

MINUTES OF MEETING  
SENATE NATURAL RESOURCES  
MARCH 13, 1981

The nineteenth meeting of the Natural Resources Committee was called to order by Senator Harold Dover, Chairman, at 12:50 P.M., on the above date in Room 405.

ROLL CALL: All members were present.

CONSIDERATION OF HJR 32:

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE  
OF REPRESENTATIVES OF THE STATE OF MONTANA TO SEND  
DELEGATES TO THE WESTERN STATES LEGISLATIVE FORESTRY  
TASK FORCE

Senator Manley, District #14, introduced this bill. This resolution must be passed by the House and the Senate to reestablish Montana membership in the Forestry Task Force. Senator Manley, Senator Hafferman, Representative Kanduch and Representative Hurwitz are the Montana members of this force. The Forestry Task Force has become an important organization to the wood products industry. They address problems of the wood products industry that are forestry related. There are seven states that are members - Montana, Idaho, Oregon, Washington, California, Alaska and Wyoming. The Forestry Task Force meets approximately six times a year.

There were no proponents or opponents. Chairman Dover asked for questions from the committee.

Senator Van Valkenburg asked if there was anybody on the force that thinks we should have a little bit of wilderness.

Senator Manley said you are set in your ways until it hits your back yard. Which is my situation with the Bob Marshall Wilderness. Most of the members of the committee have areas that they feel should be wilderness and should be protected. We do feel that some of the areas under recent consideration for wilderness are not justified. Our main project this year is to try to get the lands that have not been declared wilderness areas back into multi purpose use.

Senator Brown asked what it costs us in terms of dues or do we just pay for travel.

Senator Manley said it costs \$5,000 for the biennium plus expenses.

Senator Brown asked if the task force has a staff.

Senator Manley said yes, an executive secretary.

Senator Brown asked where that staff was located.

Senator Manley said he was located in Sacramento, California.

Senator Brown asked if they have gotten involved in opposition to designation of a particular wilderness area.

Senator Manley said we try to keep the federal funds available for fire fighting and things like that. The federal government is always trying to cut the funds.

Senator Ryan asked why we need a resolution.

Senator Manley said that is the way it was originally set up. Every two years we have to have this same resolution. Until we change it, that is the way it will stay.

DISPOSITION OF HJR 32: Senator Elliott made a motion that HJR 32 be concurred in. The motion passed with a vote of 8 for and 1 opposed, Senator Brown. Senators Keating, Tveit and O'Hara had not arrived at the meeting yet.

CONSIDERATION OF HB 642:

AN ACT PROVIDING FOR THE ESTABLISHMENT OF AMBIENT AIR  
QUALITY STANDARDS FOR FLUORIDES THROUGH LIMITATIONS  
UPON THE CONCENTRATION OF FLUORIDES IN FORAGE

Representative Kanduch, District #89, presented this bill. This bill would provide that ambient fluoride would be measured in forage grasses, hay and silage where the potential for damage exists. Since the methods for measuring these levels are simple and accurate, it is unnecessary and redundant to measure them in other ways. A copy of his presentation is attached.

Lee Smith, Anaconda Aluminum Company, gave testimony in support of this bill. A copy of his statement is attached.

Patrick Campbell, Columbia Falls Chamber of Commerce, gave testimony in support of HB 642. A copy of her statement is attached.

Ray Tilman, Stauffer, Butte, Montana, is in support of HB 642. Our plant basically releases the same amount of fluoride 24 hours a day. When measuring the ambient fluoride in the air you get various numbers at various times depending upon whether the wind is blowing. Studies indicate that if there were four fluoride tests taken side by side you would end up with four different numbers. Fluoride should be measured by the use of vegetation. It can be measured accurately this way.

Dennis P. Corbett, Secretary of the Aluminum Workers Trade Council, gave testimony in support of HB 642. A copy of his statement is attached.

