

MINUTES OF THE MEETING
NATURAL RESOURCES
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

January 28, 1987

The meeting of the Natural Resources Committee was called to order by Chairman Tom Jones on January 28, 1987, at 1:00 p.m. in Room 312 of the State Capitol.

ROLL CALL: All committee members were present, with the exception of Rep. Harp who was absent.

HOUSE BILL NO. 343: Rep. Gene Donaldson, District 43, sponsor, stated HB 343 is at the request of the Department of Natural Resources and deals with the ability to establish flood plains and flood ways, and the storage of this accumulated data showing how far the water may have risen. Many cases now, have seen development in perhaps creeks and streams, but we do not have the historical data. This bill would allow them to use the Federal Emergency Management Agency maps (FEMA) established to determine the level of water in these flood plains and flood ways. This bill merely simplifies the establishment of floodplains for the purposes of planning for types of insurance that may be necessary.

PROPOSERS: Rick Bondy, Chief of Engineering Bureau for the Department of Natural Resources, stated HB 343 would help in their management of Montana's flood plains. The goal of their floodplain management program is to reduce the need for flood disaster systems to people that have damage caused by floods. They estimate that floodplain management regulations reduce the costs of damages caused by floods by approximately 70%. They are trying to keep the counties in compliance with federal law, so they can, in fact, receive federal disaster assistance, and the people in these counties can get flood insurance. This can be difficult for counties because the maps provided to them by the Federal Emergency Management Agency do not meet current state standards. It is simply too expensive to go out and meet those standards for floodplain regulations when no one really cares about the situation anyway. We have proposed reducing the standards to which we could include the floodplains and to compensate and keep our delineations from being unreasonable.

JIM HENRY, representing the Emergency Disaster Services Division, stated their agency coordinates both federal and state disaster assistance programs, and they feel by allowing the counties to better regulate their floodplains, in

order to get into the National floodplains insurance program, will assist in the overall effort of reducing the cost of the taxpayer in disaster assistance. If the flood insurance program is made available to residents in these counties, when a disaster did occur and they did get flooded out, their first course for repair and reconstruction would be covered by the insurance program. We feel this will help the counties get into the program and reduce the work load and the cost to the taxpayer.

NO OPPONENTS

REP. SIMON wondered how the FEMA maps were designed.

MR. BONDY stated they are drawn using aerial photography using U.S.G.S. quad sheets. They are based on topography that is taken from maps, rather than topography that is actually measured in the field.

REP. SIMON wanted to know if it was true, that some of these maps were drawn by simply looking at these aerial photographs and by looking at the vegetation along the stream banks, including no field data that could be considered accurate. Mr. Bondy stated yes, this is true.

REP. SIMON stated, he felt, as taxpayers, everyone has the right to fight these kinds of maps being used with inaccurate data and wanted to know if they have had this circumstance occur already.

MR. BONDY stated the idea behind the bill is that we would be using the maps mentioned; however, it would be made easier for the affected landowner to come in and dispute the use of these maps with the department. That is the entire reason for lowering the standards.

REP. HARPER asked Mr. Henry regarding the section of law that charges your department with drawing and designating floodplains and floodways, and according to the way the law reads now, you must go on site to collect enough data to be able to assure these estimations with reasonable hydrological certainty. He then asked, if this bill is passed, would their responsibility be done as soon as they had photocopies of those maps and held a public hearing. He also wanted to know how accurate these maps will be, since they will now be the basis of their operation.

MR. HENRY stated he is somewhat out of his element regarding the maps; however, when the maps were first presented starting the process, there were some imperfections with them. He stated those kinds of things are starting to improve. Their area of expertise is disaster recovery and

the coordination of disaster assistance to flood victims. Their concern is, if it is easier for people to get flood insurance, then there are less impacts on the taxpayers and the programs they are provided after they have been flooded.

REP. DONALDSON closed by stating this is a bill simplifying the area of the Department of Natural Resources to determine where a flood plain is using less expensive field surveys and to eventually use updated and accurate FEMA maps enhancing the ability of the public to be involved.

