MINUTES

MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Mike Halligan, Chairman, on March 8, 1991, at 8:00 a.m.

ROLL CALL

Members Present:
Mike Halligan, Chairman (D)
Dorothy Eck, Vice Chairman (D)
Robert Brown (R)
Steve Doherty (D)
Delwyn Gage (R)
John Harp (R)
Francis Koehnke (D)
Gene Thayer (R)
Thomas Towe (D)
Van Valkenburg (D)
Bill Yellowtail (D)

Members Excused: None

Staff Present: Jeff Martin (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: None

HEARING ON SENATE BILL 352

Presentation and Opening Statement by Sponsor:

Senator Towe, District 46, sponsor, said SB 352 freezes the coal severance tax rate at the current level of twenty percent. He reviewed Exhibit #1 which contrasts the contract sales price and F.O.B. mine price before and after July 1, 1991.

He said the revenue generated by the freeze (5%) will be distributed as stated in statute with the exception of a 10% allocation to the credit of the Coal Research and Development Account, Special Revenues Fund, of $1.8 million. The $1.8 million is the amount of the increase which would go to the general fund if the tax rate stayed at 20% and no provision was made for distribution over and above the statutory provisions.

Half of the $1.8 million would be allocated to the Montana Board of Science and Technology Development for research into clean coal technology. The remaining half would be distributed to the Montana Coal Laboratory run by the university system.

The Montana Board of Science and Technology Development funds could be used to match, on a 50% basis, $2.7 billion recently committed by the federal government for clean coal and acid rain technology and research. There is currently a $69 million research project at Colstrip. It is a novel coal cleaning demonstration project which will reduce sulphur and improve BTU content. A $300 million project is planned for the Corrette steam plant in Billings. This would be a very significant MHD conversion project which would need $150 million from the federal program. The project would require $50 million in public money which would be secured through a bond issue and a loan from the coal trust fund. The project would also need a $1 million from the general fund. This bill could be the answer to securing that $1 million.

Senator Towe said 52% of the low sulphur coal in the nation is in Montana, as well as 20% of nation's coal reserves, 120 billion tons. We also have 10% of the total world coal supply. We should have the best research in the world, but we do not. Professor Berg at MSU and the research department in the basement of Main Hall at Montana Tech have done excellent work, but are terribly underfunded in relation to projects in adjoining states and Canada.

Senator Towe reviewed Exhibit #2 which compares the Montana coal tax with North Dakota and Wyoming. Freight rates are a critical factor in the competition. Railroads do not release their freight charge, it is not public information. Senator Towe said the last figures he was able to obtain were 1.6 cents per ton mile from BN and 1.54 cents per ton mile from Chicago Northwestern. He said that is probably not a current figure. At 1.6 cents per ton mile Minnesota companies pay $4.48 cents per ton less freight to buy Montana coal rather than Wyoming coal. Senator Towe reviewed Exhibit #3 regarding the competitive position of Montana coal.

Senator Towe noted with the Clean Air Act in force, there will be a greater need for low sulphur coal. The market to the east will benefit from Montana coal and Montana will see an increase in production.

Senator Towe presented Exhibit #4 to the committee and reviewed the production figures since the coal tax reduction has been in effect. He noted the loss in production has resulted in a loss of $38 million per year, not an increase as the coal companies had indicated. He said the reduction was a great mistake and it needs to be stopped now.

Proponents' Testimony:

Richard Parks, Northern Plains Resource Council, presented his testimony in support of the bill (Exhibit #5).

Mark Pickette, Montana University System, submitted a letter from David L. Toppen, Deputy Commissioner for Academic Affairs, in support of the bill (Exhibit #6).

Jim Jensen, Montana Environmental Information Center, said the question is whether or not to tax coal over time. The line on the graph shows the tax will ultimately be 1%. He urged the committee to do what is right for the state and leave the tax at 20%.

Opponents' Testimony:

Rep. Marion Hanson, District 100, urged the committee to let the tax drop to 15% as we promised it would. To do otherwise would drive production from the state. She said there are many people in her district who need jobs and young people are leaving and going to Gillette, Wyoming, to work. She said the bill simply must not pass if the economic balance in her district and the state is to be preserved.

Rep. Betty Lou Kasten, District 28, submitted a petition signed by 80 people in less than 24 hours in her district. She said there is coal and water in eastern Montana, but with the drought and no jobs every incentive for economic growth and production must be protected. She said the bill must not be passed in order to help Montanans help themselves.

Terry Taylor, a businessman from Colstrip, presented his testimony in opposition to the bill to the committee (Exhibit #8).

Charles Adams, President, NERCO Coal Corporation, presented his testimony in opposition to the bill (Exhibit #9).

Norman Barthlow, Detroit Edison, presented his testimony in opposition to the bill (Exhibit #10).

John Ethen, President, Midwest Energy Resources Company, presented his testimony in opposition to the bill (Exhibit # 11).

Don Stanley, a miner employed by Rosebud Mining, said 157 people have gone back to work since HB 252 was passed.

Jim Roberts, Minnesota Power, presented his testimony in opposition to the bill (Exhibit #12).

Lorna Frank, Montana Farm Bureau, said she supported the previous testimony. People in eastern Montana are hurting and need jobs, she said. If this bill were to pass, those people would be hurt even further. She urged the committee to give the bill a do not pass recommendation.

Duane Ankney, SOS, a coal miner from Colstrip, said he worked hard for the passage of HB 252 in 1987. The supporters did not say it would double production or employment. The idea was to be able to mine and sell all the tonnage possible in the upper midwest. In Decker, Spring Creek, Sarpy Creek, and Rosebud Mines have all increased their employment figures with no lay-offs since 1987. He encouraged the committee to support the reduction as it works.

Marilyn Ferguson, a rancher from Kirby, and an employee of Spring Creek Coal Company, presented her testimony in opposition to the bill (Exhibit #13).

William Penn, a former businessman from Colstrip, and now a student at University of Montana, said he was owned his business in Colstrip for 18 years. He reviewed the history of the coal severance tax and the reduction as contained in HB 252. He said the help contained in HB 252 was too late for his business which he liquidated. He is now a student at UM and hopes to go back to work in the coal industry. He said this bill negates those hopes. He urged the committee not to throw this industry and the associated jobs out of the state.

Don Wagner, a coal miner, school trustee at Colstrip, and father of three students at MSU, submitted the "put up or shut up" letter from Governor Schwinden to the legislature in 1987 (Exhibit #14). He asked the committee to do the honorable thing and kill the bill. The coal industry has stabilized and so have the jobs related to it. Montana must stay competitive in the national coal market.

Mark Richardson, City Manager, Miles City, presented his testimony in opposition to the bill (Exhibits #15 and 16).

Dennis Eggemeyer, Peabody Coal Company, presented his testimony in opposition to the bill (Exhibit #17).

Ken Williams, Entech, presented pictures of the Union Pacific taking Wyoming coal through Helena on the way to market (Exhibit #18).

Kay Foster, Billings Chamber of Commerce, submitted her testimony in opposition to the bill (Exhibit #19).

Larry Brown, Forsyth, retail store owner, and member of the Forsyth Chamber of Commerce and Agriculture, said SB 252 should be allowed to stand and SB 352 should be killed. Montana's integrity is at stake; commitments have been made and should be honored.

Gloria Paladichuk, Chairwoman, Richland County Commissioners, expressed opposition to the bill, citing economic and employment crises in eastern Montana.

Robert VanDeVere, citizen lobbyist, expressed opposition to the bill.

Jim Mockler, Montana Coal Council, spoke in opposition to the bill and presented a letter from Louis Matis, Northern States Power (Exhibit #20) and a production chart from Westmoreland Resources (Exhibit #21).

Hershel Robbins, Musselshell Valley Development Corporation, presented his testimony in opposition to the bill (Exhibit #22).

Questions From Committee Members:

Senator Harp asked Mr. Williams what is the destination of the coal in the pictures he gave the committee.

Mr. Williams replied it is Wyoming coal destined for the market in Portland. The cost of the production and the tax structure in Wyoming enables them to ship the coal past the Montana coal mines to Portland which is 250 miles further than we would have to ship our coal to the same area. Transportation costs are a major factor, but production and tax costs are also equal factors in determining the delivered price.

Senator Gage asked about the availability of natural gas for conversion from coal to gas and the competitive stance of natural gas on the market.

Mr. Eggemeyer replied the Clear Air Act has forced many companies to look at converting to natural gas at their generating facilities. It is available and it does result in significantly reduced carbon dioxide emissions. He felt it could become a fairly viable alternative.

Closing by Sponsor:

Senator Towe closed said although Wyoming started out where Montana did in relation to coal mining, there were a great many factors besides the severance tax which led them to their current production and tax structure. Senator Towe agreed there is a need for stability. The destabilization happened when the industry, itself, came in and wanted to change the tax. The coal market is independent of the tax. The 1975 production was lower and it has gone up substantially. Production is not driven by the tax, rather it is driven by the economy of the nation, electrical needs, and freight rates to some extent. The goal of increasing production to a level at which the tax would be reduced was met. However, he said the overall goal of increasing production and increasing employment by changing a 10 year old stable tax program was not met. Governor Schwinden has publicly stated that the goals have not met and that he feels the tax should be frozen.

Excess capacity is a big item. It has been estimated at between 50 and 60 million tons per year in Wyoming and 20 million tons per year in Montana. When you have excess capacity, coal can be sold way under market. However, this is a spot market situation and not a permanent long term condition. Transportation is a major factor, however, and Senator Towe said his figures support the argument that lower rates affect the competitive rate. He noted he used the coal industry figures for production, freight, and employment as published by the Montana Coal Council.

The people of Montana want to mine their coal but they do not want to give it away. When it is shipped out of state, it is gone forever. A small portion must be preserved for future generations so that they know that we did not waste this treasure.

ADJOURNMENT

Adjournment At: 10:00 a.m.

SENATOR MIKE HALLIGAN, Chairman

JILL D. ROHYANS, Secretary

MH/jdr

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 3/8/91

52nd LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SEN. HALLIGAN	X		
SEN. ECK	X		
SEN. BROWN	X		
SEN. DOHERTY	X		
SEN. GAGE	X		
SEN. HARP	X		
SEN. KOEHNKE	X		
SEN. THAYER	X		
SEN. TOWE	X		
SEN. VAN VALKENBURG	X		
SEN. YELLOWTAIL	X		

Each day attach to minutes.

