MINUTES OF THE MEETING OF THE NATURAL RESOURCES COMMITTEE FEBRUARY 13, 1981

The House Natural Resources Committee convened in Room 104 of the Capitol Building on Friday, February 13, 1981, at 12:45 p.m. with CHAIRMAN DENNIS IVERSON presiding and eighteen members present.

CHAIRMAN IVERSON opened the hearing on HB 641.

HOUSE BILL 641 REP. JOE QUILICI, chief sponsor, presented the bill which provides for an agreement by the State of Montana to establish and participate in the Pacific Northwest Electric Power and Conservation Planning Council. This bill agrees to the formation of the council and sets up criteria for council membership. It says that there should be an establishment of a regional council to adopt a regional power plan. There should be an agreement between states. We must agree that we will participate in this and will appoint council members. of Montana will have equal representation on the council. must appoint these members by June 30, 1981 or the Department of Interior will make the appointments. We don't know yet how much time these appointments will take but they will be paid according to standards for the council. There are no state funds involved for the council. It is funded through the Bonneville Power Company.

MARK MACKIN spoke as a proponent of the bill and gave a brief overview of how the act and council came to be. The idea of the concept is to plan for and aid in growth and development.

ALAN OSTBY, Common Cause, supported the bill. See Exhibit 1.

LARRY FASBENDER of the Governor's Office supported the bill saying it is of the utmost importance to the State of Montana. They recognize the need for an early appointment. The people appointed will need the expertise necessary to do the job.

GENE PHILLIPS, Pacific Power and Light, said this is unique because it is creating a council with prior approval of Congress. The act provides that when six of the eight members are appointed, the council may begin.

STEVE DOHERTY, Northern Plains Resource Council, had some concerns with the act but did support this bill.

MARGARET DAVIS, Montana League of Women Voters, supported the bill. See Exhibit 2.

MIKE ZIMMERMAN, Montana Power Company, supported the bill.

TOM SCHNEIDER, Public Service Commission, supported the bill.

There were no OPPONENTS.

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REP. QUILICI closed on the bill.

During questions from the committee, REP. ROTH asked what happens if the appointments are not made by us. REP. QUILICI said the council can start with six members participating. There is a year extension period to appoint members.

The hearing on HB 641 closed and the one on HJR 22 opened.

HOUSE JOINT RESOLUTION 22 REP. GARY BENNETT, chief sponsor, presented the bill which would repeal a state air quality emission standard which is in conflict with another state air quality standard.

LEE W. SMITH, Anaconda Aluminum Company, supported the resolution. See Exhibit 3.

PAT CAMPBELL, representing the Columbia Falls, Whitefish, and Kalispell Chambers of Commerce, supported the resolution. See Exhibit 4.

JIM SCHMAUCH, Aluminum Worker Trades Council, supported the resolution with written testimony. See Exhibit 5.

PETER JACKSON, Western Environmental Trade Association, said his organization is for jobs and sensible development. Feels this resolution is a common sense approach which is necessary.

REP. JOHN HARP said the Department of Health adopted standards that no plant can meet and the employees of the plant in his area are very concerned.

Speaking as an opponent of the resolution was HAL ROBBINS, Chief of the Montana Air Quality Bureau. See Exhibit 6.

RICHARD STEFFEL stated this seems like an unnecessary resolution. The plant should use the system if it has a problem.

JOAN MILES, Environmental Information Center, said that on line 25 of page 2 "existing" should be added to include only those plants now in operation.

REP. BENNETT closed on HJR 22.

During questions from the committee, REP. MUELLER asked whether, in the past five years, there had been any effort by either the company or the Department of Health to eliminate this problem. MR. ROBBINS said he did not know of anyone requesting help. MR. SMITH stated that the company did not request a change in the standards and that they were trying to be in compliance.

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REP. KEEDY asked if it is true that the company cannot meet the particulate count but does meet the floride count. MR. SMITH said the theory has always been that if you control florides, you control particulates, but that is not true of his plant.

REP. KEEDY asked REP. BENNETT if this resolution can repeal the agency rule. J. A. ROBISCHON, representing the Anaconda Company, said the legislature should repeal the rule. He said they are not asking that the legislature make a rule but rather repeal an existing one.

REP. BERTELSEN asked if it is necessary to do this. MR. SMITH replied that the Board of Health needs some legislative guidance.

REP. HARP asked if the company can continue the way it is now. MR. SMITH replied that his company's policy is that it will comply with environmental requirements.

REP. MUELLER asked if there is any way to settle this issue without the resolution. MR. ROBBINS said any person or company can petition the Board of Health for a variance change.

REP. HARP asked if the two got together, is the final decision still up to the board. The answer was yes and that the board must act within six months after it is petitioned.

The hearing closed on HJR 22 and opened on HB 642.

HOUSE BILL 642 REP. GARY BENNETT, chief sponsor, presented the bill which would provide for the establishment of ambient air quality standards for fluorides through limitations upon the concentration of fluorides in forage.

Speaking as a proponent was LEE W. SMITH, Anaconda Aluminum Company. See Exhibit 7.

RAY TILMAN, Stauffer Chemical Company, supported the bill. See Exhibit 8.

HAL ROBBINS, Chief of the Montana Air Quality Bureau, testified in favor of the bill. See Exhibit 9.

DENNIS CORBETT spoke in favor of the bill. See Exhibit 10.

PETER JACKSON, Western Environmental Trade Association, supported the bill. He said his organization wanted to work with the Board of Health and that standards are needed.

