

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By VICE-CHAIR MARK O'KEEFE, on January 18, 1991,
at 3:00 pm.

ROLL CALL

Members Present:

Bob Raney, Chair (D)
Mark O'Keefe, Vice-Chair (D)
Beverly Barnhart (D)
Ben Cohen (D)
Ed Dolezal (D)
Orval Ellison (R)
Russell Fagg (R)
Mike Foster (R)
Bob Gilbert (R)
David Hoffman (R)
Dick Knox (R)
Bruce Measure (D)
Tom Nelson (R)
Bob Ream (D)
Jim Southworth (D)
Howard Toole (D)
Dave Wanzenried (D)

Members Excused:

Vivian Brooke

Staff Present: Gail Kuntz, Environmental Quality Council (EQC)
Paul Sihler, Environmental Quality Council (EQC)
Lisa Fairman, Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Announcements/Discussion: VICE-CHAIR O'KEEFE requested all
visitors to sign in and present written testimony to the
secretary. HB 139 and HB 161 will be heard.

HEARING ON HB 139

Presentation and Opening Statement by Sponsor:

REP. BOB RANEY, House District 45 explained this legislation
resulted from an Environmental Quality Council (EQC) study on
waste management in Montana, mandated by the 1989 Legislature:

SJR 19. Numerous other bills will be presented during this session that are also a direct result from EQC's study. Through this study it became apparent that current laws, staffing levels and logistical support to adequately and safely handle the importation of solid waste do not exist. HB 139 will extend the sunset in the existing law banning the import of solid waste into Montana for 2 more years. This time will allow the state and private industry to prepare for megalandfills so that they can be managed properly to ensure the health and safety of all Montanans and the environment. The moratorium will provide the time necessary to implement the sub-title D regulations from the Environmental Protection Agency (EPA), hire and fund the necessary personnel, and provide the opportunity for Montanans to say how they want their land managed. This moratorium is essentially an extension of the moratorium passed during the 1989 session. It is contended that a moratorium of this kind is in violation of the U.S. Constitution commerce clause. Because this is a 2-year moratorium with the intent to provide the state opportunity to adequately prepare for solid waste import and is not an absolute moratorium banning interstate import of solid waste it is felt that the state is not in violation of the commerce clause. REP. RANEY emphasized that the intent of HB 139 is not to stop interstate commerce but rather to ensure that waste importation is done in a manner to protect the health and welfare of the people and environment of Montana. EXHIBIT 1

Proponents' Testimony:

REP. JESSICA STICKNEY, spoke in behalf of constituents in Custer County where a proposed megalandfill site is identified. Imported garbage is a major issue in her county. A vast majority of people strongly support the moratorium until laws and staff are in place. They don't want other people's garbage dumped in Custer County or in any other county in Montana. EXHIBIT 2

Lee Richardson, Custer Resource Alliance, supports HB 139. He is very opposed to interstate dumping of wastes.

Chris Kaufmann, Montana Environmental Information Center (MEIC), stated HB 139 should be adopted especially since plans and regulations mandated through 1989 legislation have not occurred (refer to lines 8 -12 of HB 139).

Steve Carroll, Missoula, supports HB 139 and emphasized the need to get regulations and rules in place before Montana imports waste.

Kristin Page, Montana Public Information Research Group, (MONTPIRG) supports HB 139 as it provides more time to assess potential impacts of megalandfills.

Deborah Hanson, Northern Plains Resource Council and Custer Resource Alliance, supports HB 139. EXHIBIT 3. Rural

communities, such as Custer, are targets for megalandfills. These landfills are time bombs for major hazardous waste and toxic pollution spills to occur. Groundwater is often close to the surface and since all landfills eventually leak, contamination is inevitable. The Department of Health and Environmental Sciences (DHES) is understaffed and underfunded. Two more years are needed to implement EQC's recommendations.

Thora Hanson, Northern Plains Resource Council, supported the moratorium and opposed the dumping of other states' waste in Montana. EXHIBITS 4, 5. There is a need for more expertise on how to get rid of toxic wastes and a need for other states to be responsible for their own wastes. Ms. Hanson asked who will clean up and be responsible for train derailments of the imported waste.

Clyde Dailey, Montana Senior Citizens Association, supports HB 139.

Opponents' Testimony:

Fallen County Development Corporation, submitted written testimony in opposition to HB 139. No representatives were present. EXHIBIT 6.

Informational Testimony: none

Questions From Committee Members:

REP. DAVID HOFFMAN inquired how long would it take to have the rules promulgated and if that would be adequate time. REP. RANEY replied that it would take approximately 18 months after the law is in place. If this was not sufficient time, another extension of the moratorium would be sought. REP. HOFFMAN asked if other states have regulatory rules for dumping. REP. RANEY stated many other states have regulations and the EQC did a comprehensive review of the regulations, soliciting input from the states. REP. HOFFMAN inquired if other states have imposed moratoriums and if so, what is their legal status. REP. RANEY replied that other states have moratoriums that have been declared unconstitutional. Their moratoriums are absolute, banning import of waste. EQC's proposed moratorium differs in that it is for a designated period of time and does not have the intention of banning trade. The purpose is to allow the state the time needed to develop and implement regulations before acquiring others' waste. This type of moratorium has not been challenged. REP. RANEY expressed his agreement with the opinions to abolish dumping in Montana, but that is not the intent of HB 139. REP. DAVE WANZENRIED questioned if DHES has enough money to cover the additional expenses required for necessary studies and implementation of a waste management plan. REP. RANEY replied that the current funding level is inadequate and bills are being proposed to provide financial support for implementation and funding of necessary personnel. REP. EDWARD DOLEZAL asked if any

federal funding was available. REP. RANEY was not aware of any.

Closing by Sponsor:

REP. RANEY emphasized that the issue of this bill is to extend the moratorium on the importation of wastes into Montana. The issue is not whether to allow importation of wastes. The moratorium will allow Montana to get laws and rules in place before taking other's waste. By doing so, Montanans, through importation regulations, may encourage other states to reuse, recycle and reduce their own garbage.

VICE-CHAIR O'KEEFE closed the hearing and introduced HB 161.