HEARING CLOSED ON HB 343.

HOUSE BILL NO. 308: Rep. Joan Miles, District 45, sponsor, stated this proposal provides for exempting another set of dams. It is not just exempting them because they already come under another permitting process, and this includes dams that are part of major facilities that are certified and permitted under the Major Facility Siting Act. Under existing language, technically, if the power company wants to build a new power plant in the state, and a dam is part of that power plant, they would have to have the entire facility permitted under the Major Facility Siting Act and the dam portion of it permitted under the Dam Safety Act. Rep. Miles stated that is just too many "dam" permits. So this alleviates one step, which also keeps costs down.

PROPOSONENTS: Han Kelly, representing the Montana Water Development Association, gave background on the Safety of Dams Act. He stated he found out that these dams, under the Majority Facility Siting Act, were not exempted. He stated it was their intention, under the Safety of Dams Act, that they be exempt, and at one time they were. However, the bill was rewritten so many times in order to satisfy statelands and some of the engineering firms, it inadvertently was left out. He stated the Water Development Association supports this change and thinks those dams should be exempted from the Safety of Dams Act in order to be consistent and not interfere with the Major Facility Siting Act.

ART WITTICH, representing Montana Power Company, submitted testimony (Exhibit 2). He stated the Montana Dam Safety Act (DSA) was enacted in 1985 to provide for the safe construction and maintenance of certain dams. The DSA presently recognizes exemptions for dams covered by a mining operation permit or those dams licensed by the Federal Energy Regulatory Commission. This bill adds a third exemption for dams certified under the Montana Major Facility Siting Act (MSFA), which is also operated under current engineering standards and subject to regulatory review by the Montana Department of Natural Resources and Conservation. An

exemption for certified MFSA facilities is appropriate due to the extensive pre-construction and post-construction monitoring requirements of MFSA. Additionally, this exemption is consistent with the original intent of the MFSA as a comprehensive "one-stop" permitting process. The DNRC has also recognized the validity of this position by exempting certified MFSA facilities in their rulemaking on the DSA.

LAWRENCE SIROKY, representing Department of Natural Resources, submitted testimony (Exhibit 3). He stated they support the bill and the amendment which would clarify and affirm the position taken by the Department. The proposal would affirm that a high-hazard dam built as an associated facility to a major facility, would be exempt from the procedural requirements of the Dam Safety Act. The dam safety aspects would be part of the analysis and requirements for a certificate of environmental compatibility and public need under the Major Facility Siting Act.

RICK MEIS, representing the Montana Environmental Information Center, submitted testimony (Exhibit 4). He stated MEIC views this proposal as a positive step in reducing duplication and unneeded expenditures of time and money in the review of dam development projects in Montana. The Major Facility Siting Act provides for sound and thorough review of these projects. We do not feel any problems will arise for the exemptions specified in this bill.

NO OPPONENTS

REP. KADAS asked what kind of inspections are required under the Siting Act for these kind of dams.

MR. SIROKY stated under the Dam Safety Act, it requires high hazard dams to be inspected at least once every five years by a qualified engineer.

REP. KADAS wanted to clarify the reason for the bill, due to the fact the dams are inspected under another certificate.

MT. SIROKY stated they are already certified under the Major Facility Siting Act, which concerns safety requirements for inspection, and those types of things are covered if there is a condition, or part of a condition, in that certificate under the Siting Act.

REP. KADAS asked Rep. Miles how much money this would save.

REP. MILES stated she assumes what they are talking about, is for the person building the dam. Instead of having to go through two permitting processes, he would only be required to go through one. As far as saving money for a state

agency, it probably would not save much. In the case of a department, perhaps, having to do two reviews would save them a step in that area.

REP. RANEY stated he felt Rep. Kadas's question was not answered. He asked, under the Dam Safety Act, every dam gets inspected every five years, and if we take the Colstrip dams out from under the Dam Safety Act, how often will those dams be inspected.

