

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Chairperson Bob Raney, on February 15, 1989,
at 2:55 p.m.

ROLL CALL

Members Present: All members except:

Members Excused: Rep. Cohen

Members Absent: None

Staff Present: Claudia Montagne, Secretary; Hugh Zackheim, Staff
Researcher, Environmental Quality Council

Announcements/Discussion: REP. GILBERT distributed the booklet,
House Joint Resolution 49, Forest Practices and Watershed
Effects, Final Report by the Environmental Quality Council,
for the committee to review in preparation for their
consideration of HB 678.

HUGH ZACKHEIM discussed HB 552, the tank licensing bill, which,
being a revenue bill, would not have to meet transmittal.
MR. ZACKHEIM said that because HB 552 creates a new
licensing board, the committee would normally be restricted
in passing the bill out until the Legislative Audit
Committee heard the bill. In anticipation of this event,
DHES drafted a bill which specifically exempted this bill
from review by the Audit Committee. Once that bill was
signed by the Governor, this committee could act on HB 552.

REP. RANEY brought up HB 498, which had been tabled 2-6-89. REP.
GILBERT said that he had spoken with Rep. Grady and the well
drillers, and the consensus was that an ID number on tags
affixed to the well would be acceptable. MR. ZACKHEIM said
that he had looked at the letter from the water well
drillers, as directed by the committee. He said that if
there was interest on the part of the committee, an amended
bill could be developed. REP. HARPER said that he had
talked to another well driller, and that he thought the
owner should affix the ID tag. The committee decided not to
make any additional motions on the bill and it remained
tabled.

DISPOSITION OF HB 399

Hearing 2/01/89
Executive Action 2/06/89 and 2/13/89

Motion: REP. O'KEEFE moved to RECONSIDER HB 399.

Discussion: REP. O'KEEFE stated that the amendments had been passed in previous executive action (Monday, 2-13-89, EXHIBIT 2), and that subsequently there was a language problem discovered with the use of the words "changes" and "permits". A motion to reconsider put the bill back into committee so that the language could be changed to be consistent. The motion to reconsider CARRIED unanimously.

Amendments, Discussion, and Votes: REP. O'KEEFE moved the amendments. REP. ROTH asked if the amendments had been shown to the cattlemen, and REP. HARPER said that these were the amendments that had been voted on previously. The motion on the amendments CARRIED unanimously.

Recommendation and Vote: REP. O'KEEFE moved DO PASS AS AMENDED and the motion CARRIED unanimously.

HEARING ON HJR 25

Presentation and Opening Statement by Sponsor:

REP. BROWN, District 72, Butte-Silver Bow, introduced the resolution and stated that it attempted to accomplish several things. It would support the position protecting Montana's coal interests taken by the Montana Congressional Delegation on the resolution to the acid rain problem. It would emphasize the MHD technology as well as the possible retrofit of the Corrette plant in Billings. This would be a near \$400,000,000 project that would be the first near commercial test of the MHD technology, and would be under the National Clean Coal Technology program, which this resolution also supported. The resolution directed all of this activity to the attention of the Montana Congressional Delegation and the new governor.

REP. BROWN stated that Mr. John North, of the MERDI Corporation, Butte, and Mr. Bob Labrie, MHD Development Corporation, were in support of this resolution, but were unable to attend the hearing.

Testifying Proponents and Who They Represent:

Gerry Funk, Vice President, MSE Inc., Butte
Ken Williams, Entech, Butte
Jim Jensen, Montana Environmental Information Center (MEIC)

Proponent Testimony:

GERRY FUNK testified in favor of HJR 25 (EXHIBIT 3).

KEN WILLIAMS testified in favor of the resolution, stating that the Clean Coal Technology aspects of this resolution would be encouraging to them.

JIM JENSEN testified that MEIC supported the continued development of cleaner burning coal technology supported by this resolution, as well as the message to Congress regarding the Acid Rain legislation under consideration. He expressed the opinion that this legislation should be punitive to those sources of the problem; i.e., that midwestern and Appalachian coal producing states bear their fair share of the burden of cleaning up emissions which add to the acid rain problem.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members:

REP. RANEY asked Mr. Funk what the chance was of the MHD technology going into commercial production, and when this might occur. MR. FUNK replied that they had been in this process for 12 years in Butte, and that within 5 years they would complete the phase that they are in. They could then go commercial. The design work on the Corrette Plant retrofit could begin in the early 1990's, and was dependent upon funding.

REP. ADDY asked what was the likelihood that Congress would fund the program. REP. BROWN answered that the national MHD program was funded by the Dept. of Energy, and that it has been at zero. However, they have managed to allow up to \$37,000,000 in the past year in the budget for MHD technology. Also there is a cost share by the private sector that runs approximately 30% in the base R&D program, and the retrofit of the Corrette Plant would be funded by Clean Coal Technology Program. The federal government has put up \$2.8 billion to date for a 50% cost share with the private sector. He said that he expected the Corrette Plant in Billings would be funded by a 60% private sector cost share with a 40% cost share by the federal government. With the application of the MHD technology, this plant would be able to produce 30-40 more MW due to this technology.

REP. HARPER asked about how the resolution affected the Acid Rain legislation under consideration by Congress, and REP. BROWN said that the resolution does not address the legislation directly, but says that more stringent methods should not be taken that directly impact Montana's coal market and at the same time encourages the promotion of clean coal burning technologies as a means to clean up the environment without the additional burden on the taxpayer or the utilities.

Closing by Sponsor:

REP. BROWN closed with the introduction of a technical amendment.

DISPOSITION OF HJR 25

Motion: REP. GIACOMETTO moved DO PASS.

Amendments, Discussion, and Votes: REP. GIACOMETTO moved the amendments. The motion CARRIED unanimously.

Recommendation and Vote: REP. GIACOMETTO moved that HJR 25 DO PASS AS AMENDED. The motion CARRIED unanimously.

HEARING ON HB 609

Presentation and Opening Statement by Sponsor:

REP. HARPER, carrying HB 609 for Rep. Cohen, who was ill, stated that the bill established a Water Quality Rehabilitation Account. The purpose of the account would be to deal with small, emergency spills or clean-up projects, when the responsible party could not be found. It would allow the department to move quickly.

REP. HARPER offered amendments (EXHIBIT 4) at Rep. Cohen's request, limiting the yearly allotments to the fund to \$10,000, and capping the fund at \$50,000. The money would come from water quality fines and civil penalties.

Testifying Proponents and Who They Represent:

Steve Pilcher, Chief Water Quality Bureau, Department of
Health and Environmental Sciences
Stan Bradshaw, Montana Council of Trout Unlimited
Jim Jensen, Montana Environmental Information Center (MEIC)

Proponent Testimony:

STEVE PILCHER testified in favor of the bill and its amendments on behalf of the agency. He stated that in their past experience, the protection of public health and the environment would be enhanced by several of the provisions in this legislation. One was the financial ability to respond to minor emergency water pollution events in a timely fashion. Promulgation of rules, provided within the legislation, would ensure that the funds within the account would be used in accordance with the directives established by the bill. The account, even with the restrictions, would be sufficient to allow the department to meet the need and carry out the intent of the legislation. The department's priority would continue to be to place the burden of response and clean-up on the responsible party, and their insurance carrier, but this bill would provide a very important back-up provision.

STAN BRADSHAW testified in favor of the bill (EXHIBIT 5).