HEARING ON HB 161

Presentation and Opening Statement by Sponsor:

REP. BOB GILBERT, House District 22, stated that HB 161 is a simple yet important part of groundwater legislation. The bill allows DHES to issue clean-up orders to a local government entity to clean up a discharge or spill that is polluting or can pollute groundwater if that government entity has issued a licensing permit, such as a waste water permit or septic tank permit, to the responsible source. Current laws allow DHES to issue clean-up orders to individuals or agencies but it is not clear if local government units are included. The bill will provide for DHES to order local governments to activate clean-up action on polluting sources when it is not clear who is responsible for the contamination or when numerous homeowners are affected. REP. GILBERT suggested that an amendment clarifying the term "discharge" should be considered. The DHES has a specific and limited definition of "discharge" and this may lead to confusion. The bill is intended to be more encompassing than DHES's definition of "discharge".

Proponents' Testimony:

Steve Pilcher, Administrator, DHES, stated the bill is an outcome of EQC's study examining groundwater issues. The DHES worked closely with EQC to identify state groundwater problems and to assess the state's ability to respond to problems specifically in areas of inadequate subsurface waste disposal. It is administratively difficult or impossible for DHES to deal individually with homeowners when a large contamination occurs, such as the one in Evergreen. HB 161 will allow DHES to work through local government authorities to get problem areas cleaned up if local government was involved in the issuance of permits.

Janet Ellis, Montana Audubon Legislative Fund, stated high water quality is critical for drinking water, aquatic ecosystems and riparian areas, and HB 161 provides an important tool to keep high water quality. Ms. Ellis supports passage of HB 161.

Jim Jensen, Montana Environmental Information Center, supports HB 161 stating they like clean water.

Stan Bradshaw, Trout Unlimited, said groundwater often turns into surface water and supports HB 161.

Opponents' Testimony: none

Informational Testimony: none

Questions From Committee Members:

VICE-CHAIR O'KEEFE asked Mr. Pilcher if the language in the bill authorizes DHES to issue orders related to water pollution caused by improper sewage disposal. If the intent is not reflected in the bill does DHES have any recommendations to include such language. Mr. Pilcher replied the term "discharge" is specifically defined in the Water Quality Act and may be too restrictive. DHES would like to work with the staff to incorporate terms that better reflect the intent of "discharge". REP. ORVAL ELLISON inquired if the bill would change the liabilities of local officials. Mr. Pilcher responded local governments have responsibilities for their jurisdiction. The actual legal responsibilities need to be clarified by a legal expert. HB 161 is intended to use the local government units to help facilitate solutions to the problems rather than placing responsibility of a problem on them. REP. ELLISON asked who is accountable to pay costs of clean-up. Mr. Pilcher answered the state is mandated to collect costs of cleanup, seeking payment from individual(s) responsible for contamination. He could not answer if DHES would seek payment from the county if a responsible party or parties could not be identified. He emphasized the bill is not intended to transfer responsibility from state to local government. It is intended to facilitate the clean-up process.

Closing by Sponsor:

REP. GILBERT stated the intent of the bill is to cover septic systems. Wording within the bill needs to be changed to clarify "discharge". The intent of HB 161 is not to make local governments liable and responsible. It is intended to expedite the clean up process of contaminated groundwater. The present system requires DHES to make contact with each individual homeowner and this is not logistically feasible. This bill would help solve that problem.

VICE-CHAIR O'KEEFE closed the hearing on HB 161.

Announcements:

VICE-CHAIR O'KEEFE reminded committee members and audience that executive action on a bill does not usually occur on the day it

is heard. He turned the meeting over to CHAIR RANEY.

EXECUTIVE ACTION ON HB 145

CHAIR RANEY called for executive action on HB 145. The committee unanimously decided on 1-16-91 to have staffer, Paul Sihler, prepare proposed amendments.

Motion: REP. O'KEEFE moved HB 145 DO PASS.

REP. BOB REAM moved to amend HB 145. EXHIBIT 7

Amendments, Discussion, and Votes: Mr. Sihler presented requested amendments on HB 145. EXHIBIT 7. Three main amendments were drafted:

1. adopt DHES amendments.
2. add "wholesalers" along with "retailers".
3. change "collector" to "collectors".

Motion to adopt Mr. Sihler's amendments carried unanimously.

Recommendation and Vote:

REP. REAM MADE A SUBSTITUTE MOTION THAT HB 145 DO PASS AS AMENDED. Motion carried unanimously.

REP. RANEY closed executive session.

Informational Presentation:

Duane Robertson, Bureau Chief, DHES Solid and Hazardous Waste Bureau; Roger Thorvilson, Waste Management Section Supervisor, DHES; Vic Andersen, Superfund Section Supervisor; and John Geach, Underground Storage Tank Section Supervisor, presented an overview of the Solid and Hazardous Waste Bureau. EXHIBIT 8. Mr. Robertson expressed concern that the Bureau cannot retain or recruit a qualified staff due to a lack of competitive salary. Without an adequately staffed bureau, the ability to perform job responsibilities as mandated by state and federal law is very difficult or impossible. Funding to raise salaries to competitive levels is needed.

ADJOURNMENT

Adjournment: 4:20 pm.



BOB RANEY, Chair



Lisa Fairman, Secretary

HOUSE OF REPRESENTATIVES
NATURAL RESOURCES COMMITTEE

ROLL CALL

DATE Jan 18, 1991

NAME	PRESENT	ABSENT	EXCUSED
REP. MARK O'KEEFE, VICE-CHAIRMAN	✓		
REP. BOB GILBERT	✓		
REP. BEN COHEN	✓		
REP. ORVAL ELLISON	✓		
REP. BOB REAM	✓		
REP. TOM NELSON	✓		
REP. VIVIAN BROOKE			✓
REP. BEVERLY BARNHART	✓		
REP. ED DOLEZAL	✓		
REP. RUSSELL FAGG	✓		
REP. MIKE FOSTER	✓		
REP. DAVID HOFFMAN	✓		
REP. DICK KNOX	✓		
REP. BRUCE MEASURE	✓		
REP. JIM SOUTHWORTH	✓		
REP. HOWARD TOOLE	✓		
REP. DAVE WANZENRIED	✓		
REP. BOB RANEY, CHAIRMAN	✓		

CS05NATRES.MAN

Isa Jannan

January 18, 1991
Page 2 of 2

7. Page 2, line 2.
Following: "retailer"
Insert: "and wholesaler"

8. Page 2, line 3.
Following: "store"
Insert: "or wholesale outlet"

9. Page 2, line 4.
Following: "oil"
Strike: "collector"
Insert: "recycling collection centers"

10. Page 2, line 6.
Following: "retailers"
Insert: "and wholesalers"

Leslie Johnson 1-17-91
7:45 PM
[Signature]

HOUSE STANDING COMMITTEE REPORT

January 18, 1991

Page 1 of 2

Mr. Speaker: We, the committee on Natural Resources report that House Bill 145 (first reading copy -- white) do pass as amended .

