

MINUTES OF THE MEETING  
NATURAL RESOURCES COMMITTEE  
MONTANA STATE SENATE

March 25, 1987

EXECUTIVE SESSION: An Executive Session of the Senate Natural Resources Committee was called to order by Chairman Thomas F. Keating on March 25, 1987, at 1:00 P.M. in Room 405 of the State Capitol.

ROLL CALL: All members were present with the exception of Senator Cecil Weeding, who was excused.

DISPOSITION OF HOUSE BILL 760: Sen. Keating explained that HB 760 would authorize issuance of CERCLA Bonds for Superfund remediation action by DHES. Sen. Halligan moved that HB 760 BE CONCURRED IN. Motion passed by unanimous vote. Sen. Halligan will carry the HB 760 in the Senate.

DISPOSITION OF HOUSE BILL 777: HB 777 would provide funding for hazardous waste programs and CERCLA participation. Sen. Keating said that the additional 6% of RIT money being allocated for use for Superfund cleanup is simply "earmarking" and not robbing. Sen. Walker moved that HB 777 BE CONCURRED IN because currently, hazardous waste and water development are the only two programs in RIT package; and in dealing with the issue in Long-Range Planning, 6% had already been calculated. A handout prepared at the request of Sen. Halligan was distributed by Hugh Zackheim, Environmental Quality Control. (Exhibit 1) After viewing the handout, Sen. Keating asked for a definition of "high ranking" and "low ranking," and called upon Bill Opitz, Deputy Director of the Department of Health to reply. Mr. Opitz explained that "high ranking" would be 28 1/2 points or more would qualify the sites to be included on the Superfund list. Any other site with 28 points or less would be considered for department's review and would be covered under HB 777.

HB 777 passed out of committee with a unanimous vote.

DISPOSITION OF HOUSE BILL 746: Sen. Keating stated that HB 746 would require local licensing for on-site sewage treatment systems, and Sen. Gage moved that HB 746 BE NOT CONCURRED IN.

In the discussion that followed, many reasons were given to adopt an adverse committee report:

1. Sewage pollution in Flathead Lake seemed to be a local problem rather than a State-wide problem, except in fringe urban areas and clay-type soil.
2. Local boards at present do have authority concerning septic tank sewage systems.
3. Passing of HB 746 would mean more growth of local government.
4. Assessing fees for existing systems would amount to an additional "tax" for the people.

In addition, Sen. Gage said that part of the problem for pollution in Flathead Lake was phosphate, and in the 1985 session, there was testimony that agriculture was contributing 10 times more phosphate pollution than use of household detergents. Sen. Gage stated that nothing is being done concerning agricultural controls; and until major problems are taken care of, there is no need to take care of "around the edges."

Members of the committee asked Mr. Zackheim if all septic tanks were not under DHES control, and he answered that only new subdivisions are unless there is a problem with a particular sewage system that comes to DHES' attention.

Motion that HB 746 NOT BE CONCURRED IN passed with a majority vote, with Sen. Halligan opposing the motion.

DISPOSITION OF HOUSE BILL 453: HB 453 would authorize Department of Commerce to represent tourism in Flathead Lake management at no extra cost to State government. Sen. Lynch moved that HB 453 BE CONCURRED IN. Motion passed by majority vote. Sens. Severson, Gage, and Halligan voted "no."

DISPOSITION OF HOUSE BILL 642: HB 642 would revise water permit laws and qualify Missouri Basin Water Reservations. Sen. Keating stated that at the March 23 meeting, an amendment had been proposed by Ted Doney:

Page 2, line 24  
Following: "APPROPRIATION"  
Insert: "from the same source"

Sen. Walker moved that the amendment be adopted, and motion passed with unanimous vote.

Sen. Keating inquired whether there was question about the word "combined" in the bill and both Ted Doney and Rep. Spaeth replied there was no problem with the word.

Sen. Keating mentioned that on page 21 of the bill, section 10 was a repealer of 85-2-317 MCA. Sen. Keating related the fact that DNRC had a sufficient handle on permits, process, and applications, and he did not understand why citizenry should be required to wait two years to receive approval to use 3,000 acre feet of water from Legislature when the department could easily approve.

Sen. Halligan made a motion that section 10 be reinstated to repeal the requirement that applicants must go before the legislature for use of more than 3,000 acre feet of water. Sen. Lynch stated that the requirement had only been in effect since 1983 and the system was working well. Roll Call Vote was taken on the motion and the motion FAILED.