REP. MILES stated she had the same question when looking at the proposal and stated it does not clarify under the Siting Act what we would do. If they were permitting a dam as part of the facility, they could write into that position the frequency of inspection and all other pertinent information. It does not specify "frequency" in that particular act. However, it is administered by the same agency, because they know what the legislature has adopted from the Dam Safety Act in terms of what is considered reasonable.

REP. GRADY had concerns with the charges involved. He stated this is a pretty extensive inspection, and wanted to know who pays for this. DNRC or the facility.

MR. SIROKY stated last session there was discussion on who conducts the inspection on the high hazard dams. The law was finally passed stating the inspection had to be performed by an engineer hired by the owner. The department would not do those inspections unless there is a complaint on the dam. How much those inspections cost would depend on a case by case basis.

REP. GRADY wondered if the owner of the facility sets the specifications, or do they come from DNRC.

MR. SIROKY stated we are setting those in a draft rules right now. The statute requires the inspections be performed on a frequency of not more than five years. The department sets the period based on the condition of the dam and the type of dam, to determine whether it is safe or not. There are some things he will have to use his own judgement on in determining whether the dam is safe or not.

REP. GRADY asked what the average cost for an inspection would be.

ART WITTICH stated they are usually in the neighborhood of \$2,000 to \$5,000, and required by law, that the inspection be conducted by a professional.

REP. MILES stated this policy has been established and is permitted under other laws. As long as that covers the

dams, we are going to keep them under this. We are really not trying to take it out from being regulated. She did carry this bill at the request of the Power Company and assured the committee that this will not happen very often.

HEARING CLOSED ON HB 308.

HOUSE BILL NO. 370: Rep. Tom Asay, District 27, sponsor, stated this is at the request of the Department of State Lands. It intends to cover an area of reclamation that has not been fully covered before. In the past, any reclamation that was done, did cover reclamation for the mining itself, but there was an area that was somewhat excluded regarding anything that was on the adjoining site and not necessarily covered by the reclamation law. This bill is intended to provide an exemption for counties and others that are qualified, to take up to 1,000 cubic yards of gravel without having to file the request that is normally required. This would require notification of the department and would merely specify times, in the bill, to follow in with their already pre-filed reclamation permit. He then went through the bill section by section for the committee and reserved the right to close.

PROPOSERS: GARY AMESTOY, Area Reclamation Division, Department of State Lands, submitted testimony (Exhibit 5). He stated HB 370 would amend the Opencut Act to include provisions for (1) allowing the holder of a valid opencut contract to mine up to 1,000 cubic yards in an unpermitted location without first obtaining departmental approval; (2) the permitting of processing facilities that are contiguous to a mine site; and (3) waiver of the civil penalty requirements for minor violations of the Opencut Act. The amendment that allows the holder of a valid opencut contract to mine 1,000 cubic yards in an unpermitted area was developed in response to concerns expressed by counties that in times of unexpected or emergency situations, they need the flexibility to obtain gravel without having first obtained authorization from the department. The waiver of the civil penalty provision for minor violations will allow for more flexibility in the administration of the Act and eliminate civil penalties for those violations that do not represent potential harm to public health, public safety or the environment.

GEORGE OCHENSKI representing the Montana Environmental Information Center, stated they do support HB 370; however, they do have some suggested amendments regarding concerns of what would happen if someone just walks away, especially if there is a waiver for the civil penalty. He stated further explanation is needed on this specific part of the bill. He stated another clarifying amendment should be on page 12,

line 3, strike "surface and groundwater will be given appropriate protection from potential significant deterioration". MEIC felt it would be better to merely state, "surface and groundwater will be given appropriate protection from deterioration." They feel "potential significant" can leave it too wide open, causing various interpretations. He stated MEIC can support HB 370 with the suggested amendments and urged the committee to give the bill a do pass recommendation.

NO OPPONENTS

REP. COBB asked Mr. Amestoy if there would be a new bond for this effected land, or does the bond cover all effective lands.

