

## **MINUTES**

### **MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON NATURAL RESOURCES**

**Call to Order:** By Lawrence Stimatz, on March 8, 1991, at 3:00 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:** None.

**Staff Present:** Deborah Schmidt (EQC).

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

**Announcements/Discussion:** None.

#### **HEARING ON HOUSE BILL 266**

#### **Presentation and Opening Statement by Sponsor:**

Representative Marian Hanson, District 100, presented HB 266 at

the request of the Department of State Lands. In 1977, Congress passed the Federal Coal Reclamation Law (Surface Mine Control Reclamation Act) which allows the state to regulate coal mines within its borders, provided the state has laws as stringent as federal law, Hanson said. Montana began regulating coal mining in 1971 and has had a federally approved program since 1977. Within this program lies the Designation of Lands Unsuitable (DLU) statute which states persons may petition the regulatory agency to designate an area unsuitable for coal mining. If the petition has been granted, no person may mine coal in that area. The designation may be terminated at a later date if someone wanting to mine the area presents a petition to that effect and adequate evidence in support. Recently, the federal government has been advised by the Department of State Lands that it must amend its DLU law to include that any person who wishes to do drilling, testing or gather data in a BLU area must first obtain a prospecting permit from the department. HB 266 would accomplish this, Hanson told the committee.

#### Proponents' Testimony:

Gary Amestoy, Administrator of the Reclamation Division, Department of State Lands, testified in support of HB 266. (Exhibit No. 1).

Jim Mockler, Executive Director of Montana Coal Council, stated he felt the federal requirements were "a needless thing, but if it is required by the feds to maintain that part of supremacy in supporting the reclamation program, then we certainly do support it."

John Lahr, representing Western Energy, asked the committee to support the bill.

#### Opponents' Testimony:

There were no opponents' to HB 266.

#### Questions From Committee Members:

There were no questions from the committee.

#### Closing by Sponsor:

Representative Hanson stated that HB 266 was designed primarily to incorporate clean-up language. Senator Weeding stated he would carry the bill.

### EXECUTIVE ACTION ON HOUSE BILL 266

#### Motion:

Motion by Senator Doherty that House Bill 266 BE CONCURRED IN.

#### Discussion:

None.

Amendments, Discussion, and Votes:

None.

Recommendation and Vote:

Motion by Senator Doherty that HB 266 BE CONCURRED IN carried unanimously.

HEARING ON HOUSE BILL 240

Presentation and Opening Statement by Sponsor:

Representative Bob Raney, District 82, presented HB 240 at the request of the Environmental Quality Council. Water quality, as well as water quantity, are major issues of our time, Raney said. Montana needs to expand its knowledge of chemical use in agriculture. Raney cited California as an example of an area so depleted of any natural organisms and soil builders from their systems that the land use is nothing more than "artificial agriculture. The intense use of chemicals to support their agriculture, which is heavily dependent on imported water, should be a sign to us that we must both support conservation of Montana water and learn about using less chemicals," Raney said. Raney stated that he believed crop yield and farmland quality could be increased, water quality could be maintained, and water quantity consumption could be reduced with less use of chemicals in agriculture.

The bill provides projects and activities for research and demonstration of farming practices that enhance water quality protection, Raney said.

Linda Lee, Montana Audubon Legislative Fund, testified in support of HB 240. (EXHIBIT #2).

Jim Barngrover, Alternative Energy Resources Organization, submitted testimony in support of HB 240. (EXHIBIT #3).

Opponents' Testimony:

None.

Questions From Committee Members:

Senator Keating stated that he felt the criteria for qualifying for grants and loans are written into the statutes for the Department of State Lands to follow. Keating said he felt that HB 240 would change criteria for the Department in determining the eligibility of those making application.

Senator Hockett asked if by changing the language to say "do farming practices" the bill would mean they can take up to 10% of the funds available for some emergency farming practices?

Senator Keating replied "yes but it doesn't have to do, necessarily, with emergency projects."

