

MINUTES OF THE MEETING
HIGHWAYS & TRANSPORTATION COMMITTEE
MONTANA STATE SENATE

March 26, 1987

The meeting of the Highways & Transportation Committee was called to order at 1:00 p.m. on March 26, 1987, by Chairman Larry Tveit in Room 410 of the State Capitol.

ROLL CALL: All members of the committee were present except Senator Meyer who was absent.

CONSIDERATION OF HOUSE BILL 506: Representative Stella Hansen, House District 57, sponsor of the bill, explained that HB 506 went through both houses of the legislature and through enrolling before it was pulled back as opponents said they did not have time to testify on it. It is a real concern to Rep. Hansen because she has been working with the Clark Fork Coalition to try and clean up the Clark Fork River from the headwater at Fairmont to Lake Pondera. She has constituents who travel from Butte to Sandpoint and who are really concerned about the Clark Fork River.

The EPA has tested the water and found it contains zinc, lead, copper, mercury, and arsenic. When slag is used on the roads near the river it runs into the water, and people would like to clean this up so that there can be adequate fishing along the river, making it into a blue river trout stream. Rep. Hansen said that although we are spending money to clean up this site, we are making it into a hazardous waste area. It would not take much for the state of Montana and the federal government to put money into superfunds and have them distribute the various materials at the site of the cleanup.

PROPONENTS: John Wardel, Director of the U.S. Environmental Protection Agency said he was appearing at the request of George Ochenski of the Montana Environmental Information Center to provide the following information from the EPA. In February 1984, Mr. Ochenski, Chairman of the Anaconda Citizen Advisory Council, stated that their concerns were regarding the slag at the Anaconda Smelter. They are the same today. The key points are that slag contains arsenic, lead, cadmium and chromium that could be leached into water or enter into the air under certain conditions.

Common sense would suggest using an alternate material for sanding if possible, although there are no current state or federal laws prohibiting use of slag for road sanding.

If slag is used for sanding, the EPA will be obliged to study the potential for environmental public health problems. If this study showed problems, organizations using the slag would be required by the EPA to correct the problem. (See Exhibit I)

George Ochenski of the Montana Environmental Information Center presented samples of slag to the committee, urging them to rub the slag between their fingers as they could cut themselves with it. He said that there is no reason why the people of Anaconda should be blessed with having hazardous waste on their roads, in the air or in the snow; that they should be able to use plain sand like everybody else.

Steve Pilcher, representing the Water Quality Bureau, Montana Department of Health & Environmental Sciences, testified that at the earlier hearing he had made reference to a letter that was sent to the City-County Manager for the county. Based on the threat to the human environment, it was their recommendation that slag not be used to sand the road in that area. He said it should not be used for more than a quarter mile from Georgetown Lake or within 100 yards of bridges in the county.

Stan Bradshaw, representing the State Council of Trout Unlimited testified that they supported HB 506.

Kathleen Sweet of Anaconda testified that she supports HB 506 as a concerned citizen because she has been living in Montana for 5 1/2 years and lives on a small county road where slag is being used and it can be seen along the side of the road when she runs.

Christin Fisher testified that she also supports HB 506.

OPPONENTS: Dan Marinkovich opposed House Bill 506 unless there were amendments to the bill. (See Exhibit II)

Senator Haffey, Senate District 33, testified that he could be classified as either an opponent or proponent. He then asked that House Bill 506 pass through the Senate on 3rd Reading as Senator Lynch had brought back HB 506 because there were citizens who were not aware of it and were not able to testify on the bill. He said that both he and Sen. Lynch would like the committee to hear about the use of slag on roads and that there is not one person in this room, including the county-city management of Anaconda-Deer Lodge, that advocates poisoning our citizens. He said they receive no relief whatsoever from the state for helping sand the roads and this is a tremendous cost to Anaconda-Deer Lodge.

The EPA does not really know what slag does and they have used slag for many years in some limited instances. The reason HB 506 was called for and voted on by the Senate and House of Representatives was to present amendments in order to use slag in limited situations.

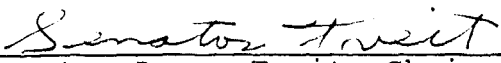
R. Ben Bifoss, City-County Manager, Anaconda-Deer Lodge, testified that he opposes HB 506 in its current form because it prohibits the use of slag on highways within the state and Anaconda is the only location where it is being used. He thanked the Senator for making him aware of HB 506.

