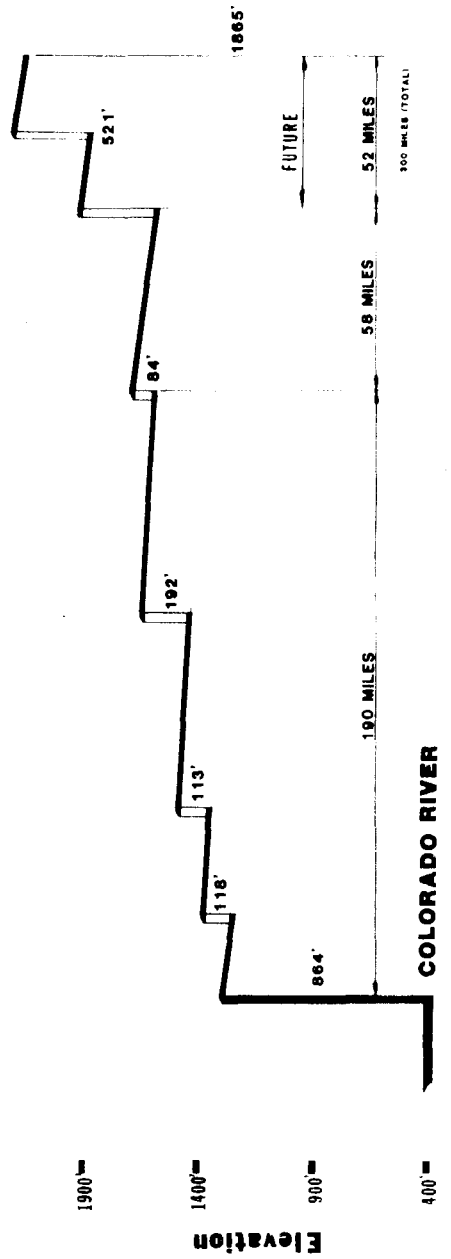
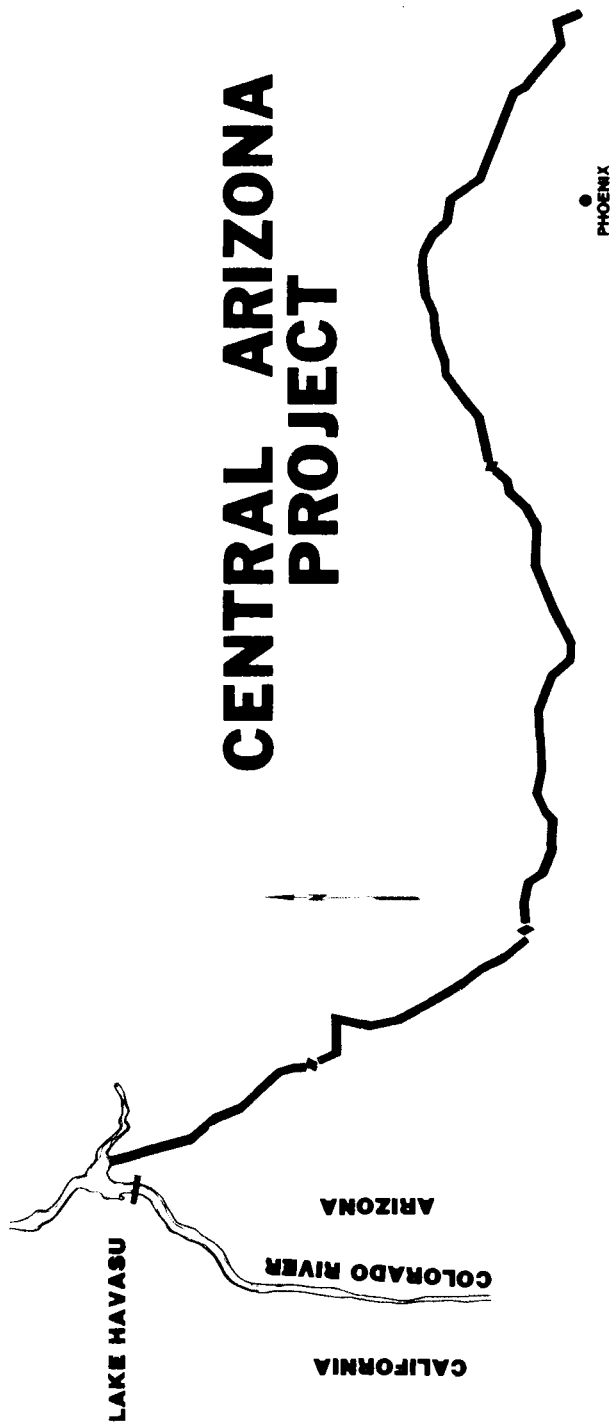
KEY MAP



