

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By CHAIRPERSON BOB RANEY, on February 22, 1991,
at 11:15 am.

ROLL CALL

Members Present:

Bob Raney, Chairman (D)
Mark O'Keefe, Vice-Chairman(D)
Ben Cohen (D)
Ed Dolezal (D)
Orval Ellison (R)
Mike Foster (R)
Bob Gilbert (R)
David Hoffman (R)
Bruce Measure (D)
Tom Nelson (R)
Bob Ream (D)
Jim Southworth (D)
Dave Wanzenried (D)

Members Absent:

Beverly Barnhart (D)
Vivian Brooke (D)
Russell Fagg (R)
Dick Knox (R)
Howard Toole (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.

Discussion of HB 924:

REP. MEASURE presented amendments for the Rails-to-Trails bill, HB 924. EXHIBIT 1A. He stated that as a public policy issue, integrity of abandoned or vacant railroad corridors should be maintained for recreational, transportation and utility purposes. A provision is included in the bill that the ICC or railroad company will notify the Department of Commerce in the event of railroad abandonment. The Department of Commerce will keep a list of interested agencies, city and municipal organizations,

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and private organizations, and will facilitate a meeting between the interested parties and the railroad.

REP. RANEY inquired how the agriculturalist would respond to the bill as amended. REP. MEASURE said the agriculturalist will be notified when the railroad is abandoned, either as an adjacent landowner or an interested party, and will have the opportunity to respond and negotiate with the railroad. REP. RANEY asked if the Rail-to-Trail's interest is having priority over others' interests. REP. MEASURE answered that nobody has priority. Everyone has to be notified and the Department of Commerce is to facilitate negotiation. REP. MEASURE asked Leo Berry, Burlington Northern, how he felt about the bill. Mr. Berry stated that he had no objections. REP. O'KEEFE and REP. GILBERT stated their support of the bill with the amendments.

Discussion on HB 233:

REP. O'KEEFE said he would move with either HB 233 or HB 924 in light of the fact Sen. Gene Thayer is introducing an identical bill in the Senate. To feel comfortable that both bills, HB 924 and HB 233, will pass through, Rep. Measure suggested that a coordinating clause be added that states that both bills must pass or they both fail. REP. RANEY supported added a coordinating clause. He stated that the original bill, which he co-sponsored, provided adjacent landowners and recreationists opportunities for use. It makes sense to tie the two together. REP. GILBERT stated that he suspects HB 924 and HB 233, as currently written with amendments, will pass on their own. He stated that he would support each of the bill individually, but was not sure if he would support them with the coordinating clause.

REP. REAM asked if there is still the option of putting HB 924 back into HB 233. REP. O'KEEFE replied yes.

REP. FOSTER said it is an interesting that the committee doesn't feel secure enough that these bills can stand on their own and feels they have to play "hard ball". He emphasized that the bills will do fine on their own.

REP. MEASURE stated that if both bills were incorporated into one, the resulting bill would still be within the bounds of the original bill. REP. RANEY added that the original intent of HB 233 would be preserved. REP. HOFFMAN agreed, except for the agricultural or adjoining landowner option. REP. RANEY responded that the original bill did not provide the adjoining landowner any option on the 17 foot right of way. It provided only first

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right of refusal of land adjacent to the 17 foot right-of-way. No one will get first right of refusal on the 17 foot right-of-way. The Department of Commerce will assist the recreationists in knowing the availability of that 17 foot right of way. **REP. HOFFMAN** stated that the original bill did not address the 17 foot right of way at all.

REP. MEASURE said the statement of intent in HB 924 talks about the public, which includes the agricultural user.

REP. FOSTER said these bills are two completely separate issues. That is why the original subcommittee split them.

REP. HOFFMAN said the perception is the original bill addressed rails-to-trails, adjoining landowners, agriculture and the grain terminal operators. The grain terminals operators were split out to be insured of their rights. It is perceived that the adjoining landowners have been carved out of the second bill. The result is a bill that addresses grain terminal operators and a bill that addresses rails-to-trails. **REP. RANEY** disagreed. He stated that the first bill did two things. It provided for adjacent landholders and recreationists to get at the right of way. The language in the original bill did not state 17 feet. It was understood. Rep. Bardanouve wanted a consensus, so he added the concerns of those that wanted the corridor retained. The subcommittee didn't like the language and reconstructed two bills. The suggestion is to put the bills back together. The concerns of Rep. Bardanouve are addressed. The concerns of those wishing to retain the corridor, whether for recreation use or for future transportation, are not well addressed. **REP. RANEY** stated that he compromised extensively and can not anymore.

REP. REAM stated the way to avoid the perception that the committee is playing hardball is to go back to the original intent of the bill and put HB 924 into HB 233. **REP. GILBERT** suggested that it will be messy to integrate them. He suggested tying them together and passing them out of committee. **REP. ELLISON** agreed. **REP. MEASURE** said they will be codified separately no matter what happens to them.

REP. RANEY stated the issue to be voted on this afternoon is: (1) put it back together as HB 233, or (2) let them fly coordinated.

The consensus of those present was to tie the two bills together.

Discussion on HB 637:

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REP. ARLENE BECKER, reviewed HB 637 and suggested that notice of application may be given by radio, TV, or other accepted means. REP. FOSTER asked if a bulletin board is an acceptable method. REP. BECKER replied the intent was that it would be ideal through the use of radio or TV, but if it is unavailable other methods would be acceptable. REP. HOFFMAN said each county develops its own method of giving notice. He stated he would like to provide the counties with the option to use what method is most convenient and effective for them.

REP. RANEY stated that the bill says either you either comply with subsection 2, or you will have to use radio or TV. REP. HOFFMAN said commercial applicators have to use signs. Government entities can use signs like commercial applicators or give public notice. REP. DOLEZAL suggested to insert, on page 2 before it says "provide public notice", insert "in the most practical method available". REP. HOFFMAN said the language about radio and TV could be eliminated and just provide for public notice by usual means. REP. REAM agreed with the suggestion. REP. RANEY asked Rep. Foster if this was acceptable. REP. FOSTER replied yes.

REP. REAM asked if there should be a time specified for posting of notices. REP. RANEY suggested using "an incorporated city or town may provide public notice on or within 72 hours before the day of the intended application."

REP. GILBERT added that the definition of pesticides includes herbicides and pesticides for both weed and insect control.

EXECUTIVE ACTION ON HB 637

Motion: REP. HOFFMAN MOVED HB 637 DO PASS.

Motion/Vote: REP. HOFFMAN moved to adopt amendments for HB 637. Motion carried 13-0, with Reps. Cohen, Brooke, Fagg, Measure, and Toole absent for voting.

Motion: REP. HOFFMAN MADE A SUBSTITUTE MOTION HB 637 DO PASS AS AMENDED. Motion carried 13 to 0 with Reps. Cohen, Brooke, Fagg, Measure, and Toole absent for voting.

EXECUTIVE ACTION ON HB 233

Motion: REP. O'KEEFE MOVED HB 233 DO PASS

Motion/Vote: REP. O'KEEFE moved to adopt amendments for HB 233. Motion carried 13 to 0, with Reps. Cohen, Brooke, Fagg, Measure,

and Toole absent for voting.

Motion/Vote: REP. O'KEEFE MADE A SUBSTITUTE MOTION HB 233 DO PASS AS AMENDED. Motion carried 13-0, with Reps. Cohen, Brooke, Fagg, Measure, and Toole absent for voting.

EXECUTIVE ACTION ON HB 924

Motion: REP. O'KEEFE MOVE HB 924.

Motion/Vote: REP. O'KEEFE moved to adopt amendments and include a coordinating clause. Motion carried 13-0.

Motion: REP. O'KEEFE MADE A SUBSTITUTE MOTION HB 924 AS AMENDED DO PASS. Motion carried 13-0, with Reps. Cohen, Brooke, Fagg, Measure, and Toole absent for voting.

Announcement: CHAIR RANEY announced the committee will reconvene at 3:00 pm.

COMMITTEE ON NATURAL RESOURCES reconvened at 3:30

Call to Order: By CHAIRPERSON BOB RANEY.

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 952

Presentation and Opening Statement by Sponsor:

REP. BOB RANEY, HD 82 - Livingston, stated HB 952 is an act requiring sand and gravel opencut mines and concrete and asphalt processing facilities to comply with applicable local zoning regulations.

Proponents' Testimony:

Alice Tully, Missoula, stated that she represents her neighborhood, located west of Missoula adjacent to city limits. She said it has been a zoned neighborhood since 1970. In 1982, the first public hearing was held for a proposed sand and gravel operation. The operation was allowed to proceed. County commissioners took the neighborhood complaints to the district court and on to the state Supreme Court. Both courts ruled that the statute exempted all mining operations from zoning and planning authority and the gravel pit was allowed to develop. It has been expanded twice. A public hearing was held a week ago for the third expansion. A second gravel pit has opened adjacent to the original gravel pit. The sand and gravel operation has affected property values. There is noise and dust pollution. The potential exists for more sand and gravel operations to go in, and residents feel those operations do not belong in a zoned residential neighborhood. Most states regulate sand and gravel operations through zoning. HB 952 only affects new operations. It does not eliminate existing operations. It also does not preclude a sand and gravel operation from getting a zoning variance to do a short term job. The bill does not force zoning, but where zoning is in place, residents may protest an operation. Ms. Tully urged support of HB 952.

REP. RANEY discussed the amendments for the bill which address concerns of opponents. **EXHIBIT 1.** In the amendments, land presently owned by an operator of a gravel pit who has contiguous lands will be able to file a form with the Department prior the January 1, 1992. The form documents the intentions to mine that property in the future and will effectively grandfather in the additional land. Any permit application prior to this date will be grandfathered in.

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Opponents' Testimony:

David Sutton, Sletten Construction, opposed HB 952. The zoning board involvement would jeopardize a timely permitting process which is necessary on many projects. The bill includes plants and plant sites, and Sletten Construction is concerned about circumstances arising necessitating relocation of these plants. Air and water regulations apply to these plants. HB 952 is a duplication of regulations.

Ken Dunham, Montana Contractor's Association, opposed HB 952. He stated that he would like to see regulation left to State Lands. Adding an agency for construction companies to go through to locate sand and gravel or paving operations creates difficulty in getting work done on time. Construction costs will increase for both public and private jobs because of the longer haul distances.

Ed Maronick, President, Helena Sand and Gravel, opposed HB 952.

Questions From Committee Members: none

HEARING ON HOUSE BILL 641

Presentation and Opening Statement by Sponsor:

REP. DICK KNOX, HD 29 - Winifred, said this bill will clarify which landowners will be affected within the area to be mined. Second, it expands the area of notification by one-half mile around the perimeter around the permit area, recognizing there will be impact on landowners within one-half mile of an active mine. Third, it will reveal the source of the applicant's legal right to mine the mineral. No hidden agenda is in this bill. It is designed to increase the number of landowners that would be involved in the permit process, and to increase the amount of pertinent information available to all those affected by the permit. This will accomplish important things to the landowner and to the miner. It provides important information to the landowner at the inception of the process, gets all parties involved early in the process. This is in the best interest of mine operators, landowner and community in which proposed mine is to be located. He proposed amendments to the bill. **EXHIBIT 2**

Proponents' Testimony:

Ward Shanahan, Stillwater Mining Company, supported HB 641 and proposed amendments. **EXHIBIT 3**. He stated that under the Hardrock Reclamation Act, processing facilities and mining

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facilities may be regulated. A half-mile outside the permit boundary is beyond the scope of the permit issued under the Hard Rock Reclamation Act. The owners of the minerals inside the boundary will be known. The policy of notifying surface owners who may be affected is acceptable but, there is a problem looking up the fractionated mineral interests in a half a mile around the permit boundary. That language is beyond the scope of the act, and is not necessary to carry out the intent of the sponsor.

Gary Langley, Montana Mining Association, supported the amendments submitted by Mr. Shanahan.

Jim Jensen, Montana Environmental Information Center (MEIC), supported the bill without amendments. At the Kendall mine, private land was within the permit boundary, and there is a quiet title action with more than 100 individuals named. It has never been resolved who owns the minerals there. The right to mine provision is very important. When the company shows it has the right to mine, the Department of State Lands is out of the focus to adjudicate land disputes. Those things are taken care of prior to the time of the permit application.

Richard Parks, Northern Plains Resource Council (NPRC), supported the bill unamended. Mines are expanded, the permit boundary moving, and landowners adjacent to mine operations are entitled to fair warning.

John North, Department of State Lands (DSL), said the purpose of the amendments is to prevent the Department becoming an adjudicator of property rights. The Department is not required to verify the information provided with the permit application. Without this language, the Department would have to determine who owns disputed property rights. This is a function of the court.

Lorna Frank, Montana Farm Bureau, submitted written testimony supporting HB 641. EXHIBIT 4

Opponents' Testimony: none
Informational Testimony:

Kendall Concerned Area Residents, submitted written testimony concerning HB 641. EXHIBIT 5

Questions From Committee Members: none

Closing by Sponsor:

REP. KNOX commented on the statement that landowners will not be

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notified about the minerals within the one-half mile buffer zone. Lines 19 and 20 state that all owners of surface area within one-half mile of any portion of that permit area will be notified. This will be done early in the process. He stated that he has no problems with Mr. Shanahan's proposed amendment.

HEARING ON HB 880

Presentation and Opening Statement by Sponsor:

REP. ALVIN ELLIS, HD 84 - Red Lodge, presented an overview of HB 880. EXHIBITS 6 & 7.

Harold Hanzer, Attorney from Yellowstone County, stated his involvement with HB 880 came last fall assisting with a DNRC dam workshop. When amendments to the law were made giving DNRC the ability to inspect dams, the old law was left in place. In effect, a dam might be inspected three different ways: by DNRC, by a citizen complaint to county commission who then appoints three disinterested persons, or by a district court judge. Rep. Ellis' bill corrects the deficiencies of the old law and accomplishes a public policy. Management of water resources is a high priority in Montana. The risk involved in a dam must be looked at with a reasonable balance between the owners (public and private) and users (rural and urban). The bill presents a clear procedure an owner can follow to build, construct, operate or maintain a dam. The vote on this bill may determine whether farmers and ranchers are going to manage water for rural and urban use. Mr. Hanzer urged support and passage of this bill.

Ted Doney, Attorney, Helena, supported HB 880. He stated that as a member of the Water Resources Association he was involved in drafting the original Dam Safety Act, enacted two sessions ago. The bill incorporates, under the jurisdiction of the Department of Natural Resources, the supervision and inspection of small dams for safety purposes. Currently, this is under jurisdiction of the counties and the county attorney. He stated that the amendments concerning liability of dam owners are very important. The idea of the provisions, enacted a few sessions ago, gives owners who went through the dam safety permitting system relief from liability for failure of the dam. They remain liable for negligence. Prior to the enactment, all dam owners would be strictly liable for damages caused from the operation of their projects. A case Richland County versus Anderson appears to confirm this. The amendments on page 5 clarify the intent to relieve owners and operators from absolute liability. The language "failure of" on lines 10 and 17, page 5, should be struck as it gives relief from liability except in cases of

negligence of dam owners only in cases where there is failure of the dam. A permit could be granted to operate a dam in such a manner that the flow causes damage, yet there is not a failure.

Jo Brunner, Water Resources Association, presented written testimony supporting HB 880. **EXHIBIT 8**

Opponents' Testimony: none

Questions From Members of the Committee:

REP. SOUTHWORTH asked what was the difference between this bill and HB 382, introduced by **REP. SWYSGOOD**. **Lawrence Siroky, Dam Safety Program, DNRC**, responded that HB 382, Rep. Swysgood's bill, included several changes to the dam safety law. One was to have non-federal dams on Forest Service properties regulated by the Forest Service instead of the state of Montana to eliminate duplication and to transfer the negligence to the Forest Service. **REP. O'KEEFE** said in HB 382 there is a retroactive applicability to section 2. This section is being amended by HB 880. **Don MacIntyre, DNRC**, added that the reference to section 2 refers in HB 382 to Section 85-15-107 and makes that particular amendment retroactive. There is no retroactivity with respect to the liability issue. Liability was taken out of HB 382.

REP. O'KEEFE asked if there is an effective date in HB 880. **Mr. MacIntyre** said there is no effective date. Without a designated effective date, it will assume on October 1.

REP. O'KEEFE said the real question is liability and the committee already this session has refused to reduce state liability for negligence and strict liability. Rep. Ellis' bill would reduce the state liability on all high hazard dams as defined from strict to negligent liability. **Mr. MacIntyre** said HB 880 would make it clear that if an owner of any dam, which would be permitted as a high hazard dam by DNRC, were sued, the standard would be negligence. It is probably the case in Montana that the standard for dam failure is strict liability with the exception of high hazard dams which are permitted by the Department and which have flows that are of the 100 year flood magnitude. This bill would make high hazard dams subject to negligence, and would make dams that are not permitted but which are designed, constructed and regularly maintained under supervision subject to negligence.

REP. O'KEEFE clarified that if the committee accepts the definition of high hazard as proposed in the bill, then any reservoir or dam with 50 acre feet or less would become

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declassified as high hazard even if it is already classified as a high hazard dam. Mr. MacIntyre said dams of less than 50 acre feet are currently outside the dam safety act. Mr. Siroky said this bill does not change the liability on high hazard dam. A high hazard dam is defined as one that is over 50 acre feet.

REP. O'KEEFE asked if 85-15-307 through 403 is struck, would a current dam safety program have a procedure. Mr. Siroky said there is a plan of procedure. DNRC's authority applies only to dams greater than 50 acre feet. If this bill passes it would include dams less than 50 acre feet as well.

REP. TOOLE said under existing law for high hazard dams where strict liability applies, the permittee is made an insurer of whatever happens with no negligence required. The permittee would be responsible for whatever loss of life or injury occurred. Converting to a negligent standard focuses on the way in which the dam is maintained and requires proof that there are negligent acts connected with operation and maintenance of the dam in order to get coverage. Mr. MacIntyre said the person bringing the legal action for the damage would have the burden of establishing that there was negligence on the part of the dam operator. REP. TOOLE asked if there is there is a quid pro quo for the people who are in harms way if a problem should occur. He asked if people are given any notice and advice regarding this change. Mr. MacIntyre responded that because of the change in the law, dams that go through the dam safety program are safe. People who are potentially harmed by the unsafe dam are afforded protection, but there is no notice that the law has been changed.

Closing by Sponsor:

REP. ELLIS said it is not the intent of this legislation to change the protection afforded by the proof negligence. Agricultural dams need permits but often are not protected under the law. The intent of this legislation is to extend protection to smaller dams.

HEARING ON HB 911

Presentation and Opening Statement by Sponsor

REP. JOHN COBB, HD 42 - Augusta, said this is a technical bill. It is an act defining the term "permit" as pertaining to water quality laws. There are many water quality permits in Montana, and there is no definition of water quality permits. This bill will help to define the terms. Page 4 lists the types of permits. On the end of page 5, lines 23 to 25, the purpose of a

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permit is stated to be to minimize the effects of water pollution.

Proponents' Testimony: none

Opponents' Testimony: none

Questions From Committee Members:

REP. O'KEEFE asked **Steve Pilcher**, Department of Health and Environmental Sciences (DHES) to address the bill. **Mr. Pilcher** said under water quality laws it is the Department's responsibility to classify waters according to their beneficial use and to develop standards that will protect that use. Waste discharge permits issued are intended to insure that the beneficial uses can continue. This bill spells out what the Department has been interpreting to be its policy and intent. **Mr. Pilcher** expressed concerns with the nondegradation issue under the Water Quality Law. Pollution is defined in the statute and is a more appropriate term for this bill.

REP. TOOLE asked what affect does definition have on the degradation concept in terms of the statutory law and the Department of Health regulations on nondegradation. **Mr. Pilcher** responded that it does not impact the nondegradation section of the Montana Water Quality Act. Any new waste discharge permit would have to conform to the provisions of nondegradation. Under nondegradation any request for a new discharge to state waters that could change the quality of that water must be reviewed under the nondegradation provision of the law. Only the Board of Health and the Environmental Sciences can allow change from existing high quality waters. This bill deals more with existing waste discharge permits and the recognition that those discharges and the permit that is controlling the discharge is intended to prevent pollution.