He further said that, as a unit of local government, their first responsibility is for the public health, safety and welfare of their citizens. If they are neglected, it is appropriate for the state to take over on behalf of the county through legislation by HB 506.

Gary Wicks, Director of the Department of Highways, was called to this hearing on HB 506 by Senator Lybeck who questioned him as to the use of slag in the Anaconda-Deer Lodge area. Mr. Wicks responded by saying that the Department of Highways had no position on HB 506 and any amendments that might be adopted.

QUESTIONS FROM THE COMMITTEE: The committee questioned Mr. Ochenski as to whether he was sure the metal contamination was coming from the slag and what other metals come from slag. The committee learned that the road on which slag was being used was only 26 miles long and when the slag was put on in the morning, by noon it had melted the snow making driving much safer.

ADJOURNMENT: A motion was made and seconded that the hearing on House Bill 506 be adjourned.



Senator Larry Tveit, Chairman



SENATE HIGHWAYS

EXHIBIT NO. I

DATE March 26, 1987

BILL NO. HR 506

I am John F. Wardell, Director, U. S. Environmental Protection Agency (EPA) Region VIII Montana Office, Helena, Montana.

I would like to offer the following comments.

1. On February 17, 1984 I wrote Mr. George Ochenski, Chairman, Anaconda Citizens Advisory Council, regarding the slag at the Anaconda Smelter site. A copy of that letter is attached. EPA's concerns are the same today as they were when that letter was written.

The key points of that letter were the following:

- A. Sampling information showed that the slag contained arsenic, lead, chromium and cadmium that could be leached into water or entrained into the air under certain conditions.
 - B. Common sense suggested use of an alternate material for sanding if possible, although there were currently no State or Federal laws or regulations prohibiting use of slag for road sanding.
2. If slag is used for sanding, EPA will be obliged to study the potential for environmental/public health problems. If this study showed problems, organizations using the slag would be required by EPA to correct the problem.

Attachment



FEB 17 1984

Ref: 8MO

Mr. George Ochenski
Chairman, Anaconda Citizens Advisory
Council
Southern Cross
Anaconda, Montana 59711

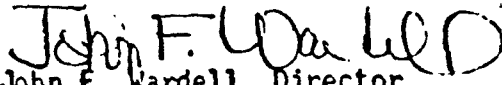
Dear Mr. Ochenski:

Enclosed is a report prepared by a committee of the Center for Disease Control (CDC) which addresses health issues relating to the use of slag from the Anaconda Smelter. The report suggests that slag from the site not be used for commercial purposes such as sanding of icy roads. Available information indicates that the slag contains arsenic, lead, chromium and cadmium that could be leached into water or entrained in the air under certain conditions. There are currently no state or federal laws or regulations prohibiting the use of slag for road sanding. Nevertheless, common sense suggests use of an alternate material if possible.

Because of this information, I have discussed the possibility of not using this material as road sand with Tim Gallagher of the Governor's Office. You may wish to pursue this matter further with Mr. Gallagher.

If you have questions or if we can provide additional assistance, please contact me or Doug Skie (449-5414).

Sincerely yours,


John F. Wardell, Director
Montana Office

Enclosure

Memorandum

Date March 1, 1983

From Chief, Superfund Implementation Group

Subject Anaconda Smelter Waste Site
Anaconda, Montana

To Edward J. Skowronski
Public Health Advisor
EPA Region VII/VIII

RECEIVED

1983

SUPERFUND SECTION

At your request, the data you submitted on the above site has been reviewed by a committee of the Center for Environmental Health, Centers for Disease Control. I hope that the comments will be useful to you.

CONCLUSION

Although the plant is no longer operational, there are some serious health concerns, primarily the lack of security and apparent open public access to the site. The committee felt strongly that attempts should be made to limit or eliminate this access. Further, it was suggested that the waste slag not be used for other commercial purposes (such as spreading on icy roads) and that the land may also be unsuitable for agriculture, livestock or even timber cutting. The committee also felt that hydrogeologic data should be examined to determine whether heavy metal contaminants are entering local or downstream drinking water supplies and perhaps some data gathered to determine if there is a possibility of food chain contamination from this site.