Sen. Lynch moved that HB 642 AS AMENDED, BE CONCURRED IN. Motion CARRIED unanimously.

DISPOSITION OF HOUSE BILL 661: Sen. Keating told the committee that HB 661 was redefining "project." Sen. Keating mentioned that at the March 25, 1987, hearing the Water Development Board opposed HB 661. However, Rep. Spaeth explained that in the interim, all parties had come to an agreement and amendments had been made. Copies of the amendments were distributed to committee members, and Rep. Spaeth said the amendments had been approved by the Water Board, Department of Fish and Wildlife, as well as the Supervisors. (Exhibit 2) Rep. Spaeth recommended that the amendments be adopted and added that there was a need for a Statement of Intent (Exhibit 3) and a couple of technical amendments that are listed below.

1. Page 1, line 10  
Following: "AMENDING"  
Strike: "SECTION"  
Insert: "SECTIONS"
2. Page 1, line 10  
Following: "75-7-103"  
Insert: "AND 75-7-117"

Sen. Lynch moved the amendments, and motion CARRIED unanimously. Sen. Walker moved that the Statement of Intent DO PASS, and motion CARRIED unanimously.

Sen. Walker then moved that HB 661 AS AMENDED with the Statement of Intent BE CONCURRED IN. Motion CARRIED unanimously.

DISPOSITION OF HOUSE BILL 629: Sen. Lynch moved that HB 629, which generally would revise the metal mine reclamation laws, BE NOT CONCURRED IN. In explaining his motion, Sen. Lynch said HB 629 did not seem to be in the best interest of the small mining people. Furthermore, Sen. Lynch mentioned that the support of the Mining Association had become lukewarm. Sen. Lynch added that development in Montana should not be discouraged.

Sen. Keating asked Mr. Hemmer, Department of State Lands whether or not there is a problem with cyanide use by the small miner. Mr. Hemmer responded that there had been problems only in isolated instances and he recommended that the committee should either pass an adverse committee report or table HB 629 because bill still had to be refined. Mr. Hemmer had met with the mining people for a few hours, and he stated there is still some disagreement about the bill. Within the next two years, Mr. Hemmer said that compromises could be made until there is agreement among all concerned and the Grizzley Gulch people's problem can be solved because existing law covers them.

Sen. Keating addressed Mr. Dugdale who represented small miners and asked if Mr. Dugdale felt there was some abuse of the use of cyanide among the small miners.

Mr. Dugdale replied that miners start out with good intentions and end up ill-advised and don't follow original agreement made with Department of State Lands (DSL), thereby violating the environment.

Sen. Keating then asked if the small miners were becoming aware of the fact that if there is continued misuse of cyanide, laws could be enacted that would make operating their mines more difficult. Mr. Dugdale answered that he believed small miners are becoming aware of that fact and he, himself, is a proponent.

Sen. Keating then asked whether small miners might police the use of cyanide themselves so that State would see some clean up.

Mr. Dugdale said that he would help in whatever ways he could and told the committee that his colleagues were of the same environmental concept.

It was Sen. Keating's contention that small miners should not be put out of business by imposing more restrictions and regulations on them, but health and safety of the citizens must be considered, particularly people who have residential or agriculture property near the small mines.

Senate Natural Resources Committee wanted the message conveyed to the small miners to do some policing concerning cyanide.

Discussion ensued which indicated that the mining industry themselves were in support of a "cyanide bill," because it seemed that the small miner had been giving a negative image to the "big miners" because of misuse of cyanide.

Mr. Dugdale explained that no matter how good intentions are, no matter how competent the engineers are, or how much money is used to setting the property up, an adverse circumstance can still happen in which the environment can be contaminated; such as, the situations that happened with the Zortman-Landusky operation and the Golden Sunlight operation. Mr. Dugdale said the small miners try to avoid those circumstances and work with DSL in a harmonious manner. Mr. Dugdale indicated that much had been accomplished: 1) neutralization of a discharge to avoid contamination of the environment; and 2) development of ponding techniques to overcome the shortcomings of the initial effort. If the wording in the original bill by DSL had remained without the addition of the wording initiated by Montana Mining Association, the small miners would have supported HB 629.

In the course of the committee's discussion, it was mentioned that because of the Pegasus operation, cyanide almost polluted their area's stream during last spring's rainy season and accidents can inadvertantly happen to the larger mining operations as well.

