

MINUTES

**MONTANA
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Rep. Dick Knox, Chairman, on March 15, 1995,
at 3:00 pm.

ROLL CALL

Members Present:

Rep. Dick Knox, Chairman (R)
Rep. Bill Tash, Vice Chairman (Majority) (R)
Rep. Bob Raney, Vice Chairman (Minority) (D)
Rep. Aubyn A. Curtiss (R)
Rep. Jon Ellingson (D)
Rep. David Ewer (D)
Rep. Daniel C. Fuchs (R)
Rep. Hal Harper (D)
Rep. Karl Ohs (R)
Rep. Scott J. Orr (R)
Rep. Paul Sliter (R)
Rep. Robert R. Story, Jr. (R)
Rep. Jay Stovall (R)
Rep. Emily Swanson (D)
Rep. Lila V. Taylor (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)
Rep. Douglas T. Wagner (R)

Members Excused: None

Members Absent: None

Staff Present: Michael Kakuk, Environmental Quality Council
Alyce Rice, Committee Secretary

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

Committee Business Summary:

Hearing: SB 386, SB 349, SB 406, SB 373
Executive Action: SB 225 Tabled
SB 252 Be Concurred In As Amended
SB 373 Be Concurred In

Tape 1, Side A

EXECUTIVE ACTION ON SB 225

Motion: REP. ROBERT STORY MOVED SB 225 BE CONCURRED IN.

Discussion:

REP. CLIFF TREXLER said most of the state lands would sell for \$60 an acre. Most of the ranches in the area are selling for approximately \$300 an acre, which means a windfall of \$200 per acre for every acre that is acquired.

Motion/Vote: REP. TREXLER MOVED TO TABLE SB 225. Voice vote was taken. Motion carried 13 to 3. REP. KARL OHS, REP. ROBERT STORY and REP. DOUG WAGNER voted no.

EXECUTIVE ACTION ON SB 252

Motion/Vote: REP. LILA TAYLOR MOVED TO RECONSIDER SB 252. Voice vote was taken. Motion carried 14 to 4. REP. EMILY SWANSON, REP. CARLEY TUSS, REP. BOB RANEY and REP. DAVID EWER voted no.

Motion: REP. PAUL SLITER MOVED SB 252 BE CONCURRED IN.

Discussion:

REP. HAL HARPER said SB 252 is the most dangerous bill in terms of water that the Legislature has ever considered. SB 252 will create any number of superfund sites and any number of natural resource damage sites. The bill appears to let a landowner pollute the ground water under the land he owns.

Motion: REP. ROBERT STORY MOVED AN AMENDMENT TO SB 252. EXHIBIT 1

Discussion:

REP. STORY said the amendment basically moves the mixing zone back from the property line to a distance between the point of discharge and the property line.

REP. BILL TASH said the bill addresses regulating and monitoring, not pollution. The monitoring will determine if there is pollution. If there is pollution occurring, permits wouldn't be allowed and there wouldn't be permit continuance. The amendment allows some flexibility.

REP. BOB RANEY said the amendment didn't resolve his concerns. Scientific fact decides what a mixing zone should be. Polluters who can't meet the requirements buy a lot of land so they can have a giant mixing zone to pollute, which makes it easier to operate.

REP. KARL OHS asked REP. RANEY to define "mixing zone." REP.

RANEY said a mixing zone is an area where pollutants are mixed with the existing waters. Outside of the mixing zone the waters have to meet certain standards. With ground water it is guess work. It depends on how many wells are put in to monitor the ground water, what the season is, how much ground water is flowing and what the precipitation was like the previous winter.

REP. OHS said he had a different interpretation of mixing zones. A mixing zone is an area where, through natural processes, as pollutants in ground water move to the surface they will be taken out. If that is not happening the permit will be cancelled.

REP. RANEY said pollution control is to stop pollution to the environment. SB 252 is for the mining industry and it allows it to put more pollutants into the ground because of larger mixing zones.

REP. LILA TAYLOR said mixing zones apply not only to mining, they apply to subdivisions, agriculture and everybody.

REP. TASH said the level of pollution, if there is any, isn't based on scientific fact. If there are levels of pollution occurring, it will have a detrimental effect on the continuance of a permit.

CHAIRMAN KNOX left the committee to attend another hearing and appointed **VICE CHAIRMAN TASH** to the chair.

REP. HAL HARPER asked if a discharge permit approved by the department was required in order to discharge legally. **REP. DANIEL FUCHS** said by the way the mixing zone definition was written a discharge permit would be required. **REP. HARPER** said it was his understanding that a discharge permit is not necessarily required in all cases. If that is the case, there wouldn't necessarily be conditions that would adhere to the permit and there wouldn't necessarily be monitoring wells. SB 252 increases the potential to pollute ground water at an amazing rate. There is no statement of intent or rulemaking power in the bill.

VICE CHAIRMAN TASH said the discharge permits are already strictly enforced and in place. There is no need for a statement of intent because it is already stated in the conditions of any permit. **REP. HARPER** asked **VICE CHAIRMAN TASH**, for the record, if it was his understanding that SB 252 would extend current rulemaking authority to the department to be able to adopt rules to tighten up these standards. **VICE CHAIRMAN TASH** said it was his understanding that it would require the department to enforce the standards that are already in place in regards to discharge.

