

**MINUTES**

**MONTANA SENATE  
53rd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON NATURAL RESOURCES**

**Call to Order:** By Chair Bianchi, on February 12, 1993, at 1:04 p.m.

**ROLL CALL**

**Members Present:**

Sen. Don Bianchi, Chair (D)  
Sen. Bob Hockett, Vice Chair (D)  
Sen. Sue Bartlett (D)  
Sen. Steve Doherty (D)  
Sen. Lorents Grosfield (R)  
Sen. Tom Keating (R)  
Sen. Ed Kennedy (D)  
Sen. Bernie Swift (R)  
Sen. Chuck Swysgood (R)  
Sen. Henry McClernan (D)  
Sen. Larry Tveit (R)  
Sen. Cecil Weeding (D)  
Sen. Jeff Weldon (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Paul Sihler, Environmental Quality Council  
Leanne Kurtz, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing: SB 320, SB 339  
Executive Action: None.

**HEARING ON SB 320**

**Opening Statement by Sponsor:**

Sen. Henry McClernan, SD 34, distributed a breakdown of what SB 320 does (Exhibit #1). He said Section 1 requires that appeals on exploration licenses and operating permits be filed within 30 days of issuance of the permit or license. Sen. McClernan said this time period is consistent with the Montana Administrative Procedures Act, Forest Service regulations and Bureau of Land Management (BLM) regulations. He added it is also consistent

with Department of Natural Resources (DNRC) procedure for granting water discharge permits. Sen. McClernan said Section 2 requires injunction seekers to post a bond, which, he noted is the most contentious part of SB 320. He said the intent of the section is to discourage what the mining industry views as "frivolous and harassing appeals". Current law says a judge may, but does not have to, require injunction seekers to post a bond. Sen. McClernan stated Section 3 allows a judge to decide whether an unsuccessful plaintiff must pay court costs and attorney's fees. He added there are proponents to the bill who will challenge the perception that environmental organizations do not have the money to pay the court costs and attorney's fees. Sen. McClernan stated Sections 4 and 5 clarify the process for amending permits. He added the sections distinguish new activities outside the mine permit area from ongoing, permitted activities within a mining permit area. He stated SB 320 addresses major and minor permit amendments, leaving the decision of how to classify amendments to the Department of State Lands (DSL). Sen. McClernan said revisions occurring within a permitted area would be exempt from further environmental review. He added DSL would be able to decide whether or not an environmental review is warranted. Sen. McClernan discussed Section 6, which allows a mining company to choose from a list of 3 contractors selected by DSL to conduct an Environmental Impact Statement (EIS). He stated Section 7 requires DSL to provide clear and convincing evidence indicating why the department has denied a permit.

#### Proponents' Testimony:

Gary Langley, executive director, Montana Mining Association (MMA), said he wished to focus his comments on Sections 2 and 3. He disputed environmental groups' claims that they do not have the money to post bonds or pay court costs and attorneys' fees. Mr. Langley distributed handouts detailing the finances of environmental advocacy groups (Exhibit #2), claiming the groups have "plenty of money" to spend on bonds, court cases and legal fees. Mr. Langley said under the Freedom of Information Act, environmental groups are allowed to collect fees when they win an appeal or lawsuit against the federal government. Mr. Langley said he believes SB 320 protects the public interest because it protects mine workers from "frivolous threats to their jobs and livelihood".

Ward Shanahan, representing Stillwater Mining Company, expressed his support for SB 320, noting his law firm was instrumental in drafting portions of the bill.

John Fitzpatrick, Pegasus Gold Corporation, said his company has spent three years dealing with harassing lawsuits involving the Zortman/Landusky mine. He said in 1989 Pegasus Gold filed for a permit to develop the Sullivan Park area. The company had a cultural resource assessment conducted, which did not identify

any historic or cultural sites in the area. He said Pegasus supplied that material to the Department of State Lands (DSL) and the Bureau of Land Management (BLM). Mr. Fitzpatrick stated BLM consulted with several tribal elders to investigate compliance with the National Historic Preservation Act and the American Indian Religious Freedom Act. He stated that the consultation did not identify any culturally significant sites within the proposed project area. Mr. Fitzpatrick said Pegasus recently conducted another cultural resource study during which over 60 people were interviewed and nothing of cultural significance was found. He said the company has gone through two appeals, the appellants claiming that the National Historic Preservation Act had been violated. He said the act "can't be violated if there are no sites", and the appellant group is using the appeals process as a way of harassing the company. SB 320 helps "level the playing field" and puts more of the burden on the appellants to substantiate their claims.

Brandi Reel, Whitehall high school student, said her father works at Golden Sunlight mine. She said her parents would not risk applying for a loan to finance her college education if her father's job and income are at risk.

Jamie Miller, Whitehall high school student, said SB 320 would help make the mining industry more secure in Montana. She discussed Golden Sunlight mine's activities in the Whitehall community.

Tamara Johnson, wife of an electrician employed at Golden Sunlight Mine and member of Citizens United for a Realistic Environment (CURE), said people who depend on the mine for their livelihood need the security of legislation like SB 320. Ms. Johnson discussed how the 1992 lawsuit filed against Golden Sunlight Mine stalled the mine's expansion and disrupted her family's life.

Darrell Martin, a Zortman mine employee, discussed how lawsuits put mine operations on hold and said groups that sue should be held accountable for their actions and "false accusations". He noted he is a member of the Gros Ventre tribe and said groups who sue mining companies attempt to show that certain areas are holy ground, when in reality they are not. He added it is a tactic to hold up the mining companies.

Russ Ritter, director of government/corporate relations for Montana Resources, said mining is a cornerstone of Montana's economy. He said the mining industry wants to be a partner in the environment and not a victim of it.

Peggy Trenk, executive director, Western Environmental Trade Association (WETA) said mining companies cannot be "bushwhacked at the eleventh hour" in the permitting process if Montana intends to promote a healthy business climate.

Ron Dorvall, Whitehall resident and Golden Sunlight employee, said SB 320 would strengthen Montana's mining industry. He said hundreds of thousands of tax dollars are spent defending a state agency's actions every time a mining permit is issued and "unscientifically" challenged. Mr. Dorvall stated SB 320 would force groups who contest permits to add credence to their challenges.

Other proponents, stating their name and residence:

Diane Jordan, Butte resident

Leonard Dueck, Whitehall resident

Jim Miller, Whitehall resident

Karen Choquette, Whitehall resident

Brad Reel, Whitehall resident and member of Citizens United for a Realistic Environment (CURE)

Martin Johnson, Whitehall resident and member of CURE

Charles Hoffman, Billings geologist representing Western States Public Lands Coalition

**Opponents' Testimony:**

Mona Jamison, a Helena attorney representing Mikelson Land Company, stressed her client is not a public interest group or a large corporation. She said SB 320 would have a "chilling effect" on her client's ability to seek guidance and redress in the courts on what he believes are actions that would have an impact on his rights and his land. Referring to Section 2, Ms. Jamison said the legislature should not dictate to the judiciary that bonds are required in all cases. Ms. Jamison said the bond requirement in SB 320 would impede a citizen's right to participate in the judicial process. Ms. Jamison said allowing the court to assess attorney costs and court fees (Section 3) would also discourage individuals from getting involved in the court system. Ms. Jamison discussed major and minor permit amendments addressed in Section 4 and said the Montana Environmental Protection Act (MEPA) has worked to the advantage and disadvantage of both plaintiffs and defendants in mining litigation. She said authorizing the Department of State Lands (DSL) to develop rules will subject those rules to political influence which can change every four years. Ms. Jamison said Section 5 "builds in bias" because it puts the fear of not being chosen into various consultants, who do not want to risk being passed over for further consulting work.

Robert Gopher, Great Falls resident, submitted written testimony (Exhibit #3).

George Horse Capture, Gros Ventre tribal member, said an average citizen should not have to post a bond to object to a mining permit. He stated if SB 320 passes, hardrock mining corporations would be allowed to police themselves, and would be "free to destroy and pollute". Mr. Horse Capture said citizens and small organizations cannot afford to post bonds and would be excluded from the right of legal redress.

Joseph Azure, Assiniboine tribal member, chair of Red Thunder Inc., and member of the Fort Belknap Environmental Protection Committee, said heavy metals have affected children on the reservation. He added sacred sites are being destroyed.

Richard Parks, business owner in Gardiner and chair of the Northern Plains Resource Council (NPRC), read from written testimony (Exhibit #4).

Bruce Farling, Clark Fork-Pend Oreilles Coalition submitted written testimony (Exhibit #5).

Kim Wilson, Helena attorney, said he is representing appellants in the Golden Sunlight lawsuit and noted that Golden Sunlight has been able to continue operations since the lawsuit was filed. He stated Judge Honzel ruled against the state's motion to dismiss the lawsuit on constitutional grounds. Mr. Wilson said the Golden Sunlight suit has become a "fairly significant constitutional challenge."

Other opponents:

Donovan Archambault, Fort Belknap Tribal Council

Mark Gerlach, Blackfoot chapter, Montana Trout Unlimited

Becky Garland, Blackfoot chapter, Montana Trout Unlimited

Jean Clark, Sweetgrass county rancher and member of NPRC

Tootie Welker, Montana Alliance for Progressive Policy (MAPP)

Sherm Janke, Montana chapter of the Sierra Club, submitted written testimony (Exhibit #6).

Jim Barrett, Beartooth Alliance

Linda McMullan, Big Timber rancher

Heidi Barrett, Cooke City resident

Farwell Smith, Big Timber rancher

Ionia Phebus, Baker resident

Julia Page, Gardiner resident and member of NPRC

Charles Ereaux, Fort Belknap sheep rancher

Cesar Hernandez, Cabinet Resource Group (Exhibit #7)

Susan Pauli, Sweetgrass county resident and member of NPRC

Wade Sikorski, NPRC

Jim Peaco, Cooke City resident, submitted written testimony (Exhibit #7A).

**Informational Testimony:**

John North, Department of State Lands, submitted written testimony suggesting amendments (Exhibit #8).