Further written testimony supported HB 642 and came from FLATHEAD COUNTY COMMISSIONERS, COLUMBIA FALLS CHAMBER OF COMMERCE, KALISPELL CHAMBER OF COMMERCE, and WHITEFISH CHAMBER OF COMMERCE. See Exhibit 11.

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Speaking as an opponent was JOAN MILES, Environmental Information Center. She said forage has never been defined and she objected to an ambient standard ever being set. If you measure what is in the grass, you are telling what is in the air. But, she asked, what happens in timbered areas, or to wildlife, or even honeybees? An area in Montana near Butte has pitted windows due to the pollution in the air. The people in that area cannot eat the vegetables grown in outside gardens. She felt better monitoring methods are necessary. Emission standards and ambient standards are very different.

RICHARD STEFFEL said the samples from Stauffer show florides in excess of the standards. He felt the public needs to be protected.

REP. BENNETT closed on the bill.

During questions from the committee, REP. HARP asked MR. TILMAN how often samples are taken at his plant. The answer was about 1,000 per month. MR. SMITH said his plant samples three times a year with 150 samples each time.

REP. ROTH asked who has the responsibility of taking the samples. MR. TILMAN replied that the company does the sampling.

The hearing on HB 642 closed.

The meeting adjourned at 2:40 p.m.

Respectfully submitted,

Ellen Engstedt, Secretary

VISITORS' REGISTER

HOUSE NATURAL KESOURCES COMMITTEE

Date 2//3/4/ OPPOS REPRESENTING SUPPORT NAME RESIDENCE Columbia Falls Helena

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE NATURAL RESOURCES COMMITTEE

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HOUSE NATURAL RESOURCES COMMITTEE

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PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Tesimony before the House Natural Resources Committee on HB 641:

Mr. Chairman, Members of the Committee;

For the record, my name is Alan Ostby. I am the director of Common Cause/Montana.

Common Cause has followed the Northwest Regional Power Bill since its inception, and supported the bill as finally enacted (PL 96-501). This law calls for the creation of an eight-member regional council that will draft a power plan over the next two or three years aimed at meeting the energy needs of the Northwest during the 1980s and 1990s. The council is the place where different and even competing interests of the states are sought to be resolved.

The Northwest Regional Power Bill also directs the Bonneville Power Administration to conform to plans adopted by the regional council. However, the authority of the administrator of BPA is considerable, allowing him to dispute the mandates of the council under various circumstances. Recourse is to the Congress in case of unresolved differences between the regional council and the BPA administrator. We need a strong council that can work together.

HB 641 proposes that the State of Montana agree to participate in the power planning council, provides for Senate confirmation of the Governor's appointees, establishes the positions as full-time as least until the plan is completed, and provides that the council members serve at the Governor's pleasure.

Common Cause emphatically supports these provisions.

However, we believe that in light of the tremendous responsibility that is to be entrusted with the appointees, there should be some criteria by which their suitability for the positions is judged. We therefore recommend the following amendment.

AMENDMENT TO HOUSE BILL 641:

NEW SECTION: The following criteria shall be used to assess qualifications of nominees for the council:

- (i) commitment to the priorities established in PL 96-501;
  - (ii) knowledge and background in the energy field to make policy decisions.

(end)

Standards are desirable to help assure effective state participation in a regional public policy body. If the members of the council are not able to act together as a regional body, the council's ability to act at all will be seriously jeopardized. In this eventuality, the actual decisions would fall to the administrator of BPA who is a federal appointee, thereby nullifying state input. The commitment of all council members to the priorities established in the federal act is a necessity.

Adequate knowledge and background in the energy field to make policy decisions is also necessary. Without this, a council member would be lost in deliberations which include such considerations as preferable types of energy production, estimates of energy demand, etc. The cost of acquiring sufficient energy production to meet the demand will ultimately fall upon the public. The two council members from Montana will be the only individuals advocating Montana's interests.

Standards can also provide the basis for a constructive appointment confirmation process.

Finally, I would like to point out that the suggested amendment will in no way obstruct the appointment process. The criteria are merely guidelines. As we have stated before, it is absolutely necessary that legislation be passed and appointment of council members be made and approved within this legislative session to ensure adequate preparation time for effective council participation and to ensure appointment by Montana rather than federal selection in the event of Montana's default.

AMENDMENT TO HOUSE BILL 641:

NEW SECTION: The following criteria shall be used to assess qualifications of prospective council members:

- (i) commitment to the priorities established in P.L. 96-501;
- (ii) commitment to public service and citizen participation;
- (iii) knowledge and background in the energy field to make policy decisions.

MONTANA LEAGUE OF WOMEN VOTERS

Testimony of HB 641: An Act Providing for...Participation in the Pacific

Northwest Electric Power and Conservation Planning Council...

February 13, 1981

HB 641 sets up the procedure through which Montana will participate in the pacific northwest electric power and conservation planning council. The Montana League of Women Voters has been concerned with regional power issues for several years and we have some thoughts about the qualifications of council members. Areas we would stress are knowledge and experience in dealing with energy issues and a commitment to public information and citizen involvement. We hope all council members will be wholly in agreement with the purposes established in section 2 of P.L. 96-501.

Margaret S. Davis

EXHIBIT 3

#### TESTIMONY ON HOUSE JOINT RESOLUTION NO. 22

# LEE W. SMITH ANACONDA ALUMINUM COMPANY FEBRUARY 13, 1981

My name is Lee Smith. I am the Technical Operations Manager at the Anaconda Aluminum Company plant in Columbia Falls. Thank you for the opportunity to speak to you today.

