

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Lawrence Stimatz, on January 28, 1991, at 1:00 P.M.

ROLL CALL

Members Present:

Lawrence Stimatz, Chairman (D)
Cecil Weeding, Vice Chairman (D)
John Jr. Anderson (R)
Esther Bengtson (D)
Don Bianchi (D)
Steve Doherty (D)
Lorents Grosfield (R)
Bob Hockett (D)
Thomas Keating (R)
John Jr. Kennedy (D)
Larry Tveit (R)

Members Excused:

Staff Present: Michael Kakuk (EQC).
 Roberta Opel, Secretary

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

Announcements/Discussion: There were no announcements.

HEARING ON SB 94

Presentation and Opening Statement by Sponsor:

Senator Tom Beck, District 24, appeared before the committee to present Senate Bill 94. The bill, Beck said, is the result of SJR 22 which asked for the environmental quality council to study groundwater for this legislative session. SB 94 is the result of what the council accomplished. Much of the surface water in the state has been appropriated for irrigational use, Beck said. There is pressure to use more groundwater because this surface water is appropriated, Beck told the committee. SB 94 would create a monitoring program for groundwater, Beck said, to determine how much groundwater is available in Montana, and in certain areas of the state, to check for groundwater pollution.

Proponents' Testimony:

John Arrigo, Department of Health and Environmental Sciences Program Supervisor for the Bureau of Groundwater Programs, appeared before the committee to support SB 94. Arrigo stated that he participated in the interim study of Groundwater Quality Protection and Management that was required under SJR 22. A recommendation was produced from that study to provide a statewide groundwater assessment. Arrigo stressed to committee members that the time had come to "quit taking groundwater for granted." Approximately 95% of the public water supplies for Montana rely on groundwater and nearly all domestic needs are met with groundwater, Arrigo said.

Collecting groundwater information in Montana is not an easy or inexpensive task, Arrigo continued, plus information available is too fragmented. The Department of Health and Environmental Sciences has responded lately to a variety of ground water contamination problems which include leaking underground storage tanks, cyanide leaks from mines, landfill leachate and industrial pollution sites such as the Burlington Northern site in Livingston, Arrigo said.

Arrigo told the committee that a ground water assessment program, would include several elements. First, Arrigo said, the assessment program would establish a monitoring program to record water chemistry and water level information on a long-term basis through a statewide network of observation wells. As part of the monitoring program, quarterly water level measurements would be taken on each of 700 target wells throughout the state with continuous water level recorders installed on 10% of the wells Arrigo said. Additionally, water quality samples would also be collected from 10% of the wells annually.

The second element of the program, Arrigo continued, would be a groundwater characterization program which would study all of Montana's aquifers over the next twenty-one years and provide data to the public and all agencies with groundwater protection and management concerns. Each characterization program would focus on the collected hydrogeological data, water quality, water use and land use data to determine flow direction and recharge patterns.

The final element of the program would be the creation of an interagency steering committee to guide the water assessment program, Arrigo said, with the Montana Bureau of Mines and Geology assigned the primary administrative responsibilities.

Bonnie Lovelace, Chief, Coal and Uranium Bureau, Department of State Lands, told the committee that DSL had a "great need" for sound information regarding water resources in Montana. Two of the major functions of DSL, Lovelace said, is management of the lands held by the state of Montana in trust and regulation of

mining on private, state and federal lands. Decisions made by DSL regarding use of the land's surface can have both short and long term impacts on the water resources.

Lovelace expressed concern over the lack of available water resource information in the state and told the committee that while the Coal and Uranium Bureau has not taken a position on any particular groundwater bill, the Bureau is in need of water resource information for the state.

Duane Calvin, a representative of Montana Water Resources Association, told the committee that the Association would support SB 94 if the bill is amended as there is concern over some terminology used. Calvin suggested that SB 94 could be supported more fully by the Association if the word "characterization" was replaced with the word "assessment," whenever appropriate.