JIM JENSEN, MEIC, testified in favor of HB 609, stating that it allowed the department to move in rapidly, thus avoiding more expensive clean-up and problems later on.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members:

REP. RANEY asked when this account would be used, and Mr. Pilcher gave the example of Whitefish Lake, where recently an oil truck oiling a road spilled its contents. Because of delays in locating and convincing the responsible party and its carrier to clean up the spill, the oil did reach the lake, and the costs of clean-up were greatly increased.

Closing by Sponsor:

REP. HARPER closed, encouraging support of the legislation as a responsible means to allow immediate response to a problem.

DISPOSITION OF HB 609

Motion: REP. ADDY moved the bill DO PASS.

Discussion: None

Amendments, Discussion, and Votes: REP. ADDY moved the amendments to HB 609. The motion CARRIED unanimously.

Recommendation and Vote: REP. MOORE moved DO PASS AS AMENDED, and the motion CARRIED unanimously.

HEARING ON HB 657

Presentation and Opening Statement by Sponsor:

REP. OWENS, House District 7, Flathead/Evergreen, introduced the bill as an industry/Dept. of State Lands bill, a timber slash and waste reduction agreement. He said that it was the product of the work of a joint wood products industry/DSL task force, which worked on the issue of fire hazard reduction over the past two years to develop a standard consensus for hazard reduction. The bill requires an operator to give DSL the earliest possible notice of proposed activities so that they could monitor slash disposal and also lays out the structure for fee amounts and collection. REP. OWENS went through the bill with his recommended amendments (EXHIBIT 6).

Testifying Proponents and Who They Represent:

Mark Simonich, Forester, F.H. Stoltze Land and Lumber Co.,
Columbia Falls, and Montana Wood Products Industry
Andy Lukes, District Land Manager, Champion International
Gary Brown, Forester, Dept. of State Lands (DSL)
Henry E. Lohr, Montana State Voluntary Firefighters Association

Proponent Testimony:

MARK SIMONICH stated that he had served as the industry chairman of the task force. They tried to develop a standard for hazard reduction in the state. He said that the changes in fee structure proposed were particularly important in that the costs would be shifted so that the burden would fall upon those who create more work for DSL.

ANDY LUKES, forester from Champion International in Missoula, said that he too had served on the task force. He stated that the bill is supported by Champion International, and that it would improve the efficiency of DSL as well as improve the fairness to the industry and small landowners.

GARY BROWN testified in strong support of the bill, (EXHIBIT 7). Most significant portions of the bill were the new fee structure, and the authorization to bond mills.

HENRY LOHR testified in favor of the bill.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members:

REP. RANEY asked where the amendments mentioned by the DSL were. Mr. Brown described the changes made the morning of the hearing, changes that were agreed to by all parties. (EXHIBIT 6), and that had slipped through into printing without being the original intent of the task force.

Closing by Sponsor:

REP. OWENS closed, urging the support of the committee for HB 657.

DISPOSITION OF HB 657

Motion: REP. GIACOMETTO moved that the bill DO PASS.

Discussion: None

Amendments, Discussion, and Votes: REP. GIACOMETTO moved the amendments. The motion CARRIED unanimously.

Recommendation and Vote: REP. BROOKE moved that HB 657 DO PASS AS AMENDED. The motion CARRIED unanimously.

DISPOSITION OF HB 143

Hearing 1/20/89

Motion: REP. GILBERT moved DO PASS on HB 143.

Discussion: None

Amendments, Discussion, and Votes: REP. GILBERT moved the amendments (EXHIBIT 8). REP. O'KEEFE, member of the subcommittee working on the bill, spoke to the amendments. He said that what they had thought was important was the

protection of two mechanisms that this bill provided for. One was the establishment of an oil gas production damage mitigation account, and the other was an attempt to help the industry with their bonding problems in order to keep funds moving into the RIT Fund.

REP. O'KEEFE said a Statement of Intent was drafted as part of the amendments, the \$250,000 was reduced to \$50,000, and the cap on the fund was set as \$200,000. The amendments also provided for another mechanism for monies to go into this account. The net effect was that this was now a revenue bill, and therefore there was more time to work on this.

REP. O'KEEFE went through the rest of the amendments. REP. ADDY asked if this could provide illusory protection and a discussion followed. REP. O'KEEFE said that once a well started producing, the bond would be released, and an amount should be paid into the mitigation account of an undetermined amount; e.g., \$50 to \$200 per year. REP. GILBERT said that occasionally the state would have a situation in need of mitigation, but most of this would be for old wells drilled 40 - 50 years ago.

REP. RANEY asked how soon the account would build up to \$200,000, and REP. O'KEEFE said that \$40,000 from forfeited bonds would go in right away, \$50,000 next biennium, and that there would be a the deposit on each new well. REP. RANEY asked if all forfeited bonds would go into this account, and REP. GILBERT said yes.

REP. BROOKE moved the deposit amount to be \$150 (amendment #20), and the motion was withdrawn.

REP. O'KEEFE moved \$125, and the motion CARRIED, with Reps. Hannah, Roth and Giacometto voting no.

REP. O'KEEFE moved amendments #21-28, dealing with the lien issue, stating that the lien would apply to any property or assets in the state of Montana, on or off site of the particular lease. The motion CARRIED with Rep. Hannah voting no.

REP. O'KEEFE requested Mr. Zackheim to correct the amendments to HB 143 as directed by the committee. He also requested that the subcommittee be expanded to include Rep. Owens and Addy, and that they address the definition of the responsible party, individual or corporation.

Recommendation and Vote: None

ADJOURNMENT

Adjournment At: 4:35 p.m.



REP. RANEY, Chairperson

BR/cm

3912.min

DAILY ROLL CALL

HOUSE NATURAL RESOURCES

COMMITTEE

50th LEGISLATIVE SESSION -- 1989

Date 2-15-89

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Raney, Chairman	✓		
Rep. Ben Cohen, Vice-Chairman			✓
Rep. Kelly Addy	✓		
Rep. Vivian Brooke	✓		
Rep. Hal Harper	✓		
Rep. Mike Kadas	✓		
Rep. Mary McDonough	✓		
Rep. Janet Moore	✓		
Rep. Mark O'Keefe	✓		
Rep. Robert Clark	✓		
Rep. Leo Giacometto	✓		
Rep. Bob Gilbert	✓		
Rep. Tom Hannah	✓		
Rep. Lum Owens	✓		
Rep. Rande Roth	✓		
Rep. Clyde Smith	✓		

STANDING COMMITTEE REPORT

February 15, 1989

Page 1 of 2

Mr. Speaker: We, the committee on Natural Resources report that HOUSE BILL 399 (first reading copy -- white) do pass as amended.

Signed: _____
Bob Raney, Chairman

And, that such amendments read:

1. Page 10.

Following: line 3

Insert: "(3) (a) If the department approves an application for a trial change in appropriation right under subsection (2):

(i) the appropriator shall allow access by the department throughout the trial period to the site where the change is being implemented;

(ii) the department shall inspect the site upon the request of any person holding a valid water right in the source of supply; and

(iii) any water user may, throughout the trial period, petition the department to terminate the trial change and deny the application for a change in appropriation right because water users are experiencing actual adverse effects of the trial change. The department shall investigate the allegations contained in a petition and, if it determines that there are adverse effects, the trial period must be terminated and the application for change in appropriation right must be denied unless the applicant can establish by clear and convincing evidence that the adverse effects are caused by unique climatological events or other unforeseen circumstances that will not reoccur throughout the remainder of the trial period.

(b) If the application for change in appropriation right is denied during or after the trial period, the department shall require the appropriator to remove the diversion structures or facilities that implemented the trial change."

