

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By VICE-CHAIR MARK O'KEEFE, on February 8, 1991,
at 3:00 pm.

ROLL CALL

Members Present:

Bob Raney, Chairman (D)
Mark O'Keefe, Vice-Chairman (D)
Beverly Barnhart (D)
Vivian Brooke (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)

Staff Present: Gail Kuntz, Environmental Quality Council
Paul Sihler, Environmental Quality Council
Lisa Fairman, Committee Secretary

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

HEARING ON HB 484

Presentation and Opening Statement by Sponsor:

REP. BOB RANEY, HD 82 - Livingston, stated HB 484 prohibits opencut mining, such as gravel pits, and the operation of their facilities within one-half mile of a residence. He said throughout Montana gravel pits have been developed in neighborhoods after residents bought their homes. As a result of the gravel pits, a decrease in property value has occurred. Many residents feel that gravel pits should be regulated under zoning laws. This does not seem to be happening. The bill is not attempting to stop the expansion or operation of existing pits. It is directed at preventing new developments and the fly-by-

night operations. An issue of concern is the taxable value and other values of people's homes. Several types of amendments could be considered. The wording "open cut" could be changed to "sand and gravel" and the applicability date could be grandfathered so that people who already bought lands with the intent to mine the gravel and sand would be excluded. REP. RANEY emphasized the bill does not affect existing or expansion of existing gravel pits.

Proponents' Testimony:

Davis Scrim, Park County Environmental Coalition, stated he supported HB 484. He said he is opposed to pits in residential areas but not elsewhere. Montana does not have a shortage of gravel and sand outside residential areas. There is no need to put them in residential areas. Property values and quality of life need to be protected. Mr. Scrim referred to Section 1, paragraph 3, and commented that the bill does not apply to operations of less than six months in length. There is concern that the operation could be reopened on a continuous basis. He recommended that 90 days maximum with reclamation be added. He read a letter from Duanne Lindeman, Gravel Pit Alliance of Livingston, supporting HB 484. EXHIBIT 1.

Alice Tully, Missoula, stated she is representing her neighborhood in Missoula. She said their neighborhood is zoned residential. Residents and the Missoula Commissioners attempted to stop the expansion of two new gravel pits in their neighborhood. The Supreme Court responded they had no right to do so. She stated property values have declined and quality of living is significantly reduced. This problem is not unique to Missoula but affects Billings, Bozeman, Livingston, and other communities. Ms. Tully stated she was not opposed to sand and gravel pits but feels that they should be in an appropriate location. Residential neighborhoods are not appropriate. Action needs to occur with this situation. She stated she supported HB 484 or any other method that would control the problem.

REP. BOB REAM, Missoula, supported HB 484. He said this situation is a very serious problem. Sand and gravel pits fall under mining laws and are exempt from zoning regulations. This needs to be addressed and changed.

Opponents' Testimony:

Ken Dunham, Montana Contractors' Association, opposed HB 484. EXHIBIT 2.

Mitch Leslie, Quality Concrete Co., opposed HB 484. He stated when his current pit is mined out, his company will be forced to leave the county. The company would not be able to afford to function within the county. Once forced out of the county, they would not be able to compete and a loss of 30 jobs would result.

Dave Sletton, Sutton Construction, Great Falls, said he represents asphalt producers. He stated alluvial gravel deposits are often in residential areas. Passage of HB 484 would result in closure of over 50% of the pits, increased haul costs, increased building and highway construction costs, increase in damage to roads due to longer haul distances, and an increase in fuel consumption. Mr. Sletton opposed HB 484.

John Phelan, Helena Sand and Gravel, stated that several local pits have been made into state parks, such as Spring Meadow Park. These areas have become an asset to residential areas and increased property values in the vicinity. Gravel and sand pits can be reclaimed by the state and become very sightly. He opposed HB 484.

Don Chance, Montana Builders Association, opposed HB 484. He stated HB 484 would put people out of business. Builders are dependent upon sand and gravel. The major cost of sand and gravel is the hauling. Pits need to be close to those using them. Sand and gravel deposits aren't widely scattered but are concentrated in specific areas. These areas can and do conflict with urban areas. Often what occurs is the neighborhoods and houses grow around the pits. The pits are there first. Zoning tools and proper land use is needed for fair treatment of the resource and of the homeowners.

Tom Hopgood, Montana Association of Realtors, opposed HB 484. He stated that the law reads when the surface of the land is severed from the mineral ownership, the mineral estate is considered to be the dominant estate and the surface estate is considered to be the subservient estate. In the early 1970's a law was passed by the Montana legislature which required the owner of the mineral estate to procure the consent of the surface owner before they extracted the minerals. That law was held unconstitutional. This bill would go even further, requiring not only the consent of the surface owner but the consent of the neighboring surface owners as well. This is a serious constitutional shortcoming to this bill. The bill should be closely examined before it passes out of committee.