Joe Crosswhite, prior President of WETA, supports this bill. He has spent the biggest part of his life in Columbia Falls, both before and after the aluminum plant went into operation. The shutdown in

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Anaconda was devastating to Anaconda and to Butte. There are 1400 employees at the aluminum plant in Columbia Falls and we want to keep the plant there working.

Senator Elliott removed himself from the committee to testify on behalf of this bill. He has watched the Anaconda Aluminum Company grow from 500 employees. He urges the committee to consider this bill favorably and considers that a very fair request to make.

Senator Bob Brown testified in support of this bill and requests a favorable consideration.

Testimony was furnished in support of this bill from the following: Whitefish Chamber of Commerce, Flathead County Board of Commissioners, Kalispell Area Chamber of Commerce, and Jim Schmach, President of the Aluminum Worker Trades Council of Columbia Falls.

Joan Miles, Environmental Information Center, opposes this bill. All the bill is talking about is preventing the Board of Health from setting an ambient standard. She agrees that Anaconda Aluminum has done everything to clean up the plant. The Board of Health has not asked them to do anything else. She agrees with the testimony given with the exception of one thing, you are talking about fluoride standard without describing it any further. This bill is limiting sampling to any area where domestic livestock are grazing. What they are saying basically is you can only sample forage grasses that can be proven to be sampled by cattle. If we set an ambient standard it would probably be designed around the Anaconda Aluminum Company. She does not agree that the emission standard will take care of all the other problems. The Statement of Intent, paragraph 3, does not agree with the bill.

Gail Bissell, Montana Audubon Council, opposes this bill. If the Board would only adopt a standard for forage grasses where domestic animals will graze, this will not protect wildlife, orchards, or coniferous trees. This bill would not allow the state to protect those other economical important interests.

Senator Dover asked for questions from the committee.

Senator Brown asked if the Health Department has a position on this bill.

Senator Elliott said he had a statement that was presented in testimony in the House hearing.

Representative Kanduch said Mr. Robbins, Department of Health, will submit the same testimony that Senator Elliott is referring to when he arrives at the meeting.

Senator Brown said that even though we are talking about a forage standard, isn't that an ambient standard. What you are talking about is measuring fluoride at a particular point, at ground level. How does that differ from the gaseous type standard.

Mr. Smith said the two things are different in that when you talk about ambient fluoride you are talking about the amount of gaseous fluoride in the air. When you talk about a fluoride in foliage, you are measuring the amount of fluoride that has come into the plant or been absorbed.

Senator Keating said to Ms. Miles, in your testimony you said the forage sample would have to be eaten by a cow.

Ms. Miles said that is basically what is happening in this proposed ruling. Usually if you are measuring something, it is a reflection of what is in the air. The rule that they are proposing would limit you to just sampling a specific area. You would only sample where there is domestic livestock.

Senator Brown asked if the sampling method being described will apply to the gaseous ambient fluoride and if that procedure of measuring fluoride in forage is being considered now.

Ms. Miles said that is the rule being proposed.

Senator Manley said he did not see where it would change the standard, just the way it is measured.

Senator Brown said it poses a limitation on what kind of standard the Board can ultimately adopt. If this bill passed, the Board can no longer consider an ambient fluoride rule.

Ms. Miles said that is correct.

Senator Brown asked Harold Robbins what sampling measures would be used in measuring fluoride in forage.

Mr. Robbins, Department of Health, said we would be limiting forage to grasses where domestic animals graze.

Senator Brown asked Mr. Robbins if the Department of Health would endorse that.

Mr. Robbins said we tried to work something out that would be satisfactory to everybody, to sample vegetation that would suit everybody's interests. This is not acceptable to every party involved.

Senator Tveit said forage grasses can be eaten by anything.

Mr. Robbins said rule definition for forage is anything that is browsed or grazed.

Senator Keating asked who makes the rules and why are they being considered for change.

Mr. Robbins said the Board makes the rules and anyone may propose a rule to amend or adopt. The Department has attempted to work out an agreement for this problem. That is not to say it is the Board's decision.

