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Congressional Record S. 3207 - Mining Exploration

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The West has long borne the scars of mining. Our mountains are pock-marked with abandoned tunnels, tailings, and the ruins of old mills, where rich ores were once extracted from the hard rock.

Today, however, the advance in technology from pick-and-shovel prospecting to mineral exploration with the bulldozer has created serious new problems, not known to the early West.

The mining law has failed to keep pace with mechanized prospecting. One man with a bulldozer, in search of minerals, can scrape away the topsoil, ruin a streambed, or wreck a mountain meadow—with no requirement that he abate these damages. He is given unlimited license by the archaic General Mining Law of 1872.

Mr. President, this bill is in no way designed to discourage or disrupt legitimate prospecting on the public domain, which is necessary to our mineral economy. It would not affect pick-and-shovel prospecting, but it would subject mechanized prospecting to reasonable regulation.

In certain areas, where, due to fragile soil conditions, steep slopes, or high elevations, bulldozers would cause irreparable damage, their use could be prohibited. Everywhere, the employment of bulldozers or other mechanical earthmoving equipment for mineral exploration would be preceded by the filing of a declaration of intent as to how and where the proposed prospecting would be carried out, and the posting of a performance bond with the Bureau of Land Management Office nearest the affected area.

The operator using bulldozers or other mechanical earthmoving equipment would be responsible for the exercise of reasonable restraint, including the restoration or reclamation of the surface of the lands, unless a valid discovery is made.

The Secretary of the Interior would be directed to prepare and publish in the Federal Register the necessary regulations to carry out the provisions of the act, and in the case of any actions affecting the national forest lands would be required to consult with and receive the approval of the Secretary of Agriculture.

It seems to me, Mr. President, that this legislation is long overdue. With increasing public demand that decent protection be given to the quality of our environment, we would be remiss in our duty if we failed to call upon the mining industry to accept responsibility in its prospecting activities on the public lands.

Mr. President, I ask unanimous consent that the text of the bill follow my remarks, together with a statement by the distinguished majority leader, the Senator from Montana (Mr. MANSFIELD).

There being no objection, the bill and statement were ordered to be printed in the RECORD, as follows:

S. 1240

A bill relating to prospecting and exploring for minerals on public lands of the United States by means of bulldozers or other mechanical earth-moving equipment

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)

By Mr. CHURCH (for himself, Mr. JORDAN of Idaho, Mr. MANSFIELD, Mr. METCALF, and Mr. Moss) :

S. 1240. A bill relating to prospecting and exploring for minerals on public lands of the United States by means of bulldozers or other mechanical earthmoving equipment. Referred to the Committee on Interior and Insular Affairs.

Mr. CHURCH. Mr. President, I introduce for appropriate reference, on behalf of myself and my distinguished colleagues, the Senator from Idaho (Mr. JORDAN) and the Senators from Montana (Mr. MANSFIELD and Mr. METCALF), and the Senator from Utah (Mr. MOSS), a bill relating to prospecting and exploring for minerals on public lands of the United States by means of bulldozers or other mechanical earthmoving equipment.

on and after the date of the enactment of this Act, the Secretary of the Interior is authorized to designate and establish certain areas comprising the public lands (including national forest lands) of the United States within which no individual, company, or other organization shall enter for the purpose of prospecting or exploring for minerals with bulldozers or other mechanical earth-moving equipment, if the Secretary has first determined that—

(1) the fragile soil condition, steep slopes or high elevations of the lands comprising such area makes it inadvisable to permit the use of such equipment; or

(2) the use of such equipment in such area is likely to result in irreparable damage to the land surface thereof.

(b) No action taken by the Secretary of the Interior pursuant to subsection (a), with respect to the designation of an area within which no prospecting or exploring for minerals with the use of bulldozers or other mechanical earth-moving equipment shall be carried out, shall become effective until such time as the Secretary has published a detailed description of the boundaries of such area so designated in the Federal Register, which description shall be made available for public inspection at the closest Bureau of Land Management Office to the affected area.

