

48TH LEGISLATIVE SESSION

MINUTES OF
NATURAL RESOURCES COMMITTEE
MONTANA STATE SENATE

March 11, 1983

A regularly scheduled meeting of the Senate Natural Resources Committee was called to order at 12:30 p.m. by Senator Harold L. Dover, Chairman, on Friday, March 11, 1983 in Room 405, State Capitol, Helena, MT.

ROLL CALL: Chairman Dover asked the secretary to call the roll, a majority of members were present, Senator Manning excused.

HOUSE BILL 203: Chairman Dover opened hearing and called on Rep. Dennis Veleber, Dist. 98, who stated the bill is to authorize the state to adopt and participate in the Northwest interstate compact on low-level radioactive waste management. Representative Veleber stated it could best be explained by the testimony he has prepared, which was handed out and is attached as Exhibit '1'. The reasons for Montana remaining in the Northwest Compact are stated, and that it would keep us from having to develop our own low-level radioactive waste disposal site. We generate very little and our own site would cost in the thousands of dollars.

PROPOSERS: Larry Lloyd, Chief, Occupational Health Bureau, Dept. of Health stated he would also like to present information pertaining to the Northwest Compact on radioactive waste management. That is attached as Exhibit '2'. Montana only has two facilities that generate low level radioactive waste, the University of Montana and Montana State University, and at times the Dept. of Health. MSU disposes of its waste in an abandoned mine, and the U of M uses the site at Hanford, Washington. MSU will be closing its site within five years.

OPPOSERS: There were no opponents.

Senator Halligan asked where the disposal sites are located for the federal government in this area? Mr. Lloyd said that out of Idaho Falls is the area used, this is a liability of the federal government. Any others than low level are being sent to Charlottesville, North Carolina.

Senator Keating inquired if Utah was to be part of the compact, Mr. Lloyd stated there is high level disposal there, but those facilities are not used for low level disposal.

Senator Halligan inquired as to how long low level waste is radioactive. Mr. Lloyd said that there is no real definition, half life reduces in 1624 years.

Senator Dover asked Mr. Lloyd regarding the containers used

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HB 203 (cont.)

by the Dept. of Health and what items are stored. Mr. Lloyd said they have 30-55 gallon drums, that are very well sealed, some of the items that go into them are clothing, gloves, boots that were contaminated. They haven't filled a container in 14 years. Representative Veleber had no further remarks and the hearing was then closed.

HOUSE BILL 324: Chairman Dover opened hearing and called on Representative Dennis Veleber, Dist. 98, sponsor. Rep. Veleber stated that basically this is provision for water commissioners, distribution of expenses and that a district court can appoint commissioners when needed. He presented testimony, attached as Exhibit '3' for further explanation of the bill.

PROPOSERS: Ron Guse, Dept. of Natural Resources spoke in favor of the bill, stating that last year when the statutes were being reviewed it was found that this language had not been added and this would make the water statutes consistent.

OPPOSERS: There were no opposers.

Senator Story inquired as to the difference between the old law where if a creek was decreed, you had to petition the court to change the decree, and you could not get another water right without petitioning the court. It was explained that was correct, this would allow permits. Senator Story thought this might be bad timing and probably a bill would have to be introduced next year to change it. Senator Story asked what happens in a water shortage. Mr. Guse said that permits would have priority, in a shortage they are shut off by priority. Senator Story didn't think this bill helped any because a commissioner is still needed to shut off any water in event of a shortage. He didn't think there was anything wrong with the bill, but also that it didn't help any situation. Senator Eck inquired if the water commissioner would then be somewhat similar to the old ditch riders. This was agreed.

It was pointed out that some states have all water commissioners, that it is presently under district courts here. Senator Eck then stated she hadn't thought the Dept. of Natural Resources would become involved in water rights.

Hearing was then closed.

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HOUSE BILL 207: Chairman Dover opened hearing and called on Rep. Steve Waldron, sponsor. Rep. Waldron said the bill is to reestablish the board of water and wastewater operators as the operator's advisory council. The audit committee had recommended that this board be reestablished as an advisory committee to the Dept. of Health. They are an advisory committee only. The bill actually makes legal what is being done already. The bill also requires that the department be notified when any certified water or wastewater operator terminates employment, and then it is known when a plant is operating without certified operators. Members of the legislative auditors office could answer questions.