Senator Grosfield asked how many projects are in line? How are those types of projects addressed in the Department and what kind of effect is it going to have on present loans and grants.

Senator Hockett stated basically the procedure involves developing a project and then presenting the project to the Department. The project is ranked and presented to the legislature. New projects do not compete with existing projects because they are already funded, Hockett said.

Keating said that the basis for the funding procedure was a study on groundwater pollution conducted by federal and state governments. Steps had to be taken, Keating said, to turn around groundwater pollution.

Senator Grosfield stated that he (Keating) is assuming there are other sources of money out there. What kind of money is available now, Grosfield asked.

Jim Barngrover stated that AERO has been primarily involved in sustainable agriculture by way of cutting cost and conserving the resource base to date. To the best of his knowledge, Barngrover said, AERO has not received funding specifically designed to mitigate contamination of groundwater.

Senator Grosfield asked Barngrover if he had projects or applications in place if the bill passed?

Barngrover stated that, at this time, no proposals had been developed.

Senator Keating asked how AERO is funded?

Barngrover stated that it is a citizen-based organization that, first of all, receives grants from foundations to do projects. A good portion of AERO funding is received from the four hundred plus members of the organization, Barngrover said. Grants received in the past five or six years have been of great help, Barngrover said.

Barngrover stated there are numerous manufacturers of alternative products. AERO's basic philosophy is to reduce chemical inputs to farming, Barngrover said. "If you can do that by raising green manure products for nitrogen, crop rotation to upset wheat pest cycles, incorporating livestock manures, then that is our basic goal. Overall, our philosophy is build up the soil and generate a need to produce healthy crops from the farm," Barngrover said.

Closing by Sponsor:

Representative Raney stated that on many farms, fertilizer is the largest single cost in the budget. Raney said that yield reduction was not a characteristic substitute for chemical fertilizer. The first defense against aphids and other problem insects is ladybugs, Raney said, and they offer better control of weeds with less soil erosion. Finally, there have been higher profits through energy management by reducing chemical inputs from \$18 per acre to \$4 per acre by using more biological inputs, Raney added.

HEARING ON HOUSE BILL 161Presentation and Opening Statement by Sponsor:

Representative Gilbert, District 22, stated that House Bill 161 was requested by the Environmental Quality Council. The bill authorizes the Department of Health and Environmental Sciences to issue clean up orders to appropriate units of local government if the local government undertakes an activity that the department has reason to believe is likely to cause pollution of state waters.

Proponents' Testimony:

Kevin Keenan, Environmental Enforcement Officer for the Department of Health, appeared in support of HB 161. (EXHIBIT #1).

Pete Frazier, Director of Environmental Health, City-County Health Department, Cascade County, provided written testimony supporting HB 161 (EXHIBIT #2) and also proposed amendments. (EXHIBIT #2a).

Linda Lee, Montana Audubon Legislative Fund, testified in support of HB 161. (EXHIBIT #3).

Opponents' Testimony:

None.

Questions From Committee Members:

Senator Grosfield asked Representative Gilbert if the bill would give authority to the respective county to issue orders to deal, for example, with septic tanks polluting water?

Representative Gilbert stated that was exactly right.

Senator Tveit asked what Representative Gilbert thought of the proposed amendments.

Representative Gilbert stated that the first amendment would be acceptable but added that he did have some "real problems with the second amendment" because it orders the county commissioners to establish a sewer district for public sewer systems. Gilbert said he was unsure if the commissioners had the authority to issue such an order.

Senator Hockett asked if there was an alternative to voting down the creation of a sewer district?

Frazier stated that under current law there must be an election to create a sewer district. If the majority of people of that district oppose the creation, the commission cannot proceed with creating a district, Frazier said. "We are working on a case now in Cascade County in which some of the people can see the problem

Senator Hockett asked Representative Gilbert if there was reason to believe that waste was causing (or likely to cause) pollution, and could the department then issue an order to a local government to take measures to correct the problem?