LABORATORY ISSUES

Before proceeding to a detailed discussion of the specific health issues presented by this site, the committee felt that some comments should be directed to the laboratory aspects of the data:

As cited in the information submitted by Northern Testing Laboratory, EPA-recommended procedures were used in sampling and analysis. It is not clear from the Northern data which analytical method was used--presumably atomic absorption, either flame or flameless was employed based on detection limits listed. Unfortunately, Appendix A-3 was missing from our copies of the "Working Paper" to verify this assumption. Sampling protocols seem adequate, however, we share the concern that: a) "natural" or background levels of metals in off-site water were not included for comparison, and b) that some doubt exists as to the validity of pilot well samples due to either vertical migration of water within an unsealed pilot well or contamination from steel wall casings. Were organic analyses done on this survey? This might be of interest, especially in the PVC-encased wells.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES



TEDSCHWINDEN GOVERNOR

COGSWELL BUILDING

STATE OF MONTANA

HELENA, MONTANA 59620

April 4, 1983

George M. Ochenski
Southern Cross
Anaconda, MT 59711

Dear Mr. Ochenski:

In answer to your letter of March 8, 1983, much testing of soil samples has been done recently in the Anaconda area in conjunction with the EPA Superfund project to clean up the Anaconda Company smelter site. The Air Quality Bureau did testing on soil samples taken near the smelter in November of 1982. EPA also collected samples and had test data submitted to the Center for Disease Control (CDC) in Atlanta for their review and comment. That comment was received in this office in March of this year. Also testing for adverse health effects was done by EPA and CDC in 1975 and by the Air Quality Bureau in 1979-81. I have enclosed a copy of the 1981 final report of the Montana Air Pollution Study for your information.

Laboratory analysis of the slag and most soil samples near the smelter shows elevated levels of heavy metals such as arsenic, cadmium, lead, zinc and copper. Over the years there has been considerable data collected to show that arsenic, lead and cadmium in particular are highly toxic and can be linked to specific adverse health effects. Young children are especially affected by arsenic and lead.

In addition to its metal content, the smelter slag has a relatively high percentage of silicate material (similar to glass). Usually this type of substance will have a sharp, jagged particulate configuration. This configuration is very irritating and tends to rupture tissues when breathed into the lungs. The slag would naturally have a small percentage of respirable sized particles (the size that can be breathed deep into the lungs). A larger portion of respirable particles would be generated by the crushing action of road traffic.

Because of health dangers, CDC has specifically suggested that the slag not be used for commercial purposes such as winter road sanding. This Bureau is taking the same position and will be contacting the Montana State Highway Department and Anaconda city officials with our recommendations. Unless air quality standards are being violated, we have no regulations to mandate a change in policy for local use of the slag; however, we hope the data on health concerns will be convincing.

I hope this information is helpful. We appreciate your concern and effort in this matter. If you have further questions or need more information, please contact us.

Sincerely,

A handwritten signature in cursive script that reads "Cynthia L. Wevers".

Cynthia L. Wevers

Environmental Scientist



TED SCHWINDEN GOVERNOR

COGSWELL BUILDING

STATE OF MONTANA

HELENA MONTANA 59620

April 5, 1983

Mr. Dan Worsdell
City-County Manager
800 South Main
County Courthouse
Anaconda, Montana 59711

Re: Road Sanding

Dear Mr. Worsdell:

The recently completed Georgetown Lake "Clean Lakes" project included an assessment of the effects of using smelting slag from the Anaconda Company reduction works for sanding roads in Deer Lodge County. Data generated from that effort and from samples previously analyzed indicates serious potential environmental impacts from the use of this material including road sanding.

Our information indicates that the slag contains high concentrations of cadmium, zinc, mercury, lead and other substances which pose a threat to fish and aquatic life. I have also enclosed a copy of a memo from the Public Health Service which verifies this concern.

In view of this data, we recommend that the slag not be used to sand roads within one-quarter mile of Georgetown Lake or 100 yards of bridges in the county. Since this may defeat the purpose of the sanding program, consideration might be given to use of an alternate source of sanding material.

We are hopeful that this potential environmental threat can be mitigated. Thank you for your cooperation.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Steven L. Pilcher".

