

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Thomas F. Keating, on February 17, 1989,
at 1:00 p.m., Room 405, in the State Capitol.

ROLL CALL

Members Present: Senators: Thomas F. Keating, Chairman,
Larry Tveit, Darryl Meyer, Lawrence Stimatz, Pete
Story, Cecil Weeding, Dorothy Eck and Jerry Noble.

Members Excused: Senator Van Valkenburg

Members Absent: Senators Loren Jenkins, Bill Yellowtail and
Elmer Severson.

Staff Present: Bob Thompson and Helen McDonald

SENATE BILL 371

SB 371 deals with the the extension of investigative and
enforcement of authority for the Department of Health and
Environmental Sciences to address the federal Resource
Conservation and Recovery Act (RCRA).

Frank Crowley, Chief Legal Counsel, DHES, stated the
amendments are the result of discussions the DHES has had
with Mr. Art Wittich of the Montana Power Company. (Exhibit
#1) The principal amendment concerns release of subpoena
power as it would relate to persons other than the alleged
violator. The department has not experienced a significant
number of problems in this area but it could be an issue.
The department would commit to taking it out now but if its
experience in the future indicates its omission is an
impediment to the agency's effectiveness getting information
about sites, the DHES probably would come back and request
the revision at that time.

Senator Weeding moved the amendments.

Bob Thompson stated that on page 8 line 24 subsection (4)(a)
was stricken in its entirety. There should follow another
small amendment to strike subsection (b) on page 8, line 24.

Senator Noble added the amendments to the motion with
Senator Weeding's consent.

Senator Eck asked Mr. Wittich why the Montana Power wants to remove subpoena power from the department.

Art Wittich answered that the company doesn't want to remove the power of the subpoena from the department. They already have that under the Montana Administrative Procedures Act. The problem is that the DHES would be able to subpoena any other person or somebody before a violation occurs. The Montana Power has no problem with the department having subpoena power once they issue a notice of violation.

Mr. Wittich added that when the department goes to a third party for information, they can force people to come before the board or the department and give information. Instead, they should get it from the violator's spokesman. This amendment makes the bill consistent with federal law, and Montana Power's position all along has been consistency in regulations with the federal laws.

Senator Noble asked Mr. Wittich if the amendments in the bill were in his line of thinking.

Art Wittich answered that the amendments now make the bill consistent with federal laws. There is one minor exception and that is page 6, section 4. deviation from federal law, but Montana Power doesn't have a problem with that. Basically, that section allows the department to get the responsible person to monitor a waste site. Under federal law, if the owner/operator doesn't monitor, the agency may start monitoring but it cannot force a third party to monitor.

The amendments were moved and seconded, and were passed.

SB 371 as amended has been moved DO PASS.

ADJOURNMENT

Adjournment At: 1:12 p.m.


THOMAS F. KEATING, Chairman

TFK/hmc

ROLL CALL

NATURAL RESOURCES COMMITTEE

50~~5~~th LEGISLATIVE SESSION -- 1989

Date 2-17-89

NAME	PRESENT	ABSENT	EXCUSED
Chairman Tom Keating	✓		
Vice-Chairman Larry Tveit	✓		
Senator Fred VanValkenburg			✓
Senator Loren Jenkins		✓	
Senator Darryl Meyer	✓		
Senator Lawrence Stimatz	✓		
Senator Pete Story	✓		
Senator Bill Yellowtail		✓	
Senator Elmer Severson		✓	
Senator Cecil Weeding	✓		
Senator Dorothy Eck	✓		
Senator Jerry Noble	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

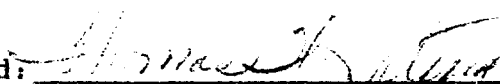
February 17, 1989

MR. PRESIDENT:

We, your committee on Natural Resources, having had under consideration SB 371 (first reading copy -- white), respectfully report that SB 371 be amended and as so amended do pass:

(See attached)

AND AS AMENDED DO PASS

Signed: 
Thomas F. Keating, Chairman

2-15-89
2:55

Proposed Amendments to Senate Bill No. 371
First Reading Copy
Offered by the Department of Health and Environmental Sciences
For the Senate Committee on Natural Resources

February 16, 1989

1. Page 8, lines 9 through 12.
Following: "violator" on line 9
Strike: "and any other person having information regarding the alleged violation or its resulting, actual, or potential impacts on public health, welfare or the environment"
2. Page 8, line 12.
Following: "board"
Insert: "or department,"
3. Page 8, line 14.
Following: "notice"
Strike: "and"
Insert: "to".
4. Page 8, line 15.
Following: "of"
Strike: " ; "
Insert: "or to provide information regarding the alleged violation or its actual or potential impact on public health, welfare or the environment;"
5. Page 8, line 18.
Strike: Section 4 (a) in its entirety
Re-number: Subsequent subsection
6. Page 11, line 11.
Following: "to a"
Insert: "material"
7. Page 12, lines 14 and 15.
Following: "of" on line 14
Strike: "not less than \$5,000 nor"
Insert: "no"
8. Page 12, line 19.
Following: "rule"
Insert: "material"
9. Page 13, line 2.
Strike: "minimum and"