PROPOSERS:

Don Williams, Dept. of Health, stated he recommended the changes proposed, that the board was concerned that certification continue. They can recommend rules and training programs for the operators. His testimony is attached, Exhibit '4'.

OPPOSERS: There were no opposers.

Representative Waldron stated this is important to be sure that water is protected and plants are operating properly.

Senator Keating inquired as to cost for people to become certified. Rep. Waldron stated it is \$20.00. Mr. Williams stated that cost also depends on the level of expertise, that it can be as low as \$5.00. Senator Eck asked what training is involved, Mr. Williams said training is a school of four days.

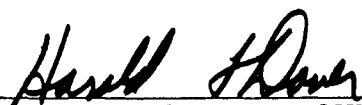
Inquiry was made as to funding for the board, Mr. Williams said it will be from the general fund. Hearing was then closed.

ACTION ON HOUSE BILL 207: Senator Keating moved that House Bill 207 Be Concurred In, vote was called, and motion passed.

ACTION ON HOUSE BILL 203: Senator Keating moved that House Bill 203 on the interstate compact Be Concurred In, all voted 'aye' and motion carried.

ACTION ON HOUSE BILL 324: Senator Story moved that House Bill 324 Be Concurred In, vote was called, all voted 'aye' and motion carried.

There being no further business the meeting was duly adjourned at 2:00 p.m.



SENATOR HAROLD L. DOVER, CHAIRMAN
SENATE NATURAL RESOURCES COMMITTEE



Patricia Hatfield, Sec.

ROLL CALL

SENATE NATURAL RESOURCES COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 3-11-83

NAME	PRESENT	ABSENT	EXCUSED
ECK, Dorothy (D)	✓		
HALLIGAN, Mike (D)	✓		
KEATING, Thomas F. (R)	✓		
LEE, Gary P. (R)	✓		
MANNING, Dave (D)		—	✓
MOHAR, John (D)	✓		
SHAW, James N. (R)	✓		
STORY, Pete (R)	✓		
TVEIT, Larry J. (R)	✓		✓late
VAN VALKENBURG, Fred (D)	✓late		
ETCHART, Mark (R) Vice Chairman	✓		
DOVER, Harold L. (R) Chairman	✓		

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Senate Natural Resources

VISITORS' REGISTER

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(Please leave prepared statement with Secretariat)

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Northwest Interstate Compact on Low-Level Radioactive Waste Management

On December 13, 1980, Congress passed the National Low-Level Radioactive Waste Policy Act (P.L. 96-573). This law provides that states take responsibility for providing for disposal capacity for low-level radioactive wastes generated within their borders except for waste generated as a result of defense activities and federal research and development activities.

The Low-Level Radioactive Waste Policy Act grants permission to states to enter into such compacts as may be necessary to provide for the establishment and operation of regional disposal facilities for low-level radioactive wastes.

The Northwest Interstate Compact on Low-Level Radioactive Waste Management (Northwest Compact) was the first regional compact to be developed. States eligible to join the Northwest Compact are Washington, Oregon, Idaho, Utah, Montana, Wyoming, Alaska, and Hawaii. The states of Washington, Oregon, Idaho, Utah and Hawaii have entered the Northwest Compact by legislative ratification. Montana temporarily entered into the Compact by the Executive Order of Governor Ted Schwinden on November 24, 1981. To remain in the Compact, Montana's Legislature must ratify the Compact prior to the end of the 48th Legislative Session.

The Northwest Compact makes provisions that the party states will be able to continue use of the Washington State low-level waste disposal site located at Hanford, Washington, after the effective date of the Compact. The Compact states have requested that Congress approve the Compact with an effective date of July 1, 1983; however, it is anticipated that Congress will change the effective date to January 1, 1986.

After the effective date of the Compact, only low-level wastes from party states will be accepted for disposal at the Hanford site.