Representative Gilbert stated that if HB 161 was adopted, the department may order the local government to resolve the problem. If the order is not complied with, Gilbert said, court action may be taken. The bill would give the department the legal authority to take action.

Senator Grosfield asked if the fine would be \$25,000 a day and if it would be charged to the local government or to each septic tank owner?

Representative Gilbert stated that the fine could only take place when the department takes a civil court action.

Keenan told the committee that the department has the authority to proceed with a penalty against any individual or person who violates the Water Quality Act, whether the penalty is amended to \$25,000 or remains at \$10,000. A failing septic system would be a violation of that act.

Senator Grosfield asked what authority the local government issuing the permit would have?

Keenan answered that the capabilities of local governments in this area vary quite widely. Some county governments have regulations for on-site sewage disposal and significant local enforcement authorities, Keenan said.

Gilbert told the committee that all new septic tanks would be permitted and inspected.

Keenan stated that the main problem with septic tanks lies in the small subdivisions and the small lots that were approved and filed previously.

Closing by Sponsor:

Representative Gilbert told the committee he recommended adopting the first amendment but not the second.

HEARING ON HOUSE BILL 237

Presentation and Opening Statement by Sponsor:

Representative Ellison, District 81, presented HB 237 to the committee.

Proponents' Testimony:

Carol L. Ferguson, Administrative Officer for the Hard-Rock Mining Impact Board, Montana Department of Commerce, stated that ordinarily the board does not take a stand on substantive issues dealing with the impact except for those dealing directly with administrative responsibilities. (Exhibit 1).

Opponents' Testimony:

None.

Questions from Committee Members:

Senator Doherty asked Ferguson if, on page 2, they were talking about facilities only owned by local governments?

Ferguson replied that the impact act only addresses the impact to local government, increased costs, services and facilities. Ferguson stated that the "basic idea" came out of the Stillwater Mining Company through an act to upgrade an access road to a mine. Under current law, Ferguson said, the only way that can be accomplished is either by a grant to Stillwater County or through tax prepayments.

Closing by sponsor:

Representative Ellison asked that HB 237 BE CONCURRED IN.

EXECUTIVE ACTION ON HB 237

Motion:

Senator Keating made a motion that House Bill 237 BE CONCURRED IN.

Discussion:

None.

Recommendation and Vote:

The Motion by Senator Keating that HB 237 BE CONCURRED IN passed unanimously.

EXECUTIVE ACTION ON HOUSE BILL 161

Motion:

None

Discussion:

Senator Grosfield suggested that the language in the bill be changed to make establishing a sewer district permissive and not mandatory.

Senator Doherty offered support for Senator Grosfield's amendment. Doherty said he believes some of the frustration in Cascade County concerns subdivisions with improper sewer systems.

Representative Gilbert stated that he would like EQC to review and research the amendments.

Senator Grosfield said he found the first amendment acceptable.

Deborah Schmidt, Director of Environmental Quality Council, commented that EQC considered an option that would suggest acquiring a waiver of all statutes creating sewer districts but the EQC was unwilling to recommend that. Schmidt said EQC felt that in the interim, some county officials asked for liability and the council members were unwilling.

Senator Tveit wondered if any health officers had dealt with the situation.

Schmidt said there were health officers at EQC meetings where this legislation was discussed and no comments were made at the time.

Chairman Stimatz appointed Senator Grosfield, Senator Doherty and EQC staff to a subcommittee to develop an amendment to HB 161.

EXECUTIVE ACTION ON HOUSE BILL 240

Motion:

There were no motions made regarding SB 240 at the March 8, 1991 hearing.

Discussion:

Senator Bengtson commented that she was "not comfortable at all" with HB 240.



SENATE NATURAL RESOURCES COMMITTEE

March 8, 1991

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Senator Tveit commented there are "many good water projects that don't get funded because there isn't any money." Tveit stated that he was afraid there could be too many projects on line and money would be stretched too "thin."

