

MINUTES OF THE MEETING  
NATURAL RESOURCES COMMITTEE  
MONTANA STATE SENATE

February 20, 1987

The meeting of the Senate Natural Resources Committee was called to order by Chairman Thomas Keating on February 20, 1987, at 12:30 p.m. in Room 405 of the State Capitol.

ROLL CALL: All members were present with the exception of Senator Stimatz who was excused.

CONSIDERATION OF SENATE BILL 347: Senator Ed Smith, Senate District 10, sponsor of SB 347, which is an act to clarify the method of calculating royalty payments on producing oil or gas leases, reported that, after he had read the laws, he had decided to ask the Senate Natural Resources Committee to not consider SB 347. Sen. Smith said that the Northeast Land and Mineral Owners asked him to sponsor the bill and that there was a person present who wanted to testify.

PROPONENTS: Norman A. Nelson, distributed a Division Order form. (Exhibit 1) The reason Mr. Nelson distributed the Division Order was to show all the things that could happen on the back. The number 1 complaint that Mr. Nelson had was the small print. He said a person needs a magnifying glass in order to read it. It was his understanding that a Division Order sometimes will and can nullify an oil and gas lease. Mr. Nelson added that he trusted Sen. Smith's judgement and he also could see no reason for the passage of SB 347 since laws already exist that cover what the bill would cover.

OPPONENTS: There were no opponents present.

QUESTIONS (AND/OR DISCUSSION) FROM THE COMMITTEE: Senator Keating indicated he had visited with Senator Smith and Mr. Nelson previously and Sen. Keating said there was one thing he had forgotten to mention; i.e., if there is a breach of contract either in the lease or division order, the ultimate judgement would be the loss of the lease by the operator. If the operator fails to perform, he is subject to the cancellation of the lease.

CLOSING: Senator Smith thanked Senator Keating for his statements.

Sen. Gage commented that he had talked to Mr. Sullivan who had written a text on oil and gas matters, and Mr. Sullivan had indicated that the Uniform Codes are being developed in the United States concerning oil and gas. Sen. Gage said that when there are Uniform Codes, some of the problems will be solved for landowners.

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Senator Walker moved that SB 347 be LAID ON THE TABLE. Motion CARRIED unanimously.

DISPOSITION OF SENATE BILL 286: Senator Severson moved that SB 286 DO PASS AS AMENDED. A Roll Call Vote was taken, with seven members voting "yes." Motion CARRIED. Note: Sens. Stimatitz and Lynch voted "no" in writing.

DISPOSITION OF SENATE BILL 292: Senator Keating reminded the committee that SB 292 was the grey bill. (Exhibit 2) Sen. Gage moved that the "grey bill" DO PASS.

Senator Keating explained that previous testimony dealt with the deletion of the requirement for doing full baseline environmental studies on alternate sites for a coal conversion plant and the rescinding of the requirement that the investor would have to prove there was not an alternate product that existed. The grey bill has replaced all of the language in the law except as it deals with the baseline data requirement on the two alternate sites for a facility. It does not rescind the requirement that pipelines and powerlines do baseline data on alternate routes. The facility still has to go through the MFSA permitting process with regards to baseline data on the proposed principle location for the plant that is to be built for the conversion. They still have to prove need and that there is not an alternate product. Sen. Keating asked the committee's concurrence.

Sen. Halligan asked Van Jamison, DNRC, how the department views the grey bill and Mr. Jamison said that the effect of the bill would eliminate the study of alternative locations and limits the board to reviewing only the principle site. The MFSA supersedes the Montana Environmental Policy Act and the siting act would be less stringent. The grey bill would create an "all or nothing" choice.

Senator Halligan suggested that there be built into the grey bill some flexibility for the department.

It was Senator Keating's contention that DNRC apparently still wants the government to be in the "driver's seat" on choosing the site. Sponsors would rather quit than have a different site certified. The grey bill would ease financial burden on the sponsor and still protects the environment.

Senator Weeding mentioned that there was a new set of rules adopted a few years ago and he asked Mr. Jamison how they interrelate to the alternate siting. Mr. Jamison said that the rules rely on existing data as much as possible.

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Senator Keating asked Mr. Jamison if SB 292 were passed, would the sponsor be allowed to voluntarily offer alternate sites and Mr. Jamison answered "yes," but he added that, as the bill is written on page 26, DNRC could not consider alternate sites even though sponsor offered alternate locations.

Sen. Keating said that the whole purpose of SB 292 would be to give the prospective builder latitude. If the builder would like to submit alternative locations, he is still allowed to do so. Sen. Keating further stated that Montana needs development of natural resources and a secondary industry to produce jobs so that raw materials can be converted into useful products. Labor, management and investors would all benefit. Sen. Keating emphasized that SB 292 would not alter protection of the environment that is cherished so dearly by Montanans. However, with the passage of SB 292, Montana may be able to attract industry and bring new wealth into the State.

Senator Halligan made a substitute motion to change the language of the grey bill on page 26, line 18 as stated below.

After the word "consider," add "unless proposed by the applicant" before the word "alternative."

Motion CARRIED unanimously.

A Roll Call Vote was taken on the original motion by Senator Gage, that SB 292 AS AMENDED DO PASS. The bill was held in the committee with a TIE VOTE.

CONSIDERATION OF SENATE BILL 329: Sen. Blaylock, Senate District 43, presented SB 329 which is a bill to encourage the establishment of Natural Conservancy Areas. Sen. Blaylock proposed to the committee that Natural Conservancy Areas are the ~~most~~ valuable NATURAL RESOURCES in Montana, as they have been that way for a million years. From those areas, information can be gathered; Montana can use them, and by using them, our lives are enhanced. There has only been one area set aside near Kalispell. SB 329 would allow the DNRC to accept private money for the ensuing two years so that the Conservancy Areas process would begin to operate and actually make use of the Advisory Council so they can make recommendations of the lands to be set aside. Under SB 329, private land could also be voluntarily set aside.

PROPONENTS: Kit Walther, Department of State Lands, spoke on behalf of Dennis Hemmer in supporting SB 329. He said that SB 329 could clarify several important sections of the Natural Areas Act that would improve administration of the Act by the

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Department of State Lands. Most important are the revisions that clarify the role and duties of the Department, the Board of Land Commissioners, and the Natural Areas Advisory Council in identifying and giving recognition to key natural areas in Montana. SB 329 would allow federal, state, and local land management agencies as well as private landowners to combine efforts in creating a systematic representation of natural areas. SB 329 would allow the Department of Lands to expend funds accepted as gifts. Unless sufficient funds are received as gifts, the Department still may not be able to fulfill the requirements of the Natural Areas Act. (Exhibit 3)

Joan Bird, Helena, spoke on behalf of the Nature Conservancy. Ms. Bird distributed brochures to the committee members with a comprehensive review of why SB 329 should be passed. She reported that the most significant change between the old Montana Natural Areas Act and SB 392 is that the old act required all state natural areas to be owned by the State, while SB 392 provides that privately owned land may be designated as a natural area if the landowners are willing. (Exhibit 4)

Ron Haag, Director of Range, Air, Watershed, and Ecology of the Northern Region, USDA Forest Service, supported SB 329. Mr. Haag reported that the Natural Areas system is an extremely valuable resource for scientific evaluation of land management actions. The system needs a strong State role of leadership and coordination to assure that the needs of both industry and conservation are met. Mr. Haag said there are three key values to Montana's Natural Area system:

1. Maintenance of Montana's natural genetic resource.
2. Monitoring the success or failure of various management systems.
3. Education and research.

He thanked the committee for allowing him to testify. (Exhibit 5)

Dr. Edward T. Ruppel, Director of Montana Bureau of Mines and Geology and Montana State Geologist, testified in favor of SB 329. He stated that SB 329 would present a systematic process for developing a natural areas system in Montana through an appointed advisory council and the Department of State Lands at a minimum cost. (Exhibit 6)

Dr. Wyman C. Schmidt, Society of American Foresters, testified that Montana should take a major step forward in natural area work in 1987. He said that 70 years ago, some of the first

concepts about natural areas in the U.S. were developed, and the first natural area was established in 1927. (Exhibit 7)

Dean Culwell, Vice-president of Western Technology and Engineering, Inc., testified in favor of SB 329. (Exhibit 8)

Dana Field, Montana Audubon Legislative Fund, submitted testimony on behalf of Janet Ellis. Ms. Field said the committee had heard from previous proponents most of what she was going to report, and she urged the committee to pass SB 329. (Exhibit 9)

Bob Kiesling, Director of Nature Conservancy for Montana and Wyoming, gave a few brief remarks. He stated there were two essential reasons for passing SB 329.

1. SB 329 would get DSL "off the hook" with regard to complying with the Legislative Audit.
2. The greatest distinction Montana has is its natural resources and SB 329 would assist in the protection of Montana's natural resources.

He added that the revisions would not preclude the future possibility of the State's putting money into the Natural Areas Program. Since there is no money available right now, Mr. Kiesling asked the committee to give the private sector an opportunity to come to the aid of the State.

OPPONENTS: Mike Micone, Executive Director of the Western Environmental Trade Association, said that once the Natural Areas Program gets into place, he felt certain that there will be requests asking for significant funds in the next session. He said he supported some of the ideas that were stated by the proponents concerning research and education. However, he added that the USFS has an effort that would suffice so that the State would not have to involve themselves in a natural areas program. He also said that he is concerned about providing jobs in Montana; and in order to provide jobs, land has to be available. Mr. Micone would not object to an area's being designated as a natural area as long as that area had been investigated to determine that there were no minerals of economic value. He asked the committee to look at the entire picture of Montana and not just one piece of legislation.

Janelle Fallan, Montana Petroleum Association, requested that the committee look at the initial bill that was passed in 1974 and ask themselves if that bill would pass today -- 1987. The initial bill was passed when the State was excited about sweeping environmental regulations being a landmark for the nation. Ten to fifteen years later, we are still dealing with

the negative impacts of some of those laws. She stated that Montana needs the resources that are available on the lands, and she claimed that presently there are wilderness areas in Montana, and that the Department of Fish, Wildlife, and Parks has a great deal of land that is being used for the purposes designated in SB 329. She echoed Mr. Micone's remarks, and asked the committee to take into consideration all of the efforts of the Forest Service, Bureau of Land Management, etc. She said that she is disturbed that the Department of State Lands seemed to be backing away from the multiple use of Montana's land.

Jerry Jack, Montana Stockgrowers, Montana Woolgrowers, Montana Association of State Grazing Districts, stated that all of the organization that he represented were concerned about the passage of SB 329. He mentioned that the size in acres of the system had not been defined and that he was concerned that State grazing leases would be endangered. He asked what the policy would be if rare plants and weeds both grow in the same area. He also asked how much added monies would be needed to administer and "manage" the areas to protect the values.

(Exhibit 10)

There was testimony submitted to the Secretary by Kim Enkerud who represents the Montana Association of State Grazing Districts which was not heard at the hearing. (Exhibit 11)

QUESTIONS (AND/OR DISCUSSION) FROM THE COMMITTEE: Senator Yellowtail said he felt Ms. Fallan had suggested negative impacts if SB 329 were passed, and Ms. Fallan cited the business climate of the State at present.

He then addressed Mr. Kiesling who has had experience in designating Natural Areas and asked him, under what criteria natural areas are designated and if they consume considerable acreage. Mr. Kiesling replied that natural areas can range in size from very small areas to large areas, depending on the features that are going to be protected. He told the committee to consider Crown Butte which contains 375 acres and was the State's first natural area.

In response to Senator Yellowtail's questions, Mr. Micone admitted there could be natural areas outside of Forest Service lands; and Mr. Haag replied that the Forest Service only has authority on Forest Service lands.

Mr. Kiesling replied to Senator Weeding's questions and reiterated that nobody knows how much land would be considered.

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Senator Hofman wanted to know if the general public would be excluded from the natural areas, and Senator Blaylock answered "no" but the land would be protected against over-use. In reply to Senator Severson, Sen. Blaylock said that the commercially attractive and pristine lands are already gone.

Senator Halligan asked confirmation if one of the purposes of the bill was for the private landowner to be allowed to donate some land to the State, and Mr. Kiesling gave an affirmative reply.

Senator Gage reported he had a problem with the over-all problem of designated lands in the State; such as, historical sites, recreational sites, wilderness areas, Indian reservations, religious ceremonial areas, game preserves, etc. He said if Montana wants to be a giant park to the rest of the world, "we might as well admit it and get some funding for it."

The committee continued to review and discuss the brochure that Ms. Bird had distributed.

Senator Keating asked Ms. Bird how many natural areas have been established in Montana. Her reply is as follows:

3 Natural Areas state-owned  
30 Easements owned by private individuals  
12-15 Voluntary protection agreement sites

Dennis Hemmer indicated that there is no one in State Lands who would coordinate the natural areas project at present in response to Senator Keating's question.