There are several reasons why Montana should remain a party state to the Northwest Compact. Some of these reasons are:

1. If Montana does not remain a party state to the Northwest Compact, Montana will have to develop its own low-level radioactive waste disposal site for wastes generated within its borders.
2. The passage of Initiative 84 expressed the will of Montana voters that a site for the disposal of low-level radioactive wastes will not be developed in Montana.
3. If Montana did develop a site for the disposal of low-level radioactive wastes generated within its borders, the site would have to be operated by a state agency to prevent out-of-state wastes from being shipped to the site under U. S. Department of Transportation rules.
4. The anticipated cost of developing a low-level radioactive waste disposal site in Montana would be several hundred thousand dollars.

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5. Montana presently generates only a few cubic meters of low-level waste per year. The cost of operating a disposal site for such a small volume would be prohibitive.
6. There is no cost to the State of Montana for its participation in the Northwest Compact. The cost of Compact operation will be borne by a Washington State tax assessed on low-level waste disposed at the Hanford site on a volume basis.
7. The Northwest Compact provides a reasonable, safe and economical option for Montana to provide for disposal capacity for its low-level radioactive waste generators.

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IMPLICATIONS OF MONTANA'S LONG-TERM PARTICIPATION
IN THE NORTHWEST INTERSTATE COMPACT ON
LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT

Report to the Montana 48th Legislature

Report Prepared as Directed by HJR 42 by

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Implications of Montana's Long-Term Participation in the Northwest Interstate Compact on Low-Level Radioactive Waste Management

INTRODUCTION

Montana has two facilities that routinely generate low-level radioactive wastes, the University of Montana and Montana State University. The State Department of Health and Environmental Sciences periodically generates small volumes of radioactive waste.

Montana State University disposes of its low-level radioactive wastes in an abandoned mine tunnel located on University property a few miles north of Norris. The University of Montana and the State Department of Health and Environmental Sciences utilize the commercially-operated disposal site located at Hanford, Washington. Montana State University estimates that its mine disposal facility will be filled within five years and then it, too, will have to rely upon a commercially-operated site for disposal.

The two universities each generate approximately 100 ft.³ of radioactive waste per year. The Department of Health generates only 2 or 3 ft.³ per year.

There are numerous industrial, commercial, medical and technological users of radioactive sources in Montana. When these sources (calibration sources, level gauges, nuclear scales, soil moisture density gauges, etc.) are no longer useful, the users must have access to a commercially-operated site for disposal of wastes.

Since 1962, six commercial low-level radioactive waste disposal facilities have been in operation in the United States. Three of the sites have been permanently closed. A fourth site located at Barnwell, South Carolina, has established a monthly volume limitation that has reduced by fifty per cent the

annual volume of waste that the site receives. In 1979, the disposal sites at Beatty, Nevada, and at Hanford, Washington, were temporarily closed to protest violations of transportation and packaging regulations by some shippers.

Although now operating, the disposal site at Beatty could reach capacity as early as 1986 and could potentially be closed earlier. It is the desire of the state of Washington to exclude all disposal of radioactive waste at the Hanford site after July 1, 1983, except for that which will be accepted through Compact provisions.

The federal government passed the Low-Level Radioactive Waste Policy Act (P.L. 96-573) on December 13, 1980. This law provides that states take responsibility for providing for disposal capacity for low-level radioactive wastes generated within their borders except for waste generated as a result of defense activities and federal research and development activities.

The Low-Level Radioactive Waste Policy Act grants permission to states to enter into such compacts as may be necessary to provide for the establishment and operation of regional disposal facilities for low-level radioactive waste. Most states are presently involved in interstate compact negotiations.

NORTHWEST INTERSTATE COMPACT ON LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT

The Northwest Interstate Compact on Low-Level Radioactive Waste Management (Northwest Compact) was the first regional agreement to be finalized and to receive legislative ratification. States eligible to join the Northwest Compact are Washington, Oregon, Idaho, Utah, Montana, Wyoming, Alaska, and Hawaii. The states of Washington, Oregon, Idaho, Utah and Hawaii have entered the Northwest Compact by legislative ratification. Montana has temporarily entered into the Compact by the Executive Order of Governor Ted Schwinden on November 24,

1981. To remain in the Compact, Montana's Legislature must ratify the Compact prior to the end of the 48th Legislative Session or July 1, 1983, whichever occurs first.