Montana air quality rules contain two sets of fluoride emission standards applicable to primary aluminum plants. One set is for existing plants, the only one of which is the Anaconda Aluminum Company plant built in 1955 at Columbia Falls, and the other set applies to new plants of which there are none. These Montana standards for new plants adopt by reference the federal emission standards controlling new primary aluminum plants.

A unique thing about Montana's rules is that we, a 25 year old plant at Columbia Falls, must operate with a more restrictive standard for the emission of fluorides and particulates than would be required of a new plant operating today in Montana. Existing sources have historically been granted more leniency and freedom in their attempts to meet environmental regulations. The EPA recognized this in their 1980 guidelines to the state authorities which suggests the degree of emission controls that might be expected as possible by existing aluminum plants.

Therefore, I speak in support of Representative Bennett's joint resolution to repeal the current rule limiting the emissions of fluorides and particulate matter from existing primary aluminum plants and to replace this rule with the

Montana and federal new source performance standards regulating new primary aluminum plants.

If this resolution passes, it will apply new source performance standards to the 25 year old Columbia Falls plant. New source performance standards represent the use of best available control technology (BACT), which has been adopted at Columbia Falls in a recently completed \$42 million modernization program. The current Montana regulations for existing plants contain a particulate emission standard which is impossible for us to meet. It is not that we don't have good control of particulate emissions, as evidenced by the low readings for total suspended particulate in the ambient air surrounding the plant, which are well within the recently adopted standards; it is a matter of the existing regulation for particulate emissions being ambiguous, unnecessary and unattainable.

We read with great interest the testimony presented on behalf of the Department of Health and Environmental Sciences before the Select Legislative Committee on Economic Problems to the effect that Anaconda Aluminum has done, and I quote "a superb job of minimizing fluoride impacts on Glacier Park and the Flathead National Forest" and also saying that, and I quote again "no additional pollution control costs will be required at that facility." But with a particulate emission standard currently on the Montana books that we find impossible to meet, we and the state are between a rock and a hard spot.

Montana's new source performance standards have a very restrictive control of particulates, a visible emissions limit of 10% opacity; a control which would also apply to our plant as an existing source if this resolution passes.

One argument that is made against the consideration of federal regulations is that we shouldn't let those folks back east in Washington tell us what is good for Montana. This presents no problems in this case since a new source performance

standard for aluminum reduction plants is already Montana's regulations for new plants.

Another question which might be asked is why, when the Department of Health has said it will not be necessary to spend additional money for pollution control at Columbia Falls, are we asking the Legislature to rewrite the rules rather than going through the normal rule-making process?

Anaconda would answer by explaining that the Board of Health has been responsive to Anaconda Aluminum by granting variances during the installation of the recently completed \$42 million abatement program. However, the Board has not been very responsive during the last two to three years in the rule-making process for adopting Montana's ambient air standards. In the case of fluoride, the current rule-making process has resulted in two standards currently deferred and one standard which we have challenged in court. For whatever reasons, fluoride standards in Montana are very emotional and controversial and the normal rule-making procedure has not set realistic and necessary and achievable standards.

For these reasons, it is felt that the Board needs some legislative guidance in repealing the existing rules for fluoride and particulate emissions from existing aluminum plants, by replacing the existing plant rule with Montana's rule for new primary aluminum plants.

I have attached to this testimony a brief summary of what this resolution will do and some anticipated questions and their answers which will hopefully give you some additional information.

Thank you again for the opportunity to present this information. I urge your support of this resoltuion.

#### HOUSE JOINT RESOLUTION NO. 22

#### FLUORIDE AND PARTICULATE EMISSIONS - ALUMINUM PLANTS

The Montana Air Quality Regulations contain two sets of emission standards applicable to primary aluminum reduction plants. One set of standards, MAC 16.8.1420 (ARM 16 - 2.14(1) - S14080), is applicable to existing sources, the only one of which is the Anaconda Aluminum smelter in Columbia Falls, and the other one, MAC 16.8.1423 (ARM 16 - 2.14(1) - S14082), to new aluminum smelters which adopt by reference federal standards for new stationary sources (40 CFR Part 60.190 - 60.195).

The existing source standards are more restrictive for the emission of fluorides and particualtes than are the new source performance standards. Therefore, an existing source must comply with stricter standards than would a new source.

This situation is a direct reversal of the historical application of environmental laws and regulations to existing, as opposed to new sources. Existing sources have normally been granted more leniency in their attempts to meet environmental regulations. Even EPA recognizes this in the promulgation of recommendations for retrofitinexisting smelters. Their recommendation based upon their study of what can be done for plants similar to Columbia Falls to control fluoride emissions would permit emissions up to more than twice the federal new source standard.

The effect of this House Joint Resolution will be to repeal MAC 16.8.1420 (ARM 16 - 2.14(1) - \$14080), and replace it with MAC 16.8.1423 (ARM 17 - 2.14(1) - \$14082). Thus, this resolution will be not to set less restrictive standards for existing aluminum plants than for a new one, but to apply the same standards to both.

#### FLUORIDE AND PARTICULATE EMISSIONS - ALUMINUM PLANTS

#### Questions and Answers

- 1. Q: What does this resolution do?
  - A: It repeals an arbitrary and discriminatory emission standard for fluorides and particulates from existing primary aluminum smelters, and replaces it with the standard adopted by both the state and the EPA for new primary aluminum smelters.
- 2. Q: How does the new source performance standard differ from the current emission standard?
  - A: The new source performance standard allows a slightly greater fluoride emission than does the current state standard for existing aluminum plants. Also, the new standard does not contain a particulate emission limitation, as does the state regulation for existing plants, but instead, imposes a visible emission standard.
- 3. Q: What is the current state standard for fluorides and particulates, as opposed to the new source performance standards?
  - A: The state standards for fluoride and particulates as applied to the Anaconda Aluminum smelter are 864 lbs. fluoride per day, and 4,386 lbs. particulate per day at current production levels. The new source performance standards are 933 lbs. fluoride per day with provision for excursions to 1,222 lbs. fluoride per day at current production levels, and 10% opacity for visible emissions.
- 4. Q: What are the current emission levels of these pollutants from the Anaconda Aluminum smelter?