MR. AMESTOY stated the way they envision this to work before any person or operator can exercise this provision: 1) they have to have a valid existing Opencut contract; 2) if they have a valid contract, and meet the provisions as outlined, they must notify the department and with 30 days, must have complete size information, and all pertinent material. If this was just going to be an operation where they need to get in on an emergency basis, take a thousand yards or less out, they would notify the department and we would follow up on it. Within 30 days, if we have not yet got all the information from them, they would be in violation of the Act. As far as the bond is concerned, if they would go ahead in accordance with the plan they had submitted, and wanted to keep this bid open on an extended basis, they would have to go through our formal amendment process in the area that would be mined.

REP. KADAS asked what a miner violation is.

MR. AMESTOY stated in many cases, there are violations that are committed when the opencut operator says they will have a specific job done in an area by a certain date. When this date rolls around and they do not have the job done but they do have it done at a later date, the intent of the law is still being met and, technically, they are in violation of their approved permit. But, there was no environmental damage or harm to the public health or public safety so we would consider some as a minor violation.

REP. KADAS asked after the violation is committed and the fines are collected, how often these occasions occur involving a fine.

MR. AMESTOY stated this happens very rarely. They probably do not issue more than 20 violations a year statewide with

the average amount of the fine being anywhere from \$200 to \$600.

REP. HARPER asked if he was a miner with a number of permits, and as long as he has a valid permit for a contract some where in the state, would he be eligible to use this.

MR. AMESTOY answered yes.

REP. HARPER then stated the extension of rule making authority clarifies the existing rules and wondered if there would be any way for them to turn this miner down since there seems to be no discretionary language from the Department.

MR. AMESTOY stated he would guess it is a possibility. However the only operators they anticipate using this would be the ones that handle the bulk of the emergency situations where they cannot plan ahead due to flash flood situation.

REP. KADAS asked Mr. Amestoy what "appropriate protection" means for the department.

MR. AMESTOY stated their concerns are requirements of the Water Quality Act and the Montana Water Rights. As far as appropriate protection is concerned, we are not going to allow degradation or deterioration of state or groundwater, and would exercise any authority needed to enforce these requirements.

REP. ASAY closed by stating he felt the amendment, due to the water deterioration, was a good improvement. He further stated this is a good bill which would prevent the counties, who insist they will do something, to require these permits. In the long run, this would reduce some of the paperwork.

HEARING CLOSED ON HB 370.

HOUSE BILL NO. 388: Rep. Tom Asay, District 27, sponsor, stated there is an amendment to the title, which he distributed copies of to the committee (Exhibit 6). He stated there also is a statement of intent with the bill which he also distributed (Exhibit 7). He stated the bill requires this statement of intent due to the extent of existing authority by the Board of Natural Resources in consultation to permit rules governing the sale, transfer or other disposition of state property without regard to another law regarding disposition of that property. This would also include various irrigation projects the state does have position on, to draw off the state. Many of these are ongoing. In many cases, they are more of a liability to the state than an asset knowing the logistics can be run much more efficiently and with the full operational capability of

the water users themselves. In order to help clarify this, Rep. Asay stated they do have someone from DNRC. With that, he reserved the right to close.

PROPONENTS: Rick Bondy, Chief of Engineering Bureau, Department of Natural Resources, stated one of their functions is the management of the state owned water projects. He reiterated, as Rep. Asay had said, several projects where both the State of Montana and the projects users would profit if the users own the project and DNRC was no longer involved. Most of these are some of the canal projects and some of their other projects that are no longer being used. The determination of market values is rather important in the disposition process of these projects. It seems to them that it logically should include the effects of all encumbrances there are on the project including the liabilities we have as the owner of the project and water delivery obligations. This bill clarifies that we are suppose to use these encumbrances in determining the value of the project to the state, which translates the price we must quote the potential owner for these projects. He urged the committee's support of HB 388.

NO OPPONENTS

NO QUESTIONS FROM THE COMMITTEE

Rep. Asay closed by stating this was a simple bill clarifying the position of determining what these projects are worth to the water users and the Department of Natural Resources. He urged the committee to give the bill a favorable recommendation.