Tape 1, Side B

REP. FUCHS said the definition of pollution on page 4 of the bill refers to permitting by water quality standards and line 14 of the same page refers to authorization under the pollution

discharge permit rules. He asked Mr. Kakuk to explain. Mr. Kakuk said if something is being discharged from a facility that someone is controlling, it doesn't necessarily have to be a permitted facility to be a discharge. If a contaminant is being discharged and it exceeds water quality standards, that is a violation of the Water Quality Act. If the department has given authorization to exceed those standards it is not pollution. The department can grant a mixing zone without necessarily granting a discharge permit. For example, septic systems don't have discharge permits but they have mixing zones. If they didn't have mixing zones, every septic system in the state would be out of compliance because they are discharging nitrates higher than ten parts per million. A mixing zone is an area where the Water Quality Act and the Federal Clean Water Act standards can be exceeded and not be in violation, in accordance with SB 252 and SB 401 from last session.

Vote: Voice vote was taken. Motion on REP. STORY's amendment carried 12 to 5.

REP. STORY asked that the rest of the executive action on SB 252 be postponed until after the rest of the hearings. VICE CHAIRMAN TASH said with no objection from the committee executive action on SB 252 would be postponed.

HEARING ON SB 386

Opening Statement by Sponsor:

SEN. GERRY DEVLIN, Senate District 2, Terry, said SB 386 exempts noncommercial farm and residential underground storage tanks that are 1,100 gallons or less in capacity from the Montana Hazardous Waste and Underground Storage Tank Act. SEN. DEVLIN said two years ago SB 196 was passed which gave people the opportunity to take out their noncommercial tanks that were 1,100 gallons in capacity or under before they started to leak. SB 386 is a continuation of SB 196. EPA exempted underground tanks with the capacity of 1,100 gallons or less, but Montana didn't. There are still a lot of underground storage tanks. The banks want the state to certify that a piece of land that is being sold is a clean area. The state doesn't have a legal description showing where the tanks are located. SB 386 proposes that anyone who takes an underground storage tank out before the end of the year will still be covered by the underground storage tank compensation fund. SEN. DEVLIN distributed amendments to SB 386 that would insert "underground storage" in two parts of the bill.

EXHIBIT 2

Proponents' Testimony:

Roger Thorvilson, Department of Health and Environmental Sciences, said the deregulation of approximately 2,500 underground storage tanks will benefit the department because they will no longer be subject to its inspection and control authority. The department's limited resources can then be concentrated toward the larger commercial tanks.

Maureen Cleary-Swinden, Women Involved in Farm Economics, supported SB 386.

Candace Torgerson, Montana Stockgrowers Association, Montana Cattlewomen's Association, supported SB 386.

Opponents' Testimony:

Bill Allen, Montana Audubon Legislative Fund. Written testimony. EXHIBIT 3

Ann Hedges, Montana Environmental Information Center, said it would be a shame to stop regulating the underground storage tanks. The monitoring requirements are not overly burdensome; they are very minimal. Ground water needs to be protected. For the state to say it is not going to help regulate the smaller underground storage tanks because it doesn't have the money is an inappropriate action. The program needs to be maintained to protect Montana's water resources.

Informational Testimony:

Jean Riley, Executive Director, Petroleum Tank Release Compensation Board. Written testimony. EXHIBIT 4

Questions From Committee Members and Responses:

REP. DAVID EWER asked Ms. Riley if the cost of removing an underground storage tank was covered by the compensation fund or if it only covered the cost of an oil or gas leak. Ms. Riley said the cost for removing the tank is typically not covered. The compensation fund does cover the removal of a tank if it has to be removed as a result of a release. REP. EWER asked Ms. Riley how much money is in the fund. Ms. Riley said approximately \$4 million. REP. EWER asked Ms. Riley if the board had the power to reimburse people for the cost of removing tanks or would it take legislative action. Ms. Riley said it would take legislative action. The cost for either upgrading a tank or removal of the tank is statutorily excluded unless the removal is directly associated with the release.

REP. KARL OHS asked Mr. Thorvilson what happened to the tanks once they are removed. Mr. Thorvilson said they are scrapped out and disposed of as waste or scrap metal.

REP. EWER said there is a balance of \$4 million in the compensation fund and asked SEN. DEVLIN if he would consider a

possible alternative to help people defray the cost of removing the smaller underground tanks when there isn't any leakage by contributing half of the cost. SEN. DEVLIN said he thought that would break the compensation fund.

REP. EWER asked John Geach, DHES, what it costs to remove an underground storage tank. Mr. Geach said the cost varies throughout the state. Some tank removals cost as low as \$150 which doesn't include soil sampling. A more realistic cost would be approximately \$600 to \$800 which would include soil sampling. REP. EWER asked Mr. Geach to estimate how many underground storage tanks with the capacity of 1,100 gallons or less are still underground in the state. Mr. Geach said according to the state's data base there are about 3,000 tanks still underground in the 1,100 gallon category.

REP. EWER said there are 3,000 underground tanks and if the state paid \$300 for the removal of each tank that would be \$900,000. He asked Ms. Kelly if she thought that would break the compensation fund. Ms. Kelly said the fund not only covers farm and residential tanks, it is an assurance mechanism which is required by the federal government for commercial tanks. Presently there is approximately \$4 million in the fund. A little over \$2 million of that has been claimed which puts the fund balance at approximately \$1.8 million. There is concern that putting more impact on the fund could hurt it. If the fund ever has a zero balance, the claims will be held until there is enough money to pay them. Approximately 120 claims are being received each month.

REP. EWER asked Mr. Thorvilson how many tanks at the 1,100 gallon capacity or under are still underground. Mr. Thorvilson said to date there are 10,100 underground tanks that are still in use at the 1,100 gallon or under capacity.

Closing by Sponsor:

SEN. DEVLIN urged the committee to support SB 386.