**Closing by Sponsor:**

Sen. McClernan discussed Montana's economy, stating much of the money mining companies make stays in Montana. He said SB 320 will make mining a little less expensive, which will translate into more long-term, good paying jobs.

**HEARING ON SB 339**

**Opening Statement by Sponsor:**

Senator Cecil Weeding, SD 14, described the history of SB 339 and said the bill provides for a local referendum "in the instance of an application for a megalandfill or a hazardous waste facility." Sen. Weeding said the 1991 legislature passed the Megalandfill Siting Act. He added some southeastern Montana residents were faced with the location of an out of state megalandfill in their area. He said they did not believe the act provided for a process which addressed their concerns during permitting. Sen. Weeding said waste management is not an exact science and accidents happen. He stated people living near a proposed site should have the opportunity to refuse to take the risk. Sen. Weeding said SB 339 mirrors West Virginia legislation that has been on the books for about 4 years. The law has been challenged in the West Virginia supreme court and found to be legal.

**Proponents' Testimony:**

Paul Hawks, Sweetgrass county rancher and chair of NPRC's legislative task force, said citizens are concerned about the

impact of importing waste from other states. He said NPRC believes a referendum is the fairest way to resolve a megalandfill siting issue. Mr. Hawks quoted the Ninth Circuit Court of Appeals' ruling on West Virginia's law. The court said a referendum is an "exercise by the voters of their traditional right...to override the views of their elected representatives as to what serves the public interest." Mr. Hawks said SB 339 would require a majority vote in each of the counties holding a referendum.

Glenn Rugg, a Plevna rancher, said Ross Electric wants to locate an incinerator near Baker to dispose of transformers filled with PCB oils. Mr. Rugg said the company has operated in Washington state for several years, and has never been in compliance with the law. He discussed the problems people have had trying to discourage the company from locating in the area and said citizens should have the right to express their views.

Wade Sikorski, Fallon County resident, said SB 339 is essential because the local government is inadequately addressing the needs of people in Fallon County. He said the county's economic development corporation invited Ross Electric to Baker, claiming the company would promote economic development, add jobs, and increase the tax base. Mr. Sikorski stated in communities where facilities like Ross Electric have located, property values have declined, unemployment has decreased and the tax base has eroded. He said dioxins, furans, and heavy metals go up the stack and disseminate on neighboring property.

Jordan Shapiro, student board member, Montana Public Interest Research Group (MontPIRG), submitted written testimony (Exhibit #9).

Louis Jensen, Baker resident and member of NPRC, said citizens should have the right to participate in decisions affecting their communities.

Jean Charter, Shepherd resident and member of NPRC, said people should have a right to a referendum.

Iona Phebus, Baker resident, said a megalandfill may open in her community, and people are concerned that hazardous waste will be dumped in the area's landfill. She said Baker citizens should be able to vote on the issue.

Jean Clark, NPRC and the Cottonwood Resource Council, said her organization supports SB 339.

Drury Phoebus, Baker resident, said people have asked the county commissioners to respond to their concerns, but they have not. He added citizens should have a right to a referendum.

Richard Berg, Lennup resident, said SB 339 "is not an obstructionist bill". He said no community in Montana would object to an environmentally responsible, well planned project.

**Other proponents:**

Heidi Barrett, Cooke City resident

Jim Barrett, Cooke City resident and member of the Beartooth Alliance

Donovan Archambault, Fort Belknap tribal member

Charlie Ereaux, Fort Belknap resident

Linda McMullan, Big Timber rancher

Diane Lohrer, Big Timber resident

Susan Pauli, Big Timber resident

**Opponents' Testimony:**

Jerome Anderson, representing Holnam Inc., said Tom Daubert, representing Ash Grove Cement wished to be on record in opposition to SB 339. Mr. Anderson stated he sympathizes with the concerns of Fallon County residents, but said there are other ways to handle the problem than with SB 339. Mr. Anderson said Montana needs to develop the ability to deal with hazardous and non-hazardous waste within the state. He said if Montana does not develop its own disposal facilities, other states may stop taking Montana's waste, and the state may begin losing federal superfund money. Mr. Anderson said it would be crazy for a company to invest time and money in a project if a community can stop the siting of a facility anytime before a permit is issued. He said SB 339 completely ignores DHES's permitting process, which, he added, allows for a great deal of public input. Mr. Anderson said a referendum would be decided on emotion and rhetoric, rather than science and fact.

John Fitzpatrick, Pegasus Gold Corporation, said SB 339 is bad public policy. Referring to subsection 3, lines 21-25, he said a project could be killed if citizens in Treasure County rejected a megalandfill and people in Yellowstone County overwhelmingly voted for it. Mr. Fitzpatrick said SB 339 allows the "one man, one vote" principal to be "trampled into the mud" in the name of environmental protection. Mr. Fitzpatrick stated democracy works best when there is an informed electorate. He said SB 339 calls for a referendum before studies are completed, allowing the election to be based on hysteria and accusations.

Jim Flisrand, City of Billings, said the 25 mile radius requirement in SB 339 would involve three counties in determining the future of the Billings landfill. He said the Billings landfill is a regional landfill for a number of communities in the area. Mr Flisrand stated SB 339 would restrict the service the Billings landfill would be able to provide.

David Nation, general manager, Special Resource Management (SRM), said SRM is a full service waste management and environmental services firm. He said SRM has worked with the regulating community, to help manage waste. Mr. Nation said SRM believes in the value of public involvement to develop siting criteria "which establishes objective, measurable frameworks for evaluating the relative advantages and disadvantages of a proposed site." Mr. Nation said SB 339's shortcomings are straightforward. He added the provisions for encouraging public participation is already well established in existing regulations and law. Mr. Nation objected to the definition of dangerous wastes, as it combines different types of waste with different risks and regulatory requirements into one category. He stated the proposed location and distance requirements are in reality siting criteria that "superimpose subjective standards over substantive technical data." Mr. Nation said SB 339 complicates a successful permitting process without producing any new benefits.

David Owen, Montana Chamber of Commerce, said the regulatory process is thorough and fact-based, while most elections are not. He said he does not think the election process is appropriate to deal with waste management issues.

Peggy Trenk, Western Environmental Trade Association (WETA) said SB 339 is bad public policy. She said WETA objects to holding referenda before local governments can act. Ms. Trenk said under existing law, citizens are already able to express their opinion on issues affecting the health, welfare and economy of their communities.

Don Sterhan, representing Western Recovery Systems, a company proposing to locate a medical waste incinerator in Ringling, said decisions should be based on science, not emotion. Mr. Sterhan stated the current public hearing system is working well.

**Questions From Committee Members and Responses:**

Sen. Hockett said he did not hear a single supporter for the incinerator at the hearing last summer in Ringling, while about 200 people spoke in opposition. He asked Mr. Sterhan to comment on his perception that people can testify against something, but the industry does not have to listen. Mr. Sterhan said there were supporters at the public meetings, but they were not the vocal majority.

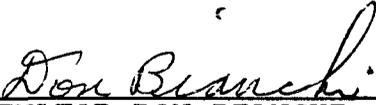
Sen. Keating asked if Ross Electric had entered the health department's permitting process. Roger Thorvilson, DHES, said Ross Electric as not applied for a permit. Sen. Keating asked Mr. Thorvilson if Ross Electric's activities were against the law. Mr. Thorvilson said the company has not violated any laws.

**Closing by Sponsor:**

Sen. Weeding said SB 339 allows for a referendum, it does not require one. He said Mr. Anderson and Mr. Fitzpatrick presumed in their testimony that citizens are not well enough informed to make an intelligent decision. Sen. Weeding reiterated that waste management is not a perfect science, and judgements on the effects of it are made all the time. He stated a community should not be burdened with a project the people find objectionable.

**ADJOURNMENT**

**Adjournment:** 3:00 p.m.

  
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SENATOR DON BIANCHI, Chair

  
\_\_\_\_\_  
LEANNE KURTZ, Secretary

DB/lk

# ROLL CALL

SENATE COMMITTEE NATURAL RESOURCES DATE 2/12

NAME	PRESENT	ABSENT	EXCUSED
Sen. Bianchi	✓		
Sen. Hockett	✓		
Sen. Bartlett	✓		
Sen. Doherty	✓		
Sen. Grosfield	✓		
Sen. Keating	✓		
Sen. Kennedy	✓		
Sen. Swift	✓		
Sen. Sunsgaard	✓		
Sen. McClernan	✓		
Sen. Treitz	✓		
Sen. Weeding	✓		
Sen. Weldon	✓		

## Senate Bill 320

1. 30 day limit for permit review.
2. Bond for injunction seekers.
3. Unsuccessful plaintiff pay costs and attorney fees.
4. "Amendment" to increase or decrease permit area.  
Major/Minor Amendments  
"Revision" in operating plan for modification within  
permit area.
5. EIS contractor from list of three (3) acceptable to  
department.
6. Permit denial for clear and convincing evidence.

SENATE NATURAL RESOURCES  
EXHIBIT NO. 1  
DATE 2/12/93  
BILL NO. SB 320

COMMENT

# For Some People, EARTH DAY WAS PAYDAY.

<i>Jay Hair, National Wildlife Federation</i>	<i>\$200,000 salary</i>
<i>Fred Krupp, Environmental Defense Fund</i>	<i>\$125,000 salary</i>
<i>Peter Berle, National Audubon Society</i>	<i>\$120,000 salary</i>
<i>George Frampton Jr., Wilderness Society</i>	<i>\$120,000 salary</i>
<i>John Adams, Natural Resources Defense Council</i>	<i>\$117,000 salary</i>
<i>Rupert Cutler, Defenders of Wildlife</i>	<i>\$100,000 salary</i>

**W**hile everyone can claim some credit for Earth Day, the biggest winners are the well-paid evangelists of the "eco-anxiety industry." Whenever they preach about a new "crisis," their salaries and groups' contributions go up.

We all want a clean environment. And in the 20 years since the first Earth Day, we can, as a nation, be justifiably proud that we have incorporated environmental values into our lives.

But for most people, particularly workers, every environmental benefit carries a cost, whether it's unemployment, social disruption, depressed property values, increased prices or higher taxes.