CLOSING: Senator Blaylock told the committee that if the State's financial picture improves within the next two years, the Appropriations committee will be approached. Sen. Blaylock concluded his statements with the positive note of saying he was glad Montana had passed the environmental protections 10 years ago, and he felt the Natural Areas Act is also a good idea. He urged the committee to pass SB 329.

CONSIDERATION OF SENATE BILL 373: Sen. Blaylock reported that he had carried the same bill two years ago and that SB 373 is an act to establish the Reclamation and Development Grants Program, specifying allocations from the interest income of the Resource Indemnity Trust (RIT) fund. He explained the definitions listed on page 2 and drew the committee's attention to page 4, the reclamation account. He then asked Larry Fasbender to give a detailed explanation of the bill.

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PROPONENTS: Larry Fasbender, Director of the Department of Natural Resources, briefly identified categories in which RIT interest money would be used:

30% - Water development program  
6% - Department of Health and Hazardous Waste  
8% - Renewable Resource Development Program (new)  
56% - Reclamation.

The bill makes it very clear where the money is going to go, why it would go there, and the criteria.

There is also a second section that says if a crucial State need should arise, it is possible to use the money for that need. Ultimately, the decision would be made by the Legislature.

The Environmental Contingency Account is still in the legislation, and there will be \$175,000 that comes "off the top" each biennium.

The other requirement in SB 373 is that, if the money is diverted for any other purpose, it will be necessary to designate which account will be used and the purpose stipulated.

Brace Hayden, Office of the Governor, said that Governor Schwinden believes SB 373 represents a reasonable and equitable method for apportioning Resource Indemnity Trust Tax interest monies. He also said that SB 373 also provides clear directions to DNRC as to how to solicit and rank mineral-related projects for legislative decision-making. According to Mr. Hayden's testimony, the Governor expressed his thanks to all individuals concerned who were responsible for drafting SB 373. (Exhibit 12)

George Oshenski, EQC, testified that SB 373 was a good bill and a sure source of funding, and he asked the committee to pass SB 373.

OPPONENTS: None.

QUESTIONS (AND/OR DISCUSSION) BY THE COMMITTEE: In response to Senator Tveit's question, Mr. Fasbender stated that actually there will be more money going to RRD but not to designated individual categories, and money will now be available to local governments.

Senator Keating asked in what categories are changes being made. Mr. Fasbender said that the changes are being made in the renewable resources development category, and more money is going into that category than in the past. Examples of

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renewable resources are water, timberlands, purchase of bear-proof garbage containers, etc. Mr. Fasbender said the State was getting into projects in some instances that seemed less valuable than others; but because the categories existed, the money was available. Also included in renewable resources are weed control projects and tree plantings.

Senator Keating said he understood the increase of renewable resources, and asked what programs are being reduced. Mr. Fasbender replied that the amount of money going into recreational grants will be decreased a bit. Sen. Walker interjected that percentages are being removed, and the dollar value is being placed in the bill.

CLOSING: Sen. Blaylock elected to say nothing more.

DISPOSITION OF SENATE BILL 373: Senator Gage moved the Statement of Intent, and it was adopted unanimously. Sen. Halligan moved that Senate Bill 373 DO PASS, and motion CARRIED unanimously.

DISPOSITION OF SENATE BILL 329: Sen. Yellowtail moved that SB 329 DO PASS. Sen. Tveit said he had no problem with private individuals donating land, but he said he did have a problem with State lands being involved. Sen. Tveit said he felt it would create more wilderness in the State. Therefore, Sen. Tveit made a substitute motion that SB 329 DO NOT PASS.

Senator Keating said he saw that a problem could possibly arise with litigation when citizens challenge the State when they feel they are not getting the most economic value of state lands. It will also add to the cost of state government.

In the discussion that followed, both Sens. Severson and Yellowtail stated that there was an element of exaggeration getting into the conversation.

A Roll Call Vote was taken on the motion to DO NOT PASS, and motion FAILED with Sen. Stimatz' written vote. Another Roll Call Vote was taken on the original motion DO PASS, with seven voting "yes" including Sen. Stimatz, and five voting "no." Motion CARRIED.

There being no further business before the committee at this time, the meeting adjourned at 2:50 p.m.

  
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Senator Thomas F. Keating, Chairman

ROLL CALLNATURAL RESOURCES

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 2/20/87

NAME	PRESENT	ABSENT	EXCUSED
Sen. Tom Keating, Chairman	X		
Sen. Cecil Weeding, Chairman Vice	X		
Sen. John Anderson	X		
Sen. Mike Halligan	X		
Sen. Delwyn Gage	X		
Sen. Lawrence Stimatz			
Sen. Larry Tveit	X		
Sen. "J.D." Lynch	X		
Sen. Sam Hofman	X		
Sen. William Yellowtail	X		
Sen. Elmer Severson	X		
Sen. Mike Walker	X		

Each day attach to minutes.

COMMITTEE ON

DATE

Feb 20, 1987

Natural Resources

## VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Ron Haas	U.S. FOREST SERVICE	329	—	—
ET Rappel	MBMPB	329	✓	
Wyman Schmidt	SOCIETY AMERICAN FORESTERS	329	✓	
Dean Culwell	WESTECH	329	✓	
Esther Steinberg	MWF	329	✓	
Joan Bird	The Nature Conservancy	329	✓	
Janelle Fullam	Mt. Petroleum	329		X
	"	347		X
Dana Field	MT AUDUBON LEGS, FUND Northeast Montana Land and Water SELF owner - Westby MT	329	✓	
NORMAN A Nelson		347	✓	
Jerry Jack	Mt. Stockgrowers	329	*	
Mike Greene	WEIR	329	✓	
Carol Mosher	Mont. Cattlemen	329		✓
GEORGE CITTENSEN	MT ENV. INF. CNTR	373	✓	
BRACE HAYSEN	Office of Gov.	373	✓	
BOB KIESLING	THE NATURE CONSERVANCY	329	✓	

SENATE NATURAL RESOURCES  
EXHIBIT NO. 1 w/ attachment  
DATE 2/20/87  
BILL NO. SB 347

NAME Frank B. Nelson

BILL NO. 347

ADDRESS A.C.R. 2511

DATE 2-20-87

WHOM DO YOU REPRESENT Department of Energy, Standard Mineral Council Assoc. Inc.

SUPPORT /

OPPOSE \_\_\_\_\_

AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

see attached .

DIVISION ORDER

PAGE NO. \_\_\_\_ of \_\_\_\_

STATE NATURAL RESOURCES

SE

EXHIBIT NO. 1DATE 2/20/87BILL NO. 56347

LEASE NO.	13346
TRACT NO.	
ANALYST	KK :ph

TO: KOCH OIL COMPANY  
POST OFFICE BOX 2239  
WICHITA, KANSAS 67201

December 31 .19 86

The undersigned, and each of them, guarantee and warrant that they are the legal owners in the proportions set out below of all the oil (which, for the purposes hereof, includes all liquid hydrocarbons purchased hereunder) produced from the APACHE C. Nelson #2-RI; Lease #13346

Farm, and described as \_\_\_\_\_

SE SEC. 17-35N-58E

in Sheridan County or Parish, State of Montana, commencing at 7:00 A.M., the 1st day of November, 19 86, and until further written notice either from you or us you are authorized to receive for purchase on the terms hereinafter stated oil therefrom to the extent of your requirements giving credit as directed below:

LEASE NUMBER	OWNER NUMBER	NAME	INTEREST	TYPE INT.	TRACT	WP
13346		(SEE ATTACHMENT)				

ALL DIVISION ORDERS MUST BE SIGNED EXACTLY AS SHOWN  
ON THE REVERSE SIDE TO AVOID DELAY IN PAYMENT.

ALL SIGNATURES SHOULD BE PROPERLY WITNESSED.

TO AVOID DELAY IN PAYMENT - YOUR CORRECT ADDRESS AND YOUR  
SOCIAL SECURITY NUMBER OR TAX ACCOUNT NUMBER MUST BE SHOWN.

IMPORTANT:

# GREY BILL

50th Legislature

LC 1389/01

## FOR ENERGY GENERATION AND CONVERSION FACILITIES

LC 1389/01

SENATE BILL NO. 1389

INTRODUCED BY Senator [Signature]

### INTRODUCED BY THE SENATE

- 1        1 (3) "Associated facilities" includes but is not limited to transportation links of any kind, aqueducts, diversion dams, pipelines, transmission substations, storage ponds, reservoirs, and any other device or equipment associated with the production or delivery of the energy form or product produced by a facility located in Montana, except that the term does not include a facility or a natural gas or crude oil gathering line 17 inches or less in diameter.
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- 15      15
- 16      16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
- 17      17 Section 1. Section 75-20-104, MCA, is amended to read:
- 18      18 "75-20-104. Definitions. In this chapter, unless the context requires otherwise, the following definitions apply:
- 19      19 (1) "Addition thereto" means the installation of new machinery and equipment which would significantly change the conditions under which the facility is operated.
- 20      20 (2) "Application" means an application for a certificate submitted in accordance with this chapter and the rules adopted hereunder.
- 21      21
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- 23      23
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- 1 (3) "Associated facilities" includes but is not limited to transportation links of any kind, aqueducts, diversion dams, pipelines, transmission substations, storage ponds, reservoirs, and any other device or equipment associated with the production or delivery of the energy form or product produced by a facility located in Montana, except that the term does not include a facility or a natural gas or crude oil gathering line 17 inches or less in diameter.
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- 10 (4) "Board" means the board of natural resources and conservation provided for in 2-15-3302.
- 11 (5) "Board of health" means the board of health and environmental sciences provided for in 2-15-2104.
- 12 (6) "Certificate" means the certificate of environmental compatibility and public need issued by the board under this chapter that is required for the construction or operation of a facility.
- 13 (7) "Commence to construct" means:
- 14 (a) any clearing of land, excavation, construction, or other action that would affect the environment of the site or route of a facility but does not mean changes needed for temporary use of sites or routes for nonutility purposes or uses in securing geological data, including necessary borings to ascertain foundation conditions;
- 15 (b) the fracturing of underground formations by any

**SENATE EXHIBIT NO. 2**  
**DATE 2/20/87**  
**BILL NO. SB 1389**

*L*  
Montana Legislative Council

**INTRODUCED BILL**  
**SB 1389**

-2-

means if such activity is related to the possible future development of a gasification facility or a facility employing geothermal resources but does not include the gathering of geological data by boring at test holes or other underground exploration, investigation, or experimentation;

(c) the commencement of eminent domain proceedings under Title 70, chapter 30, for land or rights-of-way upon or over which a facility may be constructed;

(d) the relocation or upgrading of an existing facility defined by ~~title or section~~ subsection ~~(11)(b)~~ or ~~(11)(c)~~, including upgrading to a design capacity covered by subsection ~~(11)(b)~~ ~~(11)(b)~~, except that the term does not include normal maintenance or repair of an existing facility.

(8) "Cost" means the estimated cost in dollars at the time of proposed construction of a facility or associated facility located in Montana.

~~(8)(9)~~ "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 13.

~~(9)(10)~~ "Department of health" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

~~(11)~~ "Facility" means:

- 1       (a) except for crude oil and natural gas refineries and those facilities subject to The Montana Strip and Underground Mine Reclamation Act, each plant, unit, or other facility and associated facilities designed for or capable of:
  - 1       (i) generating 50 megawatts of electricity or more or approved by the department of health and environmental sciences added to an existing plant) having an estimated cost in excess of \$10 million;
  - 2       (ii) producing 25 million cubic feet or more of pipeline quality gas derived from coal per day or any addition thereto having an estimated cost in excess of \$10 million;
  - 3       (iii) producing 25,000 barrels of liquid hydrocarbon products per day or more or any addition thereto having an estimated cost in excess of \$10 million;
  - 4       (iv) enriching uranium minerals or any addition thereto having an estimated cost in excess of \$10 million; or
  - 5       (v) utilizing or converting 500,000 tons of coal per year or more or any addition thereto having an estimated cost in excess of \$10 million;
- 6       any addition thereto (except pollution control facilities
  - 1       approved by the department of health and environmental sciences
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- 25     any addition thereto (except pollution control facilities
  - 1       approved by the department of health and environmental sciences

SENATE NATURAL RESOURCES

EXHIBIT NO. 2  
DATE 2/20/87  
BILL NO. S-8292

LC 1389/01

LC 1389/01

1 transmission line and associated facilities of a design  
2 capacity of 230 kilovolts or less and 10 miles or less in  
3 length;  
4 (c) each pipeline, whether partially or wholly within  
5 the state, greater than 17 inches in inside diameter and 30  
6 miles in length, and associated facilities;  
7 (d) any use of geothermal resources, including the use  
8 of underground space in existence or to be created, for the  
9 creation, use, or conversion of energy, designed for or  
10 capable of producing geothermally derived power equivalent  
11 to 25 million Btu per hour or more or any addition thereto  
12 having an estimated cost in excess of \$750,000;  
13 (e) any underground in situ gasification of coal.  
14 ~~(f)(12)~~ "Person" means any individual, group, firm,  
15 partnership, corporation, cooperative, association,  
16 government subdivision, government agency, local government,  
17 or other organization or entity.  
18 ~~(f)(13)~~ "Transmission substation" means any structure,  
19 device, or equipment assemblage, commonly located and  
20 designed for voltage regulation, circuit protection, or  
21 switching necessary for the construction or operation of a  
22 proposed transmission line.  
23 ~~(f)(14)~~ "Utility" means any person engaged in any  
24 aspect of the production, storage, sale, delivery, or  
25 furnishing of heat, electricity, gas, hydrocarbon products,