YELLOWSTONE RIVER AVERAGE FLOWS IN ACRE FEET

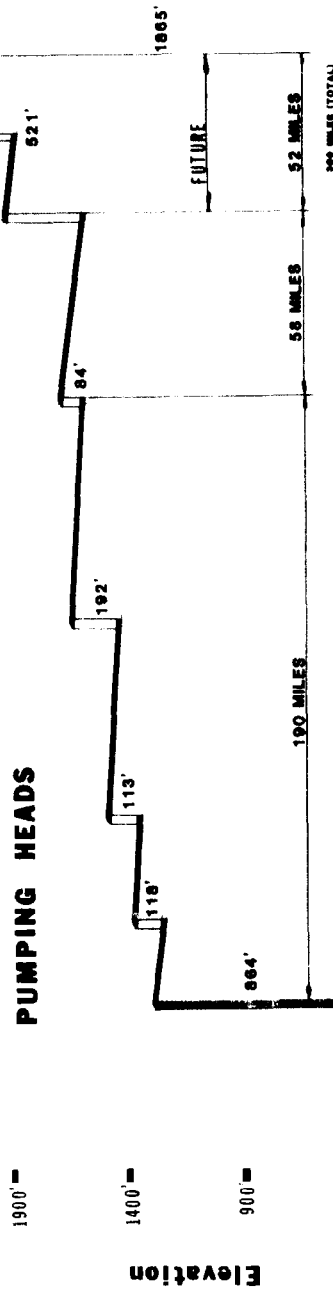
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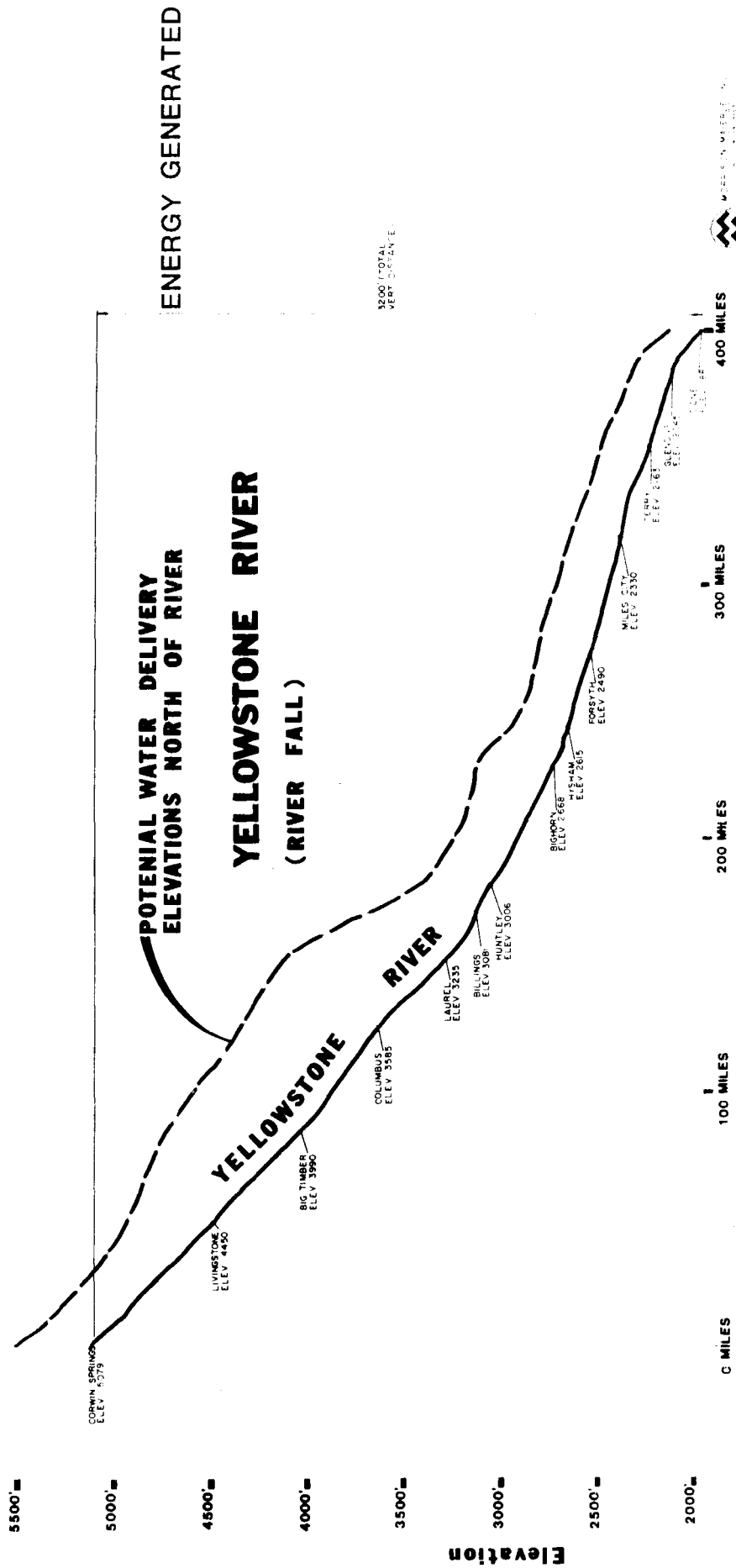
CENTRAL ARIZONA PROJECT