The elite environmentalists can absorb those costs as

their salaries rise; working people can't.  
Let's find a balance.

NATURAL RESOURCES  
EXHIBIT NO. 2  
DATE 2/12/93

# COMMENTARY

## WARREN BROOKES

In the ongoing struggle over clean air legislation, the U.S. media routinely portray environmentalists as idealists and their opponents, business and labor, as "special interest" desploiters.

But these are dangerous caricatures. While the nation's conservation movement has idealistic roots, in recent decades it has degenerated into just another Washington special interest.

As a new study by the Capital Research Center shows, the conservation movement is one of the richest and most powerful lobbies in Washington today. The operating budgets of just the 10 most "establishment" groups is more than \$253 million. (See Table.) That's more than five times the combined budgets of the 10 leading policy think tanks in Washington. (The Heritage Foundation, American Enterprise Institute, Brookings Institution, etc.)

When you add in the budgets of groups not studied by CRC — Greenpeace, World Watch, World Resources Institute, and the anti-population lobby (Planned Parenthood, Zero Population Growth, etc.) — the annual revenues of the sources of the conservation movement are well over \$400 million. Congress naturally is terrified of this lobbying muscle for good reason.

Take for example the recent unprecedented effort to destroy President Bush's Chief of Staff John Sununu, merely because he tried to restrain foolishly extreme positions on global warming, an effort completely vindicated by an avalanche of reality now besetting that hoax. While the attack failed to remove Mr. Sununu, it neutralized his effort to

Warren T. Brookes is a nationally syndicated economics columnist.

## Greener grows the network

put rationality into the clean air bill. That attack reached its crescendo on Feb. 21, when executives of six major environmental advocacy groups held a press conference to call Mr. Sununu "the nation's chief environmental foe." It was held by Jay Hair, president of the National Wildlife Federation, who has elevated lobbying over conservation. In 1986, NWF decided to sell a 357-acre conservation sanctuary in Virginia

What should worry Americans about the attack on Mr. Sununu is that it was launched and orchestrated on the front pages of The Washington Post, which itself is a corporate contributor to NWF. But then so are some of America's largest companies, many of whom — like Exxon, Mobil, Dow Chemical, Dupont, Monsanto, Weyerhaeuser and General Motors — have been targets of green attacks.

While much of this vast corporate money now applying 20 percent of all

### ENVIRONMENTAL ADVOCACY GROUPS

Organization	Membership	Latest reported budget
Nature Conservancy	436,407	\$80,021,000
National Wildlife Federation	5,000,000	69,017,000
National Audubon Society	550,000	32,573,730
Sierra Club	426,000	28,059,498
Natural Resources Defense Council	95,000	11,760,242
Wilderness Society	250,000	10,932,440
Environmental Defense Fund	100,000	8,530,454
Environ. Policy Inst./Friends of the Earth	42,000	2,500,000
Leak Walton League	50,000	1,544,908
Environmental Action	20,000	958,028
<b>TOTAL</b>	<b>7,769,407</b>	<b>\$253,897,308</b>

The Washington Times

for \$8.5 million to a developer to put up 1,350 housing units. The donor of the tract, Dr. Claude Moore, an honorary president of NWF, sued to stop the loss of what the Smithsonian called "a gem of a wildlife area." He lost.

Then in 1987, NWF sold a 2,700-acre sanctuary in Northern California, effectively ending its Land Heritage Program.

At the same time, NWF was spending \$40 million to build a seven-story downtown Washington office building to house its burgeoning bureaucracy, whose \$69 million

## BROOKES

From page F1

The CRC report shows that the two dominant themes of these groups has been against population and economic growth, and for state ownership and/or control. "Whenever possible, the goal of environmentalists has been to expand government ownership of environmental and natural resources."

When the NRC recently endorsed the concept of "low input sustainable agriculture" (LISA) which could cut U.S. farm output by 20 to 30 percent, few knew the author of that report, Charles Benbrook, is an unabashed follower of the great land-socialist-naturalist Aldo Leopold, whose creed was that "government is . . . the proper custodian of the land, which for one reason or another is not suited to private husbandry."

Mr. Leopold in turn was a founder-member of the Wilderness Society, whose chief architect was Robert Marshall, the frankly socialist author of "The People's Forests," who in 1933 proposed that the federal government buy up the 80 percent of forests that were then privately owned.

This steadfast reliance on taxpayer and government to finance their agenda has made the environmental lobby the most conspicuous group of "rent seekers" in Washington.

That "rent seeking" depends on riskmoning every environmental danger far beyond its realistic impact either on ecology or human health, and the extensive use of the courts and torts to raise money. They are aided in this by bureaucracies (like EPA), whose own power depends on elevating risk perceptions, and by the media, whose basic bias has always been catastrophic.

But as we have seen in pesticides, in asbestos, in radon, in air toxics and acid rain, more often than not the risks and their regulation are costly "overkill" serving mainly to generate legal fees. As Bruce Ames, professor at the University of California at Berkeley, told us, "The environmental movement is filled with first-rate lawyers and fourth-rate scientists."

Last February, the American Bar Association held its 20th annual

seminar on environmental law in Washington. The first one in 1971 drew a handful. This one was mobbed by more than 800 lawyers filling the ballroom of the Hyatt Regency. The room was a sea of button-down oxford-cloth white faces, presided over by David Sive, partner in Sive Paquet and Kiesel, one of the major "green law firms."

Mr. Sive also is a board member of the Natural Resources Defense Council, which spends much its annual \$12 million budget suing taxpayers and corporations (who pass the costs to us) — among other things to drive useful and harmless products like Alar off the market through the promotion of discredited research.

With a \$45 billion-plus proposed Clean Air Act on the Hill, and a potential of 470 pages of new law and at least 15,000 new pages of regulation, these are halcyon days for the rent-seeking lawyers of the environmental community.

Yet, according to an analysis by Michael Gough, director of risk management for Resources for the Future, the maximum potential health benefits of this entire \$45 billion Act are only 231 to 1,028 preventable cancer risks, and even those are based on models that overstate those risks at least 10 to as much as 100 times. Which is to say the risk of cancer could just as easily be zero.

Instead, most of the money will be spent not on physical cleanup and plant improvement but on regulatory compliance and legal costs. As the CRC report notes: "Because they typically lobby for restraints on resources and property that do not belong to them, environmentalists bear few of the costs of their actions. It is not unlike playing Monopoly with play money. With a board game you can be reckless . . . and otherwise be extravagant in real life. You would never dream of in real life."

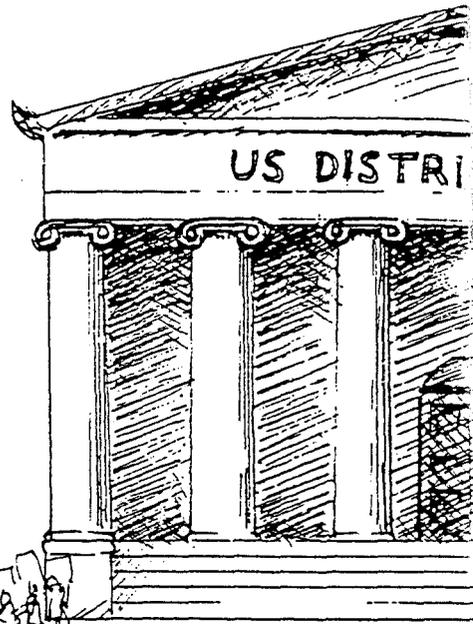
That may explain why the "green lobby" is so determined to destroy anyone like Mr. Sununu who is prepared to argue economic rationality. With ivy-green Yaltes in the White House, the EPA and the Smithsonian, this elite is not about to let an upstart Lebanese-American engineer from Tufts and high-growth New Hampshire take away their shiny new punch bowl.

see BROOKES, page F4

By William Purvis

# Inside the Green

EXHIBIT #2  
DATE 2-12-93  
#1 SB-320



Chances are that federal taxpayers will give environmental groups a bounty for initiating the spotted-owl lawsuit that will restructure the timber industry in the Pacific Northwest. The Seattle Audubon Society and other groups have asked the court to award fees under provisions of federal law that provide the modern-day equivalent of bounties and subsidies for such litigation.

Government-paid fees in other environmental-group cases have run in the hundreds of thousands of dollars and aggregate in the millions. A new award of \$1.2 million in fees in one surface-mining case alone now is pending appeal.

Making frequent use of the federal lawsuit-subsidy, environmental lawyers and groups shape agency policy and regulation in ways that have broad effects across a range of economic activity and industries.

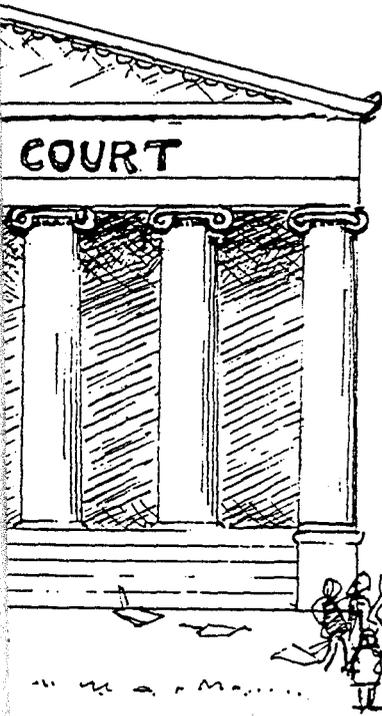
The taxpayer subsidy often comes at what Former Deputy Attorney General D. Lowell Jensen called the "silk-stockings" rates charged by top corporate law firms. The fees may be used in other litigation that qualifies for additional subsidy.

# Litigation Machine

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## Federal fee switching statutes encourage environmental lawsuits

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### Frequent Filers

More than 130 federal statutes and the Equal Access to Justice Act provide for payment of fees in suits against the federal government. None of the statutes require an annual public report on legal fees and recipients. Accountings are difficult to obtain.

But accessible records indicate that since 1985 at least 105 payments have been authorized for just three environmental groups: the Sierra Club Legal Defense Fund with 53; the Natural Resources Defense Council, 34; and the Environmental Defense Fund, 18. The figures may reflect multiple payments in single cases.

