

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By THOMAS F. KEATING, on MARCH 15, 1989, at
1:00 pm. Room 405, of the State Capitol

ROLL CALL

Members Present: Senators: Thomas Keating, Larry Tveit,
Fred VanValkenburg, Loren Jenkins, Darryl Meyer, Bill
Yellowtail, Cecil Weeding, Dorothy Eck,
Jerry Noble and Larry Stimatz.

Members Excused: Pete Story and Elmer Severson

Members Absent: None

Staff Present: Bob Thompson and Helen McDonald

HEARING ON HJR 29

Presentation and Opening Statement by Sponsor:

Representative Bob Raney, District #82, sponsored HJR 29 and stated there is legislation pending before Congress to grant the right of eminent domain for coal slurry pipelines. Coal is not the objective, water is the objective. The Montana coal fields and Wyoming coal fields are situated very close to the water that is desired to be put into the pipelines. The pipelines vary in size from 2 to 14 inches depending on who one listens to. As time goes on, the pipes begin to wear out from the friction caused by coal. At some point they become usable only as a water line. Thus, Representative Raney believes the objective is not to move coal but to move water.

Representative Raney added that water would be taken from the Madison formation and from the Yellowstone and Powder River drainages to move the coal south out of Montana to Wyoming. Montana water may also be used to move Wyoming coal. This resolution merely asks the Montana delegation in Washington and the Federal Departments of Interior and Transportation not to pass legislation until Montana has the opportunity to adjudicate its water.

List of Testifying Proponents and What Group they Represent:

James Mular, Montana Joint Rail Labor
Valerie Larson, Farm Bureau

List of Testifying Opponents and What Group They Represent:

None

Testimony:

James Mular said this resolution is basically a letter addressed to Montana delegation in Washington D.C. Montana's delegation has always been opposed to coal slurry. When Mr. Mular talked to Senator Burns, he was told the senator would probably oppose coal slurry because the real problem was the drought.

Mr. Mular also said industry has a special interest in this because of the job loss to transportation workers that would occur.

Valerie Larson submitted written testimony. (Exhibit #2)

Questions From Committee Members:

Senator Jenkins asked if Montana shipped coal to Texas and that area now.

James Mular answered that Montana did. The coal goes to Sheridan, Wyoming, and then to Texas Power and Light.

Senator Keating said when the coal severance tax was discussed there was a complaint about the fact that there wasn't much mining of coal in Montana because of the cost of transportation. What is the difference between the cost of transportation by rail and by slurry line?

James Mular said the United Mines Workers are opposed to this legislation because there wouldn't be any increase in the amount of coal used by the big companies. The rate would be inequitable for the smaller power producer. If the small power producer was on line and wanted some coal it would be almost prohibitive for him. A small producer of power would have a rate increase because currently the rates are kept on an even contract basis based on assurances of terms of years. The same would apply to coal slurries but not all the users of coal with power generator plants would be able to tap on to the slurry line. The railroad would be forced to haul some coal, but would have to increase the freight rate, which would have a devastating effect on about 20% or 30% of the power producers (the small ones).

Senator Keating questioned that it appeared from the testimony that there would not be a savings in slurry lines over coal hauled by rail.

James Mular said at least over the ten-year projection.

Senator Keating said there shouldn't be any desire to build a slurry line if there isn't any competitive savings in it.

James Mular said there are pipelines in Arizona and Nevada now. These lines are not very big but they service a coal mine to a utility. Looking at the big picture, the little guy is going to get beat.

Senator Keating said there wasn't a distinction made between surface water and ground water, although Madison formation water was mentioned. Madison formation water is nonpotable and unusable for irrigation, livestock watering or for human consumption. Moreover, there is a super abundance of this water. Why does Montana want to prohibit the use of unusable water for transportation? The pipelines pay taxes, require labor to be built and would be moving minerals that are mined. What is your rationale for not using nonpotable water for the transportation of the commodity?

Representative Raney said projections indicate that the water can be cleaned up at the other end. When this happens in Montana that water will be every bit as valuable to Montana as it is obviously becoming to Arizona and Utah. Representative Raney noted that plans have been made for 25 years to drill in the backside of Yellowstone Lake and pipe water south. These states want our water, not our coal.

Senator Keating said that if somebody has a formula for refining Madison water so it is potable and usable, Montana should be considering it from that standpoint. There could be two or three slurry lines out of Montana using the Madison formation water without drawing down the water table because the recharging of the formation is so large. If this water could be cleaned up, made fresh, and released to the surface think of what a boon that would be for instream water flow to the fish and game department.

Representative Raney said the value of water in Arizona and California as opposed to a value of one gallon of water in Montana is incredibly different. Water is far more valuable to California than it is to Montana. At some point in the future, Montana will be able to clean up this water. Even though pipelines may be good for moving more coal, they are certainly not good for jobs. Montana has an industry in place that is paying an incredible number of people some of the finest wages in the labor market. He doesn't think that

coal slurry is better for the labor market than railroad transportation.

