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Secret Deals at One of the Most Toxic Sites in America

Imagine what it would be like to live in a society where the Legislature met in secret with major corporations to cut backroom deals, divvy up taxpayer money and determine the future of the citizenry while keeping the populace totally in the dark until it was over. None of us would stand for such a charade of governance. And that's exactly why the drafters of Montana's 1972 Constitution included a Right to Know provision which has been ignored for nearly 40 years by state and local government officials on both the Butte and Anaconda Superfund sites. It's far past time to end this untenable and unconstitutional corruption.

The Montana Constitution is crystal clear when it comes to secrecy in governance. As stated in Article II, the Declaration of Rights, Section 9. Right to know: "No person shall be deprived of the right to examine documents or to observe the deliberations of all public bodies or agencies of state government and its subdivisions, except in cases in which the demand for individual privacy clearly exceeds the merits of public disclosure."

Now ask yourself, what's "the demand for individual privacy" that "clearly exceeds the merits of disclosure" in the on-going Anaconda Superfund negotiations? Could it be how much money ARCO is going to have to spend? Nope, that isn't individual privacy. How about what remedies will be implemented to clean up a century's worth of heavy metal pollution from the smelter? Nope, no individual privacy there, either. In fact, it might well be impossible to find even one example where the Superfund cleanup negotiations infringe

on individual privacy – especially when the negotiators’ salaries and benefits are being paid for by Montana’s taxpayers.

For most people, their home is the biggest investment they will make in their lives – which is why 30-year mortgages are usually required to actually get to home ownership. For those Montanans living in near proximity to Anaconda and the smelter’s 300 square miles of heavy metals pollution, whatever is going on in the backrooms between their local government, the state, the EPA and ARCO will be the ultimate determinant of their future. How much will their home be worth? Well, depends on whether or not the so-called “cleanup” leaves a healthy community that is attractive to future homebuyers or left drenched in toxic residues at whatever level the backroom deal-cutters decide is good enough.

But Anaconda-area Montanans are not the only ones affected by whatever secret deals are being made. Anaconda, like Butte, sits at the very headwaters of the Clark Fork River and whatever happens there regarding cleanups or “treatment in place” will affect everyone downstream. And remember, the Warm Springs Ponds, which sit directly in the river, contain thousands of tons of heavy metals behind earthen dams. Someday, rest assured, those earthen dams will fail — and unless the toxic sediment is removed from the river’s channel, they will wash downstream.

Article IX, Environment and Natural Resources, of the Montana Constitution is also crystal clear and being ignored: “Sec. 2, Reclamation. (1) All lands disturbed by the taking of natural resources shall be reclaimed.”

When the Constitution says “all deliberations” shall be open to the public and “all lands” shall be reclaimed, that’s exactly what it means. It doesn’t mean cut backroom deals in secret to partially reclaim some lands.

What’s not secret is that Governor Bullock is busy flying around the country chasing presidential ambitions. But there’s plenty of work to do here at home, starting with honoring Montana’s constitutional guarantees to our citizens, our environment, and future generations.