1 ~~generating, in any form for ultimate public use.~~  
2 Section 2. Section 75-20-105, MCA, is amended to read:  
3 "75-20-105. Adoption of rules. The board may adopt  
4 rules implementing the provisions of this chapter, including  
5 but not limited to:  
6 (1) --rules--governing--the--form--and--content--of--  
7 applications;  
8 (2) --rates--further-defining--the--terms--used--in--this  
9 chapter;  
10 (3) --rates--governing--the--form--and--content--of--long--range  
11 plans;  
12 (4) --any--other--rules--the--board--considers--necessary--to  
13 accomplish--the--purposes--and--objectives--of--this--chapter."  
14 Section 3. Section 75-20-202, MCA, is amended to read:  
15 "75-20-202. Exemptions. (1) A certificate is not  
16 required under this chapter for a facility under diligent  
17 onsite physical construction or in operation on January 1,  
18 1973.  
19 (2) The board may adopt reasonable rules establishing  
20 exemptions from this chapter for the relocation,  
21 reconstruction, or upgrading of a facility that:  
22 (a) would otherwise be covered by this chapter; and  
23 (b) (i) is unlikely to have a significant  
24 environmental impact by reason of length, size, location,  
25 available space or right-of-way, or construction methods; or

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- 1 transmission line and associated facilities of a design  
2 capacity of 230 kilovolts or less and 10 miles or less in  
3 length;  
4 (E) each pipeline, whether partially or wholly within  
5 the state, greater than 17 inches in inside diameter and 30  
6 miles in length, and associated facilities;
- 7 (d) any use of geothermal resources, including the use  
8 of underground space in existence or to be created, for the  
9 creation, use, or conversion of energy, designed for or  
10 capable of producing geothermally derived power equivalent  
11 to 25 million Btu per hour or more or any addition thereto  
12 having an estimated cost in excess of \$750,000;
- 13 (e) any underground in situ gasification of coal.
- 14 (1)(ii)(12) "Person" means any individual, group, firm,  
15 partnership, corporation, cooperative, association,  
16 government subdivision, government agency, local government,  
17 or other organization or entity.
- 18 (1)(iii)(13) "Transmission substation" means any structure,  
19 device, or equipment assemblage, commonly located and  
20 designed for voltage regulation, circuit protection, or  
21 switching necessary for the construction or operation of a  
22 proposed transmission line.
- 23 (1)(iv)(14) "Utility" means any person engaged in any  
24 aspect of the production, storage, sale, delivery, or  
25 furnishing of heat, electricity, gas, hydrocarbon products,

~~or emergency, in any form for ultimate public use.~~

- 1 Section 2. Section 75-20-105, MCA, is amended to read:  
2 "75-20-105. Adoption of rules. The board may adopt  
3 rules implementing the provisions of this chapter, including  
4 but not limited to:  
5 (i) rules governing the form and content of  
6 applications;  
7 (2) rules further defining the terms used in this  
8 chapter;  
9 (3) rules governing the form and content of long-range  
10 plans;  
11 (4) any other rules the board considers necessary to  
12 accomplish the purposes and objectives of this chapter."
- 13 Section 3. Section 75-20-202, MCA, is amended to read:  
14 "75-20-202. Exemptions. (1) A certificate is not  
15 required under this chapter for a facility under diligent  
16 onsite physical construction or in operation on January 1,  
17 1973.  
18 (2) The board may adopt reasonable rules establishing  
19 exemptions from this chapter for the relocation,  
20 reconstruction, or upgrading of a facility that:  
21 (a) would otherwise be covered by this chapter; and  
22 (b) (i) is unlikely to have a significant  
23 environmental impact by reason of length, size, location,  
24 available space or right-of-way, or construction methods; or

{ For facilities as defined in 15-20-104  
(10)(b) and (10)(c),

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, and for facilities as defined in

{ 15-20-104 (10)(c) and (10)(s) as alternative proposed, LC 1389/01

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1 (iii) a summary of any studies which have been made of  
2 the environmental impact of the facility;  
3 (iv) a statement explaining the need for the facility;  
4 (v) for facilities defined in 15-20-104 (10)(b) and  
5 (10)(c), a description of reasonable alternate locations for  
6 the proposed facility, a general description of the  
7 comparative merits and detriments of each location  
8 submitted, and a statement of the reasons why the primary  
9 proposed location is best suited for the facility;

10 (vi) baseline data for the primary and reasonable  
11 alternate locations proposed;

12 at the applicant's option, an environmental study  
13 plan to satisfy the requirements of this chapter; and  
14 (vii) such other relevant information as the applicant  
15 considers relevant or as the board and board of  
16 health by order or rule or the department and department of  
17 health by order or rule may require.

18 (b) A copy or copies of the studies referred to in  
19 subsection (1)(a)(ii) above shall be filed with the  
20 department, if ordered, and shall be available for public  
21 inspection.  
22 (2) An application may consist of an application for  
23 two or more facilities in combination which are physically  
24 and directly attached to each other and are operationally a  
25 single operating entity.

- 1 (3) An application shall be accompanied by proof of  
2 service of a copy of the application on the chief executive  
3 officer of each unit of local government, county  
4 commissioner, city or county planning boards, and federal  
5 agencies charged with the duty of protecting the environment  
6 or of planning land use in the area in which any portion of  
7 the proposed facility may be proposed to be located, both as  
8 primarily-and-as-alternatively-proposed and on the following  
9 state government agencies:  
10 (a) environmental quality council;  
11 (b) department of public service regulation;  
12 (c) department of fish, wildlife, and parks;  
13 (d) department of state lands;  
14 (e) department of commerce;  
15 (f) department of highways;  
16 (g) department of revenue.  
17 (4) The copy of the application shall be accompanied  
18 by a notice specifying the date on or about which the  
19 application is to be filed.  
20 (5) An application shall also be accompanied by proof  
21 that public notice thereof was given to persons residing in  
22 the area or-alternative-areas in which any portion of the  
23 proposed facility may be proposed to be located, by  
24 publication of a summary of the application in those  
25 newspapers that will substantially inform those persons of

{ and for facilities as defined in 15-20-104 (10)(a),  
(10)(d) and (10)(e), baseline data for the  
proposed location  
(10)(c) as alternatively proposed,

1 the application."

2 Section 6. Section 75-20-213, MCA, is amended to read:

3 "75-20-213. Supplemental material -- amendments. (1)

4 An application for an amendment of an application or a

5 certificate shall be in such form and contain such

6 information as the board by rule or the department by order

7 prescribes. Notice of such an application shall be given as

8 set forth in subsections (3), (4), and (5) of 75-20-211.

9 (2) An application may be amended by an applicant any

10 time prior to the department's recommendation. If the

11 proposed amendment is such that it prevents the department,

12 the department of health, or the agencies listed in

13 75-20-216(5) from carrying out their duties and

14 responsibilities under this chapter, the department may

15 require such additional filing fees as the--department

16 determines it demonstrates to the applicant as necessary--or

17 the--department--may--require--a--new application--and--fitting--fee.

18 (3) The applicant shall submit supplemental material

19 in a timely manner as requested by the department or as

20 offered by the applicant to explain, support, or provide the

21 detail with respect to an item described in the original

22 application, without filing an application for an amendment.

23 The department's determination as to whether information is

24 supplemental or whether an application for amendment is

25 required shall be conclusive."

**3**

1 Section 75-20-216, MCA, is amended to read:

2 "75-20-216. Study, evaluation, and report on proposed

3 facility -- assistance by other agencies. (1) After receipt

4 of an application, the department and department of health

5 shall within 90 days notify the applicant in writing that:

6 (a) the application is in compliance and is accepted

7 as complete; or

8 (b) the application is not in compliance and list the

9 deficiencies therein; and upon correction of these

10 deficiencies and resubmission by the applicant, the

11 department and department of health shall within 30 days

12 notify the applicant in writing that the application is in

13 compliance and is accepted as complete.

14 (2) Upon receipt of an application complying with

15 75-20-211 through 75-20-215, and this section, the

16 department shall commence an intensive study and evaluation

17 of the proposed facility and its effects, considering all

18 applicable criteria listed in 75-20-301 and 75-20-503 and

19 the department of health shall commence a study to enable it

20 or the board of health to issue a decision, opinion, order,

21 certification, or permit as provided in subsection (3). The

22 department and department of health shall use, to the extent

23 they consider applicable, valid and useful existing studies.

24 and reports submitted by the applicant or compiled by a

25 state or federal agency.

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and for facilities as defined in 75-20-104(a), (b) and (c)(reasonable alternate locations)

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for facilities as defined in 15-20-104  
(10)(b) and (10)(c)

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(3) The department of health and the board of health shall, within 1 year following the date of acceptance of an application and the board of health or department of health, if applicable, within an additional 6 months, issue any decision, opinion, order, certification, or permit required under the laws administered by the department of health or the board of health and this chapter. The department of health and the board of health shall determine compliance with all standards, permit requirements, and implementation plans under their jurisdiction for the primary-and-reasonable-alternate-locations proposed location in their decision, opinion, order, certification, or permit. The decision, opinion, order, certification, or permit, with or without conditions, is conclusive on all matters that the department of health and board of health administer, and any of the criteria specified in subsections (2) through (7) of 75-20-503 that are a part of the determinations made under the laws administered by the department of health and the board of health. Although the decision, opinion, order, certification, or permit issued under this subsection is conclusive, the board retains authority to make the determination required under 75-20-301~~and~~ and (2)(c). The decision, opinion, order, certification, or permit of the department of health or the board of health satisfies the review requirements by those agencies and shall be acceptable in lieu of an environmental impact statement under the Montana Environmental Policy Act. A copy of the decision, opinion, order, certification, or permit shall be served upon the department and the board and shall be utilized as part of their final site selection process.

prior to the issuance of a preliminary decision by the department of health and pursuant to rules adopted by the board of health, the department of health shall provide an opportunity for public review and comment.

(4) Within 22 months~~2 years~~ following acceptance of an application for a facility as defined in (a) and (c) of 75-20-104~~(10)~~ and for a facility as defined in (b) and (c) of 75-20-104~~(10)~~ which is more than 30 miles in length~~or 75-20-104~~(10)~~ which is more than 30 miles in length and within 1 year for a facility as defined in (b) and (c) of 75-20-104~~(10)~~ which is 30 miles or less in length~~ of 75-20-104~~(10)~~ which is 30 miles or less in length, the department shall make a report to the board which shall contain the department's studies, evaluations, recommendations, other pertinent documents resulting from its study and evaluation, and an environmental impact statement or analysis~~if any of the application is for a combination of two or more facilities, the department shall make its report to the board within the greater of the lengths of time provided for in this subsection for either of the facilities.~~

(5) The departments of highways; commerce; fish, wildlife, and parks; state lands; revenue; and public service regulation shall report to the department information relating to the impact of the proposed site on each department's area of expertise. ~~The report may include opinions as to the advisability of granting or modifying the certificate.~~ The department shall allocate funds obtained from filing fees to the departments making reports to reimburse them for the costs of compiling information and issuing the required report."

Section 8. Section 75-20-217, MCA, is amended to read:

"75-20-217. Voiding an application. (1) Upon request, an applicant is entitled to notice and a hearing as provided in 2-4-601 and 2-4-604 if the department proposes to void an application.

(2) An application may be voided by the department for:

- (i) any material and knowingly false statement in the application or in accompanying statements or studies required of the applicant;
- (ii) failure to file an application in substantially the form and content required by this chapter and the rules adopted thereunder; or
- (iii) failure to deposit the filing fee as provided

Section 75-20-219. Amendments to a certificate. (1) Within 30 days after notice of an amendment to a certificate is given as set forth in 75-20-213(1), including notice to all active parties to the original proceeding, the department shall determine whether the proposed change in the facility would result in any a material increase in any environmental impact of the facility or a substantial change in the location ~~of, all or a portion of the facility other than~~ ~~certificate~~. If the department determines that the proposed change would result in any a material increase in any environmental impact of the facility or a substantial change in the location of all or a portion of the facility, the board shall hold a hearing in the same manner as a hearing is held on an application for a certificate. After hearing, the board shall grant, deny, or modify the amendment with such conditions as it deems appropriate.