Senator Weeding said in 1985, the legislature passed a law that recognizes coal slurry as a beneficial use of water. Under Montana water law, a company could legitimately file a claim for water. Is the real concern here the eminent domain power?

Representative Raney said eminent domain is the problem as far as the laws in Washington are concerned. If the federal government grants eminent domain to coal slurry, then chances are very good that the government will be back the next session looking for the water. Montana should not grant eminent domain authority yet. Montana should determine what to do with Montana water before Washington decides that there is a lot of economic gain here for someone.

Closing by Sponsor: Representative Raney closed by saying this resolution was at the request of the House Natural Resources Committee and is signed by all the members.

DISPOSITION OF HJR 29

Discussion: Hearing is closed on HJR 29

HEARING ON HJR 23

Presentation and Opening Statement by Sponsor:

Representative John Cobb, District #42, sponsored this resolution urging the U. S. Department of Agriculture and the U. S. Forest service to reconsider the wisdom of the "Let it Burn" policy, to modify the policy to reflect local conditions, and to provide accountability for their decisions.

List of Testifying Proponents and What Group they Represent:

Valerie Larson, Montana Farm Bureau Federation
Jo Brunner, Montana Water Resources Association
Carol Mosher, Montana Cattlewomen's Association
Representative Janet Moore

List of Testifying Opponents and What Group They Represent:

Janet Ellis, Audubon Society

Testimony:

Valerie Larson submitted written testimony. (Exhibit #9)
Jo Brunner submitted written testimony. (Exhibit #3)
Janet Ellis submitted amendment to HJR 23 (Exhibit #4) and
Report on Fire Management Policy (Exhibit #5).
Carol Mosher submitted written testimony. (Exhibit #1)
Representative Janet Moore submitted written testimony.
(Exhibit #6)

Questions From Committee Members:

Senator Van Valkenburg wondered if this resolution got much
time in the House or was the resolution hurried through.

Representative Cobb said the discussion was longer than an
hour.

Senator Jenkins said this resolution is like taking out an
insurance policy on your barn after it burned down. Was the
December 14 policy only put there because of public
pressure?

Janet Ellis said the the policy was renewed because there
were a lot of problems, including communication problems.
She thinks it's a good idea for Montana to send a message to
Washington.

Senator Keating said the burning in Yellowstone Park was not
as solid and extensive in hindsight, it was kind of a wild
fire jumping around here and there.

Representative Cobb said the fire started small and spread
fast. Some places burned really thick and other places
didn't. It just depended on how much material was down
there. He saw 400 ft flames burning along the Rocky
Mountain front.

Representative Cobb said now it is green where the fire was,
but underneath the tree is burned up a couple of feet and
may not live.

Senator Keating said the trunk might be damaged and
eventually destroy the whole tree.

Senator Jenkins asked whether timber has to be harvested
within a year to avoid waste?

Representative Cobb said yes, within a year or two. It
depends on what happens this summer, too, and the moisture
content.

Closing by Sponsor:

Representative Cobb closed by saying all summer Montanans

tried to be diplomatic. Then the winds came and the ranchers panicked trying to save their buildings and homes. Time after time, the local people would say "put the fire out". People tried to be polite all summer but they had some serious problems and got nowhere. The fire was an environmental disaster.

DISPOSITION OF HJR 23

Hearing is closed on HJR 23.

EXECUTIVE ACTION (HB 486)

House Bill 486 has an amendment dated March 8th (Exhibit #8) and a fiscal note. Senator Noble moved the amendment and it passed.

Senator Noble moved that HB 486 be concurred in as amended.

Senator Keating wondered if there was any chance of changing the funding on bill to Resource Indemnity Trust Fund money.

Senator Eck thought that could be considered as a proposal for the next round.

Senator Keating asked if this legislation is enacted, where is the appropriation bill? Will this go into the big general government appropriation bill or is it in there now?

Jim Leiter, Department of Health & Environmental Sciences, didn't know.

Senator Van Valkenburg thought the cost of implementing this legislation will not be something paid for by the state of Montana. The customers of the individual landfill providers will pay the cost.

Senator Keating asked if there were provisions for fees to be charged to counties and towns.

Jim Leiter assumed the department included fee considerations and budget needs in its appropriation request. The department has written a fiscal note for a position and one-half assuming that it will come out of the general fund.

Senator Keating asked if the bill provided for rules and regulations by the department for the charging of fees.

Representative Grady said he understands the department will pass the cost on to the counties.

Senator Keating asked if general fund money will be used initially for this bill? Will there be a flow into the state's revenue from the fees charged to replace the general fund money?

Jim Leiter said there would not be unless one of the other bills has a fee system for solid waste systems. This particular piece of legislation doesn't have any way of returning that general fund money for state staff back to the state.

Senator Keating asked if either current law or this legislation gives the department authority to promulgate fees for this service to the counties? It's not a service, it's really a regulation that will be imposed on the counties to have monitoring wells around their landfills. Is it the department's idea to charge a fee?

