

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Thomas F. Keating, on March 20, 1989, at 1:00 p.m., Room 405, of the State Capitol.

ROLL CALL

Members Present: Senators: Thomas Keating, Larry Tveit, Fred Van Valkenburg, Loren Jenkins, Darryl Meyer, Lawrence Stimatz, Pete Story, Bill Yellowtail, Elmer Severson, Cecil Weeding and Dorothy Eck.

Members Excused: Jerry Noble

Members Absent: None

Staff Present: Bob Thompson and Helen McDonald

Announcements/Discussion: None

EXECUTIVE ACTION ON HB 274

Senator Keating said HB 274 was prompted by Montana Resources' (MRI's) blasting in the open pit mine in Butte, noting that testimony indicated there are some houses that are showing cracks and damage coincidental to the blasting. Representative Quicili introduced this legislation. The Department of State Lands (DSL) now handles coal mining blasting but this would be associated with hardrock mining and the use of explosives. The department will obtain seismic monitoring and air-blasting monitoring equipment. Upon request of a citizen of the state with regard to suspected explosive damage, the department would dispatch a specialist to put these monitoring devices near the property and monitor the blasting to see if the blasting is done within the standards established in law. The fire marshal already has the statutory obligation to adopt rules based on nationally recognized standards for safe guarding life and property.

Gary Amestoy said the department wouldn't establish a whole bureau. The DSL will implement this with the existing staff with the exception of hiring a structural engineer as needed to make assessments.

Senator Keating commented that no new personnel will be

required but the new equipment will cost \$18,000 to \$20,000.

Gary Amestoy agreed there would be no new personnel and the cost will be \$18,600 for the first year and \$8,000 the next year. The seismograph cost will be \$8,000 and contract services for the structural engineer will be \$10,000.

Senator Keating said that DSL would be doing some of the duties that might be required by the fire marshal's office.

Ray Blehm said he finds no conflict having another government agency involved.

Senator Jenkins asked if the fire marshal's office has enough manpower to do these additional duties.

Mr. Blehm said his bureau has a total of 9 FTEs, of which 2 are clerical and 6 are field persons. The fire marshal's office is understaffed, so this would be a burden.

Senator Tveit asked if the fire marshal's office had rules on the use of explosives?

Mr. Blehm gave committee members copies of laws that would be applicable. (Exhibits #2, 3, 4)

Senator Keating asked if the fire marshal would be required by law to monitor and investigate blasting if a citizen complained of damage to his house?

Mr. Blehm said he didn't know about monitoring but his office would investigate the matter.

Senator Keating asked if there was any way to tell from looking at the damage that it was caused by blasting.

Mr. Blehm said no one in his office is a blasting expert and he doesn't have a budget to hire a structural engineer.

Senator Keating asked Dave Paszkiet from DSL if it was possible to look at the MRI's monitoring data and determine if the blasting was within prescribed standards?

Mr. Paszkeit said the Bureau of Mines has done a lot of research on designated limits for blasting. These limits are what the Coal Board used for regulations.

Senator Keating asked if the data on the air blasting and the seismic recorders would reflect a blast that had too big a charge?

Mr. Paszkiet said the department would look at the data and

the blasting record and do a complete analysis of the pattern of the blasts and the seismograph recordings to determine whether or not the industry is in compliance.

Senator Keating asked if somebody could be blasting within the standards and still cause structural damage to a building.

Mr. Paszkiet said that could happen.

Senator Keating asked if a company was blasting within the established standards and there is damage to a house, would the blasters be held responsible for the damages?

Mr. Paszkiet was unable to answer, but noted there have been numerous law suits on this matter.

Senator Keating asked the fire marshal about insurance.

Mr. Blehm replied that all codes are usually based on minimum standards and are developed through a process of finding out what happened, what went wrong, and how to correct it. If a person or company causes damage and is responsible for the damage, then they are subject to being sued.

