HOUSE BILL 452

IN THE HOUSE

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January 29, 1979	Introduced and referred to Committee on Natural Resources.
January 30, 1979	Rereferred to Committee on Judiciary.
February 9, 1979	Committee recommend bill, as amended.
February 12, 1979	Printed and placed on members' desks.
February 13, 1979	Second reading, as amended.
February 15, 1979	Correctly engrossed.
February 16, 1979	Third reading, passed.
IN THE SENA	TE
February 17, 1979	Introduced and referred to Committee on Business and Industry.
March 13, 1979	Committee recommend bill, as amended.
March 16, 1979	Motion pass consideration until March 19, 1979.
March 19, 1979	Objection.
March 20, 1979	Second reading, concurred.
March 23, 1979	Third reading, as amended.
IN THE HOUS	Е
March 24, 1979	Returned from Senate.
March 26, 1979	On motion, consideration passed until the 71st Legislative day.
March 29, 1979	Second reading, amendments adopted.
GOVERNOR	
ApriL 5, 1979	Delivered to Governor.
April 10, 1979	Veto.

46th Legislature

LC 1213/01

TING ACT BY THE CUNTISS EXEMPTING CERTAIN ELECTRIC FACILITIES GENERATING AND ASSOCIATED FACILITIES THAT HAVE BEEN THE SUBJECT OF AN ADMINISTRATIVE HEARING THAT COMMENCED PRIOR TO JANUARY 1.4 1979; AND PROVIDING AN EFFECTIVE DATE." , paper BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HONTANA: Section 1. Section 75-20-202, MCA, is amended to read: "75-20-202. Exemptions. (1) This chapter does not apply to a facility over which an agency of the federal government has exclusive jurisdiction. (2) A certificate is not required under this chapter

for a facility under diligent onsite physical construction or in operation on January 1, 1973.

(3) (a) Notwithstanding the provisions of this filme chapter: as amended, and any other state law to the contrary: a certificate of environmental compatibility and for public need under the provisions of this chapter: as amended: is not required for the construction of electric generating facilities and associated facilities: including transmission lines: which have been the subject of LC 1213/01

administrative hearings commenced prior to January 1. 1979. under this chapter. (b) The operation of such electric generating 2 facilities and associated facilities, including transmission 5 lines, shall comply with applicable state and federal laws, regulations, standards, and implementation plans for air and water quality and permits issued pursuant to them. (3)(4) The rules adopt reasonable boar d mav establishing exemptions 9 from this chapter for the 10 relocation, reconstruction, or upgrading of a facility that 11 would otherwise be covered by this chapter and that is 12 unlikely to have a significant environmental impact by 13 reason of length, size, location, available space 14 right-of-way. or construction methods." 15 Section 2. Effective date. This act is effective on 16 passage and approval.

-End-

HE S -2-INTRODUCED BIL

46th Legislature

HB 0452/02

Approved by Committee on Judiciary

1	HOUSE BILL NO. 452
2	INTRODUCED BY CONROY, SCULLY, QUILICI, RAMIREZ,
3	SALES, FABREGA, KEYSER, MOORE, MARKS, ROTH,
4	BENGTSON, JOHNSTON, PISTORIA, KROPP, KVAALEN, MANNING,
5	WILLIAMS, DONALDSON, SEIFERT, HURWITZ, STAIGHILLER,
6	SIVERTSEN, SCHULTZ, THOFT, CURTISS, TROPILA, FAGG,
7	GOULD, WOOD, ELLISON, MANUEL, UNDERDAL, MEYER, BAETH,
3	VINGER, ELLIS, NORDIVEDT, PORTER, GERKE, LORY, HAYNE,
9	FEDA: STOBIE: LUND: ANDERSON: K. ROBBINS: GILLIGAN:
10	DASSINGER, GESEK, YARDLEY, D*CONNELL, HEMSTAD, KANDUCH,
11	NATHE, BURNETT, MAGONE, DAILY, ELLERD, LIEN, SMITH,
12	TEAGUE, ROSENTHAL, DOZIER, WYRICK, BENNETT, PAVLOVICH,
13	MENAHAN, HAND, ERNST, IVERSON, SPILKER, EUDAILY
14	
15	A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
16	75-20-202+ HCA+ OF THE MONTANA HAJOR FACILITY SITING ACT BY
17	EXEMPTING-GERTAIN <u>PROVIDING LEGISLATIVE RATIFICATION DE ANY</u>
18	CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED
19	ISSUED BY THE BOARD OF NATURAL RESOURCES AND CONSERVATION
20	EDR ELECTRIC GENERATING FACILITIES AND ASSOCIATED FACILITIES
21	THAT HAVE BEEN THE SUBJECT OF AN ADMINISTRATIVE HEARING THAT
22	COMMENCED PRIOR TO JANUARY 1, 1979; AND PROVIDING AN
23	EFFECTIVE DATE."