DATE March 8, 1991

COMMITTEE ON Taxation

SB 352

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Mark Richardson	City of Miles City	SB 352		X
JOE PRESLEY	Westmoreland Resources	SB 352		X
PAUL GATZEMEIER	Western Energy	SB 352		X
Henshel Robbins	Muss Valley Rev Corp	SB 352		X
DAVE DEARCORN	SPRING CREEK COAL	SB 352		X
Marilyn B Ferguson	Self	SB 352		X
Marian Hanson	St Rep - Dist 100	SB 352		X
Dennis Eggemeyer	Peabody Coal Company	SB 352		X
JACK MERCER	T+E Co.	SB 352		X
RW Rohn	T & E Co.	SB 352		X
P B MOREHEAD JR.	MERIDIAN MINERALS	SB 352		X
Debbie Schlesinger	MT Wildland Assoc.	352	X	X
Jerry A Jaye	S.O.S. Colstrip	352		X
Leroy Brown	Forsyth Chamber of Commerce	SB 352		X
Richard C Parks	NPRC	SB-352	X	
CHARLES ADAMS	NERCO COAL	SB-352		X
SAM SCOTT	DECKER COAL	SB-352		X
Robert Van Der Vere	Self	SB 352		X
Jim Paladichuk	MDU	SB 352		X
Jim Mockler	MT. Coal Council	SB 352		X
Gloria Dalla Hughes	Richland Co. Comm	SB 352		X
Jon K Stanley	S.O.S.	SB 352		X
Betty Lou Kasten	House Dist 28	SB 352		X
Bill Penn	S.O.S	SB 352	~~X~~	X
Ken Williams	Entech	SB 352		X
Duane Ankney	SOS	352		X

(Please leave prepared statement with Secretary)

DATE ______________________

COMMITTEE ON ______________________

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Jim Roberts	Minnesota Power	352		X
Norman Barstton	Petroit Edison	352		X
Joe Novasio	S.O.S.	352		X
Gary Sims	Tri-State Equip	352		
Jim Wagner				
John Ethen	Midwest Energy Resources	352		X
Kay Foster	Billings Chamber	352		X
Gary Willis	M.P.C.	352		X
Wayne Van Voast	Self	352		
Dennis Burr	Mt. Taxpayers Assoc	352		X
CAL CUMIN	YELLOWSTONE CO.	352		X
Jim Peterson	Mont Stockgrowers	352		X
Lorna Frank	Mt. Farm Bureau	352		X
Jim Jensen	MEIC	352	X	
AM Black Bolas	Montana Chamber	SB352		X
Marvin Barber	Agr. Pres. Assoc APA	SB353		X
Mike Mathew	Yellowstone Co	SB352		X
Mike Stephen	MT Oil Gas & Coal Co.	SB352		X
~~Richard Miller~~	~~MT State Lib. Commission~~	~~SB352~~	X	
~~Aaron Grossman~~	~~Missoula Hellgate High~~			

(Please leave prepared statement with Secretary)

SENATE TAXATION
EXHIBIT NO. #1
DATE 3/8/91
BILL NO. SB 352

EFFECTIVE RATE - MONTANA COAL TAX

Current law:

Before July 1, 1991	-	20% of Contract Sales Price 13.45% of F.O.B. Mine Price
After July 1, 1991	-	15% of Contract Sales Price 10.09% of F.O.B. Mine Price

Under Senate Bill 352:

20% of Contract Sales Price
13.45% of F.O.B. Mine Price

EXHIBIT NO. 2
DATE 3/8/91
BILL NO. SB 352

MONTANA COAL TAX

Under Senate Bill 352: 20% of Contract Sales Price
13.45% of F.O.B. Mine Price

Combined with Local Geovernment Severance Tax (Flat Tax):

Statutory Rate - Flat tax = 5%

Effective Rate:	Flat tax =	3.36%
	Severance tax =	13.45%
		16.81%

Combined rate under current law (after July 1, 1991):

Effective Rate -	Flat tax =	3.36%
	Severance tax =	10.09%
		13.41%

COMPARISON WITH NORTH DAKOTA

North Dakota Tax Rate = 77 cents per ton.

At $7.36 per ton - 10.42%
At $5.50 per ton - 14.0%
At $5.00 per ton - 15.4%

COMPARISON WITH WYOMING

State Severance Tax - 8.5% (The base varies according to the Direct Mining Cost Ratio at the particular mine site).

Assume 78% Direct Mining Cost Ratio	**- 6.375%**
- Plus Ad valorum tax (County Property Tax - Campbell Co. = 59.324 mills)	**- 4.45%**
- Plus Sales Tax (4% in Campbell Co.)	**- 4.0%**
	14.825%

Assume 85% Direct Mining Cost Ratio	**- 6.79%**
- Plus Ad valorum tax	**- 4.74%**
- Plus Sales Tax	**- 4.0%**
	15.53%

Without the sales tax:

Assume 78% Direct Mining Cost Ratio	**- 10.825%**
Assume 85% Direct Mining Cost Ratio	**- 11.53%**

3

SENATE TAXATION
EXHIBIT NO. 3
DATE 3/8/91
BILL NO. SB 352

COMPETITIVE ADVANTAGE OF MONTANA COAL

Freight Rates: It is 280 miles shorter to Minneapolis from Montana Coal mines (Decker and Spring Creek).

Assume 1.6 cents per ton mile = $4.48 per ton less frieght.

Assume $8.00 per ton coal before Montana Severance taxes:

MONTANA			WYOMING		
Coal	-	$8.00	Coal	-	$8.00
Tax	-	1.34	Tax	-	.92
		9.34			8.92
			Plus Extra Frieght	-	4.48
					13.40

In order for the Montana tax to price Montana Coal out of the market (Minneapolis and Great Lakes area), we would have to have a tax with an effective rate of 67.5%:

Competitive Wyoming price	-	$13.40
Montana tax ($13.40 - $8.00)	-	5.40
Effective rate ($5.40 /$8.00)	-	67.5%

SENATE TAXATION
EXHIBIT NO. 4
DATE 3/8/91
BILL NO. SB 352

PROGRESS SINCE THE COAL TAX REDUCTION TOOK EFFECT

The first reduction phase took effect on July 1, 1988:

	PRODUCTION	COAL MINE EMPLOYMENT
July 1, 1988	38.9 million tons	1142 employees
July 1, 1989	37.8 million tons	1113 employees
July 1, 1990	35.1 million tons (est)	1102 employees
Jan. 31, 1991	34.3 million tons (est)	1146 employees

Source: Production figures - Montana Coal Council
Employment figures - Montana Department of Labor (the numbers used by the companies to pay workers compensation and unemployment compensation taxes)

SENATE TAXATION
EXHIBIT NO. 5
DATE 3/8/91
BILL NO. SB 352

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 8 day of March, 1991.

Name: Richard C. Parks

Address: Box 196

Gardiner MT

Telephone Number: 848-7314

Representing whom?

NPRC

Appearing on which proposal?

SB-352

Do you: Support? X Amend?_____ Oppose?_____

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

SENATE TAXATION
EXHIBIT NO. 5
DATE 3/8/91
BILL NO. SB352

Northern Plains Resource Council

Testimony of the Northern Plains Resource Council in Support of SB-352

Mr. Chairman, members of the committee, my name is Richard Parks. I own and operate a sporting goods store in Gardiner MT. I appear today as legislative chair of the Northern Plains Resource Council, a grass-roots organization with 14 affiliated citizen groups statewide.

We are standing at the scene of an accident. Miss Montana has just been run over by a coal truck. In first aid class I learned "A", "B", "C"; clear the Airway, check for Breathing and finally check Circulation. Well this is the 50th legislative day and obviously the patient is still breathing, or at least talking, but there is blood everywhere. Make no mistake, in a fiscal sense Montana is bleeding to death. The first aid manual says "stop the bleeding".

The coal companies said, "Lower the tax and production will go up, revenue will stay the same and employment will increase" It didn't happen that way and now the companies claim that their message was "lower the tax to avoid a collapse in production and employment". Production would have had to increase to over 46 million tons to meet the first test but they haven't even made good on the second test as employment is actually down by at least 2.7%.

We hear a lot from the companies about the need for "stability and predictability" in the tax rates. This bill is about giving them what they say they want. Every previous introduction of "instability" has been at the behest of the coal companies themselves. First we got a series of deductions that reduced the real tax rate from 30% to 17.64% and then we got a series of reductions that lowered the statutory rate from 30% to 25% to the current 20% and the projected 15%. This last step will leave us with a real rate of 10%. No wonder Montana looks a little pale.

419 Stapleton Building Billings, MT 59101 (406) 248-1154

"But," say the coal companies, " We have already signed contracts on the basis of the rate going to 15%, Montana can't renig now." There are a couple of things that must be said about that. First, Montana didn't sign those contracts, the companies did. Second, the only price the customer cares about is the price in his yard. That price consists of a number of components, the smallest of which is our tax structure. I would be completely amazed if those contracts specified that an increase in any component of the end price had to be passed on to the ultimate consumer.

There are two obvious places for the companies to look to remain competitive. First there are the coal companies' substantial profit margins. Secondly, the price of a ton of coal delivered to the customer's yard is about \$30 / ton; when it left Montana, after these allegedly onerous taxes, at about \$10 / ton. It should be clear where the companies and their customers should look to make up the mere 35¢ per ton we are asking them to continue paying with this bill.

The only affect achieved by allowing the scheduled reduction to go into operation will be to bleed Montana of \$9.6 million in FY 1992 and a further \$12.5 million in FY 1993. It is time to stop this arterial hemorrhage. Thank you.

Richard C. Parks

Richard C. Parks

Northern Plains Resource Council

SENATE TAXATION
EXHIBIT NO. 5
DATE 3/8/91
BILL NO. SB 352

January 23, 1991

Dear Montana Legislator:

Enclosed is a copy of *Uncertain Fortune*, which updates a study conducted two-years ago by the Northern Plains Resource Council and the Western Organization of Resource Councils entitled *For Future & Current Generations*. The study looks at issues related to natural resource taxation such as whether cuts in minerals' taxation enacted by several Western states two years ago has increased production or jobs; the costs of raiding trust funds; and whether Western states have a stake in cooperating on natural resource taxation policy.

NPRC hopes you find the information useful as you debate these important issues this session. If you have any questions, please feel free to contact either of NPRC's two lobbyists this session, Neva Hassanein or Dennis Olson at 449-6233. We also have additional copies of the original WORC study *For Future & Current Generations* available if you would like one.

Good luck for the rest of the session.

Sincerely,

Richard C Parks

Richard C. Parks
NPRC Vice Chair

419 Stapleton Building Billings, MT 59101 (406) 248-1154

Errata Sheet

January 7, 1990

Uncertain Fortune

Natural Resource Tax Policy in the West, 1988-1990

1. **Table 3, page 15**: The figure for the change in the number of jobs in Montana should be **2.7%**, not **27%.** The corrected table would thus appear as follows:

Table 3

Results of 1987 Changes in Coal Severance Taxes

	Percentage Change, 1987-1989			
	Tax Rate	**Production**	**Revenue**	**Jobs**
STATE				
Colorado	- 40%	+ 21%	- 1.6%	-20.0%
Montana	- 50%	+ 5%	- 23.5%	- 2.7%
N. Dakota	-32%	+ 20%	- 17.2%	NC
Wyoming	- 19%	+ 29%	+12.4%	NC

NC = no change

SENATE TAXATION
EXHIBIT NO. 5
DATE 3/8/91
BILL NO. SB 352

Uncertain Fortune

Natural Resource Tax Policy in the West, 1988 - 1990

*A Report of the **Western Organization of Resource Councils***

THE MONTANA UNIVERSITY SYSTEM
33 SOUTH LAST CHANCE GULCH
HELENA, MONTANA 59620-2602
(406) 444-6570

COMMISSIONER OF HIGHER EDUCATION

TAXATION
EXHIBIT NO. 6
DATE 3/8/91
BILL NO. SB 352

March 7, 1991

Senator Mike Halligan
Senate Taxation Committee
Montana State Legislature
Capitol Building
Helena, MT 59620

Dear Senator Halligan:

The Montana University System supports Senate Bill 352, proposed legislation which will freeze the coal severance rate at 20% and allocate part of the proceeds to coal research and development.

The Universities and Colleges of the Montana University System, particularly through the Bureau of Mines and Geology at Montana Tech and the School of Engineering at Montana State University, have demonstrated a long history of accomplishments in applied and fundamental coal research and characterization. In addition to research programs, the Bureau of Mines maintains a small staff on the campus of Eastern Montana College. These individuals provide an appropriate scientific presence close to the resource area.

Over the past several biennia dwindling funding for coal research has led to an attenuation of the System's ability to provide critical services in support of this industry. Historic programs at MSU and Tech have included (i) drilling and characterization of more than 280 test holes, (ii) detailed lithographic analysis and logging of 25 major coal seams and 26 potential fields over 1,200 square miles of eastern Montana, (iii) numerous industrial conferences and workshops, (iv) analysis of thousands of coal samples for sulfur, moisture and BTU content, (v) development of numerous improvements in techniques for clean and efficient combustion of Montana coal, (vi) development of an active coal-hydrology program focused upon the impacts of the industry on ground and surface water, and (vii) numerous other activities conducted jointly between our campus, in conjunction with the U.S. Bureau of Mines or independently.

8AM

EXHIBIT NO. 7
DATE 3/9/81
BILL NO. SB 352

March 6, 1981

To The Senate-Taxation Committee:

The following ranchers, farmers, business people & concerned citizens are opposed to Senate Bill 352 as we feel it will do nothing more than drive business out of the state.

If it wasn't for traveling 800 miles, we would be there testifying.