HEARING CLOSED ON HB 388.

EXECUTIVE SESSION:

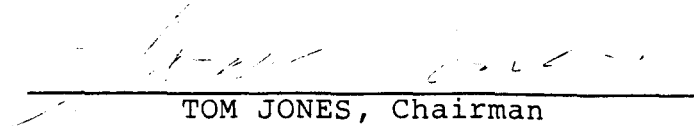
HOUSE BILL NO. 388: Rep. Asay moved HB 388 DO PASS. Rep. Harper moved the amendment to HB 388. Question being called on the amendment, the motion CARRIED unanimously. Rep. Harper moved HB 388 DO PASS AS AMENDED. Question was then called, the motion CARRIED unanimously. See Standing Committee Report No. 1.

HOUSE BILL NO. 370: Rep. Asay moved HB 370 DO PASS. Rep. Raney then moved to amend HB 370 on page 12, line 3. Rep. Asay withdrew his DO PASS motion. Rep. Harper was concerned with the potential loophole regarding exemptions, and felt the bill needed additional work. He suggested putting the bill in a subcommittee to try and work out these anticipated problems.

Chairman Jones appointed a subcommittee for HB 370 including Reps. Asay, Cobb and Harper.

HOUSE BILL NO. 343: Rep. Smith moved HB 343 DO PASS. Question was then called, the motion CARRIED, with Reps. Meyers and Simon voting NO.

ADJOURNMENT: There being no further business to come before the committee, the hearing was adjourned at 2:15 p.m.



TOM JONES, Chairman

DAILY ROLL CALL

NATURAL RESOURCES COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Jan. 28 1987

NAME	PRESENT	ABSENT	EXCUSED
TOM JONES, CHAIRMAN	X		
CLYDE SMITH, VICE CHAIRMAN	X		
KELLY ADDY	X		
TOM ASAY	X		
JOHN COBB	X		
BEN COHEN	X		
ED GRADY	X		
JOHN HARP			X
HAL HARPER	X		
MIKE KADAS	X		
AL MEYERS	X		
JOAN MILES	X		
MARY LOU PETERSON	X		
BOB RANEY	X		
RANDE ROTH	X		
ANGELA RUSSELL	X		
BRUCE SIMON	X		
BILL STRIZICH	X		
STAFF: EQC HUGH ZACKHEIM			

STANDING COMMITTEE REPORT

FEBRUARY 13

19 87

Mr. Speaker: We, the Committee on NATURAL RESOURCES

report _____

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

REP. TOM JONES

Chairman

"AN ACT PROVIDING A REBUTABLE PRESUMPTION THAT DESIGNATIONS OF FLOODPLAINS AND FLOODWAYS MADE ACCORDING TO A FLOOD HAZARD BOUNDARY MAP ARE BASED ON REASONABLE HYDROLOGICAL CERTAINTY; AMENDING SECTION 76-5-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

FIRST

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STANDING COMMITTEE REPORT

JANUARY 28

19 87

Mr. Speaker: We, the committee on NATURAL RESOURCES

report _____

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

REP. TOM JONES

Chairman

"AN ACT TO CLARIFY THAT THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION MAY SELL, LEASE OR OTHERWISE DISPOSE OF WATER WITHOUT REGARD TO OTHER LAWS PROVIDING FOR DISPOSITION OF STATE PROPERTY; TO CLARIFY THAT THE MARKET VALUE OF A WATER PROJECT MUST INCLUDE ALL ENCUMBRANCES AND LIMITATIONS ON THE PROJECT; TO REMOVE THE REFERENCE TO THE BOARD OF NATURAL RESOURCES AND CONSERVATION TO REFLECT THAT WATER BONDS MAY BE ISSUED BY A VARIETY OF AUTHORITIES; AMENDING SECTIONS 35-1-210 AND 35-1-211, MCA; AND PROVIDING AN EFFECTIVE DATE."