Jim Leiter answered that the cost of any services incurred over the actual installation of monitoring wells presumably will be borne by the user of the landfill service -- a member of the refuse district.

Senator Keating said that means the counties and towns are going to do their own monitor well drilling, etc. The only thing the department will provide are experts who can provide data to the counties.

Jim Leiter said the department will provide data to the counties and will approve plans made for the installation of those required wells. Under existing regulations, counties must get department approval for landfills.

Senator Keating said general fund money will pay for the two FTEs that will go to the department for those purposes. But the department will not charge anything back to the counties to recover the costs of the two FTE's.

Jim Leiter agreed.

Senator Jenkins asked if the department had spending authority for these FTE's anyplace else.

Jim Leiter said this legislation was not a department bill and the department hasn't requested it. He assumed that the department included the funding in its general appropriations request for these 2 FTEs.

Senator Eck stated that the fiscal note says this bill will be funded from the general fund unless legislation is passed approving a fee schedule. Is there another bill that does that?

Jim Leiter answered that HB 752 would provide a fee system for solid waste management systems.

Senator Eck said laboratory costs will be \$600 per sample. Is it possible to recoup some money by increasing the laboratory fee?

Jim Leiter said laboratory fees will be paid to private laboratories and some state labs based on EPA requirements.

Senator Noble moved again that HB 486 be concurred in as amended. Motion carried.

HB 657

Senator Jenkins moved that HB 657 bill be concurred in

Senator Keating noted that this is Representative Owens' bill.

Senator Eck has a question about page 13 of the bill. The sentence reads: "In addition, a fee of 60 cents for each 1,000 board feet (log scale) or equivalent must be charged if products other than logs are cut." She thought this could be interpreted to say that that charge would only be made if a product other than logs were cut.

Senator Keating recalled that one of the foresters said this language does what they want it to do.

Senator Eck recalled the forester said they intended to pay 60 cents for each 1,000 board feet or the equivalent must be charged if they are not logs, which is Christmas trees. However, she thinks the bill as written says that the charge will only be on products other than logs.

Senator Van Valkenburg suggested asking Mark Simonich (a forester) for help on this interpretation.

Mark Simonich said he acted as chairman of the task force that put this bill together. The intent on the part that Senator Eck is referring to "60 cents per thousand on all saw logs that are produced" is to collect that amount. The part that refers to "equivalent forest products" simplifies the act rather than going into detail and saying the cost would be so much for posts, rail, and so much for Christmas trees. The intent was to allow that the department by rule to have a basis for collecting the deposits on any other type of product. Our intent was that through the rules an actual rate could be set up.

Senator Eck asked if Mark Simonich would be satisfied to put a period after scale and say an "equivalent amount must be charged if products other than logs are cut".

Mark Simonich said there wouldn't be any problem with that because the task force went with language currently in the statute.

Bob Thompson said on page 7, line 3, the sentence could be amended to read: "must be charged or, an equivalent must be charged if products other than logs are cut."

Senator Noble asked Bob Thompson if the language in the bill says what the committee wants it to say without changing it.

Bob Thompson said he thinks Senator Eck's interpretation could be valid because the bill doesn't read clearly.

Senator Eck moved the amendment. Passed.

Senator Jenkins moved this bill to be concurred in as amended. Motion carried.

HB 672

Senator Keating said HB 672 is Representative Cohen's bill. The committee has not been furnished a fiscal note yet, so this bill will be postponed for now.

HB 678

Senator Keating said HB 678 is Representative Gilbert's bill, introduced at the request of the Environmental Quality Council. The only opposition was a private landowner from Missoula.

Senator Jenkins asked Bob Thompson if there is a federal law or anything undertaken by the EPA forcing this bill.

Bob Thompson said not directly on the forest industry but perhaps to some extent indirectly through amendments to the Clean Water Act.

Senator Keating said the small owner is protected to some extent on Page 3, where exemptions are given for nursery operations, such as harvesting Christmas trees on private property and the cutting of wood for personal use either by the owner or operator. This bill is not really regulatory but mostly advisory and could be helpful to the inexperienced private owner. The real importance of the bill is to head off some super forest practice regulations that nobody wants. For that reason, there was some reluctance from the forest people and logging companies with

regard to accepting regulation. They see this bill as the lesser of two evils.

Senator Van Valkenburg said he thinks these "loveins" are great. However, Senator Van Valkenburg is concerned about the additional \$222,000 in state general fund money. That's a significant blessing for this "marriage". If they were coming in prepared to pay \$222,000 in marriage license fees he would be all for it and will probably be for it anyway. His concern is that it will do something that is going to cost \$222,000 without any force of law. He will vote for the bill now but will reserve the right at some later point to say that something else is more important than this bill.

Senator Eck said she has a note on her bill saying an amended fiscal note is needed. She recalls that if another bill is passed, some department people will be out in the field on timber sales. That bill would cost more to implement than this one.

Senator Keating said this is not an appropriations bill but a new law with a lot of new sections.