REP. COHEN how this affects the practice of piping substance from the oil treatment ponds in Whitefish to the Whitefish River. **Mr. Pilcher** replied that any existing waste discharge permit has conditions or limits associated with that permit. Those conditions and/or limits are intended to ensure that the material being discharged into state waters will not cause pollution or interfere with other beneficial uses of the Whitefish River.

REP. COHEN asked if this changed anything presently in effect. **Mr. Pilcher** replied he did not know of any changes in the current method or philosophy in issuing waste discharge permits.

REP. COHEN asked **REP. COBB** what was the need for the legislation.

REP. COBB responded that there is nothing in the laws to defines permit. If permit is defined in the statutes, there is legal regress. REP. TOOLE asked if this will be a mandate for the Department to propose new rules. Mr. Pilcher said it would not result in any immediate change. A waste discharge permit is in effect a permit to pollute. The conditions of the permit are intended to limit that pollution to a point that it does not interfere with other beneficial uses.

Closing by Sponsor:

REP. COBB said the purpose of the bill is to define permits, which are not currently defined.

HEARING ON HB 799

Presentation and Opening Statement by Sponsor:

REP. NORM WALLIN, HD 78 - Bozeman, said the issue addressed in HB 799 is underground storage tanks for furnace oil and gasoline. The Environmental Protection Agency (EPA) has standards considerably less stringent than those the Department of Health has put on the people of Montana. This bill proposes that the standards should not be different. The EPA standards should be sufficient for Montana.

Proponents' Testimony:

Walt Steingruber, Agriculture Preservation Association of Gallatin Valley, supported HB 799. He stated that if this becomes law, more underground tanks will be registered. Currently, it is a hassle to get all the permits and the necessary contractor to remove the tanks. This bill will accomplish getting the tanks out of the ground. He urged the committee to support the bill.

Bob Stevens, Montana Grain Growers Association, supported HB 799.

Ralph Bergantine, professional engineer from Bozeman, supported HB 799. He stated that most underground tank owners support the intent of the current Underground Storage Act in its attempts to protect Montana's ground water from chemical pollution. In rural setting, the most affected will likely be the tank owner and family. Tank owners need to know who to contact and what to do if a spill should occur. Under the Federal Tank Act, certain tanks are not covered that are covered by the complicated regulations of Montana.

Sherman Smith, supported HB 799 for reasons stated by **Mr. Bergantine**.

SEN. DENNIS NATHE, SD 10, supported HB 799. Standards established last session went beyond EPA in three areas: tanks under 1100 gallons, underground piping, and heating fuel. Residential fuel tanks required a \$20 every year to get a tag to fill the tank, a spill is the owner's expense, and the tank is listed on the property title. In 1998, all underground tanks have to be replaced or upgraded in place.

Lorna Frank, Montana Farm Bureau, was not present for the hearing but provided written testimony supporting HB 799. **EXHIBIT 9**

Opponents' Testimony:

Pete Frazier, Director Environmental Health, City-County Health Department, Great Falls, opposed HB 799. Many small tanks are the cause of environmental problems and need to be controlled. Much of the funding will be reduced should the agreement be removed, and the funding is needed to have an organized instructional program statewide.

Jim Carlson, Director Environmental Health, City-County Health Department, Missoula, was not present at hearing but presented written testimony opposing HB 799. **EXHIBIT 10**

Chris Kaufmann, Montana Environmental Information Center, opposed HB 799. She stated that it is a bad bill. Many tanks would be exempted, and could then be replaced with tanks with walls not thick enough. If tanks were not regulated, nothing would require erosion protection on the tank. Tanks leak regardless of the size. **Ms. Kaufmann** urged the committee to kill the bill.

Susan Lenard, Montana Audubon Legislative Fund, opposed HB 799. She stated that since the beginning of the Montana program in 1986, about 300 leaking tanks have been identified, and it is believed that there are probably over 5000 more.

Doug Rogness, Underground Storage Tank Program, submitted testimony on behalf of **Jean Riley**, Montana Petroleum Release Compensation Board. **EXHIBIT 11**

Ronna Alexander, Montana Petroleum Marketing Association, opposed exclusion of the tanks. The fee for commercial tanks would be \$50, without consideration of the size of the tank.

Duane Larson, Flathead County-City Health Board, opposed HB 799.

Informational Testimony: John Geach, Montana Department of Health and Environment Science, Underground Storage Tank section, provided information on the affects of HB 799. EXHIBIT 12

Questions From Committee Members: none

Closing by Sponsor:

REP. WALLIN stated that he was impressed that none of the opposition said there was more danger in Montana than any other part of the United States, yet Montana has more extensive requirements. He stated that it is an unfair burden to rural Montanans to have heating oil tank fees. The bill satisfies farmers and small owners and save the State money. Montana does not need rules any more stringent that other parts of the United States.

HEARING ON HB 845

Presentation and Opening Statement by Sponsor:

REP. VIVIAN M. BROOKE, HD 56 - Missoula, said HB 845 is an act requiring underground storage tanks and underground pipes to have double walls. She distributed amendments addressing the environmentally sensitive areas. EXHIBIT 13. She stated that leaking underground storage tanks pose one of the most serious and pervasive threats to Montana's ground water resources. There are 22,000 registered tanks in Montana, and the EPA estimates that one quarter of all tanks are leaking. About 500 leaks have been discovered by DHES in the past two years. This bill attempts to be preventive. The technology for being sure new tanks will not leak is available. Seven states and most European countries require double wall tanks. Ten states require double wall tanks in certain areas of their state. It is an extra layer of protection for the environment. If a leak develops, the product is trapped between layers and alarm sounds, so the problem can be corrected before contaminants reach the environment. REP. BROOKE stated that she believes the Legislature should decide if double wall tanks should apply to all the state, or just the environmentally sensitive areas. Over the long term, double wall tanks may be cheaper than single wall. The most significant savings is when the tanks leak. EPA says a typical cleanup of a tank leak when only soils are contaminated might cost \$15,000. If groundwater is affected, costs will be \$50,000 minimum. There are also savings in the area of litigation costs involving underground releases.

Technical Discussion:

John Geach, Underground Storage Tanks Manager of Hazardous Waste Bureau, DHES, provide technical testimony. EXHIBIT 14

Proponents' Testimony:

Chris Kaufman, Montana Environmental Information Center, supported HB 845. She emphasized the cost savings of double-walled tanks. The Petroleum Marketing Management Magazine confirms secondary containment can cost up to one third more than single wall tanks. However, the increased costs should be weighed against the significant cost of cleanup from leaks into the environment which could approach \$225,000 or more in cases of groundwater contamination.

Susan Lenard, Montana Audubon Legislative Fund, supported HB 845 because it is an important step in understanding what must be done to protect underground water supplies.

Duane Larson, Flathead County-City Health Board and Montana Fire Chiefs Association, supported this bill in the interest of environmental protection and public safety.

Opponents' Testimony:

Ronna Alexander, Director, Petroleum Marketing Association, opposed HB 845. She stated that the costs of double wall tanks and pipes can be doubled the costs of single wall. EXHIBIT 15. She stated if HB 845 is passed, another 25 percent of the people in this industry will be put out of business.

Bill Salisbury, Montana Department of Highways, said the Highways Department is concerned how soon the double wall tanks would be in place and the fiscal impact. The Highway Department is currently in the process of replacing some tanks.

Rex Manuel, Cenex Petroleum Division, presented written testimony opposing HB 845. EXHIBIT 16

Janelle Fallan, Montana Petroleum Association, opposed HB 845. She said the bill is significant, broad, sweeping legislation. It should not be consider hastily. She distributed regulations concerning underground tanks. EXHIBIT 17

Dexter Busby, Montana Refining Company, Great Falls, stated they are concerned with the affects of the legislation on the refinery piping. Testing done on underground refinery pipes indicate that

doubled walled pipes do not provide better protection.

Questions From Committee Members:

REP. DOLEZAL asked if there is any change in the longevity of a double wall tank as opposed to a single wall tank. Mr. Schwartz replied the Steel Tank Institute has a 30 year warranty program which covers both the single wall and the double wall tank. REP. REAM asked Mr. Schwartz if there is other technology out there other than double walls. Mr. Schwartz said there are double wall fiberglass, double wall steel, and single wall for both. In double wall, there are Type 1 and Type 2. Type 1 is a tank that is two shells, one on top of the other. Type 2 is one tank inside another. A monitoring system can be between the two shells. Fiberglass is more expensive.

REP. REAM said reference was made to the difficulty of determining how environmentally sensitive areas would be designated with the amendment. He asked how it was possible to derive a revised fiscal note of \$200,000 without knowing this information. Mr. Schwartz responded that the number was based on the assumption that monitoring systems will be installed in all tank systems and that approximately 25% of the tanks will be leaking within the two year period, according to EPA standards for estimations.

REP. NELSON said it seems that whether the tank is single or double walled, the danger is mostly from electrolysis which cannot be predicted. A better protection would be an underground leak protection system, rather than changing the tank and a monitoring system for single walls. Mr. Geach said a single wall tank needs a different type of monitoring system, such as external vapor wells, external ground water well, and in tank automatic gauging system.

REP. SOUTHWORTH asked the Highway Department if they know where the tanks are, how old they are, and when they will have to be replaced. Mr. Salsbury replied that they do know where the tanks are. About 120 tanks have been replaced in the last year and a half. An arbitrary decision has been made that all tanks 20 years and older would be replaced. About 70 of those were taken out of service.

Closing by Sponsor:

REP. BROOKE stated that ground water is something to be protected. This bill is preventive, and will be cost effective in many instances. She urged passage of the bill.

HEARING ON HB 855

Presentation and Opening Statement:

REP. SHEILA RICE, HD 36 - Great Falls, reviewed HB 855 and presented amendments with a grey bill. EXHIBIT 18 and 19. She explained that the amendments deal with a set of definitions for recycled paper. There are three types of recycled paper: deinked material, postmill material, and postconsumer material. This bill mandates the state of purchase, by 1993, a certain amount of paper made with recycled products. There is a big supply of recycled paper, and a smaller demand. It is time the market for recycled products is expanded.

Proponents's Testimony:

Brad Martin, Montana Public Interest Research Group (MontPIRG), supported HB 855. He stated that Montana faces a serious solid waste problem. Forty percent of landfills are filled with paper. HB 855 creates an answer to dealing with solid waste. Goals are set in the bill. It sets accomplishment dates. The potential cost is reasonable. Mr. Martin presented two documents: a petition from the University of Montana favoring the purchase of recycled paper, and a resolution passed by the student government at the University of Montana unanimously encouraging the state to adopt this legislation. EXHIBITS 20 and 21

Kristen Page, MontPIRG, presented written testimony on behalf of David Assmann, Conservation Paper Company, Resa Dimino, Solid Waste Alternatives Project, Environmental Action Foundation and Treecycle, Recycled Paper in Bozeman. EXHIBITS 21A, 22, and 23

Chris Kaufmann, Montana Environmental Information Center (MEIC), supported HB 855 as it will help to strengthen the concept of procuring recycled paper.

Linda Lee, Montana Audubon, supported HB 855. EXHIBIT 24

Greg Fine, UM student, supported HB 855. He stated that it is an outstanding bill and urged committee support.

Scott Elder, Custer Resource Alliance, Miles City, supported HB 855. He stated that he is concerned about a landfill coming in from Minneapolis. This kind of bill would give them a message that we are trying to do our job of reducing waste.

Opponents' Testimony: none

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Questions from Committee Members: none

REP. GILBERT said in HB 160 pre-consumer and post-consumer recycling was discussed. HB 855 requires use. He asked how will the bill work regarding market availability and cost effectiveness of products. REP. RICE responded that cost can be a concern. An amendment has been considered that would limit it to some percentage cost. The products are available. One of the advantages of the bill is its flexibility. It does not mandate what will be purchased.

Closing by Sponsor:

REP. RICE presented examples of products made from recycled materials. She submitted a copy of The Great Falls Gas Company's annual report that was printed on recycled paper. EXHIBIT 25

HEARING ON HB 891

Presentation and Opening Statement by Sponsor:

REP. JESSICA STICKNEY, HD 26 - Miles City, explained that HB 891 will require financial assurance for megalandfills. The amount of the bond would be determined based on cost of restoring damaged natural resources if the company defaults on its obligation. The Department may not release the bond for a minimum of 30 years after the megalandfill has closed; until the Department determines the natural resources have been permanently reclaimed, restored, or replaced to the quantity and quality that existed prior to the commencement of the licensed operation; the landfill presents no significant future threat to those natural resources; and until a public hearing has been held. In this bill, the definition of a megalandfill uses the figure 50,000 tons a year of incinerator ash. Another bill has used 35,000 tons a year. REP. STICKNEY suggested that HB 891 be amended to conform to the other bill.

Clyde Daily, Montana Senior Citizens Association, supported the concept of this legislation. He said a reclamation bond provides safety for the future.

Deborah Hanson, Miles City, Northern Plains Resource Council, supported HB 891. EXHIBITS 26, 27, and 28.

Helen Waller, McCone Agriculture Protection Organization, supported HB 891. She said she represents a group of farmers and ranchers in McCone County where a site is being considered. The Organization supports this bill as some assurance is needed that

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the water supply will not be damaged.

Scott Elder, Miles City, Custer Resource Alliance, supported HB 981. He said the argument that a bonding procedure will restrict the trade is not true. It makes business responsible for itself. A study by DHES stated all liners will eventually leak. There must be financial assurance in place to protect resources.

Chris Kaufmann, Montana Environmental Information Center (MEIC), said this is a good piece of legislation. The state cannot afford any more superfund sites. It will be a preventive measure. MEIC urged a do pass.

Kristin Page, MontPIRG, supported HB 891 for reasons previously stated.

Linda Lee, Montana Audubon Legislative Fund, supported HB 891.
EXHIBIT 29

Kay Blehm, Yellowstone Valley Citizens Council, supported HB 891.
EXHIBIT 30

Opponents' Testimony: none

Questions From Committee Members: none

Closing by Sponsor:

REP. STICKNEY said that people from Miles City are very much concerned. The testimony indicates so. She urged support of the bill.

HEARING ON HB 838

Presentation and Opening Statement by Sponsor:

REP. JIM SOUTHWORTH, HD 86 - Billings, introduced HB 838, an act to promote local solid waste management planning and to encourage recycling and composting. **EXHIBIT 31**

Brian McNett, Montana Environmental Information Center (MEIC), said HB 838 is a simple bill that accomplishes a lot. This bill meshes with Rep. Gilbert's HB 160 bill on integrated waste management, passed earlier by committee. HB 838 requires cities and towns to work with waste haulers, recyclers and landfill operators to form a recycling plan. It bans certain recyclable materials from landfills beginning in 1993. It allows variances for towns that choose not to enact the ban to provide other ways

HOUSE NATURAL RESOURCES COMMITTEE

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for people to recycle. Waste needs to be thought of as raw material that has value. MEIC urged passage of HB 838.

Susan Lenard, Montana Audubon Legislative Fund, strongly supported HB 838.

Scott Elder, Custer Resource Alliance, supported HB 838.

Brad Martin, MontPIRG, strongly supported HB 838. He stated that it encourages communities to work together, sets important goals for prohibiting disposal of useful or hazardous resources, and encourages opportunities for recycling.

Will Wood, Missoula City Council urged committee support of this bill.

REP. COHEN supported HB 838. He called the committees attention to page 3, lines 22-25, stating that it is excellent language, and if anything is done, it should be strengthened.

Opponents' Testimony: none

Questions From Committee Members:

REP. KNOX said there is a considerable problem with lead-acid batteries. He asked what kind of process will be built into the system to handle them and what are the associated costs. Mr. McNett responded that, currently, the market for lead-acid batteries is better than a couple of years ago. About five years ago smelters went out of business because of low lead prices, now lead prices are up and markets are reliable. This bill sets up the bans in the future so that the industries in the interim can be sure there will be that source of lead. REP. KNOX said that he understands that truckers wanting to carry batteries must have a totally sealed truck, and cost is prohibitive. Mr. McNett said in areas where the population is great enough, it is economically possible to recycle batteries.

Closing by Sponsor:

REP. SOUTHWORTH said the recycling business are doing more and more all the time. He urged support of the bill.

HEARING ON HJR 36

Presentation and Opening Statement by Sponsor:

REP. HOWARD TOOLE, HB 60 - Missoula, said his district includes

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the beautiful Pattee Canyon area, a suburban wild area. In the 1950s and 1960s, residences were built in the Pattee Canyon area. By the 1970s a number of residences being constructed off the main road in the wild country next to Missoula. About 12 years ago, a wildfire began two or so miles west of Pattee Canyon. Winds blew the fire through Pattee Canyon, fortunately destroying only six residences. The need for HJR 36 arises out of that fire. It proposes the Department of State Lands, the State Fire Marshall and a number of private and quasi-public entities work together to develop a concept as the Wildland-Urban Interface (WUI). This is a problem in many communities across the state, and this bill is something that is needed.

Proponents' Testimony:

Jeff Jahnke, Department of State Lands (DSL), supported HJR 36. He said that DSL protects about 51 million acres of wildland, directly or through contract. Over the last 10 or 15 years, the amount of residential, recreational, commercial buildings in those wildlands has increased significantly and this is creating concern protecting life and property.

Bruce Senerim, Missoula Rural Fire District, and Montana Fire Chiefs' and Western Fire Chiefs' Urban Wildland Interface Committees, supported HJR 36. He stated that adoption of HJR 36 would allow development of necessary fire fighting equipment and provide a defensible space. A defensible space would allow three major benefits: the fire may not get out of the dwelling and get into the wildlands, it provides space to get fire apparatus into to fight wildland fire, and the structure may survive on its own.

REP. COHEN supported HJR 36.

Duane Larson, Montana State Fire Chiefs' Association, supported HJR 36 because it is in the best interests of the citizens of the state of Montana.

REP. WANZENRIED supported HJR 36.

Opponents' Testimony: none

Questions From Committee Members: none

Closing by Sponsor:

REP. TOOLE urged the committee to pass the bill.

HEARING ON HB 858

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Presentation and Opening Statement by Sponsor:

REP. BOB GILBERT, HD 22 - Sidney, presented HB 858, an act establishing a statewide household hazardous waste public education program, and defining household hazardous waste. He stated the program will cost \$2,000 in 1993 and \$10,000 in 1992. The funding will come from SB 209. He stated education is important for the success of waste management programs.

Proponents' Testimony:

Chris Kaufmann, Montana Environmental Information Center (MEIC), thinks public education is a way to deal with the issue of household hazardous waste. MEIC urged support of HB 858.

Susan Lenard, Montana Audubon Legislative Fund, supported HB 858. She handed out a pamphlet, addressing household hazardous wastes, put out by the Water Pollution Control Federation in Virginia.
EXHIBIT 32

Deborah Hanson, Northern Plains Resource Council, Custer Resource Alliance, Miles City, supported HB 858. She said that citizens in Miles City asked a lot of questions about hazardous wastes. This program would give citizens a chance to participate in reducing hazardous waste and disposing of them properly.

Kristin Page, MontPIRG, supported HB 858. She stated that it is an appropriate first step. There are national education programs about hazardous waste, but not much dealing with Montana.

Duane Larson, Montana State Fire Chiefs' Association, said in almost 30 years of public safety service, he has found it is much easier to educate than to regulate. He supported the bill.

Opponents' Testimony: none

Questions From Committee Members: none

Closing by Sponsor:

REP. GILBERT stated that the main part of the bill is on page 4, section 2. He urged the committee to support the program.

HEARING ON HB 926

Presentation and Opening Statement by Sponsor:

REP. DAVID HOFFMAN, HD 74 - Sheridan, said his bill was being

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carried on behalf of the Department of Health and Environmental Sciences to address the problem of Chicago Mining Company mine in Pony, Montana. The Company wanted to voluntarily post a bond for reclamation of the mill site. Reclamation was not required because a mine permit was not required. This bill allows the DHES to accept a voluntary bond.

Proponents' Testimony:

Kim Wilson, Attorney, Helena, representing the Concerned Citizens of Pony, supported HB 926. He stated that the State was not able to get the mine permitted under the Hard Rock Act, which would require a bond. The mine was permitted under the Water Quality Act, with no provisions to require or even allow a voluntary bond. The Department does not have the mechanism accept the bond. This bill will allow DHES to accept a voluntary bond.

Steve Pilcher, DHES, said the Department is seldom in a position where someone comes and offers a bond to insure things are done properly. Mr. Pilcher urged a do pass.