1. Title, line 8.
Following: "WATER"
Insert: "PROJECTS"

FIRST reading copy (WHITE color)

EXHIBIT 11
DATE 1 28 87
HB 343

STATEMENT OF INTENT
HOUSE BILL NO. 343

This bill requires a statement of intent because it extends the existing authority of the Board of Natural Resources and Conservation to make rules regulating the designation of floodplains and floodways. The purpose of this act is to allow the Board of Natural Resources and Conservation to use maps prepared by the Federal Emergency Management Agency (FEMA) to meet the requirement of hydrological certainty in designating floodplains and floodways. Rules adopted by the Board under this act should describe the maps prepared by the FEMA which are used to help designate floodplains and floodways. Presently, these maps are referred to as flood hazard boundary maps, however, that designation may be changed by FEMA for future designations. The rules adopted by the Board should be periodically updated to reflect the nomenclature given to the maps developed by the federal entity.

1/28/87

HB 308 - Act exempting certified MFSA facilities
from the Dam Safety Act

The Montana Dam Safety Act (DSA) was enacted in 1985 to provide for the safe construction and maintenance of certain dams. The DSA presently recognizes exemptions for dams covered by a mining operation permit or those dams licensed by the Federal Energy Regulatory Commission. These types of dams are exempt because they are constructed and operated in accordance with good engineering practice and subject to on-going oversight by a regulatory agency. This House Bill adds a third exemption for dams certified under the Montana Major Facility Siting Act (MFSA), which are also operated under current engineering standards and subject to regulatory review by the Montana Department of Natural Resources and Conservation (DNRC).

An exemption for certified MFSA facilities is appropriate due to the extensive pre-construction and post-construction monitoring requirements of MFSA. Additionally, this exemption is consistent with the original intent of MFSA as a comprehensive "one-stop" permitting process. The DNRC has also recognized the validity of this position by exempting certified MFSA facilities in their rulemaking on the DSA (Draft Rule II).

The Montana Power Company retains a staff of competent engineers to plan and maintain its facilities. Even though only one of the dams at Colstrip impound only water (the other three and a planned fourth dam impound coal ash sludge), all dams were designed at current engineering standards for water dams. These dams are also continually monitored to ensure dam safety. Therefore, compliance with the additional permitting requirements of the DSA would only impose an unnecessary duplication of activities and costs on the Colstrip owners and their customers.

The Montana Power Company
Arthur V. Wittich

1-28-87
308

January 28, 1987

DNRC'S TESTIMONY

HB 308

The Department appears as a proponent of HB 308. The amendment would clarify and affirm the position taken by the Department in a letter to the Montana Power Company on September 10, 1986, after a review of the Major Facility Siting Act and the Dam Safety Act. The proposal would affirm that a high-hazard dam built as an associated facility to a major facility would be exempt from the procedural requirements of the Dam Safety Act. The dam safety aspects would be a part of the analysis and requirements for a certificate of environmental compatibility and public need under the Major Facility Siting Act.

This proposed change would be consistent with other exemptions in the Act. The Dam Safety Act currently does not regulate dams that are licensed and subject to inspection by the Federal Energy Regulatory Commission, such as MPC hydro-power dams.

The Department appears in support of the bill.



The Montana Environmental Information Center Action Fund

• P.O. Box 1184, Helena, Montana 59624

(406)443-2520

EXHIBIT (4)

DATE 1-28-87

HB 308

House Bill 308 -- MEIC Testimony

Mr. Chairman, members of the Committee, for the record my name is Rick Meis. I represent the members of the Montana Environmental Information Center.

I stand today in support of HB 308, a bill to exempt facilities certified under the Montana Major Facility Siting Act from certain provisions of the Montana Dam Safety Act.

MEIC views this proposal as a positive step in reducing duplication and unneeded expenditures of time and money in the review of dam development projects in Montana. The Major Facility Siting Act provides for sound and thorough review of these projects. We do not feel any problems will arise from the exemptions specified in this bill.

I urge the Committee to give HB 308 a "do pass" recommendation. Thank you.