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25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: HB 0452/02

SECTION 1. THERE IS A NEW NCA SECTION THAT READS: 2 Purpose. The legislature states that the purpose of 3 [this act] is to validate, ratify, and approve any certificate of environmental compatibility and public need 4 issued by the board of natural resources and conservation 5 for electric generating facilities and associated facilities 6 1 that have been the subject of an administrative hearing that 6 commenced prior to January 1, 1979, so that no further 9 administrative or judicial proceedings before agencies or 10 courts of the state under the Montana Major Facility Siting 11 Act are required prior to commencement of construction of 12 such facilities and associated facilities. It is also the 13 purpose of [this act] to require any applicant who has 14 received a certificate of environmental compatibility and 15 public need by the board of natural resources and conservation for electric generating facilities and 16 associated facilities that have been the subject of an 17 administrative hearing that commenced prior to January 1. 18 19 1979, to fully comply with the terms and conditions of such certificate. 20 21 Section 2. Section 75-20-202; MCA, is amended to read:

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22 *75-20-202. Exemptions. (1) This chapter does not 23 apply to a facility over which an agency of the federal government has exclusive jurisdiction. 24

25 (2) A certificate is not required under this chapter

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HB 452

SECOND READING

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1	for a facility under diligent onsite physical construction
z	or in operation on January 1, 1973.
3	(3) (a) Notwithstanding the provisions of this
4	chapters as avendeds and any other state law to the
5	contrary. <u>e-certificate-of-environeentalcoupettuilityond</u>
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7	amendady_isindt_required_for_tha=_construction=_ofelactric
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9	transmission-linear-which-here-keenthesubject
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11	UDGECTERISTICROPERTY ANY CERTIFICATE OF ENVIRONMENTAL
12	COMPATIBILITY AND PUBLIC NEED FOR ELECTRIC GENERATING
13	FACILITIES AND ASSOCIATED FACILITIES ISSUED BY THE BOARD OF
14	NATURALRESOURCESANDCONSERVATIONEQLICATINGAN
15	ADMINISTRATIVE HEARING WHICH COMMENCED PRIOR TO LANUARY 1.
16	1979. UNDER THIS CHAPTER IS RATIFIED AND APPROVED.
17	(b) There to service in the service service service service services
18	facitities and associated facitities including transmission
19	lines Caball-comply-with-upplicable-store-ond-federalloway
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22	CONSTRUCTION AND OPERATION DE SUCH ELECTRIC GENERATING
23	FACTLITIES AND ASSOCIATED FACTLITIES SHALL CORPLY WITH THE
24	IERNS AND CONDITIONS OF SUCH CERTIFICATE.
25	(3)[5] The board may adopt reasonable rules

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establishing exemptions from this chapter for the relocation, reconstruction, or upgrading of a facility that would otherwise be covered by this chapter and that is unlikely to have a significant environmental impact by reason of length, size, location, available space or right-of-way, or construction methods."
Section 3. Effective date. This act is effective on

8 passage and approval.

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HB 452

46th Legislature

HB 0452/03

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HOUSE BILL NO. 452 1 2 INTRODUCED BY CONROY, SCULLY, QUILICI, RAMIREZ, SALES. FABREGA. KEYSER. MODRE. MARKS. ROTH. 3 4 BENGTSON, JOHNSTON, PISTORIA, KROPP, KVAALEN, MANNING, 5 WILLIAMS, DONALDSON, SEIFERT, HURWITZ, STAIGHILLER, SIVERTSEN, SCHULTZ, THOFT, CURTISS, TROPILA, FAGG, ń. 7 GOULD. WOOD, ELLISON, MANUEL, UNDERDAL, MEYER, BAETH. я VINGER, ELLIS, NORDTVEDT, PORTER, GERKE, LORY, HAYNE, 9 FEDA, STOBIE, LUND, ANDERSON, K. ROBBINS, GILLIGAN, 10 DASSINGER. GESEK. YARDLEY. O'CONNELL. HEMSTAD. KANDUCH. 11 NATHE, BURNETT, MAGONE, DAILY, ELLERD, LIEN, SMITH, 12 TEAGUE, ROSENTHAL, DOZIER, WYRICK, BENNETT, PAYLOVICH, 13 MENAHAN, HAND, ERNST, IVERSON, SPILKER, EUDAILY 14 15 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 75-20-202, HCA, OF THE MONTANA MAJOR FACILITY SITING ACT BY 16 17 EXEMPTING-GERTAIN PROVIDING LEGISLATIVE RATIFICATION OF __ANY CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED 18 19 WHICH HAS BEEN ISSUED BY THE BOARD OF NATURAL RESOURCES. AND CONSERVATION FOR ELECTRIC GENERATING FACILITIES AND 20 21 ASSOCIATED FACILITIES THAT HAVE BEEN THE SUBJECT OF AN 22 ADMINISTRATIVE HEARING THAT COMMENCED PRIOR TO JANUARY 1. 23 1979, AND WHICH IS DECLARED INVALID BY THE MONTANA SUPREME 24 COURT DUE TO PROCEDURAL DEFICIENCIES IN THE HEASING PROCESS; 25 AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NONTANA:

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HB 0452/03

SECTION 1. THERE IS A NEW MCA SECTION THAT READS:

4 Purpose. The legislature states that the purpose of [this act] is to validate, ratify, and approve any 5 6 certificate of environmental compatibility and public need 7 WHICH HAS BEEN issued by the board of natural resources and conservation for electric generating facilities and 8 9 associated facilities that have been the subject of an 10 administrative hearing that commenced prior to January 1. 11 1979, AND WHICH IS DECLARED INVALID BY THE MONTANA SUPREME 12 COURT DUE TO PROCEDURAL DEFICIENCIES IN THE HEARING PROCESS. 13 so that no further administrative or judicial proceedings 14 before agencies or courts of the state under the Montana 15 Major Facility Siting Act are required prior to commencement 16 of construction of such facilities and associated facilities. It is also the purpose of [this act] to require 17 18 any applicant who has received a certificate of 19 environmental compatibility and public need by the board of 20 natural resources and conservation for electric generating 21 facilities and associated facilities that have been the 22 subject of an administrative hearing that commenced prior to 23 January 1. 1979. to fully comply with the terms and 24 conditions of such certificate. 25

Section 2. Section 75-20-202, WCA: is amended to read:

-2-"B 452 THIRD READING

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*75-20-202. Exemptions. (1) This chapter does not
 apply to a facility over which an agency of the federal
 government has exclusive jurisdiction.

4 (2) A certificate is not required under this chapter 5 for a facility under diligent onsite physical construction 6 or in operation on January 1, 1973.

7 13) (a) Notwithstanding the provisions of this chapters as agendeds and any other state law to the 8 9 contrary: a--certificate-of-environmental-compatibility-and 10 public--need--under--the--argyisions--of--this--chaptery--sa 11 secerating-facilities-and-associated--facilitiesy--including 12 13 trenapisaion---lineav----whith----have--been--the---aubiect--of administrative-hearings-compaced-prior-to-denuary-iv--ifige 14 under===this===chapters ANY CERTIFICATE DE ENVIRONMENTAL 15 16 COMPATIBILITY_AND_PUBLIC_NEED_FOR_ELECTRIC__GENERATING FACILITIES AND ASSOCIATED FACILITIES WHICH HAS BEEN ISSUED 17 18 BY THE BOARD OF NATURAL RESOURCES AND CONSERVATION FOLLOWING AN ADMINISTRATIVE HEARING WHEEH THAT COMMENCED PRIOR TO 19 JANUARY 1. 1979, UNDER THIS CHAPTER 15 AND WHICH IS DECLARED 20 BY THE MONTANA SUPREME COURT TO BE INVALID BY REASON OF 21 PROCEDURAL DEFECTS IN THE HEARING PROCESS IN VALIDATED. 22 23 RATIFIED, AND APPROVED. (b) The---- operation ---- of ---- such----electric -- generating 24

- 25 <u>facilities-and-associated-facilitiesy-including-transmission</u>
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CONSTRUCTION AND OPERATION OF SUCH ELECTRIC GENERATING
FACILITIESANDASSOCIATED_FACILITIES_SHALL_COMPLY_WITH_THE
IERMS_AND_CONDITIONS_DE_SUCH_CERTIFICATE.
(3)[1] The board may adopt reasonable rules
establishing exemptions from this chapter for the
relocation, reconstruction, or upgrading of a facility that
would otherwise be covered by this chapter and that is
unlikely to have a significant environmental impact by
reason of length, size, location, available space or
right-of-way, or construction methods."

- 14 Section 3. Effective date. This act is effective on
- 15 passage and approval.