HEARING ON SB 349

Opening Statement by Sponsor:

SEN. MIKE FOSTER, Senate District 20, Townsend, said with the assumption in mind that a permit would be granted to a cement kiln to burn hazardous waste, SB 349 would present some safeguards for public health. Sen. Foster reviewed each section of the bill with the committee.

Proponents' Testimony:

Paul Johnson, Montanans For A Healthy Future, said the Ash Grove cement kiln in Montana City is located in a narrow mountain valley. The school, which is a short distance away, is located at the mouth of that valley. During temperature inversions there is a high concentration of emissions from smoke stacks. SB 349 requires the cessation of burning hazardous waste during certain inversion conditions. The bill also recognizes the harm that is posed by burning hazardous waste in populated areas by providing the Department of Health and Environmental Sciences (DHES) the discretion to require a telemetering service when a hazardous waste burner is close to a populated area. **Mr. Johnson** urged the committee to support SB 349.

Dennis Alexander, American Lung Association. Written testimony.
EXHIBIT 5

Ted Lange, Northern Plains Resource Council, supported SB 349.

Maureen Cleary-Schwinden, Montana Dairymens and Dairywomens Association, Women Involved in Farm Economics, urged the committee's support of SB 349.

Bob Bachini, Country Classic Dairies, Darigold, supported SB 349.

Melissa Case, Montanans Against Toxic Burning, concurred with the statements made by **Paul Johnson**. **Ms. Case** said monitoring and measuring emissions is not going to ensure that the public's health is going to be protected. Citing is the real solution. SB 349 is a step in the right direction.

Tape 2, Side B

Ann Hedges, Montana Environmental Information Center, supported SB 349.

J. V. Bennett, Montana Public Interest Research Group, supported SB 349.

Bill Allen, Montana Audubon Legislative Fund. Written testimony.
EXHIBIT 6

Dan Pittman, Montana City, urged the committee to support SB 349.

Opponents' Testimony:

Tom Daubert, Ash Grove Cement Company, said **Sen. Foster** began his opening by noting that SB 349 presumes that a permit will be granted. SB 349 also presumes that if a permit is granted, it won't protect public health and there will be no safety margin whatsoever. **Mr. Daubert** disagreed with those presumptions. **Mr. Daubert** said the bill assumes that even if the EPA and DHES decide to grant a permit they won't see fit to put conditions on

that permit to guarantee that the public's health and safety is protected. Some people believe it is obvious that it is too dangerous to burn hazardous wastes near people and food. If that is true, then it is similarly obvious that it is too dangerous to burn fossil fuels near people and food. It is too dangerous to have trucks near people and food. Trucks that deliver food shouldn't be anywhere near where food is created. People are looking at the hazardous waste burning issue in a completely nonscientific way and misunderstand the rigors of the permitting process required by state law. Mr. Daubert asked the committee, if it chooses to pass SB 349, to consider amending section 1 of the bill to clarify that an inversion condition has to affect the stack emissions because the Montana City School is at a significantly lower elevation than the plant and it is entirely possible that an inversion could exist at the school and not affect the stack emissions at all. The federal laws adopted in Montana are already guaranteed to require continuous stack emissions monitoring and quick notification of the agency if emissions limits are exceeded. The federal laws further require that the use of waste derived fuels be ceased immediately when any of the emissions reach a predefined level. That predefined level will be below the maximum limits that are allowed for emissions.

Mr. Daubert said he wondered why Ash Grove Cement Company would be required to meet the Montana defined negligible risk standard when it is already going to have to meet a risk assessment process defined in federal law. One part of the risk assessment process is to look at a theoretical subsistence farmer and pretend that the stack's worst emissions all fall on one spot in dry weather and then pretend that a subsistence farmer never leaves that spot for about 80 years. He eats beef and vegetables grown on that spot and drinks milk from cows that grazed on that spot. Then it has to be proven that farmer doesn't have a health risk. That person has experienced something that no one in the real world would ever experience. Page 6, line 24 of the bill requires a quantitative analysis of the estimated total possible human exposure to chlorinated dioxins. That could mean that the company will have to study everything it can about truck and car traffic in the community, all the use of wood stoves, fire places, charcoal barbecues, and the use of dyed candles, which are all sources of dioxin. Ash Grove may be required to figure out how the community is exposed to all those things plus what might come out of the Ash Grove stacks. Studies have found that ash from a forest fire or camp fire has more than 20 times as much dioxin in it as has ever been found in the highest level of dioxin ever found in cement kiln dust.

Mr. Daubert said his goal was not to defeat the bill as much as it was to clarify some of the confusion that exists. Ash Grove's perspective is that SB 349 adds insult to injury by continuing down the path of misunderstanding the scientific facts and the nature of the existing regulatory process that the federal government already requires.

Informational Testimony: None

Questions From Committee Members and Responses:

VICE CHAIRMAN TASH asked SEN. FOSTER to comment on the cost estimate for overtime hours shown on the fiscal note for reading the telemonitoring devices. SEN. FOSTER said because of the constant monitoring requirement the department would need to have a device with someone at all times in case something happened at the plant. Overtime would have to be paid to an existing employee because the device would have to be taken home.

REP. AUBYN CURTISS referred to the requirement in the fiscal note for research into the appropriate mechanisms for defining inversion conditions under which hazardous burning must be halted and asked Charles Homer, DHES, why that would be necessary since there a lot of controls already. Mr. Homer said currently the only kind of regulating of sources based on inversion conditions that is done is wood stove regulating. Many communities use a surrogate monitoring method where particulates in the air are monitored and when they hit a level that is considered dangerous, burning will be stopped. SB 349 requires that if an inversion condition exists, burning will be stopped before the pollutants start building up.