(2) In those cases where the department determines that the proposed change in the facility would not result in any a material increase in any environmental impact or would not be a substantial change in the location ~~of, all or a portion of the facility~~, the board shall automatically grant the amendment either as applied for or upon such terms or

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1 conditions as the board considers appropriate unless the  
2 department's determination is appealed to the board within  
3 15 days after notice of the department's determination is  
4 given.

5 (3) If the department or the board, under subsection  
6 proposed change would result in any a material increase in  
7 any environmental impact of the facility or a substantial  
8 ~~of all or a portion of all or-a portion of the facility,~~  
9 change in the location ~~of-all-or-a portion of the facility,~~  
10 the applicant has the burden of showing by clear and  
11 convincing evidence that the amendment should be granted.

12 (4) If the department determines that the proposed  
13 change in the facility would not result in any a material  
14 increase in any environmental impact or would not be a  
15 substantial change in the location ~~of-all-or-a portion of~~  
16 the facility, and a hearing is required because the  
17 department's determination is appealed to the board as  
18 provided in subsection (2), the appellant has the burden of  
19 showing by clear and convincing evidence that the proposed  
20 change in the facility would result in any a material  
21 increase in any environmental impact of the facility or a  
22 substantial change in the location ~~of-all-or-a portion of~~  
23 the facility ~~other--than-as--provided-in-the-alternates-set~~  
24 ~~forth in the original application. Set forth in the original application. Certificate~~  
25 (5) If an amendment is required to a certificate which

1 would affect, amend, alter or modify a decision, opinion,  
2 order, certification, or permit issued by the department of  
3 health or board of health, such amendment must be processed  
4 under the applicable statutes administered by the department  
5 of health or board of health."

6 Section 10. Section 75-20-220, MCA, is amended to  
7 read:  
8 "75-20-220. Hearing examiner -- restrictions --  
9 duties. (1) If the board appoints a hearing examiner to  
10 conduct any certification proceedings under this chapter,  
11 the hearing examiner may not be a member of the board, an  
12 employee of the department, or a member or employee of the  
13 department of health or board of health. A hearing examiner,  
14 if any, shall be appointed by the board within 20 days after  
15 the department's report has been filed with the board. If a  
16 hearing is held before the board of health or the department  
17 of health, the board and the board of health or the  
18 department of health shall mutually agree on the appointment  
19 of a hearing examiner to preside at both hearings.  
20 (2) A prehearing conference shall be held following  
21 notice within 60 days after the department's report has been  
22 filed with the board.  
23 (3) The prehearing conference shall be organized and  
24 supervised by the hearing examiner.  
25 (4) The prehearing conference shall be directed toward

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1 A determination of the issues presented by the application,  
2 the department's report, and an identification of the  
3 witnesses and documentary exhibits to be presented by the  
4 active parties who intend to participate in the hearing.

5 (1) The hearing examiner shall require the active  
6 parties to submit, in writing, and serve upon the other  
7 active parties, all direct testimony which they propose and  
8 any studies, investigations, reports, or other exhibits that  
9 any active party wishes the board to consider. These  
10 written exhibits and any documents that the board itself  
11 wishes to use or rely on shall be submitted and served in  
12 like manner, at least 20 days prior to the date set for the  
13 hearing. For good cause shown, the hearing examiner may  
14 allow the introduction of new evidence at any time.

15 (6) The hearing examiner shall allow discovery which  
16 shall be completed before the commencement of the hearing,  
17 upon good cause shown and under such other conditions as the  
18 hearing examiner shall prescribe.

19 (7) Public witnesses and other interested public  
20 parties may appear and present oral testimony at the hearing  
21 or submit written testimony to the hearing examiner at the  
22 time of their appearance. These witnesses are subject to  
23 cross-examination.

24 (8) The hearing examiner shall issue a prehearing  
25 order specifying the issues of fact and of law, identifying

1 the witnesses of the active parties, naming the public  
2 witnesses and other interested parties who have submitted  
3 written testimony in lieu of appearance, outlining the order  
4 in which the hearing shall proceed, setting forth those  
5 section 7-20-30; criteria as to which no issue of fact or  
6 law has been raised which are to be conclusively presumed  
7 and are not subject to further proof except for good cause  
8 shown, and any other special rules to expedite the hearing  
9 which the hearing examiner shall adopt with the approval of  
10 the board.

11 (9) At the conclusion of the hearing, the hearing  
12 examiner shall declare the hearing closed and shall, within  
13 60 days of that date, prepare and submit to the board and in  
14 the case of a conjunctive hearing, within 90 days to the  
15 board and the board of health or department of health  
16 proposed findings of fact, conclusions of law, and a  
17 recommended decision.

18 (10) The hearing examiner appointed to conduct a  
19 certification proceeding under this chapter shall insure  
20 that the time of the proceeding, from the date the  
21 department's report is filed with the board until the  
22 recommended report and order of the examiner is filed with  
23 the board, does not exceed 9 6 calendar months unless  
24 extended by the board for good cause.

25 (11) The board or hearing examiner may waive all or a

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1 portion of the procedures set forth in subsections (2)  
2 through (8) of this section to expedite the hearing for a  
3 facility when the department has recommended approval of a  
4 facility and no objections have been filed."

5 Section 11. Section 75-20-222, MCA, is amended to  
6 read:

7 "75-20-222. Record of hearing -- procedure -- rules of  
8 evidence -- burden of proof. (1) Any studies,  
9 investigations, reports, or other documentary evidence,  
10 including those prepared by the department, which any party  
11 wishes the board to consider or which the board itself  
12 expects to utilize or rely upon shall be made a part of the  
13 record.

14 (2) A record shall be made of the hearing and of all  
15 testimony taken.

16 (3) In a certification proceeding held under this  
17 chapter, the applicant has the burden of showing by clear  
18 and convincing evidence that the application should be  
19 granted and that the criteria of 75-20-301 are met.

20 (4) All proceedings under this chapter are governed by  
21 the procedures set forth in this chapter, the procedural  
22 rules adopted by the board, and the Montana Rules of  
23 Evidence unless one or more rules of evidence are waived by  
24 the hearing examiner upon a showing of good cause by one or  
25 more of the parties to the hearing. No other rules of

1 procedure or evidence shall apply except that the contested  
2 case procedures of the Montana Administrative Procedure Act  
3 shall apply if not in conflict with the procedures set forth  
4 in this chapter or--the--procedural--rules--adopted--by--the  
5 board."

6 Section 22. Section 75-20-225, MCA, is amended to  
7 read:  
8 "75-20-225. Certificate renewal -- application --  
9 contents -- filing fee. (1) Any certificate holder for a  
10 facility as defined in 75-20-104(1)(a) may  
11 apply for renewal of a certificate prior to the certificate  
12 lapsing.  
13 (2) An applicant for a renewal of a certificate shall  
14 file with the department and department of health a joint  
15 application in such form as the board requires by rule.  
16 (3) An application for renewal of a certificate must  
17 include updated information on the matters listed in  
18 75-20-211(1)(a) that have changed since the original  
19 application and such other information as the board requires  
20 by rule for certification. The matters listed in  
21 75-20-211(1)(a)(iv) and--(v) for the alternate  
22 locations must be updated only if the board determines that  
23 within the certified location significant changes have  
24 occurred to warrant a review of alternate locations.  
25 (4) An application filed under subsection (1) must

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1 comply with the provisions of 75-20-211(3) through (5).

2 (3) Except as provided in this subsection, the

3 applicant shall pay a filing fee to the department in

4 accordance with 75-20-215(2). The fee is in addition to any

5 previous filing fee paid for processing the original

6 application for a certificate pursuant to 75-20-215. The fee

7 may not exceed the following scale:

8 (a) 0.125% of any estimated cost up to \$100 million;

9 plus

10 (b) 0.0631 of any estimated cost over \$100 million."

11 Section 13. Section 75-20-226, MCA, is amended to

12 read:

13 "75-20-226. Renewal study. (1) Upon receipt of a

14 completed application for renewal of a certificate, the

15 department shall evaluate the updated information and any

16 significant changes, as applicable, in need, alternatives,

17 technology, baseline environment, and the environmental

18 impacts of a facility that have taken place since the

19 original study performed in granting the certificate,

20 considering the applicable criteria listed in 75-20-301 and

21 75-20-503 and the original board findings and certificate

22 conditions.

23 (2) The department of health and the board of health,

24 within 10 months of acceptance of a complete renewal

25 application, shall complete the statutory duties established

1 No 75-20-216(3). A copy of any decision, opinion, order,

2 certification, or permit must be served on the department

3 and the board and must be used as part of their

4 decisionmaking process.

5 (3) Within 12 months following acceptance of a

6 complete application for renewal of a certificate, the

7 department shall make a report to the board. This report

8 must contain the department's studies, evaluations,

9 recommendations, and other pertinent documents resulting

10 from its study and evaluation and an updated environmental

11 impact statement or analysis, if any, pursuant to the

12 Montana Environmental Policy Act. The department's report

13 must be directed to the question of whether the original

14 board findings and conditions have been or need to be

15 altered as a result of any significant changes, as

16 applicable, in need, alternatives, technology, baseline

17 environment, or environmental impact since issuance of the

18 certificate, considering the applicable criteria listed in

19 75-20-301 and 75-20-503.

20 (4) The departments of highways; commerce; fish,

21 wildlife, and parks; state lands; revenue; and public

22 service regulation shall report to the department

23 information relating to the impact of the proposed site on

24 each department's area of responsibility. The--report--may

25 include--opinions--as--to--the--advisability--of--renewing--the

{ except that the board may not consider  
 alternative locations for facilities as  
 defined in 15-20-104 (10)(a), (d) and (e)

1 Certificate The department shall allocate funds obtained  
 2 from filing fees to the departments making reports to  
 3 reimburse them for the cost of compiling information and  
 4 issuing the required reports."

5 Section 14. Section 75-20-227, MCA, is amended to  
 6 read:  
 7 "75-20-227. Certificate renewal hearing -- decision.  
 8 (1) The board shall follow the provisions of 75-20-218  
 9 through 75-20-222 in making decisions on certificate  
 10 renewals.

11 (2) Within 60 days after submission of the recommended  
 12 decision by the hearing examiner, the board shall make  
 13 complete findings, issue an opinion, and render a decision  
 14 upon the record, either granting or denying the renewal  
 15 application or renewing the certificate with such changes in  
 16 the terms and conditions as the board considers appropriate.  
 17 (3) The board may not renew a certificate either as  
 18 proposed by the applicant or as modified by the board unless  
 19 it finds and determines the criteria in 75-20-301 and  
 20 75-20-503, considering any significant changes as  
 21 applicable, in need, alternatives, technology, baseline  
 22 environment, and environmental impact."

23 Section ~~50~~. Section 75-20-301, MCA, is amended to  
 24 read:  
 25 "75-20-301. Decision of board -- findings necessary

1 for certification. (1) Within 60 days after submission of  
 2 the recommended decision by the hearing examiner, the board  
 3 shall make complete findings, issue an opinion, and render a  
 4 decision upon the record, either granting or denying the  
 5 application as filed or granting it upon such terms,  
 6 conditions, or modifications of the construction, operation,  
 7 or maintenance of the facility as the board considers  
 8 appropriate.  
 9 (2) The board may not grant a certificate either as  
 10 proposed by the applicant or as modified by the board unless  
 11 it shall find and determine:  
 12 (a) the basis of the need for the facility;  
 13 (b) the nature of the probable environmental impact;  
~~14 (c) that the facility~~  
~~poses~~  
~~adverse~~  
 14 (c) that the facility ~~poses~~  
 15 environmental impact, considering the state of available  
 16 technology and ~~for facilities defined in 75-20-104(14)~~  
 17 ~~and~~ ~~the nature and economics of the various~~  
~~alternatives~~  
 18 ~~alternatives~~  
 19 (d) each of the criteria listed in 75-20-503;  
 20 (e) in the case of an electric, gas, or liquid  
 21 transmission line or aqueduct:

22 (i) what part, if any, of the line or aqueduct shall  
 23 be located underground;  
 24 (ii) that the facility is consistent with regional  
 25 ~~NATURAL RESOURCES~~ of the appropriate grid of the utility

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1 systems serving the state and interconnected utility  
 2 systems; and  
 3 (iii) that the facility will serve the interests of  
 4 utility system economy and reliability;  
 5 (f) that the location of the facility as proposed  
 6 conforms to applicable state and local laws and regulations  
 7 issued thereunder, except that the board may refuse to apply  
 8 any local law or regulation if it finds that as applied to  
 9 the proposed facility, the law or regulation is unreasonable  
 10 restrictive in view of the existing technology of factors  
 11 of cost or economics, or of the needs of consumers, whether  
 12 located inside or outside of the directly affected  
 13 government subdivisions;

14 (g) that the facility will serve the public interest,  
 15 convenience, and necessity;  
 16 (h) that the department of health or board of health  
 17 have issued a decision, opinion, order, certification, or  
 18 permit as required by 75-20-216(3); and  
 19 (i) for facilities defined in 75-20-104(1)(b) and  
 20 ~~or~~, that the use of public lands for location of the  
 21 facility was evaluated and public lands were selected  
 22 whenever their use is as economically practicable as the use  
 23 of private lands and compatible with the environmental  
 24 criteria listed in 75-20-503.