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HB 452

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HB 0452/03

HB 0452/03

1 HOUSE BILL ND. 452 INTRODUCED BY CONROY, SCULLY, QUILICI, RAMIREZ, 2 SALES. FABREGA, KEYSER, MOORE, MARKS, ROTH, З BENGTSON, JOHNSTON, PISTORIA, KROPP, KVAALEN, MANNING, 4 5 WILLIAMS, DONALDSON, SEIFERT, HURWITZ, STAIGNILLER, SIVENTSEN, SCHULTZ, THOFT, CURTISS, TROPILA, FAGG, 6 7 GOULD, WOOD, ELLISON, MANUEL, UNDERDAL, MEYER, BAETH, 8 VINGER. ELLIS, NORDIVEDT, PORTER, GERKE, LORY, HAVNE. 9 FEDA, STOBIE, LUND, ANDERSON, K. ROBBINS, GILLIGAN, 10 DASSINGER, GESEK, YARDLEY, O'CONNELL, HEMSTAD, KANDUCH, 11 NATHE, BURNETT, MAGONE, DAILY, ELLERD, LIEN, SMITH, 12 TEAGUE, ROSENTHAL, DOZIER, WYRICK, BENNETT, PAVLOVICH, 13 MENAHAN, HAND, ERNST, IVERSON, SPILKER, EUDAILY 14 15 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 75-20-202, HCA, OF THE MONTANA MAJOR FACILITY SITING ACT BY 16 17 EXEMPTING-GERTAIN PROVIDING LEGISLATIVE RATIFICATION DE ANY CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED 18 HHICH HAS BEEN ISSUED BY THE BOARD DE NATURAL RESOURCES AND 19 20 CONSERVATION FOR ELECTRIC GENERATING FACILITIES AND 21 ASSOCIATED FACILITIES THAT HAVE BEEN THE SUBJECT OF AN 22 ADMINISTRATIVE HEARING THAT COMMENCED PRIOR TO JANUARY 1. 23 1979: AND WHICH IS DECLARED INVALID BY THE MONTANA SUPREME

COURT DUE TO PROCEDURAL DEFICIENCIES IN THE HEARING PROCESS:

25 AND PROVIDING AN EFFECTIVE DATE."

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2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 3 SECTION 1. THERE IS A NEW NCA SECTION THAT READS: . Purpose. The legislature states that the purpose of 5 [this act] is to validate, ratify, and approve any 6 certificate of environmental compatibility and public need 7 HICH HAS BEEN issued by the board of natural resources and . conservation for electric generating facilities and 9 associated facilities that have been the subject of an 10 administrative hearing that commenced prior to January 1. 11 1979, AND WHICH IS DECLARED INVALID BY THE MONTANA SUPREME COURT DUE TO PROCEDURAL DEFICIENCIES IN THE HEARING PROCESS. 12 13 so that no further administrative or judicial proceedings before agencies or courts of the state under the Montana 14 15 Major Facility Siting Act are required prior to commencement of construction of such facilities and associated 16 facilities. It is also the purpose of [this act] to require 17 any applicant who has received a certificate of 18 environmental compatibility and public need by the board of 19 natural resources and conservation for electric generating 20 21 facilities and associated facilities that have been the 22 subject of an administrative hearing that commenced prior to 23 January 1, 1979, to fully comply with the terms and 24 conditions of such certificate.

Section 2. Section 75-20-202, MCA, is amended to read:

Corrected THIRD READING

25

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HB 452

"75-20-202. Exemptions. (1) This chapter does not
 apply to a facility over which an agency of the federal
 government has exclusive jurisdiction.

4 (2) A certificate is not required under this chapter 5 for a facility under diligent onsite physical construction 6 or in operation on January 1, 1973.

7 (3) (a) Notwithstanding the provisions of this 8 chaoters, as accordeds and any other state law to the 9 CONtrarys a-certificate-of-environmental-compatibility-and 10 pullic_need-under_the-provisions_of-this_chaptery_cas 11 12 senerging-facilities-and-associated_facilities---including 13 14 pdministrative-hearings-compared-prior-to-January-ly--1979x 15 under---this---cheptery ANY_CERILFICATE_DE_ENVIRONMENTAL 16 COMPATIBILITY AND PUBLIC NEED FOR ELECTRIC GENERATING 17 FACILITIES AND ASSOCIATED FACILITIES WHICH HAS BEEN ISSUED 18 BY_THE_BOARD.OF. NATURAL RESOURCES AND CONSERVATION FOLLOWING 19 AN ADMINISTRATIVE HEARING WHEEH THAT CONNENCED PRIOR TO 20 JANSARY 1. 1979. UNDER THIS CHAPTER 15 AND WHICH IS DECLARED BY THE MONTANA SUPREME COURT TO BE INVALID BY REASON OF 21 22 PROCEDURAL DEFECTS IN. THE HEARING PROCESS IS VALIDATED. 23 RATIFIED. AND APPROVED. 24 (b) The===operation===of===such===electric==generating 25 facilities-and-associated-facilitiesy-including-transmission

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1 lines-shall-comply-with-poplicable-state-ond-federal--lawsy reputationsy-standardsy-and-implementation-plans-for-eir-and 2 3 CONSTRUCTION AND OPERATION OF SUCH ELECTRIC GENERATING 4 5 FACILITIES AND ASSOCIATED FACILITIES SHALL CONPLY WITH THE TERMS AND CONDITIONS OF SUCH CERTIFICATE. 6 7 (3)[4] The board may adopt reasonable rules я establishing exemptions from this chapter for the 9 relocation, reconstruction, or upgrading of a facility that would otherwise be covered by this chapter and that is 10 11 unlikely to have a significant environmental impact by 12 reason of length, size, location, available space or

- 13 right-of-way, or construction methods."
- 14 Section 3. Effective date. This act is effective on
- 15 passage and approval.