The Sierra Club Legal Defense Fund reported legal-fee collections of \$2.3-million total in fiscal 1990 and 1991.

The Natural Resources Defense Council's lists legal fees totaling \$1.65-million for fiscal years 1989 and 1990.

And the Environmental Defense Fund reported \$180,000 in fiscal 1989 and 1990.

### Suits Encouraged

In the benchmark case on fees, an environmental suit, Supreme Court  
(Continued on page 22)



Justice White noted, that Congress apparently established "counsel fees so as to encourage private litigation."

The Natural Resources Defense Council, the Environmental Defense Fund, the National Wildlife Federation and the Sierra Club Legal Defense Fund

were part of a 28-member "public-interest" alliance that opposed Senate efforts to cap fees at \$75-an-hour in the mid-1980s.

The alliance's statement to the Senate Subcommittee on the Constitution said the members use the money for

"continuing and...if possible, increasing the legal representation the organization offers." Increasing representation is possible because a staff attorney paid a salary that works out to \$25-or-\$30 an hour can bring in a one-case award at two-to-six times that much. One winner can sustain other old and new initiatives.

Former Deputy Attorney General Jensen testified in those hearings on fees in general. He said, "It is not...uncommon for attorneys to be awarded fees that exceed (their) hourly rates... (for) private clients."

"The inescapable result is a costly and unrestrained growth in litigation against federal agencies," attorney Bruce Fein wrote in the journal, *Law and Contemporary Issues*. Fein is a former general counsel of the Federal Communications Commission.

## High Interest in Public Interest Legal Fees

The wide availability of government-paid legal fees created two legal specialties and supported, for a time, a case-oriented periodical that tracked trends in awards: the Federal Attorney Fees Awards Reporter.

One specialty is attorneys who win higher fees for the litigators. Senate hearings refer to an instance where the primary case took only 186 hours but the fees dispute required 350 hours. The periodical reported on a case in which there was a chance the lawyers handling a fees claim would be paid at a rate of \$190 an hour—also by the government—while the case-winner stood to receive only \$70 an hour.

The other specialty is what the periodical called the "for-profit, public-interest law firm," whose success depends on finding clients eligible for fees.

Fee-shifting statutes now number more than 130 and they are widely used in matters such as civil rights, contract disputes, equal pay and, even, the Freedom of Information Act. In addition to specific statutes, the Equal Access to Justice Act also provides for government-paid fees in a broad range of cases.

Two ideas drive the concept of government-paid attorneys fees and expenses: enabling individuals and small businesses to defend themselves against government; and bringing citizen assistance into enforcement of federal laws.

A plaintiff generally must prevail to win fees, but in some cases a partial victory—or simply a good argument—is enough to bring an award. Bonus sums often are added for the degree of risk involved in a lawsuit and for the inventiveness of the argument presented. The Equal Access Act caps fees at \$75 an hour in its cases, but even that cap is flexible.

In addition to reporting decisions on fees cases, the reporter carried articles such as "How to Enhance Your Lodestar." The lodestar is the base fee from which bonuses are calculated; the higher the base fee, the larger the bonus.

The periodical picked up cases as they worked their way through the federal trial appellate court system. Many of those

cases are now scattered in court files around the nation, the ultimate fees decision buried in closed records.

But a sampling of the reports shows fees are not handled casually:

- A Sierra Club chapter's lawyer once demanded and won a \$10-an-hour cost-of-living adjustment to the Equal Access Act's \$75-an-hour cap; and a \$57,667 fee for blocking a military project in Maine;
- The National Wildlife Federation won a \$50-an-hour increase over the normal \$75-an-hour in a case against the Federal Energy Regulatory Commission because "environmental cases are complex";
- A group called Business and Professional People for the Public Interest asked for \$251,853.95 from the Nuclear Regulatory Commission for opposing a nuclear power plant that was ultimately cancelled; the group lost on the first appeal because the agency had no legal way to pay.

A report prepared by the Department of Justice for Senate hearings in the mid-1980s offers some idea of the scope of litigation taking place under fees provisions.

Fee awards totaling \$3.8 million were disbursed in 154 cases during the years 1981 through 1983. Almost half were in Title VII civil rights cases and another 28 percent were in Freedom-of-Information cases.

Business as well as interest groups have won fees. The largest Freedom-of-Information award was \$78,400 to *Playboy*. The report listed disbursements of \$36,800 in a clean-air case involving Florida Power and Light; and of \$9,696 to Detroit Edison in proving an equal employment case against it was frivolous. No hourly rate was calculated in the Florida case. In the Detroit Edison case the senior attorney's time was billed at \$29 an hour.

The average fee-award in the report period was about \$24,000. The low was \$329 in total in a Freedom-of-Information case. The largest was \$666,642 in a Title VII case involving four sets of lawyers; the largest fee of the four was \$540,831. -W.P.

### Sample Cases

Many environmental lawsuits are to change or initiate federal regulatory policy. Such suits also pull into court, at their own expense, those directly affected.

In 1989, the Environmental Protection Agency was ordered to pay \$110,000 for the Sierra Club in litigation that forced the adoption in 1984 of regulations governing radionuclides.

Although radionuclides are primarily a concern of uranium miners and nuclear power, other industries had to participate at customer and stockholder expense to protect their interests, including the coal-fired portion of the electric-power industry. Coal-fired boilers eventually were exempt from the regulation.

This year the Environmental Defense Fund (EDF) was the plaintiff in a suit against the Environmental Protection Agency over periods of haze in the Grand Canyon. The settlement will require a power-plant operator to invest \$530-million to install scrubbers on a plant that already meets standards of the Clean Air Act. Twenty-year operating expenses are estimated at \$1.8-billion. The settlement will affect electric rates in wide areas of the West, including Los Angeles. The plant operator spent at least \$1.5 million in defending its interests in the case.

EDF has not yet filed for court-ordered fees in the Grand Canyon case.

### Litigation Mining

One of the most-used statutes is the Surface Mining Control and Reclamation Act (SMCRA). The new \$1.2 mil-

# Campaigning for Dollars

lion award on appeal came in a long-running case over the establishment and operation of an applicant-violator tracking system for new mining permits. In addition, the General Accounting Office found that from passage in 1977 through early 1989, the act delivered attorney fees totaling more than \$1.2 million to "public interest" lawyers and groups in 12 suits.

The GAO report listed the following payments:

Galloway & Greenberg.....	\$619,310
Yablonski, Booth & Feldman.....	258,615
Tom FitzGerald.....	64,875
Dow, Lohnes & Albertson.....	39,409
National Wildlife Federation.....	33,136
Environmental Defense Fund.....	30,952
Center for Law and Social Policy.....	30,547
Morgan & Foley.....	30,084
Advocates for the Public Interest.....	26,815
Sierra Club Legal Defense Fund.....	20,981
Environmental Policy Institute.....	19,048
Council of Southern Mountains Inc.....	13,128
Harmon & Weiss.....	10,485
Onek, Klein & Farr.....	9,802
L. Gilbert Kendrick.....	6,640
National Trust for Historic Preservation.....	3,679
<b>Total.....</b>	<b>\$1,217,506</b>

The lawsuits generally challenged policy decisions in implementing regulation of coal mines under the act.

Attorney Thomas Galloway submitted testimony in support of the legal-fee provision before the act passed. He has monitored surface mining closely both before and after passage.

Fein's *Law and...Problems* article called generous fees a "reward for litigious meddlesomeness by those who simply do not like the results of our political and administrative processes."

He contended the net result is "to shift policymaking from the legislative and executive branches to the judicial branch" in what he called a "clear circumvention of the political decision-making process."

The concept of government-paid legal fees may be one of the reasons America has a hands-down claim to the title of world's most litigious society. ♦

William Purvis is assistant vice president and senior writer at NCA.

Fee awards to successful environmental litigants are typically calculated on the basis of the going market rate for private attorneys within a given jurisdiction or geographical area. Since these market rates incorporate the high salary structure, overhead and profit margins of large law firms, fee awards tend to produce "windfall profits" well in excess of actual litigation costs incurred by environmental groups. Fee awards above actual costs have greatly enhanced the environmental movement's litigation capacity and, hence, the frequency of lawsuits.

Large organizations collect only a relatively small portion of their budgets through fee awards and these groups would bring large numbers of cases even under a less generous regime. However, "market-rate" fee awards have spawned a cottage industry of "for-profit public interest" law firms and attorneys whose practices consist largely of litigating "public interest" cases—notably, lawsuits under the citizen suit provisions of environmental statutes.

Among the most prominent of these attorneys is Thomas Galloway of Washington's Galloway & Greenberg who, in various incarnations, has waged a decade-long litigation battle to reform the administration and enforcement of the Surface Mining Control and Reclamation Act (see main story). It is highly unlikely that Galloway could have carried on this crusade without generous fee awards; Galloway's principal vehicle, *Save Our Cumberland Mountains v. Lujan*, has generated millions of dollars in fee awards.

Moreover, fee awards have contributed to a fundamental distortion of the litigation priorities of environmental groups. Since the prospective environmental benefits of various litigation strategies are extremely difficult to assess even for the best-intentioned environmental enforcer, environmental groups have been drawn to cases that, while doing little or nothing to improve the environment, create substantial economic benefits for the plaintiff-organization.

Environmental groups have filed well in excess of 1,000 complaints against industrial sources under the Clean Water Act—far more complaints than have been filed under all other environmental citizen suit provisions combined.

The environmental benefits of this strategy are very dubious: As of 1986, industrial "point sources" accounted for a mere nine percent of all stream pollution. Additional enforcement of exceedingly stringent permit requirements mostly forces corporations to perform expensive "treatment for treatment's sake," and may even do more environmental harm than good. For example, it has led companies to prefer old but fail-safe anti-pollution equipment to more advanced but

untested technology, thus impeding beneficial technological innovation.

