

1 House BILL NO. 717
2 INTRODUCED BY Maloy

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ADDING CERTAIN RAILROAD
5 TRACKS TO FACILITIES SUBJECT TO THE MAJOR FACILITY SITING
6 ACT; AMENDING SECTION 70-803, R.C.M. 1947."

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

9 Section 1. Section 70-803, R.C.M. 1947, is amended to
10 read as follows:

11 "70-803. Definitions. In this chapter, unless the
12 context requires otherwise:

13 (1) "Department" means the department of natural
14 resources and conservation provided for in Title 82A,
15 chapter 15.

16 (2) "Board" means the board of natural resources and
17 conservation provided for in section 82A-1509.

18 (3) "Facility" means:

19 (a) each plant, unit, or other facility and
20 associated facilities, except for oil and gas refineries,

21 (i) designed for, or capable of, generating fifty (50)
22 megawatts of electricity or more, or any addition thereto
23 (except pollution control facilities approved by the
24 department of health and environmental sciences added to an
25 existing plant) having an estimated cost in excess of two

1 hundred fifty thousand dollars (\$250,000), or

2 (ii) designed for, or capable of, producing twenty-five
3 million (25,000,000) cubic feet of gas per day or more, or
4 any addition thereto having an estimated cost in excess of
5 two hundred fifty thousand dollars (\$250,000), or

6 (iii) designed for, or capable of, producing
7 twenty-five thousand (25,000) barrels of liquid hydrocarbon
8 products per day or more, or any addition thereto having an
9 estimated cost in excess of two hundred fifty thousand
10 dollars (\$250,000), or

11 (iv) designed for, or capable of, enriching uranium
12 minerals, or any addition thereto having an estimated cost
13 in excess of two hundred fifty thousand dollars (\$250,000),
14 or

15 (v) designed for, or capable of, utilizing, refining,
16 or converting five hundred thousand (500,000) tons of coal
17 per year or more, or any addition thereto having an
18 estimated cost in excess of two hundred fifty thousand
19 dollars (\$250,000);

20 (b) each electric transmission line and associated
21 facilities of a design capacity of more than sixty-nine
22 (69) kilovolts, except that the term does not include an
23 electric transmission line and associated facilities of a
24 design capacity of two hundred thirty (230) kilovolts or
25 less and ten (10) miles or less in length;

1 (c) each pipeline and associated facilities designed
2 for, or capable of, transporting gas, water, or liquid
3 hydrocarbon products from or to a facility located within or
4 without this state of the size indicated in subsection
5 (3)(a) of this section; or

6 (d) any use of geothermal resources, including the use
7 of underground space in existence or to be created, for the
8 creation, use, or conversion of energy;

9 (e) any underground in situ gasification of coal;
10 (f) a railroad track more than 25 miles in length not
11 regulated as to location under the Strip Mine Siting Act,
12 Title 50, chapter 16, which is not a relocation of existing
13 track and on which construction commenced after January 1,
14 1977.

15 (4) "Associated facilities" include, but are not
16 limited to, transportation links of any kind, aqueducts,
17 diversion dams, transmission substations, storage ponds,
18 reservoirs, and any other device or equipment associated
19 with the production or delivery of the energy form or
20 product produced by a facility, except that the term does
21 not include a facility.

22 (5) "Commence to construct" means:

23 (a) any clearing of land, excavation, construction, or
24 other action that would affect the environment of the site
25 or route of a facility, but does not mean changes needed for

1 temporary use of sites or routes for nonutility purposes, or
2 uses in securing geological data, including necessary
3 borings to ascertain foundation conditions;

4 (b) the fracturing of underground formations by any
5 means, if such activity is related to the possible future
6 development of a gasification facility or a facility
7 employing geothermal resources, but does not include the
8 gathering of geological data by boring of test holes or
9 other underground exploration, investigation, or
10 experimentation;

11 (c) the commencement of eminent domain proceedings
12 under Title 93, chapter 99, for land or rights-of-way upon
13 or over which a facility may be constructed;

14 (d) the relocation or upgrading of an existing
15 facility defined by subsection (3)(b) or (c), including
16 upgrading to a design capacity covered by subsection (3)(b),
17 except that the term does not include normal maintenance or
18 repair of an existing facility.

19 (6) "Municipality" means any county or municipality
20 within this state.

21 (7) "Person" means any individual, group, firm,
22 partnership, corporation, cooperative, association,
23 government subdivision, government agency, local government,
24 or other organization or entity.

25 (8) "Utility" means any person engaged in any aspect

1 of the production, storage, sale, delivery or furnishing of
2 heat, electricity, gas, hydrocarbon products or energy in
3 any form for ultimate public use.

4 (9) "Certificate" means the certificate of
5 environmental compatibility and public need issued by the
6 board under this chapter that is required for the
7 construction or operation of a facility.

8 (10) "Addition thereto" means the installation of new
9 machinery and equipment which would significantly change the
10 conditions under which the certificate was issued."

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