25 (3) In determining that the facility will serve the

1 public interest, convenience, and necessity under subsection  
 2 (2)(g) of this section, the board shall consider:  
 3 (a) the items listed in subsections (2)(a) and (2)(b)  
 4 of this section;  
 5 (b) the benefits to the applicant and the state  
 6 resulting from the proposed facility;  
 7 (c) the effects of the economic activity resulting  
 8 from the proposed facility;  
 9 (d) the effects of the proposed facility on the public  
 10 health, welfare, and safety;  
 11 (e) any other factors that it considers relevant.  
 12 (4) Considerations of need, public need, or public  
 13 convenience and necessity and demonstration thereof by the  
 14 applicant shall apply only to utility facilities."

15 Section 16. Section 75-20-302, MCA, is amended to  
 16 read:  
 17 "75-20-302. Conditions imposed. (1) If the board  
 18 determines that the location of all or a part of the a  
 19 proposed facility defined in 75-20-104(1)(b) or (1)(c)  
 20 should be modified, it may condition its certificate upon  
 21 such modification, provided that the persons residing in the  
 22 area affected by the modification have been given reasonable  
 23 notice of the modification.  
 24 (2) In making its findings under 75-20-301(2)(a) for a  
 25 facility defined in 75-20-104(1)(b) or (1)(c), the board

1 may condition a certificate upon actual load growth reaching  
 2 a specified level or on availability of other planned energy  
 3 resources."

4 Section 17. Section 75-20-303, MCA, is amended to  
 5 read:

6 "75-20-303. Opinion issued with decision -- contents.  
 7 (1) In rendering a decision on an application for a  
 8 certificate, the board shall issue an opinion, stating its  
 9 reasons for the action taken.

10 (2) If the board has found that any regional or local  
 11 law or regulation which would be otherwise applicable -- is  
 12 unreasonable -- restrictive -- pursuant -- to -- 75-20-303(2)(f)(r) it  
 13 shall state in its opinion the reasons therefor.

14 (3)(2) Any certificate issued by the board shall  
 15 include the following:  
 16 (a) an environmental evaluation statement related to  
 17 the facility being certified. The statement shall include  
 18 but not be limited to analysis of the following information:  
 19 (i) the environmental impact of the proposed facility;  
 20 (ii) any adverse environmental effects which cannot be  
 21 avoided by issuance of the certificate;  
 22 (iii) problems and objections raised by other federal  
 23 and state agencies and interested groups; and  
 24 (iv) alternatives to the proposed facility;

25 (b) a plan for monitoring environmental effects of the

## Proposed facility:

- 1 (c) a plan for monitoring the certified facility site  
 2 between the time of certification and completion of  
 3 construction;
  - 4 (d) a time limit as provided in subsection t4t 13;
  - 5 and
  - 6 (e) a statement signed by the applicant showing  
 7 agreement to comply with the requirements of this chapter  
 8 and the conditions of the certificate.
- 9
- 10 t4t 13 (a) The board shall issue as part of the  
 11 certificate the following time limits:
- 12 (i) For a facility as defined in t4t -- or -- of  
 13 75-20-104(t)(8)(11)(b) or 11(c) that is more than 30 miles  
 14 in length, construction must be completed within 10 years.
  - 15 (ii) For a facility as defined in t4t -- of  
 16 75-20-104(t)(8)(11)(b) that is 30 miles or less in length,  
 17 construction must be completed within 5 years.
  - 18 (iii) For a facility as defined in t4t -- of 75-20-104(t)(8)  
 19 11(a), construction must begin within 6 years and continue  
 20 with due diligence in accordance with preliminary  
 21 construction plans established in the certificate.
  - 22 (b) Unless extended or renewed in accordance with  
 23 subsection t4t -- 13(c) or 75-20-225 through 75-20-227, a  
 24 certificate lapses and is void if the facility is not  
 25 constructed or if construction of the facility is not

1 commenced within the time limits provided in this section.

2 (c) The time limit may be extended for a reasonable

3 period upon a showing by the applicant to the board that a

4 good faith effort is being undertaken to complete

5 construction under subsections---{4}tattitv subsection

6 [3](a)(ii) and---{4}tattitv or [3](a)(iii) or to begin

7 construction under subsection [4]tattitv [3](a)(iii). Under

8 this subsection, a good faith effort includes the process of

9 acquiring any necessary state or federal permit or

10 certificate for the facility and the process of judicial

11 review of any such permit or certificate.

12 t5t4 The provisions of subsection [4] [3] apply to

13 any facility for which a certificate has not been issued or

14 for which construction is yet to be commenced.

15 Section [3]. Section 75-20-104, MCA, is amended to

16 read:

17 "75-20-304. Waiver of provisions of certification

18 proceedings. (1) The board may waive compliance with any of

19 the provisions of 75-20-216 through 75-20-222, 75-20-501,

20 and this part if the applicant makes a clear and convincing

21 showing to the board at a public hearing that an immediate,

22 urgent need for a facility exists and that the applicant did

23 not have knowledge that the need for the facility existed

24 sufficiently in advance to fully comply with the provisions

25 of 75-20-216 through 75-20-222, 75-20-501, and this part.

1 (2) The board may waive compliance with any of the

2 provisions of this chapter upon receipt of notice by a

3 utility or person subject to this chapter that a facility or

4 associated facility has been damaged or destroyed as a

5 result of fire, flood, or other natural disaster or as the

6 result of insurrection, war, or other civil disorder and

7 there exists an immediate need for construction of a new

8 facility or associated facility or the relocation of a

9 previously existing facility or associated facility in order

10 to promote the public welfare.

11 (3) The board shall waive compliance with the

12 requirements of subsections (2)(c), (3)(b), and (3)(c) of

13 75-20-101A and 75-20-501(5)A ~~and the requirements of~~ the

14 subsections---{4}tattitv---and---{4}tattitv---of 75-20-211(1)(a)(iv),

15 75-20-216(3), and---{4}tattitv---and---{4}tattitv---relating---to

16 ~~consideration of alternative sites~~ if the applicant makes a

17 clear and convincing showing to the board at a public

18 hearing that:

19 (a) a proposed facility will be constructed in a

20 county where a single employer within the county has

21 permanently curtailed or ceased operations causing a loss of

22 250 or more permanent jobs within 2 years at the employer's

23 operations within the preceding 10-year period;

24 (b) the county and municipal governing bodies in whose

25 jurisdiction the facility is proposed to be located support

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1 by resolution such a waiver;  
2 (c) the proposed facility will be constructed within a  
3 15-mile radius of the operations that have ceased or been  
4 curtailed; and  
5 (d) the proposed facility will have a beneficial  
6 effect on the economy of the county in which the facility is  
7 proposed to be located.

8 (4) The waiver provided for in subsection (3) applies  
9 only to permanent job losses by a single employer. The  
10 waiver provided for in subsection (3) does not apply to jobs  
11 of a temporary or seasonal nature, including but not limited  
12 to construction jobs or job losses during labor disputes.

13 (5) The waiver provided for in subsection (3) does not  
14 apply to consideration of alternatives or minimum adverse  
15 environmental impact for a facility defined in subsections  
16 (10)(b) and (10)(c) of 75-20-104~~(1)~~, or for any portion of or process in a facility  
17 for an associated facility defined in subsection--(3)--of  
18 75-20-104(3), or for any portion of or process in a facility  
19 defined in ~~subsection-(10)(a)-of~~ 75-20-104~~(1)~~ to the  
20 extent that the process or portion of the facility is not  
21 subject to a permit issued by the department of health or  
22 board of health.

23 (6) The applicant shall pay all expenses required to  
24 process and conduct a hearing on a waiver request under  
25 subsection (3). However, any payments made under this

1 subsection shall be credited toward the fee paid under  
2 75-20-215 to the extent the data or evidence presented at  
3 the hearing or the decision of the board under subsection  
4 (3) can be used in making a certification decision under  
5 this chapter.

6 (7) The board may grant only one waiver under  
7 subsections (3) and (4) for each permanent loss of jobs as  
8 defined in subsection (3)(a)."

9 Section 19. Section 75-20-402, MCA, is amended to  
10 read:  
11 "75-20-402. Monitoring. The board, the department, the  
12 department of health, and the board of health shall monitor  
13 the operations of all certificated facilities for assuring  
14 continuing compliance with this chapter and certificates  
15 issued hereunder and for discovering and preventing  
16 noncompliance with this chapter and the certificates. The  
17 applicant shall pay all expenses related to the monitoring  
18 plan established in subsection--(3)--or--(3)--of  
19 75-20-303(2)(b) or (2)(c) to the extent federal funds  
20 available for the facility, as determined by the department  
21 of health, have not been provided for such purposes."

22 Section 20. Section 75-20-403, MCA, is amended to  
23 read:  
24 "75-20-403. Revocation or suspension of certificate.  
25 Following notice and an opportunity for a hearing, a

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certificate may be revoked or suspended by the board:

- (1) for any material false statement in the application or in accompanying statements or studies required of the applicant if a true statement would have warranted the board's refusal to grant a certificate;
- (2) for failure to--maintain--safety--standards--or to comply with the terms or conditions of the certificate; or
- (3) for violation of any provision of this chapter, the rules issued thereunder, or orders of the board or department."

Section 21. Section 75-20-405, MCA, is amended to read:

"75-20-405. Action to recover damages to water supply. An owner of an interest in real property who obtains all or part of his supply of water for domestic, agricultural, industrial, or other legitimate beneficial use from a surface or underground source may sue a person to recover damages for contamination, diminution, or interruption of the water supply proximately resulting from the operation of a facility. The remedies enumerated in this section do not exclude the use of any other remedy which may be available under the laws of the state."

Section 22. Section 75-20-501, MCA, is amended to read:

"75-20-501. Annual long-range plan submitted --

- contents -- available to public. (1) Each utility and each person contemplating the construction of a facility within this state in the ensuing 10 years shall furnish annually to the department for its review a long-range plan for the construction and operation of facilities.
- (2) The plan shall be submitted by July 1 of each year and must include the following:
- (a) the general location, size, and type of all facilities to be ~~owned and operated by the utility or person whose~~ construction is projected to commence during the ensuing 10 years, as well as those facilities to be removed from service during the planning period;
- (b) in the case of utility facilities, a description of efforts by the utility or person to coordinate the plan with other utilities or persons so as to provide a coordinated regional plan for meeting the energy needs of the region;
- (c) a description of the efforts to involve environmental protection and land use planning agencies in the planning process, as well as other efforts to identify and minimize environmental problems at the earliest possible stage in the planning process;
- (d) projections of the demand for the service rendered by the ~~a~~ utility or person and explanation of the basis for those projections and a description of the manner and extent

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1 to which the proposed facilities will meet the projected  
2 demand; and  
3 (e) additional information that the board by rule or  
4 the department on its own initiative or upon the advice of  
5 interested state agencies might-request requests in order to  
6 carry out the purposes of this chapter.

7 (3) The plan shall be furnished to the governing body  
8 of each county in which any facility included in the plan  
9 under (2)(a) of this section is proposed to be located and  
10 made available to the public by the department. The utility  
11 or person shall give public notice throughout the state of  
12 its plan by filing the plan with the environmental quality  
13 council, the department of health and environmental  
14 sciences, the department of highways, the department of  
15 public service regulation, the department of state lands,  
16 the department of fish, wildlife, and parks, and the  
17 department of commerce. Citizen environmental-protect-and  
18 resource-planning-groups--and--other--interested Interested  
19 persons may obtain a plan by written request and payment  
20 therefor to the department.  
21 (4) A rural electric cooperative may furnish the  
22 department with a copy of the long-range plan and 2-year  
23 work plan required to be completed under federal rural  
24 electrification requirements in lieu of the long-range plan  
25 required in subsection (1).

1 (5) No person may file an application for a facility  
2 unless the facility had-been was adequately identified in a  
3 long-range plan at least 2 years prior to acceptance of an  
4 application by the department, except for electric  
5 transmission lines of a design capacity of 230 kilovolts or  
6 less."

7 Section 23. Section 75-20-502, MCA, is amended to  
8 read:  
9 "75-20-502. Study of included facilities. If a utility  
10 or person lists and identifies a proposed facility in its  
11 plan submitted pursuant to 75-20-501, as one on which  
12 construction is proposed to be commenced within the 5-year  
13 period following submission of the plan, the department  
14 shall commence examination and evaluation of the proposed  
15 site to determine whether construction of the proposed  
16 facility would unduly impair the environmental values in  
17 75-20-503. This study may be continued until such time as a  
18 person files an application for a certificate under  
19 75-20-211. Information gathered under this section may be  
20 used to support findings and recommendations required for  
21 issuance of a certificate."  
22 Section 24. Section 75-20-503, MCA, is amended to  
23 read:  
24 "75-20-503. Environmental factors evaluated. In  
25 long-range plans, conducting 5-year site reviews.