-End-

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H9 0452/03

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HB 0452/03

1 HOUSE BILL NO. 452 INTRODUCED BY CONROY, SCULLY, QUILICI, RAMIREZ, 2 SALES, FABREGA, KEYSER, HOORE, MARKS, ROTH, 3 4 BENGTSON, JOHNSTON, PISTORIA, KROPP, KVAALEN, MANNING, 5 WILLIAMS, DONALDSON, SEIFERT, HURWITZ, STAIGMILLER, SIVERTSEN. SCHULTZ. THOFT. CURTISS. TROPILA. FAGG. ۸ GUULD, WOOD, ELLISON, MANUEL, UNDERDAL, MEYER, BAETH, 7 8 VINGER, ELLIS, NORDTVEDT, PORTER, GERKE, LORY, HAYNE, FEDA, STOBIE, LUND, ANDERSON, K. ROBBINS, GILLIGAN. 9 DASSINGER, GESEK, YARDLEY, O'CONNELL, HENSTAD, KANDUCH, 10 11 NATHE, BURNETT, MAGONE, DAILY, ELLERD, LIEN, SMITH, TEAGUE. ROSENTHAL, DOZIER, WYRICK, BENNETT, PAVLOVICH, 12 13 MENAHAN, HAND, ERNST, IVERSON, SPILKER, EUDAILY 14 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 15 16 75-20-202, MCA, OF THE MONTANA MAJOR FACILITY SITING ACT BY 17 EXEMPTING-GERTAIN PROVIDING LEGISLATIVE RATIFICATION OF ... ANY 18 CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED WHICH HAS BEEN ISSUED BY THE BOARD DE NATURAL RESOURCES AND 19 CONSERVATION FOR FLECTRIC GENERATING FACILITIES AND 20 ASSOCIATED FACILITIES THAT HAVE BEEN THE SUBJECT OF AN 21 22 ADMINISTRATIVE HEARING THAT COMMENCED PRIOR TO JANUARY 1, 23 1979, AND WHICH IS DECLARED INVALID BY THE MONTANA SUPREME COURT DUE TO PROCEDURAL DEFICIENCIES IN THE HEARING PROCESS; 24 25 AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 2 3 SECTION 1. THERE IS A NEW MCA SECTION THAT READS: Purpose. The legislature states that the purpose of 4 5 [this act] is to validate, ratify, and approve 90 V 6 certificate of environmental compatibility and public need 7 HICH HAS BEEN issued by the board of natural resources and A conservation for electric generating facilities and 9 associated facilities that have been the subject of an 10 administrative hearing that commenced prior to January 1. 11 1979, AND WHICH IS DECLARED INVALID BY THE NONTANA SUPREME 12 COURT_DUE_TO_PROCEDURAL_DEFICIENCIES_IN_THE_MEARING_PROCESS. 13 so that no further administrative or judicial proceedings 14 before agencies or courts of the state under the Montana 15 Major Facility Siting Act are required prior to commencement 16 of construction of such facilities and associated 17 facilities. It is also the purpose of [this act] to require 18 any applicant who has received a certificate of 19 environmental compatibility and public need issued by the 20 board of natural resources and conservation for electric generating facilities and associated facilities that have 21 22 been the subject of an administrative hearing that commenced 23 prior to January 1, 1979, to fully comply with the terms and 24 conditions of such certificate.

25 Section 2. Section 75-20-202, NCA, is amended to read:

-2- Second Corrected HB 452 THIRD READING

HB 452

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"75-20-202. Exemptions. (1) This chapter does not
 apply to a facility over which an agency of the federal
 government has exclusive jurisdiction.

4 (2) A certificate is not required under this chapter
5 for a facility under diligent onsite physical construction
6 or in operation on January 1, 1973.

7 13) (a) Notwithstanding the provisions of this 8 chapters as amended, and any other state law to the 9 contrary: eccertificate-of-environmental-compatibility-and 10 public==peed==upder==the==provisions==of==this==chapterv==as 11 anadedy_is_not_resuired_for_the__construction--of--electric 12 prostating--facilities--ond-associated-facilitiesy-including 13 tronamiasion==tineax==which==heve==been===the===subject===of 14 administrative--hearings-compaced-prior-to-deemery-ty-1979v 15 HDDARE-THIS-COOPERTY ANY CERTIFICATE OF ENVIRONMENTAL 16 COMPATIBILITY AND PUBLIC NEED FOR ELECTRIC GENERATING 17 EAGILITIES AND ASSOCIATED FACILITIES WHICH HAS BEEN ISSUED 18 BY THE BOARD OF NATURAL RESOURCES AND CONSERVATION FOLLOWING 19 AN ADMINISTRATIVE HEARING WHICH INAT CONNENCED PRIOR TO JANUARY 1. 1979. UNDER THIS CHAPTER #5 AND WHICH IS DECLARED 20 21 BY THE MONTANA SUPREME COURT TO BE INVALID BY REASON OF PROCEDURAL DEFECTS IN THE HEARING PROCESS IS VALIDATED. 22 23 RATIFIED, AND APPROVED. 24 25 facilities_and_essociated_facilitiesy_including_transmission

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 CONSIRUCTION_AND_OPERATION_OF_SUCH_ELECTRIC_GENERATING

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 IERNS_AND_CONDITIONS_OF_SUCH_CERTIFICATEs.