Signed: *[Signature]*
Bob Raney, Chairman

And, that such amendments read:

1. Title, line 5.

Following: "RETAILERS"

Insert: "AND WHOLESALERS"

2. Title, line 7.

Strike: "COLLECTOR"

Insert: "RECYCLING COLLECTION CENTERS"

3. Page 1, line 14.

Strike: "40 CFR 266.40"

Insert: "40 CFR 266.23"

4. Page 1, line 15.

Following: "of"

Strike: "disposal"

Insert: "management"

5. Page 1, line 16.

Following: "and"

Strike: "burning"

Insert: "use as a substitute fuel"

6. Page 1, line 22.

Following: "stores"

Insert: "and wholesale outlets"

SOLID WASTE IMPORT MORATORIUM
January 18, 1991

House Bill 139 - to extend the sunset in our existing law banning the import of solid waste for 2 more years.

1989 - We passed our first two year moratorium recognizing that an absolute moratorium violates the U. S. Constitution commerce clause. Attempts by other states to ban the import have been negated by the courts.

Why did we proceed then and why are we proceeding now, knowing full well that our moratorium can be challenged?

1989

- Sub-title D regulations coming from EPA
- Montana waste management laws very poor and very incomplete
- SJR 19 from 1989 Legislature mandated EQC study

1991

- many new laws will now be passed as a result of that study.
- this legislation will be followed by at least one year (and probably longer) of rule making by the Dept.
- many new employees will be brought on line to handle the new waste management programs.

We do not have law, rule, nor employee capability to handle any significant increase in waste management, let alone any mega land-filling proposals.

If we do not extend the moratorium, then the dept, while trying to place new law, rules, and employees in place, will be required to site and permit new landfills hauling in train loads of waste everyday.

If our moratorium were to be challenged in court, we have high hope that the court would see our intention is not to ban interstate commerce of waste, but rather to bring our state up to speed in waste management. That should be seen as a reasonable approach, and should allow the moratorium to be upheld to allow the citizens of this state to protect themselves from poor land-filling practices.

The moratorium has a hidden purpose as well: Montana will not become an easy dumping ground for those areas that are not practicing the very best in waste management - Reduction, Reusing, Recycling, and minimal disposal. We will have all our own laws and rules in place before they get a chance to bring it here, and they will have to comply with our law.

In the next few weeks, you will see numerous waste management bills come through this committee, Their complexity will

Bob Raney

EXHIBIT 1

DATE 1-18-91

HB 139

2/2

convince you of the need to extend the moratorium, whether or not
you favor importing waste as a good social and economic policy.

1-18-91

Exhibit 2 consists of 47 pages of signed petitions. The originals are stored at the Historical Society, 225 N. Roberts, Helena, MT. 406-444-4775.

petition - 1-P

EXHIBIT 2

DATE 1-18-91

HB 139

PETITION

WE THE UNDERSIGNED DO NOT WANT MINNESOTA'S OR ANY OTHER
STATE'S GARBAGE DUMPED IN CUSTER COUNTY OR ANY OTHER
MONTANA COUNTY.

pg 1 of 47

NAME	ADDRESS/CITY	PHONE
Doug Monger	Box 632 Miles City	232-5455
Marnie Bastian	Box 662 Miles City	232-7885
Vic Piggis	Box 1791 Miles City	232-472
Paula	RT 1 Box 2004 Miles City	
Roll	Box 443 Miles City	232-2814
Kim Guilke	Box 565 Miles City	232-3530
B Whitcomb	Box 1081 MC	232-474
Sharon Kearnes	RT 1 Box 2108 MC	232-5281
Connie Weist	RT 1 Box 2253 Miles City, MT	232-6438
Bob Barthel	914 Woodbury Miles City, MT	232-7759
Larry	1411.9 MC, MT	232-3079
Yvonne M. Weist	RT 1 Box 2253 MC	232-6438
Don	RT 2 Box 3176 MC	232-7779
Ava Baschee	10 ARROW CIRCLE MC	- 6577
MARTIN L. HERBERT	T OXKILL ROR STS MC	421-5561
A. R. Phelps	1407 Gordon	232-7917
Betty Phelps	1407 Gordon	232-7917

JANUARY 18, 1991

House Natural Resources Committee Hearing re: HB 139 - "An Act to Extend the Moratorium on Certain Interstate Transport of Solid Waste; and Amending Section 75-10-209, MCA."

Submitted by: Deborah Hanson, Miles City; Main Street businesswoman; Treasurer, Custer Resource Alliance; member, Northern Plains Resource Council.

I come before you today to strongly support HB 139 to extend the moratorium on importing waste on behalf of our membership. This bill is a high priority for both Custer Resource Alliance and Northern Plains.

Communities across the Midwest and Plains state are faced with a new threat, out of state garbage! The economic hardships in states like Montana, and counties like Custer County, make us ideal targets for proposed out of state garbage dumps with their dream-like promises of wealth and jobs.

Picture if you will, a unit train (100 cars) every day bringing over 4,000 tons of garbage to a mega-dump of 1,000 acres. This is over 150 tons per hour or over 2 tons of garbage per minute. Since ordinary "household" garbage contains 1-2% of toxic/hazardous waste, this translates into 32,000 tons of toxic/hazardous waste. Once mixed with the other waste this contaminates the whole lot. What we have is a time-bomb for contamination of our groundwater. Water that supplies most of our drinking water and water for agriculture, our number 1 industry.

Federal Law allows small producers of hazardous wastes to dump up to 220 pounds per small generator per month into municipal dumps. A major city might receive waste from thousands of such "small" producers. At rates of receiving garbage at 150 tons per hours, it will be impossible to search for any illegally dumped hazardous waste.

In many areas of eastern Montana the groundwater is near the surface and beneath materials through which water contamination by a large volume of waste is inevitable.