Gary Langley said the mining industry doesn't need another regulation.

Representative Quicili said the fire marshal' office does not have the facilities or means to handle a problem like this and DSL can at a very minimal cost. Some mining companies are supporting this legislation because everyone has a right to go to court. When a third party comes in as an objective party and states the data is either correct or incorrect, the information will help protect the people involved and also the mining companies.

Senator Stimatz asked whose records would be depended upon if there was a complaint.

Mr. Paszkiet said the department doesn't have the authority to do anything under the hardrock law. In the case of the incident at MRI, where the department was invited to take a look at the records to see if the blasting was within standards set by the U.S. Bureau of Mines. The mining company's records are the only records that the department would have access to or would be available.

Senator Stimatz said this bill would enable the department to obtain seismic equipment and if there is a complaint, DSL could go in and conduct a test and investigation.

Mr. Paszkiet said when the department gets an initial complaint, it would set up the seismograph unit without the company's knowledge to get a random sampling of the blasting. The department would compare its blasting information with the company's records and base its analysis on that.

Senator Story wondered about class action suits that could come at a later time.

Representative Quicili said the only person that would have to worry about are the violators of the law. If a third party found out about a violation then that information could be used by any party.

Senator Jenkins moved HB 274 be concurred in. A roll call vote was taken. Motion carried. (Exhibit #5)

ADJOURNMENT

Adjournment At: 1:45 p.m.


THOMAS F. KEATING, Chairman

TFK/hmc

senmin.320

NATURAL RESOURCES COMMITTEE

505A LEGISLATIVE SESSION -- 1989

Date 3-20-89

NAME	PRESENT	ABSENT	EXCUSED
Chairman Tom Keating	✓		
Vice-Chairman Larry Tveit	✓		
Senator Fred VanValkenburg	✓		
Senator Loren Jenkins	✓		
Senator Darryl Meyer	✓		
Senator Lawrence Stimatz	✓		
Senator Pete Story	✓		
Senator Bill Yellowtail	✓		
Senator Elmer Severson	✓		
Senator Cecil Weeding	✓		
Senator Dorothy Eck	✓		
Senator Jerry Noble			✓

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

March 20, 1989

MR. PRESIDENT:

We, your committee on Natural Resources, having had under consideration HB 274 (third reading copy -- blue), respectfully report that HB 274 be concurred in.

Sponsor: Quilici (Stimatz)

BE CONCURRED IN

Signed: *Thomas F. Keating*
Thomas F. Keating, Chairman

H.C.
3/21/89
8:09
8:00 a.m.

SENATE NATURAL RESOURCES

COMMITTEE #1

DATE 2-20-89

BILL NO. HB 274



March 13, 1989

Chairman Thomas K. Keating
Committee on Natural Resources
Montana House of Representatives
Capitol Building
Helena, Montana 59601

Chairman Keating and Members of the Committee:

On behalf of Montana Resources and its 325 employees, I would like to thank you for the opportunity to speak during your meeting regarding HB 274 on Friday, March 10, 1989. As I stated during the hearing, Montana Resources is committed to being a good corporate citizen and we are resolved to solve the complaints of our local neighbors. We firmly believe that this problem can and must be solved in Butte. We believe the DSL already has the authority to inspect and monitor our blasting procedures as evidenced by their report of 12/14/88. In order to clarify our position on this matter, I want to assure you that we have committed to the following plan of action:

1. Continue to accept and investigate all reasonable complaints.
2. Continue to engage the services of professional blasting experts to assure Montana Resources and the public that we are meeting all applicable regulations regarding the use of explosives.
3. Montana Resources will periodically update the DSL on our blasting activities and the resultant seismic readings.

Ex. #1

3-20-89

HB 274

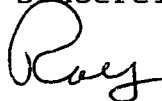
Chairman Thomas K. Keating
March 13, 1989
Page Two

4. Engage the services of a mutually acceptable structural engineer to inspect those homes that the owners feel have been damaged by blasting; specifically the Janson and Le Breche residences.