Leonard J. Kuntz - Circle MT
Michael R. Johnson - Circle Mt.
Ole Rolandson - Circle mont.
MARK Waller - circle
ALVIN WALLER - Circle
James E. Firch - Box 242 Circle mt
Art J. Wanger - circle
Burton N. Kelly - Circle Box 44
Monica B. Kuntz
[illegible] - Box 56 Circle mt
Bill [illegible] - Box 324 Circle mt.
Arnold Fain - Box 5 Circle mt.
Joyce Schreiner - Box 340 Circle. mt
Thomas R. [illegible] - Box 510, Circle, Mt.
Dorothy Stieg - Box 308, Circle, Mt
Peggy Ames Bostrom - Box 234 Circle, Mt. 59215
Steve Robbins - Box 367 [illegible] mt 59255
Marjory Twitchell - 485-2663
Carl [illegible]
John F. Shannon - BOX 173 CIRCLE, MT

[illegible]	[illegible]
[illegible]	Circle MT.
Richard R. Johnson	Circle, MT
William [illegible]	Circle MT
Cathy Hale	Circle MT.
Timothy [illegible]	Circle, MT
Joanne Beery	Vida, MT.
Edwin Beery	Vida Mt.
John D Murphy	Circle, Mont.
James D Moore	Terry, MT.
Bruce Wright	Wolf Point MT
Joe Pilgrim	Poplar Mt.
Chuck Poloff	Circle, MT
Cindie L. Loberg	Circle, mt.
Sandra Larson	Box S Circle, MT
Sandy [illegible]	Box 576 Circle MT
Anita M. Nagel	Box 387. Circle, mt.
Julie [illegible]	Box 315 Circle Mt
Dennis D. Wolff	Box 533 Circle, MT.
Shonda Hude	SR 367 Box 76. Circle, MT
Jane Rolandson	Box 238 Circle, MT.
[illegible]	STR 232 Box circle mt.
Richard Barbala	
Simeon Thoeny	Box 283 Circle, Mt.

Larry Par McMurrin	Box 97	Jorgomar [illegible]
Arthur J. Almanl	Box 577	Circle mt.
Kenneth Youngquist	Box 153	Circle, Mt 59215
Jay S. Wright	Box 4057	Wolf Point MT 59201
Herb. Sept	Box 71	Brockway mt 59214
Bruce Wagner	Box 214	Circle MT.
Bruce ~~[illegible]~~	Box 128	Circle mt.
John E. Isaacs	Box 375	Circle, Mt.
~~[illegible]~~	Box 527	Circle MT 59215-0527
Jean D. Lund	Box 339	Circle, Montana 59215
Jerry Curtiss	Box L	Circle, Montana 59215
Barbara S. Green	Box 306	Circle, MT 59215

Doris E Shennum	Circle, Mt.
Glenn Bruce	"
Mary Bruce	" "
Nils Brue	" "
Leo Schmidt	" "
Henry Helgen	" "
R. H. Wahl	" "
Duane E. Dahl	" "
~~Kathy Kuntz~~	" "
Larry E. Bruce	" "
Janet Haynie	" "
John Miller	Circle, MT.
Craig L. Solberg	Circle, Mt.
Carol Markuson	Circle, Mt.
~~Joe Paine~~ (PAINE)	Circle Mt.
Lyle Hosaner	Circle MT.
Frank C. Wright	Circle, Mt.
Gus G. Kamp	Circle MT.
Woodrow E. Hawkinson	Circle, Mont.
Fred Thoeny	Brockway Mt.
Aldo Wolff	Circle, Mt.
Bob Kerr	Jordan Mt.
Gene Engen	Circle Mt.
Debbie Sikkelsmo	Circle, Mt

SENATE TAXATION
EXHIBIT NO. 8
DATE 3/8/91
BILL NO. SB 352

A

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 8th day of March, 1991.

Name: Terry A Taylor

Address: P.O 129

Colstrip MT 59323

Telephone Number: 748-3450

Representing whom?

Save our State

Appearing on which proposal?

~~House~~ Senate Bill 352

Do you: Support?_____ Amend?_____ Oppose? X

Comments:

Attached

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

SENATE TAXATION
EXHIBIT NO. 8
DATE 3/18/91
BILL NO. SB 352

GOODMORNING SENATORS:

TERRY TAYLOR
COLSTRIP, MT.

I OWN AND OPERATE A HARDWARE AND DRUGSTORE IN COLSTRIP.

AS MONTANANS, WE ARE FACING THE EVER INCREASING DEMAND FOR STATE FUNDING. OUR EDUCATION SYSTEM NEEDS MORE MONEY, STATE WORKERS NEED A RAISE, WORKMANS COMPENSATION, WELFARE, PARKS,HIGHWAYS. THE LIST SEEMS ENDLESS.

IN THIS DESPERATE SEARCH, LET'S NOT DERAIL ONE OF THE FEW INDUSTRIES WE HAVE GOING FOR US, THE COAL INDUSTRY OF MONTANA.

IN 1975, MONTANA PRODUCED NEARLY AS MUCH COAL AS WYOMING AND THEN WE DECIDED TO TAX THE COAL INDUSTRY OUT OF BUSINESS AFTER FAILING TO LEGISLATE IT TO DEATH. JUST 10 YEARS LATER, IN 1985, WYOMING PRODUCED 100 MILLION TONS PER YEAR MORE THAN MONTANA AND HAS CONTINUED TO WIDEN THAT MARGIN.

IN, 1987 THE MONTANA LEGISLATURE TOOK A STEP TO CORRECT THIS ANTI-PRODUCTION TAX / THIS HIGHEST SEVERANCE TAX IN THE NATION. WE ARE HERE TODAY TO DISCUSS STOPPING THE LAST IN A SERIES OF ROLL BACKS THAT WOULD TAKE THAT TAX TO 15%. I FIND NO ARGUMENT WITH THE OTHER PARTS OF SENATE BILL 352, JUST LEAVE THE 1987 PLAN IN EFFECT.

OPPONENTS OF THE 1987 LEGISLATION SAY WE HAVEN'T HAD ENORMOUS INCREASES IN EMPLOYMENT OR PRODUCTION. WE HAVEN'T DONE ALL THAT BAD CONSIDERING WE HAVE ONLY HAD TWO OF THE THREE PROMISED 5% REDUCTIONS. WYOMING HAS A 15 YEAR HEAD START ON US AND WILL STILL HAVE A LOWER TAX WHEN WE ARE AT 15%.

I HEARD ONE STATEMENT THAT " IT WILL ONLY COST 550 JOBS AND WE CAN RETRAIN THAT MANY PEOPLE FOR NEW CAREERS AND JOBS.." PLEASE TELL

OUR FELLOW MONTANANS, THE MINERS IN ABSORAKEE AND COLUMBUS, THE LOGGERS AND MILL WORKERS IN THE WESTERN PART OF THE STATE, AND THE MEAT PACKERS IN BILLINGS ABOUT THOSE JOBS SO THEY CAN GO TO WORK.

TWO TO THREE HUNDRED OF THOSE MINERS WILL COME FROM THE COLSTRIP AREA ALONE. THESE AREN'T JUST MINERS, THEY ARE FRIENDS AND NEIGHBORS. THEY ARE THE E.M.T.'S, THE VOLUNTEER FIREMEN, THE A.A.U. COACHES, THEY ARE THE PEOPLE OF OUR TOWN, AND MOST IMPORTANT OF ALL THEY ARE MONTANA TAXPAYERS. CAN WE REALLY AFFORD TO LOSE THEM?

Senate 352

STOPPING ~~THIS~~ BILL FROM ~~EVEN~~ COMING OUT OF COMMITTEE, COULD BE THE FIRST STEP IN REVERSING THE ANTI-BUSINESS CLIMATE IN MONTANA. GIVE THE MONTANA COAL INDUSTRY A CHANCE TO COMPETE ON A SOMEWHAT LEVEL FIELD WITH WYOMING. GIVE THEM THE CHANCE TO SHOW WHAT THEY CAN DO FOR MONTANA.

JUST ONCE LETS WORK TO INCREASE THE THE TAX BASE INSTEAD OF TAXES!!

THANK YOU!

SENATE TAXATION
EXHIBIT NO. 9
DATE 3/8/91
BILL NO. SB 352

Testimony of NERCO Coal Corp.

Concerning

Montana Severance Tax Rates

March 8, 1991

Mr. Chairman, and members of the Committee, for the record I am Charles C. Adams, President of NERCO Coal Corp. I am here today to speak in opposition to Senate Bill 352. NERCO Coal owns and operates the Spring Creek Coal Mine in Big Horn County, Montana. In addition, we have a 50% interest in the Decker Mines, also located in Big Horn County.

In 1990, Spring Creek did the following: 1) We produced and sold over 7 million tons of coal. 2) We employed approximately 165 people and had a total payroll of $7.1 million. 3) We paid $7.6 million in severance,[1] gross proceeds, resource indemnity trust and other taxes to the State of Montana and Big Horn County. 4) We also paid $5.1 million in federal coal royalties, half of which are returned to the State by the federal government, and $2.5 million in federal Abandoned Mine Land fees, a sizable percentage of which is returned to the State.

My testimony today will provide our perspective on a number of factors which affect Montana coal. Among the items which I will discuss in the context of the proposed legislation are the status of the current competitive coal market, competition from Wyoming, Spring Creek's experience under current law, and current and potential markets for Montana coal.

The Market

The western coal marketplace today is characterized by low prices for coal

[1]All severance tax figures are after subtraction of the "new sales" tax credit. The 1990 payment will be made in 1991.

sold. Customers evaluate our product both based upon its fitness for the combustion unit it will be used in and upon its economics - either as cost per million BTUs of energy delivered or cost per unit of their product produced.

The coal market is very competitive. For example, we were recently involved in a competitive situation where the winning bid was less than $.005/million BTU delivered ($.10/ton of coal) less expensive than the third place bidder on a 1.5 million ton per year sale. We estimate the delivered cost of coal in this situation to be approximately $23 per ton.

Montana coal must compete with coal from the State of Wyoming as well as coal from other regions of the country and the world. International competition today is not limited to export markets as we are learning quickly. Imported coal can be competitive in the United States where the user is located near tidewater. The supply of coal is in excess of market demand. With respect to the "acid rain law" market where utilities will be forced to reduce sulfur dioxide emissions, we are also competing against other compliance alternatives including eastern low sulfur coal, and scrubber and other technology installation subsidized by the federal government.

Montana coal is at a transportation disadvantage to many markets in the South, Southwest and Midwest. Our coal transportation cost disadvantage must be offset either through lower FOB mine prices or by delivering higher BTU coal. Montana coal is of lower heating value than most eastern low sulfur products.

Aside from suitability for intended purpose, predictable economics dictate the choice of coal by utilities and other customers. And the coal market is extremely competitive.

Wyoming Competition

The portion of the Powder River Basin located in Wyoming is among the most prolific coal producing areas in the entire world. During 1990, the State of Wyoming produced 184 million tons, of which 155 million tons came out of the Powder River Basin. This production total made Wyoming the number one coal producing state in the nation.

Wyoming's Powder River Basin coal competes in many of the same markets as coal produced by the Spring Creek Mine in Montana. Wyoming Powder River Basin coal has a low sulfur content and comes from highly productive, low cost mines.

While there are these similarities to Spring Creek coal, there are also a number of differences. First, Wyoming coal is located geographically closer to many of the major markets in the South, Southwestern and Midwestern United States. This alone makes it difficult for Montana coal to compete given the significant transportation costs in our business. In addition, many of the Wyoming mines are served by two railroads which provide for transportation competition which does not directly exist in Montana. This competition helps to hold down transportation costs which represent the major portion of delivered coal costs. The Union Pacific has also recently indicated that it is investing heavily to upgrade their service in the lower Powder River Basin region in order to capture a larger share of the "acid rain" market. Although

I indicated that Wyoming coal and Montana coal are similar in terms of heating value. Our Spring Creek coal does have a slightly higher BTU content than Powder River Basin coals from Wyoming. This advantage is not enough by itself, in many situations, to make Spring Creek coal the most economic alternative for prospective customers, however.

Finally, Wyoming coal enjoys an advantage in that the taxes assessed on Wyoming coal will still remain lower than those assessed on Montana coal even assuming the complete implementation of the 15% tax in Montana. Exhibits I will submit to the committee demonstrate this for sample prices of Montana and Wyoming coal at varying tax rates.