Still, the enforcement campaigns have continued in anticipation of the financial rewards. Since permits issued under the Clean Water Act and the permit holders' emission records are public documents, prospective plaintiffs incur almost no cost in establishing a "target's" liability. On the other hand, the rewards—attorneys' fees, plus payments made to environmental groups and causes in lieu of civil fines—are very substantial. Since there is often no escape from liability and litigation would only increase the plaintiffs' fee awards, defendants usually settle. Several settlements in excess of \$1,000,000 are on record.

The enforcement of the Clean Water Act was designed in the early 1980s by the NRDC as a self-sustaining campaign; fees recovered

*Congress originally wrote fee-shifting provisions so citizen-plaintiffs could be compensated, not rewarded*

in one case were to be used to bring additional cases. The evident success of this campaign has inspired environmental organizations to lobby Congress to amend other environmental statutes so as to allow a similar strategy. Congress has obliged: the permit program and the private enforcement provisions of the 1990 Clean Air Act Amendments are explicitly modelled after the Clean Water Act. But, industrial sources will require a far larger number of permits under the Clean Air Act Amendments than are required under the Clean Water Act. Although it is too early to tell, this may well lead to a correspondingly large increase in citizen complaints and suits.

When Congress originally wrote fee-shifting provisions into environmental statutes, it intended that citizen-plaintiffs should be compensated but not rewarded for their activities. In recent years, Congress as well as the courts have increasingly abandoned this altruistic conception of environmental citizen suits; as a result, some segments of environmental "public interest" law have become profitable. If this trend continues, the 1990s, widely heralded as "The Decade of the Environment," may instead become the decade of the environmental bounty hunter. ♦

Michael Greve is executive director of the Center for Individual Rights, a public interest law firm based in Washington.

NEW RELEASE

FEBRUARY 12, 1993

TESTIMONY BY ROBERT GOPHER

STATE CAPITAL

HELENA, MONTANA

RE: SENATE BILL NO. 320

I STRONGLY OPPOSE THIS BILL. IT IS ALREADY DESIGNED AND DRAFTED TO FAVOR MINING CORPORATIONS OVER THE AVERAGE CITIZEN. THIS BILL, IN ITS PRESENT FORM, IS BIASED AND WILL INFRINGE ON THE RIGHT OF ENVIRONMENTALLY CONSCIOUS MINDED CITIZENS RIGHT TO PARTICIPATE IN LITIGATION OF PROTEST OUT OF CONCERN. S.B. 320 IS IN DIRECT CONFLICT WITH THE FIRST AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES.

LEGISLATION IS OVERDUE TO CHARGE ROYALTIES FOR OUR GOLD MINED BY THE GOLD MINING CORPORATIONS. COAL COMPANIES IN MONTANA PAY THEIR SHARE SO WHY EXEMPT GOLD MINING CORPORATIONS?

ROBERT GOPHER

P O BOX 601

GREAT FALLS MT 59403

SENATE NATURAL RESOURCES

EXHIBIT NO. ~~533~~ #3

DATE 2/12/93

BILL NO. SB 320

# Northern Plains Resource Council

## TESTIMONY OF RICHARD PARKS FOR THE SENATE NATURAL RESOURCES COMMITTEE IN OPPOSITION TO SB-320 FEBRUARY 12, 1993

For the record my name is Richard Parks. I own and have operated a sporting goods store and fly fishing outfitting business in Gardiner, MT since 1970. I am also the Chair of the Northern Plains Resource Council and I appear today in that capacity. Northern Plains is a community based organization of ranchers, small business persons and other citizens concerned with protecting Montana's clean water, clean air, responsible land stewardship, community self-determination and long term sustainable economic development.

The testimonies submitted in support of this bill by its advocates are the best argument against it. It should be clear by now that the intent of this legislation is to take from the people of this state the power to set mining policy and place it in the hands of the mostly out of state and foreign owned mining companies. In the process of doing this the public's ability to even question, much less effectively intervene, in the process is to be sacrificed to a golden calf. This is not about the jobs of the working miners, most of whom have no desire to trash Montana. It is about the job of their corporate bosses who resent being held accountable for the results of their decisions. Let's look at the bill section by section.

Section 1: Sets a 30 day time frame to file judicial appeals of State Land Board decisions on mine permits and exploration licences. The problem with this section is that most mines - as in the Golden Sunlight case - are permitted by both state and federal agencies with different time frames and appeals procedures. I don't think this section would be framed this way if anyone in the mining industry thought that there was much chance that the State Land Board would deny many mining permits. Has the industry honestly asked themselves how they would handle having to file an appeal in state court, for the state part of a permit that had also been denied by the Forest Service or BLM that has an administrative appeal process that must be followed prior to going into court? It is a Catch-22 for them as it is for us. This might be made palatable if it provided for 30 days to file a notice of intent to appeal while other administrative appeals with other agencies were processed.

SENATE NATURAL RESOURCES

EXHIBIT NO. 4

DATE 2/12/93

BILL NO. SB 320

Section 2: Requires the court to require a bond of the filer of an appeal. There have been two main arguments, as far as I can judge, advanced to support this radical deviation from all accepted civic procedure. The first is that this will somehow prevent "frivolous" lawsuits against mine permits, and the second is that it will act to establish a "level playing field" for mining companies. Neither is a substantial threat to the mining industry at this time.

Recent court cases, however, do not support the assertion that citizens go into court with frivolous claims. In the Montanore Disclosure Case the judge ruled in favor of the citizens protesting their blanket exclusion from records pertaining to mine exploration permits. The preliminary rulings in the unresolved Golden Sunlight and East Boulder Cases do not support a claim that these are frivolous either. We are citizen volunteers with limited means and do not take such actions lightly. In anycase the courts already have full power to dismiss any action that was truly frivolous.

We quite agree with the mining industry that a level playing field is desirable. Our problem is that the existing field is substantially slanted in the industry's favor. Both state and federal laws are explicitly designed to expedite permits, not delay or stop them. For example, the Metal Mine Reclamation Act, which this bill proposes to amend, places a 365 day time limit on conducting the environmental review. If this bill were law, and the industry thought there was much chance of permits being denied, we would be here discussing a bill to repeal this provision as imposing an unconscionable burden on a legitimate business.

This section is nothing but an attempt to allow large multi-national companies to exercise their raw economic power to silence individual citizens and their organizations making their legitimate critiques of activities that will irrevocably affect their communities. This is unacceptable.

Section 3: Allows the judge to charge the loser with costs and the winner's attorney fees. This is a further attempt to raise the stakes to an impossible level for citizens. Again, ask yourself, would the industry subject itself to this provision if the advocates for this bill thought there was a substantial chance that the State Land Board would be denying mine or exploration permits? The simple fact is that they would never bring this bill before you. I ask the working miners, how free would you feel in raising a workplace safety issue if it were subject to these provisions? This clause should be rejected because of its biasing effect on public decision making.

Section 4: Redefines what constitutes an "amendment" to a mine permit. It sets up 3 categories, "major", "minor" and "revisions". "Major" amendments are those that significantly affect the human environment. "Minor" are those that would not produce a significant affect. "Revisions" are categorically exempted from MEPA unless the department makes a formal, high proof level, finding that there will be a new, previously unanalyzed significant environmental impact. In combination with the elements discussed under Section 5, this makes it virtually impossible to review any changes in an operation once permitted.

AMENDMENT #4  
DATE 2-12-93  
SB-320

Perhaps a prospective example would help. Noranda, a Canadian company, proposes to operate near Cooke City. The original proposal involved two open pits amongst other things. The application has now been changed by dropping these two pits out of the proposed plan. Let's assume that the eventual permit boundary includes the area of the pits and the EIS mentions but does not seek to operate the pits. Let's further assume that three years after opening, Noranda comes back with a "revision" (under this bill, exempt from review) to open the pits. Under SB-320 what public participation rights do we citizens have left? It seems to me that we would have to sue to even find out - and be required to post a mega-million dollar bond for asking the question. This is unacceptable.

Section 5: Has two parts; part one specifically provides that henceforth "amendment" will mean only an action to change the size of the permit area. All activities taking place within the established permit boundary are "revisions". Part two reinforces that by defining "revision" as a change in the operating plan or reclamation plan to extend, continue or modify an activity within the mine permit boundary. This makes it extremely difficult for citizens to review changes in the scope, scale or methodology of an operation once permitted. In deciding how to dispose of sections 4 and 5 ask yourself; would doubling or tripling the capacity or workforce have public consequences? Of course it would and you must therefor reject these sections as well.

Section 6: Gives the applicant for the permit the power to determine who the department's environmental contractor will be by providing that the state gives the applicant a list of 3 "acceptable" contractors from which list the applicant picks one. This makes the analysis of impacts hostage to the good will of the applicant. Because the enforcement agencies are underfunded the industry is already "self monitored". This bill goes beyond having the fox guard the hen house and makes him the general contractor that builds it as well. This is clearly unacceptable.

Section 7: Raises the proof level required of the State Land Board to deny a permit to that "established by clear and convincing evidence" I think what you have been hearing from the advocates for this bill is that they want the Land Board to play dice with the health of Montana's citizens. Unless someone can come in with an exactly analogous case to demonstrate a high probability that the Water Quality Act will be violated, or that reclamation will fail, the Land Board is bared from making a risk assesment in favor of the public interest. This may seem like a perfectly reasonable thing to do from the point of view of a Toronto or New York board room but I can not see any reason why citizens of Montana should put up with it. As things stand now, as far as I know, the only permit ever denied was one perched on top of the Helena water supply. You should vote to pass this bill only if you are prepared to drink the results.

In summary, the net effect of all this is to make it much more difficult for the State Land Board to deny a permit (Sec. 7), to taint the evidence on which they will make that determination (Sec. 6), to eliminate the public from review of changes to issued permits (Sec. 4 & 5), to make it prohibitively risky and expensive for the public to challenge the original issuance of permits (Sec. 2 & 3) and finally, (Sec. 1) to force the public to come to grips with this entire mess within a 30 day time frame. Banans republic dictatorships may be able to make decisions that way but mining companies can not and the public shouldn't be asked to do so either. Kill this bill.

Thank you for the opportunity to appear on this important matter. I stand ready to respond to any questions you may have.



