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Congressional Record S. 17605 - Moratorium on Coal Leasing in Montana

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MORATORIUM ON COAL LEASING IN MONTANA

The Senate proceeded to consider the resolution (S. Res. 377) to provide a temporary moratorium on Federal coal leasing in the State of Montana, and for other purposes.

Mr. MOSS. Mr. President, I reluctantly accept the fact that there is small likelihood of a comprehensive surface mining bill this session. As the chairman of the Interior Committee said when he filed his amendment in the nature of a substitute to S. 630 on Friday last, there are two very different bills pending before the Congress. H.R. 6482 which was passed last night by the House differs vastly from S. 630 and its various amendments. The chairman of the House Interior Committee filed separate views with regard to the House bill (H.R. 6482) in which he carefully and realistically set forth the types of problems which he sees with the legislation. I share his concern that any legislation must be broad enough to be applied across the entire sweep of the Nation.

On the Senate side, I had hoped, until the last several days, that we would be able to mark up S. 630, adding amendments which Senator Jackson, Senator MECALF, and I had proposed in July. I have received wires from environmental groups which would support this, and I ask unanimous consent that they be included in these remarks.

There being no objection, the telegrams were ordered to be printed in the Record, as follows:

**WASHINGTON, D.C., August 5, 1972.**

**Senator Frank Moss, Senate Office Building, Washington, D.C.:**

Your bill on strip mining with the proposed amendments of Senator Jackson and the Interior Committee staff would go far toward correcting the serious problems associated with surface mining. We urge you and your colleagues to press forward and to report out the bill as amended.

Very truly yours,


**CONGRESSIONAL RECORD — SENATE S 17605**

To that end, Senator MECALF, Senator MANSFIELD, Senator BURDICK, and I introduced a joint resolution asking the Secretary to suspend coal mining activities on Federal lands—comprising nearly 50 percent or more of the coal lands of the West—until such time as the Congress has had time to consider surface mining legislation. A modified version of that resolution was reported from the Interior Committee to the Senate on October 6. This resolution cites the sense of the Senate that Federal leasing be held in abeyance in Montana for a period of one year, or until an appropriate legislative proposal for Federal coal mining is enacted.

The need for this resolution presses especially upon my colleagues from Montana. If the power developments proceed as planned in Montana they face a population increase during the next 15 years of another 280,000 to 912,000 and the population of the entire State was only 694,400 in the 1970 census.

The House bill does not take effect for 6 months.

Montana needs time for a study and planning of these population problems alone. The Secretary of the Interior has authority to do all that we ask him to do by this resolution. The added impetus is simply that the Senate urges him to do it now.

The sense of the Senate resolution declares that going slow is not enough and that withdrawal of the lands involved and suspension of activities is necessary to protect the lands until appropriate planning and long-range studies can take place including a study of the landownership, natural resources, water and land uses, and the sociological and economical impact of the mining activity on the total community.

Mr. President, I urge adoption of this sense of the Senate resolution for a temporary moratorium on coal leasing activities in the State of Montana. I would further ask that the article from the Los Angeles Times newspaper article, "San Francisco, Calif., October 5, 1972, be reprinted as part of these remarks. It is an excellent article and states the position facing the people of Montana most eloquently and succinctly.

There being no objection the article was ordered to be printed in the Record, as follows:

**San Francisco, Calif., October 5, 1972.**

**Eastern Representative, Sierra Club, Washington.**

Mr. MOSS. Mr. President, for over a year and a half the Committee on Interior and Insular Affairs and my subcommittee on minerals, materials, and fuels, in particular, have been wrestling with the problems of surface mining regulation.

Ten bills were introduced in the 92d Congress and the committee has now produced four committee prints representing the combined efforts of the three committees of the House and the Senate.

The need for legislation is clearly illustrated in this newspaper article, the Los Angeles Times of September 26, 1972, using the
State of Montana as the stage upon which the drama of control of surface mining now focused. I ask unanimous consent that the story be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

GREAT COAL RUSH: WILL IT RAVAGE MONTANA'S LAND? (By Jane Sweeney)

SARPY CREEK, MONT.--Thirty miles from Custer's Last Stand, rancher John R. Redding is staging one of his own to keep the isolated, unstable land he has worked for the past 56 years.

Lawyers tell him his stand is as futile as Custer's.