Spring Creek

The Spring Creek Mine may provide the clearest example of the benefits from the new sales tax credit and from the 1987 legislation which gradually reduced Montana severance tax rates. Prior to enactment of the "window of opportunity" and the phased tax reduction, sales from Montana's mines had become stagnant and utilities purchased only minimum amounts under contracts because of the 30% severance tax rate. To our knowledge only one contract for Montana coal was signed during the time the 30% severance tax was in place and before the 1987 legislation was passed. As intended by the Governor and the legislature when enacting the 1987 tax reduction program, we have seen sales and production at Spring Creek increase from 4.7 million tons per year in 1988 to 7.1 million tons in 1990.

Our severance tax payments to the State of Montana also went up from $3.9 million in 1988 to $5.2 million in 1990. Employment at the Spring Creek Mine has gone from 136 to its current level of 165 people. We expect to exceed the 1990 sales of 7 million tons this year. Spring Creek has the physical capability to produce 10 million tons or more per year.

Let me elaborate for just a moment on the growth at Spring Creek, from 4.7 million tons in 1988 to over 7 million tons in 1990. Approximately half of this growth came from existing customers, both electric utility and other industrial plants. It is important to note that all of the added tonnage from these customers was "new coal" and none was required by then existing contracts. Competitive economics, in part reflecting the Montana coal severance tax reduction, drove these sales. However, key customers of Spring Creek have retained the ability to reduce future purchases significantly if they so choose. In other words, we can go backward as well as forward. The remaining growth came predominantly from short-term sales to Midwestern and Southeastern utilities as far as the State of Georgia. This interest in Montana coal was unheard of prior to enactment of the tax reduction legislation. We have made initial test sales of Spring Creek coal in the international market. All of these sales can go elsewhere very quickly. All of the markets for Spring Creek coal are extremely competitive and even slight changes in the severance tax step-down can be critical.

Utility customers in particular, regard security of supply and predictability of cost as critical to their fuel purchase decisions. Today's marketplace has largely protected itself from increases in the Montana severance tax by leaving options open. Customers indicate that they are unwilling to make significant commitments to Montana coal even now as they learn that legislation is being considered to change the tax program. Placing this issue on the table has already had some negative marketing impacts.

Market Potential

With regard to future markets, it is clear that the provisions of the new Clean Air Act legislation will stimulate an increase in demand for Powder River Basin coal. I have seen estimates in the trade press of perhaps 50 million annual tons of new PRB demand due to the acid rain legislation. Couple this with a growing awareness of PRB coal in the international marketplace, and one might be tempted to conclude that demand will come to Montana regardless of Montana's tax decisions. That conclusion is wrong. The fact is that the producers in both the Montana and the Wyoming portions of the Powder River Basin have large amounts of uncommitted production capacity awaiting any new surge in demand. The actual increases in tonnage sold will flow to those mines and to that state that keeps their overall delivered costs, including taxes, lower than those of their competitors. Given a fair chance, I believe Montana coal can successfully compete for business with coal from other regions. If SB 352 passes, I have a serious concern that Montana coal will remain unsold.

I am distributing two exhibits which I would like to draw your attention to, and which show the relative tax burdens of Wyoming and Montana at the 20% and 15% severance tax level. Although Wyoming's total tax burden on coal will remain lower, the anticipated reduction to a 15% rate will allow Montana coal to remain more competitive.

Summary

The course which the Montana legislature set in 1987 to gradually reduce the severance tax to 15% has been important in marketing Spring Creek coal. We applaud your efforts and believe they are achieving expected results. Prior to the tax reduction legislation, our marketing efforts were severely hampered because our product was competitive in only limited areas. The reductions in the tax have not only made it possible for us to maintain our traditional markets such as the upper Midwest, but have also enabled us to expand our market reach east and south with the potential for further domestic sales as well as potential in export markets as well. If the legislature now chooses to change the tax policy of the State, I believe it will have severely negative effects on our ability to continue to sell Montana coal.

39661

EXHIBIT I

MONTANA SEVERANCE TAX

20% RATE

	Montana	Wyoming
Sales Price	$6.00	$6.00
State Production Taxes		
Severance	.766	.375
Ad valorem (gross proceeds)	.191	.280
Resource Indemnity Trust	.011	
Subtotal	.968	.655
Other Taxes and Royalties		
Federal AML Fee	.350	.350
Black Lung Tax	.253	.253
BLM Royalty	.750	.750
Subtotal	$1.353	$1.353
TOTAL TAX[1]	$2.321	$2.008

1 Comparison excludes local property taxes which are generally higher in Montana.

EXHIBIT II

MONTANA SEVERANCE TAX

15% RATE

	Montana	Wyoming
Sales Price	$6.00	$6.00
State Production Taxes		
Severance	.598	.375
Ad valorem (gross proceeds)	.199	.280
Resource Indemnity Trust	.011	
Subtotal	.808	.655
Other Taxes and Royalties		
Federal AML Fee	.350	.350
Black Lung Tax	.253	.253
BLM Royalty	.750	.750
Subtotal	$1.353	$1.353
TOTAL TAX[1]	$2.161	$2.008

1 Comparison excludes local property taxes which are generally higher in Montana.

SENATE TAXATION
EXHIBIT NO. 9
DATE 3/8/91
BILL NO. SB 352

EXHIBIT I

MONTANA SEVERANCE TAX

20% RATE

	Montana	Wyoming
Sales Price	$6.00	$6.00
State Production Taxes		
Severance	.766	.375
Ad valorem (gross proceeds)	.191	.280
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Subtotal	.968	.655
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TOTAL TAX[1]	$2.321	$2.008

1 Comparison excludes local property taxes which are generally higher in Montana.

EXHIBIT II

MONTANA SEVERANCE TAX

15% RATE

	Montana	Wyoming
Sales Price	$6.00	$6.00
State Production Taxes		
Severance	.598	.375
Ad valorem (gross proceeds)	.199	.280
Resource Indemnity Trust	.011	
Subtotal	.808	.655
Other Taxes and Royalties		
Federal AML Fee	.350	.350
Black Lung Tax	.253	.253
BLM Royalty	.750	.750
Subtotal	$1.353	$1.353
TOTAL TAX[1]	$2.161	$2.008

1 Comparison excludes local property taxes which are generally higher in Montana.

SB 352
Senate Taxation Committee
3/8/91

Good morning, Mr. Chairman and members of the Committee, for the record I am Norman Barthlow, and I appear this morning on behalf of Detroit Edison as an opponent to Senate Bill 352. At Detroit Edison I am Director of Planning and Contracts. In this position, I am charged with all long-term planning and procurement of fuel which includes purchases of coal.

Detroit Edison, located in Southeastern Michigan, serves 1.9 million customers in an area of 7600 square miles. In 1990, we consumed almost 20 million tons of coal of which 55% or 11 million tons came from Montana.

I believe we are the largest single purchaser of Montana coal. This came about by no accident. This position in Montana was the result of Detroit Edison's carefully thought out planning and decisions based on faith, in concert with Montana's forthright efforts to revamp its tax policies on coal. Detroit Edison increased its Montana tonnage from before the inception of the Window of Opportunity through the phase-in of House Bill 252. In other words, from 1985 to 1990, we increased Montana coal by 70% from 6.2 to 11 million tons. Incidentally, during this same period we continued to pay more than $120 million in severance, gross proceeds, and RITT taxes to the State of Montana.

This large increase of Montana coal caused some major disruptions in our procurement of Appalachian coal, some of which we are still grappling with today. Nevertheless, we did not waive from our good faith commitment to the State of Montana. In fact, we also changed the mission of Midwest Energy (a representative of Midwest is also here today to testify on behalf of this mission) from transportation, transloading and storage to include sales, which resulted in combined purchases of 12 million tons of Montana coal last year.

We have invested hundreds of millions of dollars in plant, transloading and transportation equipment to accommodate the use of Montana coal and have taken some extraordinary steps just to keep our tonnage in Montana. As such, we feel we have upheld our side of the bargain and hope that Montana upholds its side also. In the coal business, it is still important we not change the rules of the game because it makes all coal customers including Detroit Edison uneasy. Of all the energy and transportation companies I deal with, the coal industry is still one in which a handshake and obligations are generally honored. I know that if you change the tax structure, we at Detroit Edison, as well as other coal customers, would look long and hard at the business we do in Montana.

If for no other reason, this bill would indicate a change in the rules. This bill would also cost Detroit Edison and its customers more than $3 million additional annually. This might well make coal from either Wyoming or Appalachia more cost effective for us even though transportation costs from Montana on a ton/mile basis, are the lowest in our system. The coal market literally moves on pennies and this could make a difference to us.

In conclusion, I can only hope that you will not change your tax structure because we at Detroit Edison like doing business in Montana. We have appreciated your efforts to more aggressively market your coal and feel that we have been a part of that handshake partnership to the benefit of both of us. We look forward to a rewarding future whereby we can use and help market Montana coal for the benefit of all.

SENATE TAXATION
EXHIBIT NO. 11
DATE 3/8/91
BILL NO. SB 354

TESTIMONY ON JOHN A. ETHEN
PRESIDENT, MIDWEST ENERGY RESOURCES COMPANY
BEFORE THE MONTANA SENATE TAXATION COMMITTEE
ON SENATE BILL 352

MARCH 8, 1991

Good morning Mr. Chairman and members of the Taxation Committee. For the record, I am John Ethen, President of Midwest Energy Resources Company and I appear here in opposition to Senate Bill 352.

I would like to give the committee some background on Midwest Energy Resources Company and then discuss the effect that Senate Bill 352 may have on our operations and Montana Coal.

Midwest Energy Resources Company is a wholly-owned subsidiary of The Detroit Edison Company given the primary responsibility of managing the transportation system for western coal which is purchased by Detroit Edison. As a part of the transportation system, we operate a coal transshipment facility at Superior, Wisconsin, where coal trains are unloaded and vessels are loaded for transportation of the coal to the appropriate generation sites of Detroit Edison. We also operate a fleet of aluminum railcars used by the railroads to transport western coal. While the purchase of these rail cars involves an up-front capital expenditure, it nevertheless results in a more favorable transportation cost to us and allows us to be more competitive in the marketplace.

Last year at our Superior facility we handled 12.4 million tons of coal, of which approximately 11.8 million tons came from Montana. Of the 11.8 million tons of Montana coal, our parent company, Detroit Edison, took 10.7 million tons. This makes Detroit Edison the largest single purchaser of Montana coal. There is a representative here today from Detroit Edison who will testify on their behalf.

Our operating cycle is one in which an average of three trainloads of coal are delivered each day to our Superior facility and vessels are loaded throughout the year with the exception of approximately three months each winter when the Great Lakes shut down because of ice. The Montana coal that we have shipped comes from five mines: Spring Creek, Decker, Westmoreland, Western Energy and Meridian Minerals.

Approximately two years ago, Midwest Energy entered into a joint venture arrangement with NERCO Coal Sales and formed a joint venture called Venture Fuels which was given the mission of marketing western coal. So I appear here this morning wearing three hats: 1) we handle coal, 2) we buy coal, and 3) we sell coal. At present the coal we handle is primarily Montana coal, and we would like to continue doing business in this fine state.

As a person who is trying to sell coal, I am very familiar with the coal market. It is a very competitive and without question the main factor determining whether a company will purchase coal through us is whether or not we can provide the lowest delivered price. In the coal business the first rule of combustion is that the cheaper coal burns first. Contracts are won or lost on less than five cents per ton delivered.

I would also like to advise the committee that there is a potential for new markets originating from our terminal and that this potential business should be to the benefit of Montana coal because of its relative location to our terminal. During the last year we have sold or handled approximately one million tons to such concerns as Wisconsin Electric Power, Ontario Hydro, Consumers Power, Cyprus Minerals, Marquette Board of Light and Power, General Motors and other industrial users. In order to keep or expand the business, our delivered price needs to be competitive; and we can be competitive with your help.

We are presently submitting proposals to other coal consumers including eastern utilities and an entity in Spain. Quite clearly, our competition on the Spanish purchase is Wyoming coal through the Gulf. All the entities involved in this potential Great Lakes export movement have been very competitive in their pricing but we note that Wyoming is considering reducing their tax on export coal. If that were to happen and Montana were to raise its coal tax, we will not be successful because the major consideration for the purchaser is delivered price.