Senator Weeding made a motion to concur in HB 678. The motion carried, with Senator Jenkins and Senator Meyer voting "no".

ADJOURNMENT

Adjournment At: 2:20 pm


THOMAS F. KEATING, Chairman

TFK/hmc

senmin.315

ROLL CALL

NATURAL RESOURCES COMMITTEE

5054 LEGISLATIVE SESSION -- 1989

Date 3-15-89

NAME	PRESENT	ABSENT	EXCUSED
Chairman Tom Keating	✓		
Vice-Chairman Larry Tveit	✓		
Senator Fred VanValkenburg	✓		
Senator Loren Jenkins	✓		
Senator Darryl Meyer	✓		
Senator Lawrence Stimatz	✓		
Senator Pete Story			✓
Senator Bill Yellowtail	✓		
Senator Elmer Severson			✓
Senator Cecil Weeding	✓		✓
Senator Dorothy Eck	✓		
Senator Jerry Noble	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

March 17, 1989

MR. PRESIDENT:

We, your committee on Natural Resources, having had under consideration HJR 29 (third reading copy -- blue), respectfully report that HJR 29 be concurred in.

Sponsor: Raney (Keating)

BE CONCURRED IN

Signed: *Thomas F. Keating*
Thomas F. Keating, Chairman

*4/12/89
3:15
9:00 a.m.*

SENATE STANDING COMMITTEE REPORT

March 17, 1989

MR. PRESIDENT:

We, your committee on Natural Resources, having had under consideration HJR 23 (third reading copy -- blue), respectfully report that HJR 23 be amended and as so amended be concurred in:

Sponsor: Cobb (Noble)

1. Page 2, line 24, through page 3, line 1.

Strike: "WHEREAS" on page 2, line 1 through "and" on page 3, line 1

2. Page 4, lines 1 through 4.

Strike: "WHEREAS" on line 1 through "and" on line 4

AND AS AMENDED BE CONCURRED IN

Signed:


Thomas F. Keating, Chairman

N.C.
3/20/89
9:15
G.M.

SENATE STANDING COMMITTEE REPORT

March 16, 1989

MR. PRESIDENT:

We, your committee on Natural Resources, having had under consideration HB 486 (third reading copy -- blue), respectfully report that HB 486 be amended and as so amended be concurred in:

Sponsor: Grady (Yellowtail)

1. Page 4, lines 23 through 25.
Following: "monitoring" on line 23
Strike: remainder of line 23 through "OWNERS" on line 25
Insert: ". (1) Owners"
2. Page 5, line 19 through page 6, line 1.
Strike: subsection (3) in its entirety
Renumber: subsequent subsections
3. Page 6, line 19.
Strike: "(4)"
Insert: "(3)"
4. Page 6, line 24.
Strike: "(4)"
Insert: "(3)"
5. Page 7, line 24.
Strike: "[SECTION 2(4)]"
Insert: "[section 2(3)]"

AND AS AMENDED BE CONCURRED IN

Signed: 
Thomas F. Keating, Chairman

*4.c.
3/16/89
4: p.m.*

SENATE STANDING COMMITTEE REPORT

March 16, 1989

MR. PRESIDENT:

We, your committee on Natural Resources, having had under consideration HB 657 (third reading copy -- blue), respectfully report that HB 657 be amended and as so amended be concurred in:

Sponsor: Owens (Keating)

1. Page 13, line 4.
Following: "(log scale)"
Insert: "must be charged,"
Following: "or"
Insert: "an"
Following: "equivalent"
Insert: "fee"

AND AS AMENDED BE CONCURRED IN

Signed: *Thomas F. Keating*
Thomas F. Keating, Chairman

*J. C. 89
3/16/89
4:00
4:00 P.M.*

SENATE STANDING COMMITTEE REPORT

March 17, 1989

MR. PRESIDENT:

We, your committee on Natural Resources, having had under consideration HB 672 (third reading copy -- blue), respectfully report that HB 672 be not concurred in.

Sponsor: Cohen (Keating)

BE NOT CONCURRED IN

Signed: *Thomas F. Keating*
Thomas F. Keating, Chairman

*y/c.
3/20/89
9:15
a.m.*

SENATE STANDING COMMITTEE REPORT

March 15, 1989

MR. PRESIDENT:

We, your committee on Natural Resources, having had under consideration HB 678 (third reading copy -- blue), respectfully report that HB 678 be concurred in.

Sponsor: Gilbert (Halligan)

BE CONCURRED IN

Signed: *Thomas F. Keating*
Thomas F. Keating, Chairman

*YJ. @ 3/16/89
7.59
7. A. m.*



P. O. Box 1679
Helena, Montana 59624
(406) 442-3420

SENATE NATURAL RESOURCES
EXHIBIT NO. 41
DATE 3-15-89
BILL NO. HJR 23

March 15, 1989.

To: Chairman and Members of the Senate Natural Resource Committee

I am Carol Mosher, representing the Montana CattleWomen and myself as a rancher. We are very much in support of HJR23 and I am speaking as a close observer and victim of the "let it burn" policy.