Tape 3, Side A

REP. DOUG WAGNER asked SEN. FOSTER which existed first, the cement plant or the Montana City School. SEN. FOSTER said he believed the Montana City School predates the cement plant by about 33 years. REP. WAGNER asked SEN. FOSTER if he would support the amendment suggested by Mr. Daubert to clarify that an inversion condition has to affect the plant's stack emissions because the Montana City School is at a significantly lower elevation than the cement plant. SEN. FOSTER said he believed the plant is at a lower elevation than the school. Health and safety measures wouldn't benefit from the amendment. SEN. FOSTER said he would not support the amendment.

Closing by Sponsor:

SEN. FOSTER said there was a very broad spectrum of people that supported SB 349 and asked the committee to do the same.

HEARING ON SB 406

Opening Statement by Sponsor:

SEN. LINDA NELSON, Senate District 49, Medicine Lake, said SB 196 was passed during the 1993 legislative session. SB 196 gave the owners of small noncommercial underground storage tanks a nine-month window of opportunity to remove them without the usual red tape. Under SB 196 the owner was mandated to notify the

Department of Health and Environmental (DHES) before the tank was removed and if there was suspected or detected leakage. The owner also had to notify the department after the tank was removed. There were 2,069 tanks removed under SB 196. SB 406 completes the intention of SB 196 which was to grant closure to the underground tanks as far as the state was concerned. Currently, it is the lending institutions that take issue with property owners if there is or has been a tank in the ground. SB 406 would remove the state from disputes between the buyers, sellers and lenders. SB 406 just applies to those tanks that were taken out during the nine-month period.

Proponents' Testimony:

Jennifer Hill, Montana Cattlewomens Association, Montana Stockgrowers Association, supported SB 406.

Bob Stevens, Montana Grain Growers Association, Women Involved In Farm Economics, supported SB 406.

Opponents' Testimony:

Peter Nielsen, Environmental Health Supervisor, Missoula County. Written testimony. EXHIBIT 7

Informational Testimony: None

Questions From Committee Members and Responses:

REP. DOUG WAGNER asked SEN. NELSON who did the testing to determine if the tanks leaked before it was reported to the department. SEN. NELSON if the owner found that there was a leakage he reported it to the department. It was done on the honor system.

REP. HAL HARPER said the department granted a nine-month window for underground tank removal under SB 196 and SB 406 removes the department's responsibility for anything concerned with the tanks that were removed at that time, except for giving the date of closure for a tank and if there was leakage reported. REP. HARPER asked if the state was opening itself up to a liability suit. REP. NELSON said the liability issue was discussed and it was determined that if the state gave the date of closure and whether there was a leakage, it was dissolved of liability.

Closing by Sponsor:

SEN. NELSON closed.

Tape 3, Side B

HEARING ON SB 373Opening Statement by Sponsor:

SEN. MIKE FOSTER, Senate District 20, Townsend, said SB 373 amends the performance bonding section of the Metal Mines Reclamation Act. SEN. FOSTER said the proponents would explain the bill in detail.

Proponents' Testimony:

Fess Foster, PhD., Director of Geology and Environmental Affairs, Golden Sunlight Mines, Inc. Written testimony. EXHIBIT 8

Tammy Johnson, Citizens United for a Realistic Environment, supported SB 373.

Craig Stiles, Regional Geologist, Battle Mountain Gold Company. Written testimony. EXHIBIT 9

Bob Williams, Montana Mining Association, supported SB 373.

Bud Clinch, Commissioner, Department of State Lands (DSL), said SB 373 merely puts into statute the procedures and policies that the department currently uses relative to bonding and DSL supports the bill.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

REP. DAVID EWER asked Dr. Foster if he felt the \$30 million for the Golden Sunlight Mine in Whitehall was reasonably required by DSL. Dr. Foster said the bond was \$32 million and had previously been \$40 million. Dr. Foster said the activities covered by the bond, with one exception, are reasonable. The actual total amount of the reclamation costs are over estimated. REP. EWER asked Dr. Foster if the company intended to try to reduce the amount of the performance bond. Dr. Foster said that irrespective of whether or not the bill passes, if the company is able to demonstrate conclusively that the reclamation at the Golden Sunlight Mine can be performed less expensively than the current bond, it will request that the bond be lowered accordingly.

REP. HAL HARPER asked Mr. Clinch, if the bonds referred to in SB 373 would be of the same status as the bonds that are currently required. Mr. Clinch said that was correct.

Closing by Sponsor:

SEN. FOSTER closed.

EXECUTIVE ACTION ON SB 252 CONT'D.

Motion: REP. LILA TAYLOR MOVED SB 252 BE CONCURRED IN AS AMENDED.

Discussion:

REP. DAVID EWER said he was against the bill because by allowing the expansion of mixing zones, there will be more areas for water pollution.

REP. JON ELLINGSON asked if anyone knew what the existing rules were under the 401 law. VICE CHAIRMAN TASH said the existing rules don't allow for contamination. In regards to agriculture, the ability to clean up nitrates from a feed lot would be better addressed with larger parameters around it before it could get into ground water or surface water. REP. ELLINGSON asked VICE CHAIRMAN TASH if the existing rules permitted any kind of a mixing zone. VICE CHAIRMAN TASH said it is a question of interpretation as to what the parameters of the mixing zones are. Because of the inability of the Department of Health and Environmental Sciences to determine what the parameters of the mixing zone are, it isn't enforcing the rules to protect the environment.