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- 1 and evaluating applications for certificates, the board and  
 2 department shall give consideration to the following list of  
 3 environmental factors, where applicable and may-by-cut-e-add  
 4 to-the-categories-of-this-section:
- 5 (1) energy needs; requirements;
- 6 (a) growth-in-demand-and-projections-of-need;
- 7 (b) availability-and-desirability--of---alternative  
 8 sources-of-energy;
- 9 (c) availability--and---desirability--of---alternative  
 10 sources-of-energy-in-area-of-the-proposed-facility;
- 11 (d) promotional-activities-of-the--desirability--which--may  
 12 have-given-rise-to-the-need-for-this-facility;
- 13 (e) sociality--beneficial--uses--of--the-output-of-this  
 14 facility;--including--its--use--to--protect--or--enhance  
 15 environmental-quality;
- 16 (f) conservation--activities--which--could--reduce--the  
 17 need-for-more-energy;
- 18 (g) research--activities--of--the--activity--of--new  
 19 technology--available--to--it--which--might--minimize  
 20 environmental-impact;
- 21 (2) land use impacts:
- 22 (a) area of land required and ultimate use;
- 23 (b) consistency with areawide state and regional land  
 24 use plans;
- 25 (c) consistency with existing and projected nearby
- 1 land use;
- 2 (d) alternative uses of the site;
- 3 (e) impact on population already in the area,  
 4 population attracted by construction or operation of the  
 5 facility itself;
- 6 (f) impact of availability of energy from this  
 7 facility on growth patterns and population dispersal;
- 8 (g) geologic suitability of the site or route;
- 9 (h) seismologic characteristics;
- 10 (i) construction practices;
- 11 (j) extent of erosion, scouring, wasting of land, both  
 12 at site and as a result of fossil fuel demands of the  
 13 facility;
- 14 (k) corridor design and construction precautions for  
 15 transmission lines or aqueducts;
- 16 (l) scenic impacts;
- 17 (m) effects on natural systems, wildlife, plant life;
- 18 (n) impacts on important historic architectural,  
 19 archeological, and cultural areas and features;
- 20 (o) extent of recreation opportunities and related  
 21 compatible uses;
- 22 (p) public recreation plan for the project;
- 23 (q) public facilities and accommodation;
- 24 (r) opportunities for joint use with energy-intensive  
 25 industries or other activities to utilize the waste heat

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- from facilities;
- (s) for facilities defined in 75-20-104(11)(b) and  
(11)(c), opportunities for using public lands for location  
of facilities whenever as economically practicable as the  
use of private lands and compatible with the requirements of  
this section;
- (3) water resources impacts:
- (a) hydrologic studies of adequacy of water supply and  
impact of facility on streamflow, lakes, and reservoirs;
- (b) hydrologic studies of impact of facilities on  
groundwater;
- (c) cooling system evaluation, including consideration  
of alternatives;
- (d) inventory of effluents, including physical,  
chemical, biological, and radiological characteristics;
- (e) hydrologic studies of effects of effluents on  
receiving waters, including mixing characteristics of  
receiving waters, changed evaporation due to temperature  
differentials, and effect of discharge on bottom sediments;
- (f) relationship to water quality standards;
- (g) effects of changes in quantity and quality on  
water use by others, including both withdrawal and in situ  
uses;
- (h) relationship to projected uses;
- (i) relationship to water rights;

- (j) effects on plant and animal life, including algae,
- (k) macroinvertebrates, and fish population;
- (l) effects on unique or otherwise significant  
ecosystems, e.g., wetlands;
- (m) monitoring programs;
- (n) air quality impacts;
- (o) meteorology--wind direction and velocity, ambient  
temperature ranges, precipitation values, inversion  
occurrence, other effects on dispersion;
- (p) topography--factors affecting dispersion;
- (q) standards in effect and projected for emissions;
- (r) design capability to meet standards;
- (s) emissions and controls;
- (t) stack design;
- (u) particulates;
- (v) sulfur oxides;
- (w) oxides of nitrogen; and
- (x) heavy metals, trace elements, radioactive  
materials, and other toxic substances;
- (y) relationship to present and projected air quality  
of the area;
- (z) monitoring program;
- (aa) solid wastes impacts;
- (ab) solid waste inventory;
- (ac) disposal program;

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1       (c) relationship of disposal practices to  
 2 environmental quality criteria;  
 3       (d) capacity of disposal sites to accept projected  
 4 waste loadings;  
 5       (6) radiation impacts:  
 6       (a) land use controls over development and population;  
 7       (b) wastes and associated disposal program for solid,  
 8 liquid, radioactive, and gaseous wastes;  
 9       (c) analyses and studies of the adequacy of  
 10 engineering safeguards and operating procedures;  
 11      (d) monitoring--adequacy of devices and sampling  
 12 techniques;  
 13      (7) noise impacts:  
 14       (a) construction period levels;  
 15       (b) operational levels;  
 16       (c) relationship of present and projected noise levels  
 17 to existing and potential stricter noise standards;  
 18       (d) monitoring--adequacy of devices and methods."  
 19      Section 25. Section 75-20-1202, MCA, is amended to  
 20 read:  
 21      "75-20-1202. Definitions. As used in this part and  
 22 75-20-201 through 75-20-203, the following definitions  
 23 apply:  
 24       (1) (a) "Nuclear facility" means each plant, unit, or  
 25 other facility designed for or capable of:

1       (i) generating 50 megawatts of electricity or more by  
 2 means of nuclear fission;  
 3       (ii) converting, enriching, fabricating, or  
 4 reprocessing uranium minerals or nuclear fuels; or  
 5       (iii) storing or disposing of radioactive wastes or  
 6 materials from a nuclear facility.  
 7       (b) "Nuclear facility" does not include any  
 8 small-scale facility used solely for educational, research,  
 9 or medical purposes not connected with the commercial  
 10 generation of energy.  
 11      (2) "Facility", as defined in 75-20-104~~(1)(1)~~, is  
 12 further defined to include any nuclear facility as defined  
 13 in subsection ~~(1)(a)~~ of this section."  
 14      Section ~~26~~. Section 75-20-1205, MCA, is amended to  
 15 read:  
 16      "75-20-1205. Emergency approval authority invalid for  
 17 nuclear facilities. Notwithstanding the provisions of  
 18 subsections--(1)--and--(3)--of 75-20-304~~(2)~~, the board may not  
 19 waive compliance with any of the provisions of this part or  
 20 75-20-201 through 75-20-203 relating to certification of a  
 21 nuclear facility."  
 22 **NEW SECTION.** Section ~~26~~. Extension of authority. Any  
 23 existing authority of the board of natural resources and  
 24 conservation, the board of health and environmental  
 25 sciences, and the department of health and environmental

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1 sciences to make rules on the subject of the provisions of  
2 this act is extended to the provisions of this act.

3 NEW SECTION. Section 9. Effective date. This act is  
4 effective on passage and approval.

-End-

SENATE NATURAL RESOURCES  
EXHIBIT NO. 2

DATE 2/20/87

TESTIMONY FOR THE DEPARTMENT OF STATE LANDS

ON SB 329, AMENDMENTS OF THE NATURAL AREAS ACT

The Department of State Lands supports the amendments to the Natural Areas Act contained in Senate Bill 329. The bill clarifies several important sections of the Natural Areas Act that would improve administration of the act by the Department of State Lands. Most important are the revisions that clarify the role and duties of the Department, the Board of Land Commissioners, and the Natural Areas Advisory Council in identifying and giving recognition to key natural areas in Montana.

Senate Bill 329 would allow federal, state, and local land management agencies and private landowners to combine efforts in creating a systematic representation of natural areas for the state. This would be accomplished by preparing an annual register and biennial administrative plan for natural areas by the Department, with recommendations of the council concerning the establishment and administration of a natural areas system, and acquisition or designation of lands as natural areas by the Board.

The bill would also allow the Department to expend funds accepted as gifts for the acquisition, designation, and registration of lands as natural areas. There are presently no funds appropriated for natural areas. For the past ten years, the Department has done nothing on natural areas. Unless sufficient funds are received as gifts, the Department will still not be able to fulfill the requirements of the Natural Areas Act.

The Department urges the passage of Senate Bill 329.

EXHIBIT NO. 4 *with attach.*  
DATE 2/20/87  
BILL NO. SB 329

Big Sky Field Office  
Power Block West  
Last Chance Gulch  
P.O. Box 258  
Helena, Montana 59624  
(406) 443-0303

February 20, 1987

Chairman Keating and members of the Senate Natural Resources Committee:

My name is Joan Bird from Helena, MT and I am speaking on behalf of The Nature Conservancy. For those of you who are not familiar with the Conservancy, we are a national organization whose sole purpose is the prevention of the extinction of species. We accomplish our goals by using the tools of the free marketplace in quiet non-controversial ways. Because of our narrow focus and businesslike approach, we are supported by over 400 corporations in the country, including Asarco and Burlington Northern in Montana.

Even the least astute political observer knows that now is no time to be looking for money from the state, no matter how worthy we may think our cause is. However, it is time to do something. The possible sites from which to select natural areas grow fewer every year. And as each agency and organization gets deeper into this business, a coordinating center in state government becomes necessary to avoid duplication.

SB 329 creates a structure for the lowest-possible-cost natural areas system, borrowing techniques that the Conservancy uses to stretch its dollars. And while not asking for money from the state, it will (in the proposed house amendments) provide an opening to get the ball rolling, if outside sources of funding can be found.

The most significant change between the old Montana Natural Areas Act, and this new one, is that the old one required all state natural areas to be owned by the state. SB 329 provides that already existing natural areas on public lands can be counted in a statewide system by the registering process, referred to on page 5, number 6. It also provides that privately owned land may be designated as a natural area, if the land owners are willing.

The Nature Conservancy uses two different kinds of agreements with its private cooperators. The first is a conservation easement which is a permanent legal agreement offering considerable tax benefits to some landowners. We also use voluntary protection agreements which are not legally binding, and can be canceled at any time. Both kinds of protected properties could be natural areas, under the provisions of SB 329. These private natural areas would, of course, not be open to the public, but would be available on a limited basis to scientists, and with the landowners permission, educational groups.



## SENATE NATURAL RESOURCES

EXHIBIT NO. 4 (p.2) with attach.DATE 3/20/87BILL NO. SB 329

page two  
TNC testimony on SB 329 Bill

We have provided each of you with a folder giving you basic information on natural areas. It features a picture of Crown Butte, a site which was targeted by the original Natural Areas Committee and eventually purchased by The Nature Conservancy. Page one provides you with information on the bill. The next section discusses the need for a state natural areas system. Following is a short section on the history of the effort that individuals have already invested in this cause, including the statewide Natural Areas Conference held in Billings last year. Six sites which received particularly high reviews in that conference are highlighted on page five. One was selected from each geographical area depicted in the map on the following page. Finally, there is a selection of quotes from notable participants at the conference which we thought might be of particular interest to legislators.

Before I surrender the floor, I would like to underscore a point which we made briefly in the brochure, towards the bottom of page two. Natural areas are essential for research and educational purposes, and I'll let some of the other proponents address that purpose in more detail. The other reason for establishing natural areas is the preservation of biological diversity, and this is the reason which drives The Nature Conservancy

Even at the end of the dinosaur age, extinction rates were only one species lost per thousand years. Today that rate is estimated to be one species lost every day. And by the end of the century, it is predicted that a species will be lost every hour. No wonder the scientists are alarmed.

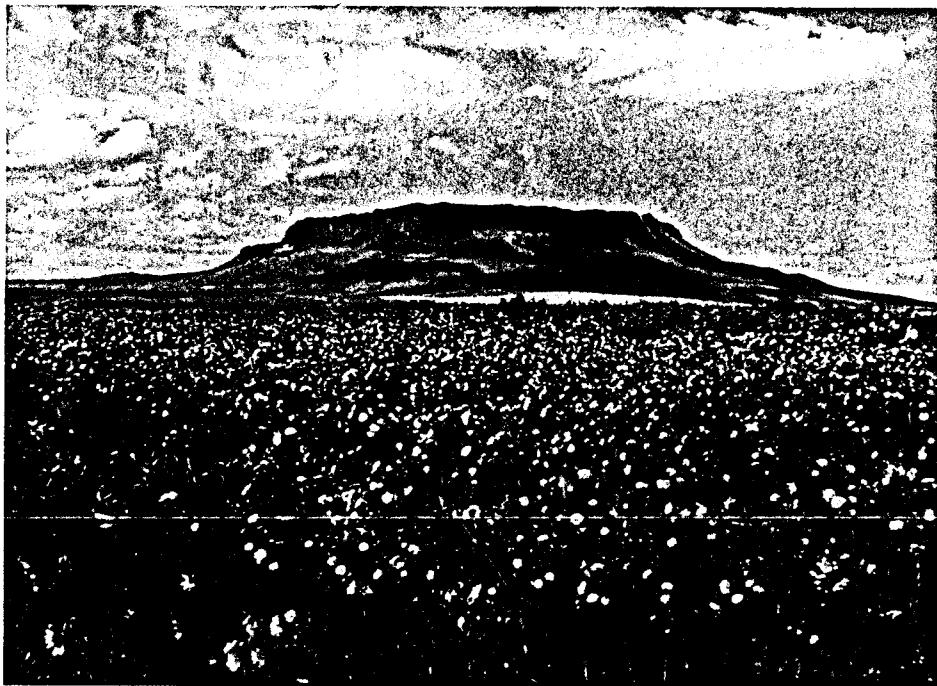
It used to be that just the Henry David Thoreaus and other nature lovers argued for preserving places in their natural state. Now doctors, food producing industries, and the public at large is beginning to understand how important genetic building blocks are to the future economic welfare of humans, never mind the esthetic or ethical reasons for saving species. Half of all our medicines come from plants, yet only 2% of the plants in the world have ever been investigated for their medicinal value. Food crops are dependent on new genetic material to resist ever evolving diseases and pests. All the promise of genetic engineering can never be realized, if we lose the diversity that we inherited. Causing extinction, whether we mean to or not is like burning books before we've even learned how to read them.