Gary Fritz, Administrator of the Water Resources Division, DNRC, appeared in support of SB 94. Fritz said that the Water Resources Division is the department that has to approve or deny applications for new ground water use and for changes in existing water rights. Approximately 3,000 certificates per year are issued for water rights for groundwater use under 100 gallons per minute, Fritz said, giving some idea of the amount of small ground water use throughout the state. In 1986, there were 46 applications for ground water permits greater than 100 gallons per minute and in 1989, 42 applications were received, Fritz said. Although the applications have not increased, Fritz said, the controversy surrounding each of the permits has increased. More than twice the applications in 1989 received objections and went to contested case hearings. The use of groundwater has become much more contentious, Fritz said, as the availability of surface water is depleted. Fritz stated that SB 94 would help the DNRC make "good decisions" on ground water applications. Fritz noted that the DNRC also supported the companion bill, HB 215.

Wayne Van Voast, Bureau of Mines and Geology representative, presented testimony from the state geologist and the Director of the Montana Bureau Geology. Ground water programs address the need for program guidance and oversight for the steering committee. The Bureau of Mines and Geology, which established the Ground Water Information Center, has been the principal source of ground water information in the state of Montana for many years, Van Voast stated. Studies on artificial recharge, coal hydrology, hazardous substances and other ground water problems have been conducted, Van Voast said, providing an excellent base for regional water characterizations.

Van Voast stated that the Montana Bureau of Mines and Geology "strongly supports" SB 94.

Chris Kaufman, Environmental Information Center, told the committee that almost every issue the EIC deals with is linked to

ground water issues. Kaufman stated that she felt the ground water assessment program within SB 94 was "extremely important". "The public," Kaufman said, "is very concerned about ground water and they need access to better information." More preventative information is needed so that current ground water supplies can be protected, Kaufman said.

Dennis Olson, lobbyist for the Northern Plains Resource Council (NPRC) testified in support of SB 94.

NPRC supports SB 94, Olson stated, because the bill would provide an easily accessible source of centralized information on ground water for citizens of the state, would give the state a timeframe regarding underground water resources and the legislation would provide information on ground water quality and quantity, including possible contamination problems. "SB 94 is an important step in the right direction for the conservation and protection of ground water resources in Montana," Olson said.

David Toppen, Deputy Commissioner for Academic Affairs in the Office of the Commissioner of Higher Education. SB 94, Toppen stated, affects the functions and day to day operations of the Montana Bureau of Mines and Geology and therefore, is important to the Board of Regents for the Commissioner of Higher Education. Toppen stated that the Office of the Commissioner of Higher Education is "very much in support of SB 94."

Susan Lenard, appeared before the committee on behalf of the Montana Audubon Legislative Fund. Lenard stated that SB 94 was in the "best interests of Audubon" as the bill allows for the assessment of ground water quality. The relationship between ground water and surface water supplies affect the quality of riparian areas and aquatic environments, Lenard said.

Opponents' Testimony:

There were no opponents' to SB 94.

Questions From Committee Members:

Senator Grosfield asked John Arrigo, Water Quality Bureau, if he thought that 700 wells within the state would be adequate for testing purposes. Well sites will not be spread out evenly throughout the state, Arrigo said, but will try to focus on the shallow aquifers most widely influenced by natural and man made forces. Whether or not the wells will be adequate is difficult to say, Arrigo said.

Senator Bengtson told committee members that she felt it was important for the newer committee members to understand the Resource Indemnity Trustfund account and how the monies going

into it are appropriated. Bengtson stated this issue had been discussed in the Finance and Claims Subcommittee. The Department of Natural Resources has developed a series of informational breakdowns on how the Coal Trust Fund and the Resource Indemnity Trustfund are being spent on the programs Bengtson said. She stated that an invitation could be extended to the Natural Resources Committee to sit in on the next Long Range Planning and Building meeting. Chairman Stimatz suggested to committee members that, if possible, they should attend the next meeting for Long Range Planning to discuss R.I.T. (Resource Indemnity Trustfund).

Chairman Stimatz asked Arrigo to what degree groundwater affects the recharge rate? Arrigo stated that use of groundwater near a stream will affect that stream flow.

Senator Keating asked for clarification on how many groundwater bills were currently being heard in subcommittees this legislative session.

Deborah Schmidt, Director of Environmental Quality Council, responded to Senator Keating that SB 94 is one of approximately 12 different bills being recommended as a result of the ground water quality study. The modified requests submitted through the Department of Health and Environmental Sciences have been heard in subcommittee and are part of the study requesting increased staff for the program and discharge permits as well as other general functions needed to implement the groundwater study.

