

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.
----------------	--

1 HOUSE JOINT RESOLUTION NO. 402 INTRODUCED BY Brandi Wahl Monahan Stehle3
4 A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF
5 REPRESENTATIVES OF THE STATE OF MONTANA URGING THE UNITED
6 STATES CONGRESS TO AMEND THE FEDERAL LAND POLICY AND
7 MANAGEMENT ACT OF 1976 TO DELETE CERTAIN PROVISIONS RELATING
8 TO RECORDING AND ABANDONMENT OF MINING CLAIMS AND CERTAIN
9 ENFORCEMENT PROVISIONS.10
11 WHEREAS, subsection 303(c) of the Federal Land Policy
12 and Management Act of 1976 (FLPMA) authorizes enforcement
13 personnel to carry firearms, make certain arrests without
14 warrant, and search for and seize evidentiary items without
15 warrant under certain circumstances; and16 WHEREAS, subsection 314(a)(1) of the FLPMA requires the
17 filing of a notice of intent to hold a mining claim, an
18 affidavit of assessment work performed thereon, or other
19 detailed report as required by 30 U.S.C. 28-1, in the office
20 where the location notice or certificate is recorded; and21 WHEREAS, subsection 314(c) of the FLPMA states that the
22 failure to file such instruments as required by subsection
23 (a) shall be considered conclusively to constitute an
24 abandonment of the mining claim or mill or tunnel site; and

25 WHEREAS, the Fourth Amendment of the Constitution of

1 the United States provides that the right of the people to
2 be secure in their persons, houses, papers, and effects,
3 against unreasonable searches and seizures shall not be
4 violated; and5 WHEREAS, the Fifth Amendment of the Constitution of the
6 United States provides that no person shall be deprived of
7 life, liberty, or property without due process of law; and8 WHEREAS, it is a longstanding principle of law that
9 abandonment does not depend on rules or customs of mining
10 but is largely, if not entirely, a matter of a locator's
11 intention, which is to be determined from his acts and
12 statements.13
14 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE
15 OF REPRESENTATIVES OF THE STATE OF MONTANA:16 That the Congress of the United States is most
17 earnestly requested to amend the Federal Land Policy and
18 Management Act of 1976 (Public Law 94-579) by deleting
19 therefrom subsections 303(c), 314(a)(1), and 314(c).20 BE IT FURTHER RESOLVED, that the Secretary of State
21 shall send copies of this resolution to the President of the
22 United States, Governor Ted Schwinden, and to each member of
23 the Congress of the United States.

-End-

-2- INTRODUCED BILL

HJR 40

Approved by Committee
on Natural Resources

1 HOUSE JOINT RESOLUTION NO. 40

2 INTRODUCED BY Broad Malm Monahan, Stolte

3

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

10

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

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

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

25 WHEREAS, the Fourth Amendment of the Constitution of

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

5 WHEREAS, the Fifth Amendment of the Constitution of the
6 United States provides that no person shall be deprived of
7 life, liberty, or property without due process of law; and
8 WHEREAS, it is a longstanding principle of law that
9 abandonment does not depend on rules or customs of mining
10 but is largely, if not entirely, a matter of a locator's
11 intention, which is to be determined from his acts and
12 statements.

13

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

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

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

-End-

-2- SECOND READING
HJR 40

1 HOUSE JOINT RESOLUTION NO. 402 INTRODUCED BY Brandi Wallin - Monahan, Stohr3
4 A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF
5 REPRESENTATIVES OF THE STATE OF MONTANA URGING THE UNITED
6 STATES CONGRESS TO AMEND THE FEDERAL LAND POLICY AND
7 MANAGEMENT ACT OF 1976 TO DELETE CERTAIN PROVISIONS RELATING
8 TO RECORDING AND ABANDONMENT OF MINING CLAIMS AND CERTAIN
9 ENFORCEMENT PROVISIONS.10
11 WHEREAS, subsection 303(c) of the Federal Land Policy
12 and Management Act of 1976 (FLPMA) authorizes enforcement
13 personnel to carry firearms, make certain arrests without
14 warrant, and search for and seize evidentiary items without
15 warrant under certain circumstances; and16 WHEREAS, subsection 314(a)(1) of the FLPMA requires the
17 filing of a notice of intent to hold a mining claim, an
18 affidavit of assessment work performed thereon, or other
19 detailed report as required by 30 U.S.C. 28-1, in the office
20 where the location notice or certificate is recorded; and21 WHEREAS, subsection 314(c) of the FLPMA states that the
22 failure to file such instruments as required by subsection
23 (a) shall be considered conclusively to constitute an
24 abandonment of the mining claim or mill or tunnel site; and

25 WHEREAS, the Fourth Amendment of the Constitution of

1 the United States provides that the right of the people to
2 be secure in their persons, houses, papers, and effects,
3 against unreasonable searches and seizures shall not be
4 violated; and5 WHEREAS, the Fifth Amendment of the Constitution of the
6 United States provides that no person shall be deprived of
7 life, liberty, or property without due process of law; and8 WHEREAS, it is a longstanding principle of law that
9 abandonment does not depend on rules or customs of mining
10 but is largely, if not entirely, a matter of a locator's
11 intention, which is to be determined from his acts and
12 statements.13
14 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE
15 OF REPRESENTATIVES OF THE STATE OF MONTANA:16 That the Congress of the United States is most
17 earnestly requested to amend the Federal Land Policy and
18 Management Act of 1976 (Public Law 94-579) by deleting
19 therefrom subsections 303(c), 314(a)(1), and 314(c).20 BE IT FURTHER RESOLVED, that the Secretary of State
21 shall send copies of this resolution to the President of the
22 United States, Governor Ted Schwinden, and to each member of
23 the Congress of the United States.

-End-

HOUSE JOINT RESOLUTION NO. 40

INTRODUCED BY BRAND, MARKS, MENAHAN, STOBIE

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

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

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

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

25 WHEREAS, the Fourth Amendment of the Constitution of

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

5 WHEREAS, the Fifth Amendment of the Constitution of the
6 United States provides that no person shall be deprived of

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

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

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

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

-End-