A Canadian utility also has the potential to be a significant customer in the next couple of years and we are delivering coal to them for test burns. Montana coal has worked very nicely in those test burns. This could be a very exciting market for Montana coal and because of Montana's proximity through our terminal to this market, its coal should have some advantages. Our proposals to this customer, as well as all other concerns, are based upon the tax going to fifteen percent and staying there. If you were to raise the tax, it might well eliminate Montana coal from consideration. In any event, the potential customer has discussed an escape clause to protect himself in the event that the tax goes up.

Our hope is that our Superior facility will be able to expand the yearly coal handling to between 18 and 20 million tons a year which will require a major capital expenditure. I hope that with your help and Montana's support that we can do it and can do it with Montana coal. If the tax is changed, it would affect our operations and affect what I consider a good future for expanding the sale of Montana coal. Our company is aggressively trying to market Montana coal and I hope you will assist us in this effort.

As you can guess, my recommendation to you is that if you want Montana coal to be a part of these potential markets, and equally important, if you want to keep purchases at their present level, then you must not change the tax picture.

This brings me to another concern which purchasers have about Montana coal - and that is the tax environment. I cannot emphasize enough to you that pricing stability is very important in this business and many prospective purchasers have the impression that Montana's tax picture is very unstable. This is obviously evidenced by their request for escape clauses because of taxes. We attempt to explain that Montana's taxes are not as unstable as they may think and that actually the State has dramatically changed its posture on taxes in a very favorable way. We generally are successful but it is a hurdle that Wyoming coal does not have. The introduction of Representative Davis' bill to raise the tax to 40% and the bill which you have in front of you does not help our case. In fact, it has raised a number of questions from potential customers.

Further, Montana coal has some quality concerns that are not evident in Wyoming coals. Specifically, the high Btu Montana coals are also higher in sodium which has the potential to create problems in boilers. Detroit Edison has been and continues to be prepared to deal with this, but other potential purchasers are more skeptical and it is a serious problem for us to overcome in many instances. Often times one needs to be more competitive with Montana coal because the user perceives a risk in using a high sodium coal.

Briefly discussing the cost of coal delivered, the lowest component in the delivered price is the operation of our facility at Superior. We have kept the cost and charges the same or lower over the last several years and hoped to remain competitive by not raising our charges but increasing our volume. I can't emphasize enough the importance that every component of the delivered price is important. If one component of the delivered price is out of line, then the chance of success for the total proposal is very questionable.

In most cases, the second lowest cost component is taxes. Obviously, Wyoming does have an advantage in this area but because of our operation and because of the relative distance of the Montana coal fields to our facility we feel that Montana can continue to be competitive if the taxes are left alone.

Of course, the major cost component is the transportation element and for us Montana has an advantage but not one that cannot be overcome. Last year, Detroit Edison moved two million tons of Wyoming coal all-rail through Chicago and regretfully, not through our facility. This is the first year that significant tonnage has moved from Wyoming and price was the determining factor. Since I am responsible for the success of the Superior terminal, I would just as soon not see that happen and I hope Montana would have the same concerns as I have.

I would also like to make it clear that I am not here to threaten anyone and try and pit the State of Montana against the State of Wyoming. We will live with whatever decision you make, but if Wyoming coal turns out to be cheaper than Montana coal on a delivered basis, you will see tonnage moving to Wyoming.

Thus in conclusion, I can only say that I hope that you defeat Senate Bill 352 and not make any changes in coal taxation so that we at Midwest Energy Resources Company and Venture Fuels can continue to find further markets for Montana coal. We enjoy doing the business in the state and understand part of your plight. I only wish we could say that we will gladly pay more in taxes and still be able to expand markets for you, but the reverse will be true and obviously, that is not good for Montana or Midwest Energy Resources Company. We could both lose if there are adverse changes in coal taxation.

SENATE TAXATION
EXHIBIT NO. 12
DATE 3/8/91
BILL NO. SB 352

COMMENTS OF MINNESOTA POWER ON SENATE BILL 352 SENATE TAXATION COMMITTEE HEARING MARCH 8, 1991

Mr. Chairman and members of the committee, my name is Jim Roberts and I appreciate this opportunity to present comments on behalf of Minnesota Power.

Minnesota Power is a diversified electric utility and is headquartered in Duluth, Minnesota. We are the primary purchaser of coal from the Big Sky Mine which is operated by the Peabody Coal Company. We have had an agreement with Peabody since 1968 and for several years have purchased almost all of Peabody's production.

My company's contract with Peabody expires in 1993 and while we have worked well with Peabody and want to continue to do business with them in the future we must purchase our coal from the lowest cost producer. If that producer is Peabody, we will do business with them. If that producer is another coal company we will do business with them. Your actions will in a large part determine the price of Montana Coal for Minnesota Power and in so doing may determine how much, if any, coal Minnesota Power purchases in Montana.

The electric utility industry has become very competitive in recent years. There are Independent Power Producers who are willing to serve our customers if they can beat our prices. Our customers, which are iron mining companies and forest product companies compete with other countries including Brazil, Germany, Finland and others in a world economy. If we are going to help them remain competitive and in business our goal must be to keep our prices as low as possible. I should also point out that our Public Utilities Commission is very diligent and requires us to make prudent purchases. One of those purchases is coal and as a result we must purchase from the lowest cost producer whether it be in Montana or Wyoming.

As you know, Senate Bill 352 would freeze the severance tax at 20 percent. We at Minnesota Power believe this is a bill, that if passed would undermine the competitiveness of Montana Coal. By freezing the severance tax at 20 percent, this would increase Minnesota Power's cost of doing business in Montana by almost $ 2 million over what it would be at the 15 percent level.

Senate Bill 352 also raises questions about the stability of Montana's tax policies. Stability is important to the business community and it was for that reason we supported the 1987 legislation that in time would reduce the tax rate while promising increased coal production. The action taken in 1987 was appropriate and that deal should be upheld by the state.

Minnesota Power supports the deal that was agreed to in 1987 and would urge this committee to reject Senate Bill 352 as well as any other tax increase regardless of how it is calculated. A tax is a tax and the more taxes that are added onto the cost of a ton of Montana coal makes Montana coal less competitive. If Montana coal is not competitive it translates into a loss of revenues to the state and jobs for its people. Again we urge you to reject Senate Bill 352.

SENATE TAXATION
EXHIBIT NO. 15
DATE 3/8/91
BILL NO. SB352

Mr. Chairman & members of the Committee

MY NAME IS MARILYN FERGUSON. I LIVE ON A RANCH WITH MY HUSBAND AND THREE (3) CHILDREN AT KIRBY, MT IN BIG HORN COUNTY. I AM AN EMPLOYEE AT SPRING CREEK COAL COMPANY located at Decker MT. I WOULD LIKE TO ADDRESS SOME OF THE CHANGES THAT HAVE OCCURRED AT SCC AS A RESULT OF THE CHANGE IN THE COAL SEVERANCE TAX.

THE PRODUCTION FOR THE YEAR 1988 AT SCC WAS ABOUT 5.5 MILLION TONS. IN 1990, PRODUCTION HAD INCREASED ALMOST 30% TO MAKE 7 MILLION TONS.

IN THE FALL OF 1987, THERE WERE 137 EMPLOYEES AT SCC. AT THE PRESENT TIME THE NUMBER OF EMPLOYEES HAS INCREASED ALMOST 25% TO MAKE 168 EMPLOYEES AND THE MINE IS BUDGETED TO ADD 4 MORE EMPLOYEES IN THE NEAR FUTURE.

IT IS MY UNDERSTANDING THAT MOST OF THIS INCREASE IN PRODUCTION AND, THEREFORE, THE INCREASE IN EMPLOYMENT, IS DIRECTLY A RESULT OF THE <u>DECREASE</u> IN THE SEVERANCE TAX.

NOW, I WOULD LIKE TO SPEAK FOR A MOMENT ON MY PERSONAL EXPERIENCE AS A RANCH WIFE AND COAL MINE EMPLOYEE. WHEN I WENT TO WORK AT SCC IN MARCH 1984, THE CATTLE INDUSTRY IN MONTANA WAS IN A SHAMBLES FROM DROUGHT AND LOW PRICES. MY JOB AT SCC NOT ONLY PROVIDED ME EMPLOYMENT BUT ALSO CONTRIBUTED GREATLY TO THE FINANCIAL STABILITY OF OUR RANCH DURING SOME VERY TRYING TIMES.

SENATE TAXATION
EXHIBIT NO. 13
DATE 3/8/91
BILL NO. SB 352

I WOULD HOPE THAT BY KILLING THIS ATTEMPT AT RAISING THE SEVERANCE TAX THAT YOU WILL HELP INSURE OUR FAMILY RANCH'S FINANCIAL STABILITY IN THE FUTURE.

THANK YOU FOR GIVING ME THIS OPPORTUNITY TO SPEAK.

State of Montana
Office of the Governor
Helena, Montana 59620
406-444-3111

SENATE TAXATION
EXHIBIT NO. 14
DATE 3/8/91
BILL NO. SB 353

TED SCHWINDEN
GOVERNOR

April 6, 1987

The Honorable Robert L. Marks
Speaker of the House
State Capitol
Helena, MT 59620

The Honorable William J. Norman
President of the Senate
State Capitol
Helena, MT 59620

Dear Representative Marks and Senator Norman:

In accordance with the power vested in me as Governor by the Constitution and the laws of Montana, I hereby return House Bill 252 "A BILL FOR AN ACT ENTITLED: "AN ACT LOWERING COAL SEVERANCE TAX RATES; IMPOSING IN 1991 A SLIDING SCALE RATE SCHEDULE FOR SURFACE-MINED SUBBITUMINOUS COAL BASED ON THE AMOUNT OF COAL PURCHASED; REVISING LEGISLATIVE FINDINGS AND DECLARATIONS OF PURPOSE; AMENDING SECTIONS 15-35-101 THROUGH 15-35-104 AND 15-35-202 THROUGH 15-35-204, MCA; AND PROVIDING AN EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE." without my signature and recommend the attached amendments.

Two years ago, I challenged Montana's coal industry to demonstrate that a lower coal severance tax would be an incentive for increased production and new contracts. The industry met the challenge. Despite a soft coal market, Montana producers secured a major long-term contract and sold over four million additional tons on the spot market. The signers of the long-term contract said the 20% tax rate created by the "window of opportunity" credit made Montana's coal competitive, allowing a Montana producer to compete directly against several Wyoming producers and win a 20-year, multi-million-ton contract.

Based on the success of the 1985 credit, I proposed to the 1987 Legislature a continuation of the "window of opportunity" credit and the phasing down of the tax rate on all Montana coal to 20% by July 1, 1990.

While Montana coal producers agree that the 20% tax rate helped win a contract and increased production during the last two years, they now argue that changes in the energy market--decreased demand for coal and low prices--make a 15% tax rate necessary to keep Montana coal competitive and Montana miners working.

Once again, I say--"prove it." These amendments create a second "window of opportunity"--a renewed challenge to the producers, purchasers, and shippers of Montana coal to demonstrate during the next two years that increased production and jobs will result from a 15% incentive tax rate on additional tons of coal. The Montana Coal Council--which represents all Montana's producing mines and the major buyers of Montana coal--has told the legislature that the 15% rate on additional coal has the potential to bring at least 5.2 million tons of additional production per year, which represents 200 jobs in Montana coal mines and 1,200 additional jobs in related rail and secondary industries.

If the Montana coal industry utilizes the 15% incentive rate to sell more coal than in recent years, we will lower the tax rate for all coal to 25% on July 1, 1988, to 20% on July 1, 1990, and to 15% by July 1, 1991. This challenge is the best guarantee to Montana miners and Montana citizens that the coal industry will translate predictions into reality. If the 15% incentive rate does not create additional tonnage, the scheduled reduction to 25% in FY89 and to 15% in FY92 would not take place. The 1989 Legislature can re-examine, based on the evidence provided during this second "window of opportunity," the rate at which Montana coal should be taxed in the future.