Opponents' Testimony: none

EXECUTIVE ACTION ON HB 891

Motion: REP. O'KEEFE MOVED HB 891 DO PASS.

Motion/Vote: REP. RANEY moved to amend HB 891 changing 50,000 tons to 35,000 tons so that it will be consistent with the bill on incinerators. Motion carried 15-0 with Reps. Toole, Fagg and Brooke absent for voting.

Motion/Vote: REP. RANEY MADE A SUBSTITUTE MOTION THAT HB 891 DO PASS AS AMENDED. Motion carried 14-1 with Rep. Knox voting no, and Reps. Toole, Fagg and Brooke absent for voting.

EXECUTIVE ACTION ON HB 838

Motion: REP. SOUTHWORTH MOVED HB 838 DO PASS.

Motion: REP. COHEN moved to amend HB 838 so that following line 8 on page 4, add "(f) provide for compliance with 75-10-102".

Discussion:

REP. COHEN stated that the code, 75-10-102, concerning waste and litter control, gives instructions on implementation.

Vote: Motion to adopt amendment carried 17-0 with Rep. Fagg

absent for voting.

Motion: REP. COHEN MADE A SUBSTITUTE MOTION THAT HB 838 DO PASS AS AMENDED.

Discussion:

REP. HOFFMAN stated that he has to vote against the bill because of the potential of the costs to local governments. REP. GILBERT stated he has the same concern. The bill prohibits, after January 1993, certain products, then prohibits yard waste, aluminum, glass, and corrugated paper by 1997. Logistically, local governments will not be able to do all the requirements.

Vote: Motion that HB 838 as amended do pass carried 11-6 with Reps. Nelson, Hoffman, Foster, Gilbert, Ellison voting no.

EXECUTIVE ACTION ON HB 858

Motion: REP. GILBERT MOVED HB 858 DO PASS AND BE PLACED ON THE CONSENT CALENDAR.

Discussion:

REP. DOLEZAL asked what Rep. Gilbert envisioned happening with this bill. REP. GILBERT said the Department will write the rules and the bill will be implemented right along with the integrated waste management plan. Household hazardous waste was left out of the integrated bill. The funding will come out of SB 209. REP. DOLEZAL asked how will this happen in the education system. REP. GILBERT responded that the Department will do it in conjunction with the integrated waste management program. REP. DOLEZAL stated that he agreed with the concept, but that it is unrealistic to expect a classroom teacher to do the education.

Vote: Motion carried 17-0.

EXECUTIVE ACTION ON HJR 36

Motion/Vote: REP. TOOLE MOVED HJR 36 DO PASS AND BE PLACED ON CONSENT CALENDAR. Motion carried 17-0.

EXECUTIVE ACTION ON HB 926

Motion/Vote: REP. HOFFMAN MOVED HB 926 DO PASS AND BE PLACED ON THE CONSENT CALENDAR. Motion carried 17-0.

EXECUTIVE ACTION ON HB 952

Motion: REP. RANEY MOVED HB 952 DO PASS.

Motion/Vote: REP. RANEY moved to adopt the amendments. EXHIBIT 33. Motion carried 17-0.

Motion/Vote: REP. RANEY MADE A SUBSTITUTE MOTION THAT HB 952 DO PASS AS AMENDED. Motion carried 15-2 with Reps. Knox and Hoffman voting no.

EXECUTIVE ACTION ON HB 641

Motion: REP. KNOX MOVED HB 641 DO PASS.

Motion: REP. KNOX moved to adopt the amendments. EXHIBIT 34

Discussion: REP. KNOX said the DSL amendments are necessary because DSL is not the agency that has the authority to verify the legal aspect of the mining company's right to mine. The second portion defines that it will be effect within the permit area only.

Vote: Motion to adopt the amendments carried 17-0.

Motion: REP. KNOX MOVED HB 641 DO PASS AS AMENDED. Motion carried 17-0.

EXECUTIVE ACTION ON HB 855

Motion: REP. SOUTHWORTH MOVED HB 855 DO PASS.

Motion: REP. BROOKE moved to adopt the amendments. EXHIBIT 18

Discussion: REP. O'KEEFE stated the amendments will make the bill an appropriations bill. REP. RANEY said that he would like to hold the bill until a later date. REP. GILBERT supported the amendments because of he has concerns about the added cost to government and availability of the items.

Vote: Motion to adopt amendments carried 17-0.

Motion/Vote: REP. RANEY MADE A SUBSTITUTE MOTION THAT THE COMMITTEE PASS CONSIDERATION ON HB 855. Motion carried 17-0.

EXECUTIVE ACTION ON HB 799

Motion: REP. FOSTER MOVED HB 799 DO PASS.

Discussion: REP. SOUTHWORTH, RANEY, and HOFFMAN stated that they

opposed the bill.

Motion: REP. COHEN MADE A SUBSTITUTION MOTION TO TABLE HB 799. Motion carried 12-5 with Reps. Gilbert, Knox, Ellison, Gilbert and Nelson voting no.

EXECUTIVE ACTION ON HB 911

Motion: REP. GILBERT MOVED HB 911 DO PASS.

Discussion: REP. MEASURE stated that he examined the bill and the statutes it concerns. The statute has an implicit description of what a permit is. When Rep. Cobb refers to this permit and permitting process, he refers to a couple of administrative rules: 16.20.13.10 and 16.20.10.13, which is about 60 pages dealing with the permitting process.

Motion: REP. MEASURE MADE A SUBSTITUTION MOTION TO TABLE HB 911. Motion failed 7-10. EXHIBIT 35

Discussion: REP. COHEN said when the law is changed, the administrative rules will have to be revisited. No one felt there was a need to make that change, including the Department. There is no problem to address. REP. HOFFMAN said as he understood, the sponsor wanted to create a definition of permit. REP. SOUTHWORTH asked if it was necessary to do that. REP. TOOLE stated the purpose is to minimize effects of water degradation. REP. BROOKE said the idea is so esoteric that during second reading no one will catch on to the reason for this bill. REP. MEASURE stated that the statute already has a definition.

Motion/Vote: REP. RANEY moved to amend HB 911 on page 5, line 23 strike "chapter" and insert "part", page 24 strike "degradation" and insert "pollution". Motion carried.

Discussion: REP. COHEN said his understanding is that these discharge permits have certain requirements. The discharge cannot be any dirtier than the body receiving it. REP. RANEY commented that up until this point, the committee understood the meaning of every bill that left committee. He asked if any one really understood HB 911. REP. HOFFMAN answered it appears that every word is defined except permit.

REP. REAM asked if someone from Water Quality Bureau (WQB) could address this. REP. O'KEEFE replied that no one from WQB is present. REP. ELLISON said that during the hearing a representative from the Department stated that it would not change their method of issuing permits. REP. RANEY stated that

the would be that a permit means " a Montana pollute and discharge elimination system permit." It seems redundant. A permit means a permit.

Motion/Vote: REP. TOOLE MADE A SUBSTITUTION MOTION TO TABLE HB 911 AS AMENDED. Motion carried 11-6. EXHIBIT 36

EXECUTIVE ACTION ON HB 880

Motion: REP. MEASURE MOVED HB 880 DO PASS.

Motion: REP. MEASURE moved to amend HB 880.

Discussion: REP. MEASURE said people who have safe dams will avoid getting sued. The bill gives limited liability if one goes through the permitting process to make the dam safer. It has always been the law that a dam owner or anybody who owned any kind of dangerous business was held for strict liability. It is appropriate to amend the bill.

Motion/Vote: REP. O'KEEFE MADE A SUBSTITUTION MOTION TO TABLE HB 880. Motion carried unanimously.

EXECUTIVE ACTION ON HB 845

Motion: REP. BROOKE MOVED HB 845 DO PASS.

Motion/Vote: REP. O'KEEFE moved to adopt the amendments. EXHIBIT 13. Motion carried 17-0, with Rep. Fagg absent for voting.

Motion: REP. BROOKE MADE A SUBSTITUTE THAT HB 845 DO PASS AS AMENDED.

Discussion: REP. DOLEZAL noted one of the items discussed by the Department of Highways was the cost. He asked if this is an appropriations bill. REP. GILBERT said if it is not an appropriations bill, he will vote against the bill because it is too expensive. He asked what will be the expenses on Fish, Wildlife and Parks, and the general public.

REP. JOHN MERCER, listening in on the meeting, clarified that if the bill was transferred to the Appropriations committee, that it would not have to meet the deadline. He stated that the agreement between the House and Senate is that all bills in the Appropriations and Tax committees prior to the 45th day would not have to meet the deadline.


REP. COHEN said discussion was held concerning asking the Department to estimate the costs of implementing the bill.

REP. RANEY said if Rep. Brooke wants to delay the effective date that new tanks are required, the portion indicating the Department will define what environmentally sensitive areas are would be immediately effective.

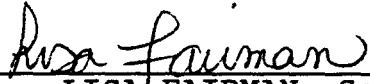
Motion/Vote: REP. GILBERT MADE A SUBSTITUTE MOTION TO RE-REFER HB 845 TO APPROPRIATIONS. Motion carried 15-2 with Reps. Wanzenried and Ream voting no.

ADJOURNMENT

Adjournment: 7:00 pm



BOB RANEY, Chair



LISA FAIRMAN, Secretary

BR/lf

HOUSE OF REPRESENTATIVES
NATURAL RESOURCES COMMITTEE

ROLL CALL

DATE 2-22-91

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	/		

CS05NATRES.MAN

2-30
2-31-91
JNB

HOUSE STANDING COMMITTEE REPORT

February 22, 1991

Page 1 of 2

Mr. Speaker: We, the committee on Natural Resources report that House Bill 637 (first reading copy -- white) do pass as amended.

Signed: Bob Raney, Chairman

And, that such amendments read:

1. Page 1, line 18.

Following: line 17

Insert: "STATEMENT OF INTENT

A statement of intent is required for this bill to provide direction to the department of agriculture for enforcement of the requirements of [section 1] relating to notification of pesticide applications. Pursuant to the provisions of 80-8-306(3), if the department receives a complaint that a person other than a licensed applicator has failed to comply with the notification requirements of [section 1] and the complaint constitutes the person's first alleged violation of [section 1], the department shall contact the person by telephone to discuss the complaint and to inform the person of the requirements of [section 1]. If the department receives a second complaint that a person has failed to comply with [section 1], the department shall investigate the complaint consistent with the department's existing procedures for responding to alleged violations of Title 80, chapter 8."

2. Page 1, line 21.

Following: "pesticide"

Insert: "to control weeds or insects or applying a pesticide"

3. Page 1, line 25.

Strike: "(3)"

Insert: "(5)"

4. Page 2, line 1.

Following: "(2)"

Strike: "For a period beginning 48 hours prior to and"

Insert: "At the time of each application of a pesticide and for a period"

5. Page 2, line 2.

Following: "after"

Strike: "each"

Insert: "the"

6. Page 2, line 15.

Following: "application;"

Insert: "and"

7. Page 2, line 18.

Strike: line 18 in its entirety

8. Page 2, line 23.

Following: line 22

Insert: "(3) Commercial applicators may use their existing signs and sign materials in lieu of the requirements of subsection (2)(a) and (2)(b) until June 30, 1993. Thereafter, commercial applicators's signs must comply with the requirements of subsection (2).

(4) In lieu of the notification required by subsection (2), a unit of the state, federal, or local government, including a weed management district, mosquito control district, or other public entity, that applies or causes to be applied a pesticide over any portion of the land area within its jurisdiction that lies within the boundaries of an incorporated city or town may provide public notice on the day of the intended application or within 72 hours before the intended application. The public notice must include:

(a) a general description of the area where the pesticide will be applied;

(b) the common or trade name and the chemical name of the pesticide to be applied;

(c) the date of the pesticide application; and

(d) the name of the unit of government or other public entity responsible for the pesticide application and the name and telephone number of a person who may be contacted by interested citizens."

ReNUMBER: subsequent subsections

9. Page 3, line 5.

Following: "pesticides"

Insert: "; (c) applications of pesticides on an emergency basis for purposes of self-defense from insect attack"

Lisa

CLERICAL

HOUSE Bill No. 637

Date: 2/22/91

Time: 5:00

SBA
(Legislative Council Staff)

☒ NAT. RES.
S / H Standing Committee

(Chairman) *[Signature]*

☐ S / H Committee of the Whole
(Sponsor)

In accordance with the Rules of the Montana Legislature, the following clerical errors may be corrected:

Amendment #8 should read:

Insert: "... applicators' § ..."

An objection to these corrections may be registered by the Secretary of the Senate, the Chief Clerk of the House, or the sponsor by filing the objection in writing within 24 hours after receipt of this notice.

HOUSE STANDING COMMITTEE REPORT

2.30
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JDR
February 22, 1991

Page 1 of 4

Mr. Speaker: We, the committee on Natural Resources report that House Bill 233 (first reading copy -- white) do pass as amended .

Signed: Bob Raney
Bob Raney, Chairman

And, that such amendments read:

1. Title, line 5.

Following: "PURCHASE OF"

Strike: "RAILROAD RIGHT-OF-WAY"

Insert: "LEASED"

2. Title, lines 6 through 9.

Following: the first "LAND"

Strike: the rest of line 6 through "RIGHT" on line 9

Insert: "WITHIN 300 FEET OF A RAILROAD RIGHT-OF-WAY"

3. Title, line 9.

Strike: "AND"

4. Title, line 10.

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

5. Page 1, line 12 through page 2, line 4.

Strike: the STATEMENT OF INTENT in its entirety

6. Page 2, lines 8 through 10.

Strike: "through 3" on line 8

Insert: "and 2"

7. Page 2, lines 9 and 10.

Strike: subsection (1) in its entirety

Renumber: subsequent subsections

8. Page 2, line 14.

Following: "the"

Strike: "total"

9. Page 2, lines 14 and 15.

Following: "land" on page 14

Strike: "minus" through "improvements," on line 15

10. Page 2, line 16.

Following: "by"

Strike: "independent appraisers"

Insert: "a certified appraisal under [section 2]"

11. Page 2, line 18.

Following: "land"

Strike: "within"

Insert: "adjacent to"

12. Page 2, line 19.

Following: "owns"

Strike: "improvements"

Insert: "buildings"

13. Page 2, line 20.

Following: "of"

Strike: "\$15,000"

Insert: "\$5,000"

14. Page 2, line 21 through page 3, line 2.

Strike subsections (4) and (5) in their entirety

Renumber: subsequent subsection

15. Page 3, line 3 through line 5.

Following: "land"

Strike: "owned by"

Insert: "upon which"

Following: "railroad"

Strike: "that" through "tracks" on line 5

Insert: "has or has had tracks"

16. Page 3, line 7 through line 24.

Following: "(1)"

Strike: the rest of line 7 through line 24 in their entirety

Insert: "A person or entity that has a leasehold site between a point 8.5 feet from the centerline of the track nearest the edge of the right-of-way and 300 feet of the track centerline and that uses the leasehold for transportation, regardless of the status of train operations, has a right of first refusal to purchase the land in the event the owner seeks to sell the land or transfer the leasehold estate.

(2) The owner of the land may not sell or offer for sale an interest in the leased land or dispossess the leaseholder for reasons other than nonpayment of the lease

unless he first extends to the leaseholder a written offer to sell the leased land to the leaseholder at fair market value. The leaseholder shall respond to the offer within 60 days of receipt of the offer.

(3) The owner shall negotiate in good faith with the leaseholder for a period not to exceed 90 days following the leaseholder's response to the written offer provided for in subsection (2). The land may not be sold or transferred during the response and negotiation periods.

(4) (a) If the owner and the leaseholder cannot agree on the fair market value of the land, they shall appoint a certified appraiser to establish the fair market value of the land.

(b) In the event that the owner and leaseholder cannot agree on an appraiser, each shall appoint a certified appraiser who shall make an independent appraisal. If the appraisals are within 5% of each other, the average of the two appraisals must constitute the fair market value.

(c) If the two appraisals differ by more than 5%, the two appraisers must appoint a third certified appraiser whose appraisal must establish the fair market value of the land.

(d) If the leaseholder fails to close the purchase of the leasehold estate for any reason within 45 days after the fair market value of the land has been established by the appraisal process provided for in this section, the right of first refusal is extinguished and the owner is free to transfer the property to a person or entity other than the leaseholder.

(e) The owner may transfer a title under this section by quitclaim deed rather than warranty deed."

Renumber: subsequent subsection

17. Page 4, lines 3 through 16.
Strike: Section 3 in its entirety
Renumber: subsequent sections

18. Page 4, line 25.
Strike: "through 3"
Insert: "and 2"

19. Page 5, line 5 and 7.
Strike: "through 3"
Insert: "and 2"

20. Page 5.
Following line 7
Insert: " NEW SECTION. Section 5. Coordination instruction. If
[this act] is passed and approved and House Bill No. 924

fails to be passed and approved, then this bill is void.

NEW SECTION. Section 6. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 7. Effective date. [This act] is effective on passage and approval."

Lisa

CLERICAL

HB Bill No. 233

Date: 2/22

Time: 4:50pm

AND BIRD
(Legislative Council Staff)

☒ NATURAL RESOURCES
S / H Standing Committee

(Chairman) *Bob Roney*
RONEY

☐ S / H Committee of the Whole

(Sponsor)

In accordance with the Rules of the Montana Legislature, the following clerical errors may be corrected:

Amendment No. 6

6. Page 2, line 8 through 10.
Strike: "through 3" on line 8

An objection to these corrections may be registered by the Secretary of the Senate, the Chief Clerk of the House, or the sponsor by filing the objection in writing within 24 hours after receipt of this notice.

Lisa

CLERICAL

HB Bill No. 233

Date: 2/22

Time: 4:50pm

Ana BIRD
(Legislative Council Staff)

☒ NATURAL RESOURCES
S / H Standing Committee

(Chairman) Bob Raney
RANEY

☐ S / H Committee of the Whole
(Sponsor)

In accordance with the Rules of the Montana Legislature, the following clerical errors may be corrected:

Amendment No. 6

6. Page 2, line 8 through 10
Strike: "through 3" ~~on line 8~~

An objection to these corrections may be registered by the Secretary of the Senate, the Chief Clerk of the House, or the sponsor by filing the objection in writing within 24 hours after receipt of this notice.

HOUSE STANDING COMMITTEE REPORT

February 22, 1991

Page 1 of 2

Mr. Speaker: We, the committee on Natural Resources report that House Bill 924 (first reading copy -- white) do pass as amended.

Signed: Bob Raney
Bob Raney, Chairman

And, that such amendments read:

1. Title, lines 6 through 8.

Strike: "PROVIDING" on line 6 through "RAILBED" on line 8

Insert: "REQUIRING THE DEPARTMENT OF COMMERCE TO ASSIST PERSONS REPRESENTING RECREATIONAL, TRANSPORTATION, AND UTILITY INTERESTS IN ACQUIRING OWNERSHIP OR EASEMENT OF ABANDONED RAILBEDS"

2. Page 1.

Following: line 20

Insert:

"STATEMENT OF INTENT

It is the policy of the state of Montana to preserve the integrity of abandoned or vacant railroad corridors for the purpose of recreational, transportation, and utility corridors. Accordingly, the state and the department of commerce should make every effort to preserve these corridors intact for future uses.

To further this policy and to alert the public of the potential availability of abandoned railbeds, the department shall identify and maintain a list of persons representing recreational, transportation, and utility interests throughout the state who have a potential interest or stake in abandoned railroad corridors. Upon receiving notification from the interstate commerce commission of an impending abandonment proceeding for a railbed in the state, the department shall, pursuant to 60-11-111(2)(d), notify each of the persons on the list. Upon receiving a request from an interested person representing a recreational, transportation, or utility interest, the department shall arrange for and facilitate discussions between the person and the railroad. The department shall assist with these discussions for no longer than 30 days, and the railroad, under these circumstances, shall respond to any proposal set forth by an interested person or the department."

3. Page 1, line 24.
Following: "section"
Strike: "3"
Insert: "2"

4. Page 1, line 25 through page 2, line 9.
Strike: subsections (1) through (3) in their entirety
Renumber: subsequent subsections

5. Page 2, line 13.
Following: line 12
Insert: "(2) "Recreational interest" means a local government or a not-for-profit corporation that has as its stated purpose the development, use, or maintenance of public recreational trails."