Our ranch is on the Rocky Mountain Front west of Augusta. This past September we felt the "hot breath of hell" roaring at us for days on end. the mental and physical anguish to my neighbors and my family will be with us forever.

The Canyon Creek fire burned over 140 thousand acres in one night - 40 thousand of those were on private lands. We were able to evacuate and saved most buildings by soaking them with water. We weren't able to save our beautiful lush mountain front. We saw our cattle die, our fences and precious grass destroyed. Our watershed is gone. I cannot describe to you those hours of not knowing where our families were as everyone drove themselves and rode horses to near death in attempts to drive livestock from the fire danger.

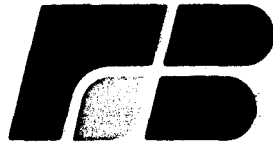
Those of us who have spent a lifetime in that area know the dangers of the often hurricane force winds that sweep down from the mountain slopes onto the plains. That is what makes it great cattle country as it blows the snow away so cattle can graze even in winter. But these winds mean that fires can be an especially scary experience.

For days we had asked that the Forest Service use all efforts to extinguish that fire which started out so small, way back in the wilderness. Our pleas were not heard. The smoke was so thick that it was impossible to tell which way the fire was coming and not once did the Forest Service contact us to warn of the danger possible to ourselves, our homes and our animals.

Yes, we probably will have fresh green grass this spring, but those trees are gone for a generation. The spring run-offs in the years ahead will be watched with great apprehension since the threat of floods could be with us for many years with the loss of our watershed.

All of this did not need to happen and to continue the "let it burn" policy without strict guidelines is a mockery of the many gifts God has given us.

This resolution says it all and we urge your support.



MONTANA FARM BUREAU FEDERATION # 2

502 South 19th • Bozeman, Montana 59715
Phone: (406) 587-3153

SENATE NATURAL RESOURCES

BILL NO. 3+15-89
HJR 29

BILL # HJR 29 ; TESTIMONY BY: Valerie Larson
DATE March 15, 1989 ; SUPPORT yes ; OPPOSE _____

Mr. Chairman, members of the Committee, for the record, my name is Valerie Larson, representing over 3500 Farm Bureau members from throughout Montana.

Mr. Chairman, Farm Bureau supports House Joint Resolution 29. We believe that Montana's water should not be used for the transportation of coal. We heartily commend the Resolution, and urge a DO PASS from the Committee.

Thank you for your attention.

SIGNED: *Valerie Larson*

SENATE NATURAL RESOURCES

EXHIBIT NO. #3

DATE 3-15-89

BILL NO. HJR 23

HJ23 Representative Cobb Mar. 15, 1989

Support Oppose Amend

Montana Water Resources Association

Jo Brunner, Executive Secretary

The Montana Water Resources Association supports HJ23. It is our assessment that the policies advocated and carried out this past summer were not reasonable nor responsible and certainly did not take into consideration climatic conditions, nor other pertinent information.

The Gates Park fire, allowed to burn for many weeks, almost completely destroyed the North Fork of the Sun River water shed. We are torn between being grateful for the heavy snows we are getting and our great concern for what spring melt and run off will do to the streams that will carry the burned wastes and silt into our storage reservoir. Irrigation systems, dependent on snowpack and mountain streams have quite a delivery system that is not man made. Our living watersheds, the forests, are not overnight growths. The trees, with their extensive root systems will take many years to replace. Even in the most ideal of circumstances, not drought, the seeding of grasses will accomplish little until a root system can grow. Any seeding done late last fall will wash out with the soil. When grasses do take hold, they will not replace the trees in the watershed system, and it will be years before the trees will maintain the stability necessary to prevent horrendous earth and stream erosion caused by melting snows and heavy rains.

MWRA passed a resolution at the September 1988 Convention protesting a let burn policy and asking in essence, that common sense be used in further fire controlling decisions.

We ask your support of HJ23.

HOUSE JOINT RESOLUTION NO. 23

WHEREAS, major problems were encountered in the implementation of the natural burn policy on Forest Service lands in Montana during the 1988 fire season; and

WHEREAS, there was damage to certain private lands from fires originating on Forest Service lands; and

WHEREAS, increased local participation and involvement in the development of fire plans and in the implementation of the natural burn policy is necessary and would be beneficial; and

WHEREAS, the Department of Agriculture and Department of Interior Fire Management Policy Review Team has addressed many of the issues, concerns and problems relating to the implementation of the natural burn policy.

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

That the U.S. Department of Agriculture and the United States Forest Service be urged to reevaluate and modify the prescribed burn policy, taking into account the recommendations of the Fire Management Policy Review Team as set forth in their Report on Fire Management Policy, dated December 14, 1988, and also taking into account local conditions and local expertise.