Some coal miners have argued that a 5% incentive tax rate--or no tax at all--is needed to keep Montana coal competitive. I reject that argument. Montana's coal industry and its customers assure us that a 15% tax rate can produce 5.2 million additional tons and 200 mining jobs. There is no solid evidence that a still lower tax rate would bring more production or create more jobs, but a "bargain basement" rate would give away badly needed revenue and potentially ignite a no-win "tax war" with Wyoming.

I urge your concurrence on these amendments.

Respectfully,

Ted Schwinden

TED SCHWINDEN
Governor

Governor's Amendments to HB 252

These amendments provide:

1. A 15% "window of opportunity" for additional coal sold during 1987 and 1988. This two-year "window" will allow Montana producers the opportunity to demonstrate that this lower tax rate will increase production in the short-run and provide solid evidence for future legislatures to determine the most appropriate long-term coal severance tax rate.

2. An incentive to recapture "Prodigal Tons". HB 252 increases the number of tons of coal eligible for the "window" credit by defining incremental coal as the lesser of 1986 production or current law. The Governor's amendments retain this broader definition, providing a significant incentive for purchasers to return "prodigal tons" to Montana. Under current law, Northern States Power gets the "window credit" only for purchases in excess of 6.8 million tons. HB 252 will allow the credit (a 15% tax rate) for all purchases in excess of 3.4 million tons.

3. A lower tax rate for all coal provided the "target" outlined below is met. The amendments would lower the tax rate for coal under existing contracts to 15% by July 1, 1991:

FY88	30%	FY90	25%
FY89	25%	FY91	20%
		FY92 and beyond 15%	

As a matter of practicality, the 1989 legislature will determine what the appropriate rate for the coal severance tax should be in the future, based on the success of the 1987-88 "window of opportunity."

The majority (over 90%) of current contracts come up for renewal after 1992.

4. <u>A target in FY88 -- a challenge to the coal Industry</u>

Industry has said that a 15% tax incentive has the potential to produce 5.2 million additional tons per year and keep an additional 200 miners employed. The amendments challenge the coal industry to make these predictions a reality by meeting a target. If coal sales in FY88 with the 15% incentive rate exceed 32.2 million tons (the average of production for calendar years 1983-1986), then the scheduled tax reduction to 25% in FY89, 20% in FY91, and 15% in FY92 for <u>all</u> coal is implemented. If, however, the Coal Council's predictions do not materialize and total coal sales fall below this target, the tax rate on current production stays at 30% for FY89 and the scheduled reduction to 15% in FY92 does not occur. The tax rate in FY90 would be 25% and 20% in FY91 and beyond, if the target is not met.

To ensure that utilities' mechanical problems do not prevent the coal industry from meeting this challenge, the amendments provide a "catastrophic" clause. If a facility that burns Montana coal does not operate during part of FY88 due to mechanical failure, the Department of Revenue calculates the average monthly sales during the period it was operating, multiplies the average by twelve, and includes the annualized number in the total sales figure for FY88.

Production for the first two months of 1987 totalled 5.19 million tons -- during a period in which <u>no</u> "window of opportunity" credit for spot sales is in effect. If it continues at this rate, the CY 1987 production would exceed 31 million. To meet the target set in the amendments, Montana producers would have to prove that a 15% tax incentive will cause sales to exceed 32.2 million tons -- less than 4% above current production levels.

SENATE TAXATION
EXHIBIT NO. 15
DATE 3/8/91
BILL NO. SB 352

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 8th day of March, 1991.

Name: MARK Richardson

Address: P.O. Drawer 910

Miles City MT

Telephone Number: 232-3462

Representing whom?

City of Miles City

Appearing on which proposal?

SB 352

Do you: Support?_____ Amend?_____ Oppose? X

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

CITY OF MILES CITY

P.O. Drawer 910
Miles City, Montana 59301

(406) 232-3462

EXHIBIT NO. 15
DATE 3/5/91
BILL NO. SB 353

"Cow Capital of the World"

CITY MANAGER:
Mark Richardson
COUNCIL PERSONS:
Laurence Torstenbo
Mike Metzenberg
George W. Huss
Connie Clarke
Carla Martenson

March 5, 1991

Senate Taxation Committee
Capitol Station
Helena, MT 59620

Dear Committee Members,

I am writing this letter at the request of the City Council of Miles City.

On January 22, 1991, the City Council unanimously voted to oppose any effort to increase the coal severance tax or to cancel or delay the implementation of the final phased reduction of the tax scheduled for July 1, 1991.

It is the opinion of the City Council of Miles City that the proposed legislation to increase the coal severance tax or interfere with the scheduled reduction would be extremely detrimental to the already poor economy of eastern Montana. The scheduled reductions have, in fact, resulted in increased production of Montana's coal and a failure to implement the final phased reduction would be a breach of faith by the State of Montana.

The construction of the proposed Tongue River Railroad, which will have a significant beneficial impact on the economy of our area, is jeopardized by efforts to raise the coal severance tax.

Your efforts in opposing any attempts to increase the tax or allow the scheduled reduction will be greatly appreciated by the citizens of eastern Montana.

Sincerely,

Mark L. Richardson

Mark L. Richardson
City Manager

SENATE TAXATION
EXHIBIT NO. 16
DATE 3/8/91
BILL NO. SB 359

A RESOLUTION OF THE MILES CITY
AREA CHAMBER OF COMMERCE

WHEREAS, the purpose of the 1976 enactment of the thirty percent (30%) coal severance tax was to slow anticipated coal production growth because of the fear that the social fabric and community infrastructure in eastern Montana would be overwhelmed by coal industry growth; and

WHEREAS, the high severance tax achieved its purpose of restricting the growth of the coal industry in Montana in that coal industry growth that could have been enjoyed in Montana was diverted to the State of Wyoming; and

WHEREAS, in 1975, Montana's coal production, at 22 million tons, was nearly equal to Wyoming's (23.8 million tons). Ten years later, Wyoming's production increased seven fold (to over 140 million tons), far outstripping Montana's 40 percent increase (to 33.1 million tons); and

WHEREAS, the 1987 legislature decided to attempt to rescue Montana's foundering coal industry by phasing down the severance tax to 15 percent; and

WHEREAS, the tax reductions granted thus far in the 1987 tax phase down bill have stimulated production levels that would not have been achieved without the reductions and therefore, more jobs and tax revenues have been created for the State; and

WHEREAS, the final reduction in the severance tax scheduled for July 1, 1991, should, by making Montana's coal more competitively priced, maintain and stimulate production, jobs and tax revenue; and

WHEREAS; an increase in the severance tax or a failure to implement the promised final increment of the phased reduction would be a breach of faith by the State of Montana with coal customers supporting Montana's coal industry and would greatly exacerbate Montana's anti-business reputation; and

WHEREAS; Montana's coal production taxes, even after the final phased reduction in July 1991, will still be approximately 50 percent higher than Wyoming's and will also remain the highest coal severance tax in the nation; and

WHEREAS; a failure to allow the scheduled reduction in coal severance tax could have a detrimental impact on the construction of the Tongue River Railroad which will be of significant beneficial impact to Miles City's economy;

NOW THEREFORE, LET IT BE RESOLVED THAT:

The Miles City Area Chamber of Commerce does hereby proclaim that it opposes any effort to increase the coal severance tax or to cancel or to delay the implementation of the final phased reduction of the tax scheduled for July 1, 1991; and

The Executive Director of the Chamber of Commerce is instructed to inform the legislature of the State of Montana and the Governor of the State of Montana of the Chamber of Commerce's position on said tax issue, respectively requesting the legislature to take no action that increases the coal severance tax or cancel or delay the implementation of the final phased reduction scheduled for July 1, 1991.

Michele Simpson

Michele Simpson, President
Miles City Area Chamber of Commerce

SENATE TAXATION
EXHIBIT NO. 17
DATE 3/8/91
BILL NO. SB 352

COMMENTS OF PEABODY COAL COMPANY
ON SENATE BILL 352
SENATE TAXATION COMMITTEE HEARING
MARCH 8TH, 1991

My name is Dennis Eggemeyer, and I appreciate this opportunity to present these comments on behalf of Peabody Coal Company.

Peabody Coal Company is the owner and operator of the Big Sky Mine in Rosebud County. The Big Sky Mine has been producing coal in Montana since 1968, and produces approximately 3.4 million tons annually. In addition to the Big Sky Mine, Peabody also owns or controls substantial undeveloped coal reserves in Montana. Peabody has a substantial and long term investment in Montana, and Peabody and its employees have an important stake in the future of the Montana coal industry.

While the Big Sky Mine is not a particularly large coal mine by Powder River Basin standards, Peabody and its employees are proud of the significant economic contributions by that mine to the state and local economies. The Big Sky Mine has approximately 90 employees and a total payroll of about $5 million annually. The average Peabody miner at Big Sky earns approximately $53,000 per year, including fringe benefits. The value of goods and services procured by that mine is approximately $5 million annually.

The economic importance of this mine, of course, is multiplied as the economic activity engendered by the mine works its way through the local economy. This, of course, is true of the coal industry in general in Montana. In Peabody's view, the Montana coal industry is a vital and beneficial part of the Montana economy and Peabody is proud to be part of it.

Too often discussion of the coal industry in Montana misses this point by focussing narrowly on that industry as a convenient source of tax revenues. The real value to Montana of mines such as the Big Sky Mine is in the stable jobs, the payrolls and the related economic activity these mines generate. The real loss to Montana from a decline in this industry would not be the loss of the future severance taxes, but the loss of these jobs and this economic stimulus in the local economy.

It is ironic that while states often implement aggressive and ambitious programs to attract new industry, insufficient attention is given to fostering and strengthening those industries already established and contributing to the state's economic well being.

The proceedings of this committee are of particular concern to Peabody and its employees, as the level of the severance tax is a substantial cost of mining coal in Montana and has a direct impact on the ability of a Montana coal producer to compete in the marketplace.

In 1990 the Big Sky Mine paid approximately $5.2 million in Montana coal severance taxes alone. Please note that this amount is greater than the annual payroll or the payments for goods and services. In other words, the Big Sky Mine pays more to the State of Montana in severance taxes alone than it pays to the people whose labor produces the coal. It is not surprising that it is difficult for a Montana coal mine to compete in today's competitive environment while also carrying this inordinate tax burden.

The primary customer of the Big Sky Mine is Minnesota Power, an electrical utility located in Duluth, Minnesota. The Big Sky Mine has been the principal source of coal for Minnesota Power under a long term contract since 1968. However, that contract will expire at the end of 1993. Peabody is hopeful that an agreement for follow-on business with Minnesota Power can be reached or that other customers can be found, and Peabody is working earnestly toward that goal. But the market is very competitive and there is no assurance that goal will be achieved. Peabody presently has no contracts for coal sales after that date, and if it is unable to obtain them that mine will close.

Potential consumers of coal produced at Big Sky, such as Minnesota Power, now have a number of options available, including coal supplies from Wyoming. Unlike the procurement practices of the early 1970's, the present practice of utilities is to purchase a larger portion of their coal requirements on a spot market basis or under shorter term contracts. This practice allows the utility to respond quickly to price differences between coal producers and in particular between Wyoming and Montana producers. The days are long gone when Montana could expect that its severance tax burden would be simply passed on by the coal producer to its utility customer. Utility coal buyers are very aggressive in their efforts to obtain their fuel supply at the lowest possible price.

In 1987 Montana faced up to the fact that future of the Montana coal industry, an important part of Montana's economy, was at risk. While the coal industry in general was growing, the coal industry in Montana was projected to decline and the broad economic benefits of this industry could be lost. The excessive severance tax imposed on this industry was unquestionably the leading factor in this decline. The Governor and the Legislature properly recognized that the tax policies of the mid '70s were not appropriate in the present competitive marketplace. The Legislature, with wide bipartisan support and the support of the Governor, responded by reducing the then 30% severance tax rate to 15% by a phased in reduction. Peabody supported that legislation then and does now as a necessary measure to preserve and enhance the coal industry in this state. The judgment of the Legislature was correct in 1987, as subsequent events have shown, and is correct today.

This 1987 legislation held out to Montana producers and their customers the promise that in time the severance tax rate would be reduced to a more sensible level of 15%. This legislation also raised the expectation among producers and coal consumers that the state of Montana was committed to making Montana a reliable and competitive source of coal in the future.