PUMPING HEADS



ENERGY CONSUMED

A PROJECT COMPARISON



ENERGY GENERATED



The Big Sky Country

MONTANA STATE SENATE

SENATOR DAVE MANNING

DISTRICT NO. 25: GARFIELD, McCONE,
PETROLEUM, ROSEBUD, TREASURE AND THE
ROY-GRASS RANGE AREA OF FERGUS COUNTY
HYSAM, MONTANA 59038

Helena, Montana January 5th, 1981

To The Members of the 1981 Legislative Assembly,
Convening Today

In the closing hours of the last legislative assembly, I spoke to my colleagues, emphasizing that the widespread anxiety over need for new energy source was drawing our nation ever increasingly to the single burn of fossil fuel.

I called for Montana's coal tax and resource indemnity trust funds to be heavily drawn upon for use in demonstrating that here within the tier of high altitude, headwater states, our typical state, now so intimately involved in resource depletion should initiate a new concept in the use of white oil's enormous recurring potential and by the doing well serve the end that surely must be ultimately reached by backing out along the way, today's expediency grant to flame.

Whether you are a new legislator or have been taking your lumps here in the Field Laboratory of our State's coal problems, I am sure you are aware it is well known that since the enactment of Montana's coal mining law three sessions ago, other states have been constantly reminded that we have the highest coal tax in the nation. This, with little mention of our costs in the negative impacts of the coal's taking; of our dedication toward a future beyond the dead end road we are traveling on the ash of finite fuel; of our commitment to find a way of using recurring resource in place of the expendable we see diminishing here in our time on the rim of the pit.

In looking back on the coal tax publicity created in the last session, an outsider could well ask, what about Montana and its coal tax? Is there a developing plan? He had heard much of the request for its funds.

I said then, speaking only for myself, as a legislator and the prejudice I carry in life's work as a reclamation contractor, I offer a plan.

I recommended that we hold fast in the future, as we had in that session, to the original purpose of the act "to respond to current social impacts attributable to coal development and to invest in the future".

Now as we enter the critical energy decade of the 80's let us narrow the use of our limited funds for optimum results where, with plan and demonstration, we can pioneer in bringing our state's allotted part of the enormous energy resource of water into focus for the most realistic use of nature's great sustained hydrological cycle.

God's great phenomena of sun, evaporation and gravity create an eternal water flow on our planet. The energy potential of this enormous, nonpolluting, continually renewable resource gift is far from harnessed by man. The song of a slave in his simple analysis paid homage to its muscle with the words: Old Man River, he must know sumpin'; He don't say nothin'; He don't plant taters'; He don't plant cotton; He just keeps rollin'; He keeps on rollin' along.