SENATE NATURAL RESOURCES

EXHIBIT NO. H.5

DATE 3-15-89

BILL NO. U.S.R. 73 P. 1 of 5

Janet Ellis

**Report
on
Fire Management Policy**

December 14, 1988

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3-15-89
p. 2 of 5

Fire Management Policy Review Team

December 14, 1988

Department of Agriculture

Department of the Interior

FIRE MANAGEMENT POLICY REVIEW TEAM

Charles Philpot, Co-Chair
Special Assistant to the
Deputy Secretary, Department
of Agriculture

Brad Leonard, Co-Chair
Deputy Director
Office of Program Analysis
Department of the Interior

Gary E. Cargill
Regional Forester
Rocky Mountain Region
U.S. Forest Service

Blaine L. Cornell
Forest Supervisor
Stanislaus National Forest
U.S. Forest Service

Boyd Evison
Regional Director
Alaska Region
National Park Service

Thomas F. Follrath
Deputy Division Chief
Division of Wildlife Refuges
U.S. Fish and Wildlife Service

Dean E. Stepanek
Assistant Director for
Lands and Renewable Resources
Bureau of Land Management

Charles W. Tandy
BIA Director
Boise Interagency Fire Center
Bureau of Indian Affairs

Bruce M. Kilgore
Regional Chief Scientist
Western Region
National Park Service

Harry F. Layman
Chairman of the Fire Committee
National Association of
State Foresters

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3-15-89
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REPORT ON FIRE MANAGEMENT POLICY

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3-15-89
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SUMMARY

The Fire Management Policy Review Team was established on September 28th to review national policies and their application for fire management in national parks and wilderness and to recommend actions to address the problems experienced during the 1988 fire season. The Team report is due December 15th, with a minimum of a 60 day public review and comment period to follow. The goal is to have improved fire management policies and plans in effect by the end of May 1989.

The Fire Management Policy Review Team finds that:

- o The objectives of policies governing prescribed natural fire programs in national parks and wildernesses are sound, but the policies themselves need to be refined, strengthened, and reaffirmed. These policies permit fires to burn under predetermined conditions.
- o Many current fire management plans do not meet current policies; the prescriptions in them are inadequate; and decision-making needs to be tightened.
- o There are risks inherent in trying to manage fire, but they can be reduced by careful planning and preparation. Use of planned burning and other efforts to reduce hazard fuels near high value structures and to create fire breaks along boundaries help to reduce risks from both prescribed natural fires and wildfires.
- o The ecological effects of prescribed natural fire support resource objectives in parks and wilderness, but in some cases the social and economic effects may be unacceptable. Prescribed natural fires may affect permitted uses of parks and wilderness, such as recreation, and impact outside areas through such phenomena as smoke and stream sedimentation.
- o Dissemination of information before and during prescribed natural fires needs to be improved. There needs to be greater public participation in the development of fire management plans.
- o Internal management processes, such as training more personnel, developing uniform terminology, and utilizing similar budget structures, would significantly improve fire management.
- o Claims were heard that some managers support "naturalness"

Ex. #5
3-15-89
pg 5 of 5

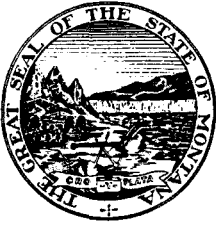
Report on Fire Management Policy

12/14/88

above all else, allowing fires to burn outside of prescription requirements without appropriate suppression actions.

The Team recommends that:

- o Prescribed natural fire policies in the agencies be reaffirmed and strengthened.
- o Fire management plans be reviewed to assure that current policy requirements are met and expanded to include interagency planning, stronger prescriptions, and additional decision criteria.
- o Line officers certify daily that adequate resources are available to ensure that prescribed fires will remain within prescription, given reasonably foreseeable weather conditions and fire behavior.
- o Agencies develop regional and national contingency plans to constrain prescribed fires under extreme conditions.
- o Agencies consider opportunities to use planned ignitions to complement prescribed natural fire programs and to reduce hazard fuels.
- o Agencies utilize the National Environmental Policy Act requirements in fire management planning to increase opportunities for public involvement and coordination with state and local government.
- o Agencies provide more and better training to assure an adequate supply of knowledgeable personnel for fire management programs.
- o Agencies review funding methods for prescribed fire programs and fire suppression to improve interagency program effectiveness.
- o Additional research and analysis relating to weather, fire behavior, fire history, fire information integration, and other topics be carried out so that future fire management programs can be carried out more effectively and with less risk.
- o Allegations of misuse of policy be promptly investigated and acted upon as may be appropriate.



The Big Sky Country

SENATE NATURAL RESOURCES

EXHIBIT NO. # 6

DATE 3-15-89

BILL NO. HJR 23

MONTANA HOUSE OF REPRESENTATIVES

REPRESENTATIVE JANET MOORE

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COMMITTEES:

NATURAL RESOURCES
STATE ADMINISTRATION

March 14, 1989

To: Senator Tom Keating, Chairman
Senate Natural Resources Committee Members

When you consider HJR-23 attached, I hope you will ^{also} consider my amendments to improve its tone. Since the bill in its original form was so negative, I opposed it in the House.