Senator Hockett stated that he agreed that there are many projects that relate to groundwater quality and chemicals that are not going to get funded.

Senator Stimatz stated that all projects for funding are screened by the DNRC.

Senator Raney commented that if the bill is defeated in committee, it would still have to be evaluated some day. " If they don't feel that they measure up, then they just won't get funded. If, for some reason, they feel that it's a good project, they might take something else out that is of interest," Raney explained.

Senator Doherty stated that water enhancement protection and water development were both included in development projects and activities. Long Range Building has the task of figuring out how the money will be disbursed.

Karen Barclay, DNRC, stated they had worked "a long time" on the Water Policy Committee during the interim and recommended continued research.

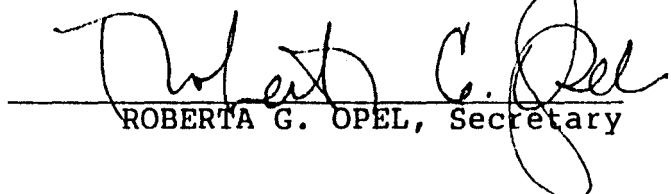
Barclay stated that she wanted to include it in the water development and the renewable resources account. Barclay said she feels that the Water Resource Center, which directs water research in Montana, should play a role in this research.

Senator Keating stated that he leans toward the arguments that deal strictly with water rather than farming practices.

Senator Tveit commented that he would support the bill as it might alleviate a problem in the Yellowstone River drainage.

Adjournment At: 5:00 p.m.

  
LAWRENCE G. STIMATZ, Chairman

  
ROBERTA G. OPEL, Secretary

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SENATE NATURAL RESOURCES COMMITTEE

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## Montana Audubon Legislative Fund

Testimony on HB 240  
Senate Natural Resources  
March 8, 1991

SENATE NATURAL  
EXHIBIT NO. 2  
DATE 3-8-91  
BILL NO. HB 240

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.

It is becoming clear to most of us that the use of agricultural chemicals is overdone in this country, endangering the purity of our water resource and depleting our soil. Yet, many farmers continue to use these chemicals in abundance, often because they know of no other way to deal with the problems they encounter. For decades, in farming research and development, the focus has been on agricultural chemical use.

Funding for low chemical input farming practices, research and demonstration of those practices is essential and Audubon appreciates the clarification proposed by this bill. Please vote a "do pass" on House Bill 240. Thank you.

TESTIMONY OF JIM BARNGROVER  
FOR THE ALTERNATIVE ENERGY RESOURCES ORGANIZATION  
ON HB 240 BEFORE THE SENATE NATURAL RESOURCES COMMITTEE  
March 8, 1991

My name is Jim Barngrover. I'm with the Alternative Energy Resources Organization, a grassroots organization of farmers and ranchers in Montana who are committed to enhancing the productive capacity of their farms and ranches, and necessarily, to resource conservation and community and family economic vitality. I'm here on behalf of AERO to testify in favor of HB 240.

Small research and demonstration projects in sustainable agriculture are a proven approach to helping farmers and ranchers expand their management options. Having more options means relying less on a narrow choice of non-renewable, expensive and potentially contaminating inputs.

Iowa State University just completed an evaluation of its three-year-old farm demonstration program to protect groundwater. They looked at whether the cooperating farmers, and their neighbors, have changed their farming practices and attitudes related to groundwater protection as a result of the farm demonstration program. What they found is that the program IS effective and they intend to expand the program as a result.

The University of California has a four-year-old, \$1.35 million program of sustainable agricultural research and demonstration that has already yielded results useful enough for participating and other interested farmers to change their farming practices.