Richard Parks  
Chairman, Northern Plains Resource Council

**EIGHT SOLID REASONS**  
**WHY MONTANANS SHOULD REJECT**  
**S.B. 320, THE MINING INDUSTRY BILL**  
**THAT RADICALLY LESSENS OUR**  
**CONSTITUTIONAL RIGHT TO CHALLENGE**  
**BAD DECISIONS BY GOVERNMENT**

1. By requiring plaintiffs to post bonds, pay court costs and pay damages to the state and potential permittees, **the bill tells Montanans that only the wealthy can challenge the decisions of our government.** Most Montanans, even if they show they are harmed or will be harmed by state-authorized mining, will not be able to afford to go to court to stop bad mining decisions.

2. The bill's bonding and damages provisions help insulate Montana's Department of State Lands from lawsuits when it authorizes mining that pollutes our streams and drinking water. **Irresponsible bureaucrats and ill-trained technicians will now be less accountable when they make decisions that harm the public.**

3. The bill exempts so-called "revisions" to operating plans of active mines from environmental study. Only "revisions" that "significantly affect the environment," that is, are large enough to require full-blown environmental impact statements, would be analyzed. **"Revisions" theoretically escaping analysis under this bill might be major habitat disturbances and the introduction of new extraction techniques such as cyanide heap-leaching.**

4. The mining industry is dead wrong when it claims that the bonding and damage recovery provisions in SB 320 are needed to stop "frivolous" lawsuits that impede legitimate mining. The few lawsuits underway involving mining in Montana **have passed several legal tests by the court, indicating they are not frivolous and merit attention by the court.** If the state and industry intervenors believe the suits are frivolous they would ask the court to dismiss the challenges. Apparently, either the motions haven't been made or the courts have rejected them, thereby recognizing the suits' validity.

5. SB 320's provision allowing a mining company to pick the state contractors that review the company's proposals **robs Montanans of the objective scientific opinion we need to tell us how mining will affect our communities, air and water.**

SENATE NATURAL RESOURCES  
EXHIBIT NO. 5  
DATE 2/12/93  
BILL NO. SB 320

6. A commission appointed by Gov. Stephens in 1989 spent two years exhaustively dissecting the Metal Mine Reclamation Act before making recommendations for change to the 1991 Legislature. The commission included seven mining industry representatives, four ex-officio state officials, two federal agency representatives and three conservation group spokesmen. The commission was clearly weighted toward the industry. The commission's meeting minutes, public hearing notes, consensus recommendation to the governor and Legislature, as well as the wish-list that industry brought to the committee, show that miners never mentioned or were unconcerned about limiting lawsuits and forcing citizen plaintiffs to post bonds and pay damages and attorney fees. It appears, then, this bill is the result of a few mining companies worrying of late about legitimately exercised lawsuits.

7. Testimony by the mining industry to the permit review commission showed industry didn't want large-scale changes in the law. At a Nov. 1989 hearing, for example, Don Jenkins of the Golden Sunlight Mine summarized his view of state mining law by saying: *"I think our present mine permitting or reclamation law is a good law, tough, but good. I would hate to see us try to fix something that is working. Fine tuning is okay, but a major overhaul, NO IT AIN'T BROKE! (his emphasis)."* Now only a few years later, the San Francisco-based company Jenkins works for wants to overhaul the law, as long as it narrows Montanans' opportunities to challenge bad mine-permit decisions.

8. The prime boosters of SB 320 are non-Montana mining companies such as Pegasus Gold (Vancouver, B.C., and Spokane), Golden Sunlight's Placer Dome Inc. (San Francisco), ASARCO (New York) and Stillwater Mining and Stillwater PGM (partnerships of California's Chevron Oil and the Manville Company). Just like the days of the Anaconda Company, non-Montana directorships and shareholders are dictating to Montanans how and when we can challenge the activities of these companies.

**SB 320 will roll back our rights and the  
protection of Montana's environment!  
Support its demise!**

*Prepared by the Clark Fork - Pend Oreille Coalition, Box 7593, Missoula,  
MT 59807 542-0539*

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Support its demise!**

*Prepared by the Clark Fork - Pend Oreille Coalition, Box 7593, Missoula,  
MT 59807 542-0539*

NAME S. JANKE

ADDRESS \_\_\_\_\_

HOME PHONE \_\_\_\_\_ WORK PHONE \_\_\_\_\_

REPRESENTING SIERRA CLUB

APPEARING ON WHICH PROPOSAL? SB 320

DO YOU: SUPPORT \_\_\_\_\_ OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

COMMENTS:

D. IN SHORT, THESE SECTIONS CONSTITUTE  
INFRINGEMENT UPON THE BASIC CIVIL  
RIGHT OF CITIZENS TO SEEK REDRESS  
IN THE COURTS.

IN VIEW OF THESE RESTRICTIONS, AT  
LEAST IMPLIED, WE BELIEVE SB 320  
TO BE UNCONSTITUTIONAL.

AS SUCH, IT SHOULD NOT BE PASSED,  
AND IF PASSED, SHOULD BE VETOED  
BY THE GOVERNOR.

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

p. ①  
of  
④

NAME SHERMAN H. JANKE

ADDRESS 415 NORTH 17th, BOZEMAN 59715

HOME PHONE 582-9782 WORK PHONE SAME

REPRESENTING SIERRA CLUB, MONTANA CHAPTER

APPEARING ON WHICH PROPOSAL? S. B. 320

DO YOU: SUPPORT        OPPOSE X AMEND       

COMMENTS:

SINCE WE WERE UNABLE TO PRESENT  
ORAL TESTIMONY; WE OPPOSE SB 320  
BECAUSE

I. A. WE OBJECT TO THE 30 "WINDOW" IN  
WHICH TO SEEK REVIEW [SECTION 1.]

B. WE OBJECT TO THE BONDING  
REQUIREMENT [SECTION 2]

C. WE OBJECT TO THE POTENTIAL  
LIABILITY FOR DEFENDANT'S LEGAL  
FEE'S, ESPECIALLY SINCE THERE IS  
NO CORRESPONDING PROVISION FOR  
SUCCESSFUL PLAINTIFFS TO SIMILARLY  
RECOVER THEIR COSTS. [SECTION 3.]

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

TESTIMONY BY, SIERRA CLUB, MONTANA CHAPTER

II. REBUTTAL TO STATEMENT OF GARY LANGLEY,  
MONTANA MINING ASSOCIATION

- A. THE SIERRA CLUB EMPLOYS NO PAID STAFF BASED IN MONTANA. VIRTUALLY ALL WORK IS DONE BY VOLUNTEERS SUCH AS MYSELF.
- B. MR. LANGLEY'S FIGURE FOR THE CLUB'S NATIONAL BUDGET IS ROUGHLY CORRECT.
- C. IT IS HOWEVER LUDICROUS TO IMPLY THAT ALL OR EVEN A SIGNIFICANT PART OF THE NATIONAL BUDGET COULD BE ALLOCATED TO LEGAL ACTION IN GENERAL -- IN ALL 50 STATES AND IN CANADA -- LET ALONE POTENTIAL LITIGATION IN ONE STATE, I.E., MONTANA.
- D. THE CLUB DOES NOT LITIGATE ITS OWN CASES. IT HIRES A SEPARATE ENTITY TO LITIGATE THOSE CASES WHICH ARE APPROVED BY ITS NATIONAL BOARD OF DIRECTORS. (THE B.O.D.)
- E. THE NUMBER OF REQUESTS SUBMITTED TO THE B.O.D. ALWAYS EXCEEDS THE CLUB'S CAPACITY TO APPROVE.
- F. THERE IS SIMPLY NO WAY THAT THE CLUB CAN "MAKE MONEY" THROUGH LITIGATION, BECAUSE OF D. & E.

III. (REVERSE)

P. (A)  
OF  
(A)  
COVER

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

HOME PHONE \_\_\_\_\_ WORK PHONE \_\_\_\_\_

REPRESENTING \_\_\_\_\_

APPEARING ON WHICH PROPOSAL? \_\_\_\_\_

DO YOU: SUPPORT \_\_\_\_\_ OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

COMMENTS:

III. WE DO NOT OBJECT TO MINING  
ACTIVITY CARRIED OUT IN THE  
PROPER PLACES, AT THE PROPER  
TIME, AND  
IN AN ENVIRONMENTALLY SOUND  
AND PROPER MANNER.

*Stevan H. Jankel*

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

TESTIMONY: CESAR HERNANDEZ for the CABINET RESOURCE GRP  
P.O. B. 37  
HERON, MT. 59844

7B-320 CRG OPPOSES THIS BILL!!

I LOVE THIS BILL, IT ALLOWS ME THE OPPORTUNITY TO STAND BEFORE THIS BODY AND ARGUE SOME COMMON SENSE, BECAUSE IN THIS DAY & AGE WE'RE LONG ON RHETORIC AND SHORT ON SENSE. I WAS ALWAYS UNDER THE IMPRESSION WE EXISTED IN A DEMOCRACY WHERE CITIZENS COULD CHALLENGE THEIR GOV. AND ACTIONS THEIR GOV. TOOK OF ITSELF OR IN BEHALF OF OTHER PARTIES.

Jim Jensen

I WONDER IF WE HAD HAD <sup>JUST</sup> ONE PERSON OR MAYBE ONE GROUP OF PERSONS CHALLENGING THE EXCESSES AND UNBRIDLED DEVELOPMENT AT BUTTE, IF WE WOULD HAVE THE 1.5 BILLION \$ SUPERFUND SITE WE HAVE TODAY. BECAUSE EVERY TIME WE HAVE THAT TYPE OF UNCHALLENGED DEVELOPMENT AND IT PROVES TO HAVE PROBLEMS IT COSTS ME, IT COSTS YOU, IT COSTS OUR SOCIETY. AND I WONDER IF WE DON'T HAVE MORE PRESSING NEEDS SUCH AS HEALTH CARE, HOMELESSNESS & EDUCATION THAT COULD BETTER UTILIZE THE MONIES WE'RE CURRENTLY THROWING INTO BUSINESS DECISIONS THAT WENT UNCHALLENGED AND LEFT US A LEGACY OF POLLUTION

CRG BUDGET = <10,000

SENATE NATURAL RESOURCES

EXHIBIT NO. 7

DATE 2/12/93

BILL NO. SB 320

Proposed

Changes

approved 11/29/87  
12/1/89

Article I

principal office

city of Trout Creek, county

of Sanders.