Over

We have made progress in capturing a small portion of the energy in our great rolling water resource but have not demonstrated, so far, an objective approach toward mastering its real potential. With the finiteness of fossil fuel, the dependence upon foreign sources of oil, the world's unrest, the atomic set back, "we have a new ball game". The time has arrived when we dare not judge our future energy capabilities by standards we have built to in the past.

Our enormous untapped hydro possibilities in Montana and high altitude states of the nation cannot be measured by inventories of what we may, at this time, consider to be our remaining natural river dam sites. Within the boundaries of our state alone there are some 1500 miles of great year 'round flowing water in the four mainstems of our river drainages falling an average of six feet to the mile.

With our proven state-of-the-art technology in hydraulic engineering and construction there is much we can do and undo to create a great net in non-polluting energy.

We need not place dams across live river channels for impounding flood water that to any degree at all inundated fertile soils. We can design, within our broad expanse of selection, stations at which we cut into our river banks, draw off excessive flood waters; confine it in buried conduit; deliver it by gravity with a portion of the ample slope in our terrain and fountain it with the silt it carries into high head man-made storage on our poorest ground; release it from there in controlled year around channeling through turbines back to the streams.

This special use of our inherited hydraulic gradient lies well within our reach when combined with the given material and knowledge we have at hand. The capture of wasted flood water can well integrate energy supply with existing use, prevent flooding and stabilize stream flow.

Not this use of our falling water alone. We have the capability to build and place the plumbing facilities to substitute for our enormous energy wasteful practice of allowing water to flow to our feet, only to pump it to higher elevations to satisfy the great multitude of service demands for water under pressure we have grown to depend upon.

The major economic deterrents to development of hydro power in the past have been fast disappearing this last decade, if not already gone, when currently compared with the lesser capital costs of thermal development with much higher energy escalating operating cost in use of finite fuel.

The course of our nation's critical energy development plan, of necessity weighted heavily toward coal, cannot be transformed rapidly, but Montana can well be a state to show the way in use of wasted hydro energy potential that would warrant policy support and funding by state, nation, and private sector.

A lifetime tenant of the High Country, I point out that here on the broad, elevated terrain we occupy, there has been allotted to us a substantial portion of bad land. May the west and God forgive me for classifying it as such, when I hasten to add, within it lies a dispersed sufficiency in surfaces and elevations for the work of man to remold in storage to capture the energy giant of flood water here lost to the sea.

Pipe has long been invented and little used.

My colleagues, I look forward to your cooperation and your help with the specific procedures I will soon present in this session of the legislature.

Dave Manning
Senator Dave Manning

1 HOUSE BILL NO. 861
 2 INTRODUCED BY Shawnte Manning Secretary Conroy

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR ANALYSIS
 5 OF THE FEASIBILITY OF GENERATING HYDROELECTRIC POWER AT
 6 OFF-STREAM SITES IN THE YELLOWSTONE RIVER BASIN; AND
 7 APPROPRIATING FUNDS FOR SUCH PURPOSE."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Purpose. The purposes of this act are to:

11 (1) demonstrate that the drainage system of the
 12 Yellowstone River can develop substantial supplies of clean
 13 hydroelectric power without disrupting the agricultural and
 14 other values associated with a free-flowing main stem of the
 15 river;

16 (2) demonstrate that off-stream hydroelectric capacity
 17 could be investigated within the framework of existing
 18 environmental protection statutes and could be implemented
 19 within the framework of and to the benefit of existing water
 20 rights and reservations; and

21 (3) direct consideration of, but not to decide at this
 22 time, how electricity so generated could be marketed.

23 Section 2. Duties of department. The department of
 24 natural resources and conservation shall, prior to January
 25 1, 1983:

1 (1) formulate an overall project concept of one or
 2 more demonstrations involving the diversion, storage, and
 3 gravity-flow routing of annual peak period streamflows
 4 within the Yellowstone River Basin, with such routings
 5 culminating in hydroelectric installations and return of the
 6 waters to the streams;

7 (2) conduct preliminary environmental reviews of one
 8 or more sites for potential demonstration projects, to serve
 9 as baseline material for full-scale environmental impact
 10 analysis of such demonstration projects as may be selected
 11 for further funding or construction by future sessions of
 12 the legislature;

13 (3) conduct preliminary economic reviews of one or
 14 more such sites, evaluating alternate routes, capacities,
 15 and facilities with cost estimates suitable for formulating
 16 final design and construction budgets and analyzing
 17 cost-benefit ratios;

18 (4) analyze any licensing requirements that may be
 19 imposed by federal law; and

20 (5) consider, without recommendation and after
 21 consultation with public utilities and cooperatives that
 22 distribute electricity within the basin, various means by
 23 which hydroelectric power generated at such demonstration
 24 projects could be sold.