A: The Columbia Falls smelter emits 600-1,000 lbs. fluoride per day. Particulate emissions have not yet been measured often enough to supply an accurate figure, but preliminary results indicate that the standard cannot be met.

- 5. Q: Why did the EPA, in adopting new source performance standards, not impose a particulate emission standard?
  - A: The EPA states: "EPA agrees that good control of total fluorides will result in good control of particulate matter." Obviously, the EPA feels that as long as fluoride emissions are well controlled, a particulate emission standard is not necessary.
- 6. Q: Why is the current Montana emission regulation arbitrary and discriminatory?
- A: It is arbitrary because its adoption (1970) was based almost entirely on what was then considered to be---and since shown to be erroneous---the maximum level of fluorides that could be emitted without causing injury to domestic livestock and vegetation. Very little consideration was given to whether or not emission control systems could meet the standards, and that consideration was based more on speculation than on sound, scientific bases. It is discriminatory because it imposes a stricter standard on an existing facility than on a new one---the latter which are generally considered to be more able to meet stricter standards.

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- 7. Q: Will adoption of this resolution be a license for the Anaconda Aluminum Company to pollute?
  - A: No. Fluoride emissions from the smelter average less than the standard imposed by the current Montana regulation for existing plants. These emissions will continue to be kept well controlled. The particulate standard imposed by the regulation for existing plants is unrealistic and cannot be met.

- 8. Q: If Amaconda Aluminum Company can meet the current state fluoride emission standards for existing plants, why does it want a more relaxed standard?
  - A: The primary emission control system (the Sumitomo technology) that brought the smelter into compliance with the standard, has been in operation only since the summer of 1980. It is likely that at some future time, upset conditions, common to any operating plant, will result in the standard being occasionally exceeded, and there is no provision in the present standard for such an excursion. Also, the existing standard will limit possible installation of additional production capacity at this plant.
- 9. Q: If this resolution is adopted, will Glacier National Park be protected?
  A: Yes. The current low level of fluoride emissions from the plant, which will be maintained, are not sufficient to impact the Park. Particulate emissions have no effect on vegetation. Also, the 10% opacity standard
- 10. Q: Will livestock be protected?
  - A: Yes. Although a complete growing season has not elapsed since the Sumitomo process came on stream, preliminary indications are that forage will not be impacted to the extent that domestic livestock will be affected.
- 11. Q: Will commercial timber in the area be protected?

provides adequate visibility protection.

- A: Yes. Fluoride emissions are low enough that tree growth will not be impaired.
- 12. Q: If this resolution is adopted, will particulate emissions be controlled?
  A: Yes. The federal new source performance standard for visible emissions
  of 10% opacity would be adopted. This is a very strict standard and would.

control particulate emissions from the plant.

- 13. Q: Would current state regulations for existing plants apply to a new aluminum smelter built in Montana?
  - A: No. a new smelter, although better able to meet stricter standards, would be required to comply only with the Montana and federal new source performance standards, which is the standard we are asking to apply to older existing smelters.
- 14. Q: Isn't there an inconsistency in this?
  - A: Yes. Because installation of pollution control systems in new plants is easier and less costly than attempting to retrofit an old one, standards for new sources have historically been more strict. In the Montana situation, however, (as applied to primary aluminum smelters) the reverse has taken place. That is, the standards for existing plants are more restrictive than for a new source.
- 15. Q: Why did Montana choose to adopt more restrictive standards for the existing source?
  - A: This came about inadvertantly. The Montana standard was adopted in 1970.

    At that time, very little background information on which to base a standard was available. The federal new source performance standards for aluminum smelters were just recently adopted, and then only after an exhaustive five-year study of the entire aluminum industry.
- 16. Q: Since the federal new source performance standards were designed for application to new sources, what recommendations does the EPA make to states for control of existing.aluminum plants like the one in Columbia Falls?

A: The EPA guidelines to the states for fluoride emissions are not expressed in terms of emission limitations, but are presented as recommended control technologies that are expected to achieve certain average efficiencies.

The Sumitomo process was not included in these recommendations because it was not available during the time period in which the study was conducted.

The EPA found 80% capture to be typical for existing smelters of the Anaconda type. Since Sumitomo, capture has been better than 95%.

- 17. Q: Would passage of this resolution remove Montana's right to set more stringent emission standards than federal standards for pollutants other than fluorides and particulates?
  - A: No.
- 18. Q: Why did the Federal Government sue the Anaconda Aluminum Company?
  - A: The Federal Government sued Anaconda Aluminum for alleged fluoride damage to commercial timber (Flathead National Forest) and aesthetics (Glacier National Park).
- 19. Q: What was the outcome?
  - A: An agreement for settlement was reached which provided that Anaconda Aluminum Company pay the Federal Government \$75,000 (an amount less than the cost to try the case). An alternative was provided for whereby Anaconda Aluminum and the U.S. Forest Service could swap land of like and equal value, but it was not required that they do so. In essence, the government did not prove its case. It could not prove the pre-Sumitomo emissions were damaging to commercial timberlands in Flathead National Forest or in Glacier National Park.