Paul M. Foster, United Industry, Great Falls, said they employ approximately 150 people. He stated he recognizes some of the problems but feels pits are beneficial. He opposed HB 484.

Bud Campbell, Deerlodge Montana Sand and Gravel, stated several issues need to be considered if HB 484 is passed. Residences will need to be defined. The costs of implementing the regulations will fall on the local government. People that purchase land to mine will lose the right to mine their land. The grandfather clause needs to be clarified.

Bruce Wood, Big Sky Ready Mix, Helena, opposed HB 484. He stated that if the bill goes into effect, their business will close in five years.

The transportation costs would inhibit or stop new construction.

Questions From Committee Members:

REP. BRUCE MEASURE asked REP. RANEY how pre-existing plants are addressed in the bill. REP. RANEY replied he felt the savings clause, Section 4, covered this concern. If the clause is not adequate, then it should be amended. REP. MEASURE questioned the constitutionality of the bill. REP. RANEY responded that the Environmental Quality Council (EQC), the Department of State Lands (DSL), and the Legislative Council examined it very closely. There appears to be no constitutional problem. REP. DAVE WANZENRIED asked what is the current process or criteria for issuing a permit if one wants to go out and open a pit. Steve Welch, DSL, responded the applicant must send in an application for an open pit mine, file a reclamation plan, and an operations map. The application is reviewed, the Montana Environmental Policy Act (MEPA) is followed, an environmental assessment is written, and if public comment is warranted, a public hearing is held. REP. WANZENRIED inquired to what extent have adjacent property owners experienced a decline in property values. Mr. Welch replied there are no documented cases of a decrease in the property value of adjacent residences. This is avoided by mitigating negative effects caused by the pit.

REP. RUSSELL FAGG asked what are the bond requirements and if current laws are sufficient. Mr. Welch answered the bonds are the amount reclamation would cost should the State have to reclaim the site. It is effective in being able to ensure reclamation of those sites. REP. ORVAL ELLISON asked who regulates the air and water quality. Mr. Welch replied the air quality is regulated by the Department of Health and Environmental Sciences (DHES) and water quality by DSL. REP. ELLISON asked if potential impacts to the water are covered by the bond. Mr. Welch said no. REP. TOM NELSON asked what is reclamation. Mr. Welch replied land is reclaimed to "productive or suitable use", such as pasture land or industrial building sites. REP. BOB REAM asked Mr. Hopgood to expand upon why sand and gravel pits are exempt from zoning and what possibilities exist to include them under zoning regulations. Mr. Hopgood referred the question to Mr. Chance. Mr. Chance stated that this type of land use is an issue that is best dealt with at the local level. Zoning should have the authority to look at this problem and to make decisions at local levels. REP. REAM stated that Ms. Tully used traditional methods of local zoning and governments in her neighborhood case. He asked her to explain how it worked. Ms. Tully explained that their neighborhood is zoned residential. Under Montana statutes the people do not have the opportunity to provide input if a new pit came into the residential neighborhood. Another problem exists surrounding the water use permit. The only way one could file an objection is if the ground water level decreased. Contamination of the ground water is not covered. This is a major problem.

VICE-CHAIR O'KEEFE stated other testifiers indicated that zoning could be used. However, in 76-1-113, it states that nothing in the planning chapter shall be deemed to authorize an ordinance, resolution, or rule which would prevent the complete use, development or recovery of any mineral, forest or agricultural resource...thereafter. That is the reason why this matter can not be addressed in the planning process. REP. REAM stated that 76-2-209 does the same thing for zoning. It is a complete exclusion. There is no local control.

Closing by Sponsor:

REP. RANEY said this is a landowners' battle. Some property owners in Livingston can't sell their property because of gravel and sand pits. The bill is not intended to put any people out of business. A grandfather clause will ensure this. A clause could be added to grandfather those pit owners who have plans to expand their existing plant. REP. RANEY emphasized that it is not right for a person to develop something in their own interest while destroying the values of another person. The fate of potential businesses should not come before people's own homes. Action on this is long overdue. The argument that if gravel pits are moved out of the center of town the business will fail is not warranted. The price of the resource will increase and the market will still exist. REP. RANEY suggested a subcommittee be appointed to address this issue more and work out some of the problem areas.

HEARING ON HJR 14

Presentation and Opening Statement by Sponsor:

REP. MARY ELLEN CONNELLY, HD 8 - stated that HJR 14 requests that Congress hold hearings to determine whether forest practices are affecting other multiple uses of National Forest Lands and whether National Forests are being harvested on a sustained yield basis. In the early 1960's Congress asked that the study be done. There has been much environmental, social, and economic change since then. It would be beneficial to conduct an additional study now. With the timber industry shrinking it is appropriate to examine management to ensure maximum sustained yield is being obtained. She stated the bill is not pro-environment or pro-industry. It is an unbiased view at the situation.