And all landfills leak! The EPA says all dumps eventually will leak. The 'state-of-the-art' liners all eventually leak, even the manufacturer admits to that in its literature. The much acclaimed 'bentonite' or clay soil of Montana is for the most part misleading. There is very little of either in eastern Montana. It is mostly mixed up, fractured shale which percolates water through easily.

This is not a simple problem with a simple solution. The Environmental Quality Council was charged with the mission of studying and recommending to the Legislature solid waste regulation and management and developing statewide goals, plans and regulations and adopting rules to im-

lement a fee before allowing solid waste importation beyond current levels. Oftentimes, the EQC found as many questions as answers to this complex problem. Therefore, we strongly support this Environmental Quality Council bill that will provide us time to prevent something awful happening to this state in the name of haste. That old saying "An ounce of prevention is worth a pound of cure" certainly applies here.

This bill is an integrated piece of legislation to allow the state to meet our needs. The Dept. of Health & Environmental Sciences is sorely understaffed and underfunded. We would find ourselves in the midst of a regulatory nightmare. We need two more years to enable the legislature and department to implement the recommendations of the EQC-further developing our comprehensive state solid waste plan, passing strict legislation and developing and adopting rules dealing with both in-state and out-of-state garbage disposal. Montana has a legitimate interest in protecting the health, welfare and environment of its citizens. We cannot sit idly by and allow potentially irreversible damage to occur by being rushed by developers.

I'm Thora Hanson, an Eastern Montana native, born and raised in Miles City, Custer County. I am here today to speak on issues inherent in HB 139, which proposes an extension on the moratorium of bringing out of state garbage into my state.

There is a problem with allowing other states to dump garbage in Montana. Allowing other states to ship their waste to Montana for disposal essentially relieves them of all the responsibility of coming up with a long-range plan for reducing the amount of the garbage they produce. They'll be encouraged to say, "Who cares how much garbage we produce? Hell, just ship it to Montana and let them worry about it."

Well I don't want to worry about the toxic wastes from other states that are buried in my back yard. My own household drinking water was recently declared to be dangerously carcinogenic. Someone in my town had allowed some kind of solvent to contaminate my water! Now maybe they didn't do it on purpose. Maybe they thought that by burying a drum of toxic chemicals ten feet in the ground was a safe way to dispose of it. But the fact is, my family and I had been drinking poisoned water for who knows how long before a routine test of our well showed that there were hundreds of times the "safe" amount of certain cancer causing chemicals in my well.

We don't seem to have many experts in this state telling us how to safely get rid of toxic wastes. It seems that the only people that tell us that they do know how to get rid of garbage safely are the same ones who want to build dumps in our state. I just don't trust a man who says, "Sure, I can come into your state, build a safe garbage dump, fill it up, bulldoze it over when it's full. Trust me, it won't cause you any problems...and if it does, just call me up...long distance. I live in Minneapolis."

And what does happen when a site is filled to capacity? All over our state, we are finding out that underground gasoline tanks have been leaking into our water tables. Thirty or fifty years ago these tanks were perfectly safe. But now, with age, they have ruptured and split and are posing a real threat to our environment. How am I supposed to believe that a garbage pit, lined with a heavy plastic sheet is going to keep harmful pollutants from leaking in five years...or twenty years...or tomorrow.

They say, "We won't bring toxic wastes into your state, just regular old harmless household, everyday, sweet smelling, nice garbage. The same stuff you throw out from under the sink, the same stuff that fills up your office waste basket." But who is going to sort through each railroad car looking for that gallon can of paint thinner, or battery acid, or dry cleaning fluid? How many gallon cans are going to slip by, get buried, and eventually leak into the water that you'll be drinking in a few years?

And when that railroad car derails, who is going to pay for the cleanup? The state of Montana? Some insurance company, eager to spread some money around Montana? Those same opportunists who want to build the dumps and make a quick buck today? I've lived in New York City, Washington DC, Boston, Paris, France...And when someone learned that I was born and raised in Montana, they almost always responded with something like, "Montana! Boy it must be beautiful there. I'd like to go there someday. I bet it's nicer than this big city." It is. And you know it, I know it...everyone in this room knows it. And we should keep it that way. I really don't think you want the next person you meet to say, "Oh, Montana? Yeah, some of my best garbage just got sent to Montana. I think I'd like to go visit it someday."

Lets keep a good thing going...Let's extend the moratorium in Montana on waste disposal from other states.

Northern Plains Resource Council

EXHIBIT 5

DATE 1-18-91

HB 139

WHY DO MONTANANS OPPOSE IMPORTING GARBAGE FROM OTHER STATES?

Montana's wide-open spaces are being targeted as convenient dumping grounds for garbage generated by distant cities. One proposal for a "mega-landfill" in the Miles City area would dump 1.6 million tons a year of garbage - more than twice what the entire state of Montana generates (approximately 600,000 tons per year). The U. S. Environmental Protection Agency has warned that household waste landfills have "degraded and continue to degrade the environment." Nearly 200 garbage dumps have been declared Superfund sites.

As proud Montanans we prefer the "Big Sky" over the "Big Dump." We would rather call our state the "Treasure State" rather than the "Trash State." Which slogan do you think would look better on your local Chamber of Commerce sign?

The Northern Plains Resource Council (NPRC) opposes the importation of garbage because it threatens the qualities that make Montana a great place to live or vacation. NPRC members support an effective and efficient solid waste disposal program based on recycling, composting and source reduction (with landfills as a last resort). Such a program protects the environment and public health and provides the most practical and beneficial use of solid waste.

*** WHY WILL MEGA-DUMPS IN MONTANA WORSEN THE NATION'S WASTE CRISIS?**

- If western states accept the nation's garbage, people will continue to waste resources without addressing the need to reduce, reuse and recycle.

*** WHY ARE WE CONCERNED ABOUT GROUNDWATER CONTAMINATION?**

- Landfills leak! Even the most carefully constructed landfill will eventually leak. In a careful study conducted for the U.S. Environmental Protection Agency 43 out of 50 landfills studied were confirmed as the source of groundwater contamination (86%). At the other 7 sites, off-site contamination was measured but could not be attributed to the landfills by the strict criteria used in the study (i.e., contamination was so widespread that it could not be pinpointed to the landfills). There is groundwater monitoring at only 12 landfills in Montana and of these at least eight have caused documented groundwater contamination.