Article IV

Section 1. Annual meeting

~~shall be held~~ <sup>shall be held</sup> ~~the~~ <sup>the</sup> ~~last~~ <sup>last</sup> ~~3~~ <sup>3</sup> months of  
calendar year

Article V - 2

between 5 + 10 ✓

Shall be ~~selected~~ directors of  
The corporation [as deemed necessary  
by the current board and as  
need demands]

... successor shall have been  
elected ~~and~~ qualified.

- 7

of the remaining directors, ~~that~~  
~~less than a quorum of the board of di~~

- 9

Omit?

Article X - Fiscal Year

begin on the 1st day of January and end  
on the 31st day of December

SENATE NATURAL RESOURCES

EXHIBIT NO. 7A

DATE 2/12/93

BILL NO. SB 320

EX 7A  
2-12-93  
SB-320

My name is Jim Peaco. I live  
in Cooke City - a community currently dealing with  
Hard Rock exploration activities & the permitting process

S.B. 320 would essentially not allow  
communities to challenge a mine permit.

I don't think a well done mining  
permit is in danger of being challenged.

But sometimes a poorly done mine  
permit does make it through the  
process. If a permit is not done  
well, our community needs to be able  
to question that permit. Our community  
can not be the sacrificial lamb to  
the powerful & wealthy mining industry.

Some mining will be clean & beneficial to  
local communities & the state. But some  
of these projects will come back to  
haunt all of us. They can cost<sup>th</sup> local  
citizens & businesses by displacing long

standing + long term jobs. The mining projects can cost local Communities in increased property taxes to support additional infrastructure<sup>once the mine leaves ~~there~~ town</sup>. They also cost Communities through increased cost of living by driving up rental + sales properties. Mining projects also cost all of us by lowering the quality of life in our towns. Don't give away the farm, ranch, or our small towns for some very short term, questionable gains at the cost of long term benefits that could be damaged or destroyed.

I don't have any political power, + I don't have any money to influence projects, or to threaten a lawsuit, like Nevada minerals did.

to our Park County Commissioners  
why does the person, or the comp.  
with the most power have to  
win? Why does the person or the  
comp. with the most money have  
to win? Why can't we more  
often have what is right, or  
fair be the winner? This in  
the end will be what is best for  
the state. I speak not only  
for myself, but for other home  
owners, small businesses, college students,  
and grandmothers in Cooke City.  
we raise funds by selling T-shirts, bake sales & raffles

We are just the local people  
trying to do what is best for ~~the~~ our  
community, which in turn will be  
best for the state. We need to

be able to participate in the  
process.

Ex 7A  
2-12-93  
SB-320

Please members of our legislature,  
in this time of budget deficits & the  
need to create jobs, please don't  
let fiscal issues make you <sup>endorse</sup> ~~sign~~  
~~up for~~ every bill that will help the  
mining ~~the~~ industry mine our wonderful  
state.

Please, do not allow S.B. 320 to  
go forward. Show some courage to  
the mining industry, + do what is  
fair for the citizens of Montana.

Thank You.

Jim Peaco

Box 1086

Cooke City, MT. 59020

838-2339

TESTIMONY OF JOHN NORTH

DEPARTMENT OF STATE LANDS

Senate Bill 320

Senate Natural Resources Committee

February 14, 1992

The Department appears here as an opponent only to portions SB320, not to SB320 as a whole. Most of the issues that will arise on this bill are policy issues for the Legislature to decide. The Department's testimony concerns two technical issues and one issue that could directly affect the Department's ability to administer the Metal Mine Reclamation Act and the Montana Environmental Policy Act.

The first technical issue concerns Section 1 of the bill. Section 1 purports to establish a 30-day statute of limitations by cross-referencing a statute in the Administrative Procedures Act, 2-4-702(2)(a), which contains a 30-day limitation. The problem is that the 30-day limitation in 2-4-702(2)(a) is triggered by the notice provision of the Administrative Procedure Act (2-4-623(5)). However, a permit decision under the Metal Mine Reclamation Act is not subject to the Administrative Procedures Act. Therefore, there is no provision for notice of permit that will start the 30-day clock. If this committee wishes to insert a statute of limitations into the Metal Mine Reclamation Act, I suggest that it include the actual limitation in Section 1.

The other technical comment concerns Section 7. Section 7 provides that the Department can deny a permit only if it finds that reclamation will not be successful or that air or water quality laws will be violated by clear and convincing evidence. This standard of evidence is greater than the preponderance of evidence. Expressed in percentages, preponderance of the evidence is 51%; clear and convincing evidence is a higher percentage--perhaps 67% or 75%. Thus, under the current language of Section 7, it is possible that the Department could be required to issue a permit even though 51% or 55% of the evidence indicates that this reclamation plan will not work.

Finally, the Department has a concern about how the Section 6 would affect the EIS process. Currently, when the Department selects a consultant to write an EIS on a permit application, it consults with the applicant. However, the Department makes up the short list of consultants and makes its own final selection. If the final selection were to be made by the applicant which is what Section 6 provides, this could create at least a perceived and perhaps a real bias in favor of the applicant on the

SENATE NATURAL RESOURCES

EXHIBIT NO. 8

DATE 2/12/93

consultant, who is responsible for objectively analyzing the impacts of the project. These could result both from the fact that the applicant had selected the consultant and the fact that the consultants would know that the future success of his or her consulting business may depend on the applicant's opinion of the consultant's performance on the present project.

For these reasons, the Department respectfully suggests that Sections 1 and 7 be amended and that Section 6 be deleted in its entirety.

# MontPIRG

Montana Public Interest Research Group

360 Corbin Hall □ Missoula, MT 59812 □ (406)243-2907

2/12/93

## Testimony For Senate Bill 339

Senator Bianchi and Members of the Senate  
Natural Resources Committee:

For the record, my name is Jordan Shapiro, I'm a student board member of MontPIRG.

The Montana Public Interest Research Group (MontPIRG) is a non-profit, non-partisan research and advocacy organization located on the University of Montana campus. MontPIRG represents 2500 student members and 1500 community members statewide.

MontPIRG supports Senate Bill 339, providing for a local referendum for the licensing of a Megalandfill or dangerous waste facility. Since Montana has recently been targeted for the location of these types of facilities, citizens who may be affected by the placement of a facility have the right to be part of the decision making process.

It is important to remember this bill provides for a referendum if 15% of the voters in a county petition to have a referendum. A referendum is not automatically held. Informed citizens have good reason to want to put the decision to a vote if a proposed facility has the potential of causing health and safety problems.

Also, the building of a facility might affect property values as well as jobs in the area. Citizens making an informed decision by majority vote will have higher acceptance of a decision, rather than having no choice.

MontPIRG encourages you to vote a "Do Pass" on Senate Bill 339.

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*Students and citizens working for educated consumers, a clean environment and a more responsible government.*

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RECYCLED PAPER

SENATE NATURAL RESOURCES

EXHIBIT NO. 9

DATE 2/12/93

BILL NO. SR 339

Burden of proof has essentially two elements as explained below:

#### BURDEN OF PROOF

The burden of proof embodies two concepts as an evidentiary standard: (1) the burden of production -- the burden of going forward with evidence to convince the decision maker that you should be believed; and,

(2) the burden of persuasion -- the burden of convincing the decision maker that you should ultimately win the case because your evidence meets the requisite standard of proof.

NOTE: The burden of production shifts from one party to the other depending on whose duty it is to present the evidence [for example, once a plaintiff has completed his case the burden shifts to the defendant to produce evidence to establish the defense]. The burden of persuasion never shifts [for example, the plaintiff is required to convince the judge by some set standard (see standards below) that he should prevail, if he doesn't meet the standard the plaintiff loses].

In modern judicial proceedings, three standards of proof are recognized:

(1) preponderance of the evidence -- this standard is used in most every civil case [evidence which, when fairly considered produces the stronger impression, and has the greater weight, and is more convincing as to its truth when weighed against the evidence in opposition, but does not necessarily mean the greater number of witnesses];

(2) clear and convincing evidence -- this standard is reserved to protect particularly important interests in a limited number of civil cases [a high standard requiring strong evidence that produces in the mind of the court a firm belief or conviction, but is less than conclusive]; and,

(3) beyond a reasonable doubt -- this standard is used exclusively in criminal cases [Highest standard of proof].

Confusion exists in the Montana water law because the standard "substantial credible evidence" is used. Terms such as substantial and substantial credible are generally terms used by a reviewing court. For example, the Montana Supreme Court reviews decisions of a district court and upholds the district court if there exists substantial evidence in the record of the district court to uphold the decision. Remember, however, that the district court in making its decision used the standard of a preponderance of the evidence (in most civil cases). The standards of substantial credible and preponderance of the evidence serve two different functions-- substantial credible to review a case on appeal, and preponderance to weigh the conflicting evidence by the initial decision maker. Unfortunately, the standard for the decision maker in the water laws has been set as "substantial credible" (the reviewing

standard) therefore, the question naturally arises as to whether substantial credible is higher or lower than preponderance of the evidence. It appears that arguments may be made on both sides of the issue, but the department in dealing with the issue in water permitting matters is utilizing "preponderance of evidence" as being embodied in the "substantial credible" standard.

"Common Ground" is a videotape presented for informational purposes at the hearing of Senate Bill No. 320. The original is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.



# COMMON GROUND

SENATE NATURAL RESOURCES

EXHIBIT NO. \_\_\_\_\_

DATE 2/12

BILL NO. SB 320

## Modern Mining and You

My name is Heidi Barrett, I am a citizen of  
Cooke City, Montana, where ~~Yoranda~~ Minerals is proposing <sup>a major</sup> ~~the~~ <sup>mining</sup> ~~project~~  
I urge ~~to~~ you, <sup>the</sup> members of the Committee,  
to oppose SB 320 which would ~~prevent~~  
~~citizens~~ <sup>or citizens</sup> make it almost impossible for grassroots  
groups to challenge illegal <sup>or unsound</sup> mine permits.