- 20. Q: What were past emission levels?
  - A: Fluoride emissions up to 1965 were approximately 1500-2500 lbs. fluoride per day. From 1965 to 1969 they varied from 2500-7500 lbs. fluoride per day. From 1970 to 1977 they averaged around 2500 lbs. per day. Current emission levels are below 864 lbs. per day average and range between 600-1000 lbs. per day to provide for excursions.

My name is Pat Campbell. I am appearing today to represent the interests of the Chambers of Commerce of Columbia Falls, Kalispell and Whitefish in testimony for House Bill 642 and HJR 22 being presented by Representative Gary Bennett on behalf of Anaconda Aluminum Company.

Our interest and concern in supporting Anaconda Aluminum Company in these endeavors are understandably economic in nature. Anaconda Aluminum has a tremendous economic impact in the Flathead Valley. They provided approximately \$38 million in 1980 in wages and fringe benefits to their employees who are purchasers of goods and services in our area. Anaconda Aluminum spent in the neighborhood of \$8 million in 1980 for services and supplies. Our county taxes are enhanced to the tune of nearly \$2 million annually by Anaconda Aluminum.

In addition to the above, Anaconda Aluminum contributes generously to service club, school and church projects in its surrounding communities.

We feel that the Company has done a commendable job to date in complying with air quality regulations. This is evident in the substantial sum spent by Anaconda Aluminum to meet state standards through implementation of the Sumitomo process in aluminum reduction.

Both HB 642 and HJR 22 have been explained to our chambers and although we may not be qualified to testify from a technical viewpoint, we understand these measures sufficiently to ask you to accept the above-mentioned information as evidence of our full support of Anaconda Aluminum Company in this endeavor.

My name is Jim Schmauch. I am President of the Aluminum Worker Trades
Council of Columbia Falls.

I am here to let you people know that Anaconda Aluminum has accepted the responsibility of pollution control. Our plant has worked very hard for three years and spent a great deal of money in doing so. I say our plant because that is the way the union members feel. We believe that we have to have jobs and a clean environment and in order to have jobs, you have to give Anaconda a fair break to live within the standards and also the room to possibly expand and provide more jobs. The present standards are unfair to existing aluminum plants. These standards are more strict than those of a new plant coming into the state and therefore, actually hinder new expansion.

We are here representing 1,000 union members in support of jobs and a clean environment. I can tell you as an employee of 15 years that we are working and will continue to work in keeping our state clean and we ask your support of this bill to help give Anaconda and our employees a chance for the future.

CXHIBIT 6

TESTIMONY ON HJR 22

2/13/81

Hal Robbins, Chief Air Quality Bureau

Members of the Committee. My name is Hal Robbins; I am Chief of the Montana Air Quality Bureau, and am here to speak on behalf of the Department of Health and Environmental Sciences.

The Department of Health feels compelled to oppose this resolution. The Department does not oppose the resolution for its merits, but on the method. The Department believes that using a House Joint Resolution to affect a change in emission standards is the wrong forum.

The Anaconda Aluminum Company is requesting changes before this Legislature without pursuing the options available to it through the administrative procedures. Certainly the memebers of the committee are familiar with the concept of exhaustion of remedies. Normal Department and Board procedures are currently available and are at the disposal of the Company. The Department certainly has been standing by ready to assist the Company in following these avenues to update this rule in order to reflect the curent situation at Columbia Falls.

The recent history of the Department and Board more than indicates the Department's willingness and desire to correct any inappropriate rules and regulations. The Department and ASARCO have recently completed a case nearly identical to the one you are hearing today. The Department and ASARCO discussed an emission rule that was perhaps more stringent than necessary. The rule was more than eight years old and did not reflect the newly adopted Montana Ambient Air Quality Standards. ASARCO proposed an amendment to the current rule, which the Department has fully supported. The hearing on the ASARCO rule change is

scheduled for next week and in all likelihood will be adopted. The Department feels strongly that the same tact should be attempted for Anaconda Aluminum. We have every reason to believe that an agreement can be implemented between the parties.

Again, the Department does not generally dispute the fact that Anaconda Aluminum has a legitimate argument. However, it must be remembered that the rule was adopted almost ten years ago—long before Anaconda launched its main control program, and long before Anaconda went to Japan for the Sumitomo process. Now that Anaconda Aluminum has done an excellent job in controlling its emissions, this old rule needs to be changed, and it will be changed. We merely maintain that the Legislature is not the appropriate place for this revision. We believe that this matter can be worked out very reasonably between the parties to effect a rule change before the Board of Health.

This is the method that ASARCO and the Department have followed, and we see no reason for a legislative effort to update this rule for aluminum plants.

Thank you for your time. I am available for questions.

CXHIBIT /

#### TESTIMONY ON HOUSE BILL NO. 642

LEE W. SMITH

#### ANACONDA ALUMINUM COMPANY

FEBRUARY 13, 1981

My name is Lee Smith. I am the Technical Operations Manager at the Anaconda Aluminum Company plant at Columbia Falls. I would like to thank you for the opportunity to speak to you today.

I speak in support of Representative Bennett's bill to amend the Montana law applying to ambient air standards.

As most of you know, Montana has been going through a complex rule-making process for adopting new ambient air standards since early 1978. This has been a very lengthy, time-consuming, controversial and expensive procedure. The final result was written into the Montana air quality regulations on July 18, 1980, when the Board of Health adopted the new rules.