Senator Keating asked why the Department is suggesting the change in the definition of forage.

Mr. Robbins said he did not think the definition was changed that much.

Senator Keating said if we are talking about a change to exclude wildlife then it is quite a change.

Senator Dover asked what would be wrong in amending the bill to include wildlife.

Mr. Robbins said you may do that.

Senator Hafferman said we have fluoride in water, how much more dangerous is fluoride in the grasses.

Mr. Robbins said fluoride in forage is not a serious problem to humans, but to cattle, who eat great volumes of fluoride in grasses, it is dangerous to their health.

Senator Hafferman asked how you check for fluoride in grasses.

Mr. Robbins said the grasses are cut, ground and put into a special solution.

Senator Brown said the Health Department rule makes the definition more restrictive. What has been recommended limits it to domestic animals. He asked Mr. Robbins if he had met with the Board that morning and if they had discussed the issue of ambient gaseous fluoride.

Mr. Robbins said they had met that morning and there was a lot of concern with limiting the Department and the Board would like to maintain the position of being able to protect trees, plants, etc. Some members were concerned they would not be able to do that with this provision.

Senator Brown asked what the analyses was relating to gaseous fluoride.

Mr. Robbins said they have changed their minds several times. They did feel this was inappropriate at the time the standard was adopted. In good conscience they could not recommend that standard. He had originally testified in the House for HB 642, now the Health Department is a little more concerned about this bill. He feels that he has to go along with what their standpoint is.

Senator Ryan said what you are addressing is the fear that the Department is putting you in an untenable position by changing standards in mid stream.

Mr. Smith said our legitimate interest in this is that the standard is totally unnecessary.

Senator Brown said one of the reasons why they had the gaseous fluoride standard was it was also proposed to deal with the ambient standard.

Mr. Robbins said it was to protect trees and flowers. The forage standard does not protect vegetation itself.

Senator Brown asked where the sampling was to occur for the gaseous standards.

Mr. Robbins said there was no special area set.

Senator Van Valkenburg asked if it was possible to measure concentrations of fluoride in trees.

Mr. Robbins said yes.

Senator Van Valkenburg said the trees are protected from excess fluoride in the emission standards. He asked why they were leaving trees out in the language in the bill.

Senator Dover asked if the birds would have problems with fluoride in the trees.

Mr. Robbins said as a general rule it doesn't affect birds. It only affects animals that eat some kind of forage.

Senator Manley said what you are saying is that by measuring the fluoride that the livestock consume, since they consume such a large amount, if it is safe for them, everything else is going to be safe.

Mr. Robbins said that is quite correct.

Senator Ryan asked if the emission measurements are fairly accurate.

Mr. Robbins said we will say that.

Senator Ryan asked if the measurement in the forage is less accurate than the emissions.

Mr. Robbins said he would not say that. The forage measurements are very accurate.

Senator Ryan said if you know there is danger when the emission takes place, isn't that where to do the measurement.

Mr. Robbins said that is quite correct. You then determine how much reduction is necessary. This would protect trees and so forth.

Senator Brown said an important point to keep in mind is that we are talking about the welfare of all concerned, industry, flowers, wildlife, etc. We have to consider a compromise feasible for all. Fluoride in forage is a measurable standard. It is difficult to measure accurately emissions.

Senator Tveit asked what the bill does.

Senator Brown said with this bill the Board of Health would not be able to consider an ambient gaseous fluoride standard. The Department will remove that description from the Board.

Michael Britton, Kalispell, said he had worked with emissions in forage and it correlates very well with coniferous trees. He has done measurements and statistical analysis on fluoride content in coniferous trees and they seem to correlate highly with emission data.

Senator Keating said what you are saying is that coniferous trees are more sensitive to fluorides.

Mr. Britton said he has studied coniferous trees. The fluoride content in needles of coniferous trees, at a given sight with different emission conditions, the level of the fluoride coincides with the emissions.

Senator Brown asked if he had ever been able to correlate measurements.