I ~~feel~~ <sup>believe</sup> we should have the right to protect  
our environment, community, and quality of  
life without the undue burden posting a bond.  
~~Yoranda~~ <sup>believe</sup> I ~~feel~~ we should have the  
right to be involved in the permitting process in  
a democratic way that gives citizens the  
right to participate.

Again, I urge you to oppose SB 320

Thank you.

~~Just as proponents stated that their livelihoods~~  
may be affected ~~by the denial of this Bill.~~ Our livelihoods  
and jobs <sup>in Cooke City</sup> will be affected by illegal or  
unsound mine ~~permits~~ <sup>projects</sup> if this bill is supported.

in our area.

Again, I urge you to oppose SB 320.

Thank you!

706-838-2348

Heidi Ellen Barrett

NAME BRADY WISEMAN

ADDRESS Box 1082 Bozeman

HOME PHONE \_\_\_\_\_ WORK PHONE \_\_\_\_\_

REPRESENTING Montanans Against Toxic Burning

APPEARING ON WHICH PROPOSAL? SB339

DO YOU: SUPPORT  OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

COMMENTS:

M.A.T.B. supports SB339. Our belief is that local residents should have a say in the <sup>permitting</sup> ~~location~~ of these types of facilities.

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

NAME Jeanne Charles  
ADDRESS 13838 Hwy 87 N, Shepherd Mt  
HOME PHONE 947-2151 WORK PHONE \_\_\_\_\_  
REPRESENTING self  
APPEARING ON WHICH PROPOSAL? SB 339  
DO YOU: SUPPORT  OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

**COMMENTS:**

Ltaly situation in Baker. A blind  
referendum would free people to  
take a position.

\_\_\_\_\_  
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\_\_\_\_\_

**WITNESS STATEMENT**

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

As a point of information, our ranch business' annual operating budget is under \$200,000 a year. Should the fact that we are a small business deprive us of our legal right to defend our <sup>rights</sup> ~~rights~~?

NAME Jeanne Charter,

ADDRESS 13838 HWY 87 N, Shepherd MT 59079

HOME PHONE 947-2151 WORK PHONE 947-2151

REPRESENTING Charter Livestock, Bull Mt. Landowners Ass.

APPEARING ON WHICH PROPOSAL? SB320

DO YOU: SUPPORT  OPPOSE  AMEND

### COMMENTS:

Section 2 puts an extreme financial burden on people like us. We are already under heavy financial pressure to protect our property & agricultural business interests from <sup>mine-related</sup> damage. We should have the right to defend those interests without facing impossible financial burdens.

Section 7. This puts the burden of proof on people like us to establish "by clear & convincing evidence" that any damage will occur. We are least in a position to carry that legal burden. The burden of proof should be on the operator to demonstrate clearly & convincingly that their operation is safe to natural resources and agricultural uses.

### WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2-12-93

SENATE COMMITTEE ON Natural Resources

BILLS BEING HEARD TODAY: SB 320 SB 339

Name	Representing	Bill No.	Check One	
			Support	Oppose
Larry Tweedale	self (Missoula)	—		
Laurin Jensen	NPRC	—	—	
CHARLES M. HAUPTMAN	SELF	320		
Roger Thomson	DNES	339		
DAVID NATHAN	SPECIAL RESOURCE MGMT. INC.	339		X
Diana Pauli	NPRC / CRC	320		✓
Annice Helmer	Self	320		✓
Marian Lohrer	CRC	320		✓
Frank Johnson	CRC	320		✓
Teresa Erickson	Northern Plains Resource Counc.	320		✓
G.P. Horne Captaine	self 32	339	✓	
Paul Hawke	NPRC	<del>320</del> 339	✓	
Jim Flisvand	City of Billings	339		✓
Janet Ellis	MT Audubon	<del>339</del> 320	✓	
GARY LANGLEY	MMA	320	✓	
Richard Berg	SELF	320		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2-12-93

SENATE COMMITTEE ON Seward Natural Resources

BILLS BEING HEARD TODAY: SB 320 SB 339

Name	Representing	Bill No.	Check One Support Oppose
<i>John Fitzpatrick</i>	<i>Pegasus Gold Corp</i>	<i>SB 320</i>	<input checked="" type="checkbox"/>
<i>DONOVAN ARCHAMBAULT</i>	<i>FT BELKNAP TRIBES</i>	<i>SB 320</i>	<input checked="" type="checkbox"/>
<i>Chuck Eneaux</i>	<i>FT BELKNAP TRIBES</i>	<i>SB 320</i>	<input checked="" type="checkbox"/>
<i>Joe W. Azure</i>	<i>Red Thunder Inc</i>	<i>SB 320</i>	<input checked="" type="checkbox"/>
<i>Robt Gopher</i>	<i>Self</i>	<i>SB 320</i>	<input checked="" type="checkbox"/>
<i>Tootie Welker</i>	<i>MAPP</i>	<i>SB 329</i>	<input checked="" type="checkbox"/>
<i>Susan Pauli</i>	<i>Self/ MPRC / CRC</i>	<i>SB 339</i>	<input checked="" type="checkbox"/>
<i>Diane Zahner</i>	<i>CRC</i>	<i>SB 339</i>	<input checked="" type="checkbox"/>
<i>Jean Clark</i>	<i>CRC</i>	<i>SB 339</i>	<input checked="" type="checkbox"/>
<i>Don Sterhan</i>	<i>Western Recovery Systems</i>	<i>SB 339</i>	<input checked="" type="checkbox"/>
<i>Don Ole</i>	<i>MD Wood Products</i>	<i>SB 320</i>	<input checked="" type="checkbox"/>
<del><i>James Anderson</i></del>	<del><i>Holman Inc</i></del>	<del><i>SB 339</i></del>	<input checked="" type="checkbox"/>
<i>James Anderson</i>	<i>Holman Inc</i>	<i>SB 339</i>	<input checked="" type="checkbox"/>

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2/12

SENATE COMMITTEE ON Natural Resources

BILLS BEING HEARD TODAY: SB 320, SB 339

Name	Representing	Bill	Check One	
		No.	Support	Oppose
Richard C. Pender	MPRC	329 320	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
James Macie Smyney	GYC	320	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Jim Barrett	Boat Tooth Alliance	320	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Nicki Barrett	Boat Tooth Alliance	320	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Larry G. Shebus	CITIZENS OF CHILDREN	320	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Jonia M. Shebus	CITIZENS OF LOVE OUR CHILDREN	320	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Glen Rugg	CITIZENS TO SAVE OUR CHILDREN	339	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Bruce Farling	CLARK FORK COALITION	320	<input type="checkbox"/>	<input checked="" type="checkbox"/>
B. Pearson	Clark Fork-Piedmontic Coalitions	320	<input type="checkbox"/>	<input checked="" type="checkbox"/>
MARK GERLACH	Blackfoot TU		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Becky Garland	Blackfoot TU		<input type="checkbox"/>	<input checked="" type="checkbox"/>
DARRREN Martin	ZINT	320	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jim Peaco	CITIZEN OF COKE CITY	320	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Diane Jordan	self		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Tom Bowler	self	320	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Brad Reel	CURE	320	<input checked="" type="checkbox"/>	<input type="checkbox"/>

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2-12-93

SENATE COMMITTEE ON Natural Resources

BILLS BEING HEARD TODAY: SB 320 SB 339

Name	Representing	Bill No.	Check One Support Oppose
Richard Berg	Self	339	✓
DAN STAHL	MONT PIRG	339	X
Jordan Shapiro	MONT PIRG	339	X
Tootie Weller	MAPP	320	X
Tom Daubert	Ash Grove Cement	339	X
FARWELL SMITH	Rancher	320	<del>X</del> X
LINDA McMULLEN	Rancher Big Timber	320 339	X X
Peggy Olson Thew	WETA	320 339	X X
Julia Page	Bear Creek Council NPRE	339 320	X X
Jim E. Richard	MWF	320	X
Russ Ritter	MT. Resource	-	X
Ward Shanahan	Stillwater Mining	320	X
SHERM JANKE	MONTANA CHAPTER SIERRA CLUB	320	✓
David Owen	MT Chamber of Commerce	320	✓
David Owen	" "	339	✓
Ron Dorvall	Self	320	✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY:

DATE 2/12/93

SENATE COMMITTEE ON Natural Resources

BILLS BEING HEARD TODAY: SB 320, SB 339

Name	Representing	Bill No.	Check One	
			Support	Oppose
Wade Sikorski	NPRC	320		<input checked="" type="checkbox"/>
<del>Mark Johnson</del>		339	X	
Martin Johnson	C. U. R. E.	320	X	
Tomasa Johnson	CURE	320	X	
Bradley Reed	Student	320	X	
Karen Choquette	Whitchell Business	320	X	
Rich Choquette	Whitchell Mt	320	X	
Jamie Miller	Whitchell, MT.	320	X	
Jim Miller	Whitchell Mt.	320	X	
Leonard Queck	Whitchell MT.	320	X	
Mona Jamison	Mikelsen Land Co.	320		<input checked="" type="checkbox"/>
Kim Wilken	CFE			<input checked="" type="checkbox"/>
CESAR HERNANDEZ	CABINET RESOURCE GRP	320		<input checked="" type="checkbox"/>
Jeanne Charter	<del>MT</del> BMT Paulineaux Ass	320		<input checked="" type="checkbox"/>
Steve Charter	Charter Liv Stock	320		<input checked="" type="checkbox"/>
Jean Clark	NPRC	320		<input checked="" type="checkbox"/>

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2/12/93

SENATE COMMITTEE ON Natural Resources

BILLS BEING HEARD TODAY: SB 320, SB 339

Name	Representing	Bill No.	Check One Support Oppose	
Terrie M. Phelps	American Children	*339	✓	
NONOVAN ARCHAMBAULT	FT. BELKNAP TRIBES	339	✓	
Charles Ezeaux	Ft. Belknap Bldg	339	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY