

MINUTES

**MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION
COMMITTEE ON NATURAL RESOURCES**

Call to Order: By Lawrence Stimatz, on March 18, 1991, at 3:00 pm

ROLL CALL

Members Present:

Lawrence Stimatz, Chairman (D)
Cecil Weeding, Vice Chairman (D)
John Jr. Anderson (R)
Esther Bengtson (D)
Don Bianchi (D)
Steve Doherty (D)
Lorents Grosfield (R)
Bob Hockett (D)
Thomas Keating (R)
John Jr. Kennedy (D)
Larry Tveit (R)

Members Excused:

Staff Present: Paul Sihler (EQC).

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

Announcements/Discussion: None.

HEARING ON HJR 14

Presentation and Opening Statement by Sponsor:

Representative Connelly, District 8, presented HJR 14 which asks congress to determine if standard forest practices are affecting multiple uses of forested lands. Forestry is currently the second largest industry in Montana, said Connelly.

Proponents' Testimony:

There were no proponents'.

Opponents' Testimony:

There were no opponents'.

Questions From Committee Members:

There were no questions from the committee.

Closing by Sponsor:

Representative Connelly declined to close.

EXECUTIVE ACTION ON HJR 14

Motion by Senator Doherty that HJR 14 BE CONCURRED IN.

Discussion:

None.

Amendments, Discussion, and Votes:

None.

Recommendation and Vote:

Motion that HJR 14 BE CONCURRED IN carried unanimously.

HEARING ON HJR 30

Presentation and Opening Statement by Sponsor:

Representative Cocchiarella, District 39, presented HJR 30 to the committee. The resolution is a re-statement of a Congressional act supporting forest resources in Montana, Cocchiarella said.

Proponents' Testimony:

Don Allen, Vice-President Montana Wood Products, testified in support of HJR 30. The resolution is important to preserve the forest industry in Montana, Allen said.

Opponents' Testimony:

There were no opponents to HJR 30.

Questions From Committee Members:

Senator Hockett asked if the resolution was reinforcing the position of not exporting timber from Montana state lands. How much timber has been exported before this resolution was adopted, Hockett asked?

Don Allen responded that he was unsure how much timber had been exported and that the resolution would reinforce a ban not to export timber.

Senator Doherty asked if there was potential for the United States/Montana to "backoff" from the export ban?

Don Allen stated he didn't believe that would happen.

Senator Weeding inquired about the congressional law passed in 1990 regarding the exporting of timber.

Jeff Jahnke, Department of State Lands, Chief Forest Management, told the committee that when logs from Montana are processed they are sold and measured separately.

Paul Sihler, Environmental Quality Council legislative staff, referred the committee to HB 724 (Representative Elliot) which contains the administrative rules Montana passed in response to this federal law. The bill modifies the rules to further prohibit the exportation of state logs.

Closing by Sponsor:

Representative Cocchiarella told the committee she felt it was important that the citizens of Montana make known their concerns about the timber industry.

HEARING ON HB 724

Presentation and Opening Statement by Sponsor:

Representative Elliot, District 51, told the committee that July 30, 1990 congress passed an act (with an effective date of September 1990) that allowed states to ban the export of logs from state lands. Previous to that time, any state that wanted to ban logs from state lands would have been in violation of Interstate Commerce Laws. HB 724 elaborates on the current law, Elliot said, and deals primarily with log substitution: if a company has land, it is more profitable for the logs to be sold overseas than to have the timber milled in the United States. The bill would prohibit the sale of logs to those companies who sell timber for export for one year after the company has stopped selling timber for export. The bill would not prevent the interstate shipment of logs between Idaho and Montana. Timber representatives support this bill, Elliot said.

Proponents' Testimony:

Keith Olson, Executive Director of Montana Logging Association, testified in support of HB 724.

Opponents' Testimony:

There were no opponents' to HB 724.

Questions From Committee Members:

There were no questions from the committee.

Closing by Sponsor:

Representative Elliot asked that HB 724 BE CONCURRED IN.

EXECUTIVE ACTION ON HB 724

Motion:

Motion by Senator Weeding that HB 724 BE CONCURRED IN.

Discussion:

There was no discussion.

Amendments, Discussion, and Votes:

None.

Recommendation and Vote:

Motion by Senator Weeding that HB 724 BE CONCURRED IN passed unanimously.

EXECUTIVE ACTION ON HJR 30

Motion:

Motion by Senator Doherty that HJR 30 BE CONCURRED IN.

Discussion:

There was no discussion.

Amendments, Discussion, and Votes:

None.

Recommendation and Vote:

Motion by Senator Doherty that HJR 30 BE CONCURRED IN carried unanimously.