Sec. 2. On and after the date of the enactment of this Act, no individual, company, or other organization shall enter upon the public lands (including national forest lands) for the purpose of prospecting or exploring for minerals with bulldozers or other mechanical earth-moving equipment, unless such individual, company or organization has first filed in the office of the United States Bureau of Land Management in the district in which the lands to be prospected or explored are situated—

(1) a statement of intent, together with a detailed description of the lands involved, the type of prospecting or exploring intended, and the type of bulldozers or other mechanical earth-moving equipment intended to be used; and

(2) a performance bond, in such amount as the Secretary of the Interior shall determine, to assure reasonable protection of the environment, including restoration or reclamation of the surface of the lands with respect to which such prospecting or exploration is carried out unless a valid discovery is made as a result thereof.

(3) in carrying out Subsection 2(2) of this Act the Secretary shall establish procedure to assure that the amount of the performance bond in each case shall be fixed within 60 days of the filing of the statement of intent as provided in Subsection 2(1).

Sec. 3. The Secretary of the Interior shall take no action pursuant to this Act affecting national forest lands unless he has first consulted with and received the approval of the Secretary of Agriculture with respect to any such proposed action so affecting such national forest lands.

Sec. 4. The Secretary of the Interior is authorized to issue such regulations as he determines necessary to carry out the provisions of this Act. Such regulations so issued shall be published in the Federal Register.

STATEMENT OF SENATOR MANSFIELD

Mr. Mansfield. Mr. President, today I joined with the distinguished Senator from Idaho, Mr. Church, in the introduction of a most timely piece of legislation designed to curb extensive environmental degradation occurring in many regions in the United States as a result of extensive and uncontrolled mining exploration.

Concern for our public lands, environment and pollution have, in the past few years, been brought very much to the forefront of this Nation's problems, not only by a continued and escalated rate of deterioration

and degradation, but by the far reaching expressions of concern on the part of millions of Americans. I have, in the past, and will continue to believe that the Congress has a clear mandate to join with the concerned in providing the impetus to bring about an essential change in course.

This past year, from travels in my State of Montana and from considerable correspondence received from a great many people, I have been made keenly aware of the dimension of the problem. The need and desire for continued and increased economic growth has, in the past, often taken precedence over other and equally important considerations. In Montana these have been particularly manifest in the areas of forestry and mining on both federal and private lands.

My distinguished colleague, the junior Senator from Montana, Mr. Metcalf, on November 18 eloquently brought national attention to the problems of timber management on federal lands. In the past, the Government has effectively developed the concepts of multiple land usage, a concept and philosophy based on the principle that maximum consideration be given to the potential of federal holdings including mineral and timber production, recreational use, agricultural use, and other considerations. Where effectively administered, this approach has met with the wholehearted support of the people of this Nation. There is little question that the time has come for the reaffirmation of the multiple use concepts based upon a vital recognition of environmental concerns.

In September of 1964, the Congress created the Public Land Law Review Commission and in its creation charged it with the responsibility of reviewing existing public land laws and regulations and asked that it advise the Congress of its findings. A substantial portion of the completed report deals with the environmental impact of industries deriving raw materials from public lands. The public reaction to the Commission's report are many and varied. The one thing surfacing above all considerations is, however, the fact that past managerial practices and environmental considerations have been deficient. It is not my intention at this time to discuss the Commission's report. However, it is my hope the Congress will rapidly move to recognize the magnitude of the problems so amply demonstrated in this report, and that expeditious consideration will be given to the reviewing and eventual adoption of recommendations which will provide for long range governmental control of its lands.

One of our major problems in providing for adequate land management is a direct result of past legislation, of jobs half done and poorly done which lead that segment of the national economy dependent upon resources belonging to the people to believe erroneously that the Federal Government intends for the ultimate relinquishment of public lands, either in fact or in philosophy. For anyone to assume an inalienable right to the natural resources of this Nation without essential consideration for the concepts of multiple land usage, environmental concerns and the changing social values of the people is making a grave mistake. The mining laws of 1872 were promulgated by a philosophy to encourage westward movement and economic development. To that end this legislation was most successful. The problems we meet today are problems of this century—not the last—and to assume that measures effective in the 1870's can be applied to the 1970's is erroneous. The time has come for a reordering of the legislation in these areas. I appreciate that the concern I express is shared by a great many of my colleagues in the Congress and that a number of responsible people elsewhere are giving serious consideration to the revamping of these laws.