At that July 18, 1980 Board of Health meeting, the Board addressed three proposed rules regarding fluoride. Two of these rules were directed at fluoride levels in ambient air. The third rule concerned fluoride levels in forage.

Let me first discuss the proposed ambient air rules. The Department of Health and Environmental Sciences proposed a 24 hour standard (1.0 parts per billion) and a 30 day standard (0.3 parts per billion) to the Board. However, due to actual sampling data presented by industries currently emitting fluorides, the Board decided to defer for one year the adoption of any standards for fluoride in ambient air "due to uncertainties concerning data collection and analysis."

It is these deferred ambient fluoride standards that this bill would prevent from being adopted. These standards are completely unnecessary when there is available to the Department enforceable fluoride emission standards and an enforceable fluoride in forage standard. As described, the present ambient air fluoride standards are unnecessary, meaningless and redundant.

I would like now to mention the fluoride in forage standard. At that same July 18, 1980 Board of Health meeting, the Board adopted a standard of 20 micrograms per gram of fluoride in forage. The units can be confusing so, just remember the number 20. The Department of Health and Environmental Sciences had recommended a monthly average of 50 and a yearly average of 35. The Board overruled the Department's recommendation and adopted a 20 monthly standard.

Anaconda Aluminum and others appealed this newly adopted standard and requested a rehearing, which was denied. Subsequently, we filed suit against the Board and this suit is pending. The Department has been asked by the Board to review this rule and there is a chance that some reconsideration may now be in order.

Anaconda Aluminum feels that a fluoride in forage standard is a legitimate way to regulate ambient fluorides. We are in the process of trying to get reconsideration by the Board concerning the level of fluoride in forage.

We ask the committee's positive action on this bill in order to limit the ambient fluoride rules to controlling fluoride in forage and to prevent the adoption of unnecessary and redundant rules for regulating fluoride in ambient air.

I have attached to this testimony a brief summary of what this bill will do and some anticipated questions and their answers which gives you some additional information.

Thank you for the opportunity to present this information. I urge your support of this bill.

#### HOUSE BILL NO. 642

#### FLUORIDE AMBIENT AIR STANDARDS

The Montana Air Quality Regulations currently contain two fluoride standards applicable to fluoride sources in this state. These are an emission standard and a limitation on the concentration of fluoride in forage. The sole purpose of the fluoride standards is to prevent fluoride induced damage to livestock (forage std.) and to vegetative species (emission std.). The effect of this bill would be to maintain these standards as the means for achieving this environmental goal, while precluding the adoption of an additional ambient fluoride standard.

The Montana Board of Health and Environmental Sciences on July 18, 1979, accepted the Department of Health recommendation to defer for one year the adoption of standards for fluoride in ambient air due to uncertainties concerning data collection and analysis. Previously, the Department had proposed a 24-hour standard of 1.0 part per billion gaseous fluoride and a 30-day standard of 0.3 parts per billion gaseous fluoride.

It is felt that an ambient standard for fluoride in air is unnecessary, meaningless and redundant, particularly when enforceable standards for fluoride emissions
from stationary sources and fluoride in forage are already available. It is nearly
impossible to accurately monitor ambient fluorides at such infinitesimal concentrations.
Therefore, the purpose of the ambient standard (to limit the amount of fluoride
available for uptake in vegetation) can be more readily achieved by application of
the fluoride emission standard and the fluoride in forage standard.

#### FLUORIDE AMBIENT AIR STANDARDS

#### **Cuestions and Answers**

- 1. Q: What does this bill do?
  - A: This bill precludes the adoption by the Board of Health of an additional ambient air fluoride standard.
- 2. Q: Why do we need this bill?
  - A: The state needs this bill to prevent adoption of an unnecessary and unenforceable regulation by the Board of Health under the Clean Air Act of Montana. Industry needs this bill so that it will not be forced to attempt to comply with an unnecessary standard that cannot be met.
- 3. Q: Why not adopt the federal ambient air fluoride standard?
  - A: There is no federal ambient air standard for fluoride.
- 4. Q: Why is there no federal standard?
  - A: The EPA is required to issue ambient air standards for pollutants designated as "criteria" pollutants. The criteria pollutants are those generally considered to cause endangerment to public health or welfare. The EPA has concluded that fluoride emissions have no significant effect on human health, and thus, "do not contribute to the endangerment of public health." Therefore, an ambient air standard for fluoride (which by statute would have to be set at a level necessary to protect public health), has not been adopted.
- 5. Q: What are forage grasses, hay and silage?

- A: These are vegetative species susceptible to fluoride accumulation, and are the primary nutrients for domestic livestock.
- 6. Q: What is the difference in this bill from the Montana Ambient Air Quality Standard proposal?
  - A: This bill would limit the control of the effects of fluorides by means of the two fluoride standards currently in effect, rather than by allowing an additional, and redundant, third standard to be imposed.
- 7. Q: Why shouldn't a fluoride ambient standard be enacted?
  - A: An ambient fluoride standard is unnecessary. Ambient standards are useful only if the pollutant can cause endangerment to public health. This criteria is not applicable to fluoride. Secondly, there are currently two fluoride standards in effect. These are an emission standard and a fluoride in forage standard. The purported purpose of the ambient fluoride standard to limit the amount of fluoride available for uptake in vegetation is more readily and effectively achieved by the other two standards, making an ambient standard redundant. Third, the proposed ambient standard (1.0 part per billion for 24 hours and 0.3 ppb for 30 days) is so low that it cannot be accurately monitored, even with the most advanced equipment on the market today. Therefore, the standard would be unenforceable and unattainable.
- 8. Q: Who will set the standards for fluoride in forage?
  - A: The Montana Board of Health and Environmental Sciences.
- 9. Q: Who has the responsibility for enforcing the standards?
  - A: The Montana Department of Health and Environmental Sciences.