Mr. Britton said all his data is on trees but he would assume it would work in a very similar manner on forage.

#### CONSIDERATION OF HJR 22:

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF  
REPRESENTATIVES OF THE STATE OF MONTANA REPEALING  
A STATE AIR QUALITY EMISSION STANDARD IN CONFLICT  
WITH ANOTHER STATE AIR QUALITY STANDARD

Representative Bennett, District #15, presented this bill. A copy of his testimony is attached.

Lee Smith, Anaconda Aluminum Company, supports this bill. A copy of his testimony is attached.

Jim Schmauch, Aluminum Workers Trade Council, Columbia Falls, supports this bill. He believes we have to have jobs and clean air standards. We also have to have room to expand and provide more business. The present standards are unfair to existing aluminum plants.

Joe Crosswhite, prior President of the Western Environmental Trade Association, supports this bill for the protection of the economy of the Flathead Valley.

Bill Hand, Executive Secretary, Montana Mining Association, supports this bill.

Chairman Dover asked for opponents.

Harold Robbins, Department of Health, Air Quality Bureau, opposes this resolution. The resolution has merit but he feels this should be approached in a different manner. When the standard was set ten years ago we were working with the best data available then. We are willing to work with them to change that standard with the Board. Asarco just completed the same type of thing with the Board. He would be glad to work with the Anaconda Aluminum Company to go before the Board to adopt a rule. He does not feel the legislature is the appropriate body to request this type of change.

Willa Hall, League of Women Voters of Montana, opposes HJR 22. Authority for this rule change already exists. Technical decisions such as this should be made by the Board responsible for the rules. Discussion on the last bill shows that technical material cannot be learned in two hours.

Joan Miles, Environmental Information Center, opposes this resolution because of the method. This should be handled through the Board instead of the legislature.

Chairman Dover asked for questions from the committee.

Senator Elliott asked how long the rules have been in the books.

Mr. Robbins said we knew they were in violation but we were waiting until they finished their control standard to analyze the situation.

Senator Elliott asked if they met every month.

Mr. Robbins said every other month.

Senator Brown asked if there was agreement that Anaconda Aluminum was in compliance with the existing emission standards.

Mr. Robbins said yes.

Senator Ryan asked how long did it take to change the rules for Asarco's purposes.

Mr. Robbins said we reached an agreement in 4 to 8 weeks.

Senator Van Valkenburg asked Mr. Smith if his justification for not going to the Board to seek the change is because of regulatory uncertainty.



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Mr. Smith said yes.

Senator Van Valkenburg asked if there was such a thing as legislative uncertainty.

The hearing on HJR 22 closed.

Chairman Dover appointed Senators Keating, Hafferman, Manley, Van Valkenburg and O'Hara to a subcommittee to review HB 652.

ADJOURNMENT: The meeting adjourned at 2:27 P.M.

A handwritten signature in cursive script, reading "Harold Dover", is written over a horizontal line.

HAROLD DOVER, Chairman

ROLL CALL  
NATURAL RESOURCES COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 3-13-81

NAME	PRESENT	ABSENT	EXCUSED
Harold Dover, Chairman	✓		
Mark Etchart, Vice Chairman	✓		
Thomas Keating	✓		
Roger Elliott	✓		
Larry Tveit	✓		
Jesse O'Hara	✓		
John Manley	✓		
William Hafferman	✓		
Steve Brown	✓		
Dave Manning	✓		
Patrick Ryan	✓		
Fred Van Valkenburg	✓		

Each day attach to minutes.

## HOUSE BILL NO. 642

Mr. Chairman and members of the Committee:

The problem addressed by HB 642 is ambient fluoride standards.

First of all, I would like to point out that fluoride is a welfare-related pollutant--not a health-related pollutant. Numerous studies indicate that fluoride, at the levels we are talking about, does not harm people. Fluoride can hurt cattle, deer, elk, timber and forage of all kinds at certain levels.