Renumber: subsequent subsections

2. Page 10, line 4.

Strike: "(4)"

Insert: "(5)"

3. Page 10, line 5.

Strike: "(6)"

Insert: "(7)"

4. Page 10, line 25.

Strike: "(3)"

Insert: "(4)"

5. Page 12, line 2.

Strike: "(3)"

Insert: "(4)"

Strike: "(4)"

Insert: "(5)"

6. Page 13, line 1.

Strike: "(3)"

Insert: "(4)"

Strike: "(4)"

Insert: "(5)"

7. Page 13, line 9.

Strike: "(6) (b) (ii)"

Insert: "(7) (b) (ii)"

8. Page 13, line 10.

Strike: "(6) (b) (iii)"

Insert: "(7) (b) (iii)"

9. Page 15, line 24.

Strike: "is"

Insert: "are"

STANDING COMMITTEE REPORT

February 15, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report
that HOUSE JOINT RESOLUTION 25 (first reading copy -- white)
do pass as amended .

Signed: _____
Bob Raney, Chairman

And, that such amendments read:

1. Page 3, line 15.
Strike: "Selegation"
Insert: "Delegation"

STANDING COMMITTEE REPORT

February 15, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that HOUSE BILL 609 (first reading copy -- white) do pass as amended .

Signed: _____
Bob Raney, Chairman

And, that such amendments read:

1. Title, line 12.

Strike: "15-5-635"

Insert: "75-5-635"

2. Page 2, lines 10 and 11.

Following: "17-2-102"

Strike: ", " on line 10 through "department" on line 11

3. Page 2, line 16.

Following: "account"

Insert: "in the amounts provided for in 75-5-634"

4. Page 4, lines 2 and 3.

Strike: "Fines" on line 2

Insert: "Disposition of fines"

Following: "penalties" on line 2

Strike: "to" on line 2 through "Fines" on line 3

Insert: ". (1) Except as provided in subsection (2), fines"

5. Page 4.

Following: line 6

Insert: "(2) (a) No more than \$10,000 in fines and civil penalties may be deposited in the water quality rehabilitation account in any fiscal year. Fines and civil penalties in excess of the \$10,000 limit must be deposited in the general fund.

(b) Whenever the amount of money in the water quality rehabilitation account exceeds \$50,000, all fines and civil penalties must be deposited in the general fund."

STANDING COMMITTEE REPORT

February 15, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that HOUSE BILL 657 (first reading copy -- white) do pass as amended .

Signed: _____
Bob Raney, Chairman

And, that such amendments read:

1. Page 2, lines 14 and 15.

Strike: "in" on line 14 through "fire" on line 15

2. Page 2, lines 21 through 23.

Strike: "operators" on line 21 through "planned" on line 23

Insert: "persons engaged in continuing cutting operations of sufficient number and size to warrant covering these operations under a single agreement and a single bond"

3. Page 6, line 7.

Following: "constructing"

Strike: "."

Insert: "or"

4. Page 6, line 8.

Following: "reconstructing"

Strike: ", or improving"

5. Page 7, lines 2 through 5.

Strike: "In" on line 2 through "." on line 5

1
DATE 2-15-89
FILE #B678

House Joint Resolution 49
Forest Practices and Watershed Effects

Final Report
Environmental Quality Council
December 1988

Amendments to House Bill No. 399
Introduced (White) Copy

Requested by Rep. Harper
For the House Committee on Natural Resources

Prepared by H. Zackheim
February 15, 1989

1. Page 10.

Following: line 3

Insert: "(3) (a) If the department approves an application for a trial change in appropriation right under subsection (2):
(i) the appropriator shall allow access by the department throughout the trial period to the site where the change is being implemented;
(ii) the department shall inspect the site upon the request of any person holding a valid water right in the source of supply; and
(iii) any water user may, throughout the trial period, petition the department to terminate the trial change and deny the application for a change in appropriation right because water users are experiencing actual adverse effects of the trial change. The department shall investigate the allegations contained in a petition and, if it determines that there are adverse effects, the trial period must be terminated and the application for change in appropriation right must be denied unless the applicant can establish by clear and convincing evidence that the adverse effects are caused by unique climatological events or other unforeseen circumstances that will not reoccur throughout the remainder of the trial period.
(b) If the application for change in appropriation right is denied during or after the trial period, the department shall require the appropriator to remove the diversion structures or facilities that implemented the trial change."

Renumber: subsequent subsections

2. Page 10, line 4.

Strike: "(4)"

Insert: "(5)"

3. Page 10, line 5.

Strike: "(6)"

Insert: "(7)"

2
DATE 2-15-89

HB 399

4. Page 10, line 25.

Strike: "(3)"

Insert: "(4)"

5. Page 12, line 2.

Strike: "(3)"

Insert: "(4)"

Strike: "(4)"

Insert: "(5)"

6. Page 13, line 1.

Strike: "(3)"

Insert: "(4)"

Strike: "(4)"

Insert: "(5)"

7. Page 13, line 9.

Strike: "(6)(b)(ii)"

Insert: "(7)(b)(ii)"

8. Page 13, line 10.

Strike: "(6)(b)(iii)"

Insert: "(7)(b)(iii)"

9. Page 15, line 24.

Strike: "is"

Insert: "are"

TESTIMONY SUBMITTED IN SUPPORT OF HJR-25

by

MSE, INC.

February 15, 1989

Mr. Chairman, members of the Committee, my name is Gerry Funk, Vice President of MSE, Inc. of Butte, Montana. MSE, Inc. is a private Montana corporation which operates the Department of Energy's magnetohydrodynamic (MHD) Component Development and Integration Facility located in the Butte Industrial Park. I am here today to voice my support of HJR-25.

As some of you may be aware, MHD is a clean coal-burning technology whereby coal is burned at temperatures approaching 5000° F in a combustion chamber to form a gas plasma that is exhausted into an MHD channel where a portion of the energy produced is extracted in the form of direct electric current and the gas exiting the channel is utilized as a heat source to drive a conventional steam turbine producing additional electricity. The technology has the potential to increase coal-fired generation plant efficiency from 32% to 55-60% while reducing SO_x, NO_x, and CO₂ emissions to well below the Federal New Source Performance Standards.

In regard to the national program for the development of MHD, we are in the second phase of a three-phase program directed toward demonstration of the technology by retrofitting an existing power plant through addition of the direct conversion MHD topping cycle.

The present phase consists of demonstrating the MHD technology on a duration and reliability basis utilizing a new prototypic combustor and channel and by running approximately 1500 hours of tests over the next three years. Upon completion of this phase, it is envisioned that a retrofit to an existing commercial plant will provide for a large-scale demonstration in the mid 1990's. This commercial demonstration could be at Montana Power Company's Corette Plant in Billings.

In summary, we believe that the MHD technology provides potential answers to

- 1) Federal acid rain considerations;
- 2) the greenhouse effect - through higher efficiency;
- 3) expanded utilization of Montana's coal resource; and
- 4) economic development through an MHD retrofit at the J.E. Corette plant in Billings.

To this end, we would encourage support of HJR-25 by this Committee and the houses of the Montana legislature.

BUTTE-SILVER BOW
CHAMBER OF COMMERCE RESOLUTION

A Resolution endorsing the construction of a Magnetohydrodynamics (MHD) retrofit of the J.E. Corette Plant in Billings, Montana and authorizing the Butte-Silver Bow Chamber of Commerce to participate with other interested parties to ensure that the retrofit is constructed.

