

Environmental Section Sets Tone for Proposed Constitution

Editor's Note: This is the eighth in a series to explain how some changes approved at the Montana Constitutional Convention may affect Montana citizens if the document is approved June 6.

By CHARLES S. JOHNSON
Associated Press Writer

HELENA (AP) — The environment has its niche in the proposed constitution, but convention delegates disagreed vehemently over how effective the provisions will be.

To C. B. McNeil, R-Polson, they constitute the strongest environmental protection statement found in any state constitution. He was principal author of the subsections.

To others, they are only window dressing to a pressing problem. These delegates, led by Louise Cross, D-Glendive, battled futilely for what they considered provisions with more teeth in them.

Much will depend on the legislature, which is directed to pass laws to enforce the constitutional statements.

"Probably the most important part is the affirmative duty of everyone in the state of Montana, including the state, individuals and corporations, to improve our environment," McNeil said. "No other state constitution has such a provision."

The section says: "The state and each person shall maintain and improve a clean and healthful environment in Montana for present and future generations."

Critics in the convention question how effective this provision will be, but McNeil defended it.

"It's mandatory in the constitution," he said, adding that the two other subsections require legislation to flesh out the skeletal constitutional statements.

"This means if the legislature doesn't do it, you can vote the scoundrels out," he said.

The second subsection directs the legislature to provide for the administration and enforcement of the duty.

This lawmakers could back up with a tough right-to-sue law to allow citizens to sue polluters and government agencies not enforcing the environmental duty.

Or they could enact a weak, token provision, which also apparently would meet the constitutional mandate.

The third subsection also is contingent on legislative action, the environment.

But like other constitutional goals and directives, the environmental section will be of little value without the legislature to back it up.

McNeil also said the section sets a tone for the proposed constitution, which goes before the public June 6.

"It's especially important when you consider that most delegates came here with the 'The legislature shall provide adequate remedies for the protection of the environmental life support system from degradation and provide adequate remedies to prevent unreasonable depletion and degradation of natural resources.'"

McNeil said this provision directs the legislature "to make sure whatever we have now is not going to be degraded."

How will these provisions affect the Montana family that likes to camp, boat and fish on the weekends and is concerned about the environment?

It all hinges on the legislature. But McNeil said the first subsection places an affirmative duty on each citizen to clean up the idea of streamlining the old constitution, but they believed the environment so important they added a new provision," he said.

Mrs. Cross and others failed in trying to declare the environment a public trust.

Under the doctrine, the environment would have been a public trust held by the state for its citizens and managed by the legislature.

The beneficiary, the public, would have had the right to sue the state if the legislature and state agencies did not protect the environment adequately.

Convention opponents termed the public trust doctrine "socialistic" and "anarchistic."

The environmental article also includes a section on reclamation.

It says lands disturbed by the

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extraction of natural resources must be reclaimed, but does not specify to what extent.

Concerned about possible strip mining damages in coal-rich eastern Montana, the Natural Resources and Agriculture

Committee had recommended that reclaimed lands be restored to as good as a condition or use as prior to the disturbance. The move, however, failed.

Another section recognizes all

existing water rights for any useful or beneficial purposes.

McNeil, an attorney, said the convention action will not affect any present water laws.

Also included in the article is a section directing the legisla-

ture to provide for the acquisition, administration, restoration and preservation of ghost towns and other scenic, historic, recreational and cultural sites.

Delegates also paid homage to the state's largest industry—

agriculture—by retaining the Department of Agriculture in the constitution. They also directed the legislature to appropriate funds "to protect, enhance and develop all agriculture."

Special levies on livestock and agricultural products for such uses as disease and predator control also are allowed.

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