Following are the essential features of the Northwest Compact:

1. All party states are required to adopt practices which would assure that all low-level waste shipments conform to the applicable packaging and transportation regulations of the host state.
2. Generally, no host state may accept waste from non-party states after the date of exclusion goes into effect except with a 2/3 vote of the Northwest Low-Level Waste Compact Committee, including the affirmative vote of the host state. (The Northwest Compact Committee is proposing July 1, 1983, as the exclusionary date; however, there is some question as to whether Congress will approve an exclusionary date earlier than January 1, 1986.)
3. Each state is required to exercise good faith with respect to the siting and development of additional low-level waste disposal facilities when needed.
4. The host state is empowered to establish fees and requirements related to its facility to assure that closure, perpetual care and maintenance, and contingency requirements are met, including bonding.
5. The governors of each party state will appoint one official of the state to constitute the Northwest Compact Committee.
6. The Compact Committee is empowered to enter into special or emergency arrangements with states, provinces, individual generators, or regional compact entities outside the Northwest Compact with a 2/3 vote of the Committee required to approve such an agreement, including the approving vote of the host state.

7. Party states will:

- a. maintain an inventory of low-level waste generators;
- b. make periodic unannounced inspections at generator's site;
- c. authorize shipping containers;
- d. perform inspection of carriers and enforce regulations;
- e. take appropriate enforcement action after receiving notification from the host state that a generator is in violation.

COMPACT COST TO PARTY STATES

The Northwest Compact Committee has received a grant from the U. S. Department of Energy (DOE) to underwrite operational funding for the Compact Committee until such time that the Compact becomes operational. Funds to maintain operation of the Compact Committee will be generated through host state charges per unit volume to waste generators utilizing the disposal site. There is no anticipated cost to party states for participation in the Northwest Compact other than costs incidental to inspection of waste generators and carriers. In Montana, these costs will be absorbed by existing programs. No Fiscal Note will accompany legislation prepared to maintain Montana's participation in the Northwest Compact.

WITHDRAWAL FROM THE COMPACT

Any party state can withdraw from the Northwest Compact by enacting a statute repealing its approval.

CONCLUSIONS

Montana generates a relatively small volume of low-level radioactive waste. During the past few years, an average of about 200 cubic feet of such waste has been generated per year.

It is not economically feasible for Montana to develop and maintain a low-level radioactive waste disposal site for disposal of wastes generated within the state.

The Northwest Compact provides a reasonable, safe and economical option for Montana to provide for disposal capacity for its low-level radioactive waste generators. To maintain this option, the 48th Legislature must ratify the Northwest Compact.

Proposed legislation to maintain Montana's participation in the Northwest Compact will be submitted to the 48th Legislature for consideration.

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House Bill 324

Background Historical Information

Presently Sections 85-5-101, MCA and 85-5-201, MCA, provide for the appointment of water commissioners, and the distribution of water and related expenses. These particular statutes relate only to district court decreed streams. It provides the district court judge with the authority to appoint a water commissioner on a stream decreed by the court when there is a water shortage and there is a need to distribute and apportion the water rights by priority on the specified stream. The court appointed water commissioner is an employee of the court and carries out the instructions of the district court judge. The water commissioner is paid by the water users on the stream on a proportionate share basis.

The obvious question arises--Do the permittees and certificate holders of water rights issued by the Department come under the jurisdiction of the district court judge and water commissioner, and would they be required to pay proportionate costs of the water commissioners costs? Prior to 1979 it appeared clear that the permit and certificate water right holders did not specifically come under the authority of the district court judge and appointed water commissioners on decreed streams. In 1979 Section 85-5-101, MCA was amended to include permits and certificates. A portion of that section states, "The commissioners shall have authority to admeasure and distribute to the parties owning water rights in the source affected by the decree the waters to which they are entitled, according to their rights as fixed by the decree and by any certificates and permits issued under Chapter 2 of this title".