- 10. Q: Who will be affected?
  - A: Fluoride emitting sources (Anaconda Aluminum and Stauffer Chemical at this time).
- 11. Q: Why does Montana need an ambient fluoride standard if the federal govern+, ment does not?
  - A: Montana also does not need it.
- 12. Q: Would a higher, and thus more measurable, ambient fluoride standard be of any benefit?
  - A: No. That the proposed standard is unmeasurable is only one of the reasons it should not be adopted. The main reason is that <u>any</u> standard is simply not necessary.
- 13. Q: On July 18, 1980, the Board of Health adopted a fluoride in forage standard of 20 micrograms per gram. Anaconda Aluminum and others have subsequently filed suit against the Board over this standard because it is impossible to meet. How do you know it is impossible to meet?
  - A: Forage sampled during the fall of 1980 averaged well above 20 micrograms per gram.



## Stauffer Chemical Company

P. O. Box 3146 / Butte, Montana 59701 / Phone (406) 792-1215

February 13, 1981

TESTIMONY FOR THE HOUSE NATURAL RESOURCE COMMITTEE MEETING FRIDAY, FEBRUARY 13, 1981.

My name is Ray Tilman I am the Plant Manager of Stauffer's Silver Bow Plant just West of Butte. I am here in support of House Bill 642, which changes the definition of ambient fluoride to forage vegetation fluoride content only.

For the past five years we have run thousands of samples both vegetation and ambient tape samples. The results of these samples have clearly indicated that ambient tape sampling is extremely difficult to reproduce and leaves a great deal of question as to what the real ambient fluoride level may or may not be. This type of problem obviously leaves a very big question as to how can these types of levels be regulated.

We feel that the forage fluoride level is the most effective way to regulate fluoride for the State of Montana. Several other States use such methods very successfully. The forage vegetation method will adequately protect the welfare in the State of Montana, that the fluoride regulations are designed to protect.

STAUFFER CHEMICAL COMPANY

R.V. Tilman Plant Manager



#### TESTIMONY ON HOUSE BILL 642

2/13/81

Hal Robbins, Chief Air Quality Bureau

Members of the Committee. My name is Hal Robbins; I am Chief of the Montana Air Quality Bureau, and am here to speak on behalf of the Department of Health and Environmental Sciences.

As you are probably already aware, th Department began in late 1977 the process of adopting new ambient air quality standards. The process was initiated when it was determined that the old standards were not in fact standards, but guidelines and goals. The Board of Health then directed the Department to study and recommend appropriate air pollution standards. Fluoride, naturally, was one of those standards studied and analyzed.

The Department, in its original Draft Environmental Impact Statement, proposed two types of fluoride standards: 1. fluoride in vegetation, and 2. fluoride in the ambient air. The purpose of the ambient air standards was to protect vegetation, specifically the trees in the Flathead National Forest, while the purpose of the fluoride in vegetation standard was to protect herbiverous animals. The Department's Final EIS modified the numbers but kept the same two techniques. Shortly before the Board proceeded with final rulemaking, the Department recommended postponement of the ambient fluoride standard, i.e., the standard that is essentially being proposed to be dropped here at this hearing. The Department's reasoning basically dealt with the uncertainties in the measuring method. The Department conducted a study with Stauffer Chemical Company and found unknown interferences and inaccuracies in the proposed method of sampling fluoride in the air. The Department was unable to resolve these

uncertainties and felt that it would be inappropriate to set a standard until the reliability of the method had been assured. The Department is continuing to study and resolve these inaccuracies.

The bill, however, does put some restrictions on the Department. It will inhibit the Department's work on studying damage to trees in the Flathead National Forest due to fluoride. Naturally, it will be incumbent on Anaconda to monitor the effects of their operation on the forest. Under present economic conditions, the Department would not require Anaconda to install any major pollution control devices, since they have done a good job of controlling fluorides through the recently installed Sumitomo process.

Although the Department feels that we may be barred from setting an ambient fluoride standard sometime in the future, we feel that this bill does not contradict the current status of the ambient air quality standards process. We, therefore, have no objections to this bill.

Thank you for your time. I am available for questions.

My name is Dennis P. Corbett. I am Secretary of the Aluminum Workers
Trade Council.

We (all the employees) have been working hard for three years to meet the new standards, and it is working. The Company needs reasonable standards to work with. It seems to me that two standards, one for a new plant and one for us, a plant that has been there employing people and paying taxes for 25 years, is very unfair.

Our plant is the center of employment and taxes for the whole Flathead Valley. If we were put in a position that we couldn't operate, the effect on the Valley would be devastating. I wish you all here could see the effort the Company and employees have put out to clean this plant up. The strides forward have been tremendous. Our plant has come a long way. Today our plant is a modern, clean aluminum plant. It makes all employees proud to know we have cleaned up our act and protected our Valley.

Please keep in mind, the Company is very responsible in their duties to the environment, as is our union, the Aluminum Workers, but we need jobs and reasonable standards. Together these spell people working, paying taxes and enjoying living in our home, the Flathead Valley.

Thank you for your support of this legislation.

CXHIRLL II

### Flathead County

## Board of Commissioners

P.O. BOX 1000

KALISPELL, MONTANA 59901

(406) 755-5300

February 11, 1981

John Harp Natural Resources Committee House of Representatives Montana Legislature State Capitol Helena, Montana 59601

Dear Representative Harp:

The Flathead County Commissioners fully support House Bill 642 and House Joint Resolution 22.

