

HOUSE JOINT RESOLUTION NO. 40

INTRODUCED BY BRAND, MARKS, MENAHAN, STOBIE

IN THE HOUSE

February 17, 1981	Introduced and referred to Committee on Natural Resources.
February 21, 1981	Committee recommend bill do pass. Report adopted.
February 23, 1981	Bill printed and placed on members' desks. Second reading, pass consideration.
February 24, 1981	Second reading, do pass.
February 25, 1981	On motion rules suspended and bill placed on third reading this day. Third reading, passed. Ayes, 87; Noes, 10. Transmitted to Senate.

IN THE SENATE

March 3, 1981	Introduced and referred to Committee on Natural Resources.
March 21, 1981	Committee recommend bill be concurred in. Report adopted.
March 23, 1981	Motion pass consideration.
March 24, 1981	Second reading, concurred in.
March 26, 1981	Third reading, concurred in. Ayes, 46; Noes, 1.

IN THE HOUSE

March 27, 1981	Returned from Senate. Concurred in. Sent to enrolling. Reported correctly enrolled.
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HOUSE JOINT RESOLUTION NO. 40

INTRODUCED BY

Brenda Wain *Marsha Stelm*

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE UNITED STATES CONGRESS TO AMEND THE FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976 TO DELETE CERTAIN PROVISIONS RELATING TO RECORDING AND ABANDONMENT OF MINING CLAIMS AND CERTAIN ENFORCEMENT PROVISIONS.

WHEREAS, subsection 303(c) of the Federal Land Policy and Management Act of 1976 (FLPMA) authorizes enforcement personnel to carry firearms, make certain arrests without warrant, and search for and seize evidentiary items without warrant under certain circumstances; and

WHEREAS, subsection 314(a)(1) of the FLPMA requires the filing of a notice of intent to hold a mining claim, an affidavit of assessment work performed thereon, or other detailed report as required by 30 U.S.C. 28-1, in the office where the location notice or certificate is recorded; and

WHEREAS, subsection 314(c) of the FLPMA states that the failure to file such instruments as required by subsection (a) shall be considered conclusively to constitute an abandonment of the mining claim or mill or tunnel site; and

WHEREAS, the Fourth Amendment of the Constitution of

the United States provides that the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated; and

WHEREAS, the Fifth Amendment of the Constitution of the United States provides that no person shall be deprived of life, liberty, or property without due process of law; and

WHEREAS, it is a longstanding principle of law that abandonment does not depend on rules or customs of mining but is largely, if not entirely, a matter of a locator's intention, which is to be determined from his acts and statements.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Congress of the United States is most earnestly requested to amend the Federal Land Policy and Management Act of 1976 (Public Law 94-579) by deleting therefrom subsections 303(c), 314(a)(1), and 314(c).

BE IT FURTHER RESOLVED, that the Secretary of State shall send copies of this resolution to the President of the United States, Governor Ted Schwinden, and to each member of the Congress of the United States.

-End-

-2- INTRODUCED BILL
HJR 40

Approved by Committee
on Natural Resources

HOUSE JOINT RESOLUTION NO. 40

INTRODUCED BY

Brand Mark Monahan, Steve

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE UNITED STATES CONGRESS TO AMEND THE FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976 TO DELETE CERTAIN PROVISIONS RELATING TO RECORDING AND ABANDONMENT OF MINING CLAIMS AND CERTAIN ENFORCEMENT PROVISIONS.

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-2- THIRD READING
HJR 40

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