6. Page 2, lines 13 through 15.
Strike: subsection (5) in its entirety

7. Page 3, line 8.
Strike: "and"

8. Page 3, line 18.
Following: "(2)(c)"
Strike: "."
Insert: "; and"

9. Page 3, lines 19 through 21.
Strike: subsection (3) in its entirety
Insert: "(d) shall cooperate with and assist persons representing recreational, transportation, and utility interests in acquiring ownership or easement of abandoned railbeds."

10. Page 3, line 22.
Strike: "(4)"
Insert: "(3)"

11. Page 4, lines 2 through 23.
Strike: section 3 in its entirety

12. Page 4.
Following: line 23
Insert:

"NEW SECTION. Section 3. Coordination instruction. If [this act] is passed and approved and House Bill No. 233 fails to be passed and approved, then this bill is void."


10:55
2-23-91
JDD

HOUSE STANDING COMMITTEE REPORT

February 23, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that House Bill 891 (first reading copy -- white) do pass as amended.

Signed: 
Bob Raney, Chairman

And, that such amendments read:

1. Page 3, line 2.
Strike: "50,000"
Insert: "35,000"

10133
2-23-91
JDB

HOUSE STANDING COMMITTEE REPORT

February 23, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that House Bill 838 (first reading copy -- white) do pass as amended.

Signed: Bob Raney
Bob Raney, Chairman

And, that such amendments read:

1. Page 4, line 7.
Following: "plan;"
Strike: "and"

2. Page 4, line 8.
Following: "line"
Insert: "; and
(f) comply with the public policies under 75-10-102"

9.50
2-23-91
JDR

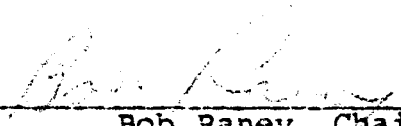
HOUSE STANDING COMMITTEE REPORT

February 23, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that House Bill 858 (first reading copy -- white) do pass and be placed on consent calendar .

Signed: _____


Bob Raney, Chairman

9:50
2-23-91
JDR

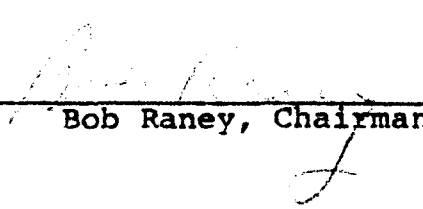
HOUSE STANDING COMMITTEE REPORT

February 23, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that House Joint Resolution 36 (first reading copy -- white) do pass and be placed on consent calendar.

Signed: _____

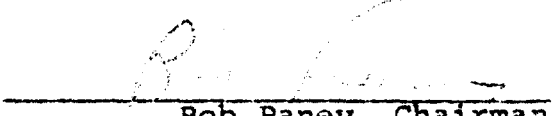

Bob Raney, Chairman

HOUSE STANDING COMMITTEE REPORT

February 23, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that House Bill 926 (first reading copy -- white) do pass and be placed on consent calendar.

Signed: 
Bob Raney, Chairman

10.55
2-27-91
703

HOUSE STANDING COMMITTEE REPORT

February 23, 1991

Page 1 of 2

Mr. Speaker: We, the committee on Natural Resources report that House Bill 952 (first reading copy -- white) do pass as amended .

Signed: _____

Bob Raney, Chairman

And, that such amendments read:

1. Page 6, lines 13 through 15.

Following: line 12

Strike: section 5 in its entirety

Renumber: subsequent sections

2. Page 6, line 16.

Following: "Applicability."

Insert: "(1)"

3. Page 6, lines 17 through 19.

Following: line 16

Strike: lines 17 through 19 in their entirety

Insert: "does not apply to:

(a) an area for which a contract was issued prior to [the effective date of this act] or for which an application for contract or contract amendment was filed with the department of state lands prior to February 23, 1991; or

(b) an area:

(i) that is contiguous to an area described in subsection (1)(a);

(ii) for which the holder of the contract has the legal right to mine on [the effective date of this act]; and

(iii) for which the contract holder files with the department on or before January 1, 1992, on a form provided by the department, a legal description of the area, evidence of the legal right to mine, and certification that the contract holder holds the property for the purpose of future sand or gravel mining.

(2) Before June 1, 1991, the department shall mail notice of the provisions and passage of [this act] and the form described in subsection (1)(b)(iii) to each person who holds a current contract on [the effective date of this act] or who had, prior to February 23, 1991, submitted an application for contract

February 23, 1991
Page 2 of 2

or contract amendment that the department had not approved or denied as of February 23, 1991.

(3) The department shall maintain a list of areas for which certifications have been filed pursuant to subsection (1)(b) and shall provide a copy of the list to any person who requests the list."

10:53
2-27-91
JDN

HOUSE STANDING COMMITTEE REPORT

February 23, 1991

Page 1 of 2

Mr. Speaker: We, the committee on Natural Resources report that House Bill 641 (first reading copy -- white) do pass as amended .

Signed: _____

Bob Raney, Chairman

And, that such amendments read:

1. Page 2, line 17.

Following: "surface of the"

Strike: "area of"

2. Page 2, line 18.

Following: line 17

Strike: "to be affected by"

Insert: "within"

Following: "permit"

Insert: "area"

3. Page 2, line 20.

Following: "the"

Strike: "affected"

Insert: "permit"

Following: "area"

Insert: ", provided that the department is not required to verify this information"

4. Page 2, line 23.

Following: "land"

Strike: "to be affected by"

Insert: "within"

Following: "permit"

Insert: "area"

5. Page 3, line 1.

Following: "the"

Strike: "affected"

Insert: "permit"

Following: "area"

Insert: ", provided that the department is not required to verify this information"

6. Page 3, line 3.

Following: "permit"

Insert: ", provided that the department is not required to
verify this information"

Amendments to House Bill No. 924
First Reading Copy

Requested by Rep. Measure
For the Committee on Natural Resources

Prepared by Paul Sihler
February 21, 1991

1. Title, lines 6 through 8.

Strike: "PROVIDING" on line 6 through "RAILBED" on line 8

Insert: "REQUIRING THE DEPARTMENT OF COMMERCE TO ASSIST PERSONS
REPRESENTING RECREATIONAL, TRANSPORTATION, AND UTILITY
INTERESTS IN ACQUIRING OWNERSHIP OR EASEMENT OF ABANDONED
RAILBEDS"

2. Page 1.

Following: line 20

Insert:

"STATEMENT OF INTENT

It is the policy of the state of Montana to preserve the integrity of abandoned or vacant railroad corridors for the purpose of recreational, transportation, and utility corridors. Accordingly, the state and the department of commerce should make every effort to preserve these corridors intact for future uses.

To further this policy and to alert the public of the potential availability of abandoned railbeds, the department shall identify and maintain a list of persons representing recreational, transportation, and utility interests throughout the state who have a potential interest or stake in abandoned railroad corridors. Upon receiving notification from the interstate commerce commission of an impending abandonment proceeding for a railbed in the state, the department shall, pursuant to 60-11-111(2)(d), notify each of the persons on the list. Upon receiving a request from an interested person representing a recreational, transportation, or utility interest, the department shall arrange for and facilitate discussions between the person and the railroad. The department shall assist with these discussions for no longer than 30 days, and the railroad, under these circumstances, shall respond to any proposal set forth by an interested person or the department."

3. Page 1, line 24.

Following: "section"

Strike: "3"

Insert: "2"

4. Page 1, line 25 through page 2, line 9.

Strike: subsections (1) through (3) in their entirety

Renumber: subsequent subsections

5. Page 2, line 13.

Following: line 12

INSERT #3
Insert: "(2) "Recreational interest" means a local government or a not-for-profit corporation that has as its stated purpose the development, use, or maintenance of public recreational trails."

6. Page 2, lines 13 through 15.

Strike: subsection (5) in its entirety

7. Page 3, line 8.

Strike: "and"

8. Page 3, line 18.

Following: "(2)(c)"

Strike: "."

Insert: "; and"

9. Page 3, lines 19 through 21.

Strike: subsection (3) in its entirety

INSERT #4
Insert: "(d) shall cooperate with and assist persons representing recreational, transportation, and utility interests in acquiring ownership or easement of abandoned railbeds."

10. Page 3, line 22.

Strike: "(4)"

Insert: "(3)"

11. Page 4, lines 2 through 23.

Strike: section 3 in its entirety

AMENDMENTS TO HB 952
(First Reading Copy)

1. Page 6, lines 13 through 19.
Following: line 12
Strike: Section 5 in its entirety
Renumber: subsequent sections
2. Page 6, line 16.
Following: "Applicability."
Insert: "(1)"
3. Page 6, lines 17 through 19.
Following: line 16
Strike: lines 17 through 19 in their entirety
Insert: "does not apply to:
 (a) an area for which a contract was issued prior to
 [the effective date of this act] or for which an application
 for contract or contract amendment was filed with the
 department prior to February 23, 1991; ~~and or~~
 (b) an area:
 (i) that is contiguous to an area described in (a);
 (ii) for which the holder of the contract has the legal
right to mine the area on [the effective date of this act],
and
 (iii) for which the contract holder files with the
department on or before January 1, 1992, on a form provided
by the department, a legal description of the area, evidence
of the legal right to mine, and certification that the
contract holder holds the property for the purpose of future
sand or gravel mining."
 (2) Before June 1, 1991, the department shall mail
notice of the provisions and passage of [this act] and the
form described in (1)(b)(iii) to each person who holds a
current contract on [the effective date of this act] or who
~~had~~, prior to February 23, 1991, submitted an application
for contract or contract amendment which the department had
not granted or denied ~~on~~ February 23, 1991.
 (3) The department shall maintain a list of areas for
which certifications have been filed pursuant to (1)(b) and
shall provide a copy of the list to any person who requests
it."

-End-

AMENDMENTS TO HOUSE BILL 641
(Introduced Bill)

EXHIBIT 2
DATE 2-22-91
HB 641

1. Page 2, line 17.
Following: "surface of the"
Strike: "area of"
2. Page 2, line 18.
Following: line 17
Strike: "to be affected by"
Insert: "within"
Following: "permit"
Insert: "area"
3. Page 2, line 20.
Following: "the"
Strike: "affected"
Insert: "permit"
Following: "area"
Insert: "; provided, however, that the department is not required to verify this information"
4. Page 2, line 23.
Following: "land"
Strike: "to be affected by"
Insert: "within"
Following: "permit"
Insert: "area"
5. Page 3, line 1.
Following: "the"
Strike: "affected"
Insert: "permit"
Following: "area"
Insert: "; provided, however, that the department is not required to verify this information"
6. ³Page ~~3~~, line 3.
Following: "permit"
Insert: "; provided, however, that the department is not required to verify this information"

-End-

EXHIBIT 3
DATE 2-22-91
HB 641

52nd Legislature

LC 1628/01

HOUSE BILL NO. 641

INTRODUCED BY KNOX

A BILL FOR AN ACT ENTITLED: "AN ACT MODIFYING
REQUIREMENTS FOR AN APPLICATION FOR A PERMIT UNDER THE
METAL MINE RECLAMATION STATUTES; AND AMENDING SECTION
82-4-335, MCA."

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

1. Page 2, line 17.
Following: "under"
Insert: "recorded"

2. Page 2, line 19.
Following: "under"
Insert: "recorded"

3. Page 2, line 22.
Following: "under"
Insert: "recorded"

4. Page 2, line 23.
Following: "land"
Strike: "to be affected by"
Insert: "within"

5. Page 2, line 23.
Following: "permit"
Insert: "boundary."

6. Page 2, line 23 through page 3, line 1.
Following: "boundary."
Strike: page 2, line 23 through page 3, line 1 in their
entirety

8950W



MONTANA FARM BUREAU FEDERATION

502 South 19th • Bozeman, Montana 59715
Phone: (406) 587-3153

EXHIBIT 7
DATE 2-22-91
HB 641

BILL # HB 641 ; TESTIMONY BY: Lorna Frank
DATE 2/22/91 ; SUPPORT Support ; OPPOSE _____

Mr. Chairman, Members of the Committee:

For the record, I am Lorna Frank, representing Montana Farm Bureau.

We are in support of HB 641 in its proposed changes to 82-4-335 MCA. The proposed changes for additional information required for an operating permit will preclude confusion regarding rights to mine, and who will be affected by the operation. Proof of ownership or a legitimate lease is a must.

We recommend a do pass from this committee for the bill as it is written.

Thank You.

SIGNED: _____

Lorna Frank

February 13, 1991

Dear Natural Resources Committee Member;

We are writing to give you information on House Bill-641 scheduled for a hearing on Feb. 15, at 3 PM.

We asked Dick Knox to carry this legislation in hopes that what happened to a number of property owners will not happen to others.

We are a group of property owners in and surrounding the Kendall Ventures Mine Boundaries. When going through the permitting process we found a number of private land owners inside the permit boundary. These property owners both surface and subsurface had not leased, sold, or contracted in any way with Kendall Ventures to allow mining on the private land. We wrote to the DSL and went to Helena to protest the permitting of private property without a legal right to mine the property. The DSL lawyer told us that the Metal Mine Reclamation Laws did not require the applicant's legal right to mine prior to issuing a permit. Kendall Ventures were issued a permit. The property owners went to their lawyers to stop the mining on the private land. The owners were informed that they would probably be required to post bonds for damages that the mining company might incur as a result of the mines operation being stopped in the event the legal decision went against the land owner. None of the landowners were able to post multi-million dollar bonds. The last we knew Kendall Ventures still had property owners tied up in litigation and were developing the disputed property.

This is not an isolated incident. This type of activity went on in the National Coal Mining industry forcing the Federal Government to make proof of ownership laws for coal mining. The State of Montana also has these laws under the Coal and Uranium Mine Reclamation Laws; Montana Code, 82-4-222 sections b, c, and d. This is where we found the wording for our bill. We feel if these laws necessary, enforcable, and non-restrictive in the Coal and Uranium Laws that they will not impede mining under the Metal Mine Reclamation Laws. These laws are necessary to protect innocent property owners. We don't feel that when you are Constitutionally guaranteed the right to own private property that the DSL, BLM, or any government agency should give a permit to mine your property. As the law stands now anyone can get a permit to mine your property or any property as long as the mine plan and reclamation plan are in order. It is then up to the property owner to defend and post bonds to protect his property. If the property owner is not physically, mentally, or financially able to defend his property it is forfeited to the mining company.

We are not asking the DSL to make the decision as to who owns the property. We are asking that mining permits not be issued until land disputes are settled.

Thank You;

The Kendall Concerned Area Residents
Hilger, Montana 59451

Testimony on HB 880

by Representative Alvin Ellis, Jr.

EXHIBIT 6
DATE 2-22-91
HB 880

Chairman Raney and members of the committee:

For the record, I'm Representative Alvin Ellis, Jr., House District 84.

I present for your consideration HB 880. This bill would, if enacted, simplify and clarify dam safety law. It would offer the protection afforded by Section 85-15-305, MCA, to those ^{5 in all} dam owners who because of Department of Natural Resources water rights permit or choice, have built a dam meeting engineering standards and restrictions. This bill would allow only the DNRC to determine whether a proposed or existing dam is safe or hazardous or meets engineering standards.

It seems to me that our dam safety laws should meet two primary criteria. One, of course, is the safety of Montana's citizens against failure by "insuring" safe construction and maintenance of Montana's dams. The second is that they should "encourage" the construction of safe structures which will impound water that will more likely flow in the streams of this state in seasons of low flow. This is especially important now when instream flow is becoming a concern to many Montanans. With all of the legal

2x, 6
2-22-91
HB 880

problems inherent with leasing or purchasing of streamflow for this purpose, adding completely new water to a drainage by storing water during a season when it is available may be the simplest and least costly alternative. ^{in many cases}

In 1907 Montana water law set up a procedure in section 85-15-306 through 85-15-311, MCA, of the codes to answer questions a concerned citizen might have as to whether a proposed or existing dam poses a significant hazard. A few years later, Montanans gave counties certain discretionary authority over dam construction and set up a procedure to investigate a concern by a citizen. This provision allowed the county to go through virtually the same procedure as was mandated by the District Court procedure. This procedure is outlined in section 85-15-402 through 85-15-404 of the Montana codes.

In 1985, federal law mandated revision of Montana Dam Safety law and the Department of Natural Resources and Conservation became involved. Section 85-15-209 was established, which set up still another recourse for a citizen who is concerned about a dam that is planned or completed. By statute, this recourse was only to deal with dams and reservoirs that impounded 50 acre feet of water or more. In practice, virtually all concerns since 1985 have been channeled through the DNRC. It is our position that

2X. 6
2/22/91
HB 880

that is exactly where they should be directed. DNRC clearly has the staff, maps, photographs, and expertise to make this decision. That is our reason for repealing the nine sections deleted by this bill. These are the sections that established (1) the District Court and then (2) the county are the places to take complaints about a dam. *I have passed out copies of*

the Dam Safety Statute so you can look at
the

Going briefly through the bill, we have changed the definitions in Section 1 to enable us to provide the same protection to owners of dams smaller than 50 acre feet that is afforded to large dam owners.

We have added the wording in Section 2 to make it clear that Section 2 only covers those dams it currently covers under the current definition.

In Section 3, the changes in subsection (2) are to make the intent of the law as formerly stated more straightforward and clear. Some are housekeeping changes to accomodate changes in definition.

Section 3 formerly had only two subsections and subsection (3) was added to allow the same protection of liability to the owners of dams of less

2/22/91
HB 880

than 50 acre feet as are offered to larger dam owners under current law.

I would now like to present Harold Hanser - long term Yellowstone
County Attorney - who was the inspiration for ^{most} ~~some~~ of these changes. I
would like to reserve the right to close.

EXHIBIT 7
DATE 2-22-91
HB 880

pp. 802-811
T. 85 ch. 15
mca

85-9-632

WATER USE

802

(3) The county treasurer of the county having the largest portion of the taxable valuation of real property of the district shall maintain a separate account for each revolving fund of the district, and all money collected under the resolution shall be deposited with the county treasurer.

History: En. Sec. 37, Ch. 100, L. 1969; R.C.M. 1947, 89-3437.

CHAPTERS 10 THROUGH 14

RESERVED

CHAPTER 15

DAM SAFETY ACT

Part 1 — General Provisions

- 85-15-101. Renumbered 85-15-207 by Code Commissioner, 1985.
- 85-15-102. Renumbered 85-15-208 by Code Commissioner, 1985.
- 85-15-103. Repealed.
- 85-15-104. Renumbered 85-15-107 by Code Commissioner, 1985.
- 85-15-105. Short title.
- 85-15-106. Definitions.
- 85-15-107. Exemptions.
- 85-15-108. Entry upon land.
- 85-15-109. Legal assistance.
- 85-15-110. Rules.

Part 2 — Construction, Inspection, and Repair of Dams

- 85-15-201. Renumbered 85-15-306 by Code Commissioner, 1985.
- 85-15-202. Renumbered 85-15-307 by Code Commissioner, 1985.
- 85-15-203. Renumbered 85-15-308 by Code Commissioner, 1985.
- 85-15-204. Renumbered 85-15-309 by Code Commissioner, 1985.
- 85-15-205. Renumbered 85-15-310 by Code Commissioner, 1985.
- 85-15-206. Renumbered 85-15-311 by Code Commissioner, 1985.
- 85-15-207. Dams and reservoirs — how constructed.
- 85-15-208. Construction in a secure manner.
- 85-15-209. High-hazard dam — determination.
- 85-15-210. Preparation and approval of plans.
- 85-15-211. Inspection and reports during construction.
- 85-15-212. Operating permit.
- 85-15-213. Periodic inspections after construction.
- 85-15-214. Requested inspections — costs — limitations against unsafe structures.
- 85-15-215. Emergency repairs or breaching.
- 85-15-216. Permit cancellation.

Part 3 — Court Proceedings

- 85-15-301. Renumbered 85-15-402 by Code Commissioner, 1985.
- 85-15-302. Renumbered 85-15-403 by Code Commissioner, 1985.
- 85-15-303. Renumbered 85-15-404 by Code Commissioner, 1985.
- 85-15-304. Renumbered 85-15-501(2) by Code Commissioner, 1985.
- 85-15-305. Liability of owners for damage.
- 85-15-306. Filling of unsafe reservoir — complaint.
- 85-15-307. Examination and report — subsequent actions.
- 85-15-308. Issues and trial.
- 85-15-309. Judgment.
- 85-15-310. New trial and appeal.