Senate Bill 352, which would freeze that tax at 20%, would undermine the future competitiveness of Montana coal and the prospects for continued growth and development of the Montana coal industry.

Senate Bill 352 also raises questions about the reliability and predictability of Montana severance tax policies. Even at 15%, the severance tax is a substantial burden on coal production in Montana. But in any event the investments by coal operators and the commitments by coal consumers which are necessary for the Montana coal industry to continue and grow are not likely to be made in an environment where a government policy as significant as the severance tax is likely to be a matter of continual debate and reconsideration by the Legislature.

In short, the action taken in 1987 was sound and appropriate, and there is nothing to be gained by its reconsideration now.

Peabody supports the broad based and sensible decision in 1987 to phase in a severance tax reduction to 15%. Nothing has occurred to question the wisdom of that decision and Peabody urges this Committee to continue with that course and reject Senate Bill 352.

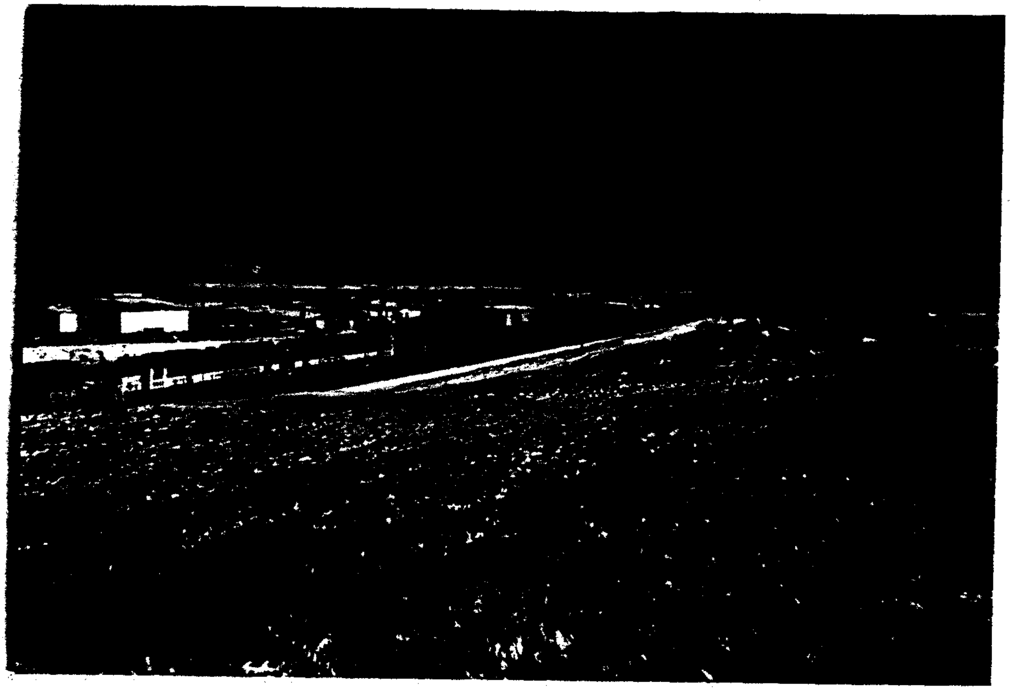
EX#18 SB352
3/8/91 SEN. TAX

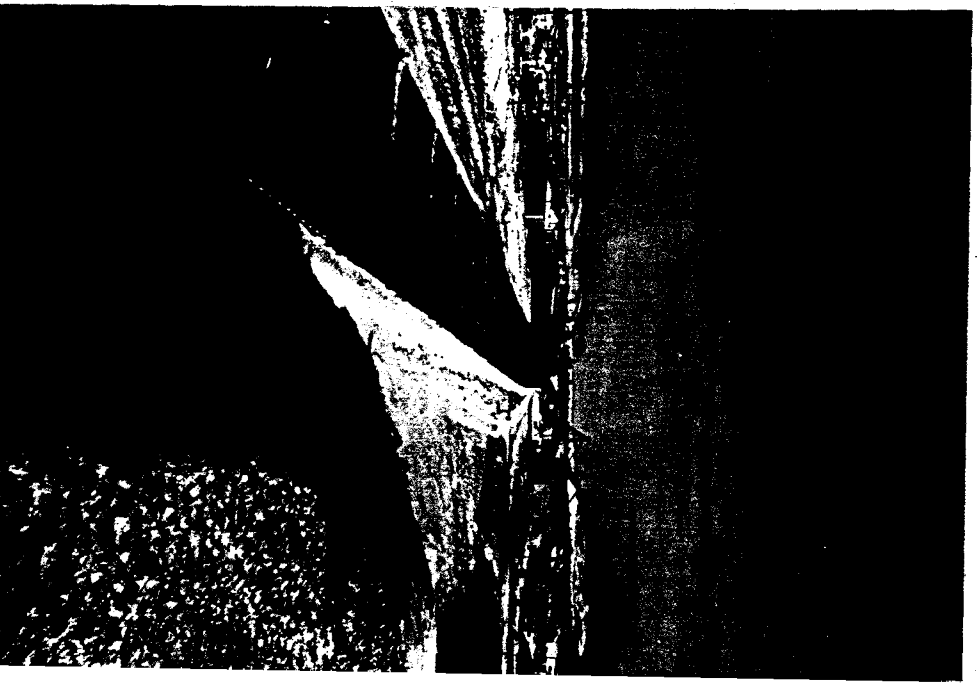
Helena
1-28-91

EX #18 3/8/91 SB 352 SEN. TAX

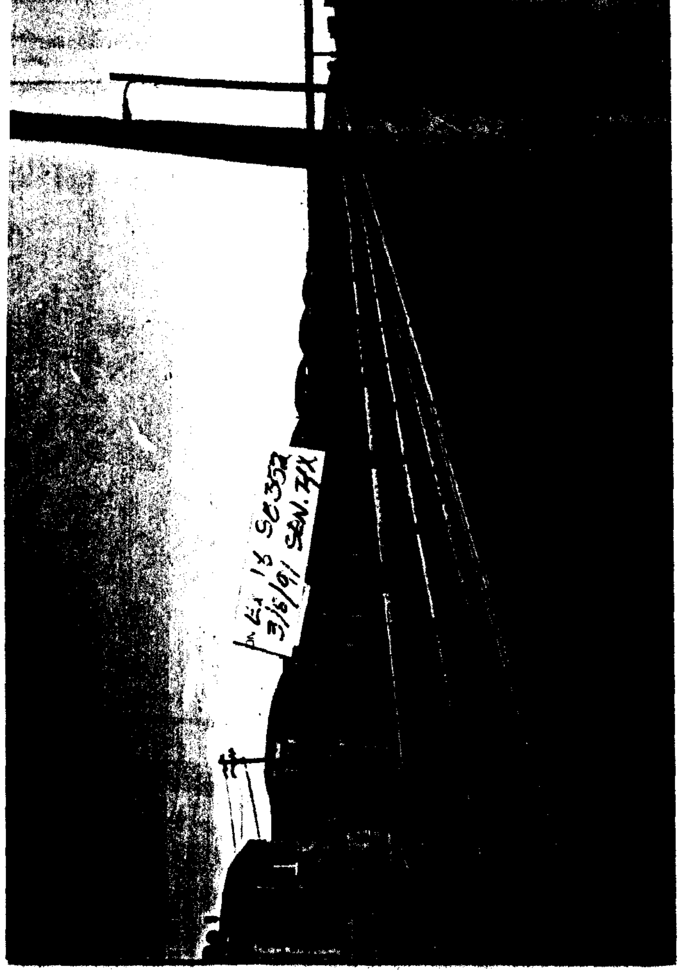
Helena
1-28-91

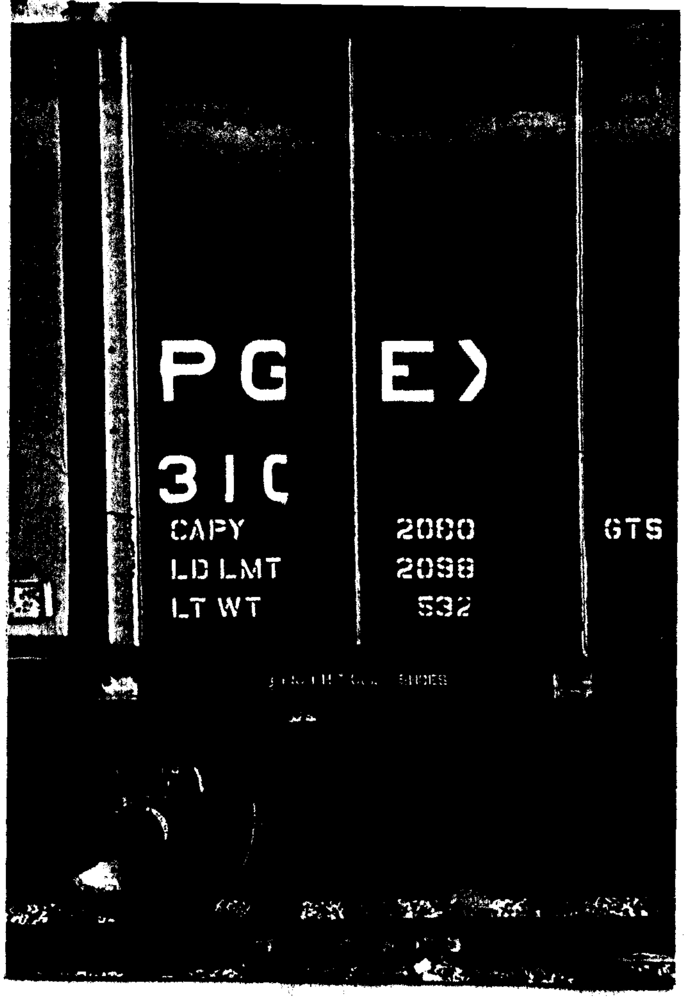
EXHIBIT #18 SEN. TAX
3/8/91 SB352





Helena
1-28-91





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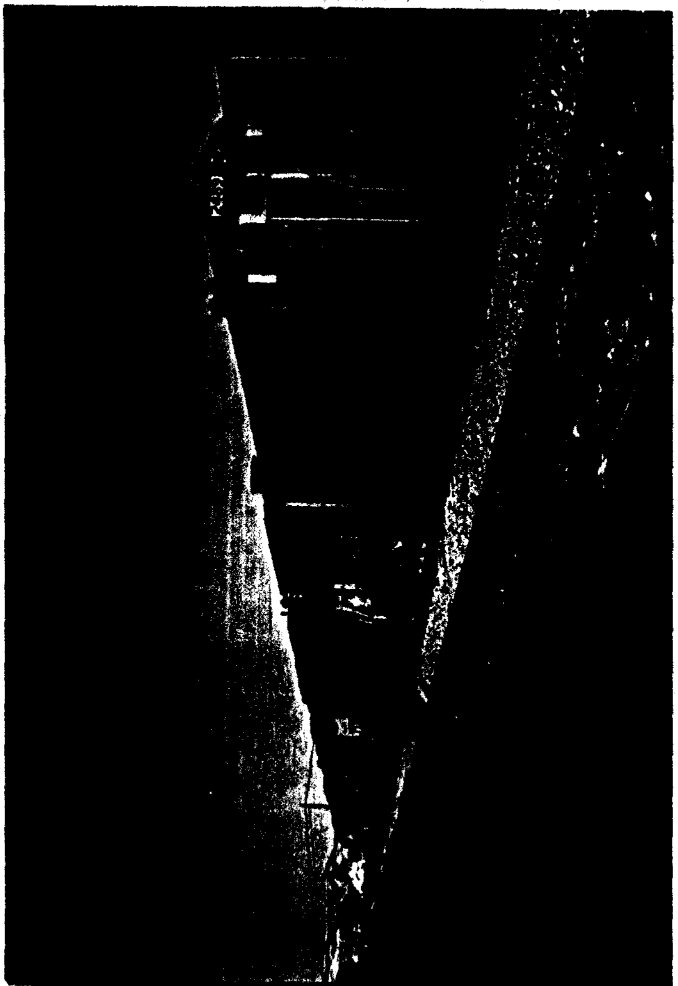
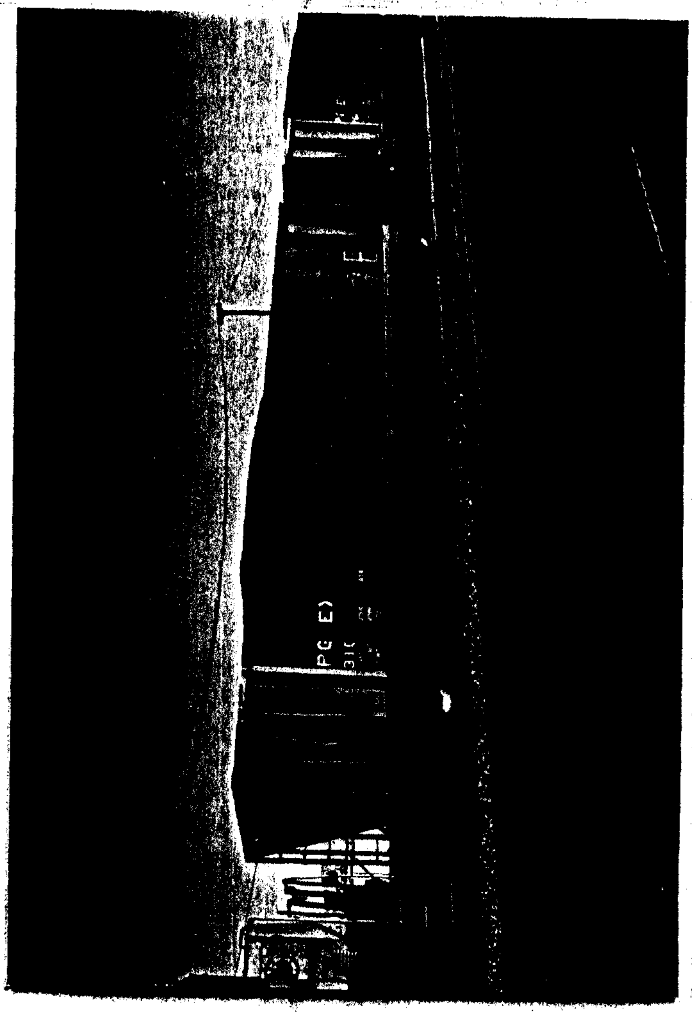




BILLINGS
AREA CHAMBER OF COMMERCE®

SENATE TAXATION
EXHIBIT NO. 19
DATE 3/8/91
BILL NO. SB 352

March 8, 1991

Chairman Mike Halligan
Senate Taxation Committee Members
Capitol Station
Helena, MT 59601

Re: Testimony in Opposition to SB352

Dear Chairman Halligan:

The Board of Directors of the Billings Area Chamber of Commerce wishes to appear in opposition to this legislation which will freeze Montana's coal severance tax rate at 20%. We feel that commitments were made by this legislature and the administration of Governor Ted Schwinden that this rate would be lowered to 15% if certain production targets were met. Coal producers in this state have met this challenge. We feel that any alteration in this plan undermines the integrity of the previous legislative process and will have serious negative impacts on coal development in our state.

The Billings community has benefitted in the past from responsible coal exploration and production in Eastern Montana. Continued support of this scheduled reduction in the tax rate will continue these benefits for all of Montana.

We strongly urge your defeat of SB352.

Sincerely,

Alvin L. Swanson, Jr., Chair
Board of Directors
Billings Area Chamber of Commerce

815 So. 27th St. • P.O. Box 31177 • Billings, MT 59107-1177 • (406) 245-4111 • FAX (406) 245-7333

SENATE TAXATION
EXHIBIT NO. 20
DATE 3/8/91
BILL NO. SB 352

Montana Senate Taxation Committee
March 8, 1991
Helena, Montana

From: Louis P Matis, Manager - Fuel Resources Department
Northern States Power Company
Minneapolis, Minnesota 55401

We wish to provide testimony and comment on Montana Legislative Senate Bill 352 (SB352). The purpose of this legislation as we understand it is to freeze the reduction in the coal severance tax at 20%. This is in contrast to previous Montana legislation that was to reduce the coal severance tax to 15% by July 1991. NSP will go on record as opposing SB352.

Northern States Power (NSP) has been buying coal from the state of Montana since 1973. We were one of the first utilities to use Powder River Basin coal and were instrumental in opening the Westmoreland facility. NSP is quite familiar with the Montana coal severance tax and actively participated in previous legislative sessions that dealt with this issue.

In addition to buying coal from Montana, NSP buys a considerable amount of coal from the state of Wyoming. NSP was instrumental in the opening of two facilities in the area south of Gillette, Wyoming. These actions took place as a direct result of the increase in the Montana severance in the early 1980's.