The Board of Health has proposed that ambient levels of fluoride be regulated two ways in the air and one way in forage.

The problem with measuring these levels in the air is that they deal with extremely minute quantities in ppb and are therefore difficult to measure with any accuracy.

It seems obvious that since we already control emission and particulate levels, and since fluoride is a welfare-related pollutant, that we should measure ambient fluoride in forage grasses, hay and silage where the potential for damage exists. Since the methods for measuring these levels are simple and accurate, it is unnecessary and redundant to measure them in other ways.

I would point out that this bill leaves the authority to set the levels to be met with the Board of Health totally, which is unlike other legislation requiring legislative action to set these levels.

TESTIMONY ON HOUSE BILL NO. 642

LEE W. SMITH  
ANACONDA ALUMINUM COMPANY  
MARCH 13, 1981

Senate Natural Resources Committee

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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 you know, Montana has recently gone through a complex rule-making process for adopting new ambient air standards. 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, upon reconsidering actual sampling data presented by industries currently emitting fluorides, the Department recommended and the Board agreed 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 already

available to the Department both an enforceable fluoride emission standard and an enforceable fluoride in forage standard. Opponents have argued that trees and other welfare interests will be left unprotected if we don't have ambient fluoride standards. That simply is not true when the state has at its disposal enforceable fluoride emission standards. Should the welfare interests of the people of the state of Montana be damaged by fluorides near a fluoride emitting source, the Board of Health can, within existing statutes, lower the emission standards. As described, the presently deferred 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 (which is the same as 20 ppm). These units can be confusing so I will only refer to the number 20. The Department of Health and Environmental Sciences had recommended a 35 annual average with no monthly average to exceed 50. 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 Board at its February 20, 1981 meeting voted to re-institute rulemaking for the purpose of reconsidering the fluoride in forage standard.

Anaconda Aluminum feels that a fluoride in forage standard is a legitimate way to regulate ambient fluorides and 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

### Questions 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 government 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 any 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.

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# CHAMBER OF COMMERCE

P.O. Box 312

COLUMBIA FALLS, MONTANA

59912

Harold Dover - Chairman  
Senate Natural Resources Committee  
Helena, MT 59601

Dear Mr. Dover & Committee Members:

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.

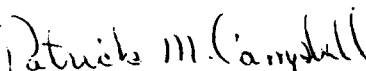
Our interest and concern in supporting Anaconda Aluminum Company in these endeavors are understandably economic in nature. Anaconda Aluminum has a tremendous economic impact in the Flathead Valley. They provided approximately \$38 million in 1980 in wages and fringe benefits to their employees who are 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.

Sincerely,



Patrick M. Campbell, Chairman  
Columbia Falls Chamber of Commerce

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.

*both this bill of resolution to get ball in your court.*

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.

# Whitefish Chamber of Commerce

505 Spokane

Box 1309 — Whitefish, Mont. 59937

(406) 862-3501

March 12, 1981

Harold Dover, Chairman  
Senate Natural Resources Committee

Dear Mr. Dover & Committee Members:

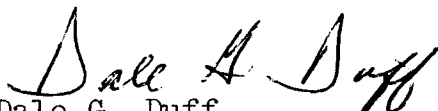
The Whitefish Chamber of Commerce would like to go on record as supporting equal emission standards for all aluminum reduction plants in Montana.

It has come 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/job

# Flathead County

## Board of Commissioners

P.O. BOX 1000

• KALISPELL, MONTANA 59901 •

(406) 755-5300

March 9, 1981

Patrick Ryan, Member  
Senate Natural Resources Committee  
Capitol Station  
Helena, MT 59601

Dear Committee Member Ryan:

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

By Melford R. Wollan  
Melford R. Wollan, Chairman

Joan A. Deist  
Joan A. Deist, Member

Henry Oldenburg, Member

MRW:pfu

# Kalispell Area Chamber of Commerce

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

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March 11, 1981

Mr. Harold Dover  
Chairman  
Senate Natural Resources Committee

Dear Mr. Dover & Committee Members:

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

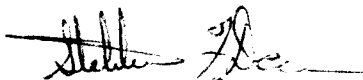
This has had a definite impact on Kalispell as Anaconda Aluminum Company, started 26 years ago, is a substantial part of our tax base. It is our feeling Anaconda is being legislated against.