I am among the first to support and promote economic development. It is essential that we move ahead in these areas, but this should not be done at the expense of our Nation's basic resources. There exists today far too many examples of blatant disregard for human values and ecological considerations. The existing level of industrial technology, as well as the efforts of a few conscientious firms in the timber and mining industry, attest to the fact that there is no reason to believe that quality and balanced development—and I would stress quality and balanced—cannot take place while giving consideration to the resulting impact.

Last fall, in expressing my concern to the Forest Service, I asked that I be provided with a detailed report indicating the present level of activity on federal properties in my State of Montana, as well as the course of action being taken to assure environmental considerations. I have now had an opportunity to review preliminary reports on this matter. There is little question that the problems are both real and substantial.

Prior to the introduction of legislation, my immediate concern had been in assuring the necessary funds for federal agencies to assist in the enforcement of existing rules and regulations. Through the efforts of the distinguished Senator from West Virginia, Mr. Byrd, this was accomplished, and sufficient funds were provided the Forest Service for mineral management for the remainder of the 1971 fiscal year. In addition, I have recently requested the Senate and House Appropriations Committees to include additional funds for mineral management in the FY '72 appropriation measures.

Mr. President, I would take this opportunity to express my particular appreciation to the distinguished Senator from Idaho, Mr. Church, for his recognition of this problem and for his decision to hold hearings in the early spring to thoroughly review the situation.

The bill introduced today is a step in the right direction. Our work is certainly not complete in these areas, but I do believe that we are making substantial progress in recognizing the extent and scope of our problems, as well as what measures are necessary to bring about a realistic solution.

Mr. JORDAN of Idaho. Mr. President, I am pleased to join my colleagues as a co-sponsor of this bill to restrict the use of bulldozers and other mechanized earth-moving equipment in mineral prospecting.

This bill is not designed to prevent the use of such equipment where it is needed and where surface conditions permit its use. It is aimed exclusively at unnecessary and destructive use of bulldozers on fragile terrain. It also requires a performance bond to assure reclamation of the bulldozed area.

I feel sure that responsible miners will not object to the objectives of this proposed legislation. I have heard them express condemnation of mining property promoters and speculators who have gouged out waffle iron designs on entire mountainsides, allegedly for prospecting or assessment work.

A responsible miner loves the outdoors and mountain scenery, and he resents irresponsible mining operations. Moreover, these miners utilize drilling and other modern prospecting methods wherever possible to search for minerals and prove their claims, and they cooperate with the administrators of the public lands.

This proposed law, of course, will not take the place of major revisionary leg-

islation to update the 1872 mining law, but it is needed now and can apply until more extensive legislation is considered and enacted. Major legislative changes were recommended by the Public Land Law Review Commission, of which I was a member.

This law also will need to be implemented by State laws dealing with state requirements for prospecting, discovery cuts, and assessment work. I am pleased that my own State of Idaho recently enacted a law permitting modern methods of mineral prospecting.

Supplementary action by the states was recommended by the Forest Service in a reply I received to an inquiry about unsightly bulldozer pits found in the creek bottoms in Lemhi County in my State.

Mr. President, I ask unanimous consent to have the letter of October 26, 1970, from the Deputy Chief of the Forest Service, printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, D.C., October 26, 1970.

HON. LEN B. JORDAN,
U.S. Senate.

DEAR SENATOR JORDAN: This responds to your letter of October 19, 1970, and the enclosure from Fred Crandall of Nevada City, California. Mr. Crandall deplors the bulldozer pits found in creek bottoms in Lemhi County, Idaho.

The Forest Service is also very much concerned with the unnecessary surface disturbance often associated with prospecting and exploration of mineral deposits. In our recommendations to the Public Land Law Review Commission we suggested that state laws be abolished which require discovery cuts and assessment work which do not directly develop the ore deposit. We further suggested that the United States mining laws be amended to require permits for prospecting and mining leading toward essential and productive development of mineral deposits rather than meeting a requirement of law which would, in effect, waste the miners' time and money and leave unnecessary desecration of the landscape.

The Environmental Policy Act of 1969 also lends a great deal of support to maintaining a quality environment. Forest Service policy for multiple use management is being re-framed to emphasize our past practices of conservation and continuing positive consideration of the environment in our management decisions.

We appreciate Mr. Crandall's interest in the National Forest and for taking the time for expressing his concern in this matter.

Sincerely,

M. M. NELSON,
Deputy Chief.