Anaconda Aluminum Company is extremely important to the welfare of Northwest Montana and to lose them would be a very heavy blow to all the citizens of the area.

The company has demonstrated exemplary good faith in its efforts to control emissions and the legislation being considered are housekeeping measures that should be given favorable consideration in the exercise of common sense.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS

Melford R. Wollan, Chairman

Joan A. Deist, Member

Henry Oldenburg, Member

MRW:dms

## CHAMBER OF COMMERCE

P.O. Box 312

COLUMBIA FALLS, MONTANA

59912

February 12, 1981

Natural Resources Committee House of Representatives Helena, MT 59601

Dear Committee Members:

Please accept this letter as evidence of our support of House Bill 642. We feel our thoughts are representative of the majority of the residents in the Columbia Falls area.

Anaconda Aluminum Company has done an admirable job of complying with the air quality standards set by the Montana Board of Health and Environmental Sciences. Since the Montana Air Quality Regulations already contain adequate emission and forage standards, there should be no need for the adoption of an additional ambient flouride standard.

We also support House Joint Resolution No. 22, because we find it extremely inequitable to set less restrictive standards for new aluminum reduction plants than for the one (AAC) currently operating in Montana. We are understandably in support of Anaconda Aluminum Company from an economic standpoint, but would also like to point out their concern for and willingness to contribute to the well-being of the community of which they are an integral part.

Sincerely,

Patrick M. Campbell, President
Columbia Falls Chamber of Commerce

PMC:skh

## Flathead County

## Board of Commissioners

P.O. BOX 1000

KALISPELL, MONTANA 59901

(406) 755-5300

February 11, 1981

Chuck Cozzens
Natural Resources Committee
House of Representatives
Montana Legislature
State Capitol
Helena, Montana 59601

Dear Representative Cozzens:

The Flathead County Commissioners fully support House Bill 642 and House Joint Resolution 22.

Anaconda Aluminum Company is extremely important to the welfare of Northwest Montana and to lose them would be a very heavy blow to all the citizens of the area.

The company has demonstrated exemplary good faith in its efforts to control emissions and the legislation being considered are housekeeping measures that should be given favorable consideration in the exercise of common sense.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS

Melford R. Wollan, Chairman

Joan A. Deist, Member

Henry Oldenburg, Member

MRW:dms

# Kalispell Area Chamber of Commerce

P.O. BOX 978 • KALISPELL, MONTANA 59901 • PHONE (406) 755-6166

February 12, 1981

Mr. Dennis Iverson Natural Resourses Committee Capitol Station Helena, Montana 59601

Dear Mr Iverson & Committee Members:

It has been brought to our attension that air quality standards and regulations relating to new industry are, through legislation, to be less restrictive than that on existing industry.

This has had a definite impact on Kalispell as Anaconda Alumnium Company, started 26 years ago, is a substantial part of our tax base. It is our feeling Anaconda is being legislated against.

H.B. 642 and House Joint Resolution 22 are two pieces of legislation that can protect a major employeer in our region who; by the way, has spent \$42 million in recent years to comply with EPA guidelines.

Anaconda spent \$8 million in the region last year and it is the feeling of the Kalispell Area Chamber of Commerce, not because Araconda contributes substantially to our economic well being, but because legislation should apply across the board, not for any one individual business so they have an advantage, that consideration be given to these bills.

We realize that this legislation could help Montana attract new industry but lets all play by the same rules.

Sincerely,

Stebbins F. Dean

Executive Vice-Pres.

SFD/jlb

## Flathead County

## Board of Commissioners

P.O. BOX 1000

KALISPELL, MONTANA 59901

(406) 755-5300

February 11, 1981

Dennis Iverson, Chairman Natural Resources Committee House of Representatives Montana Legislature State Capitol Helena, Montana 59601

RE: House Bill 642 &

House Joint Resolution 22

Dear Chairman Iverson & Committee Members:

I have some reservations concerning the outcome of legal action against the floride/forage standard vis-a-vis the above. Nevertheless, I must support HB 642 and HJR 22 in light of our precarious economic climate in Northwest Montana and the absolute need for sustained economic stability.

In concert with the other Commissioners, I believe that Anaconda Aluminum Company has demonstrated unswerving devotion to the welfare of our citizens and its employees in successfully meeting federal emissions standards at the Columbia Falls plant.

Respectfully yours,

Henry Oldenburg, Member of

BOARD OF COUNTY COMMISSIONERS

HO:dms

## Whitefish Chamber of Commerce

505 Spokane

Box 1309 — Whitefish, Mont. 59937

(406) 862-3501

February 12, 1981

#### TO WHOM IT MAY CONCERN

The Whitefish Chamber of Commerce would like to go on record as supporting equal emission standards for all aluminum reduction plants in Montana.

It has came to our attention that "established industry" in this state may be subject to more stringent air emission standards than "new industry." This seems quite illogical. The immediate case in point is Anaconda Aluminum Company in Columbia Falls.

The Anaconda Company is obviously one of the most important economic factors in the Flathead Valley. It employs some 1200 workers and has an annual payroll package of approximately \$37,000,000. To date Anaconda has spent in excess of \$43,000,000 in complying with Montana emission control standards and stands as a model to similar firms. It seems to this organization that Anaconda is a good neighbor and has acted as a responsible business concern.

For the Anaconda Company to be subject to one set of standards while newer industry is subject to a less stringent set of standards is folly and we would be opposed to any such measure.

Sincerely,

Dale G. Duff

President

DGD/tjk