Motion of BE NOT CONCURRED IN passed with majority vote, but Sen. Yellowtail voted "no" on the motion.

There being no further business to come before the committee, Sen. Keating adjourned the meeting at 1:40 p.m.

  
THOMAS F. KEATING, Chairman

ROLL CALL

NATURAL RESOURCES

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 3/25

NAME	PRESENT	ABSENT	EXCUSED
Sen. Tom Keating, Chairman	✓		
Sen. Cecil Weeding, Chairman Vice			✓
Sen. John Anderson	✓		
Sen. Mike Halligan	✓		
Sen. Delwyn Gage	✓		
Sen. Lawrence Stimatz	✓		
Sen. Larry Tveit	✓		
Sen. "J.D." Lynch	✓		
Sen. Sam Hofman	✓		
Sen. William Yellowtail	✓		
Sen. Elmer Severson	✓		
Sen. Mike Walker	✓		

Each day attach to minutes.

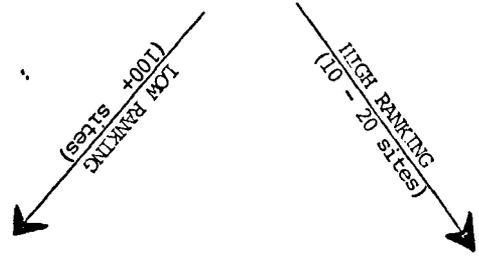


SENATE NATURAL RESOURCE  
EXHIBIT NO. 1  
DATE March 25, 1987  
BILL NO. HB 777

HAZARDOUS WASTE  
SITES  
IN MONTANA



EPA EVALUATION



NATIONAL PRIORITY LIST  
Program: SUPERFUND

Lead Agency: EPA  
Approach: EPA sponsors studies and selects cleanup alternatives. If responsible party (RP) refuses to act, EPA conducts cleanup and seeks to recover costs and damages from RP.

State Role: State must provide a 10% share before EPA can tap the Superfund and proceed with cleanup (when RP refuses to act).

Legislation: HB 777 proposes an additional 6% RTR allocation to provide state's 10% share of cleanup.

HB 760 proposes bonding authority, to be used if cash on hand is inadequate for state's 10% share.

NONFEDERAL SITES

Program: None (authority for action established through HB 766 (1985))

Lead Agency: DHS

Approach: Similar to EPA approach under Superfund

Legislation: HB 718 proposes to set up Hazardous Waste Site Remedial Action Program to prioritize sites, work with responsible parties to initiate cleanup, and fund state action (through a 4% allocation of RTR interest) if necessary.

SENATE NATURAL RESOURCE COUNCIL  
EXHIBIT NO. 1  
DATE March 25, 1987  
BILL NO. HB 777

PROPOSED AMENDMENTS TO HB 661

by

CONSERVATION DISTRICTS DIVISION

Third Reading Copy

SENATE NATURAL RESOURCES

EXHIBIT NO. 2

DATE March 25 1987

BILL NO. 661

1. Page 2, line 15 and 16  
Following: 75-7-102,  
Strike: "AS DETERMINED BY THE TEAM SUPERVISORS"
2. Page 2, line 17  
Strike: AN ANNUAL PLAN OF  
Insert: A PLAN OF ANNUAL
3. Page 3  
Following: line 5  
Insert: "Section 2. Section 75-7-117, is amended to read:"

"75-7-117. Rules--minimum standards. (1) By July 17 1975, ~~the~~ The board of natural resources and conservation, after consultation with the association of conservation districts, shall adopt, and may from time to time revise, rules setting minimum standards and guidelines for the purpose of this part.

(2) By January 17 1976, ~~the~~ The supervisors of each district shall adopt, and may from time to time revise, by resolution after a public hearing rules setting standards and guidelines for projects, and exclusions, within their district which ~~shall~~ meet or exceed, or are not covered by, the minimum standards set by the board under subsection (1)."

Renumber: subsequent sections.

