

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Lawrence Stimatz, on March 13, 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: Paul Sihler (EQC).

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

Announcements/Discussion:

HEARING ON HB 858

Presentation and Opening Statement by Sponsor:

Bob Gilbert, District 22, presented HB 858 to the committee. The bill establishes a statewide household hazardous waste education program, Gilbert said, and sets up a public education program to include information about alternatives to disposal of household hazardous waste, the largest contributor to municipal landfills. An alternative disposal site next to a landfill is a possibility for disposal of these wastes, Gilbert said. The bill advocates

use of reusable containers rather than leaving those containers in landfills. Use of alternative

household products would be less harmful to the land and groundwater, Gilbert noted. HB 858 would be funded by SB 209.

Proponents' Testimony:

Chris Kaufman, MEIC, stated support for HB 858. In the past, MEIC has supported a statewide collection system for household hazardous wastes, but currently, Kaufman said, MEIC feels HB 858 would be a more practical approach for Montanans because of the educational program it encompasses.

Kay Blehm, Northern Plains Resource Council, testified in support of HB 858.

Linda Lee, Montana Audubon Legislative Fund, distributed pamphlets to the committee about household hazardous wastes. (EXHIBIT #1 and #2).

Opponents' Testimony:

There were no opponents' to HB 858.

Questions From Committee Members:

Senator Bengtson asked Representative Gilbert if he anticipated a broad distribution area for hazardous waste literature.

Gilbert stated that, presently, information is not getting out to the public. The goal of the educational program for HB 858 would be to reach more people and provide better information about household hazardous waste.

Tony Grover, DHES, Manager Solid Waste Program, noted the importance of getting waste information into public schools.

Senator Bengtson noted that the Extension division at the University would, perhaps, be a good place to start distributing hazardous waste literature.

Senator Keating asked where the fees were generated and are these fees currently paid for by cities and towns?

Grover responded that license renewal fees were attached to SB 209.

Grover responded that approximately one third of the fees are received from private agencies and two thirds are publicly funded. Grover stated that the funding for HB 858 was completely dependent on SB 209 and would "grind to a halt" without that financial backing.

Closing by Sponsor:

Gilbert stated that he felt HB 858 was fairly non-controversial. "If SB 209 does not pass," Gilbert said, "I will personally go out and raise the \$2,000 to fund this bill because I think it is absolutely necessary that we get the state of Montana educated about what they can do about household hazardous wastes and our landfills."

HEARING ON HB 918

Presentation and Opening Statement by Sponsor:

Representative Jim Southworth, District 86, told the committee that HB 918 was a "simple housecleaning bill" introduced by the House Natural Resources Committee at the request of the Department of Health and Environmental Sciences. The bill changes the definition of solid waste in the first part of the law to make it consistent with the second part of the law, Southworth explained. The solid waste statutes are divided into two parts: Part I deals with planning and administration and Part 2 deals with licensing and transportation. Definitions of solid waste were not consistent when the legislature upgraded the definition of solid waste in Part 2, as it failed to do so in Part 1. HB 918 remedies this problem, Southworth said.

Proponents' Testimony:

There were no proponents' to HB 918.

Opponents' Testimony:

There were no opponents' to HB 918.

Questions From Committee Members:

Senator Doherty asked which section was being amended to correct the inconsistency.

Southworth stated the language was in line 23, page 2; the solid waste definition in part I.

Closing by Sponsor:

Closing by Southworth.

HEARING ON HB 377

Presentation and Opening Statement by Sponsor:

Representative Raney, District 82, told the committee that HB 377

was the product of the Environmental Quality Council as assigned under SJR 19 from the last session. "There is a lot of interest in importing waste into Montana for the purpose of disposal, Raney said, "particularly solid waste. The first proposals for infectious waste were made about four years but what we're really talking about in this bill is municipal solid waste," Raney said. "One of the major laws we want to put into place during the proposed two year moratorium on solid waste is HB 377, the Megalandfill Siting Act," Raney said. "During this two year period, one of the main bills needed to be put into place would be the Megalandfill Siting Act. The bill would provide for the siting of dumps, 200,000 tons per year. Currently Montana has 500,000 tons of waste generated in the state. With the subtitle D regulations that will soon be taking place, Montana will be seeking fewer and fewer landfills which means the landfills will be larger and larger in size and when the 200,000 ton point is reached, then it would be necessary to use the Major Facilities Siting Act," Raney said. A long range plan for a megalndfill will be necessary, Raney noted, and the plan must be updated annually. The board's decision to grant or deny the application must be based on extensive criteria found on page 27 of the bill, Raney said.