Proponents' Testimony:

Janet Ellis, Montana Audubon Legislative Fund, supported HJR 14 because the hearings will promote a lively and healthy discussion.

Janelle Fallan, Montana Petroleum Association, stated she is not either a proponent or opponent to HJR 14. She submitted a proposed amendment. EXHIBIT 3.

Opponents' Testimony:

Don Allen, Montana Wood Products Association, opposed HJR 14. He stated hearings and studies are already being conducted. The resolution is unnecessary. The Forest Service involves other agencies, such as the Fish and Wildlife Service, Fish, Wildlife and Parks, and the Environmental Protection Agency, in decision making. Multiple uses are examined. Congress appropriates funds and reviews harvest levels. Oversight meetings are held on how the levels will be set. National Forest Plans have been in place for three to five years. The plans are reviewed every five years. The studies and review process that is being requested in HJR 14 is already being done.

Questions From Committee Members:

REP. O'KEEFE, referring to page 2, line 2, asked REP. CONNELLY to clarify if she intended for meetings to be held in Washington or in Montana. REP. CONNELLY replied Montana. REP. O'KEEFE asked Ernie Nunn, Forest Supervisor of Helena National Forest, when the hearing took place. Mr. Nunn replied in addition to the hearings Mr. Allen referred to, hearings on Wilderness designation took place. There is a concern of some people that it has been a long time since multiple use has been addressed.

Closing by Sponsor:

REP. CONNELLY stated she has no problems with adopting the proposed amendment. She closed and urged passage of HJR 14.

HEARING ON HB 448Presentation and Opening Statement by Sponsor:

REP. BOB REAM, HD 54 - Missoula, stated that mining activity is increasing. In 1988 and 1989 the value of mineral products in Montana increased 16%. With the increase in mining, there is an increase in interest with the permit system. The current system is not good for promoting mining or for addressing environmental protection. The governor appointed a Mine Permitting Improvement Advisory Council to address the mine permitting process. HB 448 reflects the majority of the main recommendations from that committee. Another major recommendation is being addressed under another bill to reorganize the Department of State Lands (DSL) and the Department of Health and Environmental Sciences (DHES). REP. REAM said Art Wittich, Governor's Office, and Deborah Schmidt, Environmental Quality Council (EQC) are here to provide technical assistance. He commended the hard work of the Council and recognized the many hours in consensus decision making.

Proponents' Testimony:

Art Wittich, Governor's Office, stated they have worked on the proposal for over 14 months. He presented a fact sheet on HB 448. EXHIBIT 4 Initially, some people felt the way to streamline the mine permitting process was to cut the statutory deadlines in half. The advisory council found that the DSL was doing a good job but didn't have enough resources to do the job. One recommendation was for the Reclamation division to be entitled to collect permit application fees to fund additional staff on as a needed basis. This would enable the Department to partially fund three Environmental Impact Statement coordinators, that are currently on a temporary basis. These positions are part of the department's budget request. The second recommendation concerns public participation. The confidentiality provision, currently in statute, would be relaxed to allow non-geological information on public land to be disclosed. This brings state law into line with federal law. Enforcement was an issue that came up during public hearings. As a result, a tracking system has been implemented so that past violators can't get new permits. Mr. Wittich stated the amendments are to rectify emergency situations involving the environmental contingency account. EXHIBIT 5

Kim Wilson, Clark Fork Coalition and Montana Environmental Information Center (MEIC), supported HB 448. He emphasized that this represents an unprecedented effort of differing factions to come to some resolutions. The consensus method of decision making helped to resolve conflict. Mr. Wilson addressed the confidentiality issue, pointing out that state employees can be liable for criminal fines for giving out information that the federal government gives out.

The system will be beneficial to miners in that the permits will be shorter and the process will weed out bad applications. The funding aspect is crucial to the effectiveness of the bill. It is all a package deal. Mr. Wilson urged support of HB 448 as it represents a very important consensus bill.

John Fitzpatrick, Pegasus Gold Corporation, stated he was a member of the Council and supported HB 448. He said Pegasus Gold has numerous mining activities with DSL. There is a need for timely permitting and clarification of the regulations. The consensus of the committee was that permit fees would be beneficial as it would speed up the permitting process by allowing the State to increase staff or contract consultants. He stated he endorsed the additional costs that will be imposed on industry by passage of HB 448 because of the resulting benefits to industry. Violations and past violations need to be cleaned up through civil or legal processes. He supported these sections and added he hoped people view Pegasus positively. Revisions to the periodic bonding is necessary as it will bring bonds up to date and violators under control. DSL does periodic bonding but not in a uniform fashion or on a regular basis. Mr. Fitzpatrick

emphasized the bill is a very positive bill with industry and environmentalists working together in a consensus fashion. He strongly urged passage.