Whereas, MHD is a clean coal technology that mitigates acid rain and the greenhouse effect;

Whereas, MHD is a more efficient and, therefore, more cost effective method of producing electricity;

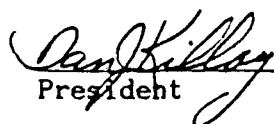
Whereas, MHD testing at the U.S. Department of Energy, Component Development and Integration Facility in Butte, Montana has established the necessity for a larger facility to be built in Billings, Montana to show commercial potential;

Whereas, Community and State support for the MHD retrofit is necessary to show others that MHD and the retrofit are important to us and the nation; and

Whereas, the Community and the State have the opportunity to promote and lead the nation and the World in the application of "high technology".

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE BUTTE SILVER BOW CHAMBER OF COMMERCE OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, MONTANA that the Chamber of Commerce of the City and the County of Butte-Silver Bow, Montana endorses the MHD retrofit of the J.E. Corette Plant in Billings, Montana and authorizes the participation of officials of the Chamber of Commerce with other interested parties to ensure that the MHD retrofit is constructed.

PASSED THE 16th DAY OF December.


President


Executive Director

2-15-89

HB

HJR 25

BUTTE LOCAL DEVELOPMENT CORPORATION RESOLUTION

A Resolution endorsing the construction of a Magnetohydrodynamics (MHD) retrofit of the J.E. Corette Plant in Billings, Montana and authorizing the Butte Local Development Corporation to participate with other interested parties to ensure that the retrofit is constructed.

Whereas, MHD is a clean coal technology that mitigates acid rain and the greenhouse effect;

Whereas, MHD is a more efficient and, therefore, more cost effective method of producing electricity;

Whereas, MHD testing at the U.S. Department of Energy, Component Development and Integration Facility in Butte, Montana has established the necessity for a larger facility to be built in Billings, Montana to show commercial potential;

Whereas, Community and State support for the MHD retrofit is necessary to show others that MHD and the retrofit are important to us and the nation; and

Whereas, the Community and the State have the opportunity to promote and lead the Nation and the World in the application of "high technology".

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE BUTTE LOCAL DEVELOPMENT CORPORATION OF BUTTE-SILVER BOW, MONTANA that the Local Development Corporation of the City and the County of Butte-Silver Bow, Montana endorses the MHD retrofit of the J.E. Corette Plant in Billings, Montana and authorizes the participation of officials of the Local Development Corporation with other interested parties to ensure that the MHD retrofit is constructed.

PASSED THE 15th DAY OF 9/88.


President



Director

EXHIBIT 3
DATE 2-15-89
HB HJR 25

RESOLUTION NO. 1114

1 A RESOLUTION ENDORSING THE CONSTRUCTION OF A MAGNETOHYDRODYNAMICS
2 (MHD) RETROFIT OF THE J.E. CORETTE PLANT IN BILLINGS, MONTANA
3 AND AUTHORIZING THE CITY AND COUNTY OF BUTTE-SILVER BOW TO PARTI-
4 CIPATE WITH OTHER INTERESTED PARTIES TO ENSURE THAT THE RETROFIT
5 IS CONSTRUCTED.

6 WHEREAS, MHD is a clean coal technology that mitigates acid
7 rain and the greenhouse effect;

8 WHEREAS, MHD is a more efficient and, therefore, more cost
9 effective method of producing electricity;

10 WHEREAS, MHD testing at the U.S. Department of Energy, Component
11 Development and Integration Facility in Butte, Montana
12 has established the necessity for a larger facility
13 to be built in Billings, Montana, to show commercial
14 potential;

15 WHEREAS, Community and State support for the MHD retrofit is
16 necessary to show others that MHD and the retrofit
17 are important to us and the nation; and

18 WHEREAS, the Community and the State have the opportunity to
19 promote and lead the Nation and the World in the
20 application of "high technology".
21

NOW, THEREFORE, BE IT RESOLVED THAT THE COUNCIL OF COMMISSIONERS
OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA
that the local Government of the City and the County of Butte-
Silver Bow, Montana endorses the MHD retrofit of the J.E. Corette
Plant in Billings, Montana and authorizes the participation
of officials of Butte-Silver Bow with other interested parties.

PASSED this _____ day of _____, 1988.

3
2-15-89
HJR 25
HD

1 APPROVED this _____ day of _____, 1988.

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4 CHIEF EXECUTIVE

5 ATTEST:

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7 CLERK AND RECORDER

8 APPROVED AS TO FORM:

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11 CHAIRMAN, JUDICIARY COMMITTEE

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13 COUNTY ATTORNEY

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4
DATE 2-15-89
HB 609

Amendments to House Bill No. 609
Introduced (White) Copy

Requested by Rep. Cohen
For the House Committee on Natural Resources

Prepared by H. Zackheim
February 13, 1989

1. Title, line 12.

Strike: "15-5-635"

Insert: "75-5-635"

2. Page 2, lines 10 and 11.

Following: "17-2-102"

Strike: ",", on line 10 through "department" on line 11

3. Page 2, line 16.

Following: "account"

Insert: "in the amounts provided for in 75-5-634"

4. Page 4, lines 2 and 3.

Strike: "Fines" on line 2

Insert: "Disposition of fines"

Following: "penalties" on line 2

Strike: "to" on line 2 through "Fines" on line 3

Insert: ". (1) Except as provided in subsection (2), fines"

5. Page 4.

Following: line 6

Insert: "(2) (a) No more than \$10,000 in fines and civil penalties may be deposited in the water quality rehabilitation account in any fiscal year. Fines and civil penalties in excess of the \$10,000 limit must be deposited in the general fund.

(b) Whenever the amount of money in the water quality rehabilitation account exceeds \$50,000, all fines and civil penalties must be deposited in the general fund."

5
DATE 2/15/89
HB HB 609

HOUSE BILL 609

TESTIMONY OF STAN BRADSHAW
House Natural Resources Committee
February 16, 1989

Mr. Chairman, members of the committee, I am testifying on behalf of the Montana Council of Trout Unlimited in favor of House Bill 609.

HB 609 simply provides the department with a funding source that can be used to initiate quick response to pollution events that need immediate attention to stabilize or stop damage before it worsens. Under current law, the Water Quality Bureau has no ready source of funds to which it can turn to handle these problems. This solves that problem.

The sponsor has proposed amendments to address concerns that some legislators expressed about incursions into the general fund. The amendments simply cap the fund at \$50,000 and limit the amount of money that can go into the fund in any one year to \$10,000. In addition, section 4(2) on page 6 allows the department to collect money spent in any clean up under this bill and deposit it into the fund. Thus, once the fund has reached the \$50,000 cap, the maintenance of the fund should be self-sustaining and should rarely, if ever, need additional deposits from penalties. As a result, the bill, as amended, should represent minimal incursions into the general fund over the long term.

This bill represents a reasonable approach to the problem that it addresses, and I urge your support.

HOUSE BILL NO. 657

INTRODUCED BY
Alfred

Lawrence Smith Pittman

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO THE CONTROL OF TIMBER SLASH AND DEBRIS; AMENDING SECTIONS 76-13-401 THROUGH 76-13-403, 76-13-405 THROUGH 76-13-411, AND 76-13-413, MCA; REPEALING SECTION 76-13-404, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

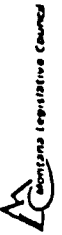
Section 1. Section 76-13-401, MCA, is amended to read:
"76-13-401. Definitions. As used in this part, the following definitions apply:

(1) "Board" means the board of land commissioners provided for in Article X, section 4, of the Montana Constitution.

(2) "Certification of clearance" means a certification issued by the department acknowledging that the fire hazard has been reduced or managed in accordance with this part and the fire hazard reduction agreement or agreements.