MONTANA FARM BUREAU FEDERATION

502 South 19th • Bozeman, Montana 59715
Phone: (406) 587-3153

EXHIBIT 9

DATE 2-22-91

HB 799

BILL # HB 799 ; TESTIMONY BY: Lorna Frank

DATE 2/22/91 ; SUPPORT Support ; OPPOSE _____

Mr. Chairman, Members of the Committee:

For the record, I am Lorna Frank, representing the Montana Farm Bureau.

We are in support of HB 799, as we believe that Montana underground storage tank rules should be amended to conform to EPA rules, exempting tanks with less than 1100 gallon capacity.

It is very confusing to people when the EPA puts out information on their regulations saying 1100 gallon tanks are exempt. I had several phone calls two years ago from our people wanting to know what was going on, and which rules they had to comply with--Montana's, or EPA.

We also believe that with the smaller tanks, a leak is more readily detected, and does not cause the problems that larger tanks do.

We urge this committee to look favorably upon HB 799 and give a do pass recommendation.

SIGNED: Lorna Frank

== FARMERS AND RANCHERS UNITED ==

MISSOULA
COUNTYCITY-COUNTY HEALTH DEPARTMENT
301 W. ALDER
MISSOULA, MONTANA 59802Testimony for House Natural Resources Committee 10
Concerning House Bill 799

(406) 721-5700

DATE 2-22-91
HB 799

Chairman Raney and Committee Members:

My name is Jim Carlson. I am the Director of the Environmental Health Program at the Missoula City-County Health Department. The Missoula City-County Health Department is in opposition to House Bill 799.

Four years ago we had a major underground storage tank leak occur in urban Missoula. This particular tank was a 600 gallon tank which was privately owned and not used for commercial distribution and sales. The leak eventually affected 19 homes in the Missoula urban area to the extent that all of the private wells on those properties had to be replaced. At the present time we have two small public water supply wells which are shut down due to gasoline contamination. Again we suspect that small non-commercial tanks are involved in these contamination episodes.

Unfortunately the gasoline, waste oils and solvents which are stored in these types of tanks have the same devastating affects on the aquifer and groundwaters that the larger commercial tanks have. Because a large percentage of the tanks being considered for exemption in this Bill are located in urban areas relatively close to property boundaries where a leak has a high likelihood of affecting someone else's well or property, it is not appropriate to exempt this class of tanks from regulations or fees.

Deleting the fees from this category of tanks would have a severe adverse impact upon the new local Underground Storage Tank Programs. The State Solid Waste Bureau indicated that the loss of revenue from this source would essentially remove their capability to fund local underground storage programs. The consequence of no funding for local programs would mean inadequate inspections and a high likelihood of continuing aquifer contamination problems from underground storage tanks. These local administrative efforts are very necessary to ensure that underground storage tanks comply with the state requirements and become a minimal risk to aquifer contamination.

Over the past year, our division has been inspecting local potential sources of contamination. Out of 167 inspections conducted, we located 31 underground storage tanks which had not been registered with the State Solid Waste Bureau. Considering the fact that these registrations were required on May 1, 1986, emphasizes the need for a complete and properly funded inspection and enforcement program.

EX. 10
2-22-91
HB 799

We feel the State's first priority should be to ensure that state waters which are used for public and private water supply purposes, should be protected to the greatest extent possible. If you agree with groundwater protection as a priority, then this Bill should be killed. Small underground storage tanks are a significant threat to the groundwaters and they represent a large percentage of the underground storage tanks in the State of Montana.

Respectfully submitted,

Jim Carlson, Director
Environmental Health

EXHIBIT 11
DATE 2-22-91
HB 799

TESTIMONY HB 799
Petroleum Tank Release Compensation Board
For Jean Riley, Executive Director

The Petroleum Tank Release Compensation Board (Board) is in opposition to House Bill 799 for the following reason. This bill changes the exclusionary language of Title 75, Chapter 11, Part 3 of the MCA. The present language excludes from this statute, farm or residential tanks with capacities of 1,100 gallons or less that are used for storing motor fuel for noncommercial purposes and tanks used for storing heating oil for consumptive use on the premises where stored. The proposed change, listed on page 12 of the bill, could jeopardize the EPA's approval of the Petroleum Tank Release Cleanup Fund as a financial assurance mechanism. This is the only option available to many tank owners in Montana which are required by EPA to have financial assurance. If the language, which has been stricken, were put back in section 75-11-308 the Board would not have any objection to House Bill 799.

Department of Health and Environmental Sciences
Underground Storage Tank Program
Informational Testimony HB 799

EXHIBIT 12
DATE 2-22-91
HB 799

The DHES appears today as a noponent of HB 799. However, the Department feels the passage of this bill would have several significant impacts which this committee should be aware of.

HB 799 would exempt, 7,000 or 43% of the state's 16,295 known active underground storage tanks from current regulation. The classes of tanks which would be exempted by HB 799 are (1) farm and residential tanks of 1,100 gallons or less capacity used to store motor fuels for non-commercial purposes, (2) all heating oil tanks, regardless of size and (3) underground lines connected to aboveground tanks which contain less than 10% of the tank's volume.

HB 799 would also prohibit the Department from adopting rules which are more stringent than Federal EPA underground storage tank rules. Currently, the state UST rules are more stringent in the areas of corrosion protection for tank fill and vent lines and leak detection for emergency generator tanks. In Montana a number of emergency generator tanks are owned by railroads and utilities and are located in environmentally sensitive remote areas. In addition the majority of the tanks located in the Church Universal and Triumph developments in the Paradise Valley are classified as emergency generator tanks. HB 799 would exclude the regulation of the leak detection systems on these emergency generator tanks.

Tanks which are not federally regulated are not required to meet basic construction standards for corrosion protection, structural integrity and stored product compatibility. Current Montana UST rules require these basis structural standards for all tanks and underground piping. Without these requirements, non-corrosion protected bare steel tanks could be used for exempted tank installations.

Eighty-seven percent of tanks exempted from federal regulation in Montana are farm, residential and heating oil tanks of 1,100 gallons or less capacity. The Underwriters

Laboratory manufacturing standards for these small capacity tanks allow thinner gauges of steel to be used in their construction than the heavier gauges of steel used to construct larger capacity federally regulated tanks. Thinner steel tanks are more susceptible to external corrosion and leakage. In addition, the probability of leakage increases dramatically in tanks over 10 years of age. The current average age of all underground storage tanks in Montana is now 17.5 years.

Tanks leaks can threaten municipal water supplies and allow explosive vapors to seep into homes and business's. Documented leaks from non-federally regulated tanks have contaminated ground water aquifers in Box Elder, Billings, Ekalaka, Great Falls, Lodge Grass, Polson, Superior and Townsend.

Tanks exempted by HB 799 would not be subject to the state's present notification, installation, closure or permitting requirements. There would be no reporting requirements or regulatory oversight of the installation, repair or closure of these tanks. This type of information is currently being requested by lending institutions, realtors and prospective buyers in real estate transactions. Without these requirements, the Department would not be able to provide pertinent tank records or closure certifications for exempted tank sites. If a regulatory installation and closure review mechanism were not available, tank owners could be faced with hiring professional consulting firms to provide environmental assessments of their properties for real estate transactions.

The State regulatory requirements for farm, residential and heating oil tanks of 1,100 gallons or less are minimal and only require the owner to perform a simple 36-hour manual gauging test once-a-year. Aside from that annual leak detection test, the operator has the responsibility to pay the annual tank registration fee of \$20.00 and upgrade his tank to the post 1985 federal and industrial tank construction standards by no later than December 22, 1998.

Annual underground storage tank registration fees are assessed to tank owners which provide the following services: (1) The adoption of rules which establish tank construction and installation standards to improve the quality and life expectancy of tank installations, (2) owner access to program staff which includes engineers, hydrogeologists and

CONFIRMED RELEASES OF HEATING OIL TANKS =<1100 GALLONS

CX. 12
2-22-91
HB 799

FACILITY ID #	FACILITY NAME	TOWN	CONFIRMED CLEANUP		UNDER CONTROL	GROUND WATER IMPACT	DATE CLEANUP COMPLETED	TANK SIZE (GALLONS)	CONTENTS	COSTS
			RELEASE INITIATED	X						
14-00701	ST. LABRE INDIAN SCHOOL	ASHLAND	2-7-90	X	X			550	HEAT OIL	UNKNOWN
56-08299	KEMBEL, REINHOLD	BILLINGS	4-12-90	X	X	X		560	HEAT OIL	UNKNOWN
16-11842	VISSCHER RENTAL	BOZEMAN	1-20-89	X	X				HEAT OIL	UNKNOWN
38-02465	VALLEY MOTOR SUPPLY	BROADUS	7-30-90	X	X			1000	HEAT OIL	UNKNOWN
	BROWNING SCHOOL	BROWNING	7-17-89	X	X			N/A	HEAT OIL	UNKNOWN
22-06917	HAMIL, JOHN	CLANCY	12-3-90	X	X		12-3-90	500	HEAT OIL	UNKNOWN
32-11230	KAMMERER, W.	CLINTON	9-30-90	X	X	X		550	HEAT OIL	UNKNOWN
15-09431	BIG CREEK WORK CENTER	COLUMBIA FALLS	9-28-90	X	X			700	HEAT OIL	UNKNOWN
48-05244	12MILES N OF TOWN	COLUMBUS	12-4-90	X	X		1-9-91	1000	HEAT OIL	UNKNOWN
01-05876	CORR, JAMES	DILLION	7-16-90	X	X			300	HEAT OIL	UNKNOWN
01-11237	BEAVERHEAD CTY. MUSEUM	DILLION	12-21-90	X	X			300	HEAT OIL	UNKNOWN
06-00863	HOSPITAL, COURTHOUSE	EKALAKA	1-3-91	X	X			300	HEAT OIL	UNKNOWN
28-07067	FISH HATCHERY	ENNIS	9-19-90	X	X		11-19-90	560	HEAT OIL	UNKNOWN
08-10764	WELTY, W.A.	FORT BENTON	5-10-90	X	X		5-16-90	560	HEAT OIL	UNKNOWN
93-11987	LOHSE, RONALD	FORT BENTON	12-10-90	X	X		12-28-90		HEAT OIL	UNKNOWN
07-11290	BUILDING 2040	GREAT FALLS	4-23-90	X	X	X		550	HEAT OIL	UNKNOWN
07-11399	JANETSKI, LEE	GREAT FALLS	3-2-90	X	X			500	HEAT OIL	UNKNOWN
07-11375	KEIN RADIO	GREAT FALLS	2-2-90	X	X	X	1-2-91	560	HEAT OIL	UNKNOWN
25-00043	BUREAU OF RECLAMATION	HELENA	11-7-90	X	X			500	HEAT OIL	UNKNOWN
14-11588	KNOX, DONALD	LEWISTOWN	9-11-90	X	X		1-21-91	500	HEAT OIL	UNKNOWN
02-02156	U.S. POST OFFICE	LODGE GRASS	8-28-89	X	X	X		1000	HEAT OIL	UNKNOWN
08-00868	WORRALL, JAY	LOMA	1-10-91	X	X			1000	HEAT OIL	UNKNOWN
16-03726	DE JONG, JAMES	MANHATTAN	8-30-90	X	X			500	HEAT OIL	UNKNOWN
32-09923	SUN MOUNTAIN SPORTS	MISSOULA	7-3-90	X	X		8-10-90	1000	HEAT OIL	UNKNOWN
32-12066	FRONT STREET VENTURES	MISSOULA	11-7-90	X	X			1000	HEAT OIL	UNKNOWN
46-00646	FULKERSON, DAVID	PLENTYWOOD	8-10-90	X	X			500	HEAT OIL	UNKNOWN
46-01238	PETERSON'S READY TO WEAR	PLENTYWOOD	4-24-90	X	X		5-9-90	1000	HEAT OIL	UNKNOWN
24-05316	HARBOUR PHARMACY	POLSON	12-8-89	X	X			550	HEAT OIL	UNKNOWN
51-01699	SHELBY SCHOOL DIST.	SHELBY	8-18-89	X	X			1000	HEAT OIL	UNKNOWN
51-01236	ZELL, R.	SHELBY	10-23-90	X	X		1-10-90	500	HEAT OIL	UNKNOWN
07-08054	KOHUT AND SONS	STOCKETT	10-16-90	X	X			500	HEAT OIL	UNKNOWN
40-03735	TIBBETTS, R.L.	TERRY	11-21-90	X	X			500	HEAT OIL	UNKNOWN
04-00335	AMERICAN FEDERAL SAVINGS	TOWNSEND	6-19-90	X	X			550	HEAT OIL	UNKNOWN
07-08786	VAUGHN JUNCT. RADIO BLDG.	VAUGHN	10-31-90	X	X			1000	HEAT OIL	UNKNOWN

TOTAL NUMBER OF CONFIRMED RELEASES

33

Amendments to House Bill No. 845
First Reading Copy

Requested by Rep. Brooke
For the Committee on Natural Resources

Prepared by Gail Kuntz
February 18, 1991

1. Title, line 6.

Following: "MCA,"

Insert: "THAT ARE LOCATED IN ENVIRONMENTALLY SENSITIVE AREAS"

2. Statement of Intent, page 2, line 11.

Following: "walls"

Insert: "when located in environmentally sensitive areas"

3. Statement of Intent, page 2, line 20.

Following: "techniques."

Insert: "The department is also directed to adopt rules to define environmentally sensitive areas, including but not limited to areas that are within one-quarter mile of a surface water body or of the water source for a public water supply system and areas that overlay a sole source aquifer, as determined by the U.S. environmental protection agency."

4. Page 5, line 25.

Following: "(17)(a),"

Insert: "that are located in environmentally sensitive areas"

Department of Health and Environmental Sciences
Underground Storage Tank Program
Informational Testimony HB 845

EXHIBIT 14
DATE 2-22-91
HB 845

The DHES appears today as a noponent to HB 845.

The Department supports underground storage tank management technology and practices which offer the greatest environmental protection. Double wall tank systems provide a greater degree of protection from environmental releases than single wall tank systems. In addition, when the costs of equipment and installation of a double wall tank system are weighted against the cleanup and liability costs of an environmental release, the double wall tank system maybe more cost effective. Many national fleet firms and major oil companies are actively upgrading their underground storage tanks to double wall systems. However, this technology may be cost prohibitive for many of Montana's tank owners and small petroleum dealers.

The Environmental Protection Agency considered requiring double wall tank systems when it promulgated the federal underground storage tank regulations in 1988. After receiving public comment on this proposal, EPA decided not to require double wall systems for the following reasons: (1) Double wall tank systems greatly reduce the probability of environmental product releases but are not 100 effective in preventing such releases. (2) The greater capital and installation costs did not justify the environmental gains that would be achieved in comparison to single wall tanks with leak detection systems. (3) The requirement of double wall tanks was not compatibly with industrial upgrading trends currently underway for existing tank systems. (4) Many owners and operators may delay upgrading their existing UST systems to the extent allowed by law or even to the point of noncompliance, because of the perception of the significantly higher capital and installation costs that would be required for double wall tank systems.

Currently, both Federal and State UST Rules provide the tank owner with the option of installing double wall tank systems for petroleum products. Double wall tank systems are required for all new and upgraded underground storage tanks containing hazardous substances.

EXHIBIT

15

DATE

2/22/91

HB

845

DOUBLE WALL**TANKS**—Delivery Charges Are Extra. See Current Delivery Charge Table

Page 2

Gallons	Standard Tanks ¹ Price Per Tank (F.O.B. Shipping Point)		New York City Specification Tanks ⁴	Number of 22" Manways in Std. Locations	4" NPT Fittings (deflector plates included)	Number of Straps	Price Per Strap	Made-To-Order Tanks ² Price Per Tank (F.O.B. Shipping Point)	
	Model S ³	Model P ⁴						Model S ³	Model P ⁴
10' Diameter									
30,000	N/A	N/A	N/A	N/A	N/A	8	\$85	\$51,715	\$56,880
25,000	N/A	N/A	N/A	N/A	N/A	7	85	42,810	47,080
20,000	\$28,210	\$31,025	N/A	1	6★	6	85	27,070	29,965
15,000	21,155	23,260	N/A	1	6★	4	85	19,800	21,970
8' Diameter									
12,000	17,120	18,835	N/A	1	6★	4	75	15,645	17,410
10,000	14,285	15,720	N/A	1	6★	4	75	12,725	14,205
8,000	12,070	13,280	N/A	1	6★	4	75	10,445	11,685
6,000	11,070	12,175	N/A	1	6★	2	75	9,410	10,555
6' Diameter									
10,000	N/A	N/A	N/A	N/A	N/A	6	70	21,640	23,800
8,000	N/A	N/A	N/A	N/A	N/A	4	70	18,115	19,930
6,000	12,205	13,415	N/A	1	6★	4	70	10,585	11,825
4,000	9,785	10,755	11,830	1	6★	2	70	8,280	9,085
2,500	6,710	7,390	8,135	1	4†	2	70	5,585	6,290
4' Diameter									
1,000	5,270	5,795	6,375	1	4*	2	65	4,420	4,965
550	3,940	4,325	4,755	1	4*	2	65	3,055	3,450

¹Standard Manways and Fittings included in tank price.
Deflector plates included under All Fittings.

²No Manways or fittings included in tank price.

³F.O.B. Bakersfield Only.

⁴All plant shipping zones. Price includes reservoir.

⁵FOB Mt. Union only.

★ Three fittings in M/W cover, plus three tank mounted fittings.

† Three fittings in M/W cover, one tank mounted.

* All fittings in M/W cover.

VINYL ESTER RESIN SYSTEM OPTION (Requires MTO Shipping Cycles)

Add. \$.11/gallon (nominal capacity) to the above prices.

CUSTOMER PICK-UP

4' dia., 6' dia., 8' dia. Add \$50 per tank

TANK ACCESSORIES	4' dia.	6' dia.	8' dia.	10' dia.
FRP ladder	\$815	\$ 730	\$ 855	\$ 990
Carbon steel ladder	420	435	450	465
FRP 4" drop tube (includes 6" fig. with double tapped bushing to 4" and deflector plate mounted in manway cover)	350	475	485	520
(Shell mounted)	640	765	790	810
Sump—8" I.D. x 4" deep	630	650	670	690
Helical heating coil (does not include manway or suction & return figs.)	N/A	1,925	1,965	1,995
Hotwell (includes 2-2" fittings and deflector plates)	N/A	1,490	1,500	1,510
Steam Cure—All Plants	255	265	275	290
NSF Label*	280	290	300	315

pipelines—including continuous monitoring of pressurized lines.

b. *Option 2: Secondary Containment With Interstitial Monitoring.* Several commenters supported the use of secondary containment with interstitial monitoring for various reasons, including: Product releases would be completely contained and prevented from adversely impacting the environment and public health; it is a more rapid and reliable form of release detection; the cost is comparable to single-walled UST systems with release detection; and the need for conducting site assessments and corrective action would be avoided. Others, however, opposed its required use with new petroleum tanks for reasons such as: The greater capital and installation costs do not justify the environmental gains that would be achieved (in comparison to the single-walled approach); and this approach is not compatible with current trends in industry that are well underway in upgrading existing UST systems.

As previously stated, EPA agrees that secondary containment with interstitial monitoring would most likely result in fewer releases to the environment compared to protected single-walled UST systems with release detection. UST systems having secondary containment and interstitial monitoring are not perfect, however, and failures of these systems will also occur and result in some releases into the environment that will have to be remediated. Although protected single-walled systems would result in more releases, the Agency has concluded that this increase is not a significant added threat to human health and the environment given that release detection will minimize the extent of these additional releases, and the availability of petroleum cleanup technologies is widespread and capable of alleviating any resultant adverse impacts. In addition, the Agency is concerned that many owners and operators would delay upgrading their existing petroleum UST systems to the extent allowed by law or even to the point of noncompliance, because of the perception on the part of many commenters of the significance of higher capital and installation costs that would result from requiring secondary containment and interstitial monitoring (compared to protected single-walled USTs with release monitoring).

c. *Option 3: Classification Approach.* EPA recognized from the outset that releases from petroleum UST systems located in certain sensitive areas pose a greater risk of harming human health

and the environment than others. As a consequence, one of the regulatory options the Agency considered extensively in developing the final rule was a federal classification approach based upon the potential impact of a release. Under this approach, a class or classes of UST systems located in high-risk areas would be subject to more protective requirements than UST systems located in less sensitive areas.