Senator Anderson asked how ground water affected irrigation practices and how are aquifers identified? Senator Beck responded that the basis of the entire ground water program is to identify what the state's aquifers are and whether they are being degraded. Senator Anderson wondered if the sprinkler systems currently in use made better use of irrigation with less water. Anderson stated that he felt there would be a direct effect on recharging of ground water and surface water. Senator Beck concurred that sprinkler systems do have a direct effect on recharging on some of the springs and drainages.

Senator Bengtson asked for clarification on the term aquifer and what are the main aquifers that run through Montana? John Arrigo responded that there are many aquifers in Montana. The classic definition of an aquifer, Arrigo said, is a formation that will economically yield water to a well for a beneficial use. The Helena valley, Arrigo continued, is filled with layers of sand and gravel, silt and clay. These water bearing sand and gravels are aquifers, Arrigo added. In central Montana, the aquifers are mostly sandstone that do not yield nearly as much water as the Helena valley. Specific details of how this water moves through sandstone and gravel in Montana are not known, Arrigo said. Senator Bengtson asked if other states provided this type of data. Arrigo said yes, and that in South Dakota, for example, it is possible to look in the county ground water book for water

SENATE NATURAL RESOURCES COMMITTEE

January 28, 1991

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quality and appropriate drilling locations. No publications covering general groundwater information are available, Arrigo added.

Senator Stimatz asked staff attorney, Michael Kakuk, to research questions regarding R.I.T. and the relationship of HB 215 to SB 94. At the request of Senator Stimatz, Michael Kakuk will ask representatives from the Department of Natural Resources and Conservation (DNRC) to make a presentation to the committee on the R.I.T.

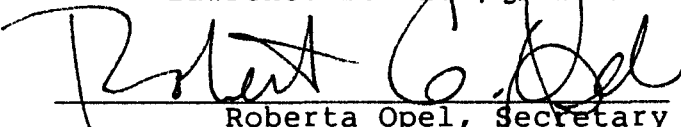
Closing by Sponsor:

Senator Beck told the committee there seemed to be "pretty good unanimous support behind this legislation." Senator Beck advised the committee that a Statement of Intent for SB 94 may be necessary in order to determine what the steering committee versus the management and information committees' roles should be. Senator Beck closed by saying that SB 94 would be of benefit to the state of Montana.

ADJOURNMENT

Adjournment At: 2:30 pm


Lawrence Stimatz, Chairman


Roberta Opel, Secretary

LS/ro

ROLL CALL

Natural Resources COMMITTEE

DATE 1-28-91

52nd LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
Senator Anderson	✓		
Senator Bengtson	✓		
Senator Bianchi	✓		
Senator Doherty	✓		
Senator Grosfield	✓		
Senator Hockett	✓		
Senator Keating	✓		
Senator Kennedy	✓		
Senator Tveit	✓		
Vice Chairman, Weeding	✓		
Chairman, Stimatz	✓		

Each day attach to minutes.

DATE -28-91

COMMITTEE ON Natural Resources

SB 94

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Raji Kuntz	EPC Staff	94		
John Unig	DITES	94		
Wayne Van Voast	MBM	94	✓	
Dawn L. Tupper	OCHER	94	✓	
Bonnie Lovelace	State Senate	94	✓	
Chris Kuntz	MEIC	94	✓	
Maureen Theisen	EPC			
Susan Unig	MALF	94	X	
Joanne Chance	MT Technical Council	94	✓	
Shirley Lakin	MWRA Council	94	X	
Greg Biedel	MWRIT Council	94	✓	
J. B. Kuntz	MWRIT Council	94	✓	
Greg Kuntz	Northwestern Montana Alliance	94		
Dennis Kuntz	NPRC	94	✓	

(Please leave prepared statement with Secretary)

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 30, 1991

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration House Bill No. 126 (third reading copy -- blue), respectfully report that House Bill No. 126 be concurred in and unanimously recommend that it be placed on the Consent Calendar.

Signed:

Lawrence C. Stimatz
Lawrence C. Stimatz, Chairman

LB 1/30/91
Amd. Coord.

CL 1/30/91
Sec. of Senate

21161580.8

SENATE NATURAL RESOURCES
EXHIBIT NO. 1
DATE 1-28-91
BILL NO. SB94

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 28th day of January, 1991.