Steven L. Pilcher, Chief
Water Quality Bureau
Environmental Sciences Division

SLP:mg

Enclosure

SENATE HIGHWAYS



EXHIBIT NO. I
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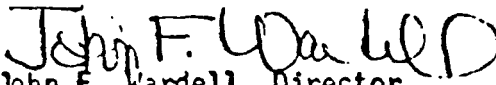
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Environmental Specialist



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Steven L. Pilcher, Chief
Water Quality Bureau
Environmental Sciences Division

SLP:mg

Enclosure

SENATE HIGHWAYS

FILE NO.

II

DATE

March 26, 1987

BILL NO.

HB 506

FISHERIES DIVISION
MONTANA DEPARTMENT OF FISH,
WILDLIFE AND PARKS

Pollution Control Office

BIENNIAL REPORT
1982 - 1983

Prepared by:

Glenn R. Phillips
and
Kurt Hill

(ROCK CREEK SLAG)

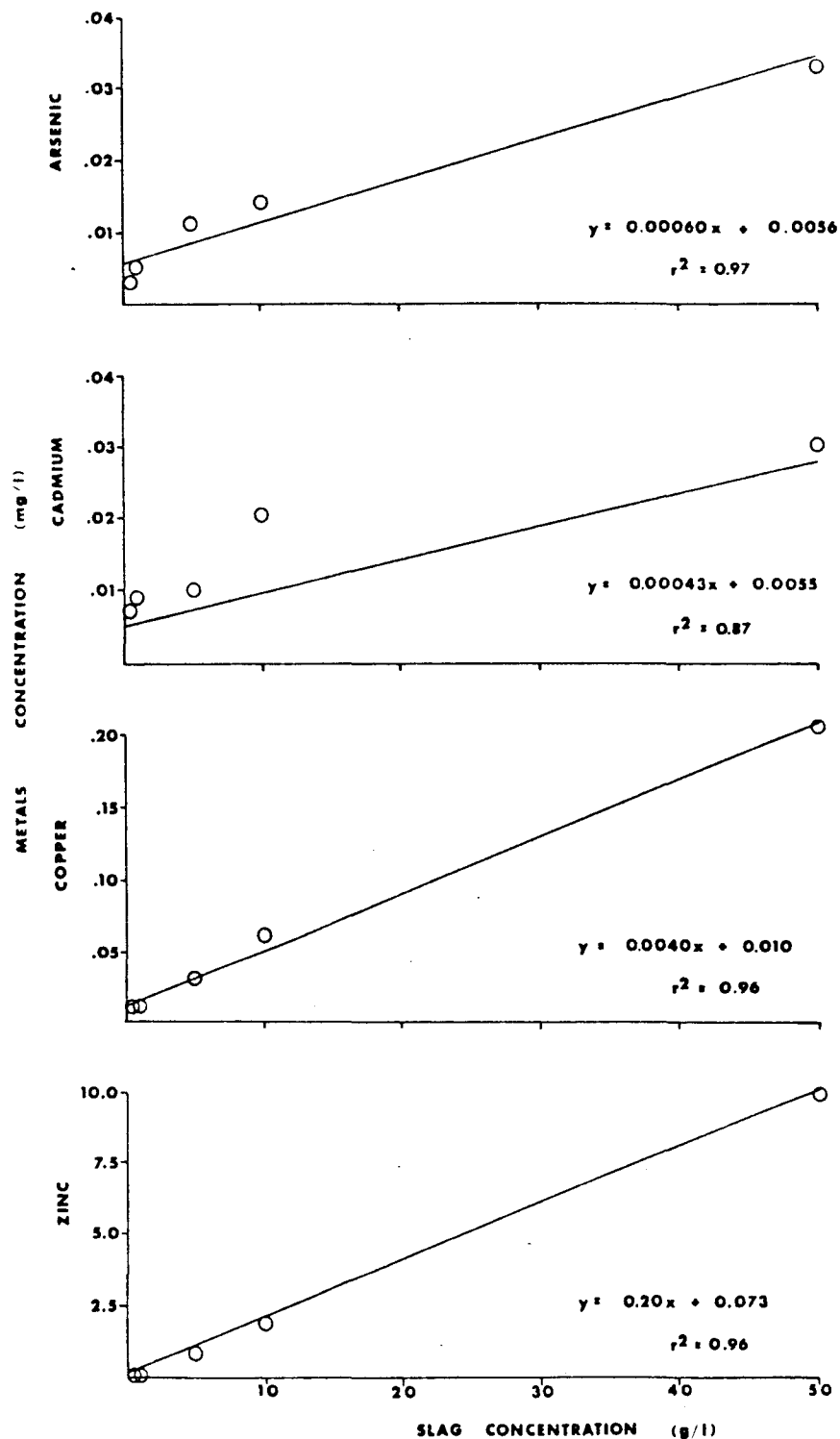


Figure 22. Relationship between metals concentration in water and slag concentration during slag leaching experiments.

(This sheet to be used by those testifying on a bill.)

NAME: JOHN F. WARDELL DATE: 3/26/87

ADDRESS: EPA REGION VIII MONTANA OFFICE
FEDERAL BUILDING, 301 S. PARK, HELENA, MT

PHONE: 409-5432

REPRESENTING WHOM? U.S. ENVIRONMENTAL PROTECTION AGENCY

APPEARING ON WHICH PROPOSAL: "SLAG BILL", HB 506

DO YOU: SUPPORT? AMEND? OPPOSE?

PROVIDING INFORMATION AT REQUEST OF MEIC

COMMENT: SEE ATTACHED

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

ROLL CALL

HIGHWAYS & TRANSPORTATION COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 3/26/87

House Bill 306 Ex Session 385

NAME	PRESENT	ABSENT	EXCUSED
Chairman: Larry Tveit	✓		
Vice Chairman: Lawrence Stimatz	✓		
Senator Hubert J. Abrams			✓
Senator William Farrell	✓		
Senator Tom Hager	<i>✓ here</i>	<i>✓</i>	
Senator Sam Hofman	✓	-	
Senator Ray Lybeck	✓		
Senator Darryl Meyer	<i>✓ here</i>	<i>✓</i>	
Senator Cecil Weeding	<i>✓ here</i>	<i>✓</i>	
Senator Bob Williams	<i>✓ here</i>	<i>✓</i>	

Each day attach to minutes.

SENATE HIGHWAYS

EXHIBIT NO. III

DATE March 26, 1987

BILL NO. HB 506

TO: Honorable Members of the Senate Highways and Transportation Committee