Although the proposed baseline standards for prevention and detection of releases made no differentiation based on class, the Agency requested comment in the April 17 proposal on the general desirability and feasibility of a classification approach to regulating UST systems. EPA also sought comment on a specific, two-tiered classification scheme. Under this scheme, owners and operators of UST systems located in high-risk areas, defined as the area within a specified distance of a public drinking-water well, would be required to use secondary containment. The baseline standard of protected, single-walled tanks with release detection would be allowed in low-risk areas.

EPA received several comments that favored or opposed inclusion of a federal classification approach in the final rule. Several commenters in favor of a class approach suggested, and the Agency has considered since proposal, alternative regulatory schemes with respect to how requirements should differ among UST systems in different classes. The schemes examined included accelerating the schedule for upgrading of existing UST systems to new tank standards or for compliance of existing UST systems with release detection requirements in high-risk areas; imposing more stringent design requirements (e.g., secondary containment) in high-risk areas; and imposing more stringent design requirements in all areas except those designated as low risk by the implementing agency. The Agency also explored several potential criteria proposed by commenters for differentiating among classes. Hydrogeologic criteria, such as proximity to ground water used for drinking water, were considered most extensively. The criterion EPA selected for detailed analysis was distance to a public water well. (For discussion of the results of the analysis see the Regulatory Impact Analysis for the Technical Regulations.)

As pointed out by several commenters, the concept of a classification approach to regulating UST systems is appealing for many reasons. Because the potential impact of

a release is greater in more sensitive areas, a classification approach tailors the level of protection to the risk posed in a particular area. EPA's analyses of various classification schemes indicated that, without considering the costs of implementation, the benefits of a classification approach, primarily in terms of corrective action costs avoided, could be significant. Cleanup of contamination is especially difficult and expensive in sensitive areas, such as where ground water used for drinking water is affected. Classification could also provide a priority-setting scheme for enforcement and corrective action.

Despite the advantages, EPA has not included a classification approach in the final rule. Commenters' arguments against a Federal classification approach influenced the Agency's decision. EPA agrees with commenters that the baseline requirements set by the final rule will adequately protect the environment in all areas while also encouraging timely voluntary compliance by avoiding unnecessary additional complexity and providing reasonable flexibility for UST system owners and operators. Although EPA supports the concept of differential protection based on the potential impact of a release, the Agency believes that, for this program, classification at the Federal level is neither feasible nor practical. EPA is particularly concerned about the potential hindrance to state program approval and the difficulties of implementing a classification approach at the federal level.

Due to the size and nature of the community to be regulated, the success of this program depends largely upon implementation at the state and local levels. Most states, however, have not developed classification systems. Development of appropriate and workable classification schemes could take significant time and resources given the number of environmental and other factors that must be considered. The Agency is concerned that the steps necessary to define criteria and then identify high-risk and low-risk areas in states that have not yet done so could delay implementation of the program and divert scarce resources from efforts to achieve the improvements of the baseline UST regulatory requirements, which will provide most of the benefits. This additional complication may discourage states from seeking approval altogether. The Agency has concluded that the potential reluctance of states to implement this program as a consequence of requiring a classification approach could result in less successful

EXHIBIT 16
DATE 2-22-91
HB 845

February 22, 1991

Chairman Bob Raney
Members of the House Natural Resources Committee

My name is Rex Manuel and I represent CENEX Petroleum Division. CENEX would like to go on record opposing HB 845.

CENEX has upgraded the facilities of operations to comply with present laws and regulations. We feel the present regulations insure an adequate system to protect the environment. The monitoring equipment which is presently required serves very well as a safeguard for our protection.

Double walled tanks and piping have a super cost and we believe this is an unnecessary burden that will have to be passed on to the consumers. Present standards indicate the program is adequate. We therefore feel HB 845 is not needed.

Thank you.



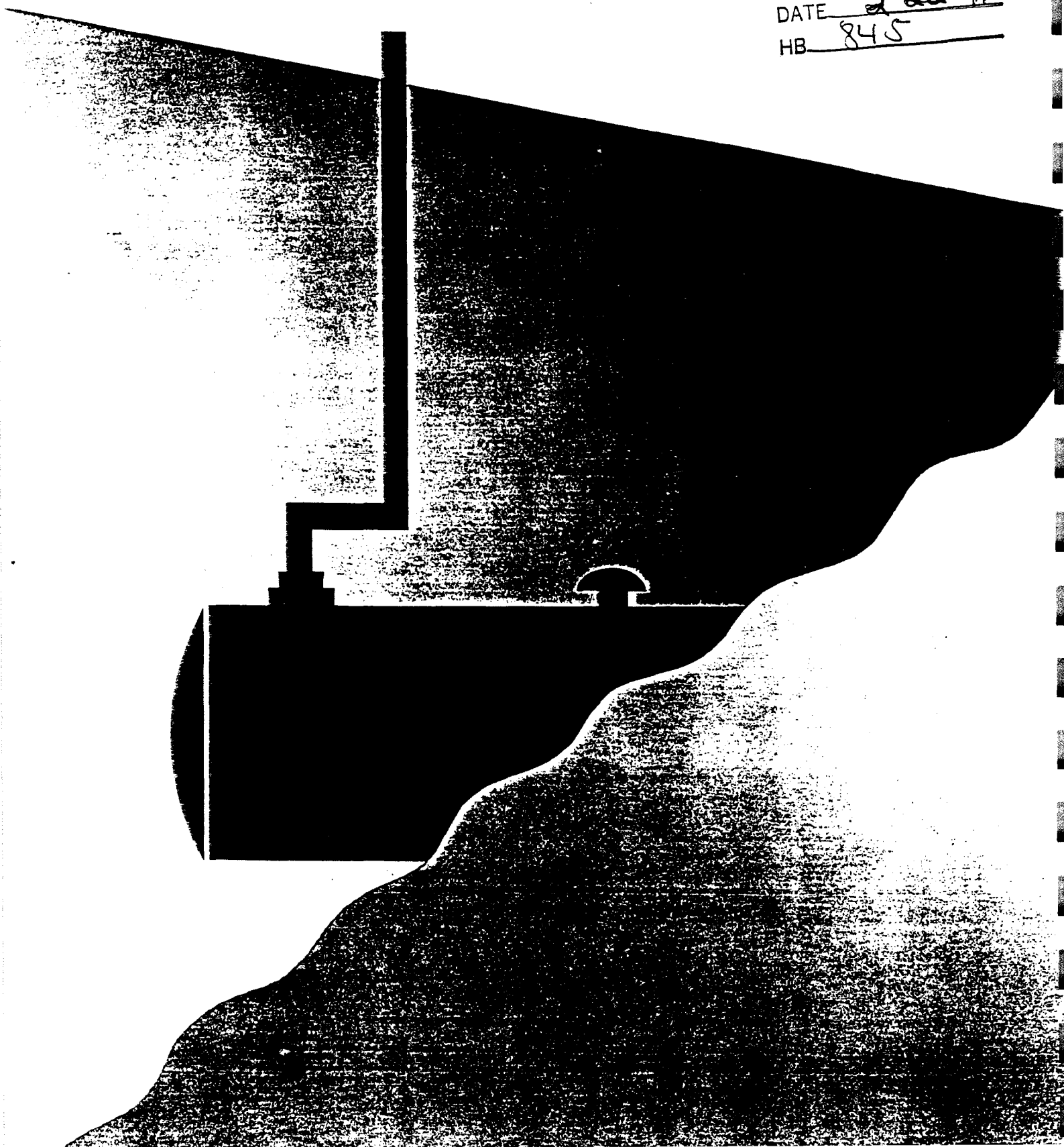
REX MANUEL, Lobbyist
CENEX PETROLEUM DIVISION



Musts for USTs

House Natural
Resources
Committee

EXHIBIT 17
DATE 2-22-91
HB 845



Amendments to House Bill No. 855
First Reading Copy

Requested by Rep. Rice
For the Committee on Natural Resources

Prepared by Paul Sihler
February 21, 1991

1. Title, line 5.
Strike: "AND"

2. Title, line 7.
Following: "DATES"
Insert: "; AND PROVIDING AN APPROPRIATION"

3. Page 1.
Following: line 14
Insert: "(1) 'De-inked material' means only printed or coated paper, the fiber of which must undergo a process in which most of the ink, filler, and other extraneous material is removed."
Renumber: subsequent subsections

4. Page 1, line 18.
Following: "stream."
Insert: "for the purpose of collection, recycling, and disposition. Wastes generated during production of an end product are excluded."

5. Page 1, line 19 through 22.
Strike: subsection 2 in its entirety
Insert: "(3) 'Postmill material' means paper wastes generated during production that cannot be returned to the same production process, including waste generated during the intermediate steps in producing an end product, rejected stock, and obsolete inventories that have not been sold to consumers. The term does not include forest residues, millbroke, or additional mill wastes that can be returned to the same production process."
Renumber: subsequent subsection

6. Page 1, line 24.
Strike: "postconsumer and preconsumer"
Insert: "a combination of de-inked, postconsumer, and postmill"

7. Page 1, line 25.
Strike: "50%"
Insert: "10% by weight"

8. Page 2, lines 13 and 14.
Strike: "15%" on line 13 through "material" on line 14
Insert: "10% postconsumer material and 30% of either de-inked or postmill material, or both"

9. Page 2, line 15 through 18.
Strike: subsection 3 in its entirety

10. Page 2.
Following: line 18
Insert:

"NEW SECTION. **Section 4. Appropriation.** There is appropriated from the general fund to the department of administration \$200,000 for fiscal year 1992 and \$300,000 for fiscal year 1993 for the purpose of implementing [sections 1 through 3]."

1
2 INTRODUCED BY House BILL NO. 855
3 Rice

4 A BILL FOR AN ACT ENTITLED: "AN ACT MANDATING THAT STATE
5 AGENCIES PROCURE RECYCLED PAPER PRODUCTS; AND SPECIFYING BY
6 WEIGHT THE PERCENT OF RECYCLED PAPER TO BE PROCURED BY
7 CERTAIN DATES."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 NEW SECTION. Section 1. Short title. [Sections 1
11 through 3] may be cited as the "Recycled Paper Products
12 Procurement Act".

13 NEW SECTION. Section 2. Definitions. As used in
14 [sections 1 through 3], the following definitions apply:

15 (1) "Postconsumer material" means only those products
16 generated by a consumer that have served their intended end
17 uses and have been separated or diverted from the solid
18 waste stream for the purpose of collection, recycling, and
19 disposition. Wastes generated during production of the end product
20 (Insert amendment 1 see Rice Amendments)
(2) "Preconsumer material" means rejected stock,
obsolete inventories, or other paper waste created by the
21 mill or by conversion operations and that has not been sold
22 to consumers.

23 (3) "Recycled material" means material consisting
24 a combination of deinked postconsumer, and postmill
entirely of postconsumer and preconsumer material and of
25 which at least 50% is postconsumer material.

10% by weight

1 NEW SECTION. Section 3. Procurement of recycled paper.

2 (1) Beginning January 1, 1992, the total weight of paper
3 products used by state agencies, including the university
4 system and the legislature, must consist of at least 25%
5 recycled material.

6 (2) Beginning July 1, 1993:

7 (a) the total weight of all tissue, towel, and
8 newsprint paper used by state agencies, including the
9 university system and the legislature, must consist of at
10 least 40% postconsumer material; and

11 (b) the total weight of all printing and writing paper
12 used by state agencies, including the university system and
13 the legislature, must consist of at least ^{10% post consumer} ~~10% post consumer~~
14 material and 30% of either de-inked or postmill
material and 30% preconsumer material. or both.

15 (3) Beginning July 1, 1996, the total weight of all
16 paper and paper products used by state agencies, including
17 the university system and the legislature, must consist of
at least 80% recycled material.
(INSERT AMENDMENT B. see Rice Amendments)

-End-

EXHIBIT 19

DATE 2/22/91

HB 855

INTRODUCED BILL
HB 855

Petition Endorsing Legislation to Require the State of Montana To Purchase Paper Products Containing Recycled Paper

To Members of the Montana 52nd Legislature:

We the undersigned encourage you to support legislation that will require Montana agencies, universities, and the legislature to purchase paper products containing recycled paper material according the following definitions and requirements:

Definitions:

1. "Recycled paper material" is composed of post-consumer and pre-consumer recycled paper material of which at least 50% is post-consumer recycled paper material.
2. "Post-consumer paper material" means only those products generated by a consumer which has served their intended end-uses and have been separated or diverted from solid waste.
3. "Pre-consumer paper material" means rejected stock, obsolete inventories, or other paper waste created by the mill or by conversion operations and that has not been sold to consumers.

Requirements:

1. Beginning July 1, 1992, the total weight of all paper products must consist of 25% recycled paper material.
2. Beginning July 1, 1993:
 - a. the total weight of all tissue, towel, newsprint paper must contain 40% post-consumer recycled paper material; and
 - b. the total weight of all printing and writing paper must consist of at least 15% post-consumer recycled paper material and 35% pre-consumer recycled paper material.
3. Beginning July 1, 1996, the total weight of all paper products must consist of 80% recycled paper material.

<u>Signature</u>	<u>Name (print)</u>	<u>Home Town</u>	<u>Phone</u>
<u>Aileen Aest</u>	<u>Aileen Aest</u>	<u>Butte</u>	<u>542-1838</u>
<u>Rich Weaver</u>	<u>Rich Weaver</u>	<u>Missoula</u>	<u>243-3516</u>
<u>John Murphy</u>	<u>JOHN MURPHY</u>	<u>Missoula</u>	<u>—</u>
<u>Faith Lane</u>	<u>FAITH LANE</u>	<u>Missoula</u>	<u>728-1662</u>
<u>Sherry Toft</u>	<u>Sherry Toft</u>	<u>" "</u>	<u>549-3518</u>
<u>Alan Bartlett</u>	<u>Alan Bartlett</u>	<u>Missoula</u>	<u>728-7244</u>
<u>Phyllis Wagner</u>	<u>Phyllis Wagner</u>	<u>Missoula</u>	<u>251-5573</u>
<u>Kimberly Hammond</u>	<u>Kimberly Hammond</u>	<u>Glendive</u>	<u>583-4165</u>
<u>Tom Lyons</u>	<u>Tom Lyons</u>	<u>Missoula</u>	<u>549-2784</u>
<u>Tom Lyons</u>	<u>Tom Lyons</u>	<u>Missoula</u>	<u>549-6383</u>

Exhibit 20 contains 20 pages of signed petitions. The originals are stored at the Historical Society, 225 N. Roberts, Helena, MT. 406-444-4775.

Resolution to Endorse Legislation to Require the State of Montana
to Purchase Paper Products Containing Recycled Paper

- Whereas, this country is at a critical juncture where balancing the use of our limited natural resources is of great importance and,
- Whereas, the use of recycled paper products can significantly reduce the burden placed on the forests of Montana and elsewhere and,
- Whereas, recycled paper products represent a legitimate step toward conservation and intelligent use of our natural resources and,
- Whereas, costs of recycled paper products will continue to decrease as demand for them increases and,
- Whereas, we as campus leaders must do so first by example:

BE IT RESOLVED THAT:

The ASUM Senate formally endorses legislation that requires state purchasing agencies to purchase recycled paper products for use in state agencies including the Associated Students of the University of Montana.

Furthermore, be it resolved that ASUM will begin purchasing said recycled paper products to form the bulk of our paper supply (letterheads, stationary, etc.) when these products become available through the applicable state agencies.

Furthermore, be it resolved that the recognized logo for recycling be added to all future ASUM stationary as a matter of course.

SPONSORED BY SENATOR ED ZINK, 2-6-91



CONSERVATREE PAPER COMPANY

ENVIRONMENTALLY SOUND PAPERS

10 Lombard Street
Suite 250
San Francisco, CA 94111



(415) 433-1000 (Main Office)
(800) 522-9200 (Outside CA)
(415) 391-7890 (Fax)

EXHIBIT 22A 22A
DATE 2-22-91
HB 855

February 20, 1991

To Whom It May Concern,

We would like to express our support for House Bill 855 as a very positive step in promoting the use of recycled paper. We particularly feel that the definitions support real recycling and that the percentage goals are both reasonable and attainable.

The proposed definitions promote real recycling because they:

- 1) Emphasize the use of post-consumer and de-linked material which translates into direct diversion from the solid waste stream.
- 2) Exclude the use of mill broke, forest product residue and sawdust. These products are always recycled in any case, and the use of them in recycled paper does nothing to address the solid waste problem.

The proposed targets are in line with targets in place in 10 other states. Targets for the use of recycled paper in other states range from 25% (in Alaska) to 50% (in California, Colorado and Michigan).

Sincerely,

A handwritten signature in dark ink, appearing to read "David Assmann".

David Assmann
Vice-President
Conservatree Paper Company

CONSERVATREE PAPER COMPANY

ENVIRONMENTALLY SOUND PAPERS

10 Lombard Street
Suite 250
San Francisco, CA 94111



EXHIBIT 22A 22A

DATE 2-22-91

HB 855

(415) 433-1000 (Main Office)
(800) 522-9200 (Outside CA)
(415) 391-7890 (Fax)

DATE:

February 20, 1991

TO:

Kristin Page, Montping

FAX #:

FROM:

David Assmann

TEL #:

FROM:

FAX #: (415) 391-7890

SUBJECT:

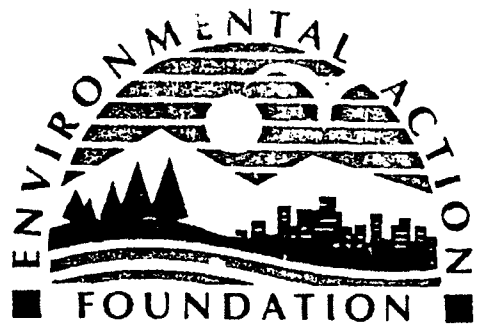
H.B. 855

PAGE 1 OF
(INCLUDING THIS PAGE)

MESSAGE:

Here's our letter. As far as price differentials are concerned, I've done some checking and discovered that computer paper costs an average of 3 to 5% more for recycled paper, and copier paper is normally about 10% more for recycled paper. However, the market for copier paper is soft right now, and virgin paper prices have dropped to the point of having a differential that can be as high as 20%. This is a temporary situation, however, and we should soon be back at the 10% differential. Hope this is helpful. In any case, at a 3 to 5% differential and a 10% differential, the overall differential should be in the 7 to 8 % range.

EXHIBIT 22
DATE 2-22-91
HB 855



Testimony of Resa Dimino
Solid Waste Alternatives Project
Environmental Action Inc.

Environmental Action Inc., a national, non-profit environmental research and advocacy organization based in Washington, DC, is pleased to express its strong support for HB 855, An Act Mandating that State Agencies Procure Recycled Paper Products; and Specifying by Weight the Percent of Recycled Paper to be Procured. This bill addresses the need for states to take the lead to create markets for recycled paper. Specifically, the bill provides clear and strong definitions as well as a workable timeline for a state procurement program.

The three chasing arrows in the recycling symbol should stand for collection, remanufacture and reuse. Ideally, recycling involves both the public and the private sector-- the public sector collects secondary materials and the private sector remanufactures and reuses them. However, as the glut in the newsprint market have dramatically illustrated, the potential users of recycled material do not always do their part. Passage of this bill would bring the private sector into the process and "close the loop" on paper recycling. If properly executed, recycled paper procurement can create a demand for post-consumer paper and encourage the expansion of de-inking capacity at paper mills. It can also conserve valuable virgin materials and encourage capital investment in a secondary materials economy.

Procurement is a key market development tool because it allows federal, state and local governments to create a demand for recycled materials. Indeed, 41 states and at least 35 local governments have already established procurement programs covering paper and a variety of other materials. With this ensured demand, industries can count on a sufficient market for recycled materials and they will, therefore, invest in the de-inking technology needed to handle post-consumer paper.

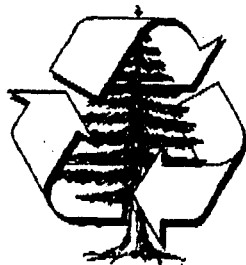
However, many of the state procurement programs that are in place are inadequate in stimulating demand for de-inked, post-consumer paper. This is largely because their definitions of "recycled paper" do not specify post-consumer content. So, although these programs have created a "market," they have not significantly increased demand for post-consumer paper, therefore offer no solution to our burgeoning solid waste crisis.