In the unlikely event it is determined that our use of explosives caused damage to our neighbors property, Montana Resources will be willing to repair the blasting related damage.

I hope this letter will clarify any misunderstanding that I may have left with your committee during my testimony.

Sincerely,



R. V. Tilman
Vice President, Human Resources

RVT:db

cc: Senator Judy Jacobsen
Representative Joe Quilici

STATE FIRE MARSHAL

HOUSE NO. # 2.

3-20-84

BILL NO. HB 274

Part 1 — General Provisions

- 50-3-101. Fire marshal defined.
- 50-3-102. Powers and duties of state fire marshal.
- 50-3-103. Rules promulgated by state fire marshal.
- 50-3-104. Fire marshal not to engage in other business.
- 50-3-105. Appointment of acting fire marshal.
- 50-3-106. Appointment of special deputy state fire marshals.
- 50-3-107. Appointment of assistants and clerical employees.
- 50-3-108. Oath of office required.
- 50-3-109. Tax on fire insurance premiums for maintenance of state fire marshal's office.

50-3-101. Fire marshal defined. In this chapter "fire marshal" or "state fire marshal" means the state fire marshal provided for in 2-15-2005.

History: En. 50-3-101 by Code Commissioner, 1979.

50-3-102. Powers and duties of state fire marshal. (1) For the purpose of reducing the state's fire loss, the state fire marshal shall:

(a) make at least one inspection a year of each state institution and submit a copy of the report to the department of institutions with recommendations in regard to fire prevention, fire protection, and public safety;

(b) make at least one inspection a year of each unit of the Montana university system and submit a copy of the report to the commissioner of higher education with recommendations in regard to fire prevention, fire protection, and public safety;

(c) inspect public, business, or industrial buildings and require conformance to law and rules promulgated under the provisions of this chapter;

(d) assist local fire and law enforcement authorities in arson investigations and supervise such investigations when, in his judgment, supervision is necessary;

(e) review all training programs on investigation of accidental and incendiary fires;

(f) provide fire prevention and fire protection information to public officials and the general public;

(g) encourage and assist local fire authorities in fire prevention programs and adopt standards and implement a program to encourage fire departments to meet such standards;

(h) be the state entity primarily responsible for promoting fire safety at the state level and to represent the state in structural fire matters;

(i) encourage coordination of all services and agencies in structural fire matters to reduce duplication and fill voids in services;

(j) establish rules concerning responsibilities and procedures to be followed when there is a threat of explosive material in a building housing state offices;

(k) keep in his office a record of all fires occurring in the state, the origin of the fires, and all facts, statistics, and circumstances relating thereto which have been determined by investigations under the provisions of chapter 63 of this title; and, except for statements of witnesses given during an investigation and information that may be held in confidence under 50-63-403, the record shall be open at all times to public inspection; and

(l) make an annual report to the attorney general containing a detailed statement of his official action and the transactions of his department, and the attorney general shall, in turn, submit the report to the governor with such recommendations and comments thereon as he considers necessary.

(2) The state fire marshal may adopt rules necessary for safeguarding life and property from the hazards of fire and carrying into effect the fire prevention laws of this state.

(3) The state fire marshal shall adopt rules based on nationally recognized standards necessary for safeguarding life and property from the hazards associated with the manufacture, transportation, storage, sale, and use of explosive materials.

(4) If necessary to safeguard life and property under rules promulgated pursuant to this section, the state fire marshal may maintain an action to enjoin the use of all or a portion of a building or restrain a specific activity until there is compliance with the rules.