- Ninety-eight percent of Montana's rural residents rely on groundwater for their water needs. Dumps are a permanent threat to water quality. Once we put waste in the ground, it threatens water resources forever. We can't afford to contaminate it.

*** WHY ARE WE CONCERNED ABOUT HAZARDOUS CHEMICALS LEAKING FROM SOLID WASTE DUMPS?**

- Research shows that chemicals leaching from solid waste landfills can be as harmful as those leaching from hazardous waste sites. Approximately 10% of household waste is "hazardous."

- "Conditionally exempt" generators of hazardous waste are allowed under federal law to dispose of quantities of less than 220 pounds of hazardous waste per month per generator into solid waste landfills. In at least one area of Montana, it is likely that such disposal has caused groundwater contamination. Trash from a major city might include waste from thousands of "small generators."

- Waste being dumped at rates of over 150 tons per hour, such as those proposed, will be impossible to monitor for illegal dumping of hazardous materials.

*** WHY ARE DUMPS BAD ECONOMIC DEVELOPMENT?**

- Wide-open spaces and clean water for recreation attract many tourists to Montana. Destroying such resources and Montana's reputation as "the last best place" could easily destroy more jobs than dumps would create. Dumps create few jobs, especially given the huge capital investment required and the tremendous environmental risk posed. How can Montana afford the legacy of the Superfund sites that these mega-dumps are sure to create? Economic development efforts should work for quality jobs that are appropriate for Montana.

**FOR MORE INFORMATION CONTACT:
NORTHERN PLAINS RESOURCE COUNCIL**

*** 449-6233 HELENA * 248-1154 BILLINGS * 232-6903 MILES CITY ***



EXHIBIT 6
DATE 1-18-91
HB 139

STATEMENT FROM THE FALLON COUNTY DEVELOPMENT CORPORATION, BAKER, MT.

We are unable to make the Committee Hearing, however we would like to submit the following comments to the Committee.

It is the opinion of the Environmental Quality Council staff that since the State of Montana is developing a solid waste program, the courts will uphold the moratorium on out-of-state waste. This is a very flimsy assumption to base proposed legislation on. Especially in light of Montana's first moratorium. If the moratorium is to be extended (and to withstand a court challenge) then the State has to show that their solid waste program is fair to both in-state and out-of-state waste. If either are treated differently then there are Constitutional questions. Montana prohibited out-of-state waste from May 22, 1989 through October 1, 1991 to re-write the Montana Solid Waste Management Plan. During this time did the State permit any landfills in Montana? If so, then it is extremely doubtful that the moratorium would withstand a court challenge.

Public comments from the sponsor of this bill (Rep. Raney) make it very obvious what his intentions are. He was quoted as saying "I've thrown many of the roadblocks in the way and I will continue to throw roadblocks in the way if I can." (Billings Gazette: 12-12-90). This is not developing sound solid waste management, this is an obstructionist policy that defies the Constitution of the United States of America. It will not uphold a court challenge. Recent rulings in Indiana further support the weakness of this bill.

If the State of Montana passes this bill then they had better be prepared to defend it, because it will be challenged. I am suprised that the State of Montana is willing to spend \$100,000 defending an unconstitutional bill when the legislature is so concerned with getting the most for their money. I hope the Committee realizes the foolishness of this bill. I hope that the committee opts for good solid waste management and fiscal responsibility by taking an unfavorable position on this bill and voting against it.

Amendments to House Bill No. 145
First Reading Copy

Requested by Rep. Grady
For the Committee on Natural Resources

Prepared by Paul C. Sihler
January 17, 1991

1. Title, line 5.
Following: "RETAILERS"
Insert: "AND WHOLESALERS"
2. Title, line 7.
Strike: "COLLECTOR"
Insert: "RECYCLING COLLECTION CENTERS"
3. Page 1, line 14.
Strike: "40 CFR 266.40"
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Following: "stores"
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7. Page 2, line 2.
Following: "retailer"
Insert: "and wholesaler"
8. Page 2, line 3.
Following: "store"
Insert: "or wholesale outlet"

- OVER -

Solid and Hazardous Waste Bureau Program Description

The Solid and Hazardous Waste Bureau administers six environmental health laws designed to protect public health and the environment. This involves coordination with local governments, state and federal agencies and the general public in order to protect the soil, water and air from contamination.

The Solid Waste Management Act provides for licensing, technical assistance, inspection, and enforcement for approximately 200 municipal, county, and private solid waste management systems located throughout the state. The program also provides technical assistance on related activities such as recycling and special waste management, including infectious waste, asbestos waste etc.

The Motor Vehicle Recycling and Disposal Act is a regulatory program that controls the disposal of junk vehicles and shielding of such disposal sites. The act requires the department to license anyone with four or more junk vehicles and requires all junk vehicles to be screened from public view. The act also allows the department to make annual grants to each county to finance the establishment and maintenance of junk vehicle graveyards and to finance the collection of junk vehicles for placement in the graveyards. The department is responsible for removal of the junk vehicles and does so by selling the vehicles to recycling firms who crush and transport the cars to steel mills for recycling.