(3) "Contractor" means the person who executes the fire hazard reduction agreement and is responsible to fulfill the obligations established by the agreement.

(4) "Department" means the department of state lands provided for in Title 2, chapter 15, part 32.



COPY WITH REQUESTED AMENDMENTS

EXHIBIT *6*

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(5) "Fire hazard" means slash and debris resulting from timber cutting, timber stand improvement, or right-of-way clearing operations that produce a cover of flammable material in which fire could spread through a cutting or adjacent area.

(6) "Fire hazard reduction agreement" means a contract made to ensure compliance with this part and with the rules adopted under 76-13-403 for fire hazard reduction or management.

(7) "Fire hazard reduction or management" means the abatement of a fire hazard by methods that include but are not limited to separation, removal, scattering, lopping, crushing, piling and burning, broadcast burning, burying, or chipping. *(Rest of line omitted)*

(8) "Forest product" means trees or their component parts, including but not limited to logs, poles, branches, or bark.

New definition
(9) "Master fire hazard reduction agreement" means a fire hazard reduction agreement between the department and persons engaged in continuing cutting operations of sufficient number and size to warrant covering these operations under a single agreement and a single bond.

(10) "Person" means an individual, association, partnership, corporation, estate, or any other entity.

1 (11) "Purchaser" means a person who purchases or
 2 contracts to purchase any forest products cut from private
 3 forest lands within the state. The term includes persons
 4 who purchase products manufactured on the cutting area."

5 Section 2. Section 76-13-402, MCA, is amended to read:
 6 "76-13-402. Basis for management of fire hazards. The
 7 fire hazard reduction or management of fire hazards referred
 8 to in this part shall be carried on by the department and
 9 the state fire wardens in keeping with modern and
 10 progressive forest practices and more effective forest fire
 11 control protection and may include but is not limited to the
 12 taking of protective measures to prevent injury or the
 13 destruction of forest resources without actual abatement of
 14 the hazard."

15 Section 3. Section 76-13-403, MCA, is amended to read:
 16 "76-13-403. Supervision by department. The department,
 17 under such rules as adopted by the board adopts, may
 18 supervise and inspect the fire hazard reduction or
 19 management of any all fire hazard hazards created by the
 20 cutting-of-any-forest-product forest products harvesting,
 21 timber stand improvement, and right-of-way clearing on
 22 private land in the state."

23 Section 4. Section 76-13-405, MCA, is amended to read:
 24 "76-13-405. Contracts with forest protective fire
 25 protection agencies. The department is hereby authorized to

1 enter into contracts with forest fire protection protective
 2 agencies, including agencies of the United States, for the
 3 fire hazard reduction or management of such fire hazards
 4 when in its opinion the work can best be accomplished in
 5 that manner."

6 Section 5. Section 76-13-406, MCA, is amended to read:
 7 "76-13-406. Limitation on liability. The department
 8 state fire wardens and other recognized forest protective
 9 fire protection agencies, including any agency of the United
 10 States, with which the department has entered into an
 11 agreement for the fire hazard reduction or management of any
 12 fire hazard as provided in 76-13-405 and any officer, or
 13 official, of such agency or employee of the department or
 14 other recognized forest fire protection agency shall is not
 15 be liable for any damage to the land, product, improvement,
 16 or other things of value of whatsoever nature upon the lands
 17 on which the fire hazards are being managed or reduced in
 18 accordance with provisions of 76-13-402 through 76-13-405
 19 and 76-13-403. This part, the rules adopted under
 20 76-13-403, and the fire hazard reduction agreement when all
 21 requisite reasonable care and caution has been used and such
 22 the work is being or has been performed in compliance with
 23 the rules provided in 76-13-403."

24 Section 6. Section 76-13-407, MCA, is amended to read:
 25 "76-13-407. Reduction of slash and debris along

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1 right-of-way. (1) A person clearing right-of-way for any
2 railroad, public highway, public trail, private road, trail,
3 ditch, dike, pipeline or wire lines, or any other
4 transmission or transportation utility right-of-way, except
5 temporary roads located within the boundaries of the cutting
6 area and which are used in the actual logging operations,
7 shall reduce the hazard resulting from the clearing or from
8 the cutting of material for the construction of the public
9 or private utility unless exempted by the department. At
10 least 10 days before commencement of the clearing, the
11 person conducting the clearing shall notify the department
12 of commencement of the clearing in the form and manner the
13 department provides.

14 (2) Hazard reduction, including excluding burning where
15 this method of disposal is used, shall be done as rapidly as
16 cutting or clearing progresses; however, upon application to
17 the department, it may grant a permit extending the time
18 within which the burning must be done in compliance with
19 this chapter relating to burning permits during the closed
20 season.

21 (3) This section applies to all clearing of
22 rights-of-way across private land and on behalf of the
23 state, county, highway districts, and road districts,
24 whether the work is done by day labor or by contract, and
25 unless unavoidable emergency prevents, provision shall be

1 made by the proper officials conducting, directing, or
2 letting the work for withholding until it is complete a
3 sufficient portion of the payment therefor to assure
4 compliance with this part."

5 Section 7. Section 76-13-408, MCA, is amended to read:

6 "76-13-408. Fire hazard reduction agreement and bond.

7 (1) Before cutting any forest product ^{skid} ~~construct-~~
8 ing or reconstructing any road in contemplation of
9 cutting any forest product or conducting timber stand
10 improvement such as but not limited to thinning, weeding, or
11 pruning upon private lands within the state, the person
12 conducting such practice the work shall provide for the
13 reduction or management of the fire hazard to be created by
14 entering into a fire hazard reduction agreement or a master
15 fire hazard reduction agreement with the department and by
16 posting a bond to the state in such form and for such amount
17 as may be prescribed by the department, conditioned upon
18 providing for the full and faithful compliance with all
19 requirements under this part and the faithful reduction or
20 management of the fire hazard in the manner prescribed by
21 law and by rules adopted by the board.

22 (2) Either the person conducting the work or the
23 purchaser as provided in 76-13-409(2) shall post a bond to
24 the state in a form and for an amount as may be prescribed
25 by the department, but the amount may not exceed \$6 for each

1 1,000 board feet (log scale) or the equivalent if forest
 2 products other than logs are cut.

3 *Smelled*
 4
 5
 6 (3) The agreement must provide that:

7 (a) all fire hazard reduction or management work
 8 comprising nonburning methods and preparations for burning
 9 must be completed within 18 months of commencement of
 10 cutting in the area covered by the agreement; and

11 (b) all burning work must be completed as specified in
 12 the agreement and in compliance with rules adopted by the
 13 board.

14 (2)(4) The bond shall must be released upon the
 15 issuance of the certificate of clearance completion--of--the
 16 work-done-in-compliance-with-the-terms-of-the-agreement."

17 Section 8. Section 76-13-409, MCA, is amended to read:

18 "76-13-409. Duty of purchaser to insure ensure
 19 compliance -- statement -- bond. (1) The initial purchaser
 20 of forest products which have been cut or are about to be
 21 cut from any private lands within the state shall, before
 22 making the purchase or contract to purchase, determine that
 23 the person engaged or about to engage in the cutting of
 24 these forest products has provided for the reduction or
 25 management of the fire hazard thus-created; as--provided--in

1 this-part by entering into a fire hazard reduction agreement
 2 as provided in 76-13-408.