50-3-103. Rules promulgated by state fire marshal. (1) Rules promulgated by the state fire marshal by authority of 50-3-102 shall be reasonable and calculated to effect the purposes of this chapter. They shall include but not be limited to requirements for design, construction, installation, operation, storage, handling, maintenance, or use of structural requirements for various types of construction; building restrictions within congested districts; exit facilities from structures; fire alarm systems and fire extinguishing systems; fire emergency drills; flue and chimney construction; heating devices; electrical wiring and equipment; air conditioning, ventilating, and other duct systems; refrigeration systems; flammable liquids; oil and gas wells; application of flammable finishes; explosives, acetylene, liquefied petroleum gas, and similar products; calcium carbide and acetylene generators; flammable motion picture film, combustible fibers; hazardous chemicals; rubbish, open flame devices; parking of vehicles; dust explosions; lightning protection; and other special fire hazards.

(2) If rules relate to building and equipment standards covered by the state or a municipal building code, the rules are effective upon approval of the department of commerce and filing with the secretary of state.

(3) Standards of the national fire protection association, United States bureau of standards, and American insurance association may be adopted in whole or in part by reference.

(4) Rules shall be adopted as prescribed in the Montana Administrative Procedure Act.

(5) Any person violating any rule made under the provisions of this part shall be guilty of a misdemeanor.

1985 EDITION

1.101-1.103

PART I

ADMINISTRATIVE

ARTICLE 1

TITLE, INTENT AND SCOPE

Title

Sec. 1.101. This code shall be known as the UNIFORM FIRE CODE, may be cited as such, and will be referred to herein as "this code."

Intent

Sec. 1.102. (a) It is the intent of this code to prescribe regulations consistent with nationally recognized good practice for the safeguarding to a reasonable degree of life and property from the hazards of fire and explosion arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the use or occupancy of buildings or premises.

(b) Where no specific standards or requirements are specified in this code, or contained within other applicable laws (or adopted codes) or ordinances, compliance with the standards of the American Insurance Association, the National Fire Protection Association or other nationally recognized fire-safety standards as are approved by the chief shall be deemed as prima facie evidence of compliance with this intent.

(c) Whenever in this code reference is made to the appendix, the provisions in the appendix shall not apply unless specifically adopted.

Scope

Sec. 1.103. (a) The provisions of this code shall supplement any and all laws relating to fire safety and shall apply to all persons without restriction, unless specifically exempted.

(b) The provisions of this code shall apply to existing conditions as well as to conditions arising after the adoption thereof, except that conditions legally in existence at the adoption of this code and not in strict compliance therewith shall be permitted to continue only if, in the opinion of the chief, they do not constitute a distinct hazard to life or property.

(c) Where there is a conflict between a general requirement and a specific requirement for an individual occupancy, the specific requirement shall be applicable.

mediately evacuated to a safe location and the area shall be guarded from entry by spectators or intruders.

7-1.7 Unauthorized or unnecessary personnel shall not be present where explosive materials are being handled, used, or stored.

7-1.8 Explosive materials shall be kept in closed containers or packages while being transported between the storage magazine and the blasting site.

Exception: Partial reels of detonating cord need not be in closed containers, unless transported over public highways.

7-1.9 Containers of explosive materials shall not be opened in any magazine or within 50 ft (15.25 m) of any magazine.

Exception: Explosive materials in fiberboard containers need not comply with this requirement.

7-1.9.1 Nonsparking tools shall be used for opening any package or container of explosive materials.

Exception: Metal slitters may be used for opening fiberboard containers.

7-1.10 No blasting operation shall be done in a manner contrary to the instructions of the manufacturer of the explosive materials being used.

7-1.11 When blasting is done in a congested area or in close proximity to a structure, railway, or highway, or any other installation that may be affected, special precautions shall be taken to prevent damage and to minimize earth vibrations and air blast effects. Blasting mats or other protective devices shall be used to prevent fragments from being thrown.

7-1.12 Persons authorized to prepare explosive charges or to conduct blasting operations shall use every reasonable precaution, including but not limited to warning signals, flags, barricades, mats, or other equally effective means to ensure the safety of the general public and workers.