The history of NSP's use of western coal and NSP's responses to changes in the Montana coal severance tax are best described in the following table.

Calendar Year	Montana Coal Tonnage	% of NSP Annual Tonnage
1983	6.5 million	100%
1984	7.5 million	99%
1986	3.5 million	56%
1990	3.9 million	33%
1991	4.3 million	35%

The reduction in the total tonnage and in the percentage of the annual tonnage that occurred in the 1980's was a direct result of past increases in the Montana severance tax. These tons were replaced, and will continue to be replaced, by Wyoming coal.

The increase in the Montana coal tonnage in 1990 and 1991 is a direct result of the recent reduction in the Montana severance tax. The Montana coal industry committed to the Montana legislature that they could and would boost production in response to a change in the severance. NSP renegotiated with one of its suppliers as part of this effort.

NSP intends to continue to buy Montana coal as long as it is competitively priced. If the proposed severance tax freeze is passed and/or other taxes are piled on, the cost of Montana coal will put it out of range of what we would consider to be competitive. As a regulated utility in a very competitive area, NSP can and must do everything to contain and manage its cost of production. That is why we are opposed to SB352 and are urging the legislature to vote against SB352.

NSP will see its annual coal usage increase from twelve million tons to over fifteen million tons by the late 1990's. Whether or not any of that additional three million tons will be purchased from Montana producers will depend on the outcome of SB352.

Whether or not NSP will continue to buy the existing 4.3 million tons from Montana will depend on the outcome of SB352 and the impact of any additional tax increase. NSP does have the ability to reduce the amount of coal purchased from Montana. If the price of Montana coal becomes uncompetitive, we must make a business decision and change our source of supply.

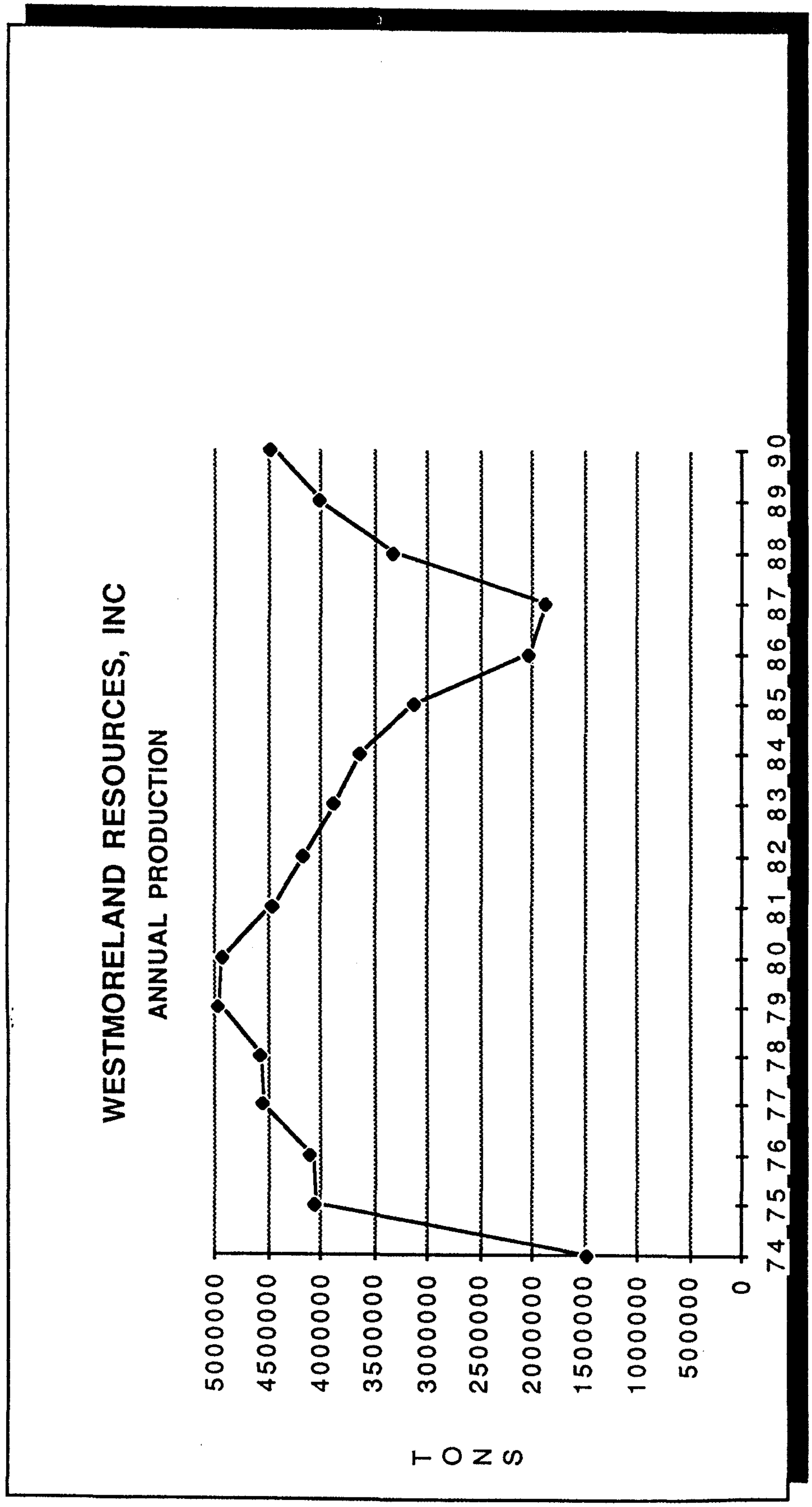
NSP has a long history of working with the Montana mining industry and NSP acted in good faith to increase its Montana coal tonnage. NSP wants to continue its relationship with the Montana mining industry. The passage of SB352 or the increase of any other taxes on coal would be a step in the wrong direction.

NSP is asking that the Montana Legislature allow the coal severance tax to drop to 15% as approved in previous legislative sessions. NSP is asking the Montana Legislature to vote against SB352.

Respectfully submitted,

Louis P Matis
Manager - Fuel Resources Department
Northern States Power Company
Minneapolis, Minnesota 55401

SENATE TAXATION
EXHIBIT NO. 31
DATE 3/8/11
BILL NO. SB 375



SENATE TAXATION
EXHIBIT NO. 32
DATE 3/8/91
BILL NO. SB 352

Testimony in Opposition to Senate Bill 0352
Senate Taxation Committee- March 8, 1991

For the record my name is Hershel Robbins and I represent the Musselshell Valley Development Corporation.

I speak today in opposition to Senate Bill 352 because a commitment has been made and accepted in good faith to reduce the Coal Severance tax to 15% on July 1, 1991. This reduction was agreed to after much debate during the '87 Legislative Session as a means of increasing coal production and revenues to benefit the State of Montana.

Recalling my experience during the 1975 Legislative Session when the 30% Severance Tax was proposed, I opposed and did not vote for the bill that passed enacting this tax rate. Shortly after the 30% tax was passed a major coal company was mining a test pit strip mine in Musselshell County. Soon after, the company decided to abandon their coal project as a result of the tax rate and other economic indicators.

Today, another coal company is planning a major coal development in Musselshell County and I feel that by not honoring our commitment to reduce the tax to 15%, a repeat of the earlier experience could be the result. This of course would not only result in a loss of jobs and other economic benefits to the residents of Musselshell County but lost tax revenue to the State as well.

In closing, I urge you not to allow history to repeat itself as in the case of my county but to honor our commitment by defeating this measure.

Thank you.