At the request of REP. CLIFF TREXLER, John Bloomquist, Montana Stockgrowers Association, said the rules essentially establish certain parameters of mixing zones and the smallest practicable size is at the discretion of the department. The department has been very restrictive about the size of the mixing zones. Some have only been one or two feet.

Tape 4, Side A

REP. TREXLER said he was familiar with septic systems which are site specific. The drainage is monitored right at the end of the drain pipe and does not extend farther. There is virtually no mixing zone. If the distance could be extended 30 or 40 feet there would be a decent mixing zone.

REP. BOB STORY said some people assume that everything that goes into ground water stays there permanently and is a pollutant forever and that is not the case. Through filtering processes and chemical reactions a lot of the pollutants are absorbed or converted into something else. After going through a mixing zone process, pollutants are no longer a problem and that is the purpose of SB 252.

VICE CHAIRMAN TASH said large mixing zones are not going to result in wholesale pollution. That is not the intent of the bill and is addressed in the permitting process.

Vote: Voice vote was taken. Motion that SB 252 Be Concurred In As Amended carried 12 to 6.

EXECUTIVE ACTION ON SB 373

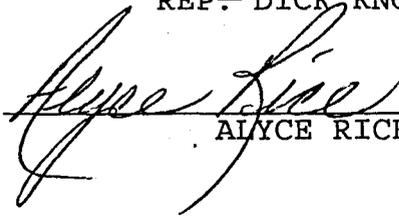
Motion/Vote: REP. SCOTT ORR MOVED SB 373 BE CONCURRED IN.
Motion carried unanimously.

ADJOURNMENT

Adjournment: 5:35 pm



REP. DICK KNOX, Chairman



ALYCE RICE, Secretary

DK/ar

HOUSE OF REPRESENTATIVES

Natural Resources

ROLL CALL

DATE 3-15-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Dick Knox, Chairman	✓		
Rep. Bill Tash, Vice Chairman, Majority	✓		
Rep. Bob Raney, Vice Chairman, Minority	✓		
Rep. Aubyn Curtiss	✓		
Rep. Jon Ellingson	✓		
Rep. David Ewer	✓		
Rep. Daniel Fuchs	✓		
Rep. Hal Harper	✓		
Rep. Karl Ohs	✓		
Rep. Scott Orr	✓		
Rep. Paul Sliter	✓		
Rep. Robert Story	✓		
Rep. Jay Stovall	✓		
Rep. Emily Swanson	✓		
Rep. Lila Taylor	✓		
Rep. Cliff Trexler	✓		
Rep. Carley Tuss	✓		
Rep. Doug Wagner	✓		



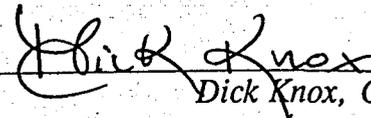
HOUSE STANDING COMMITTEE REPORT

March 16, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that Senate Bill 252 (third reading copy -- blue) be concurred in as amended.

Signed:


Dick Knox, Chair

And, that such amendments read:

Carried by: Rep. Knox

1. Title, line 6.

Strike: "THE EXTENT"

Insert: "75%"

2. Title, line 7.

Following: "PROPERTY"

Insert: "BOUNDARY"

3. Page 5, line 27.

Following: "GRADIENT"

Insert: "75% of the distance from the discharge source"

-END-

Committee Vote:
Yes 2, No 6.

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HOUSE STANDING COMMITTEE REPORT

March 16, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources, report that Senate Bill 373 (third reading copy -- blue) be concurred in.

Signed: _____

Dick Knox
Dick Knox, Chair

Carried by: Rep. Orr

Committee Vote:
Yes 18, No 0.

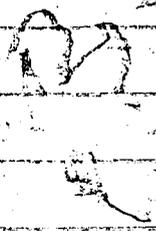
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SB-252

Mar. 15, 95
Natural Resources Committee

H
Storg
Tash
Roxey
-GHS
Sliter

Rep Tash has my proxy for
all motions and votes



Mark Knox

EXHIBIT 1
DATE 3-15-93
SB 252

Amendments to Senate Bill No. 252
Third Reading Copy

Requested by Rep. Story
For the Committee on Natural Resources

Prepared by Michael S. Kakuk
March 15, 1995

1. Title, line 6.

Strike: "THE EXTENT"

Insert: "75%"

2. Title, line 7.

Following: "PROPERTY"

Insert: "BOUNDARY"

3. Page 5, line 27.

Following: "GRADIENT"

Insert: "75% of the distance from the discharge source"

EXHIBIT 2
DATE 3-15-95
SB 386

Amendments to Senate Bill No. 386
Third Reading Copy

Requested by Senator Devlin
For the Committee on Natural Resources

Prepared by Todd Everts
March 14, 1995

1. Page 6, line 27.
Following: "RESIDENTIAL"
Insert: "underground storage"

2. Page 6, line 29.
Following: "RESIDENTIAL"
Insert: "underground storage"

Montana Audubon Legislative Fund
P.O. Box 595 • Helena, MT 59624 • 443-3949

Testimony on SB 386
House Natural Resource Committee
March 15, 1995

Mr. Chairman and Members of the Committee,

My name is Bill Allen and I am here today on behalf of the Montana Audubon Legislative Fund and we can not support Senate Bill 386.

The language in this bill infers that tanks under 1,100 gallons are less susceptible to leaks and therefore do not need to be regulated under the Montana Hazardous Waste and Underground Storage Tank Act. However, small underground tanks have proven to be just as susceptible to leaks as larger ones.

In fact, these small tanks have much thinner linings, often only as thick as a nickel, and are therefore more likely to corrode and leak. 25% of the underground tank leaks detected in the state have been from these smaller tanks which this bill attempts to exempt.