7-1.13 Surface blasting operations shall be conducted during daylight hours only.

Exception: This requirement may be waived with the approval of the authority having jurisdiction.

7-1.14 Whenever blasting is being conducted in the vicinity of utility lines or rights-of-way, the blaster shall notify the appropriate representatives of the utilities at least 24 hours in advance of blasting, specifying the location and intended time of such blasting. Verbal notice shall be confirmed with written notice.

Exception: In an emergency situation, this time limit may be waived by the authority having jurisdiction.

7-1.15 Precautions shall be taken to prevent accidental discharge of electric detonators from currents induced by radar and radio transmitters, lightning, adjacent power lines, dust and snow storms, or other sources of extraneous electricity. These precautions shall include:

(a) The posting of signs warning against the use of mobile radio transmitters on all roads within 350 ft (107 m) of blasting operations.

(b) Observance of the latest recommendations with regard to blasting in the vicinity of radio transmitters or power lines, as set forth in IME Safety Library Publication No. 20, *Safety Guide for the Prevention of Radio Frequency Radiation Hazards in the Use of Electric Blasting Caps*.

(c) Surface use and all handling of explosive materials shall be discontinued during the approach and progress of an electrical storm. All personnel shall move to a safe location.

7-1.15.1 Consideration shall be given to the fact that lightning has been known to follow steel, piping, and conductive ore into underground mines.

7-1.16 Precautions shall be taken to prevent accidental initiation of nonelectric detonators from stray currents induced by lightning or static electricity.

7-2 Pre-Blast Operations.

7-2.1 During the time that holes are being loaded or are loaded with explosive materials, blasting agents, or detonators, the blast site shall be barred to all but those authorized persons engaged in the drilling and loading operations or otherwise authorized to enter the site. The blast site shall be guarded or barricaded and posted.

7-2.2 Drill holes shall be large enough to permit free insertion of cartridges of explosive materials. Drill holes shall not be collared in bootlegs or in holes which have previously contained explosive materials. Holes shall not be drilled where there is a danger of intersecting another hole containing explosive material.

7-2.3 All drill holes shall be inspected and cleared of any obstruction before loading.

7-2.4 Pneumatic loading of blasting agents into blast holes primed with electric detonators or other static-sensitive initiation systems shall comply with the following requirements:

(a) A positive grounding device shall be used for the equipment to prevent accumulation of static electricity.

(b) A semiconductive discharge hose shall be used.

(c) A qualified person shall evaluate all systems to assure that they will adequately dissipate static charges under field conditions.

7-2.5 Tamping shall be done only with wooden rods or approved plastic poles having no exposed metal parts.

Exception: Nonsparking metal connectors may be used on jointed tamping poles.

7-2.5.1 Violent tamping shall be avoided.

7-2.5.2 The primer shall never be tamped.

7-2.6 After loading for a blast is completed and before firing, all excess explosive materials shall be removed from the area and returned to the proper storage facilities.

ROLL CALL VOTE

SENATE NATURAL RESOURCES

EXHIBIT NO. #5

DATE 3-20-89

BILL NO. HB 274

NATURAL RESOURCES

SENATE COMMITTEE _____

Date 3-20-89

Bill No. HB 274 Time _____

NAME	YES	NO
Vice-Chairman Larry Tveit		✓
Senator Fred VanValkenburg	✓	
Senator Loren Jenkins	✓	
Senator Darryl Meyer	✓	
Senator Lawrence Stimatz	✓	
Senator Pete Story		✓
Senator Bill Yellowtail	✓	
Senator Elmer Severson	✓	
Senator Cecil Weeding	✓	
Senator Dorothy Eck	✓	
Senator Jerry Noble		✓
Chairman Tom Keating		✓
	8	4

Secretary _____

Chairman _____

Motion: Jenkins move - be concurred in - pass