H.B. 642 and House Joint Resolution 22 are two pieces of legislation that can protect a major employer 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 Anaconda 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 let's all play by the same rules.

Sincerely,



Stebbins F. Dean  
Executive Vice-President  
SFD/acm



TESTIMONY ON HOUSE JOINT RESOLUTION NO. 22

LEE W. SMITH  
ANACONDA ALUMINUM COMPANY

MARCH 13, 1981

Senate Natural Resources Committee

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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 now 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 in Montana. The 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 at Columbia Falls, operating a 25 year old plant, must meet a more restrictive standard for the emission of fluorides and particulates than would be required of a new plant operating today in Montana. 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 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.

I speak today 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 new source performance standards which regulate new primary aluminum plants.

By passing this resolution new plant standards will apply to the 25 year old Columbia Falls plant. New source performance standards require 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 for primary aluminum plants include a very restrictive control of particulate emissions, 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 the federal new source

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

In response to some of the questions in the House of Representatives to HJR 22 as to why Anaconda Aluminum had not gone through the administrative procedures available to them, i.e., rulemaking, I would offer these comments.

Anaconda Aluminum's primary concern is with "regulatory uncertainty" when going before the Board of Health in rulemaking. Let me tell you of Anaconda Aluminum's experience in this arena.

As you know, Montana has recently gone through the rulemaking process to establish ambient air standards. Beginning in early 1978, this complex, time consuming, controversial and expensive process included: 1. working papers, 2. a draft environmental impact statement, 3. a final environmental impact statement (EIS) published by the Department of Health, 4. written opening statements, 5. written response statements, 6. written rebuttal statements by public participants and 7. several public hearings. Anaconda Aluminum participated in all phases of this process. Finally, on July 18, 1980, the Board of Health adopted new ambient air standards for Montana.

In the case of fluorides, the Department proposed in the final EIS, three standards to the Board. Two of these standards were directed at fluoride levels in ambient air and the third standard concerned fluoride levels in forage.

Upon reconsideration of the data submitted by the fluoride emitting industries, the Department recommended and the Board agreed to defer for one year the two previously proposed ambient air standards "due to uncertainties concerning data collection and analysis."

In the case of fluoride in forage, the Department recommended a 35 ppm annual average with no monthly average to exceed 50 ppm. The Board ignored the recommendation of not only industry, but also the Department, and adopted a 20 ppm monthly average.

Anaconda Aluminum then petitioned the Board for a rehearing but our petition was summarily denied. Our last choice was to file a lawsuit against the Board which we did and this suit is currently pending.

Meanwhile, the Board asked the Department to review the 20 ppm fluoride in forage standard and to present its findings at the February 20, 1981 Board of Health meeting. The Department recommended that the 20 ppm standard be removed, that a new standard be promulgated through rulemaking, but asked for more time to gather additional data before recommending a new rule.

The Board responded by voting to go into the rulemaking process all over again.

So, here we are after three years of time, effort and expense, back at square one with no fluoride in forage standard, no recommendation from the Department, and going into rulemaking for the second time around.

That Mr. Chairman and Members of the Committee, is what we mean when we refer to "regulatory uncertainty" before the Board of Health and that is why we are asking the Legislature to provide some guidance to the Board by repealing the current rule for fluoride and particulate emissions from existing aluminum plants and replacing it with Montana's rule for new primary aluminum plants.

We recognize that if HJR 22 passes this Legislature, that the rulemaking process will have to be followed. However, if the Board has some guidance from the Legislature, it is felt that lawsuits, rulemaking the second time around, and "regulatory uncertainty" can be avoided.