There are a number of cases in which small tanks have caused considerable environmental damage. I will just mention two: one from a farm and one from a residence (the two exemptions provided for in this bill)

* on the Weschenfelder farm near Warden, MT, a 300 gallon tank leaked and has cost over \$ 40,000 to cleanup

* the Warren Adams residence outside of Great Falls had a 1,000 gallon gas tank leak and also has cost a considerable amount of money to address, around \$35,000 so far

Undoubtedly it is important to protect the soil and groundwater reserves in Montana. Therefore, wouldn't it make sense to regulate those sources most likely to pollute rather than totally exempting them. Again, we would urge this committee to table Senate Bill 386.

Thank You

PETROLEUM TANK RELEASE
COMPENSATION BOARD

EXHIBIT 4
DATE 3-15-95
SB 386



MARC RACICOT, GOVERNOR

STATE OF MONTANA

PHONE: (406) 444-0925
FAX: (406) 444-1902

PO BOX 200902
HELENA, MONTANA 59620-0902

Information on SB 386

Presented by
Jean Riley, Executive Director
Petroleum Tank Release Compensation Board

The Petroleum Tank Release Compensation Board (Board) is not opposed or in favor of this legislation. The Board would like me to explain the potential impacts of this legislation to you. I am handing out a summary of the reimbursements the Board has made since 1991 on underground farm and residential tanks under 1,100 gallons.

During the 1991 legislature the small tank owners approached the Board and requested the Board support legislation to expand the Petroleum Tank Release Cleanup Fund (Fund) coverage to farm and residential tanks under 1,100 gallons and all heating oil tanks. The Board was willing to do this because these tanks were regulated by either the Department of Health and Environmental Sciences Underground Storage Tank Program or for above ground tanks the Department of Justice Fire Prevention and Investigation Bureau.

The Board presently reimburses owners/operator of these types for tanks for costs associated with the cleanup of petroleum contamination which resulted from a tank system or third party damages for bodily injury or property damage. Most home owners policies have exclusions to pollution coverage. Therefore, if you own a underground storage tank which has a release, you would be responsible for all cleanup costs and also any third party damage costs associated with that release. Presently the Fund reimburses 50% of the first \$10,000 and 100% of the rest of the costs until the total reimbursement reached \$495,000. In the handout, if the amount reimbursed is under \$5000 the total costs to date incurred by the owner is double the amount listed. If the amount is over \$5000 the you would add an addition \$5000 to the amount listed to figure the total cost incurred. The reimbursement amounts do not include the costs the owner incurred removing or upgrading the tank as these types of costs are not covered by the Fund.

To date the Board has not reimbursed on any third party damages from the tanks discussed in this bill. The costs listed are only for cleanup of the petroleum contamination. On other sites where third party damages have occurred costs associated with the release have escalated.

I hope the information presented has been helpful in explaining the effects of this legislation. I will be available for questions. Thank you for your time.

January 9, 1995

Petroleum Tank Release Compensation Board

Summary of Small Tank Reimbursements

(Tanks with Volume of Less Than 1,100 Gallons)

Total Reimbursements	\$194,727.16
Total Pending Reimbursements	\$9,502.32
Number of Sites With Claims	74.00
Number of Sites Reimbursed	69.00
Average Reimbursement to Site	\$2,822.13

CITY	FACILITY NAME	FACILITY ID	CAPACITY	FUEL TYPE	REIMBURSED	PENDING	RESOLVED
Kalispell	Former Flathead Community College	11983	500	Heating Oil	\$1,789.70	\$0.00	YES
Kalispell	Rick Labere Property	13386	500	Diesel	\$361.50	\$0.00	YES
Kinsey	Richard Meidinger Farms	04459	1000	Gas & Diese	\$425.92	\$0.00	YES
Lewistown	Milo Halverson Residence	02313	300	Heating Oil	\$374.13	\$0.00	YES
Lewistown	Quincy Godfrey	13066	560	Heating Oil	\$1,414.90	\$0.00	YES
Libby	Elmer Joseph Residence	07376	270	Heating Oil	\$425.85	\$0.00	NO
Libby	Western Auto Store	09802	500	Diesel	\$537.50	\$0.00	YES
Libby	Former AVA Appliance	11477	1000	Heating Oil	\$626.65	\$0.00	YES
Libby	Roland McNair Residence	12306	1000	Heating Oil	\$804.66	\$0.00	NO
Libby	Marquita Peterson Residence	12977	275	Heating Oil	\$153.00	\$0.00	YES
Lonepine	Lando L.Bras Ranch	02758	500	Gasoline	\$2,072.00	\$0.00	YES
Manhattan	Flikkema Ranches, Inc.	06938	500	Gas & Diese	\$911.25	\$0.00	NO
Melstone	Thomas F. Hougen	00571	1000	Gasoline	\$309.25	\$0.00	YES
Miles City	Sterling Farm	00470	1000	Gasoline	\$347.75	\$0.00	YES
Missoula	David & Sharon Greaves Residence	03231	500	Heating Oil	\$648.38	\$0.00	YES
Missoula	Kenneth Konvack	04711	750	Heating Oil	\$850.00	\$0.00	YES
Missoula	Joan Christopherson	13010	1000	Heating Oil	\$2,288.73	\$0.00	YES
Moore	Keith Royston Farm	01434	500	Gasoline	\$122.50	\$0.00	YES
Plains	Plains Lockers	13102	1000	Heating Oil	\$177.50	\$0.00	NO
Plentywood	PLW Enterprises	00794	500	Heating Oil	\$221.25	\$4,625.47	NO
Polson	D. A. Hern	06425	1000	Gas & Diese	\$527.95	\$0.00	YES
Polson	Jeanne Normandeau Residence	11273	1000	Heating Oil	\$22.50	\$0.00	YES
Polson	Bigfoot Discount	12641	1000	Heating Oil	\$14,512.63	\$0.00	NO
Poplar	Alvin Schagunn Farm	04782	No Eligibility Form		\$0.00	\$760.00	YES
Poplar	West Poplar Addition - Ruffato Shop	12363	750	Gasoline	\$4,123.50	\$0.00	NO
Pryor	G.M. Petroleum - Daum Ranch	06973	1000	Gas & Diese	\$3,151.83	\$0.00	NO
Ronan	George Stonehocker	07167	1000	Gas & Diese	\$425.63	\$0.00	NO
Roundup	First Security Bank Of Roundup	08363	1000	Heating Oil	\$3,864.82	\$0.00	YES
Saint Ignatius	John H. Lee Residence	07153	250	Heating Oil	\$303.09	\$0.00	NO
Scobey	Howard D. Getschel Residence	07216	500	Heating Oil	\$1,004.75	\$0.00	NO
Scobey	Arnette Borden Residence	11750	750	Heating Oil	\$578.22	\$0.00	NO
Stockett	Mike & Sons Kohut Ranch	08054	500	Heating Oil	\$1,165.96	\$0.00	YES
Sunburst	Sweetgrass Hills Ranch, Inc.	05228	1000	Gasoline	\$930.00		
Terry	Reukauf Farm	04285	1000	Gasoline	\$339.38		
Valier	Stoltz, Inc.	03109	500	Gasoline	\$226.25		
Victor	M.J. & J. G. Reardon & Schockley	12392	300	Heating Oil	\$341.00		