HEARING ON HB 351

Presentation and Opening Statement by Sponsor:

Representative Cohen, District 3, told the committee that HB 351 makes explicit that forest resources include wildlife.

Proponents' Testimony:

Janet Ellis, Montana Audubon Legislative Fund, testified in support of HB 351. (EXHIBIT #1).

Valerie Horton, Montana Wildlife Federation, stated the Federation "welcomed and supported HB 351" and the addition of wildlife as a factor to be considered in the better management of forest lands.

Tony Schoonen, Skyline Sportsmen's Association of Butte and Anaconda Sportsmen Association testified in support of HB 351. "Certainly our wildlife resource deserves as much consideration as possible. The resource itself brings millions and millions of dollars to the state of Montana. Any type of wise management deserves wildlife consideration," Schoonen said.

Opponents' Testimony:

Don Allen, Vice President, Montana Wood Products Association, testified in support of HB 351. Allen stated that no one could deny that wildlife is an important part of managing the lands and forests. However, these considerations are already taken into account under other legislation. The difficulty in inter-mingling the two (wildlife and forest resources), Allen said, is that all current BMP's (best management practices) are geared toward water quality. "When you get into the wildlife BMP's developing these, it would involve quite an exercise because of the two differing types of criteria. The delays and costs of doing this, plus the disagreement among the wildlife biologists, could be prohibitive," Allen said. Allen told the committee he hoped they would request a fiscal note.

Lorna Frank, Montana Farm Bureau, opposed HB 351 because she said wildlife has already been considered in previous legislation. Frank noted that by adding wildlife to forest resources, Montana could have a similar problem as the spotted owl issue in Oregon.

Keith Olson, Executive Director, Montana Logging Association, stated that from an educational perspective, the language change is "too significant" to be included in current educational programs. Olson asked the committee "not to undermine current educational efforts by passage of the bill."

Questions From Committee Members:

Senator Keating asked Jeff Jahnke, DSL, if wildlife wouldn't be more suitably classified with Fish, Wildlife and Parks rather than DSL? Keating said he felt that DSL was responsible for stewardship of land and soil and wondered how DSL would become involved with managing wildlife?

Jahnke explained that DSL would be involved because of the information network DSL represents through their forestry program

which looks at forests and makes decisions about them. DSL offers technical information to anyone owning property which contains a forested area.

Senator Hockett asked Jahnke if he could foresee additional costs to DSL if the bill was adopted.

Jahnke replied that identifying the scope of BMP's would take "a fair amount of effort" as DSL has only one wildlife biologist who works solely on state land activities. DSL would need additional resources to develop BMP's, Jahnke said.

Senator Stimatz asked Jahnke for a definition of BMP.

Jahnke stated that BMP stands for Best Management Practices: a set of standards or guides that protect a particular resource. In the case of water quality, BMP's are focused on water quality activities such as where culverts should be placed, how sediment from a road should be directed to a stream, types of creek crossings, etc.

Senator Stimatz asked if these practices were voluntary.

Jahnke replied that the implementation of BMP's, in the case of water quality, was voluntary.

Senator Doherty asked if DSL would be developing soil erosion BMP's.

Jahnke stated that water quality and soil erosion are closely related and are considered together in defining BMP's.

Senator Doherty asked when BMP's for wildlife would be developed.

Jahnke replied that they would be developed as quickly as their department resources would allow.

Senator Keating asked Janet Ellis if there was "some animal out there right now that is jeopardized by our current practices that we should spend the time and money to develop the best BMP's for animals?"

Ellis replied that these guidelines could actually help wildlife and one example of taking wildlife into account would be to avoid placing a road directly through a wetland area.

Senator Hockett asked Representative Cohen why FWP and DSL were not involved in the project together?

Representative Cohen said he assumed at the time when DSL would begin to develop BMP's for wildlife that FWP would certainly be consulted for input. DSL has been given the responsibility for the state forester to provide notification when trees are to be cut.

Senator Weeding stated that he believed DSL was given primacy over anyone harvesting timber.

Senator Hockett asked Don Allen if the bill would prohibit clearcuts?

Allen said he didn't believe the bill would prohibit clearcutting. Part of the forest industry's planning process does currently involve wildlife, Allen said and there is continual improvement, Allen said, on how to handle the wildlife population regarding forestry.

Closing by Sponsor:

Representative Cohen told the committee that the state has a problem with timber supply but not with wildlife. The fact that these are voluntary BMP's is "very, very important," Cohen said and stated that the bill would definitely not prohibit clearcutting.