DEPARTMENT OF STATE LANDS

TESTIMONY FOR HB 370

(1:00 P.M. JANUARY 28, 1987, HOUSE NATURAL RESOURCE COMMITTEE)

HB 370 is being introduced as the request of the Department of State Lands. This amends the Opencut Act to include provisions for (1) allowing the holder of a valid opencut contract to mine up to 1,000 cubic yards in an unpermitted location without first obtaining departmental approval; (2) the permitting of processing facilities that are contiguous to a mine site; and (3) waiver of the civil penalty requirements for minor violations of the Opencut Act.

The amendment that allows the holder of a valid opencut contract to mine 1,000 cubic yards in an unpermitted area was developed in response to concerns expressed by counties that in times of unexpected or emergency situations, they need the flexibility to obtain gravel without having first obtained authorization from the department. The specific criteria outlined in the amendment is designed to protect the public and the environment.

For your reference, 1,000 cubic yards of gravel is equivalent to 200 loads in trucks similar to those used by the Montana Highway Department snowplow trucks.

The inclusion of processing facilities that are contiguous to the minesite such as access roads, mineral stockpile areas and treatment or sediment ponds into the permit area will provide for better reclamation of the entire opencut mine site, not just the pit itself. This is necessary because under existing law only the pit area is required to be reclaimed but the associated disturbances can be left unreclaimed. This provision will also help reduce weed problems that are associated with unreclaimed disturbed sites.

The waiver of the civil penalty provision for minor violations will allow for more flexibility in the administration of the Act and eliminate civil penalties for those violations that do not represent potential harm to public health, public safety or the environment.

The Department recommends your support of these amendments.

(6)
1-28-67
388

HOUSE BILL NO. 388
INTRODUCED BILL
AMENDMENTS BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION

1. Title, line 8
Following: "DISPOSE OF WATER"
Insert: "PROJECTS"

Statement of Intent

A statement of intent is required for this bill to provide guidelines on rules for proposed subsection (3) of section 82-4-441(3), MCA. Currently this section requires the imposition of a penalty regardless of the seriousness of a violation. A waiver of penalty provision would allow the Department of State Lands to serve a notice of noncompliance informing the operator of violations of the Act on contract, without imposing a fine for minor violations.

It is anticipated that the rules would set forth those instances where a violation would not result in a fine. According to the amendment to section 82-4-441(3), MCA, a fine may be waived if there is no harm to the public health, public safety, the environment and does not impair the administration of the Opencut Act. The adopted rules will set for a mechanism whereby the Department will exercise its discretion in waiving a penalty. Also, the rules will set forth, within the guidelines of the statute, which violations do not warrant the imposition of a fine, such as:

1. Minor violations which are inadvertent or unavoidable or result from an emergency situation.
2. The violation will not significantly alter or hinder the approved reclaimed use, or reclamation.
3. There has not been a history of such violations by the operator.
4. The operator has shown good faith in rectifying the violation.

VISITORS' REGISTER

NATURAL RESOURCES

COMMITTEE

BILL NO. HB 308; HB 343; HB 370;
HB 388
 SPONSOR MILES, DONALDSON, ASAY

DATE JANUARY 28, 1987

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
K.M. Kelly	Helena - MUDA	✓	
RICHARD BONDY	HELENA	+	
STEVE WELCH	HELENA		
Gary Amos Jay	Helena - DSL	370 ✓	
JAN HENRY	DIV OF D.E.S HB 343	✓	
ART WITTACH	MPC - Butte	✓ 308	
JOHN C. VAN DAVEER	MPC - BUTTE	✓ 308	
Rick Meis	MT Environmental Info Center	✓ 308	
GENE PHILLIPS	PP&L	✓ 308	
DON A/Ac INTYRE	DNRC	✓	
Laurence Sindy	DNRC	x HB 308	
GEO. CCHENSKI	MT. ENV. INF. CNTR	SUPPORT 370 w/ AMEND.	
Bob. Helbling	2117. w/ mt. Health	HB 343	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.