825 Helena Avenue
Helena, MT 59601-3459
Ph : 406-442-6556
To free: 800-LUNG-USA
Fax: 406-442-2346

EXHIBIT 5
DATE 3-15-95
BB 349

**AMERICAN
LUNG
ASSOCIATION.**
of Montana

March 15, 1995

Mr. Chairman and Members of the House Natural Resources Committee:

On behalf of the American Lung Association of Montana, I am writing to express our support of SB 349.

The American Lung Association is a nationwide organization founded in 1904 whose mission is the prevention and control of lung disease. Our medical advisory section, the American Thoracic Society, is an 11,000-member international society of physicians and scientists.

Because of the potential public health impact of burning hazardous waste, conducting this dangerous activity near schools and residences is ill-advised. The air pollution caused by the dust from cement manufacturing and the toxic metals that are commonly found in this dust when hazardous waste is burned can produce an array of serious health problems ranging from aggravation of existing lung disease to increased risk of death.

SB 349, while not eliminating this threat entirely, would help to reduce the risk to our health by requiring a plan to cease burning hazardous waste during an inversion, by considering in this plan the proximity of the burning to populated areas and by requiring telemetering to monitor emissions from the facility.

This is an important measure to protect the health of Montana residents and I urge you to support it.

Sincerely yours,



Dennis C. Alexander
Executive Director

**When You Can't
Breathe,
Nothing Else
Matters®**

Founded in 1904, the American Lung Association includes affiliated associations throughout the U.S., and a medical section, the American Thoracic Society.

EXHIBIT 6
DATE 3-15-95
SB 349

Montana Audubon Legislative Fund
P.O. Box 595 • Helena, MT 59624 • 443-3949

Testimony on SB 349
House Natural Resource Committee
March 15, 1995

Mr. Chairman and Members of the Committee,

My name is Bill Allen and I am here today on behalf of the Montana Audubon Legislative Fund and I urge your support for Senate Bill 349.

Our 2400 state-wide members are very concerned about commercial hazardous waste incineration, especially that which could occur in cement kilns. Ideally, there would be only such incineration in those facilities specifically designed for managing this waste which cement kilns were not.

However, if the state is going to allow these serious health risks to exist, a few commonsense measures should be adopted which this bill addresses:

- * incineration should cease when inversion conditions create unreasonable risks to human health
- * require that incinerators meet the lowest achievable emission rate
- * require some kind of monitoring
- * increase the penalty for violations by maintaining that each day of each infraction constitutes a separate violation

Again, we would encourage this committee's support for SB 349
Thank You

MISSOULA CITY-COUNTY HEALTH DEPARTMENT
301 W ALDER ST
MISSOULA MT 59802-4123EXHIBIT 7 (406) 523-4755
DATE 3-15-95
SB 406

March 8, 1995

Representative Dick Knox, Chairman
House Natural Resources Committee
Montana House of Representatives
Helena MT 59620

RE: Senate Bill 406

Dear Representative Knox,

I am writing today in opposition to SB 406. Many tanks in Missoula County were removed or closed in place under the provisions of the 1993 legislation, SB 196. This legislation offered people an opportunity to avoid some costs of closure, but it has put many people in a difficult position when they have attempted to sell or finance their property. The reason for this dilemma is that people did not do the work necessary to ensure that the tanks had not leaked and caused contamination.

SB 406 would simply state that the tanks removed under the 1993 law are determined to be fully and finally closed. This is a very bad idea. We have no idea how these tanks were closed or whether any contamination was left in the ground.

These tanks should not be exempt from environmental review by the department, as suggested by the bill. This would prevent the department from investigating potential releases from such tanks unless it obtains "substantial evidence", whatever that means, of a release that poses a threat to human health or the environment. There is no way for the department to obtain any evidence of a release from tanks which were closed without sampling to detect a leak. In our community, we have detected problems including groundwater contamination and petroleum fumes in basements, which have no readily discernible source. This bill would present a barrier to investigating potential sources of such contamination.