For decades, the U.S. Forest Service battled forest fires in the Northwest. Lives were lost in the process, yet the war on fire was unwinnable in our arid climate under that policy of controlling all fires by 10 a.m. the following morning after discovery.

1910, a tragic fire year much like 1988, triggered the 10 a.m. policy the Forest Service adopted. However, they overlooked the fact that fire in the Northwest, historically through the ages, was as natural as the wind and rain in our mountains.

Ancient fire-scarred ponderosa pines were a part of the proof of the natural role of fire -- nature's clean-up agent.

Page -2-

The old "don't" let 'em burn policy built up enormous fuels since forest debris did not decay quickly in our arid climate.

Thus, the Forest Service, with all good intent, built a most dangerous, unnatural condition while they quickly trounced all forest fires for 5 decades after the big burn in 1910.

In the '70's it was recognized that forest firefighting alone wasn't enough. Fire, a natural element, must be allowed to play a more natural role in wilderness. Our God given forest clean-up agent was restored by allowing a lightning-caused fire to burn in a heavily-studied wilderness area called the "White Cap."

That was 1972 and ideal conditions to let fire play its natural role again. That first natural fire didn't harm the forest or the men who studied and watched it burn; all was enhanced. Nature's prescribed fire was reborn.

This new forest fire policy worked well until 1988, after years of severe drought conditions. To me, the only mistake the Forest Service made was letting down their guard in a conflagration-type year like 1988.

In most cases, however, they rallied the troops and it was war on forest fires again. I know of no incident to support the negative claims in HJR-23 although I admit there may have been

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isolated incidents.

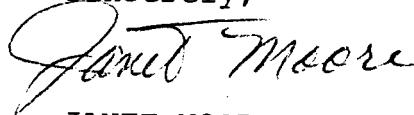
Rather than bashing in the Forest Service and destroying our new fire policy, I hope you will at least change the negative, "Let it Burn" wording in HJR-23 and use instead the words, "Wilderness prescribed fire."

A little word or two in this bill to compliment the Forest Service for the good work they accomplished would be positive and helpful too.

And, please do not confuse the fact that Forest Service and Park Service policies differ.

Thank you for your time and consideration.

Sincerely,



JANET MOORE
Representative

JM:bd

SENATE NATURAL RESOURCES

EXHIBIT # 7

DATE 3-15-89

PROPOSED AMENDMENTS FOR
HOUSE JOINT RESOLUTION ~~BILL~~ NO. HJR 23
BEFORE SENATE NATURAL RESOURCES COMMITTEE

By Janet Moore
March 8, 1989

1. Title, line 9.

Strike: "WISDOM"

Insert: "IMPLEMENTATION"

Strike: "LET IT BURN"

Insert: "WILDERNESS PRESCRIBED FIRE"

2. Title, line 10.

Strike: "THE POLICY"

Insert: "THEIR PROCEDURES"

3. Page 1, line 15.

Following: "WHEREAS, the"

Insert: "wilderness"

4. Page 1, line 16.

Following: "is"

Insert: "applied"

Strike: "rigid"

Insert: "rigidly"

5. Page 2, line 3.

Strike: "let it burn"

Insert: "wilderness prescribed fire"

6. Page 2, lines 5 through 7.

Strike: "WHEREAS," on line 5 through "; and" on line 7.

7. Page 2, lines 10 and 19.

Following: "WHEREAS,"

Insert: "implementation of"

8. Page 2, line 14.

Following: "in"

Insert: "implementing"

9. Page 4, lines 18 and 19.

Strike: "and modify"

Insert: "the implementation of"

10. Page 4, line 19.

Following: "policy"

Insert: "for wilderness"

Amendments to House Bill No. 486
Third Reading CopyRequested by Rep. Grady
For the Senate Committee on Natural Resources

March 8, 1989

1. Page 4, lines 23 through 25.
Following: "monitoring"
Strike: "--" on line 23 through "OWNERS" on line 25
Insert: ". (1) Owners"
2. Page 5, line 19 through line 1, page 6.
Strike: subsection (3) in its entirety
Renumber: subsequent subsections
3. Page 6, line 19.
Strike: "(4)"
Insert: "(3)"
4. Page 6, line 24.
Strike: "(4)"
Insert: "(3)"
5. Page 7, line 24.
Strike: "[SECTION 2(4)]"
Insert: "[section 2(3)]"

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MONTANA FARM BUREAU FEDERATION

502 South 19th • Bozeman, Montana 59715
Phone: (406) 587-3153

EXHIBIT #9

3-15-89

HJR 23

BILL # HJR 23 ; TESTIMONY BY: Valerie Larson

DATE March 15, 1989 ; SUPPORT yes ; OPPOSE _____

Mr. Chairman, members of the Committee, for the record, my name is Valerie Larson, representing over 3500 Farm Bureau members of Montana.

Mr. Chairman, Farm Bureau members recognize the value of prescribed burning as a management tool consistent with the principles of good stewardship when used selectively and wisely. We question, however, the wisdom of burning one third to one half of the forested area of Yellowstone Park in one season! This is not good stewardship! (Consider what public reaction would be if it were proposed that the same acreage be clear-cut!) Park Service officials delayed serious fire suppression efforts long after most farmers and ranchers had recognized the extreme drought conditions which existed in the summer of 1988.