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8 establishing exemptions from this chapter for the 9 relocation, reconstruction, or upgrading of a facility that 10 would otherwise be covered by this chapter and that is 11 unlikely to have a significant environmental impact by 12 reason of length, size, location, available space or 13 right-of-way, or construction methods." 14 Section 3. Effective date. This act is effective on

15 passage and approval.

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-End-

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1	CERTIFICATE_OF_ENVIRONMENTAL_COMPATIBILITY_AND_PUBLIC_NEED
Z	EOR_SUCH_EACILITIES_AND_ASSOCIATED_EACILITIES_ISSUED_BYIHE
3	BOARDOENATURALRESOURCESANO_CONSERVATION_WHICH_MAY_BE
4	AFEECIED_BY_ANY_PROCEDURAL BEFIGEENEES DEFICIENCYINIHE
5	HEARINGPROCESS: PROVIDINGIHATIHECONSTRUCTIONAND
6	OPERATION_DE_SUCH_EACILITIES_AND_ASSOCIATED_EACILITIES_SHALL
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9	CERTIFICATE_ARE_AMENDED_PURSUANT_ID_THE_AMENDMENT_PROCEDURES
10	QE_THE_MONIANA_MAJOB_EACILITY_SITING_ACT: AND PROVIDING AN
11	EFFECTIVE DATE."
12	
13	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
14	SECIION_1IMERE_IS_A_MEM_MCA_SECIION_IMAI_READS:
15	Purpose. The legislature states that the purpose of
16	[this act] is to validateratifyandspprove <u>CURE_ANY</u>
17	POSSIBLEPROCEDURALDEEICIENCYIN_IHE_HEARING_PROCESS_EOR
13	ELECIBIC_GENERATING_EACILITIES_AND_ASSOCIATED_EACILITIES
19	IHAT_HAYE_BEEN_IHE_SUBJECT_DE_AN_ADMINISIRATIYE_HEARING_IHAT
20	COMMENCED
21	RAILEYING: AND APPROVING any certificate of environmental
22	compatibility and public need <u>HHIGH-HAS-BEEN</u> issued by the
23	board of natural resources and conservation for <u>SUCH</u>

25 that-have-been-the-subject-of-an-administrative-hearing-that

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electric generating facilities and associated facilities

REFERENCE BILL

HB 452

SALES, FABREGA, KEYSER, MOORE, MARKS, ROTH, 3 4 BENGTSON. JOHNSTON, PISTORIA, KROPP, KVAALEN, MANNING, WILLIAMS, DONALDSON, SEIFERT, HURWITZ, STAIGMILLER, 5 SIVERTSEN, SCHULTZ, THOFT, CURTISS, TROPILA, FAGG, 6 GOULD, WOOD, ELLISON, MANUEL, UNDERDAL, MEYER, BAETH, 7 VINGER, ELLIS, NORDTVEDT, PORTER, GERKE, LORY, HAYNE, 8 FEDA, STOBIE, LUND, ANDERSON, K. ROBBINS, GILLIGAN, 9 DASSINGER, GESEK, YARDLEY, D'CONNELL, HEMSTAD, KANDUCH, 10 NATHE, BURNETT, MAGONE, DAILY, ELLERD, LIEN, SMITH, 11 TEAGUE, ROSENTHAL, DOZIER, WYRICK, BENNETT, PAVLOVICH. 12 13 MENAHAN, HAND, ERNST, IVERSON, SPILKER, EUDAILY 14 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 15 75-20-202. HCA. OF THE MONTANA MAJOR FACILITY SITING ACT BY 16 EXEMPTING-GERTAIN PROVIDING-LEGISLATIVE-RATIFICATION-OF ... ANY 17 18 WHICH-HAS-BEEN-ISSUED-BY-THE-BOARD-DE-NATURAL-RESOURCES--AND 19 CONSERVATION TO CURE ANY POSSIBLE PROCEDURAL DEFICIENCY IN 20 THE HEARING PROCESS FOR ELECTRIC GENERATING FACILITIES AND 21 ASSOCIATED FACILITIES THAT HAVE BEEN THE SUBJECT OF AN 22 ADMINISTRATIVE HEARING THAT COMMENCED PRIOR TO JANUARY 1. 23 24 1979. AND--WHICH-IS-DECLARED-INVALID-BY-INC-MONIANA-SUPREME 25 GOURT-OVE-TO BY PROVIDING LEGISLATIVE_BATTELCATION_DE_ANY