For whatever reasons, setting fluoride standards in Montana has been very emotional and controversial and the normal rulemaking process has not produced the necessary, realistic and achievable standards that it should

It should also be noted that the Rules of the Montana Legislature specifically provide the mechanism by which rules can be repealed and the adoption of others can be directed in the Montana Administrative Code.

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

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

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 particulates 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 retrofitting existing 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) - S14080), and replace it with MAC 16.8.1423 (ARM 17 - 2.14(1) - S14082). 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.

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 Anaconda 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 provides adequate visibility protection.
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?
- 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 inadvertently. 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.

## HOUSE JOINT RESOLUTION NO. 22

Mr. Chairman and members of the Committee:

The intent of HJR 22 is to do exactly what it says in the title of the Resolution. It repeals an emission standard which is in direct conflict with another emission standard.

In 1976, the Board of Health adopted the EPA New Source Performance Standard for fluoride; in other words, standards for new plants coming to Montana. The rationale for new source standards is that new plants have ~~ing~~ the advantage of new technology which would allow them to significantly reduce their emissions, ~~are~~ compared to existing plants.

The situation in Montana is exactly the reverse of this logic. We have a 25-year-old plant at Columbia Falls operating under a more restrictive standard than for new sources. In other words, if someone built a new aluminum reduction plant next door to the Columbia Falls plant, they would be allowed to emit more fluoride than the 25-year-old plant.

This bill corrects this problem by repealing the old standard and replacing it with the new source standard so that the Columbia Falls plant would be meeting the same standard as a new plant coming to Montana.

NAME:

Joe P. Puccio

DATE:

8-13-91

ADDRESS:

Columbus North 7105 E

PHONE:

992-5055

REPRESENTING WHOM?

OT  
Liaison with Executive WETA

APPEARING ON WHICH PROPOSAL:

H R 140

H R 77

DO YOU:

SUPPORT?

XX

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Dennis Florbitt DATE: 3-13-81

ADDRESS: 311 Harrison Blvd. Kalispell, Mont 59901

PHONE: 755-2334

REPRESENTING WHOM? Aluminum Workers Trades Council

APPEARING ON WHICH PROPOSAL: 642/22

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: \_\_\_\_\_

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PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: JAMES Schmauch

DATE: 3-13-81

ADDRESS: Box 358 - Columbia Falls, Mont

PHONE: 892-4209

REPRESENTING WHOM? Aluminum Workers Trades Council

APPEARING ON WHICH PROPOSAL: HJE-22 - HB 642

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

COMMENTS: \_\_\_\_\_

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.



DATE

3/13/81

COMMITTEE ON

NATURAL RESOURCES

## VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Joe Piccone	Teamster - WETL	642	XX	
James Schmauch	Aluminum Workers Trade Council	642/22	XX	
Pat Condon	Pres - All Falls Club	642/22	XX	
Dennis P Corbett	Aluminum Workers Local 100	642/22	XX	
Jack Garahan	Assoc of Alum. Workers	642	XX	
Paul Towell	Local 320 RWU	642/22	XX	
R. V. T. Jones	Stamper South	642/22	XX	
David Smith	Transit Alum. Co.	642/22	XX	
Michael Smith	Local 320 RWU	642	XX	
John Smith	Local 320 RWU	642/22	XX	
John Smith	Local 320 RWU	642		✓
John Smith	Local 320 RWU	642		✓
John Smith	Local 320 RWU	642		✓
John Smith	Local 320 RWU	642/5122		XX

(Please leave prepared statement with Secretary)

# STANDING COMMITTEE REPORT

March 13,

19 81

MR. PRESIDENT

## NATURAL RESOURCES

We, your committee on .....

## HOUSE JOINT RESOLUTION

having had under consideration ..... Bill No. 32

KANDUCH (MANLEY)

## HOUSE JOINT RESOLUTION

Respectfully report as follows: That ..... Bill No. 32

BE CONCURRED IN

~~XXXXXX~~

PA

HAROLD DOVER,

Chairman.