HB 855 avoids this pitfall by establishing strong and clear definitions of "de-inked material," "post-consumer material," "post-mill material," and "recycled material." The definition "recycled material," as "a combination of post-consumer, de-inked and post-mill materials, of which at least 10 percent by weight is post-consumer," ensures that Montana state procurement will achieve the goal of procurement programs-- to increase demand for post-consumer paper and encourage industry to retrofit mills with de-inking capacity.

The bill allows one to two years for the procurement standards to kick in. This is sufficient time for the state to secure vendors of recycled paper or for paper vendors who presently contract with the state to add de-inking capacity, and thus meet procurement standards. In addition, the different percentages of recycled content for different paper grades reflect the differences in paper production processes, while ensuring that all grades of paper include post-consumer material.

At issue is the future of paper recycling and the use of virgin forrest resources. Without significant market creation, all of the effort that has gone into establishing recycling programs will be lost. Without procurement programs, paper recycling has a good chance of failing.

Environmental Action Inc. would like to thank you for this opportunity to express our views on this pressing issue.



TREECYCLE

RECYCLED PAPER

the other half of recycling

BOX 5086
BOZEMAN, MT 59717

(406) 586-5287

EXHIBIT 33
DATE 2-22-91
HB 855

February 22, 1991

Statement of Rick Meis on House Bill 855.

My name is Rick Meis and I am from Bozeman. I am owner of Treecycle Recycled Paper, a business which deals exclusively in recycled paper products.

I support HB 855, the Recycled Paper Products Procurement Act. It is a positive step which can be taken by the state to address the issues of the waste stream and burgeoning landfills, issues that have taken up their share of time during this legislative session.

Landfill space is getting tight. It is getting expensive to operate landfills. Anything we can do to reduce what is going into the landfills will have a total net positive impact over time.

More than 40% of what goes into the dump is discarded paper products. Recently the media has had stories on the woes of recycling waste paper. One answer is demand. If we want to recycle our wastes, then we must start using products made with those recycled materials -- post-consumer wastes. The American Paper Institute, Environmental Protection Agency, and Institute of Scrap Recycling all point to a lack of demand for recycled paper products as the limiting factor in recycling more paper.

We must keep in mind that if we are not using products made with recycled materials, we are not really recycling. This is a major reason I support this bill. They go hand in hand. Period. How can we expect the markets to take all that paper being stuffed into the bins throughout the capitol complex, if we are not subsequently buying the products made with those recyclables?

But it is always a little more complicated than that. There are cost factors. You have to make sure you are getting a quality product that will do the job. And you definitely want to make sure that when you buy recycled paper, you are truly getting a sheet that is made with paper that has been recycled.

It is not easy to tell the difference between all the recycled paper products out there.

"Difference," you ask, "what do you mean difference; isn't recycled paper recycled paper?" No.

Recycled paper is like many things today. When most of us think of recycled paper, we think of all that waste paper we have been saving to take to the recycling center. We assume that it

will be remanufactured into a variety of recycled paper products. This, we assume, will help the curb the waste stream/landfill problem and be beneficial to our environment.

Sorry. This is not a fairytale, but the U.S.A. today. Things are not always what they are said to be. And many recycled papers fall in this realm.

The definitions in HB 855, as amended to include de-inked, post-consumer, and post-mill materials are the sound way to address the categories of the waste stream. It is very important to make sure we maximize the post-consumer content, as it is this post-consumer waste that is choking our landfills. Over 87% of the waste paper generated in this country fits into the post-consumer category. Yet it is the paper that is recycled the least.

To simply use the pre- and post-consumer categories makes it so you are not grading all the wastes, and allows you to get "recycled" paper that does not address other aspects of the waste stream. Other de-inked grades, such as printed wastes from large publishers, is the next most significant category of waste stream paper. It is easier to return to the paper making process, as it is relatively clean and pre-sorted. But it is certainly better to use than "pulp substitutes," a material that is exactly what its name implies -- scraps from paper converting operations that generally have been returned to the process historically.

A horror story is in order. It is possible, and one company claims it has been done, that a bad or unsellable batch of paper at a mill can be moved to the trucking yard, and the next day hauled back into the mill so it could be called "post-mill waste." Up to a few years ago that same paper simply would have been diverted back into the pulp process in the mill without a second thought. The tighter the definitions, the less likely we are to end up with this kind of thing happening.

When some of the large paper companies in this country think of "recycled paper," they are thinking of how to do something cheapest and easiest, sell it to the public and make money doing it. Sound like everything else? It is!

The percentages of recycled material listed in Section 3 of the bill are workable. As the demand for quality recycled papers increases, we will see industry respond. Already we see that the standards being set by other states are going to dictate many changes in the industry. It is even being seen in the cutting edge of industry, where Conservatree Paper Company has set up a graded paper system which has increasing minimum percentages of post-consumer material over time.

BACKGROUND ON THE "DEFINITION" OF RECYCLED PAPER

Recycled paper is an often misused term stemming from the U.S. Environmental Protection Agency's recycled paper guidelines

drafted in 1988. People concerned with recycled paper were hoping that the new EPA guidelines for minimum recycled content for recycled paper purchased by federal agencies would provide a consistent, national definition.

The guidelines turned out to be so loosely worded that many of the recycled papers on the market are essentially fakes -- made with materials that never left the mill or the converter, where paper is cut into sheets or envelopes. These types of waste have historically been reused in papermaking. So nothing new is happening except a label. (It is good this material is being reused, but economics play a greater role in this than a concern for recycling and waste stream reduction.)

As defined by the EPA, in 1988, recycled paper can include paper made with at least a minimum (50% by fiber) content of "wastepaper": mill waste, converter clippings, printer's scrap, and/or post-consumer waste. The guidelines do not require any use of post-consumer waste or post-mill waste for high grade printing and writing paper. (To meet EPA guidelines, newsprint, packaging materials, and tissue products do require some pcw.)

This year the EPA expanded the guidelines to include wood chips (which are the byproduct of another industry, e.g. a lumber mill). A worst case scenario would be a paper labeled "recycled" that meets the EPA guidelines and is made of half wood chips and half pulpwood. It would have none of the characteristics or advantages of paper made with recycled paper fiber.

When you see the label "recycled paper," by the EPA definition it may include material other than the waste paper we recycle. Most people think recycled paper is made with waste they have recycled, not just a product made with measured mill wastes labelled "recycled." Much of the recycled paper on the market is made of mill waste and converter clippings. This type of recycled paper does not truly address the issues of recycling -- but meets a bureaucratic definition.

When mill wastes comprise all the recycled content in paper recycling is not truly being done. Post-consumer wastes are not being collected and recycled. This means even if we use paper labelled recycled, we may not be reducing the solid waste problem by one truckload, let alone reduce environmental degradation associated with making paper.

RECYCLING ALONE WILL NOT SOLVE ALL THE PROBLEMS

A quick pitch . . . we must also have a source reduction program in order to really have a major impact on the waste stream.

Papermaking is a dirty game. Paper mills are among the most polluting industries. The paper industry is the greatest energy consumer in the country. Recycled paper, done right, can reduce energy consumption, reduce both air and water pollution, save

forest resources, reduce water consumption, and save landfill space. And save tax dollars!

It should be noted that even if we see an increase in the use of recycled paper, paper consumption in total is increasing so rapidly that we will probably not see a reduction in the cutting of trees for pulpwood.

KNOW WHAT YOU ARE GETTING

In order to make you aware of the minimum content of each type of recovered material in each paper, Conservatree Paper Company developed a ranking system for recycled paper. By this system you as the consumer can know exactly what you are getting and that the paper you use meets your goals.

This four-tiered ranking system does not even address the idea of "fake recycled" paper. The rankings are based on increasing standards for use of post-mill, de-inked, and post-consumer fibers. The C1+ ranking exceeds all current definitions, showing both the public and industry that quality, high-content recycled paper not only can be made, but is being done so today.

TISSUE PRODUCTS OFFER MUCH OPPORTUNITY TO RECYCLE

Most of the discussion above applies basically to printing and writing paper. Tissue products: toilet paper, napkins, facial tissue and paper towels, have different requirements set by the EPA, which are a little better than for those stated above for printing and writing (fine) papers.

Unlike the fine paper, when a tissue product in the store is labelled recycled, it does not mean it meets the EPA guidelines. The variance in recycled content in tissue products labelled recycled is normally greater than in fine paper.

Second Nature (by Wisconsin Tissue) and Envision (by Fort Howard) are two lines which always meet or exceed the EPA guidelines for tissue products (very few of the tissue products on the market meet these guidelines). In fact, 2 of the toilet papers in the Envision line are 100% post-consumer waste and have not been bleached in production.

YES, RECYCLED PAPER TENDS TO COST MORE

There are several reasons as to why the cost of recycled paper products tend to be higher than other products not labelled recycled. But if a source reduction program goes into place with the use of recycled paper, the increased cost is negated.

A major reason for the cost being higher is the economy of scale. Mills that specialize in recycled paper are smaller and produce much less paper. A big paper machine running continuously producing one kind of paper is going to produce a less expensive sheet. Even when the major paper companies

produce a recycled paper on the same machine, it is a small run time to make it, thus set up time and costs are greater proportionally.

The true cost of making recycled paper may actually be less than making non-recycled. This is reflected in specialty papers like stationeries. The recycled paper should be equal or less, as they are being produced on a more similar scale.

One major factor in the cost of non-recycled paper being less is actually that as taxpayers we are subsidizing the cost of the pulpwood being cut in this country. Many paper companies are also the largest timber-cutting operations in the country. Thus they have a vested interest in the structure they already have in place, and aren't going to change until they have an economic reason to do so. Often transportation costs are lower for a raw material (trees) than for recovered waste material.

There are many other myths and facts about recycled paper I have not dealt with here. Yes, recycled paper can be recycled again. Often you cannot tell the difference between a recycled paper and one that is not, whether it is recycled or not is not what determines a paper's quality. And on and on.

The planet is showing signs of our excessive demands on it: air and water deterioration, overflowing landfills, disappearing forests. We can only resolve these problems by each and every one of us looking at the facts and making responsible decisions.

Reduction of consumption is a primary need. Recycling and buying recycled are positive options. Remember: reduce, reuse, and recycle!

Recycled paper is a necessary step in resolving a very real waste stream problem with which we all are faced. Recycling is a loop. If you're not using recycled products, you are not really recycling. But remember NOT ALL RECYCLED PAPER IS CREATED EQUAL!

Again I want to urge support for HB 855. It will be a boon to the state of Montana in the long run. We will feel good that we have taken positive steps to make our state a better place.

Montana Audubon Legislative Fund

Testimony on HB 855
House Natural Resources
February 22, 1991

EXHIBIT 24
DATE 2-22-91
HB 855

Mr. Chairman and Members of the Committee,

My name is Linda Lee and I'm here today representing the Montana Audubon Legislative Fund. The Audubon Fund is composed of nine Chapters of the National Audubon Society and represents 2,500 members throughout the state.

Audubon supports House Bill 855. It is important that the agencies that generate most of the paper going into our landfills begin to use recycled paper products. According to Garbage Magazine, "a ton of paper made from 100% waste paper, rather than from virgin fiber, saves 17 trees, 4100 kwh of energy (enough to power the average home for six months), 7000 gallons of water, 60 pounds of air polluting effluents, three cubic yards of landfill space, and taxpayer dollars that would have been used for waste-disposal costs."

The purchase of recycled paper may initially be more expensive, but the cost of not purchasing recycled material is far greater. It is time to support this new industry and reduce solid waste. Audubon urges you to vote a "do pass" on this important piece of legislation. Thank you.

House Natural
Resources Committee

1990 ANNUAL REPORT TO SHAREHOLDERS

EXHIBIT

25

DATE 2-22-91

HB 855



focus on the customer



GREAT FALLS GAS COMPANY

February 22, 1991

Re: Testimony /House Natural Resources Committee regarding
HB 891-An act requiring financial assurance as a condition
of a license to operate a megalandfill.

Submitted by: Deborah Hanson, Miles City, MT
Custer Resource Alliance member

I would like to briefly speak to this bill requiring a bond for financial assurance when anyone applies for a license to operate a megalandfill. As you have all heard over and over, the EPA, several studies and in-state experience, all state that all landfills leak eventually. The possibility of a mega-dump (one accepting over 200,00 tons of garbage per year or ~~35~~ 36,000 tons a year of incinerator ash) seriously damaging surrounding natural resources, especially water, is almost inevitable. Therefore it seems like only common sense and good business practice to require financial assurance from an operator.

The State of MONTANA already recognizes that bonds are beneficial to doing business and not necessarily injurious to the person posting the bond, e.g. they can draw the interest. As a small business owner/operator, I can tell you that restaurants and bars are required to post a financial assurance to protect the wage earners working for their businesses. Contracting firms have to post performance bonds, oil & gas drillers have to post bonds for drilling wells, water well drillers have to post bonds, coal companies post reclamation bonds. Bonds are used to encourage good business practices, performance and to guarantee wages earned to many employees. Bonds hopefully help deter fly-by-night operators.

Since nearly 200 landfills which were once "just household garbage" are now Superfund sites, can we afford to provide less protection to our landowners, ranchers/farmers, and the public in general and demand less in financial assurance from big operators than we can from many of our own small businessmen and women in this state?

I believe this bonding bill is a necessary and good step for achieving good business and business practices in Montana.

Northern Plains Resource Council

HOUSE BILL 891

EXHIBIT 27
DATE 2-22-91
HB 891

An Act requiring financial assurance as a condition of a license to operate a megalandfill.

Under HB 891, sponsored by Representative Jessica Stickney of Miles City, anyone operating a megalandfill (a landfill accepting over 200,000 tons of garbage a year or accepting more than 50,000 tons a year of incinerator ash) must put up a bond for financial assurance. The bond must be sufficient to ensure the restoration or replacement of any natural resource damaged or impaired as a result of the construction, operation, or closure of a megalandfill. HB 891 would impose similar requirements on megalandfills as what is already required for other major threats to the environment and human health, such as hazardous waste storage facilities.

HOW WOULD YOU DETERMINE THE AMOUNT OF THE BOND?

The bond approved by the department may not be less than the estimated cost to the state to reclaim, restore, or replace damaged or impaired natural resources. The department must review the adequacy of the bond every two years. The Dept. of Health and Environmental Sciences will adopt rules to specify the terms and conditions of the financial assurance requirements.

The overall process would be outlined during rulemaking and the specific design and siting criteria for each proposal would be addressed during the licensing process. This program would require the applicant to identify the resources in the area and to develop a plan for protecting them. Specific measures that will be taken to protect the environment and to meet closure and post-closure requirements will be outlined and the costs identified. The amount of the bond will be determined based on what it would cost the state to restore or replace natural resources damaged by failure of the protection measures, if the company defaults on its obligation to do so.

WHY SHOULD FINANCIAL ASSURANCE BE REQUIRED?

Many instances of environmental damage have resulted from poorly operated or abandoned landfills and from the inability of owners and operators to provide adequately for closure and post-closure of the landfill. For example, nearly 200 landfills which were once "just household garbage" are now Superfund sites. The cost of cleanup is placed on the federal and state governments, if the entity liable for the pollution cannot be found or if the company has been bankrupt. This bill would provide the state with the assurance that the money would be available to reclaim, restore, or replace damaged or impaired natural resources, if the operator fails to do so.

Having to place a bond to prevent damages to natural resources would be an incentive to the company to do the job right in the first place. Through the process for approval of the bond, the department would ensure that the applicant is taking all necessary precautions for the protection of the environment. The applicant would have a strong incentive to do try to prevent the damage from occurring. The department may not release the bond:

- * for a minimum of 30 years after the megalandfill has closed;
- * until the department determines that the natural resources associated with the megalandfill have been permanently reclaimed, restored, or replaced to the quantity and quality that existed prior to the commencement of the licensed operations, and that the megalandfill presents no significant future threat to those natural resources; and
- * until a public hearing has been held.

FOR MORE INFORMATION CALL NPRC: 449-6233



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Montana Audubon Legislative Fund

Testimony on HB 891
House Natural Resources
February 22, 1991

Mr. Chairman and Members of the Committee,

My name is Linda Lee and I'm here today representing the Montana Audubon Legislative Fund. The Audubon Fund is composed of nine Chapters of the National Audubon Society and represents 2,500 members throughout the state.

The handling of solid waste and the location of landfills is one of the most controversial issues of our time. According to a public opinion poll taken in 1988 by the National Solid Wastes Management Association, more than 1/2 of the 1500 adults questioned believed "disposal capacity is a public issue of greater importance to their community than affordable housing or expanded police and fire protection, 53% said government was doing too little to assure environmental protection."

Many people are concerned about the impact of landfills and react by opposing the potential sighting of landfills. In the Northeast, this sentiment has resulted in trash having to be shipped more than 300 miles for a permanent disposal sight.

If we can assure the public that precautions have been taken, we can locate landfills without so much opposition.

House Bill 891, requiring a bond to ensure restoration or replacement of natural resources damaged will make sure the responsible licensee will build the landfill with the lowest possible cost to the environment. If the responsible party somehow fails to do this, the people of the state of Montana won't be responsible for the cost of cleanup.

Audubon urges you to support this important legislation. Thank you.

30
DATE 2-22-91
HB 891



YELLOWSTONE VALLEY CITIZENS COUNCIL

419 Stapleton Building
Billings, Montana 59101

TESTIMONY

BEFORE

THE MONTANA HOUSE NATURAL RESOURCE COMMITTEE

ON

HOUSE BILL 891

Members of the Committee, for the record my name is Kathleen K. Blehm. I reside at 623 Avenue B, Billings, Montana. I am representing Yellowstone Valley Citizens' Council (YVCC), an affiliate of the Northern Plains Resource Council (NPRC). YVCC is made up of citizens from Yellowstone County who are concerned with Montana's air, water and other environmental and agricultural issues.

We are here today to urge your support for HB 891 for two reasons: 1) Protection of our water. 2) Household garbage is a very toxic substance.

We feel that, as a headwaters state for the Missouri River Drainage which is a major source for the Mississippi River, the long-term protection of our groundwater is your most important responsibility.

Groundwater is created and replenished when surface water from wetlands, lakes, streams and precipitation soaks into the ground. 30% of the water flowing in the nation's streams and

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rivers comes from groundwater.

As a rural state, our groundwater is the lifeblood to many of our citizens. Groundwater resources supply 98% of the drinking water for Montana's rural citizens, who comprise approximately 1/2 of the total population. 40% of the water supplied by municipalities serving 24% of the state's population comes from groundwater. More than 1/2 of the water used for industrial purposes is obtained from groundwater. Other major sources of groundwater use are for livestock and irrigation.

Household garbage which constitutes the majority of the landfills' use contains a whole host of products and chemicals that when mixed together create a serious toxic situation. The Environmental Protection Agency, in a study completed by Geraghty and Miller, discovered that 86% of the landfills studied had contaminated underground water supplies beyond the boundaries of the landfill. In fact, nearly 200 landfills which were once just "household garbage" sites are now Superfund sites. They also learned that even the most modern, up-to-date landfill technologies cannot prevent leakage and wastes deposited in landfills continue to weather and leach for years.

Top of the market liners are 22 foot wide strips of vinyl, the thickness of a nickel. They are laid out in strips where the

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seams have to be sealed, inch by inch, usually by hand. There is approximately 1/4 mile of seam for every acre of dump. A 1,000-acre dump equals 250 miles of seam. In addition to attack from chemicals in waste, there is the practical element of dropping lead pipes, refrigerators and kitchen sinks on top of thin plastic sheets and running heavy earth-moving equipment over the top of it.

There is no way proponents of landfill projects can predict the chemicals that will come in contact with the liner since the chemicals used by industry change from year to year, and an average of 1,000 new chemicals go into commercial use each year. The duration of the hazard is very great, whereas, the expected lifetime of any human-created material (including packed clay and all flexible membrane liners) is much shorter than the expected hazard. Leakage is inevitable.

We believe we need HB 891 because landfills are in the ground forever. HB 891 would provide a reasonable amount of long-term protection against the possible environmental degradation caused by landfills and monetary relief for state government when there is a clean-up situation 30 to 60 years down the road. This bill will help you provide protection for our grandchildren.