Natural areas are the only way to ensure that all the species we share this state with will still be here for Montanans yet to be born.

Passage of this bill will get this bogged-down program moving again.

Senate Nat. Res.  
#4  
2/20/87  
SB 329

A GUIDE TO MONTANA'S NATURAL AREAS EFFORT



Crown Butte

Identified by the original MT Natural Areas Committee (1975) as the state's premier natural area, and proposed as such to the Department of State Lands pursuant to the provisions of the 1974 Montana Natural Areas Act. This site was purchased by The Nature Conservancy at the request of the state and established as a Natural Area Preserve in 1982.

"The one process ongoing in the 1980's that will take millions of years to correct is the loss of genetic and species diversity by the destruction of natural habitats. This is the folly our descendants are least likely to forgive us."

--Edward O. Wilson, Baird Professor of Science,  
Harvard University

EXHIBIT NO. 5 (p.1)  
DATE 2/20/87  
BILL NO. SB 329

STATEMENT OF  
RONALD L. HAAG,  
DIRECTOR  
RANGE, AIR, WATERSHED, AND ECOLOGY  
NORTHERN REGION  
FOREST SERVICE  
UNITED STATES DEPARTMENT OF AGRICULTURE

Before the  
Natural Resource Committee  
Montana State Senate

Concerning the Statewide Natural Areas System

February 20, 1987

INTRODUCTION

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I am Ron Haag, Director of Range, Air, Watershed, and Ecology of the Northern Region, USDA Forest Service. The Northern Region includes National Forests and Grasslands in Montana, Idaho, and the Dakotas.

The Natural Area system is an extremely valuable resource for scientific evaluation of land management actions. This system needs a strong State role of leadership and coordination to assure that the needs of both industry and conservation are met.

BACKGROUND

There is a wide array of natural plants, animals, and communities in Montana. Ecosystems in Montana are rich in their ability to produce resources and in their asthetic beauty. Since settlement, the intensities of development and impact on these natural ecosystems has increased at an ever more rapid pace. The Natural Area system is a key component to preserving representative examples of ecosystems for scientific and educational use by present and future Montanans.

The Forest Service fully supports the Natural Area System. On Forest Service lands ther is a strong commitment to the establishment of Research Natural Areas. Our Research Natural Area system is designed to provide representation of the diversity of plant and animal species, both common and rare, and of plant communities, on National Forest lands.

Currently the Forest Service has either designated or proposed a spectrum of Research Natural Areas on National Forests lands in Montana. Since the total acreage of all Forest Service Natural Areas to date is less than .5% of our land base, it has little direct effect on resource production and the information we will gain from these areas will help us improve productivity on our managed lands. We would anticipate a similar balance of costs and benefits to other Montana lands, from a more extensive statewide system of natural areas.

SENATE NATURAL RESOURCES  
EXHIBIT NO. 5 (p.2)  
DATE 2/20/87  
BILL NO. SB 32

There are three key values to Montana's Natural Area system.

- 1) A very important aspect is the maintenance of our natural genetic resource. The present and future value of plant and animal species, and the genetic diversity within each species, is worth billions of dollars to industry and agriculture. A precise value of this genetic resource for conservation practices is difficult to express in dollars, but diversity is a principle concept in management of both agricultural and forest and range lands for maximum productivity over a broad range of site conditions.
- 2) Of equal importance is the value of this system for use in monitoring the success or failure of various management systems. On lands where our objective is to produce timber and livestock products, our goal is to implement systems that maximize productivity, minimize loss to pests, and require the least investment, while at the same time protecting the physical aspects of the site and the biotic capability. In order to evaluate intensive management systems relative to productivity, pests, response to climate, and effects on physical and biotic site capability, there is a need to compare areas where natural processes are allowed to predominate.
- 3) Natural Areas are valuable for use in education and research. This system provides classrooms and laboratories at no cost for buildings and other support, that is an endowment for Montanans now and in the future.

#### NEED FOR STATE LEADERSHIP

The Forest Service Natural Area System only represents a small part of the Natural Diversity that occurs in the state of Montana, because of National Forest System land area distribution. In order to provide representatives of all the diversity, we encourage state leadership in coordinating identification and protection of Natural Areas on all land ownerships. This kind of leadership and coordination will reduce duplication of effort and save local, state, and federal agencies, and the private sector considerable effort (time, dollars, and land) and significantly increase their usefulness.

Thank you for providing me this time for testimony today.

*R. F. Saaf  
Elizabeth J. H.  
John Chander*

NAME: Edward T. Peper DATE: 2-20-7

ADDRESS: Pilot Butte Ranches LLC Suite Butte

PHONE: 4936-4181

SENATE NATURAL RESOURCES

EXHIBIT NO. 6

DATE 2/20/87

BILL NO. SB 329

REPRESENTING WHOM? \_\_\_\_\_

APPEARING ON WHICH PROPOSAL: SB 329

DO YOU: SUPPORT? ✓ AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENTS: See attached testimony

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PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE NATURAL RESOURCES  
EXHIBIT NO. 6 (p1)  
DATE 2/20/87  
BILL NO. SB 329

SENATE BILL 329 TESTIMONY

Mr. Chairman, Members of Committee:

I am Dr. Edward T. Ruppel, Director, Montana Bureau of Mines and Geology, and Montana State Geologist.

Senate Bill 329

1. Presents a systematic process for developing a natural areas system in Montana through an appointed advisory council and the Department of State Lands, and at an apparent minimum cost to the public. At the same time, it provides both for adequate protection of private landowners, and for their voluntary participation through grants or easements.

It provides means for appraisal and selection of appropriately qualified natural areas, and indeed requires wide input from citizens through the advisory council, and through required public hearings. I would expect that the Department of State Lands would solicit further citizen participation in voluntary panels of interested and perhaps uniquely qualified citizens, to help select the most appropriate areas for inclusion in the system.

The bill defines natural areas to be included in the system with unusual clarity and briefness--and, importantly--stipulates that these areas are to be unique or nearly so, relatively small, and not unnecessarily duplicated elsewhere in the system *or in other protected areas.*

SENATE NATURAL RESOURCES  
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BILL NO. SB 329

Geological sites--of great interest to me--must have special and lasting scientific and educational values and illustrate some characteristic of Montana geology particularly well. In short, I believe that the bill provides a workable framework for implementing the natural areas system, and for providing lasting protection for rare or unique animal and plant communities, and for particularly significant geological features. I would urge adoption of Senate Bill 329.

February 20, 1987

S.B.-329--NATURAL AREAS SYSTEM AND REGISTRATION

Montana should take a major step forward in Natural Area work in 1987. Seventy years ago, in 1917, some of the first concepts about natural areas in the United States were developed. It was another 10 years before the first formally designated natural area was established in 1927. Montana came into the act 10 years after that when Coram Natural Area on a U.S. Forest Service Experimental Forest was established.

Why Natural Areas? There are many uses for natural areas in the scientific and education communities including:

1. To provide representative examples of natural ecosystems.
2. To provide opportunities for study of plant succession and other biological and physical phenomena over long periods of time.
3. To provide "benchmark" values for monitoring changes in natural processes and systems brought about by human activities.
4. To serve as "gene pools" for long-term maintenance of genetic diversity.
5. To serve as preserves for rare and endangered species.

Most states already have natural areas systems but many waited too long and have had to settle for far less than optimum sites for their natural areas. Montana has a unique opportunity to build a relatively complete system of natural areas but every year of delay diminishes those opportunities.

There is a lot of grass-roots support for a natural area system. Work on building a system in the 70's always resulted in a large turnout of dedicated people--all volunteer. A lot of progress was made and hopes were high because the 1974 Natural Areas Act provided a central focus that was badly needed if an efficient system was going to be established. Unfortunately, the "shelving" of the Act caused this grass-roots effort to diminish.

The rejuvenation offered by SB-329 is a welcome sight and it should help considerably in the efforts toward building a System of Natural Areas for Montana. This can benefit managers of private, State and Federal lands in their efforts to develop a system that is complete in including key biological and geological features of Montana but also efficient in reducing duplication of efforts and sites on different land ownerships.

Together, we can give Montana the beginnings of a really significant Centennial present--a Montana Natural Areas System.

*Wyman C. Schmidt*  
WYMAN C. SCHMIDT, PhD  
*Society of American Foresters*

Mr. Chairman, Esteemed members of the ~~Senate Natural Resources Committee~~: SB

My name is Dean Culwell. I am Vice-President of Western Technology and Engineering, Inc., an environmental consulting firm in Helena. I have been a practicing vegetation ecologist in Montana for 17 years.

My first exposure to the natural areas program occurred in 1974 while I was an employee of the Montana Department of State Lands. I was interested in and supportive of the program as administered by the Department at that time. I have been very disappointed that the program did not develop as conceived and feel that revisions proposed to the Natural Areas Act by Senate Bill 329 will provide the catalyst necessary to proceed with this very worthwhile program.

As a scientist I support the identification and establishment of natural areas for the protection of rare plants, unique or representative vegetation communities, geological features and other <sup>features</sup> parameters inherent in areas which represent in an area essentially representing Montana as it was prior to settlement. I believe these values alone justify a natural areas system.

However, as a businessman and one interested in the economic climate of Montana, I recognize and would like to stress that the research value of natural areas cannot be underestimated. As a consultant, I am an applied ecologist, that is, someone who applies ecological principles to solving land management problems. The basic information necessary to this problem solving is research. Natural areas provide the ultimate research site in understanding ecological processes. A natural areas system will provide the opportunity to gather research data important to making rational decisions regarding Montana's resources.

*briefly an*

Without going into technical details, I would like to discuss ~~two~~ examples where research from natural areas can be applied:

~~The first example is reclamation of disturbed areas.~~ Since 1973, I have been involved with reclamation of lands disturbed by mining..

Montana's Strip Mining and Reclamation Act requires that revegetation must be capable of <sup>producing forage</sup> feeding and withstanding grazing pressure from a quantity and mixture of wildlife and livestock at least comparable to that which the land could have sustained prior to the operation.

Since mining areas are generally in a condition less than what the area could support, baseline vegetation inventories or on-site data may not provide adequate information to evaluate revegetation success.

For example, if a mine area is dominated by cheatgrass and broom snakeweed or other undesirable species, DSL cannot accept revegetation

where these species dominate. <sup>P</sup> Natural areas <sup>can</sup> ~~may~~ provide data suitable to develop revegetation standards and to understand <sup>plant</sup> succession in both native communities and reclaimed sites. Research data could also allow <sup>and perhaps more cost-effective</sup> for the preparation of more ecologically sound reclamation plans,

*thereby resulting in a more favorable business climate.*

The second example is the use of research data from natural areas to develop grazing plans for livestock operations. It is apparent that not all natural communities can be grazed the same way. A case in point is many pastures in eastern Montana where riparian vegetation forms a relatively small part of a predominantly grassland area. The grassland areas may be in good or better range condition under proper management, but the riparian areas are generally grazed harder and may be in lower condition. Continued heavy grazing of riparian areas

SENATE NATURAL RESOURCES

EXHIBIT NO. 8(p.2)

DATE 2/20/87

BILL NO. SB 329

STATE THAT RESEARCH ON PLEASE

generally results in a deterioration of the community, causing reduced values not only for grazing but also for wildlife and may result in drainage instability. Research data from natural areas as a control, in conjunction with data from grazed areas can provide information on the ability of various vegetation communities to withstand and recover from grazing and allow for the development of grazing management plans that maximize the grazing resource yet provide for resource protection.

other examples can be cited where research on natural areas can I ~~could cite more examples~~ be valuable for the livestock and timber industries that natural areas will provide Montanans with the opportunity to conduct research that can result in many benefits from both ecological and economic viewpoints.