SENATE NATURAL RESOURCES

EXHIBIT NO. 3

DATE March 25, 1987

BILL NO. HB 661

STATEMENT OF INTENT

A statement of intent is required for this bill in order to clarify that the board of natural resources and conservation and boards of supervisors of conservation districts may revise their rules as necessary. Section 2 clarifies that boards of supervisors are authorized to establish standards and guidelines for projects and exclusions within their districts for matters not covered by the minimum standards and guidelines established by the board of natural resources and conservation. Section 2 also provides authorization to adopt rules identifying repair and maintenance activities that are not "projects" as that term is defined in 75-7-103 because the activities do not significantly alter a stream. Section 2 further authorizes rulemaking to identify the following: 1) categories of information that should be included in plans of annual operation; 2) procedures for filing the plans; and 3) procedures for evaluation and board of supervisor decisions concerning the plans.

ROLL CALL VOTE

SENATE COMMITTEE NATURAL RESOURCES

Date March 25 House Bill Bill No. 642 Time 1:25

NAME	YES	NO
Sen. Tom Keating, Chairman	✓	
Sen. Cecil Weeding, Vice Chairman		
Sen. John Anderson		✓
Sen. Mike Halligan		✓
Sen. Delwyn Gage	✓	
Sen. Lawrence Stimatz		✓
Sen. Larry Tveit	✓	
Sen. "J.D." Lynch		✓
Sen. Sam Hofman	✓	
Sen. William Yellowtail		
Sen. Elmer Severson		—
Sen. Mike Walker		—

Nadine McCurdy  
Secretary

Senator Tom Keating  
Chairman

Motion: Repealer (section 10) to be reinstated  
motion failed

Note: at 1:25 Sen. Yellowtail was in another meeting,  
presenting a bill.

# STANDING COMMITTEE REPORT

MARCH 25

87

..... 19.....

MR. PRESIDENT

## NATURAL RESOURCES

We, your committee on.....

## HOUSE BILL

453

having had under consideration..... No.....

**THIRD**

**BLUE**

reading copy ( \_\_\_\_\_ )  
color

**AUTHORIZES DEPT OF COMMERCE TO REPRESENT TOURISM IN FLATHEAD  
LAKE MANAGEMENT**

**BRANDEWIE (HARDING)**

## HOUSE BILL

453

Respectfully report as follows: That..... No.....

BE CONCURRED IN

~~DO NOT PASS~~

~~DO NOT PASS~~

**SENATOR THOMAS F. KEATING,**.....  
Chairman.

# STANDING COMMITTEE REPORT

MARCH 25

19 87

MR. PRESIDENT

## NATURAL RESOURCES

We, your committee on.....

## HOUSE BILL

No. 629

having had under consideration.....

THIRD

BLUE

reading copy ( )  
color

**GENERALLY REVISES THE METAL MINE RECLAMATION LAWS**

**REAM (KEATING)**

## HOUSE BILL

No. 629

Respectfully report as follows: That.....

BE NOT CONCURRED IN

~~XXXXXX~~

~~XXXXXXXXXX~~

SENATOR THOMAS F. KEATING, Chairman.

# STANDING COMMITTEE REPORT

MARCH 25

87

19.....

MR. PRESIDENT

We, your committee on NATURAL RESOURCES

having had under consideration HOUSE BILL No. 661

THIRD reading copy ( BLUE )  
color

**REDEFINE "PROJECT" TO CLARIFY DOES NOT INCLUDE DIVERSION FOR IRRIGATION**

**SPAETH (BECK)**

**HOUSE BILL**

**661**

Respectfully report as follows: That..... No.....

**BE AMENDED AS FOLLOWS:**

1. Page 1, line 10.

Following: "AMENDING"

Strike: "SECTION"

Insert: "SECTIONS"

2. Page 1, line 10.

Following: "75-7-103"

Insert: "AND 75-7-117"

3. Page 2, lines 15 and 16.

Following: "75-7-102"

Strike: "AS DETERMINED BY THE TEAM SUPERVISORS"

4. Page 2, line 17.

Strike: "AN ANNUAL PLAN OF"

Insert: "a plan of annual"

5. Page 3, following line 5.

Insert: "Section 2. Section 75-7-117, MCA, is amended to read:

"75-7-117. Rules--minimum standards. (1) By-July-17-1975, the  
the board of natural resources and conservation, after consultation  
with the association of conservation districts, shall adopt, and may  
from time to time revise, rules setting minimum standards and guidelines  
for the purpose of this part.

(2) By-January-7-17-1976, the The supervisors of each district  
shall adopt, and may from time to time revise, by resolution after a  
public hearing rules setting standards and guidelines for projects,  
and exclusions, within their districts which shall meet or, exceed, or  
are not covered by the minimum standards set by the board  
under subsection (1)."