3 (2) When--the--hazard-reduction-agreement-provides-that
 4 the purchaser of-forest-products shall withhold moneys
 5 sufficient money to meet the requirements of the bond
 6 provided for in 76-13-408 to-insure-faithful-compliance-with
 7 this-part, plus the fees for administration, inspection, and
 8 enforcement by the department as provided in the hazard
 9 reduction agreement. the The purchaser shall transmit all
 10 moneys money and fees which that are withheld and a report
 11 of volumes of products purchased to the department on or
 12 before the 15th day of each the following month, clearly
 13 identifying by number the fire hazard reduction agreement to
 14 which the withheld moneys money, fees, and product volumes
 15 pertain. The purchaser shall keep accurate records of the
 16 purchase and the amounts withheld, which may be inspected by
 17 the department at any reasonable time.

18 (3) Upon--the--department-making-the-determination-that
 19 faithful-compliance-with-this-part-has--been--achieved;--the
 20 department--shall--return--to--the--owner--thereof--all--such
 21 withheld-money-with-the--exception--of--4--for--inspection,
 22 administration, enforcement, and smoke management.

23 (3) If forest products are not received or purchased in
 24 a given month, a report showing a zero balance and stating
 25 that products were not purchased must be submitted to the

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1 department.

2 (4) The department may require the purchaser to post a

3 bond to the state in a form and for an amount as may be

4 prescribed by the department to ensure faithful compliance

5 with this part."

6 Section 9. Section 76-13-410, MCA, is amended to read:

7 "76-13-410. Failure to comply. (1) If a person fails,

8 refuses, or neglects to properly reduce or manage the fire

9 hazard dispose-of-stash in accordance with the requirements

10 of 76-13-407 and 76-13-408 and-is-engaged--or--is--about--to

11 engage-either-for-himself-or-for-another-in-cutting-timber

12 or--other-forest-products-and-thereby-creates-a-fire-hazard,

13 he may be enjoined from further cutting, clearing, and

14 construction timber--harvesting operations until 76-13-407

15 and 76-13-408 have been complied with. The department may

16 initiate the proceedings and may obtain a temporary

17 restraining order, injunction, or writ of mandate. The

18 proceedings shall be conducted in the district court of the

19 county where the land is located.

20 (2) If a person fails to comply with 76-13-407 or

21 76-13-408 and--has-cut--any--forest-products and fails to

22 comply within 30 days after being notified to do so by the

23 department, the department may complete, direct, or

24 authorize the disposal-of-the-stash fire hazard reduction or

25 management at the expense of the contractor or of the owner

1 of the timber or other forest products cut or produced from

2 the land upon which the undisposed-of unabated fire hazard

3 remains.

4 (3) The cost and expense of the disposal fire hazard

5 reduction or management work, plus 20% of the cost and

6 expense of the-disposal the work as a penalty, constitutes a

7 lien upon the forest products so cut or produced from the

8 land and upon the real and personal property of the

9 contractor. If payment of the sum demanded is not made to

10 the department within 10 days of its written demand, the

11 department shall bring legal action on behalf of the state

12 to recover the debt."

13 Section 10. Section 76-13-411, MCA, is amended to read:

14 "76-13-411. Certification of clearance. (1) When the

15 department makes a determination of faithful compliance by

16 the contractor with this part, the rules adopted under

17 76-13-403, and the hazard reduction agreement, the

18 contractor must be issued a certification of clearance by

19 the department and be relieved of any further liability or

20 responsibility for fire hazard reduction or management under

21 the fire hazard reduction agreement. A--person---who--has

22 entered---into--a--contract--with--the--department--for--the

23 reduction-or-management-of-any-fire-hazard, upon payment--of

24 the--contract--price--in--accordance--with--the--terms-of-the

25 contract-and-the-faith-compliance--with--the--terms-of--the

1 contract-by-the-person;--shall-be-granted-a-certification-of,
 2 clearance--by--the-department-and-be-relieved-of-any-and-all
 3 further-liability-and--responsibility--for--the--removal--or
 4 reduction--of--the--fire--hazard--The-department-may-require
 5 that-a-cash-bond,--equivalent--to--the--contract--price--and
 6 conditioned-upon--the-faithful-performance-of-the-contract,
 7 be-deposited-by-the-person-with-the-department.
 8 (2) The department shall not file for record any lien
 9 against the property of any person who has been issued a
 10 certification of compliance with 76-13-488 and 76-13-489
 11 covering the property."

12 Section 11. Section 76-13-413, MCA, is amended to read:

13 "76-13-413. Failure to submit withholding -- remedy.

14 (1) If a purchaser does not submit withheld money and
 15 required reports on or before the 15th day of each the
 16 following month as provided in when required to do so under
 17 76-13-409, he must be notified by registered or certified
 18 mail that he is in noncompliance and be given 15 days to
 19 submit all money and reports then due. If he fails to submit
 20 all money due within the required time, the department may
 21 initiate a lien upon the real property of the purchaser and
 22 may initiate proceedings to enjoin further processing of all
 23 wood products until all money due is paid in full or
 24 satisfactory arrangements for payments are made and all
 25 required reports are submitted.

1 (2) If payment and reports are not received by the
 2 department is--not--made within the 15-day period after
 3 notification as provided in subsection (1), a penalty of 5%
 4 of the payment amount due must be assessed. The department
 5 may abate the penalty if the purchaser establishes that the
 6 failure to submit the amount due or the reports as required
 7 was due to reasonable cause and was not due to neglect on
 8 his part. The department, in addition to the penalty, may
 9 impose interest at the rate of 10% a year on any balance
 10 remaining unpaid.

11 (3) All money withheld by a purchaser for the
 12 contractor's bond and for department fees are considered to
 13 be excise taxes withheld for the benefit of the state within
 14 the meaning of 11 U.S.C. 507."

15 NEW SECTION. Section 12. Fees. (1) In addition to any
 16 bond, the department shall charge the contractor fees for
 17 administration, inspections, and enforcement work conducted
 18 in the exercise of its duties under this part. The fees
 19 must be deposited in the state special revenue fund to the
 20 credit of the department.

21 (2) (a) The fee for a fire hazard reduction agreement
 22 is \$25 and must be collected by the department upon issuance
 23 of the agreement.

24 (b) In addition, a fee of 60 cents for each 1,000 board
 25 feet (log scale) or equivalent must be charged if products

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1 other than logs are cut. This fee must be withheld by the
2 purchaser as provided in 76-13-409(2), except that any fee
3 money withheld for product volumes exceeding 500,000 board
4 feet per agreement in a calendar year must be returned to
5 the contractor by the department.

6 (3) Fees for master fire reduction agreements must be
7 equal to 100% of the department's actual costs incurred in
8 the administration, inspection, and enforcement of each
9 agreement, and the department shall bill the contractor
10 annually to collect such fees.

11 NEW SECTION. Section 13. Repealer. Section 76-13-404,
12 MCA, is repealed.

13 NEW SECTION. Section 14. Extension of authority. Any
14 existing authority to make rules on the subject of the
15 provisions of [this act] is extended to the provisions of
16 [this act].

17 NEW SECTION. Section 15. Codification instruction.
18 [Section 12] is intended to be codified as an integral part
19 of Title 76, chapter 13, part 4, and the provisions of Title
20 76, chapter 13, part 4, apply to [section 12].

21 NEW SECTION. Section 16. Effective date. [This act] is
22 effective July 1, 1989.

-End-

EXHIBIT 7
DATE 2-15-89
HB 657

STATE FORESTER'S ALTERNATE TESTIMONY

ON '89 SLASH BILL (HB 0657)

DRAFT #3 (Edited 2/15)

I WOULD LIKE TO OFFER MY STRONG SUPPORT FOR HB0657, REVISING THE FIRE HAZARD REDUCTION LAWS.