Proponents' Testimony:

Tom Breitbach, Northern Plains Resource Council, testified in support of HB 377. (EXHIBIT #1).

Chris Kaufman, MEIC, told the committee that the bill received "careful scrutiny" in the EQC process and the House Natural Resources Committee. The bill offers a procedure to protect the health, welfare and environment of Montana when there is a proposal to build a large, solid waste dump in the state.

"Whether or not you are for or against importation of waste, you can favor this bill," Kaufman said. "If you want to keep waste out, you can say this bill will do that for us and if you want to bring waste in, you can say this bill shows us the rules for how to bring this waste in." "What the bill will do," Kaufman said, "is keep out those who do not have a well thought out plan." Kaufman said that the state cannot afford any more Superfund sites and there is a need for laws that are "more strenuous with more regulations when we are considering a landfill of this magnitude."

Linda Lee, Montana Audubon Legislative Fund, stated that Montana "needs more regulations on large volume landfills. The environmental consequences of landfills are enormous, Lee said, and the contamination of groundwater should be of great concern." Lee urged certification and monitoring of landfills and penalties for non-compliance.

Ronee Hanson, Montana Senior Citizens, told the committee she supported HB 377.

Floyd Higgins, Custer Resource Alliance, submitted testimony in support of HB's 377 and 891.(EXHIBIT #1a).

Opponents' Testimony:

Dennis Winters, Montana Market Development, testified in opposition to HB 377. Winters stated that when he began employment with the Market Development Company, he did not know "how really terrible the situation in eastern Montana is from the standpoint of economic development." (Winters presented slides depicting the economics of eastern Montana). Montana declined more in land value than any other western state between 1982 and 1989, Winters told the committee "and at a time when the state is at its worst, there are forces within the state that want to lockup resources. Baker County found a formation perfect for a landfill site and is in need of the income that could be generated from its development. The Megalandfill bill before you, Winters said, has almost nothing to do with the so-called technical side that the proponents say they want to do something with. This bill is to make sure there will never be importation of waste in Montana. Everyone knows that is what this bill is for. Mr. Raney stated that he will continue to throw roadblocks in the way of Montana having a megalandfill site. If this committee passes this bill, it will be creating a process of appeals of political rangling that will lock away resources in Montana and will take away jobs from Montanans," Winters said. Winters noted the "dire need" for industries in some communities in Montana. "The Megalandfill Bill does not allow for new industry," Winters said. (A 60 Minutes story about Fallon County was presented to the committee). Winters told the committee that Baker, MT (Fallon County) residents want a "fair bill that does not make it impossible for them to survive with a landfill."

Joyce Almy, Fallon County Development Corporation, told the committee she was opposed to HB 377 because the bill does not allow for the economic growth needed in eastern Montana. Fallon County residents have reached their first goal, said Almy, with the possibility of new jobs created through a megalandfill. "In our search for ways to survive, we have struck gold right there in our arid land in Fallon County. Yet, this Megalandfill Bill presents intentional roadblocks to the revitalization of Fallon County's use of its natural resources. We can have an environmentally sound, state-of-the-art landfill. We in Baker and Fallon County won't settle for less. This bill doesn't even give us a chance," Almy said.

Charles Madler, Fallon County Planner, presented amendments to HB 377. (EXHIBIT #2 and 2a). Madler showed the committee photographs of a typical large landfill and provided samples of the pit-liners used in commercial landfills. Madler told the community that Baker has a unique geological structure that would be ideal for a landfill site: Cedar Creek Anti-Cline. (EXHIBIT #3). There are no groundwater or aquifers nearby, Madler stated. This site varies from 2 to 7 miles between aquifers and, Madler stated, "we

SENATE NATURAL RESOURCES COMMITTEE

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believe this would be environmentally safe. Water is the most important resource in southeastern Montana and must be protected at all costs," Madler said. The Megalandfill Bill will not allow industry to be developed in Baker," Madler concluded.

Rick Menger, Fallon County Sanitarian, testified in opposition to HB 377. Menger told the committee that, "without reservation", he could say that the megalandfill site being considered in Fallon County "will have no affect on air, soil, water or wildlife." (Menger presented a video showing a megalandfill site in Oregon). "Please let the young people in Baker, MT know that their lives are not being dictated by fanaticism, but by truth and a common sense approach to responsible legislation," Menger said.