Name: Bonnie Lovelace

Address: 1625 11th Ave.

Telephone Number: 444-2074

Representing whom?
State Lands

Appearing on which proposal?
SB94

Do you: Support? ☒ Amend? ☐ Oppose? ☐

Comments:
will testify

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

Testimony of Bonnie Lovelace, Chief, SB 94
Coal and Uranium Bureau, Department of State Lands
Senate Natural Resources Committee
January 28, 1991

The Department of State Lands has a great need for sound information regarding the water resources of the State in two of its functions. Those functions are: (1) management of lands held by the State of Montana in trust for the support of the common schools and other institutions and (2) regulation of mining conducted on private, state, and federal lands.

Decisions made by the Department regarding any development or use of the land's surface or mineral resources can have both short and long term impacts on the water resources. The Department is responsible to perform an environmental analysis of the proposed actions as mandated by the Montana Environmental Policy Act and various statutes addressing specific actions such as licensing a surface disturbance or issuing a mine permit.

Further, in areas of multiple use lands where many uses may be impacting the water resources, no single group or agency is responsible for assessing cumulative or regional conditions or impacts to the hydrology. A multiple use area can be found in and near any town; there are municipal uses of water resources, domestic uses, landfills, stock yards, agricultural developments, and mine areas all in close proximity throughout Montana.

In areas where few uses of the water resources are occurring, the wrong kind of development could have serious impacts: prospecting or exploration drilling could mix contaminated ground water with clean water, landfill siting in sensitive areas could likewise cause contamination, agricultural developments which allow erosion or washing of chemicals into the surface and ground waters of the State could contaminate water resources. The list of potential impacts is extensive.

In spite of the need for water resources information, little or no water resource information is available for many areas of the state. While the Department is not taking a position on any particular groundwater bill that has been introduced this session, we do want the committee to know of our need for water resource information and the fact that it is currently unavailable for much of the state.

WITNESS STATEMENT

To be completed by a person testifying or a person who wants
their testimony entered into the record.

Dated this 28 day of January, 1991.

Name: Domini Olsen

Address: NPRC, PO Box 1133
Helena, MT 59624

Telephone Number: 449-6233

Representing whom?
Northern Plains Resource Council

Appearing on which proposal?

SB 94

Do you: Support? X Amend? _____ Oppose? _____

[illegible]

Northern Plains Resource Council

**TESTIMONY OF THE NORTHERN PLAINS RESOURCE COUNCIL
BEFORE THE SENATE NATURAL RESOURCES COMMITTEE
ON SENATE BILL 94
Monday, January 28, 1991**

SENATE NATURAL RESOURCES

EXHIBIT NO. 3

DATE 1-28-90

BILL NO. SB 94

Mr. Chairman, members of the Committee, my name is Dennis Olson, and I am a lobbyist for the Northern Plains Resource Council (NPRC), a grassroots citizens' organization which addresses natural resource development and agricultural issues. I am testifying today on behalf of NPRC in support of SB 94, the EQC's groundwater monitoring and characterization program.

NPRC members would like to commend the EQC for the excellent work they've done in drafting this legislation, and for their efforts to solicit public comments during the development of it. NPRC members look forward to working with the EQC and others to implement the provisions of SB 94 as quickly and effectively as possible, and would urge this committee to give a "do pass" recommendation for it.

NPRC fully supports the concepts of SB 94 for the following reasons:

1) SB 94 would provide a easily accessible source of centralized information on ground water for the citizens of the state;

2) It would give us a timeframe on how our underground water resources are being depleted and/or recharged;

DATE 1-28-91

BILL NO. SB 94

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 28th day of January, 1991.

Name: Duane Colvin

Address: P.O. Box 61
Ballantine, Mt. 59006

Telephone Number: 967-3400

Representing whom?

Montana Water Resources Associate

Appearing on which proposal?

SB 94

Do you: Support? _____ Amend? ☒ Oppose? _____

Comments:

Remove Characterization & replacement
with the word Assessment, where
appropriate.