BACKGROUND

IN RECENT YEARS, THE STATE'S FOREST INDUSTRIES AND LOGGING CONTRACTORS HAVE BECOME INCREASINGLY CONCERNED THAT THE SLASH LAW SHOULD BE ADMINISTERED AS EFFICIENTLY AND EVEN-HANDEDLY AS POSSIBLE. IN PARTICULAR, THEY ASKED ME TO CLARIFY OUR STANDARDS FOR COMPLIANCE WITH THE LAWS AND RULES, SO THAT THEY COULD PLAN AND EXECUTE THEIR OPERATIONS MORE EFFICIENTLY.

IN DECEMBER 1987, I INVITED REPRESENTATIVES OF MONTANA'S FOREST INDUSTRIES, LOGGERS AND PRIVATE LANDOWNERS TO PARTICIPATE IN A TASK FORCE TO IMPROVE THE DEPARTMENT'S SLASH PROGRAM. IN ADDITION TO STANDARDS FOR SLASH WORK, THE REPRESENTATIVES AGREED TO WORK ON RELATED ISSUES INCLUDING DEPARTMENT PROCEDURES, LAW ENFORCEMENT, DSL'S PERSONNEL NEEDS AND FINALLY, FUNDING OF DSL'S PROGRAM. THIS CONSENSUS-BUILDING TASK FORCE FINISHED ITS WORK IN DECEMBER 1988. I AM VERY PLEASED WITH THE RECOMMENDATIONS PRODUCED BY THE SLASH TASK FORCE, SOME OF WHICH ARE REPRESENTED IN THIS BILL.

KEY PROVISIONS

FROM DSL'S STANDPOINT, THE MOST SIGNIFICANT FEATURES OF THIS BILL ARE THE PROVISIONS FOR A NEW FEE STRUCTURE (SECTION 12), AND THE AUTHORITY TO BOND MILLS (SECTION 8, 76-13-409 MCA, NEW SUBSECTION 4).

THE REVISED FEE STRUCTURE CREATES MORE EQUITY AMONG THOSE WHO DEPEND ON OUR SERVICES TO ACHIEVE COMPLIANCE WITH THE SLASH LAWS. UNDER CURRENT LAW, DSL IS AUTHORIZED TO RETAIN 4% OF THE CONTRACTOR'S PERFORMANCE BOND FOR ADMINISTRATION, INSPECTION AND ENFORCEMENT WORK. AT A BONDING RATE OF \$6 PER THOUSAND BOARD FEET (MBF), THIS PROVIDES ONLY 24 CENTS PER MBF, WHICH GROSSLY UNDER-COMPENSATES DSL FOR THE REAL COSTS OF ADMINISTERING MOST AGREEMENTS. FOR EXAMPLE, A TYPICAL NONINDUSTRIAL AGREEMENT INVOLVING 50 MBF EARNS DSL ONLY \$12, COMPARED TO ACTUAL COSTS OF \$100 OR MORE FOR FIELD WORK, OFFICE WORK AND ACCOUNTING. THIS BILL WOULD ESTABLISH A NEW FEE STRUCTURE TO SUPPORT THE SLASH PROGRAM AT A LEVEL COMMENSURATE WITH SERVICES PROVIDED. FOR AGREEMENTS COVERING INDIVIDUAL OPERATIONS, THERE WOULD BE A FEE OF \$25 TO OPEN THE AGREEMENT PLUS 60 CENTS PER MBF HARVESTED.

APPROXIMATELY THREE-QUARTERS OF THE AGREEMENTS WOULD HAVE TOTAL FEES OF \$25 TO \$150. IN A TYPICAL, NONINDUSTRIAL HARVEST OF 50 MBF, THESE FEES WOULD NORMALLY INCREASE THE LOGGING COSTS BY LESS THAN ONE PERCENT. FOR LARGER OPERATIONS, AN ANNUAL LIMIT ON THE VOLUME SUBJECT TO FEES - 500 MBF - WOULD CREATE A CAP ON THE YEARLY COST OF AN AGREEMENT OF \$325.

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HOLDERS OF MASTER AGREEMENTS - THOSE COVERING MANY OPERATIONS, AND
TYPICALLY SUPERVISED BY INDUSTRY FORESTERS - WOULD BE BILLED ANNUALLY
FOR 100% OF DSL'S ACTUAL COSTS INCURRED IN THE ADMINISTRATION,
INSPECTION AND ENFORCEMENT OF EACH AGREEMENT. THIS SETS INTO LAW
CURRENT BILLING PRACTICE FOR THESE MASTER AGREEMENTS, WHICH ARE MORE
EFFICIENT FOR BOTH DSL AND THE PRIVATE PARTY CONDUCTING MULTIPLE
OPERATIONS.

THE REVISED FEES WOULD BE VERY COMPLEMENTARY FOR DSL'S CURRENT
RESOURCE NEEDS. ON FEBRUARY 15, 1989 I TESTIFIED BEFORE THE HOUSE
NATURAL RESOURCES APPROPRIATIONS COMMITTEE REQUESTING AUTHORITY FOR
2.81 ADDITIONAL FTES FOR THE SLASH ADMINISTRATION SUBPROGRAM. THIS
COMMITTEE APPROVED THIS BUDGET MODIFICATION PENDING PASSAGE OF THIS
BILL. THESE RESOURCES ARE NEEDED TO HANDLE A SHARPLY INCREASED
WORKLOAD (ABOUT 29%) IN THE NUMBER OF NONINDUSTRIAL PRIVATE HARVESTS,
AND TO IMPLEMENT CHANGES IN OUR PROGRAM RECOMMENDED BY THE TASK FORCE
(HB0657 DOES NOT, OF ITSELF CAUSE ANY NEW WORKLOAD OR EXPENDITURES).

*Increased
workload
and expenses*

A KEY BENEFIT OF THE REVISED FEES IS THAT THEY ARE EXPECTED TO PROVIDE
ALL OF THE INCOME NECESSARY TO SUPPORT THE ADDITIONAL PERSONNEL. THAT
IS, NO ADDITIONAL GENERAL FUNDS WOULD BE NEEDED FOR THIS BIENNIUM, NOR
IN THE FORESEEABLE FUTURE.

THE OTHER KEY PROVISION OF THIS BILL INVOLVES THE BONDING OF MILLS.

THE AUTHORITY TO BOND MILLS IS NEEDED BY DSL TO REMEDY CERTAIN CASES
OF NONCOMPLIANCE BY LOG PURCHASERS. CURRENT LAW OBLIGATES MILLS TO

DETERMINE THAT A LOG SELLER HAS A SLASH AGREEMENT WITH DSL BEFORE BUYING LOGS, AND TO WITHHOLD MONEYS FROM THE PURCHASE PAYMENT AS A PERFORMANCE BOND FOR SLASH WORK. A MONTHLY REPORT IS REQUIRED TO DSL DETAILING LOG PURCHASES, PLUS A TRANSMITTAL OF ALL MONEYS WITHHELD. UP TO 5% OF MONTANA SAWMILLS MAY NOT BE IN COMPLIANCE WITH THIS LAW AT ANY GIVEN TIME. THIS BILL PROVIDES AUTHORITY FOR DSL TO ^{require a} BOND ^{from} PURCHASERS OF FOREST PRODUCTS, SO THAT IN CASES WHERE THE PURCHASER DOES NOT TRANSMIT WITHHELD MONEYS TO DSL, DSL HAS A VEHICLE FOR REFUNDING THE BONDS OF CONTRACTORS WHO HAVE ACTED IN GOOD FAITH BY DOING THEIR SLASH WORK. IT IS MY INTENT THAT RULES WILL BE SET FORTH TO ESTABLISH THE CRITERIA DSL WILL USE TO DETERMINE THAT A PURCHASER SHOULD BE BONDED. PURCHASERS WHO HAVE A GOOD RECORD OF COMPLIANCE SHOULD NOT BE PENALIZED BY ^{this} BONDING ^{requirement}.