Thank you.

**SENATE NATURAL RESOURCES**

**EXHIBIT NO.** 9

**DATE** 2/20/87

**BILL NO.** SB 329

Testimony on SB 329  
February 20, 1987

Mr. Chairman and Members of the Committee,

My name is Janet Ellis and I'm here today representing the Montana Audubon Legislative Fund. The Audubon Fund is composed of nine Chapters of the National Audubon Society ~~which~~ has 2500 members located throughout the state.

The Audubon Fund supports SB 329. This legislation will make our current Natural Areas Program more workable and allow the Department of State Lands to accept gifts to get this program back on its feet.

The state mandated Natural Areas Program makes good management sense. Its mission is to identify unique and pristine sites in the state that are important for scientific, educational, and management values. By registering these sites and coordinating their management, this system would become a cost effective way to keep the best of what we have.

Smart management will be essential as Montana continues to grow. A healthy Natural Areas system will help ensure that smart management.

We urge you to vote "Do Pass" on SB 329.

NAME Jerry Jack BILL NO. SB 329

ADDRESS 832 Broadway, Helena Mt DATE 2/20/87

WHOM DO YOU REPRESENT Mt Stockgrowers, Mt Woolgrowers, Mt Assoc of State Grazing Distr

SUPPORT  OPPOSE ✓ AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Our organizations (see above) are concerned about the passage of this bill from the following points; with particular emphasis on state lands.

(1) In essence, this creates a series of "mini" wilderness areas which are presently unknown as to extent (acreage) & for which future management direction is also unknown. For example, if an area of state lands contains rare plant species & is invaded by noxious weeds which may rapidly spread to private lands - can he? Moreover, will future areas assure the extraction of minerals, or even allow for exploration? Will grazing be permissible?

(2) State lands are now devoted to collecting monies for our educational system - as lands are acquired from private or state sources & put under this system - to what extent

will this effect remaining tax structures in a county. Will the permittee be expected to pay the same level if a use is restricted?

(3) Through designation, will we lose that which the bill seeks to protect? Ex - antiquities act where specific sites are not defined & mapped out other than for the scientific community.

(4) How much added monies will be needed to administer

MONTANA ASSOCIATION OF STATE GRAZING DISTRICTS

420 North California St.

Helena, Montana 59601

(406) 442-3420

John Pfaff, President ..... Miles City  
Sever Enkerud, Vice President ..... Glasgow  
Stuart Doggett, Executive Secretary ..... Helena

**SENATE NATURAL RESOURCES**

**EXHIBIT NO. 11**

**DATE 2/20/87**

**BILL NO. SB 329**

DIRECTORS

Bill Almy ..... Ismay  
Lynn Cornwell ..... Glasgow  
Mark Davies ..... Chinook  
Joe Etchart ..... Glasgow  
Jack Hughes ..... Grassrange

SB 329

My name is Kim Enkerud and I am representing the Montana Association of State Grazing Districts.

Will Montana eventually become a state park at the expense of its people? Passage of this bill just might get us started along this line. We have a bill introduced into the House that would enable the Fish, Wildlife, and Parks to acquire land to enhance wildlife habitat, the Bureau of Land Management is purchasing land in accord with the Wild and Scenic Rivers and now the Department of State Lands should be authorized to plan for a natural areas system.

These lands in Montana are being used to provide for the people of Montana. School trust lands are used to provide income for our school children, private lands provide for the citizens who own them, and public lands provide for the federal government. If these lands were to be taken out of production and placed into a natural areas system, where would the dollars come from to provide for the people affected? Most of the people who own or use these lands do so without destroying the pristine qualities. Why should the lands be removed from their care?

Designation of natural areas just might be the downfall of these areas. Calling attention to a place draws interest. Interest attracts people. People have been known to destroy the surroundings in their curiosities.

The fiscal note does not include appraisal work or the purchase of sites. This alone is an expensive item. We do not need more money spent in the state.

We urge they committee to do not ~~concur~~ <sup>PASS</sup> SB 329.

Thank you.

SENATE NATURAL RESOURCES

EXHIBIT NO. 12

COMMENTS ON SB 373

DATE 2/20/87

BY

BILL NO. SB 373

BRACE HAYDEN  
OFFICE OF THE GOVERNOR

Mr. Chairman, Members of the Committee, my name is Brace Hayden from the Office of the Governor.

Governor Schwinden believes SB 373 represents a reasonable and equitable method for apportioning Resource Indemnity Trust Tax interest monies. It also provides clear directions to the Department of Natural Resources and Conservation as to how to solicit and rank mineral-related projects for legislative decision making.

Last session's fight over the legacy program was acrimonious and ultimately resulted in there being no program put in place as to how unappropriated RITT monies should be spent. SB 373 came about because both sides in the 1985 debate recognized the issue had to be resolved.

The bill is a result of considerable work by Senator Blaylock, Representative Brown, the EQC, the Department of Natural Resources and Conservation and many others. The Governor wishes to express his thanks to all of these individuals for their involvement in helping draft this bill and for the spirit of compromise they exhibited throughout the process.

I would be happy to answer any of the Committee's questions.

Senate Bill 309

Blaylock SB 309 }  
SC 373 } YES

2:05  
3/24/87

Don Blaylock

J. P. Lynch

SB 309

February 20, 1987

3:30 P.M.

TO: Senator Stimatzi  
FROM: Nadine McCurdy

Please vote on the following bills:

SB 292 Motion: Do Pass As Amended (Grey Bill) NO

SB 286 Motion: Do Pass As Amended NO

SB 329 Motion: Do Not Pass NO

" " Motion: Do Pass YES

THANK YOU.

Please send back to me in Room 405A as soon as possible.

ROLL CALL VOTE

SENATE COMMITTEE NATURAL RESOURCES

Date Feb 20 Senate Bill No. 286 Time 12:37

NAME	YES	NO
Sen. Tom Keating, Chairman	✓	
Sen. Cecil Weeding, Vice Chairman	✓	
Sen. John Anderson	✓	
Sen. Mike Halligan		✓
Sen. Delwyn Gage	✓	
Sen. Lawrence Stimatitz		(x)
Sen. Larry Tveit	✓	
Sen. "J.D." Lynch		(x)
Sen. Sam Hofman	✓	
Sen. William Yellowtail		✓
Sen. Elmer Severson	✓	
Sen. Mike Walker		✓

Nadine McCurdy  
Secretary

Senator Tom Keating  
Chairman

AS AMENDED

Motion: I do Pass, do Sen. Johnson.

Motion carried!

ROLL CALL VOTE

SENATE COMMITTEE NATURAL RESOURCES

Date 2-20-87 S.B. Bill No. 292 Time 1:14 p.m.

NAME	YES	NO
Sen. Tom Keating, Chairman	X	
Sen. Cecil Weeding, Vice Chairman		X
Sen. John Anderson	X	
Sen. Mike Halligan		X
Sen. Delwyn Gage	X	
Sen. Lawrence Stimatzy		(x)
Sen. Larry Tveit	X	
Sen. "J.D." Lynch		X
Sen. Sam Hofman	X	
Sen. William Yellowtail		X
Sen. Elmer Severson	X	
Sen. Mike Walker		X

Nadine McCurdy  
Secretary

Senator Tom Keating  
Chairman

Motion: DO PASS AS AMENDED (Grey Bill)

Tie Vote

ROLL CALL VOTE

SENATE COMMITTEE NATURAL RESOURCES

Date 2-20-87 SB Bill No. 324 Time 2:47

NAME	YES	NO
Sen. Tom Keating, Chairman	X	
Sen. Cecil Weeding, Vice Chairman		X
Sen. John Anderson	X	
Sen. Mike Halligan		X
Sen. Delwyn Gage	X	
Sen. Lawrence Stimatzi		(X)
Sen. Larry Tveit	X	
Sen. "J.D." Lynch		X
Sen. Sam Hofman	X	
Sen. William Yellowtail		X
Sen. Elmer Severson		X
Sen. Mike Walker		X

Nadine McCurdy  
Secretary

Senator Tom Keating  
Chairman

Motion: DO NOT PASS

Motion failed with Sen. Stimatzi  
written vote

ROLL CALL VOTE

SENATE COMMITTEE NATURAL RESOURCES

Date 2-20-87 SB 329 Bill No. \_\_\_\_\_ Time 2:48

NAME	YES	NO
Sen. Tom Keating, Chairman		X
Sen. Cecil Weeding, Vice Chairman	X	
Sen. John Anderson		X
Sen. Mike Halligan	X	
Sen. Delwyn Gage		X
Sen. Lawrence Stimatzi	(X)	
Sen. Larry Tveit		X
Sen. "J.D." Lynch	X	
Sen. Sam Hofman		X
Sen. William Yellowtail	X	
Sen. Elmer Severson	X	
Sen. Mike Walker	X	

Nadine McCurdy  
Secretary

Senator Tom Keating  
Chairman

Motion: DO PASS with Sen. Stimatzi's written vote

# STANDING COMMITTEE REPORT

February 20 ..... 19..... 67.....

MR. PRESIDENT

We, your committee on ..... NATURAL RESOURCES .....

having had under consideration..... SENATE BILL .....

No..... 329.....

first reading copy ( white )  
color

PROVIDES FOR A NATURAL AREAS SYSTEM PLAN BY DEPARTMENT OF STATE LANDS

Respectfully report as follows: That..... SENATE BILL .....

No..... 329.....

DO PASS

DO NOT PASS

SENATOR THOMAS F. READING, ..... Chairman.

# STANDING COMMITTEE REPORT

February 20 ..... 19.87.....

MR. PRESIDENT

We, your committee on ..... **NATURAL RESOURCES**.....  
having had under consideration..... **SENATE BILL**..... No.... **286**....

First reading copy ( white )  
color

## REMOVE UNCONSTITUTIONAL PROVISIONS OF STREAM ACCESS LAW

Respectfully report as follows: That..... **SENATE BILL**..... No.... **286**....

be amended as follows:

1. Page 1, line 5.

Following: "UNCONSTITUTIONAL;"

Insert: "REQUIRING RECREATIONAL USE TO BE EXERCISED WITH REGARD  
TO LAND OWNERSHIP; REQUIRING LANDOWNER PERMISSION FOR RECREATIONAL  
USE INVOLVING MORE THAN MINIMAL USE OF LAND; REVISING PROVISIONS  
CONCERNING PORTAGE ROUTES;"

AND AS AMENDED

DO PASS

XOOONQTMASSEK

SENATOR THOMAS HEATING

Chairman.

deliver to Nadine McCurdy

CLERICAL

Date: 2/20

Sen. Bill 286

Time: 7:20

In accordance with Joint Rule 3-7(b) the following clerical errors may be corrected:

*Sen. Natural Resources*

1. Insert: "REQUIRING TO REQUIRE . . .  
; REQUIRING TO REQUIRE . . .  
LAND; REVISING TO REVISE . . .  
(for consistency)

*Thomas J Keating*  
Sponsor *Sen. Keating*

Secretary of Senate  
or  
Chief Clerk

Legislative Council

*ccj*

# STANDING COMMITTEE REPORT

February 20,

1967

MR. PRESIDENT

We, your committee on **NATURAL RESOURCES**

having had under consideration..... **Senate Bill**

No. 373

First reading copy ( white )  
color

## RECLAMATION AND DEVELOPMENT GRANTS PROGRAM ACT

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

No. 373

DO PASS

DO NOT PASS

SENATOR THOMAS F. KEATING, Chairman.

FEBRUARY 20, 1987

MR. PRESIDENT,

WE, YOUR COMMITTEE ON NATURAL RESOURCES HAVING HAD  
UNDER CONSIDERATION SENATE BILL NO. 373, ATTACH THE FOLLOWING  
STATEMENT OF INTENT:

STATEMENT OF INTENT

LC 901

SENATE BILL 373

A statement of intent is required for this bill because it delegates rulemaking authority in section 9 to the board of natural resources and conservation for the establishment and administration of the reclamation and development grants program.

The intent is to provide the board with the authority to adopt rules necessary to administer the reclamation and development grants program. The authority as described in section 9 includes establishing rules:

- (1) prescribing the form and content of applications for grants;
- (2) describing the terms and conditions of making grants;
- (3) prescribing a monitoring program to evaluate the effectiveness of funded projects and activities; and
- (4) developing any procedures necessary to accomplish the objectives of the reclamation and development grants program.

7047b/c:/eleanor/ wp:ee

## STATEMENT OF INTENT

S Bill No. 373

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- (2) describing the terms and conditions of making grants;
- (3) prescribing a monitoring program to evaluate the effectiveness of funded projects and activities; and
- (4) developing any procedures necessary to accomplish the objectives of the reclamation and development grants program.

Statement of Intent - Do Pa		
	Yes	No
Feating	X	
Weeding	X	
Lynch	X	
Severson	X	
Hoffman	X	
Halligan	X	
Iviet	X	
Anderson		X
Walker		X
Stimnitz	X	
Yellowtail	X	