Dennis Olsen, Northern Plains Resource Council (NPRC), supported HB 448. He stated NPRC was involved in the consensus process and supported the outcome.

Gary Langley, Montana Mining Association, supported HB 448. He stated there was good dialogue between all the differing factions. He supported HB 448 for reasons stated by Mr. Fitzpatrick.

REP. BOB GILBERT, member of EQC, presented written information from EQC's Interim Study on Ground Water Quality Protection and Management to be entered into the record. EXHIBIT 6.

Opponents' Testimony: none

Informational Testimony:

Albert Baun proposed two amendments to HB 448. He suggested that on page 9, line 19, after "land" insert "." and strike the rest of the sentence. On page 22, line 13, after "bond" insert "annually" and on line 14 strike "at least every 5 years". Mr. Baun stated senseless damage is done by miners. His land was mined with out his knowledge. Roads were built, resulting in extensive erosion damage. He stated miners destroyed his land, leaving him the costs of rehabilitation. The five year bond review is a loophole for dishonest miners. The State needs to require the bonds or increase the bond amounts to ensure reclamation of the land. He did not identify himself as either a proponent or opponent.

Questions From Committee Members:

REP. FAGG asked Mr. Wittich to address the amendments proposed by Mr. Baun. Mr. Wittich replied HB 448 is a compromise bill with a precarious balance. Changing the bill could weaken it's support. The rules for the \$5000 bonds are just coming into effect. Bond reviews were set at five years due to the costs of the process. He stated he was willing to work with Mr. Baun. REP. VIVIAN BROOKE referred to the new language added on page 14 and asked how many times payment of fees would be required. Sandi Olsen, DSL, responded it is dependent upon work load. The number of applications/year is variable. REP. DAVE WANZENRIED inquired what other options besides Resource Indemnity Trust Tax (RITT) were discussed, in reference to abatement in Sections 9 and 10. Mr. Wittich responded that there was discussion on changing the bond forfeiture procedures. Currently, they are antiquated. The Advisory Council decided not to deal with the bond forfeitures procedures. The proposed process would guarantee some money that would be adequate to abate emergencies.

REP. WANZENRIED responded that \$200,000 may not be enough if problems are bad. Mr. Wittich stated he asked DSL what they felt about the amount. They responded \$100,000/year. The environmental contingency fund could be accessed if the problem is really bad. REP. WANZENRIED stated he thought the problem is better served by the bill than by the amendments.

REP. REAM stated the proposed amendments from the Governor's office may address some of the needs. REP. O'KEEFE asked what are the impacts of the amendments. Mr. Wittich stated there will be no differences from current law. REP. REAM and Karen Barclay, Department of Natural Resources and Conservation, agreed.

Closing by Sponsor: REP. REAM stated enough was discussed and closed.

Announcements:

VICE-CHAIR O'KEEFE appointed REPS. REAM, KNOX, and SOUTHWORTH to the gravel pit subcommittee. REP. REAM was appointed chair.

VICE-CHAIR O'KEEFE asked for an update on the railroad right-of-way subcommittee (HB 233). Paul Sihler, staffer, responded a compromise grey bill for HB 233 is under review by Pam Langley, Montana Grain Elevators Association. The companion bill to HB 233, a rails-to-trails bill should be ready for the committee to discuss on Monday.

EXECUTIVE ACTION ON HB 186

Motion/Vote: REP. COHEN MOVED TO TABLE HB 186. Motion carried 14-1 with Rep. O'Keefe voting no and Reps. Brooke, Barnhart, and Hoffman absent for voting.

EXECUTIVE ACTION ON HB 382

Motion: REP. FAGG MOVED HB 382 DO PASS.

Discussion: REP. FAGG suggested striking section 3 from the bill. The current law concerning liability would remain intact. He stated that REP. SWYSGOOD is agreeable to that amendment. The bill would still allow DNRC not to have to duplicate the work that the federal government is doing. REP. RANEY asked what the amendment really does. REP. MEASURE responded that it will leave the law as it is. The remaining 17 or 18 dam owners will have the same liability as other dam owners: negligence.

Motion/Vote: REP. FAGG moved to strike Section 3. Motion carried unanimously.

Motion/Vote: REP. FAGG MADE A SUBSTITUTE MOTION THAT HB 382 DO PASS AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON HJR 14

Motion: REP. O'KEEFE MOVED HJR 14 DO PASS.