Based on the 1979 amendment to this section the Department has been conditioning permits and any certificates on decreed streams with the following condition:

"The water right granted by this Permit is subject to the authority of court appointed water commissioners, if and when appointed, to admeasure and distribute to the parties using water in the source of supply the water to which they are entitled. The Permittee shall pay his proportionate share of the fees and compensation and expenses, as fixed by the district court, incurred in the distribution of the waters granted in this Provisional Permit."

HB 324
Need for Proposed Amendments

Since 1979 and more recently within the last year, the Department has reviewed the water commissioner statutes found in Chapter 5 of Title 85, MCA and saw a definite need to further clarify Sections 85-5-101 and 85-5-201, MCA, to alleviate any confusion mentioned above as to the applicability of the statutes over Department issued permits and certificates on decreed streams.

HB 324
Therefore ~~the proposed amendments~~ would simply further clarify the two sections not previously clarified in the 1979 Legislative amendment and make it clearer that permits and certificates issued by the Department do come under the authority of the district court judge and the appointed water commissioner when the need arises to distribute and apportion all water rights on the decreed stream.

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Permit and certificate holders would be the first to be shut down by the water commissioner when water shortages occur, since their priority dates are relatively new as compared to decreed water rights on the same source.

EXPLANATION OF HOUSE BILL 207
**REESTABLISHING THE BOARD OF WATER AND WASTEWATER OPERATORS
AND AMENDING SEVERAL SECTIONS OF THE STATUTES
(SPONSORED BY REPRESENTATIVE WALDRON)**

As a result of a sunset performance audit and a subsequent public hearing, the Legislative Audit Committee recommends that the Board of Water and Wastewater Operators be reestablished as an advisory council to the Department of Health and Environmental Sciences. Sections 1, 2, and 4 of this bill merely reestablish the board as an advisory council.

Section 3 (page 7, line 2) maintains the current membership of the board on the council.

Section 5 (page 10, line 25) increases the compensation of council members to that of other advisory councils. Currently members are compensated \$20 per day. This would increase the compensation to \$25 per day.

Sections 5, 6, 11, 14, and 15 clarify the council duties as being only advisory. These sections remove the council's authority to examine and recommend candidates for certification and transfers this authority to the department, since the department currently has the authority to certify and discipline certificate holders. The disciplinary authority of the department is also expanded to include probation, reprimand, and censure. Section 6 also gives the department the authority to establish continuing education requirements for certificate holders.

Section 7 merely changes any reference to a board to the council.

Section 8 removes the responsibility of the council to make recommendations to the department on which persons should be certified since the examination process was transferred to the department in Section 6 of this bill.

Section 9 (page 12, line 23) allows the department to issue temporary certificates which are valid for up to one year. Currently there is no statutory authority for the department to issue temporary certificates. However, to help facilitate certification in the past, the department issued temporary operator certificates. These certificates were issued to people who applied for certification but had not yet taken the exam. This section would allow individuals to be certified and operate treatment plants while waiting for administration of the exam.

Sections 10 and 13 (page 13, line 9) amend the law to allow the department to adopt appropriate fee schedules rather than having to change the fees through amending the statutes.

Section 12 (page 14, line 11) requires that the department be notified within 3 working days of when any certified water or

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wastewater operator terminates employment. In this way, the department will be notified of treatment plants and facilities that may be operating without certified operators.

STANDING COMMITTEE REPORT

March 11 19 83

MR. PRESIDENT:

We, your committee on **NATURAL RESOURCES**

having had under consideration **HOUSE** Bill No. **324**

Valeber (Story)

Respectfully report as follows: That **HOUSE** Bill No. **324**

BE CONCURRED IN
DOXKASCK

H.C.

STANDING COMMITTEE REPORT

March 11 1963

MR. **PRESIDENT**

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

having had under consideration **HOUSE** Bill No. **207**

Waldron (Van Valkenburg)

Respectfully report as follows: That **HOUSE** Bill No. **207**

BE CONCURRED IN
XOCKASS

H.C.

STANDING COMMITTEE REPORT

March 11 1983

MR. **PRESIDENT**

We, your committee on **NATURAL RESOURCES**

having had under consideration **HOUSE** Bill No. **203**

Veleber (Keating)

Respectfully report as follows: That..... **HOUSE** Bill No. **203**

BE CONCURRED IN
DO PASS