XXXX-X  
DO PASS

XXXXXXXXX  
Remember: subsequent sections.

AND AS AMENDED,  
BE CONCURRED IN  
STATEMENT OF INTENT ADOPTED AND ATTACHED

.....  
**SENATOR THOMAS F. KEATING, Chairman.**

March 25, 1987

MR. PRESIDENT:

WE, YOUR COMMITTEE ON NATURAL RESOURCES HAVING HAD  
UNDER CONSIDERATION HOUSE BILL 661, ATTACH THE FOLLOWING  
STATEMENT OF INTENT:

STATEMENT OF INTENT

A statement of intent is required for this bill in order to clarify that the board of natural resources and conservation and boards of supervisors of conservation districts may revise their rules as necessary. Section 2 clarifies that boards of supervisors are authorized to establish standards and guidelines for projects and exclusions within their districts for matters not covered by the minimum standards and guidelines established by the board of natural resources and conservation. Section 2 also provides authorization to adopt rules identifying repair and maintenance activities that are not "projects" as that term is defined in 75-7-103 because the activities do not significantly alter a stream. Section 2 further authorizes rulemaking to identify the following: 1) categories of information that should be included in plans of annual operation; 2) procedures for filing the plans; and 3) procedures for evaluation and board of supervisor decisions concerning the plans.

# STANDING COMMITTEE REPORT

.....March 25..... 19 87.....

MR. PRESIDENT

We, your committee on.....**NATURAL RESOURCES**.....

having had under consideration.....**HOUSE BILL**..... No.....**746**.....

**THIRD** reading copy ( **BLUE** )  
color

## **REQUIRING LOCAL LICENSES FOR ON-SITE SEWAGE TREATMENT SYSTEMS**

**BRANDEWIE (GAGE)**

Respectfully report as follows: That.....**HOUSE BILL**..... No.....**746**.....

**BE NOT CONCURRED IN**

~~Y/N~~  
~~DO PASS~~

~~DO NOT PASS~~

.....**SENATOR THOMAS F. KEATING,** Chairman.....

# STANDING COMMITTEE REPORT

MARCH 25

19. 87

MR. PRESIDENT

We, your committee on **NATURAL RESOURCES**

having had under consideration **HOUSE BILL** No. **642**

**THIRD** reading copy ( **BLUE** )  
color

**REVISES WATER PERMIT LAWS; QUALIFIES MISSOURI BASIN WATER RESERVATIONS**

**SPAETH (KEATING)**

Respectfully report as follows: That **HOUSE BILL** No. **642**

**BE AMENDED AS FOLLOWS:**

1. Page 2, line 24  
Following: **"APPROPRIATION"**  
Insert: **"from the same source"**

**AND AS AMENDED**  
**BE CONCURRED IN**

**~~XXXX~~**  
**DO PASS**

**~~XXXXXXXX~~**  
**DO NOT PASS**

.....  
**SENATOR THOMAS F. KEATING,** Chairman.

# STANDING COMMITTEE REPORT

MARCH 25

19 87

MR. PRESIDENT

We, your committee on **NATURAL RESOURCES**

having had under consideration..... **HOUSE BILL**..... No. **760**.....

**THIRD** reading copy ( **BLUE** )  
color

**AUTHORIZING ISSUANCE OF CERCLA BONDS FOR SUPERFUND REMEDIAL ACTION  
BY DEES**

**REAM (GALLIGAN)**

Respectfully report as follows: That..... **HOUSE BILL**..... No. **760**.....

BE CONCURRED IN

~~XXXX~~  
~~DO-PASS~~

~~XXXXXX~~  
~~DO NOT PASS~~

.....  
**SENATOR THOMAS F. KEATING,**

Chairman.

# STANDING COMMITTEE REPORT

MARCH 25

19 87

MR. PRESIDENT

We, your committee on **NATURAL RESOURCES**

having had under consideration **HOUSE BILL**

No. **777**

**THIRD** reading copy ( **BLUE** )  
color

**PROVIDING FUNDING FOR HAZARDOUS WASTE PROGRAMS AND CERCLA PARTICIPATION**

**REAN (WALKER)**

Respectfully report as follows: That **HOUSE BILL**

No. **777**

**BE CONCURRED IN**

**XXXXXX**  
DO PASS

**XXXXXXXX**  
DO NOT PASS

.....  
**SENATOR THOMAS F. KEATING, Chairman.**