His land lies in the path of the great coal rush that has swept eastern Montana, a sorry wriggle and even deadlier dreadlock. Redding stuck it out. During the depression, he watched as his neighbors abandoned their parcels and moved out. And Redding is still there, fighting.

WANTS TO CONTINUE

He still wants to stay, but he says Westmoreland's agents have told him to sell at its price or lose his land condemned. So far he has refused.

"They said, 'If you don't take this offer, we will condemn it and have the sheriff take you. We won't let you stay here and you won't have anything,'" Redding's son, John R., said bitterly.

Westmoreland does not want all of his land, but Redding said he would be left with only hilltops and no water.

Lawyers that the Reddings consulted advised them to sell. Some of their neighbors, like Merle Cox, already have.

Cox is a taciturn bachelor, seemingly emotionless, his face weathered by 23 years on his ranch. "They said if I didn't sell they'd condemn it and take it, so I went and seen a lawyer and he said I couldn't do it. It looked like selling was the only thing I could do," Cox said.

Montana law, written before statehood when mining was the territory's only industry, gives private companies holding the mineral rights the power of eminent domain to condemn, according to the state's and the county's land laws. The 1919 Montana legislature expanded the law to include strip mining.

A company can bring action in state district court to condemn a piece of land, and the judge then appoints three commissioners to assess the damages to be paid the owner.

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A company can bring action in state district court to condemn a piece of land, and the judge then appoints three commissioners to assess the damages to be paid the owner.
Mr. MANSFIELD. Mr. President, I have listened to the arguments of the able Senator from Utah (Mr. Moss) with great interest and I recognize he is accurate in his analysis of the current situation on surface mining legislation. I hope that Congress will take the initiative in adopting strong surface mining legislation this year. I appreciate the efforts of the Senate Committee in reporting the resolution which would place a temporary moratorium on coal leasing and development on public lands in Montana.

The real problem of surface mining and the consequences associated with this method has created a most difficult problem in the West. Because of projected power shortages, many interests see development of these coal deposits as new, untapped sources of energy. This must be approached cautiously. I believe too little attention is being given to conservation of our energy sources. Commercial exploitation of these coal resources in Montana, Wyoming, the Dakotas, and other neighboring States without appropriate controls can lead to ultimate disaster for exceeding anything experienced in Appalachia.

I have given considerable thought to this issue in recent months and I have come to the conclusion that the only effective solution to this problem is to adopt a strong moratorium on all new strip mining on Federal lands for future generations. I believe the various Federal agencies involved in administering the vast acreage of Federal lands in the West have been derelict in refusing to issue regulations governing surface mining. These agencies were put on notice some 2 years ago but, to date, they have offered nothing in the way of constructive programs.

The Congress has addressed itself to this situation, but, because of the very serious conflicts involved, the BLM has not been able to muster sufficient support. It is an issue that must be given a position of priority in the 93d Congress.

Mr. MOSS. Mr. President, it now appears there is little possibility of Senate action on surface mining legislation before adjournment. If the Senate does not act on the comprehensive bill held over this year, I call upon the leadership to make the consideration of such legislation the No. 1 priority of the 93d Congress.

The BIA takes the position of the Subcommittee on Minerals, Materials and Fuels that I will do all I can to report to the Senate a strong balanced measure. Mr. Mansfield, I think the BIA has demonstrated that it can give an excellent basis upon which to begin.

Mr. President, again I wish to recommend as strongly as I can the need for a total ban on all new strip mining on Federal lands for future generations. The BLM is responsible for the reclamation program of reclamation. I believe that new laws governing reclamation of mined lands should not only apply to Federal lands, but also to any private enterprise operating on lands from which coal or other minerals are obtained and entered into interstate commerce. I am as interested in the economic development of Montana as any resident in the State but I will not support any kind of uncontrolled destruction of the land. I might point out that the ultimate benefit from the proposed mining power generation program will not be in Montana. Power generation is designed to meet the increased demands of the urban areas far away from eastern Montana.

I have discussed this issue many times with my colleague, Senator Lee Metcalf, and I know shares my concern as a major proponent of strong surface mining legislation. I want to go on record hereof, or until the power program is put into effect, that private companies holding mineral rights have a responsibility to see that this part of our Nation is given all possible support in its efforts to lay on the table was a total ban on all new strip mining on Federal lands for future generations.