Probably the most well-know example of effective sustainable agricultural research and demonstration, which has involved 1,860 farmers and ranchers in cooperation with university and other researchers over the last three years, is the federal Low-Input Sustainable Agriculture program. More Montana farmers and ranchers have participated in this program with MSU, research centers, extension agents, and AERO than have farmers from any other state, including places like California and Iowa. In just three years, 244 Montana producers have participated in federal LISA projects. THE INTEREST IN AND NEED FOR SUSTAINABLE AGRICULTURE RESEARCH AND DEMONSTRATION IS HERE!

You might wonder what small, on-farm demonstration projects can accomplish when compared to university experiment station work. They are a very necessary companion to the long-term, statistical research that universities do:

First, demonstration projects can test practices on a particular farm or group of farms, and in a particular community. They enable us to begin to understand the interactions between the physical, chemical, biological and human resources of a given place we're interested in.

Second, they test in realistic settings—where management, economic and weather variables are real—a broad set of agronomic variables that are key to ensuring the permanence of agriculture in Montana: pest resistance, tillage methods and machinery, crop rotations, alternative crops, pest-predator relationships, weed, disease and insect pest control, and nutrient cycling—ALL AT THE SAME TIME.

Third, demonstration projects build relationships among producers, researchers, extension agents, and soil conservationists that enhance the knowledge of everyone involved. Most of what is known about implementing sustainable agricultural practices—practices that protect soil, surface and groundwater quality—is known by farmers and ranchers. The fact that the DNRC programs can accommodate the active participation of farmers and ranchers is one of their greatest strengths, because at this point, learning and knowledge need to flow in many directions.

Fourth, demonstrations can yield immediate results—results that are visible. Experiment station research in sustainable agriculture is critical in the long run, but on-the-ground testing is critical for right now.

The 1990 Montana Farm and Ranch survey confirmed what AERO has learned over the years working directly with Montana farmers and ranchers: They are looking for ways to expand their management options, while protecting the resources on which they depend. These DNRC programs can help in demonstrating ways to do that.

I urge this committee to support this bill. Thank you.

ROLL CALL  
Natural Resources  
COMMITTEE

DATE 3-8-91

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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.

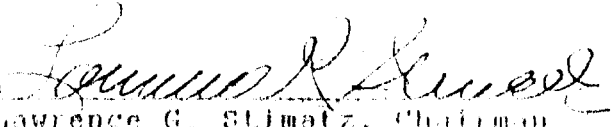
SENATE STANDING COMMITTEE REPORT

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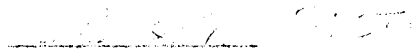
MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration House Bill No. 266 (third reading copy - blue), respectfully report that House Bill No. 266 be concurred in.

Signed,

  
Lawrence G. Stimatz, Chairman

LB 3/30/91  
Amd. Coord.

  
Sec. of Senate

DATE 3-8-91

COMMITTEE ON Natural Resources

# VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary.)



SECRET  
SECRET NO. 1  
DATE 3-8-91  
BILL NO. 115-237

DEPARTMENT OF COMMERCE  
LOCAL GOVERNMENT ASSISTANCE DIVISION

COGSWELL BUILDING — ROOM C 211  
CAPITOL STATION

STAN STEPHENS, GOVERNOR



STATE OF MONTANA

(406) 444-3757

HELENA, MONTANA 59620-0522

DATE: March 8, 1991

TO: Senate Natural Resources Committee

FROM: Carol L. Ferguson, Administrative Officer, Hard-Rock Mining Impact Board

RE: HB 237

Mr. Chairman, Representative Ellison, members of the committee, my name is Carol Ferguson. I am the administrative officer of the Hard-Rock Mining Impact Board. Typically, the Board does not take a position on substantive changes to the Impact Act, except to try to ensure that proposed changes are clearly understood and are technically feasible. However, the Board has traditionally supported mineral developers, local government units, and concerned citizens in their consensus efforts to make the Impact Act function more equitably, more smoothly and with needed flexibility.

The Board finds the concept of HB 237 to be consistent with the purposes and provisions of the Impact Act. In short, HB 237 expands the menu of financing options authorized by the Impact Act.