Finally, the bill would restrict the department from providing public information regarding tank closures under the 1993 legislation. This would not be helpful in our efforts to determine potential contamination sources in our community. This restriction on Department staff would also run counter to the Montana Constitution's requirement for public access to public documents.

Please table this ill-advised bill.

Sincerely,

Peter Nielsen
Environmental Health Supervisor

cc: Jon Ellingson

**TESTIMONY ON SB 373, A BILL TO AMEND THE BONDING PROVISION
OF THE MONTANA METAL MINES RECLAMATION ACT**

by

**Fess Foster, Ph.D.
Director of Geology and Environmental Affairs
Golden Sunlight Mines, Inc.
Whitehall, Montana**

March 15, 1995

SB 373 is essentially a housekeeping measure. It amends the performance bond section of the Metal Mines Reclamation Act by adding two new subsections. The new subsections clarify which mining activities are to be bonded, and how bonds can be posted.

The new subsection 5 simply states that only those "reasonably foreseeable" activities that have a "reasonable possibility" the industry some assurance that bonding will not be required for activities that in all likelihood will not occur. Note that the state at any time can still require a mine to post additional bond for any unforeseen new activities that do occur.

The new subsection 6 allows mines to post bond in addition to that required by the state. This additional (or unobligated) bond can then be applied to any unanticipated activities that periodically arise. Mines commonly post bonds once per year. During the course of routine operations, unanticipated activities are often necessary.

As an example, a mine may realize in the middle of the year that a new road is required to begin reclaiming an area. This amendment would allow the mine to use its unobligated bond to cover the disturbance associated with the road. The company, state, and bonding agent will not need to process additional paperwork. The result will be less paperwork for all concerned, yet adequate bonding will be in place at all times. Note that mines currently do post unobligated bonds. This amendment would simply put this practice into statute.

EXHIBIT 9
DATE 3-15-95
SB 373

TESTIMONY ON SB 373
An Act Establishing Criteria For The Issuance of Bonds For Metal Mine Reclamation
Activities; and Amending Section B2-4-338, MCA.

Mr. Chairman....Members of the Committee....and Sen. Foster

For the Record:

- My name is Craig Stiles and I'm Regional Geologist for Battle Mountain Gold Company, a U.S. mining company which currently operates mines in Nevada and Colorado. Battle Mountain's Northwest Regional Exploration office is based in Helena. We have conducted precious metal exploration in the Northwest and from the Helena office since 1988.
- We support this bill and its requirement that "reasonably foreseeable" activities be liable for bonding. If bonding were not limited to this guideline, a company might be subjected to bonding for highly improbable events. Conducting business under such unrealistic measures would appear to be very difficult.
- Subsection 6 of this bill deals with unobligated bonds and although this is now a common practice within the industry, it is important to put it into statute so that this ability is not restricted or curtailed.
- Battle Mountain carries a blanket bond of \$65,000, with a current unobligated balance of \$51,000 for exploration activities in the State. As with mining, all surface disturbances associated with mineral exploration are also permitted, approved, and bonded with the State. We recognize that having an unobligated balance does not give a company blanket approval to do whatever they want.
- The nature of mineral exploration requires the ability to quickly and efficiently amend a work program so that promising results can be pursued. Having an unobligated balance lets the company permit these changes with the State, such as adding a few new drill sites, or extending drill access roads, without going through another bonding process. This would save time and effort for both the company and the State.
- This bill, by putting the ability to have an unobligated bond in statute, more efficiently deals with the requirements of a viable mineral business.

Thank you very much.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Natural Resources

COMMITTEE

BILL NO. SB386

DATE 3-15-95

SPONSOR(S) Senator Dewlin

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Bob Stephens	Mt. Sinai Games	X	
Jean Riley	Petro Tent Release Comp Bd		
Bill Allen	Mt. Auburn		X
Candace Torgerson	MSG & MCWA	X	
Lonny Brown	Azy Pres Assoc	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Natural Resources COMMITTEE BILL NO. SB 349
 DATE 3-15-95 SPONSOR(S) Senator Foster

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Paul Johnson 18 Big Dipper Clancy MT	Montanans For A Healthy Future C.F.	349		X
DAN PATTON 2 TWILIGHT DR - CLANCY, MT	SELF	349		X
Roger Thorvilson	MDHES, WMD	349 386 406		
Tom Daubert	Ash Grove Cement Co	349	X	
Bob Bachman	Davi Gold	349		✓
Bill Allen	MT Audubon	349		✓
Maureen O'Leary-Schwinden	WIFE	349		X
Anne Hedges	MEIC	349		X
Ray Beck	Self	349		X
Maureen O'Leary-Schwinden	Mt. Dairynews Assoc.	349		X
J.V. Bennett	Mont PIRG	349		X
Glenna Okie	Jeff County	349		X
MELISSA CASE	Montanans Against Toxic Burning	349		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Natural Resources

COMMITTEE

BILL NO. SB 373

DATE 3-15-95 SPONSOR(S) Senator Foster

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Fess Foster	Golden Sunlight Mine	SB 373		X
Craig Stiles	Battle Mountain Gold Co.	SB 373		X
Tamara J. Johnson	CURE	373		X
Maureen Cleary-Schwinder	WIFE	373		
KAROLE LEE	SELF	373	X	
Glema Obri	Jeff county	373		X
BUD CLINCH	DSL	373		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.