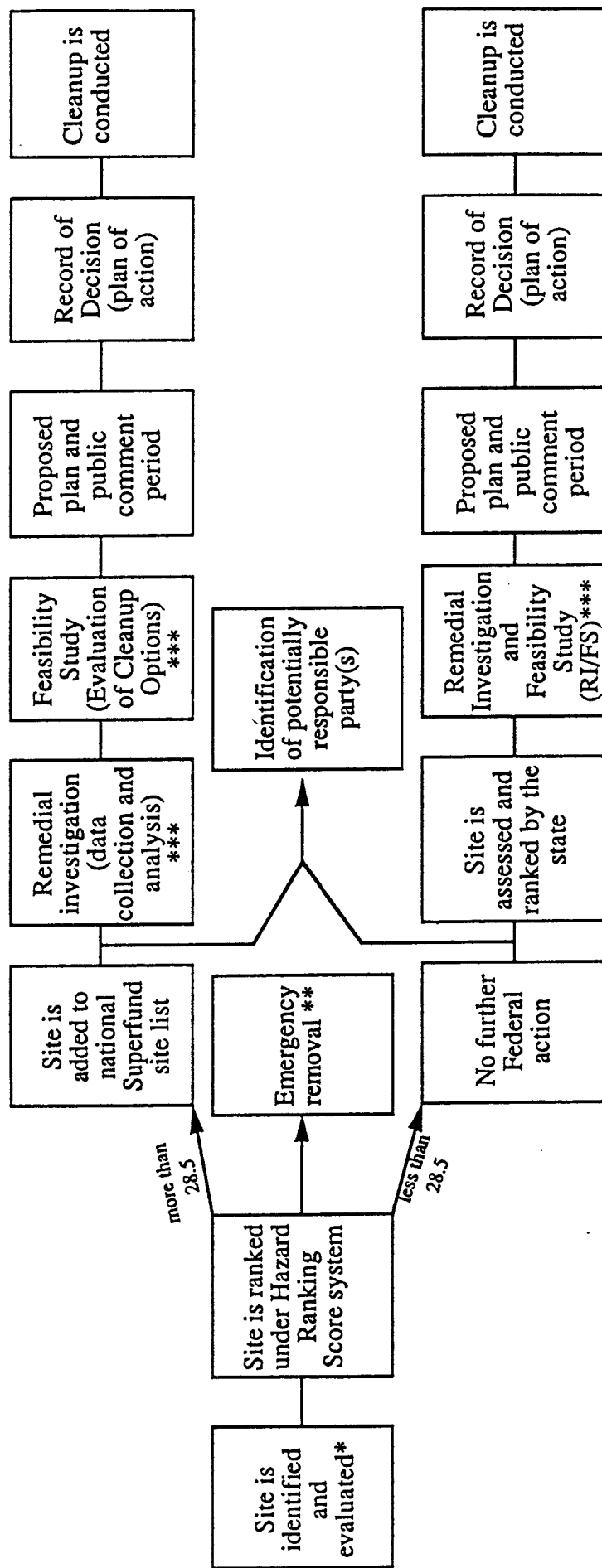
The Montana Hazardous Waste Act is a regulatory program that controls generation, transport, treatment, storage and disposal of hazardous wastes. Persons treating, storing or disposing of hazardous waste must obtain a permit from the department. The department performs inspections, provides technical assistance, and if necessary, takes enforcement actions.

The Underground Storage Tank Act is modeled after the federal law. Its purpose is to prevent leaks in underground storage tanks through identifying who has underground tanks and eventually requiring tank testing, inventory record keeping, ground-water monitoring, financial assurance for clean-up costs and implementing tank design and installation standards. The Leaking Underground Tank Trust Fund are federal funds used by states, under federal guidelines, to investigate and remediate tank leaks when the responsible party cannot be identified or when the responsible party will not act or respond quickly in an emergency situation, or when the responsible party is insolvent. It is a public response fund to protect the public and minimize damage to the environment. The trust fund is EPA funded through a federal gas tax.

The Superfund Act allows the department to investigate potentially hazardous disposal sites to determine if past disposal practices are resulting in threats to public health or the environment. If a site scores high enough for the National Priority List, investigation and cleanup of the site may be financed from the "Superfund." The bureau also performs studies to determine the most cost-effective method of restoring a contaminated site. The bureau may contract for any necessary design and construction activities after selection of a clean-up method is made.

The Comprehensive Environmental Cleanup and Responsibility Act, state superfund act, allows the Montana Department of Health and Environmental Sciences to investigate and cleanup, or require responsible parties to investigate and cleanup all hazardous waste sites in Montana not on the Federal Superfund National Priority List.

Federal and State Superfund process



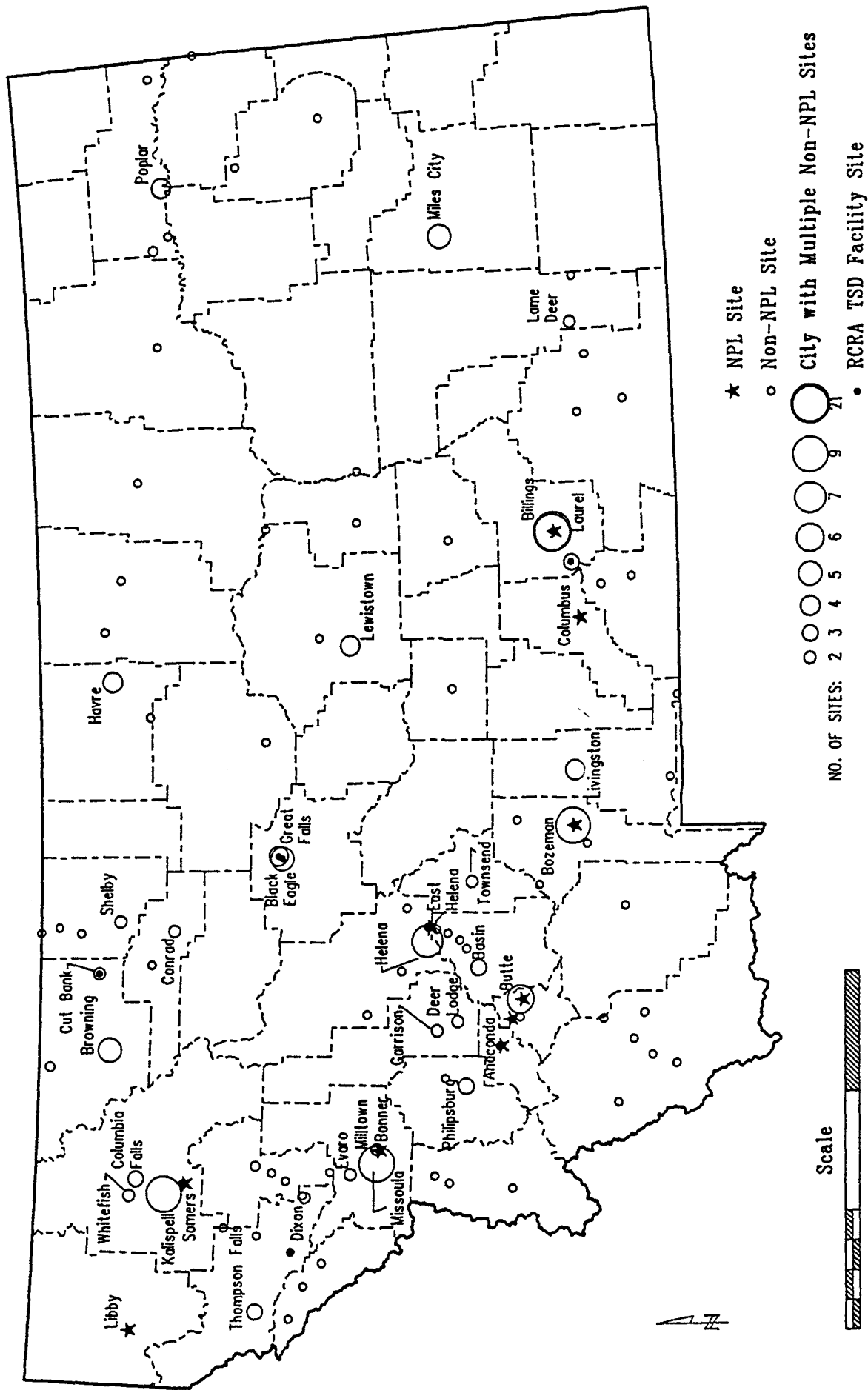
* Site evaluation includes preliminary assessment and site investigation