Montana Audubon Legislative Fund

SENATE NATURAL RESOURCES
EXHIBIT NO. 1
DATE 1-28-90
BILL NO. SB 94

Testimony on SB 94
Senate Natural Resources Committee
January 28, 1991

Mr. Chairman and Members of the Committee,

My name is Susan Lenard and I testify today on behalf of 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.

It is within the interests of Audubon to support legislation which allows for the assessment of ground water quality. Due to the often DIRECT relationship between ground water and surface water supplies which affect the quality of riparian areas and aquatic environments, we support SB 94.

RESOURCES

1-28-90

SB 94

INFORMATIONAL TESTIMONY - SB94

Presented by John Arrigo
Water Quality Bureau
Dept. of Health & Env. Sciences

I welcome this opportunity to provide you with informational testimony regarding the establishment of a coordinated ground water assessment program. Our agency participated in the Interim Study of Ground water Quality Protection and Management required under SJR 22. That effort produced a recommendation for an assessment program and I would like to express our agency support for the same.

The time has come to quit taking groundwater for granted. We have become heavily dependent on a resource that we really know little about. In most areas of the state an abundance of good quality ground water has lulled us into a false sense of security. Approximately 95% of our public water supplies rely on groundwater and nearly all domestic needs in rural areas are met with groundwater. In addition, groundwater irrigates our crops, waters our livestock, cools our industrial equipment among its other uses. Unfortunately, man's activities have had an adverse impact on groundwater quality in many areas but the extent of such impact is not completely known due to a serious lack of data. Collecting ground water information in a state covering nearly 150,000 square miles where depth to ground water ranges from a few feet to more than a thousand feet is no easy or inexpensive task.

I am sure I don't need to remind you that good decisions can only be made when based on good information. I appear before you today as a representative of an agency charged with making a wide variety of natural resource decisions impacting groundwater and doing so, in many cases, without the benefit of good groundwater information. Currently, ground water data collection is fragmented as is the storage of the collected information. Most information is quite site specific and is collected by a variety of local state and federal agencies. Figure 1 of the ground water report indicates the sparse coverage of ground water studies within our state. A person may currently find it necessary to seek groundwater information from a half dozen or more sources.

This situation significantly limits our ability to manage this valuable resources and creates delays in making decisions until adequate ground water information can be collected. In many cases, mines and other activities requiring permits or approvals from natural resource agencies must spend several years collecting site specific information to be used by those agencies. In addition to our permitting responsibilities, our agency has been involved in responding to a variety of ground

water contamination problems such as leaking underground storage tanks, cyanide leaks from mines, landfill leachate, and industrial pollution sites such as the Burlington Northern - Livingston. A common theme underlying most of these issues is the lack of basic information about aquifer characteristics and quality.

I have spent enough time talking about the problems in this area, now I would like to switch and talk a little about a possible solution to our dilemma, a ground water assessment program. Such a program would contain several elements. First, it would establish a monitoring program to record water chemistry and water level information on a long-term basis through a statewide network of observation wells. A total of approximately 700 wells would be identified for this purpose. New wells would only be drilled if no existing wells could be found in a critical area. Quarterly water level measurements would be taken on each well with continuous water level recorders installed on 10% of the wells. Water quality samples would also be collected from 10% of the wells annually.

The second element of the effort would be a ground water characterization program. The goal of the program would be to study all of Montana's aquifers over the next twenty-one years and to provide data that would be useful to all agencies with groundwater protection and management responsibilities and to the public. Figure 2 of the report depicts 21 potential study areas to be evaluated. The proposed characterization program would focus on the collection of basic hydrogeological, water quality, water use and land use data in order to determine such things as flow direction, recharge patterns and other data used by ground water management agencies. Each characterization effort would require approximately three years to complete and would require a team of hydrogeologists, water quality specialists and data managers. After the initial start-up, one ground water characterization could be completed each year.

The last element of the program would be the creation of an interagency steering committee to guide the total effort and ensure that work performed is coordinated with the activities of individual agencies.

The Montana Bureau of Mines and Geology would be assigned the primary administrative responsibilities for the program, subject to guidance from the steering committee. All data collected would be entered into a geographic information system (GIS) to provide a reliable data base for all to use.

I have intentionally avoided reference to either the program budget or the options for funding the program. There are others present who are in a better position to address those issues. I am fully aware of the costs of implementing a program such as this but would close by asking you to consider this cost as an investment in Montana's future.