SECONDARY PROVISIONS

THIS BILL CONTAINS SECONDARY MEASURES THAT WILL PROMOTE A FAIR, EVEN-HANDED APPROACH TO ENFORCEMENT OF THE SLASH LAWS. ALL OF THESE REVISIONS ARE BENEFICIAL FOR ADMINISTERING AN EFFICIENT SLASH PROGRAM.

SUMMARY

THIS IS A GOOD BILL. COMBINED WITH THE ADDITIONAL FTE'S JUSTIFIED IN THE GOVERNOR'S BUDGET, THIS BILL WILL ENHANCE THE DEPARTMENT'S ABILITY TO PROVIDE EFFECTIVE SERVICE TO FOREST LANDOWNERS AND OPERATORS, PLUS GUARANTEE THE PUBLIC A CONTINUED, HIGH LEVEL OF COMPLIANCE WITH FIRE

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HAZARD REDUCTION STANDARDS. THE BILL IS FAIR, IT HAS BROAD-BASED
SUPPORT, AND IT DOESN'T ASK THE LEGISLATURE FOR MORE GENERAL FUNDS. I
STRONGLY URGE PASSAGE OF THIS BILL.

Amendments to House Bill No. 143
Introduced Copy

Requested by Rep. O'Keefe

Prepared by H. Zackheim
February 10, 1989

1. Page 1.

Following: line 11

Insert: " STATEMENT OF INTENT

It is the intent of the legislature to create an oil and gas production damage mitigation account to be administered by the board of oil and gas conservation for the purpose of properly plugging and abandoning oil and gas wells when a responsible party cannot be found or when the responsible party does not have sufficient financial resources. The board shall adopt rules to help it define "sufficient financial resources", shall require a responsible party to pay the costs of plugging and abandoning to the extent of his available resources, and shall pursue full cost recovery for funds spent from the account through the procedures provided in [section 9] or other lawful means. The board may adopt rules to administer instituting a lien on the party's personal and real property to cover the cost of plugging and abandoning.

The legislature intends that the board use the account for reclamation related to land, water, or wildlife resources disturbed by abandoned oil and gas wells, injection wells, sumps, and seismographic shot holes.

It is also the intent to remove producing wells completed after June 30, 1989, from drilling bonds and to limit the liability of the bond or its equivalent to the period between issuance of the bond and either proper plugging and abandoning of a dry hole or completion of a producing well. The board shall adopt forms for the producer to indicate that a well has been completed and shall, upon receipt of the information and payment required under [section 7], release and absolve the owner of the well from the bond required under 82-11-123.

It is further the intent of the legislature that the board of oil and gas conservation respond promptly to emergency situations that may arise."

2. Page 2, line 8.

Following: "(ii)"

Insert: "beginning in fiscal year 1992,"

Strike: "\$250,000"

Insert: "\$50,000"

3. Page 5, line 24.

Strike: "list"

Insert: "record"

4. Page 6, line 3.

Strike: "the preceding"

Following: "subsection"

Insert: "(1)"

5. Page 6, line 4.

Following: "determine"

Insert: "and list"

6. Page 6, lines 12 and 13.

Strike: "under" on line 12 through "subsection" on line 13

Insert: "or when the person does not have sufficient financial resources to pay for complete reclamation"

7. Page 6, lines 17 and 18.

Strike: "established" on line 17 through "available" on line 18

Insert: "in a manner consistent with the requirements for the use of the account provided in [section 6] and [section 9]"

8. Page 9, line 8.

Strike: "as required "

Insert: "for the purposes of using the oil and gas production damage mitigation account established"

9. Page 11, line 7.

Following: "the"

Insert: "owner notifies"

Strike: "is" through "[section 7]"

10. Page 11, line 9.

Strike: "is" through "provisions"

Insert: "meets the requirements"

11. Page 12, line 6.

Strike: "1989"

Insert: "1991"

12. Page 12, line 8.

Strike: "\$250,000"

Insert: "\$50,000"

13. Page 12, line 13.

Strike: "\$500,000"

Insert: "\$200,000"

14. Page 12, line 15.

Strike: "\$500,000"

Insert: "\$200,000"

15. Page 12, line 17.

Strike: "\$500,000"

Insert: "\$200,000"

Strike: "\$250,000"

Insert: "\$50,000"

16. Page 12.

Following: line 19

Insert: "(3) In addition to the allocation provided in subsection (2), there must be deposited in the oil and gas production damage mitigation account:

(a) all funds received by the board pursuant to 82-11-136; and

(b) all fees received by the board from owners of producing wells pursuant to [section 7]."

Renumber: subsequent subsections

17. Page 12, line 25 through line 1, page 13.

Following: "abandoned"

Strike: ", " on line 25 through "quantities," on line 1

18. Page 13, line 2.

Strike: "located"

Insert: "or the responsible person does not have sufficient funds to pay the costs. The responsible person shall, however, pay costs to the extent of his available resources and is subsequently liable to fully reimburse the account or shall be subject to a lien on property as provided in [section 9] for costs expended from the account to properly plug the well and to mitigate any damage caused by the well."

19. Page 13, line 11.

Strike: "application of"

Insert: "receipt of notification by"

20. Page 13, line 12.

Strike: "in"

Insert: "on"

Following: "board"

Insert: ", payment by the owner of {\$50/\$100/\$200}, "

Strike: "upon providing"

Following: "proof"

Insert: "from the owner"

21. Page 14, line 5.

Strike: "-- priority"

22. Page 14, lines 7 and 8.

Following: "account"

Strike: ", " on line 7 through "[section 6(3)]" on line 8

Insert: "under [section 6(4)]"

23. Page 14, line 9.

Following: "year"

Insert: ", "

24. Page 14, lines 11 and 12.

Following: "person," on line 11

Strike: "as" on line 11 through "[section 4]," on line 12

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25. Page 14, lines 14 and 15.

Following: "person," on line 14

Strike: "as" on line 14 through "[section 4]," on line 15

Following: "not"

Insert: "fully"

26. Page 14, lines 19 through 21.

Strike: "has" on line 19 through "may" on line 21

Insert: "must"

Following: "to" on line 21

Strike: "the"

Insert: "all"

27. Page 14, line 22.

Following: "the"

Insert: "responsible"

Strike: "as determined under [section 4]"

28. Page 14, lines 23 through 25.

Strike: "has" on line 23 through "[section 4]" on line 25

Insert: "is valid until paid in full or otherwise discharged.

The lien must be foreclosed in accordance with applicable laws governing foreclosure of mortgages and liens."

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BILL NO. HJR 25

DATE 2-15-89

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VISITORS' REGISTER

Natural Resources COMMITTEEBILL NO. HB 609DATE 2-15-89SPONSOR Cohen

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Stan Broadhead	Forest Unlimited	✓	
Janet TD Ellis	Audubon	✓	
Jim Wilson	Steno Club	✓	
Jim Jensen	MEIC	✓	
Steve Picher	DHES	✓	

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Natural Resources COMMITTEE

DATE 2-15-89

[illegible]

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