** Removal actions may occur at any point in the Superfund process

*** Actions taken by potential responsible parties (PRPs) unless the state or EPA assumes the lead.

Montana Hazardous Waste Sites

(Approximate Locations)



Non-National Priorities List and/or CECKA sites in Montana

<u>SITE NAME</u>	<u>TOWN</u>	<u>Deer Lodge County</u>	
<u>Beaverhead County</u>		Montana Radiation	Anaconda
Apex Mill - Bannack State Park	Bannack	Old Montana Prison - asbestos	Deer Lodge
Big Hole Post Plant	Dillon		
Ermont Mill - Mill Tailings	Argenta	<u>Fergus County</u>	
Hirschy Corrals	Jackson	Arro Oil Refinery	Lewistown
Thorium City Waste Dump	Grant	Berg Post and Pole	Lewistown
Tungsten Mill - Mill Tailings	Glen	Central Post & Treating Plant	Lewistown
		Charles M. Russell Refuge	Turkey Joe Ldg
		Continental Oil Co., Lewistown Ref.	Lewistown
		Kendall Venture Mine	Hilger
<u>Big Horn County</u>		<u>Flathead County</u>	
CCC Camp	Busby	BN Derailment Site	Whitefish
Lodge Grass Drums	Lodge Grass	BN Fueling Facility	Whitefish
Old Crow Agency Dump**	Crow Agency	Anaconda Aluminum Company	Columbia Falls
		Beaver Wood Products	Columbia Falls
<u>Blaine County</u>		Creston Post and Pole Yard	Kalispell
Diamond Asphalt Co.	Chinook	Kalispell Pole & Timber Co. Inc.	Kalispell
Old Agency Landfill**	Ft Belknap	Kalispell Landfill	Kalispell
Zortman Mine		Kalispell Landfill (Cemetery Road)	Kalispell
		Kalispell Landfill (Willow Glen Rd)	Kalispell
<u>Broadwater County</u>		Larry's Post and Treating Co.	Columbia Falls
Kenison Pole Plant	Townsend	North American Oil Refinery	Kalispell
Townsend Post & Pole	Townsend	Plum Creek Evergreen	Kalispell
		Reliance Refining Co.	Kalispell
<u>Carbon County</u>		Somers Marina	Somers
Joliet Weed District	Joliet	Yale Oil Corp.	Kalispell
BN Derailment Site	E Bridger		
<u>Cascade County</u>		<u>Gallatin County</u>	
Anaconda Minerals Co., G.F. Ref.	Black Eagle	Asbestos Mine (Karst)	Bozeman
BN Fueling Facility	Great Falls	Bozeman Old City Landfill	Bozeman
Bootlegger Trail Site	Black Eagle	Bozeman Solvents	Bozeman
Falls Chem Inc.	Great Falls	CMC Asbestos	Bozeman
Great Falls Ref-Phillips Petroleum*	Black Eagle	Development Technology	Bozeman
G.F. City Landfill (Wiremill Road)	Black Eagle	Ideal Basic Ind, Plant Site Area	Three Forks
Great Falls City Landfill (25th Av)	Great Falls	Gallatin Gateway Asbestos	Gallatin Gate.
Malmstrom Air Force Base*	Great Falls	Mercer Post Plant	Bozeman
Western By-Products	Great Falls	Montana State University*	Bozeman
		MRL Asbestos	Bozeman
<u>Chouteau County</u>		Summit-Dana Ltd.	Bozeman
Geraldine Airport	Geraldine		
<u>Custer County</u>		<u>Garfield County</u>	
Ft. Keogh Livestock&Research Lab	Miles City	Jet Fuel Refinery	Mosby
Miles City Airport	Miles City		
Miles City Oil Refinery	Miles City	<u>Glacier County</u>	
Miles City Rail Yard	Miles City	Blackfoot Pencil Factory**	Browning
Miles City Livestock Center	Miles City	Blackfoot Post and Pole**	Browning
		Carter Oil Ref	Cutbank
<u>Dawson County</u>		Chevron USA Inc. Bulk Plant	Browning
BN Fueling Facility	Glendive	Evans Post and Pole**	Browning
Richey Airport	Richey	Poisoned Oats Dspl**	Browning
		Carter Oil Ref	Cut Bank
		Union Oil - Cut Bank Ref*	Cut Bank