HOUSE BILL ND. 452 INTRODUCED BY CONROY, SCULLY, QUILICI, RAMIREZ,

46th Legislature

HB 0452/05

HB 0452/05

HB 0452/05

1 commenced-prior-to-danuary-ly-ly79y AND-_HHIEH__IS_-DEELARED 2 INVALID ... DV ... THE ... MONTANA ... SUPREME ... COURT ... DUE . TO . PROCEDURAL 3 DEElEIENEIES_IN-IHE_HEARING__PROCESS: so that no further administrative or judicial proceedings before agencies or 4 5 courts of the state under the Montana Major Facility Siting 6 Act are required EOR___PROCEDURAL__REASONS prior to 7 commencement of construction of such facilities and 8 associated facilities. It is also the purpose of [this act] 9 to require any applicant who has received a certificate of 10 environmental compatibility and public need issued by the 11 board of natural resources and conservation for electric 12 generating facilities and associated facilities that have 13 been the subject of an administrative hearing that commenced 14 prior to January 1, 1979, to fully comply with the terms and conditions of such certificate AS_ISSUED_OB_AS_AMENDED 15 PURSUANT_IQ_IHE_AMENDMENT_PROCEDURES_OF_THE_MONTANA_MAJOR 16 17 EACILITY_SITING_ACT.

(2) A certificate is not required under this chapter
for a facility under diligent onsite physical construction
or in operation on January 1, 1973.

25 [3]_(a)_Notwithstanding__the__provisions__of__this

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HB 452

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13	JANUARY 1. 1979. UNDER THIS CHAPTER IS AND WHICH IS-BEELARED
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24	EERERAL_LAWSREGULATIONSSTANDARDSANDIMPLEMENTATION
25	PLANSEOR_AI8_AND_HATEB_QUALITY_AND_PERMITS_ISSUED_PURSUANT

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IO_THEN. THE CONSTRUCTION AND OPERATION OF SUCH ELECTRIC 1 2 GENERATING_EACILITIES_AND_ASSOCIATED_EACILITIES_SHALL_COMPLY WITH THE TERMS AND CONDITIONS DE SUCH CERTIFICATE AS 3 OBIGINALLY ISSUED OR AS AMENDED PURSUANT TO THE AMENDMENT 4 5 PROCEDURES_OF_THIS_CHAPTER. f3f(4) The board may adopt reasonable rules 6 7 establishing exemptions from this chapter for the 8 relocation: reconstruction; or upgrading of a facility that 9 would otherwise be covered by this chapter and that is

10 unlikely to have a significant environmental impact by 11 reason of length, size, location, available space or 12 right-of-way, or construction methods."

Section 3. Effective date. This act is effective on
 passage and approval.

-End-

SENATE STANDING COMMITTEE REPORT (Business & Industry) That House Bill No. 452 be amended as follows: 1. Title, line 16. Following: "ACT" Strike: "BY"

2. Title, lines 17 through 20. Following: "CERTAIN" Strike: the remainder of line 17 through "CONSERVATION" on line 20 Insert: "TO CURE ANY POSSIBLE PROCEDURAL DEFICIENCY IN THE HEARING PROCESS"

3. Title, lines 23 and 24. Following: "1979," on line 23 Strike: the remainder of line 23 through "TO" on line 24 Insert: "BY PROVIDING LEGISLATIVE RATIFICATION OF ANY CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED FOR SUCH FACILITIES AND ASSOCIATED FACILITIES ISSUED BY THE BOARD OF NATURAL RESOURCES AND CONSERVATION WHICH MAY BE AFFECTED BY ANY"

4. Title, line 24. Following: "PROCEDURAL" "DEFICIENCIES" Strike: Insert: "DEFICIENCY" Following: ";"

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"PROVIDING THAT THE CONSTRUCTION AND OPERATION OF SUCH Insert: FACILITIES AND ASSOCIATED FACILITIES SHALL COMPLY WITH THE TERMS AND CONDITIONS OF SUCH CERTIFICATE AS ORIGINALLY ISSUED OR AS THE TERMS AND CONDITIONS OF SUCH CERTIFICATE ARE AMENDED PURSUANT TO THE AMENDMENT PROCEDURES OF THE MONTANA MAJOR FACILITY SITING ACT:"

5. Page 2, line 5. Following: "to" "validate, ratify, and approve" Strike: Insert: "cure any possible procedural deficiency in the hearing process for electric generating facilities and associated facilities that have been the subject of an administrative hearing that commenced prior to January 1, 1979, by validating, ratifying, and approving" 6. Page 2, line 7. Following: line 6 Strike: "WHICH HAS BEEN" 7. Page 2, line 8. Following: "for" Insert: "such" Page 2, lines 9 through 12. 8. Following: "facilities"on line 9 Strike: the remainder of line 9 through "PROCESS" on line 12