Motion: REP. GILBERT moved to adopt the Montana Petroleum Association amendments. EXHIBIT 3

Discussion: CHAIR RANEY stated the amendments do not fit into the intention of the resolution. The resolution is about sustained yield of forest products. REP. ORVAL ELLISON said the bill refers to the study of multiple uses. REP. GILBERT said that mineral activities are multiple uses. REP. KNOX stated he agreed with REP. GILBERT. REP. SOUTHWORTH disagreed and opposed the amendment. REP. O'KEEFE stated there is a problem with specific language. REP. GILBERT said without the amendments the resolution says timber harvest only affects things of beauty, such as recreational uses, wildlife habitat and scenic beauty. It ignores the other multiple uses such as mining. Without the amendments, REP. GILBERT stated he was opposed to HJR 14. REP. MEASURE asked REP. GILBERT to clarify what he wanted. REP. GILBERT responded that the whereases should reflect other uses, such as oil and gas, beyond the ones stated. REP. MEASURE said there are other extractive uses besides oil and gas. REP. O'KEEFE suggested adding mineral resources in with the mention of the other resources.

REP. COHEN stated the Resolution is to study the effects of forest practices on other multiple uses. Forest practices do not affect the mineral use. REP. FAGG supported the amendment. REP. WANZENRIED requested further discussion of HJR 14 occur at a later date. REP. O'KEEFE withdrew his DO PASS motion.

EXECUTIVE ACTION ON HB 448

Discussion: REP. REAM stated that the necessary money then need comes from the emergency contingency fund. He asked Ms. Kuntz to clarify what is the replacement mechanism for the fund. Ms. Kuntz responded that it is one of the main accounts which gets money from the Resource Indemnity Trust Tax. These amendments make abatement of emergencies due to mining problems one of the uses that can access the money. REP. DOLEZAL stated it shows that each biennium, \$175,000 goes into the fund so it would be replenished.

Motion: REP. ORVAL ELLISON MOVED HB 448 DO PASS.

Motion/Vote: REP. ELLISON moved to adopt the governor's amendments. EXHIBIT 5 Motion carried unanimously.

Motion: REP. MEASURE moved to adopt Albert Baun's amendments.

Discussion: REP. MEASURE stated that Mr. Baun is an embittered individual about mining, however, he did have some good points about bond capacity and bond review. REP. ELLISON stated that

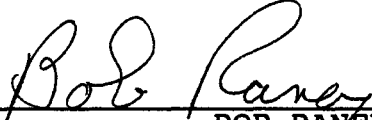
Mr. Baun's problems happened in Wyoming. They are not pertinent here. This bill has been carefully worked out. Any changes in it will cause it to die. REP. O'KEEFE stated that he would support Mr. Baun's amendments.

Vote: Motion to adopt amendment by Mr. Baun failed 6 to 11 with Reps. O'Keefe, Southworth, Measure, Wanzenried, Cohen and Dolezal voting aye and Rep. Hoffman absent from voting.


Motion/Vote: REP. ELLISON MADE A SUBSTITUTE MOTION THAT HB 448 DO PASS AS AMENDED. Motion carried 16 to 1 with Rep. Cohen voting no and Rep. Hoffman absent from voting.

ADJOURNMENT

Adjournment: 6:00 pm.



BOB RANEY, Chair



LISA FAIRMAN, Secretary

BR/lf

HOUSE OF REPRESENTATIVES
NATURAL RESOURCES COMMITTEE

ROLL CALL

DATE 2-8-91

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	✓		

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HOUSE STANDING COMMITTEE REPORT

February 9, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that House Bill 382 (first reading copy -- white) do pass as amended.

Signed: _____

Bob Raney
Bob Raney, Chairman

And, that such amendments read:

1. Title, lines 10 and 11.

Following: "REVIEW;" on line 10

Strike: remainder of line 10 through "DAMAGE;" on line 11

2. Title, line 11.

Following: "106"

Strike: ", "

Insert: "and"

3. Title, line 12.

Following: "107"

Strike: ", AND 85-15-305"

4. Page 4, line 24 through page 5, line 18.

Following: line 23

Strike: section 3 in its entirety

Renumber: subsequent sections

Lisa Jarmen

HOUSE STANDING COMMITTEE REPORT

February 9, 1991

Page 1 of 2

Mr. Speaker: We, the committee on Natural Resources report that House Bill 448 (first reading copy -- white) do pass as amended.

Signed: *Bob Raney*
Bob Raney, Chairman

And, that such amendments read:

1. Title, lines 8 through 11.
Following: line 7
Strike: line 8 through "APPROPRIATION;" on line 11
2. Title, line 11.
Strike: "15-38-202, 17-7-502,"
3. Page 27, lines 4 and 5.
Following: "Section 9." on line 4
Strike: remainder of line 4 through "abatement" on line 5
Insert: "Abatement"
4. Page 27, lines 6 through 22.
Strike: subsections 1 and 2 in their entirety
ReNUMBER: subsequent subsections
5. Page 28, line 2.
Following: "may"
Insert: "apply for and, if approved by the governor,"
Following: "in the"
Strike: "hard-rock"
6. Page 28, line 3.
Following: "environmental"
Strike: "emergency"
Insert: "contingency"
Following: "account"
Insert: "created in 75-1-1101"
7. Page 28, line 10.
Following: "the"
Strike: "hard-rock"