FROM: Dan Marinkovich

SUBJECT: House Bill 506

My name is Dan Marinkovich, I am speaking in support of HB 506 with a provision for limited use in certain situations.

I was born and raised on Anaconda's east side better known as Goosetown. I grew up playing in the old tailings and slag piles. No one told me I was handicapped by doing this and it never bothered me. The same thing was true when I began school and I did not speak English.

We used slag on the streets in Anaconda and on local highways. It worked very well until the environmentalists made us quit using it. They said the emissions from the smelter would hurt us. Now there is no longer a smelter in Anaconda.

The slag was heavy and small in size, it never blew in the wind or broke windshields. It absorbed the sun's rays and as a result the snow and ice melted faster.

Now they are using sand on the roads, this is causing many broken windshields. When trucks and cars drive on sanded roads, the sand breaks up and impairs vision. Also, the ice and snow stay on the roads longer.

Plus, I have heard the silica in the sand mixture gets into my lungs. This has not yet been proven by the environmentalists, so supposeably, it does not hurt me.

I feel an amendment should be proposed to allow slag usage where it would not be allowed to get into lakes and streams.

I ask the kind consideration of this committee to allow us to once again use slag in a limited manner. Thank you.

STANDING COMMITTEE REPORT

March 28

87

19.....

MR. PRESIDENT

We, your committee on Highways & Transportation

having had under consideration..... House Bill..... No. 506

third reading copy (blue)
color

AN ACT PROHIBITING THE USE OF SLAG IN ROAD MAINTENANCE

Rep. Hanson (Senator Stenitz)

Respectfully report as follows: That..... House Bill..... No. 506

1. Page 1, line 12.
Following: "removal"
Insert: " one-fourth mile from lakes and 100 yards
from stream beds. "

AND AS AMENDED
BE CONCURRED IN

DO PASS

DO NOT PASS

.....
Senator Larry Tviet

Chairman.