Tucson/Hebrew Academy		Milwaukee Road Right-of-Way	St. Regis
<u>Granite County</u>		<u>Missoula County</u>	
Granite Timber	Philipsburg	All American Bumper and Plating	Missoula
Londonderry Mine	Maxville	Borden Inc.	Missoula
Philipsburg Mining Area	Philipsburg	BN Derailment Site	Missoula
Sluice Gulch Leaking Mine Adit	Philipsburg	BN Derailment Site	Evato
		BN Fueling Facility	Missoula
<u>Hill County</u>		Engine Rebuilders	Missoula
BN Fueling Facility	Havre	Hart Oil	Missoula
BN Racetrack Pond	Havre	J & N Post and Pole	Evato
BN Krezelak Pond	Havre	Missoula Landfill	Missoula
Havre Refinery	Havre	Missoula Vo-Tech	Missoula
Rocky Boy Post and Pole**	Box Elder	Real Log Homes Mfg. Site	Missoula
		Precious Metals Plating Facility	Bonner
<u>Jefferson County</u>		Twin Creeks Logging Camp	Bonner
Basin Mining Site	Basin		
Basin School Yard	Basin	<u>Musselshell County</u>	
Fohner Meadow	Jefferson City	Roundup Landfill	Roundup
Jefferson County Weed District	Clancy		
High Ore Mine	Basin	<u>Park County</u>	
Kaiser Cement	Montana City	BN Livingston Shop Complex	Livingston
Wickes/Corbin Mining Site	Wickes	Clyde Park Asbestos	Livingston
		Jardine Arsenic Tailings	Jardine
<u>Lake County</u>		Mclaren Mill Tailings	Cooke City
Agency Dump**	Agency	Mission Wye	Livingston
Lake County Weed District	Ronan	Park County Landfill	Livingston
Midway Store Dump**	Route 93	Strongs Post Yard	Livingston
Old Arlee Dump**	Arlee		
Old Charlo Dump**	Charlo	<u>Petroleum County</u>	
Old Community Dump**		Weowna Oil Refinery	Winnett
<u>Lewis and Clark</u>			
Alice Creek Post and Pole	Lincoln	<u>Phillips County</u>	
BN Fueling Facility	Helena	Malta Airport	Malta
Golden Messenger Mine	York		
Goldsil Mining Company	Marysville	<u>Pondera County</u>	
Helena Landfill	Helena	Conrad Refining Co.	Conrad
Helena Regional Aiport	Helena	Fisher Flats Dump**	Valier
MT Dept. of Highways Shop	Helena	Midwest Refining Co.	Conrad
Montana State Chem Lab Bureau	Helena		
Mother Lode Gold & Silver Ltd.	E Helena	<u>Powell County</u>	
Safety Kleen	Helena	BN Derailment Site	Garrison
Scratchgravel Landfill	Helena	Milwaukee Roundhouse	Deer Lodge
		Rocky Mountain Phosphate	Garrison
<u>Lincoln County</u>			
Asarco Inc. Troy Unit	Troy	<u>Ravalli County</u>	
<u>Madison County</u>		Bass Creek Post & Pole Plant	Stevensville
Valley Garden Vat	Ennis	Bitterroot Valley Sanitary Landfill	Victor
		S & W Sawmill, Inc.	Darby
<u>Mineral County</u>		<u>Richland County</u>	
Marble Creek Post Yard	Superior	McCulloch Purchase Station	Fairview
Milwaukee Road — Haugan	Haugan		

Roosevelt County

A & S Industries**	Poplar
BN Derailment Site	Bainville
Poplar Post Office Site**	Poplar
Tule Creek Gas Plant/Crystal Oil**	Poplar
Wolf Point Ref.(Kenco Refining)**	Wolf Point

Rosebud County

Lame Deer Drums**	Lame Deer
Old Lame Deer Dump**	Lame Deer
St. Labre Plastic Factory**	Ashland

Sanders County

Bonneville Power Administration	Hot Springs
Dixon/Perma Dump**	Dixon
Flathead Mine Area	
Muster's Post Yard	Thompson Falls
Paradise Tie Treatment*	Paradise
Revais Creek Mine**	Dixon
Thompson Falls Reservoir	Thompson Falls
US Antimony Corp	Thompson Falls

Silver Bow County

BN Fueling Facility	Butte
Butte-Silverbow County Landfill	Butte
Laurel Oil and Refining Co.	Butte
MPC Storage Yard	Butte
Roundup Refining Co.	Butte
Russell Oil Co	Butte
Stauffer Chem Co.	Ramsay

Toole County

Big West Oil	Kevin
Red Creek site	Sweetgrass
Texaco - Sunburst Works	Sunburst
Petroleum Refinery Co	Shelby

Treasure State Refining Co.	Shelby
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Valley County

Glasgow Air Force Base	Glasgow
Old Poplar Landfill**	Poplar
Osewego Landfill**	

Wheatland County

Harlowton Weed Control District	Harlowton
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Yellowstone County

Big Horn Oil & Refining Co.	Billings
Billings Sanitary Landfill	Billings
Billings Grain Terminal	Billings
BN Fueling Facility	Billings
BN Fueling Facility	Laurel
Coffman Lumber & Treatment Co.	Billings
Conoco Landfarm*	Billings
Conoco Billings Ref*	Billings
Empire Sand and Gravel	Billings
Exxon Ref - Old Flare Site*	Billings
Exxon Refinery*	Billings
Farmers Union Central Exchg/Cenex*	Laurel
General Electric Co.	Billings
Lohoff Gravel Pit	Billings
Mont. Power Co. Frank Bird Plant	Billings
Mont. Power Co. JE Corette Plant	Billings
Montana Radiator Works	Billings
Montana Sulphur and Chem	E of Billings
Prairie View Recreational Park	Billings
Russell Oil Co.	Billings
Scott Feed Lot	Billings
Tranbas*	Billings
Union Tank Car Co.	Laurel
Yale Oil of South Dakota	Billings

National Priorities List*

Superfund sites in Montana and their national ranking out of 1,187 sites in the U.S. as of January 1991

- | | |
|--|-----|
| 1. Anaconda Smelter | 48 |
| 2. Idaho Pole (Bozeman) | 546 |
| 3. Montana Pole (Butte) | 841 |
| 4. Silver Bow Creek/Butte Area | 20 |
| 5. Milltown Reservoir | 349 |
| 6. East Helena Smelter | 29 |
| 7. Libby Groundwater | 597 |
| 8. Mouat Chromium Refinery (Columbus) | 913 |
| 9. Comet Oil (proposed) (Billings) | |
| 10. Burlington Northern/Somers Tie Treating (proposed) | |

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

moratorium on
interstate solid waste transport

Natural Resources

COMMITTEE

BILL NO. 139

DATE 1-18-91

SPONSOR(S) Bob Raney

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Rep. Josselyn Stitzinger	H-D-26			✓
Lee Richardson Miles City	Custer Resource Alliance	HB 139		✓
Deborah Hanson Miles City	Northern Plains Resource Council - Custer Res All	HB 139		✓
Kushin Papp	MONPIRG HB 139	HB 139		✓
Thora Hanson	MONPIRG Resource HB 139 Northern Plains	HB 139		✓
Neva Hassanein	NPRC	HB 139		✓
CEO. OCHENSKI	WMM	139		
Great Falls Juanita Polston	myself	139		✓
Chris Kaufman	MEIC	139		✓
Brian McNett	MEIC	139		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.