The Hard-Rock Mining Impact Act operates in the following manner. The developer of each new large-scale hard-rock mining project must pay affected local government units all increased local government capital costs resulting from the proposed new development. The costs are identified in an impact plan prepared by the developer and reviewed by the affected local government units. At present the Act authorizes three methods of paying these costs: tax prepayments which must later be credited to the developer, grants, or, in the case of schools only, education impact bonds.

Under the current law, an education impact bond is a special bond that may be used for the construction of school facilities needed as a result of a large-scale hard-rock mine. Principal and interest on the bond are paid by a special mill levy against the taxable valuation of the mineral development. The bond is debt only of the mineral development. The bond is not a debt of the school district as a whole and does not affect the bonding capacity of the district. Interest on the bond is exempt from state taxes.

HB 237 expands this impact bond concept to create a similar financing option for all local government capital facility improvements needed as a result of the mineral development, as identified in the impact plan. HB 237 does not eliminate any existing financing provisions nor preclude their use, if they should be considered more appropriate for meeting specific needs.

During the past year, the Hard-Rock Mining Impact Board has provided several opportunities for public discussion of the facility bond concept as proposed by HB 237. In that context, the Board has heard no opposition to the proposal, which appears to benefit mineral developers, local government units and local taxpayers.

Mineral developers appear to benefit because the bondholders, not the developer, will be providing the up-front money for local government capital improvements at a time when the developer is incurring its own heavy capital costs in the construction of a mine and is not yet generating revenue from production. In addition, by means of interlocal agreements, the costs of a number of smaller capital projects may be pooled into a single, larger and more cost effective bond issue.

Affected local government units appear to benefit because they will be spared the necessity for calculating and providing tax credits for capital expenses from local government funds that often are intended for operating expenses, not capital costs. Local property taxpayers appear to benefit because a reduction in tax credits will accelerate the time when their tax base realizes the full benefit of the mineral development.

Bondholders appear to benefit because affected local government units are empowered to require from the developer a guarantee of bond payment appropriate to the project and because interest earned on the bonds is not subject to taxation by the State.

HB 237 does not change any existing rights or obligations under the Impact Act, except that it does bring the definition of local government unit up to date, in a manner consistent with the history, purpose and structure of the Act. In 1983 the Impact Act was amended to narrow what had been a very broad definition of local government unit. Where the statute had once encompassed all independent special purpose districts, the 1983 definition was limited to those independent special districts that provide services particularly affected by population growth, such as county water and sewer districts and rural fire districts. In 1985 the legislature authorized the creation of an additional district in this category, the county park district. Under the 1983 criteria, county park districts should appropriately be included in the definition of local government units, as is proposed by HB 237.

Overall, it appears that HB 237 represents a return to the consensus legislation that characterized the early history of the Impact Act.

Thank you for this opportunity to testify.

Testimony of Gary Amestoy  
Department of State Lands  
Senate Natural Resources Committee  
March 8, 1991

House Bill 266 was introduced at the request of the Department of State Lands. It would amend the Montana Strip and Underground Mine Reclamation Act, under which the Department regulates coal mining in Montana.

The need for the bill arises because, under the federal surface mining act, Montana must have in effect laws and rules that are as stringent as the federal law and rules. We were recently notified that our definition of prospecting, which currently includes only exploration activities, must be expanded to include gathering of data on areas that have been designated unsuitable for coal mining. Although we are able to make most federally required program changes by amending our rules, this change requires an amendment to the statute because the definition of prospecting is statutory.