HEARING ON HJR 36

Presentation and Opening Statement by Sponsor:

Representative Toole, District 60, presented HJR 36 which urges creation of wild urban interface areas and the study of wildfire problems in areas near cities and towns. The resolution urges DSL and the fire marshall to work with fire chiefs throughout the state to adopt standards for the fighting of wildfire outside of towns.

Proponents' Testimony:

Jeff Jahnke, DSL, told the committee that 51 million acres of land are protected by DSL. In the past fifteen years, there has been a significant increase in recreational, residential and commercial building in forested, brush areas. Structural fires can often become wildland fires, Jahnke said.

James Lofftus, Montana Fire District Association/Missoula Rural Fires, appeared in support of HJR 36.

Lyle Nagel, Montana State Volunteer Firefighters Association and Montana State Fire Chief's Association, told the committee that there are problems with fires near residential areas.

Opponents' Testimony:

There were no opponents' to HJR 36.

Questions From Committee Members:

Senator Doherty asked Representative Toole if some of the locations for subdivisions were unsuitable and therefore,

contributed to the likelihood of wildfire near residential areas.

Representative Toole stated that it would be the recommendation of the final work product to adopt standards that would, in some circumstances, preclude development in areas that are inappropriate for subdivisions.

Senator Grosfield wondered why there was a joint resolution concerning this subject rather than a statute.

Representative Toole replied that the resolution urges the study and development of guidelines that may eventually lead to rules or a statute.

Beth Baker, Department of Justice and Counsel of the State Fire Marshall, testified that the fire marshall does have some authority to adopt rules for fire prevention. However, rules cannot be adopted that would dictate to a local fire government laws governing fire suppression. HJR 36 hopefully will develop guidelines for local governments to consider, Baker stated.

Senator Hockett stated he felt the forest service should be involved in wildfire near residential areas.

Senator Anderson asked if DSL worked with local fire departments currently.

Senator Jahnke stated that they did work together closely.

Closing by Sponsor:

Representative Toole emphasized that HJR 36 contained a concept whose "time has come." Cooperation has been started in the Missoula community but needs to be expanded, Toole said, and rules need to be developed to handle residential wildfire problems.

EXECUTIVE ACTION ON HJR 36

Motion:

There were no motions made regarding HJR 36 at the March 18, 1991 hearing.

Discussion:

Senator Bengtson stated she felt there needed to be additional language added to the resolution addressing the powers of DSL and fire marshals. Bengtson said it was her understanding that local governments could adopt rules but could not implement them.

Chairman Stimatz commented that the resolution urges the three groups to work together cooperatively.

Senator Bengtson said she felt local governments would have to bear any costs associated with the resolution including implementation of the resolution.

Senator Doherty agreed that additional language was needed in the resolution for implementation.

Amendments, Discussion, and Votes:

None.

Recommendation and Vote:

None.

EXECUTIVE ACTION ON HJR 14

Motion:

There were no motions made regarding HJR 14 during this executive session.

Discussion:

Senator Bengtson stated she did not support the bill.

Senator Keating said he felt much of the resolution pertained only to the Flathead Lake area. There are "a gillion" lakes in Montana some of which have privately owned lakeshores so it seems, Keating said, that state is interfering with private property rights.

Senator Bianchi said he felt that although the Lakeshore Protection Act has been in effect since the 1970's, the Department of Natural Resources has never tried to develop any standards for lakes. Perhaps this resolution would encourage EQC to look into existing law and put some standards in place, Bianchi said.

Senator Bengtson told the committee she felt the resolution was not applicable or practical. "It's wonderful to put on paper, but I think it's an 18 month study by EQC that is frivolous."

Senator Stimatz said he felt executive action should be deferred until Senator John Kennedy, Kalispell, could be present.

Amendments, Discussion, and Votes:

None.

Recommendation and Vote:

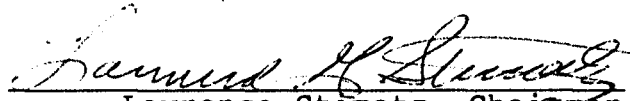
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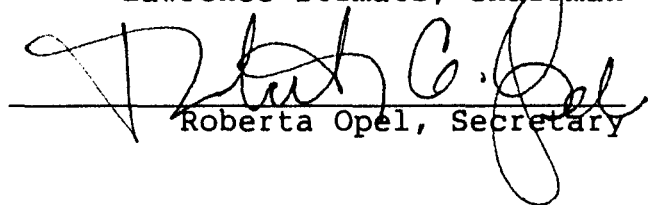
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Adjournment At: 8:30 pm


Lawrence Stimat, Chairman


Roberta Opel, Secretary

LS/ro