Page 2 March 13, 1979 House Bill No. 452 9. Page 2, line 15. Following: "required" Insert: "for procedural reasons" 10. Page 2, line 24. 4 Following: "certificate" Insert: "as issued or as amended pursuant to the amendment procedures 4 of the Montana Major Facility Siting Act • • 11. Page 3, line 17.
Following: "ASSOCIATED FACILITIES" . Strike: "WHICH HAS BEEN" . 12. Page 3, lines 20 and 21. 4... Following: "WHICH" on line 20 Strike: the remainder of line 20 and line 21 in its entirety Insert: "may be affected by any" 13. Page 3, line 22. , 1 Following: "PROCEDURAL" 4 . Strike: "DEFECTS" 4. "defect" Insert: -40 14. Page 4, line 3. - **.** . Following: "them." Insert: "The operation of such electric generating facilities and associated facilities shall comply with applicable state and **R** federal laws, regulations, standards, and implementation plans • for air and water quality and permits issued pursuant to them." ÷. 15. Page 4, line 6.
Following: "CERTIFICATE" Insert: "as originally issued or as amended pursuant to the amendment ... procedures of this chapter" 4

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State of Montana Office of The Governor Helena 59601

THOMAS L. JUDGE GOVERNOR

April 10, 1979

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The Honorable William Mathers President of the Senate State Capitol Helena, Montana 59601

The Honorable Harold Gerke Speaker of the House State Capitol Helena, Montana 59601

Dear President Mathers and Speaker Gerke:

In accordance with the power vested in me as Governor by the constitution and the laws of the State of Montana, I hereby veto House Bill No. 452, "AN ACT TO AMEND SECTION 75-20-202, MCA, OF THE MONTANA MAJOR FACILITY SITING ACT TO CURE ANY POSSIBLE PROCEDURAL DEFICIENCY IN THE HEARING PROCESS FOR ELECTRIC GENERATING FACILITIES AND ASSOCIATED FACILITIES THAT HAVE BEEN THE SUBJECT OF AN ADMINISTRATIVE HEARING THAT COMMENCED PRIOR TO JANUARY 1, 1979, BY PROVIDING LEGISLATIVE RATIFICATION OF ANY CERTIFICATE OF ENVIRONMENTAL COMPATABILITY AND PUBLIC NEED FOR SUCH FACILITIES AND ASSOCIATED FACILITIES ISSUED BY THE BOARD OF NATURAL RESOURCES AND CONSERVATION WHICH MAY BF AFFECTED BY ANY PROCEDURAL DEFICIENCY IN THE HEARING PROCESS; PROVIDING THAT THE CONSTRUCTION AND OPERATION OF SUCH FACILITIES AND ASSOCIATED FACILITIES SHALL COMPLY WITH THE TERMS AND CONDITIONS OF SUCH CERTIFICATE AS ORIGINALLY ISSUED OR AS THE TERMS AND CONDITIONS OF SUCH CERTIFICATE ARE AMENDED PURSUANT TO THE AMENDMENT PROCEDURES OF THE MONTANA MAJOR FACILITY SITING ACT; AND PROVIDING AN EFFECTIVE DATE."

House Bill No. 452 is special legislation. I have not, and will not, lend the authority of this office to extend special privilege to the Montana Power Company or to anyone else. True equality may be an impossibility, but legislated inequality is intolerable.

This bill seeks to circumvent the duly established processes of law and it proposes to avoid pending judicial action.

House Bill No. 452 is a hybrid piece of legislation intended to cure, validate and circumvent, but it may ultimately only guarantee a new round of litigation and consequent delay.

The Honorable William Hathers The Honorable Harold Gerke April 10, 1979 Page Two

Our energy needs in this state and this region are critical and I continue to support the construction of Colstrip 3 and 4. I appreciate, and I share, the justifiable frustration of members of this legislature, and the public we all represent, as they view the seemingly endless process for certification of Colstrip 3 and 4. That unwieldy and expensive process needs revision and I have proposed legislation that would streamline the major facility siting act.

Six years is too long, but House Bill No. 452 is not the answer. It subverts the process, interferes with judicial decision making, adds new confusion, and virtually guarantees new litigation. House Bill No. 452, if passed will be counterproductive. This legislation raises the most complex legal issues in an attempt to cure past procedural errors. It raises issues of definition over which lawyers will argue and the courts will mull for years to come. It raises the spectre of unknown constitutional questions. It is legislation special in nature, curative in design, confusing in legal contemplation and sure to generate delay.

Signing House Bill No. 452 would be a disservice to the people of Montana and to the accepted processes of state government, and to the energy needs of this state ... any one of those reasons require rejection of this bill; taken together they are a command to veto.

For these reasons, I veto House Bill No. 452.

Sincerely, THOMAS L. JUDGE Governor

cc: The Honorable Frank Hurray