What would the effect of this bill be? Under the current Montana law, an area can be designated unsuitable for coal mining if it has potential historic, cultural, scientific, or scenic value, if it has a critical ecological role, or if it contains hazards, such as unstable geology or frequent flooding. A person who wishes to have this designation terminated can go onto the land, gather data and do testing without a permit from the Department. This testing could be harmful. It could, for example, include taking geologic samples in an area of unique geology or vegetation samples in an area that had been designated unsuitable because of the existence of a rare plant species. House Bill 266 would require this person to obtain a prospecting permit from the Department before conducting these activities. It would also apply to these activities within national parks, wilderness areas, wild and scenic rivers, and national recreation areas. This would allow the Department to ensure that the features for which the area received its designation are not harmed or destroyed. It would also allow the Department to require reclamation of any significant disturbance of the area.

The Department requests that the committee give this bill a favorable recommendation.

## WITNESS STATEMENT

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

Dated this 8<sup>th</sup> day of March, 1991.

Name: Kevin Keenan, Enforcement

Address: Water Quality Bureau  
DHES (Dept Health & Environ Science)

Telephone Number: 444-2406

Representing whom?

DHES - Water Quality

Appearing on which proposal?

HB 161

Do you: Support? ☒ Amend? ☐ Oppose? ☐

Comments:

The Department wishes to advise the committee of its support for HB 161.

TESTIMONY ON HB 161

SENATE NATURAL RESOURCES  
EXHIBIT NO. 2  
DATE 3-8-71  
BILL NO. HB 161

MR. CHAIRMAN AND COMMITTEE MEMBERS, MY NAME IS PETE FRAZIER. I AM DIRECTOR OF ENVIRONMENTAL HEALTH WITH THE CITY-COUNTY HEALTH DEPARTMENT IN CASCADE COUNTY.

ALTHOUGH WE ARE CERTAINLY NOT OPPOSED TO ASSURING THAT WASTES DEPOSITED ON THE LAND THAT HAVE OR MAY CAUSE POLLUTION TO STATE WATERS BE CLEANED UP, WE ARE CONCERNED BY HB 161 IN ITS CURRENT FORM FOR SEVERAL REASONS. FIRST, THE BILL ASSUMES THAT ONLY ACTIONS TAKEN BY A UNIT OF LOCAL GOVERNMENT MAY CAUSE A POLLUTION PROBLEM, IGNORING THE FACT THAT MANY DEPARTMENTS OF STATE GOVERNMENT ISSUE PERMITS FOR THE PLACEMENT OF WASTES. FOR EXAMPLE, THE STATE DEPARTMENT OF HEALTH & ENVIRONMENTAL SCIENCES ISSUE SANITARY LANDFILL LICENSES FOR THE PLACEMENT OF WASTES AT ALL LANDFILLS IN THE STATE OF MONTANA. IN ADDITION, THEY ISSUE WASTE WATER DISCHARGE PERMITS. THE STATE DEPARTMENT OF NATURAL RESOURCES ISSUES CERTIFICATES OF ENVIRONMENTAL COMPATABILITY UNDER THE MAJOR FACILITIES SITING ACT FOR VARIOUS TYPES OF FACILITIES THAT MAY HAVE DIFFERENT TYPES OF DISCHARGES. IT WOULD SEEM ONLY APPROPRIATE, THEREFORE, THAT BOTH STATE AND LOCAL UNITS OF GOVERNMENT BE COVERED BY THIS BILL. THEREFORE, WE WOULD PROPOSE THAT ON PAGE 1, LINE 22, AFTER THE WORD "OF", INSERT THE WORDS, "STATE OR." ON PAGE 1, LINE 23, DELETE THE WORD "OR". ON PAGE 1, LINE 24, AFTER THE WORD "MUNICIPALITY", INSERT THE WORDS, "OR STATE BOARD OR DEPARTMENT". ON PAGE 2, LINE 5, AFTER THE WORD "OF", INSERT THE WORDS, "STATE OR".