8. Page 28, line 11.
Following: "environmental"
Strike: "emergency"
Insert: "contingency"

9. Page 28, lines 12 and 13.
Following: "the" on line 12
Strike: remainder of line 12 through "fund" on line 13
Insert: "environmental contingency account"

10. Page 28, line 14 through page 32, line 18.
Strike: sections 10 and 11 in their entirety
Renumber: subsequent sections

Honorable Members of the Montana State Legislature:

This letter is being written on behalf of a group of citizens known as the Gravel Pit Alliance, who have been working for more than a year to keep a gravel pit from going into operation in the middle of a large suburban area southwest of Livingston, Montana.

We are wholeheartedly in support of Representative Bob Rainey's proposed Bill No. HB 484 , and wish to give you a brief background of what we have been doing and why.

A little over a year ago, the residents of our area learned that a permit had been requested to operate a gravel pit and possibly a Batch plant in an abandoned gravel area, directly in the midst of what is now a large suburban residential area. The area involved many years ago was not populated, but has since grown into an area serving well over 200 families. Most of the residents are younger families with children; some are older families; and some are retired. All who live in the area moved there to enjoy semi-rural living and the wildlife, waterfowl and wild birds, as well as the clean air away from the city of Livingston itself.

The location of the proposed gravel pit is in the southwest corner of this large residential area. The strong prevailing southwest winds that blow nearly continually, come out of the canyon of the Yellowstone River and, like the wide end of a funnel, cover the entire area. It is well known for its wind.

In addition to the strong prevailing wind factor, all the residents in this large area are served by individual wells for their water supply. The water supply comes from an underground stream which flows from the same southwest direction through the area, towards the city of Livingston. The gravel pit operation would eventually contaminate or render the wells useless. In addition, the City of Livingston itself, has just this past year drilled a large well about 3/4 of a mile directly to the northeast of the proposed gravel pit. This well was drilled to service the southwest end of the city.

Besides these environmental factors, there is a traffic problem with regard to gravel trucks and heavy equipment using the narrow, gravel roads which service the area. Children must walk the roads down to the highway to catch the school buses, to and from school every day. Many families either have businesses in Livingston or work in Livingston, so there is heavy traffic as it is on the roads. Additional traffic would cause many problems as well as increasing the dust problems created by the nearly constant winds.

For the health, safety, and peace of the residents in the area, the Gravel Pit Alliance was formed to fight the operation of a gravel pit. Several meetings of the group were held, including two large meetings at which most of the residents of the area attended. The first meeting filled the meeting room at the courthouse in Livingston. The second meeting was held by the State Land Control Board and was conducted at the Civic Center in Livingston during the Lenten week last year. Even though many people did not attend due to church services, there was still a large crowd of protesters. When hands were asked to show against the gravel pit, the show was unanimous except for the people who has applied for the gravel operation permit. Many of these people signed petitions which were circulated by the Gravel Pit Alliance and copies of these petitions are attached.

The Gravel Pit Alliance feels that the damage to the environment which a gravel pit operation would do, would be considerable in any residential area. Dust covers everything, unsightly gravel piles destroy the beauty, noise destroys the wildlife and waterfowl and they move to other areas. Traffic causes safety problems and road problems.

From the research we have done and the information we have gathered, we firmly believe that the Bill which Mr. Rainey has offered to curtail such an operation in a residential area is needed and required by our state to protect its residential citizens.

The State of Montana has many, many, many areas where gravel is abundant and where gravel pits can be operated without disturbing the delicate balance of nature in the midst of residential areas.

We respectfully request the Members of the State Legislature to give serious consideration to this bill and request your vote in favor of passing the bill offered by Mr. Bob Rainey.

Respectfully submitted,

GRAVEL PIT ALLIANCE of Livingston, Montana


By Duane B. Lindeman, President

PETITION

This Petition is being presented to enter an objection to the granting of an application for an air quality permit from the Air Quality Bureau of the Environmental Sciences Division, Montana Department of Health and Environmental Sciences, for a GRAVEL PIT IN SEC 26-APPROXIMATELY 1500 FT N.E. OF SEC CORNER 27, 26, 34, 35, T2S, R9E, Park County, Montana, as applied for by PARADISE BUILDERS, INC. This Petition also requests that a public hearing be scheduled and held for the purpose of allowing property owners adjacent to this area to enter their objections.