Many of our members own land and/or run livestock within proximity of wilderness areas and national parks. Some also have timber stands on their land of the same species found on the federal lands. We consider ourselves to be an integral part of those areas referred to as ecosystems. We also believe that success in most activities requires managing events and resources so that desirable objectives are attained. Successful ranching or farming does not just happen without planning, investment and effort.

Similarly, we do not believe that federally owned lands can flourish through management by default. Furthermore, we can very easily become the ones who suffer from a federal policy of cavalier "naturalness" or benign neglect. Game animals which are displaced because of fires may not only compete with livestock for forage, they can transmit feared diseases to livestock. No respecter of administrative boundaries or property lines, fires can quickly leap from federal property onto private property. Federal lands which serve as all-important watersheds can be reduced to eroded slopes supplying quantities of non-point source pollution. Smoke pollution can have a deleterious effect on the rural environment for not only humans, but possibly for crops and animals alike.

The recent fires on federal and private lands, culminating with the Yellowstone Park blaze are not so much a disaster of natural causes as they are a disaster of national policy.

Mr. Chairman, for these reason, Farm Bureau wholeheartedly endorses House Joint Resolution 23, and urges a DO PASS from the Committee.

Thank you.

SIGNED: Valerie Larson

HB 486

TO: Senate Natural Resources Committee

FROM: Bob Thompson, Committee Staff

RE: Questions Concerning Federal Regulation of Solid Waste Landfills and Possible Funding Sources

The questions and comment below are in regard to House Bill 486, which would require groundwater monitoring at several of Montana's 140 municipal solid waste landfills.

1. What federal regulation is occurring in this area?

Using authority under subtitle D of the Resource Conservation and Recovery Act (RCRA), the U.S. Environmental Protection Agency (EPA) is setting minimum criteria for municipal solid waste landfills (any landfill or landfill unit that receives household waste). The formal rulemaking process began in August, 1988, when the EPA issued proposed rules for these landfills.

Final rules should be adopted later this year, although the effective date of the rules will not occur until 18 months after the date of adoption. Upon adoption, the states are required to establish compliance schedules for landfill owners and operators to ensure that all landfill units are in compliance with the rules within 5 years of the effective date (6.5 years after the date of adoption).

The rules would apply to owners and operators of all new and existing municipal solid waste landfills, "unless the owner or operator can demonstrate to the State that there is no potential for migration of hazardous constituents from [the landfill] unit to the uppermost aquifer during the active life, including the closure period, of the unit and during post-closure care." Post-closure care would include groundwater monitoring for a 30-year period after closure of the landfill.

The rules specify location restrictions (in regard to airports, floodplains, wetlands, fault areas, and other unstable areas), landfill operating criteria, landfill design criteria, and groundwater monitoring and corrective action requirements.

The groundwater monitoring rules require that a landfill (unless exempted as noted above) have a state-approved groundwater monitoring well system installed at the closest practicable distance from the boundary of the land fill. The system must consist of "a sufficient number of wells, installed at appropriate locations and depths, to yield ground-water

samples from the uppermost aquifer that:

- (1) represent the quality of background ground water that has not been affected by leakage from a landfill unit; and
- (2) represent the quality of ground water passing the locations [along the landfill boundary]."

Consistent sampling and analysis procedures for specified constituents would be required. If statistically significant increases or decreases over background levels occur, more extensive sampling would be required.

2. Will federal funding be available to implement these requirements?

It appears very unlikely that federal funding will be available either to the Department of Health and Environmental Sciences to administer the program or for municipal landfill operators themselves (see HJR 18).

3. What Resource Indemnity Trust proceeds might be available?

RIT interest earnings for the upcoming biennium will amount to about \$14 million (Governor's Executive Budget). Statutorily, the money is allocated to a variety of sources, including the following programs:

Reclamation and Development Grants Program	46%	4,400,000*
Water Development Grant and Loan Programs (plus \$2.2 million in coal tax money)	30%	4,180,000
Renewable Resources Development Grant Program (plus \$705,000 in coal tax money)	8%	1,114,200

Another 12% allocation is devoted to the Hazardous Waste/Cercla account program and a 4% allocation is sent to the Environmental Quality Protection Fund. Finally, a \$175,000 earmark goes to the environmental contingency account.

The three programs highlighted above are all possible sources of funding, although Reclamation and Development Grant program funding would require demonstration of a "critical state need." However, the DNRC attempts to ensure project diversity in each program and is likely to recommend funding only for projects that address identified risks.

* The actual funding proposed for grants under these programs is reduced substantially by use of money for agency operations. The money available in the grant programs for the upcoming biennium is approximately: Reclamation and Development Grants -- \$2.4 million; Renewable Resources Development -- \$1.2 million; Water Development Grants -- \$0.5 million.