WE ARE ALSO CONCERNED ABOUT HB 161 IN ITS CURRENT FORM BECAUSE THE BILL PROVIDES NO TOOL OR METHODS FOR THE UNIT OF LOCAL GOVERNMENT TO USE TO COMPLY WITH ANY ORDER IT MAY RECEIVE. IN MOST CASES, AT THE LOCAL GOVERNMENT LEVEL, ANY PERMITS ISSUED FOR THE PLACEMENT OF WASTES WOULD BE IN THE FORM OF INDIVIDUAL SEPTIC SYSTEM PERMITS ISSUED BY LOCAL HEALTH DEPARTMENTS. THERE ARE CASES THROUGHOUT THE STATE WHERE SUBDIVISIONS HAVE BEEN CREATED AND FILED YEARS AGO, WHEN SUBDIVISION REVIEW REQUIREMENTS WERE MUCH LESS STRINGENT THAN TODAY, OR NON-EXISTENT. NOW THESE SUBDIVISIONS ARE BEGINNING TO HAVE SEPTIC SYSTEMS FAIL, REQUIRING LOCAL GOVERNMENTS TO ISSUE PERMITS FOR REPLACEMENT SYSTEMS FOR EXISTING HOUSES. THESE FAILURES OCCUR DUE TO THE PAST DEVELOPMENT ACTIVITY WHICH HAVE CAUSED THE AREA'S GROUNDWATER LEVEL TO CHANGE CREATING

PERCHED GROUNDWATER TABLES, AND POTENTIAL AND ACTUAL GROUNDWATER CONTAMINATION TAKING PLACE. HOWEVER, WHEN LOCAL HEALTH DEPARTMENTS AND COUNTY COMMISSIONERS ATTEMPT TO CREATE A COUNTY SEWER DISTRICT OR A SEWER SPECIAL IMPROVEMENT DISTRICT, THE DISTRICT CREATION IS VOTED DOWN BY THE RESIDENTS WITHIN THE PROPOSED DISTRICT BOUNDARIES, LEAVING LOCAL GOVERNMENTS WITH NO ALTERNATIVES TO CORRECT THE PROBLEM. THEREFORE, WE RECOMMEND THAT HB 161 BE AMENDED IN A WAY TO ALLOW THESE PROBLEMS TO BE RESOLVED. IT IS PROPOSED THAT ON PAGE 2, LINE 7, AFTER THE WORD "UP", THE FOLLOWING SENTENCE BE ADDED:

"AS A PART OF THIS ORDER, THE DEPARTMENT MAY ORDER A COUNTY COMMISSION TO ESTABLISH A SEWER DISTRICT FOR A PUBLIC SEWER SYSTEM IN THE AFFECTED AREA BY PROVIDING AN EXEMPTION FROM THE PETITION PROCEDURE FOR A DISTRICT CREATION IN 7-13-2204, M.C.A., AND ELECTION PROCEDURE IN 7-13-2208 THROUGH 7-13-2214, M.C.A."

WITH THESE AMENDMENTS, WE COULD SUPPORT HB 161. WITHOUT THEM, WE URGE A "DO NOT PASS" RECOMMENDATION ON HB 161.

THANK YOU.

AMENDMENTS TO HB 161

SENATE NATURAL RESOURCES  
EXHIBIT NO. 29  
DATE 3-8-91  
BILL NO. HB 161

PAGE 1

LINE 22 - AFTER "OF" INSERT "STATE OR"  
LINE 23 - DELETE "OR"  
LINE 24 - AFTER "MUNICIPALITY" INSERT "OR STATE BOARD OR DEPARTMENT"

PAGE 2

LINE 5 - AFTER "OF" INSERT "STATE OR"  
LINE 7 - AFTER "UP," INSERT:

"AS A PART OF THIS ORDER, THE DEPARTMENT MAY ORDER A COUNTY COMMISSION TO ESTABLISH A SEWER DISTRICT FOR A PUBLIC SEWER SYSTEM IN THE AFFECTED AREA BY PROVIDING AN EXEMPTION FROM THE PETITION PROCEDURE FOR A DISTRICT CREATION IN 7-13-2204, M.C.A. AND ELECTION PROCEDURE IN 7-13-2208 THROUGH 7-13-2214, M.C.A."