The following signers are residents and/or property owners of the suburban area directly to the northeast of the proposed gravel pit:

Name	Address	Phone No.
Mardella Whitmore	#156 Canyon View, P.O. Box 1111, Liv	222-0606
Donald L. Linn	#147 Peabody Drive P.O. 24, Liv.	222-7382

EXHIBIT 1

DATE 2-8-61

HB 4184

Exhibit 1 also contains 10 pages of signed petitions. The original exhibit is available at the Montana Historical Society, 225 North Roberts, Helena, MT 59601. (Phone 406-444-4775)

DATE 2/8/91

HB 484

2



**Montana Contractors'
Association, Inc.**

*A Chapter of
the Associated General Contractors of America*

KEN DUNHAM, Secretary · Manager

1717 11th Avenue
Post Office Box 4519
Helena, Montana 59604
Telephone (406) 442-4162 FAX (406) 449-3199

February 8, 1991

HOUSE BILL 484 - TESTIMONY

I am here today opposing House Bill 484 on behalf of the Montana sand and gravel, and ready-mix concrete industry. There are approximately 125 ready-mix firms, and perhaps an equal number of sand & gravel firms in Montana, employing several thousand people. This legislation will begin the process of shutting down the sand & gravel, and ready-mix industry in Montana.

If passed it will add to the cost of all aspects of construction....from buildings to highways. It will require persons using sand and gravel...for both ready-mix operations and asphalt paving...to likely obtain that gravel from remote sources.

The sand & gravel industry in Montana is presently under a great deal of regulation. Local zoning affects where opencut mining can be done and provides protection for adjacent propertyowners. The State Department of Lands has considerable control over the operation of sand & gravel operations and related operations.

The protections for propertyowners are already in place under Montana law and local regulations and this legislation is simply not needed.

We respectfully request that this bill be killed.



MONTANA PETROLEUM ASSOCIATION
A Division of the
Rocky Mountain Oil and Gas Association

Helena Office
2030 11th Avenue, Suite 23
Helena, Montana 59601
Phone (406) 442-7582
Fax (406) 443-7291

Janelle K. Fallan
Executive Director

EXHIBIT 3
DATE 2/8/91
~~HR~~ HJR 14

Billings Office
The Grand Building, Suite 510
P.O. Box 1398
Billings, Montana 59103
Phone (406) 252-3871
Fax (406) 252-3871

**Amendments proposed by the Montana Petroleum Association
to HJR 14**

February 8, 1991

House Natural Resources Committee

1. Page 1, Line 23

Whereas, the Forest Service has issued no oil and gas leases in Montana since 1986; and

Whereas, the lack of leasing of federal minerals has contributed to the continuing decline in Montana oil production and subsequent decline of tax base in oil-producing counties as well as the state of Montana; and

Whereas, royalties from production of federally owned oil and gas are an important source of income for the education trust fund;

**2. Page 2, Line 4
add: oil and gas leasing**

FACT SHEET FOR HB 448

- The year-long deliberations of the Advisory Council resulted in a uniform consensus, with the recommendations being considered a "package" with give and take by all interested parties.
- Of the thirty-one recommendations made by the Advisory Council, twenty-one can be implemented administratively (which is currently occurring) while ten require statutory change.
- This bill includes nine of the ten recommendations (the tenth recommendation is the natural resource/environmental reorganization bill).
- The basic provisions of the bill address:

Staffing Needs

1. The Reclamation Division would be entitled to collect permit application fees to fund additional staff, on an as-needed basis.

Public Participation Opportunities

2. The confidentiality provisions currently in statute would be relaxed to allow non-geologic information on public land to be disclosed to the public (i.e., site impacts and locations).

Bonding

3. The Reclamation Division would be required to periodically review bond levels every five years, with such adjusted bond amounts being subject to public review and comment.

Enforcement

4. A mining violator tracking system would be established to prevent past violators from obtaining new mining permits until the violations are resolved. This tracking system would be updated annually through operator reports.
5. No additional mining or re-mining would be allowed on areas reclaimed by the state until a new operating permit is issued.

Reclamation Standards

6. The requirement to replace water due to mine impacts should extend to associated facilities if a loss of water quality or quantity occurs to existing water users.

The provisions in LC 1199 are comprehensive and thoroughly analyzed recommendations that would improve the mine permitting process in Montana. The passage of these recommendations into law would be of benefit to all citizens of Montana.