25 Section 3. Administration of act. The department may

1 not increase its number of full-time equivalent employees
2 for the purpose of carrying out this act unless the governor
3 finds that adequate contracted services from the private
4 sector are unavailable within the amounts appropriated by
5 this act. The department is authorized to contract for such
6 professional services as are needed to carry out this act.
7 Section 4. Appropriation. There is appropriated from
8 the interest income of the resource indemnity trust fund to
9 the department of natural resources and conservation the sum
10 of \$350,000 for the purpose of implementing sections 1
11 through 3.

-End-



The Big Sky Country

MONTANA STATE SENATE

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Dave Manning
Senator Dave Manning

EXHIBIT 2

This is a joint resolution to President Reagan, the Secretary of Energy and Montana's Congressional delegation urging them to continue funding for the Montana MHD facility. Magnetohydrodynamics (MHD) is a process to generate electricity by passing a conducting media (hot gases obtained from coal combustion) through a magnetic field. The process converts the energy of the hot gases to electrical energy directly. The M.H.D. process would be used in conjunction with a steam plant bottoming cycle, and has the potential to achieve (coal pile to bus bar) efficiencies of 50% more than a conventional power plant. These plants would operate with low environmental emissions and use less water than the conventional steam plants.

The M.H.D. plant in Butte is scheduled to produce electricity on April 18. If proper funding were continued, it is thought that a plant could be built by 1985-86 and be working by 1989-90.

China, Japan, Russia, Poland, the Netherlands, Italy, India and Sweden are all working on this technology. It is not probable that private industry would pick this project up because it would not be cost effective at this point.

The amendments on the bill were proposed by M.H.D. personnel.

(IncoBson)

TESTIMONY

SB 244

In passing the Surface Mining Control and Reclamation Act of 1977, Congress set forth minimal procedures and reclamation standards which a state must adopt in order to continue to enforce its coal strip mine reclamation program. In passing SB 515, the 1979 Legislature made those changes in the Montana Strip and Underground Mine Reclamation Act which the Department of State Lands determined were necessary in order to obtain permanent program approval from the Secretary of Interior. On April 1, 1980 the Secretary of Interior approved SB 515 provided one statute change be made on or before July 1, 1981. In addition, the Secretary requested that several clarifications of SB 515 made by the Department of State Lands during the Secretary's review be incorporated into the Act. These amendments merely clarify the intent of the last Legislature in adopting SB 515.

The changes and reasons for those changes are as follows:

1. Page 3, line 21 - In order to comply with the Federal Strip Mine Act, SB 515 replaced the term "strippable coal" with "minable coal." The purpose was to apply coal conservation requirements to underground as well as strip mining operations. The former term was inadvertently left in section 82-4-203(12). This amendment corrects this oversight.
2. Page 9, lines 9-10 - The amendment of time frames allows the permittee to make earlier permit renewal application and thereby avoid the possibility that, due to public comment periods required by the federal act, the decision on the renewal application could not be made till after the permit expiration date.
3. Page 17, line 11 - This amendment is expressly required as a condition of the Secretary of Interior's approval of SB 515. The subsection deals with the Department's responsibility to assist small operations in hydrologic studies for permit applications. The deletion of the word "federal" allows the Department to assist small operators to the extent it has received funds for that purpose from any source rather than from the federal government only. The amendment in no way obligates the Legislature to appropriate money for small operator assistance.
4. Page 19 lines 6-8, 16-17, 22-23; page 20 lines 17-18; page 22 lines 16-17; page 23 lines 8-9 - Use of the terms "operator" and "strip and underground mining" before the term "operation" in 82-4-251 create an ambiguity as to whether the enforcement mechanism of the act apply to mining operations only or to both prospecting and mining operations. The amendment clarifies that the enforcement mechanisms apply to both prospecting and mining.
5. Page 24, lines 23-24 - Elimination of the comma and the addition of the words "of a permit" clarifies that terms and conditions are permit terms and conditions. There are no terms and conditions that are not permit conditions.