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Thank you for your consideration and time.

Note

EXHIBIT 51
DATE 2-22-91
HB 838

HOUSE BILL 838 An act to promote local solid waste management planning and to encourage recycling and composting.

Jim Southworth

Members of the committee: As you already know, the problem is we generate too much garbage. Each year, every one of us throws away over **six tons** of trash. All this stuff must go somewhere and no one seems to want it in their backyard!

House bill 838 will help Montanans deal with this growing problem by encouraging alternatives to burying our garbage out of sight. We already have the technology available and we know what we should be doing with this material. Nearly everything we put in dumps could be recycled. Even today in Montana we could easily be keeping half of what we throw away out of the dumps by recycling and composting. We just need to start!

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HB 838

Basically, House bill 838 keeps certain recyclable materials from being landfilled. It also requires cities and towns to work with solid waste haulers, landfill operators and recyclers to develop solid waste management plans that fit in with the state solid waste plan.

This is a problem that I don't want to leave for my grand kids to have to deal with when they grow up. By then these landfills could be mini-Superfund sites! Let's get ahead of this problem and do what's right for Montana. I would appreciate your support for House Bill 838.

If someone were to drop a poisonous substance into your community's water supply, the act would be considered a serious crime and a state of public emergency would be declared.

But when you dump a can of paint thinner down the drain or throw out an old car battery with the trash, no alarms are sounded, no news flashes are issued. Yet, the impact on your water resources could be just as disastrous.

That is not a far-fetched statement. The average household contains between three and ten gallons of materials that are hazardous to human health or to the natural environment. Collectively, these materials can poison our water if they are not stored carefully and disposed of properly.

What Is A Hazardous Material?

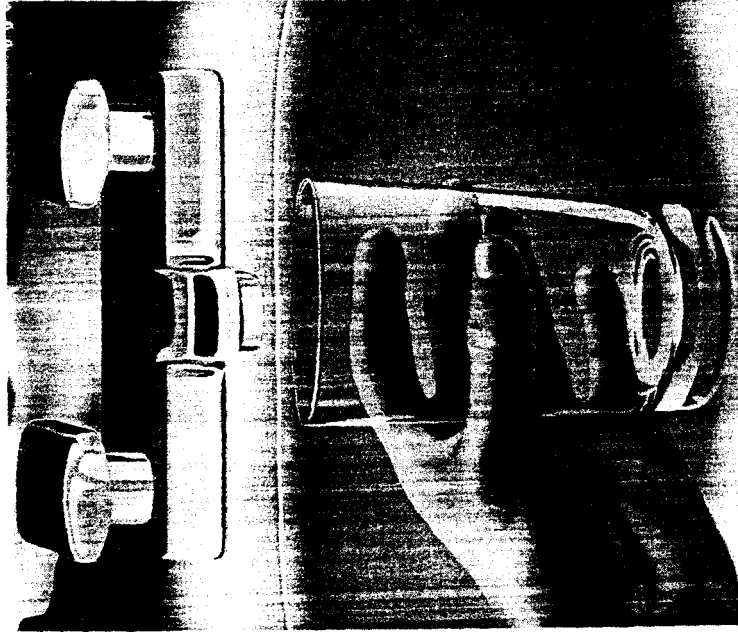
The United States Environmental Protection Agency considers a substance hazardous if it can catch fire, if it can react or explode when mixed with other substances, if it is corrosive, or if it is toxic.

This definition includes many things that you probably are storing right now in your garage, basement, bathroom, or kitchen. Some, like paint thinner or car batteries, are pretty obvious, but there are many that you might not ordinarily think of such as polishes, insecticides and glues.

Dangers Of Hazardous Waste

The improper disposal of household hazardous wastes is a cause for concern for the entire community. Wastes can be explosive or highly flammable. Sewers have exploded and garbage trucks have burned because people have carelessly discarded flammable or reactive wastes.

Hazardous wastes can also be corrosive. The acid from discarded auto batteries can eat away many substances. Some wastes are poisonous to humans or wildlife, while others can cause cancer, birth defects or other serious medical problems.



Where Do We Put Them?

One of the worst ways to dispose of many hazardous materials is to "just dump them down the drain." Wastewater treatment plants are not designed to handle certain types of hazardous wastes.

Unfortunately, disposing of wastes in a landfill has not proven an effective solution either. Without special design, the modern sanitary landfill is not equipped to accept hazardous wastes. Hazardous wastes improperly disposed of in a landfill can pollute the environment through the groundwater, surface water and air.

If the public cannot dispose of most hazardous wastes in the sewer system or a landfill, what can be done? This brochure describes some preventive measures you can take in your home to reduce the quantity of waste you must dispose. The **Household Hazardous Waste Chart** indicates the best way of dealing with most hazardous materials found in the home.

You do not need a Ph.D. in Chemistry to reduce hazardous wastes in your home. The following suggestions can help:

- ☐ Before you buy a product, read the label and make sure that it will do what you want. Once you buy something you are also responsible for disposing of it properly.
- ☐ Do not buy more than you need. That way, you will not need to dispose of the surplus.
- ☐ Read and follow directions on how to use a product and dispose of the container. (There is a good reason why the labels say "do not incinerate" or "do not mix with bleach.")
- ☐ Use safer substitutes when they are available.

Second: Take Care Of The Wastes

Even if you reduce the wastes that must be dealt with as outlined above there is still the question of what to do with what is left over.

Recycling is an excellent way of handling some hazardous wastes. Used motor oil, paint thinners and some other solvents can be refined and reused just as aluminum cans are. Local civic groups can help you identify recycling programs.

Municipal incineration is another effective means of dealing with some hazardous wastes. However, a specially designed incinerator is needed to destroy hazardous materials. "Incinerators" in your home, such as your fireplace or wood stove, can not get hot enough to destroy hazardous wastes and should **never** be used to destroy wastes.

Take your household hazardous wastes to a licensed contractor or recycling agency which may be located through the yellow pages. If such a group does not exist, your local wastewater treatment operator can give you more information on the disposal of liquid waste. Your local sanitation department may be able to give you more information on the disposal of solid wastes.

The **Household Hazardous Waste Chart** will guide you in disposing of potentially hazardous materials around your home. You should display this chart where you store hazardous wastes.

Remember to never dump hazardous wastes on the ground, and always check the chart before pouring them down the drain.

You Can Do for Community

ing together, the people in a community
nd create effective systems for managing
wastes. Many communities have begun to
azardous Waste collection days. These efforts
d reduce the amount of hazardous waste in
while heightening public awareness of the

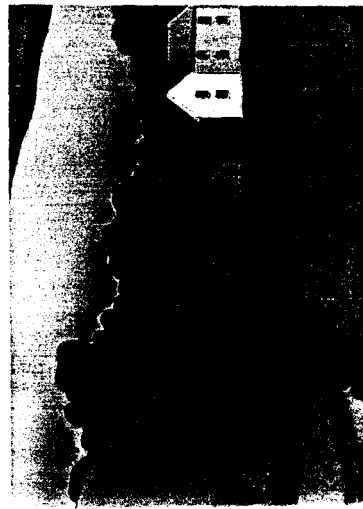
ul collection efforts in many cities have
cials protect their community's wastewater
plants and groundwater from hazardous waste
tion. Many communities were able to collect
of pounds of hazardous materials on the
a one or two day effort. If your community
aim for disposal of hazardous wastes, please

encourage you to:

as much as you can about your wastewater
ment plant and share that information with
amily and friends. Clean water is for
one.

about your community's landfill system
pecial programs for the disposal of hazardous

ect your state hazardous waste agency. They
ovide information on companies which are
ed to handle hazardous wastes along with
le funding sources for such efforts.



What The Future Holds

Billions of dollars have been spent to clean up our
lakes and streams. Many millions more have been
spent to build and maintain adequate sanitary landfills.

Modern wastewater treatment plants have led us all
to expect clean water and a safe environment as a part
of our everyday lives. We now realize that we can not
just discharge our wastes into a stream or bury
hazardous waste without thinking about their impact on
the environment.

For that reason and others, household hazardous
waste collection has really caught on. Communities
throughout the world have begun to develop programs
to deal with household wastes. These efforts need to be
expanded to include as many areas as possible.

For details on what you can do, contact your local
wastewater treatment facility, Department of Public
Works or Sanitation District. Or, for further informa-
tion you can contact:

**WATER POLLUTION CONTROL FEDERATION
601 WYTHE STREET
ALEXANDRIA, VA 22314-1994**

Phone: (703) 684-2438

Direct inquiries to the Public Education department.

**LEWIS AND CLARK
CITY-COUNTY HEALTH DEPT.**

**P.O. Box 1723
Helena, MT. 59624**



Exhibit 32
**HOUSEHOLD
POUS WASTE**

Amendments to House Bill No. 952
First Reading Copy

Requested by Rep. Raney
For the Committee on Natural Resources

Prepared by Gail Kuntz
February 23, 1991
22

1. Page 6, lines 13 through 15.

Following: line 12

Strike: section 5 in its entirety

Renumber: subsequent sections

2. Page 6, line 16.

Following: "Applicability."

Insert: "(1)"

3. Page 6, lines 17 through 19.

Following: line 16

Strike: lines 17 through 19 in their entirety

Insert: "does not apply to:

(a) an area for which a contract was issued prior to [the effective date of this act] or for which an application for contract or contract amendment was filed with the department of state lands prior to February 23, 1991; or

(b) an area:

(i) that is contiguous to an area described in subsection (1)(a);

(ii) for which the holder of the contract has the legal right to mine on [the effective date of this act]; and

(iii) for which the contract holder files with the department on or before January 1, 1992, on a form provided by the department, a legal description of the area, evidence of the legal right to mine, and certification that the contract holder holds the property for the purpose of future sand or gravel mining.

(2) Before June 1, 1991, the department shall mail notice of the provisions and passage of [this act] and the form described in subsection (1)(b)(iii) to each person who holds a current contract on [the effective date of this act] or who had, prior to February 23, 1991, submitted an application for contract or contract amendment that the department had not approved or denied as of February 23, 1991.

(3) The department shall maintain a list of areas for which certifications have been filed pursuant to subsection (1)(b) and shall provide a copy of the list to any person who requests the list."

Amendments to House Bill No. 641
First Reading Copy

Requested by Rep. Knox
For the Committee on Natural Resources

Prepared by Gail Kuntz
February ~~23~~₂₂, 1991

1. Page 2, line 17.
Following: "surface of the"
Strike: "area of"
2. Page 2, line 18.
Following: line 17
Strike: "to be affected by"
Insert: "within"
Following: "permit"
Insert: "area"
3. Page 2, line 20.
Following: "the"
Strike: "affected"
Insert: "permit"
Following: "area"
Insert: ", provided that the department is not required to verify this information"
4. Page 2, line 23.
Following: "land"
Strike: "to be affected by"
Insert: "within"
Following: "permit"
Insert: "area"
5. Page 3, line 1.
Following: "the"
Strike: "affected"
Insert: "permit"
Following: "area"
Insert: ", provided that the department is not required to verify this information"
6. Page 3, line 3.
Following: "permit"
Insert: ", provided that the department is not required to verify this information"

EXHIBIT 35
DATE 2-22-91
HB 911

HOUSE OF REPRESENTATIVES
NATURAL RESOURCES COMMITTEE

ROLL CALL VOTE

DATE 2-22-91 BILL NO. HB 911 NUMBER 1 of 2

MOTION: Rep. Measure moved to Table HB911

NAME	AYE	NO
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	Absent	—
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	✓	
TOTAL	7	10

Motion failed

EXHIBIT 36
DATE 2-22-91
HB 911

HOUSE OF REPRESENTATIVES
NATURAL RESOURCES COMMITTEE

ROLL CALL VOTE

DATE 2-22-91 BILL NO. 911 NUMBER 292

MOTION: Rep ~~on~~ Toole moved to Table HB 911

NAME	AYE	NO
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	Absent	
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	✓	
TOTAL	11	6

TABLED

**HOUSE OF REPRESENTATIVES
VISITOR REGISTER**

Natural Resources COMMITTEE BILL NO. 952
 DATE 2-22-91 SPONSOR(S) Barney - zoning to sand & gravel

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<i>David Sutter</i>	<i>Sutter Contract</i>		—
<i>Heidi Sutter</i>	<i>Heidi Sutter - Helena Rd</i>	✓	
KEN DUNHAM	MT CONTRACTORS' ASSOC		✓
Ed MARONICK	HELENA SAND & GRAVEL		✓

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

**HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER**

Natural Resources COMMITTEE BILL NO. HB 641
 DATE 2-22-91 SPONSOR(S) Knay *amend metal mine permit*

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
WARO SHANAHAN	STILLWATER MINING	AMEND	
Richard Parks	BCC / KPC	✓	
Lorna Frank	Farm Bureau	✓	
Bob Fitzpatrick	Pegasus Gold		X
Jim Jensen	MEIC	X	

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**HOUSE OF REPRESENTATIVES
VISITOR REGISTER**

Natural Resources COMMITTEE BILL NO. 880
 DATE 2-22-91 SPONSOR(S) Ellis *redefining dams & dam safety*
 PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Martin Barber	H P A	X	
Lorna Frank	Farm Bureau	X	
Harold Hansen	-	X	
Steve Burke	MSG A / MW B A	V	

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**HOUSE OF REPRESENTATIVES
VISITOR REGISTER**

Natural Resources COMMITTEE BILL NO. 911
DATE 2-22-91 SPONSOR(S) Cobb - water quality laws to
define "permitted"

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**HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER**

Natural Resources

COMMITTEE

BILL NO. 799

DATE 2-22-91

SPONSOR(S) Wallin -

DHES not to reg tanks

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Maurin Barber	agumental Press Assoc A P A	X	
Alvin Goldstein	APA	X	
Brendan Beatty	MT. Assoc. of Realtors	X	
Walt Steingruber	APA	X	
Ralph Burgantini	myself	X	
Pete Frazier	city-co Health - GT Falls		X
Sharon Smith	SELF	X	
Bab Stephens	MT. Grain Growers Assn	X	
Lorna Frank	Farm Bureau	X	
Chris Kaufman	MEIC		X
Julie Frickel For Jean Riley	Board Petroleum Tank Release Comp.		X
JOHN GEACH	MT. DEPT OF HEALTH		
Bonnie Alexander	mt. Petroleum Marketers		X
DUANE LARSON	MT FIRE CHIEFS	X	X

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ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.**

Susan Leonard

MT Audubon

X

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Natural Resources COMMITTEE BILL NO. 845
 DATE 2-22-91 SPONSOR(S) Brooke double walls on tanks
+ pipes

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Marvin Barber	R P B		X
Susan Leonard	MT Audubon Fund	X	
George Sweet	Mont Dept Highways		X
Bill Schubert	Dept of Highways		X
Dexter Gentry	Mantex Refine Co		X
Walt Stringer	APA	X	
Bob Stephens	MT. Grain Growers Ass'n		X
Chris Kaufmann	MEIC	X	
Janele Fallon	MT Pet Ass'n		X
Rex Manuel	Cenex		X
Barbara Alexander	mt. Petroleum Marketers		X
Doug ABELIN	N.M. OIL & GAS (PIPES)		X
DWANE LARSON	MT. FIRE CHIEFS	X	

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**HOUSE OF REPRESENTATIVES
VISITOR REGISTER**

Natural Resources COMMITTEE BILL NO. 855
DATE 2-22-91 SPONSOR(S) S. Rice procuring recycled paper

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
BRAD MARTIN	Mont PIRG	✓	
Kristin PAGE	Mont PIRG	✓	
Linda Lee	Montana Audubon Leg. Fund	✓	
Greg Fine	um student	✓	
Chris Kaufman	MEIC	✓	
Mary Westwood	Self	✓	
Scott Elde	Custer Resource Alliance	✓	
Kristin Page	Mont PIRG	✓	

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**HOUSE OF REPRESENTATIVES
VISITOR REGISTER**

Natural Resources

COMMITTEE

BILL NO. 891

DATE 2-22-91

SPONSOR(S) Stickney

financial assurance for
mega landfills

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Jim Storer		X	
Brenda Wahler 108 11th Helena	self-Private Citizen	X	
Linda Lee 529 3rd Helena	Montana Audubon Leg. Fund	X	
Kelly Blum	Unimultistudy Citizens Council	X	
Richard Parks	K-PAC	✓	
Chris Kaufman	MERC	✓	
Deborah Hanson	Northern Plains Res Council	X	
Mary Westwood	Montana Sulfur & Chemical	X	
Clyde W. Darby	MSCA	X	
Nelson Hallen	Northern Plains Pro. Ccl	X	
Scott Elder	Custer Resource Alliance	X	
Kristin Page	MONTPIRG	X	
BRAD MARTIN	MONTPIRG	✓	

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**HOUSE OF REPRESENTATIVES
VISITOR REGISTER**

Natural Resources COMMITTEE BILL NO. 838
DATE 2-22-91 SPONSOR(S) Southworth - land ^{fill} mgmt

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Susan Leonard	MT Audubon	X	
Pete Frazier	City of Health-Care Fair		X
Rebecca S Jago	Missoula	X	
Will Wood	Missoula City Council/Advisory	X	
Jim Bampore	AERO	X	
Chas Kumpf	MERC	X	
Mary Westwood	Montana Sulphur Chemical	X	
Scott Elder	Custer Resource Alliance	X	
Kristin Page	MONTPIRG	X	
BRAD MARTIN	MONTPIRG	✓	

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**HOUSE OF REPRESENTATIVES
VISITOR REGISTER**

Natural Resources COMMITTEE BILL NO. 858
 DATE 2-22-91 SPONSOR(S) Gilbert household hazardous waste education

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Duane Larson	MT. STATE FIRE CHIEF	✓	
Gusman Leonard	MT Audubon	X	
Chris Kaufman	MERC	X	
Deborah Hanson	NARC	X	
Mary Westwood	Montana Sulfur & Chemical	X	
Kristin Page	Mont PIRE	X	
BRAD MARTIN	MONT. PIRG	✓	

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HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Natural Resources COMMITTEE BILL NO. HJR 36
DATE 2-22-91 SPONSOR(S) Toole wildfire safe developments

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
M. DUANE LARSON	MT. FIRE CHIEFS	✓	
Jeff Jalilce	DSC	✓	

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**HOUSE OF REPRESENTATIVES
VISITOR REGISTER**

Natural Resources COMMITTEE BILL NO. 926
 DATE 2-22-91 SPONSOR(S) Hoffman water pollution bonds

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
STEVE PILCHER	Dept. of Health & Env. Sci.	X	

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VISITOR REGISTER

COMMITTEE

BILL NO.

845

NAME (S) Brooke

double walls on tanks
+ pipes

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	REPRESENTING	SUPPORT	OPPOSE
	P P P		X
	NTA Audubon Fund	X	
	Mont Dept Highways		X
	Dept of Highways		X
	Mantua Refine Co		X
	APA	X	
	Mt. Grain Growers Ass'n		X
	MEIC	X	
	Mt Ret Ass'n		X
	Cenex		X
	mt. Petroleum Marketers		X
	N. H. O. L & GAS (PPES)		X
	MT. FIRE CHIEFS	X	

TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
USE TO SUBMIT WRITTEN TESTIMONY.

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ENT FORMS

**HOUSE OF REPRESENTATIVES
VISITOR REGISTER**

Natural Resources COMMITTEE BILL NO. 858
 DATE 2-22-91 SPONSOR(S) Gilbert house hold hazardous waste education

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Duane Larson	MT. STATE FIRE CHIEF	✓	
Gusman Leonard	Mt Audubon	X	
Chris Kaufman	MERC	X	
Deborah Hanson	NARC	X	
Mary Westwood	Montana Sulfur & Chemical	X	
Kristin Page	Mont PIRG	X	
BRAD MARTIN	Mont. PIRG	✓	

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**HOUSE OF REPRESENTATIVES
VISITOR REGISTER**

COMMITTEE

BILL NO.

HJR 36

unselfie safe developments

SPONSOR(S) Toole

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[illegible]

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**HOUSE OF REPRESENTATIVES
VISITOR REGISTER**

Natural Resources COMMITTEE BILL NO. 926
2-22-91 DATE SPONSOR(S) Hoffman water pollution bonds

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
STEVE PILCHER	Dept. of Health & Env. Sci.	X	

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