AMENDMENTS TO HOUSE BILL 448
(Introduced Bill)

1. Title, lines 8 through 11.
Following: line 7
Strike: lines 8 through 10 in their entirety
Strike: "APPROPRIATION;" on line 11
2. Title, line 11.
Following: "15-38-202,"
Strike: "17-7-502,"
3. Page 27, lines 4 and 5.
Following: "Section 9." on line 4
Strike: "Hard-rock" on line 4 through "abatement" on line 5
Insert: "Abatement"
4. Page 27, lines 6 through 22.
Strike: subsections (1) and (2) in their entirety
ReNUMBER: subsequent subsections
5. Page 28, line 2.
Following: "may"
Insert: "apply for and, if approved by the governor,"
Following: "in the"
Strike: "hard-rock"
6. Page 28, line 3.
Following: "environmental"
Strike: "emergency"
Insert: "contingency"
Following: "account"
Insert: "created in 75-1-1101"
7. Page 28, line 10.
Following: "the"
Strike: "hard-rock"
8. Page 28, line 11.
Following: "environmental"
Strike: "emergency"
Insert: "contingency"
9. Page 28, lines 12 and 13.
Following: "the" on line 12
Strike: remainder of line 12 through "fund" on line 13
Insert: "environmental contingency account"
10. Page 28 through 31.
Strike: section 10 in its entirety
ReNUMBER: subsequent sections

Exhibit 5

2/8/91

HB 448

11. Pages 31 and 32.

Strike: section 11 in its entirety

Renumber: subsequent sections

TESTIMONY by REPRESENTATIVE BOB GILBERT

(1) Amend the confidentiality provision of the Metal Mine Reclamation Act to provide greater discretion to the DSL to release information about exploration projects as long as the company's economic interests are not adversely affected;

(2) Amend the confidentiality provision of the Metal Mine Reclamation Act to provide greater discretion to the DSL to release information about small miners' operations as long as the small miners' economic interests are not adversely affected;

(3) Amend the Metal Mine Reclamation Act (bond forfeiture provision) to prohibit persons from conducting mining or exploration activities in Montana if they have previously forfeited a bond or have unabated violations of laws or permit requirements of Montana or any other state, including mining or exploration that the person conducted under a different corporate name;

(4) Authorize the DSL and DHES to investigate whether permit applicants have changed corporate names in order to evade discovery of past bond forfeitures or unabated permit violations;

EQC Deliberations

The EQC decided to endorse recommendations of the Governor's Mine Permitting Improvement Advisory Council to change the confidentiality provision in existing law, prohibit persons with past unabated mining violations from obtaining new permits until the past violations are resolved, and authorize the DSL to establish a system for tracking the past environmental compliance records of mining company officers.

from: SJR22 Interim Study on Ground Water Quality Protection and Management,
Environmental Quality Council, December 1990, pp 52, 53

HOUSE OF REPRESENTATIVES

1 of 2

VISITOR'S REGISTER

Natural Resources

COMMITTEE

BILL NO. 484DATE 2-8-91SPONSOR(S) Raney

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Don Chance	MT. Building Industry Assn.		✓	
Tom Hopgood	MT. Assoc. Realtors	HB 484	✓	
Gene Phillips	LHC Inc.	HB 484	X	
Paul M. Foster	United Mtns.	484	X	
Mitch Leslie	Quality Concrete Co.	484	X	
John Phelan	Helena Sand & Gravel	484	X	
Ed Morawick	HELENA SAND & GRAVEL	484	X	
Bruce Wood	Big Sky Ready Mix	484	X	
Dave Sutton	Stetten Const.	484	X	
Ken Dunham	MT. Contractors Assoc	484	X	
Larry Rugglos	Livingston Ready Mix	484	X	
Larry J. Stands	STS Gravel Livingston Mt.	484	X	
John Ruggles	Livingston Ready Mix	484	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

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28-91
HB

Nat Resources

COMMITTEE

BILL NO.

484

DATE 28-91

SPONSOR(S) Carey

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
David Scriven	Port Co. Env. Coalition	HB 484		X
Albert L. Bauer	Self			X
Alice Tully	Residents of Mullan Rd area - Missoula, MT	HB 484		✓
Gary Amstutz	DSL	484		
Steve Welch	DSL	484		
John North	Dept. of State Lands			

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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Natural Resources

COMMITTEE

BILL NO. HJR 14DATE 2-8-91

SPONSOR(S)

Connolly

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
David Scrimm	Park Co. Env. Coalition	HJR 14		X
Sharon Brooke	MSA / MWGA	11		
Linda Ellison	MTURA	11		
Janet Ellis	MT Audubon			✓
Don Allen	MT Wood Products / MT HRA 14		X	
John North	Part of Steel Lake			

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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Natural Resources COMMITTEE BILL NO. 448
 DATE 2-8-91 SPONSOR(S) Rep. Peam

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Alex Wittich	Gov. Off	448		X
Mervin Rotoliff	Independent Mont/Miners	448	X	self
Kim Wilson	Clark Fork/MERC	448		✓
Albert L. Baer	Self	448	✓	
Jim Jensen	MERC	448		X
John Fitzpatrick	Pegasus Gold Corp			X
Steve Brown	Notanda	448		X
Dennis Olin	NPRC	448		X
GARY LANGLEY	MONTANA MINING ASSN.	448		X
Ted J. Doney	ASARCO	448		X
SANDRA OLSEN	DSL	448		
John North	Dept of State Lands			
Shirley Hensley	DSL	448		

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