Nancy Schoner, editor of Fallon County Times, told the committee she opposed HB 377. More than 80% of Fallon County residents recently stated they felt a megalandfill would be "good for the county," Schoner said. "HB 377 is a real good way to put a fence around Montana, which seems to be what Raney wants to do."

Marion Hanson, Baker, a life-long resident of Fallon County, testified in opposition to HB 377.

Michelle LaFurge, representing Fallon County, stated she was hoping to answer Senator Stimatz's question: "What is it that makes it prohibitive that a town like Baker could attract a large megalandfill to its community?" LaFurge asked the committee to consider the proposed amendments. "When you're talking about the interests of Montana, I urge you to consider that it is in the interests of Fallon County to have a real and legitimate and unduly burdensome plan for a landfill. Are the people of Montana adequately protected without being subject to punitive legislation? If you cannot amend away the prohibitions that exist in this bill, I urge you, then, to vote down HB 377."

Senator Tom Keating, District 44, read portions of a letter from the Assistant City Administrator in Billings, Bruce McCandless. In the letter, Keating noted, McCandless references HB's 377 and 891. "The purpose of this letter is to inform you about the city of Billings concerns regarding the House Bills referenced above. Our concern is based on the impact which this legislation would have on our operation of the existing Billings landfill. HB 377 would establish procedures for siting and licensing any new or existing solid waste facility. The bill, designed by the Environmental Quality Council is a means of discouraging and regulating the importation of solid waste. Yet, as you can see, we believe the bills would also apply to the Billings landfill despite our not allowing importation. Our recently completed landfill studies show that we presently dispose of 163,000 tons of solid waste per year. The 200,000 ton level will be reached early in the next century. When that occurs, HB 377 in its present form, would require new licensing, major cost increases, a local election, duplicative bonding, post closure procedures. To avoid this, the alternative would be to shed some of the waste

we presently accept from rural Yellowstone, Musselshell and Carbon Counties in order to stay below the 200,000 tons per year. This would be counter-productive to the state's goal of closing small facilities and encouraging regional disposal facilities. It would be extremely costly for these smaller entities to establish new disposal sites. We propose that HB 377 be amended. Our preference would be to strike "all existing solid waste facilities." If this is unacceptable, we suggest redefining megalandfill. These amendments would meet the goals of EQC," McCandless said.

Lynnette Hintze, Greater Richland County Economic Development Corporation, submitted testimony in opposition to HB 377. (EXHIBIT # 4).

Questions from the committee:

Senator Bengtson asked Tony Grover, DHES, if he considered the current landfill restrictions and requirements adequate?

Grover replied, "my best feeling is that we are operating in the dark." Grover said he didn't have a "good answer" and noted that landfills are an entirely new area to many.

Paul Sihler, Environmental Quality Council, explained to the committee that HB 160 and HB 377 were two entirely different bills. HB 160, Sihler said, deals with integrated waste management, composting, waste reduction and recycling, as well as procurement policies. HB 377 deals strictly with the regulations regarding siting of a megalandfill.

Senator Hockett asked Tony Grover if six months was an adequate length of time to begin working on the siting of a megalandfill.

Grover stated it is enough time currently for someone siting an ordinary landfill. It takes approximately one year to receive a license presently, Grover said.

Senator Bianchi asked Representative Raney if models from other states were used in drafting HB 377.

Representative Raney responded that only the Montana Major Facilities Siting Act was used as a model.

Senator Bianchi asked Madler if there was a company on line interested in establishing a megalandfill in Fallon County .

Madler told the committee that the interested company had looked at HB 377 and told Madler that if the bill passed, they would not be interested in Montana as a potential site for solid waste disposal.

Bianchi asked, "what specifically couldn't they live with?"

Madler said he was told by the interested company that HB 377 was intended to prevent building of large waste disposal sites and if it was passed, they would not be interested in solid waste disposal in Montana.

Senator Doherty asked why the interested company was not at the hearing?

Madler told the committee that these company's were concerned with their public image and "weren't standing at the door waiting to get in."

Senator Doherty asked Michelle Lafurge what the estimated cost of complying with HB 377 would be.

Lafurge said she did not have those figures and did not have an estimated cost.

Senator Doherty told Rick Menger that he appreciated the fact that Menger did not want our lives to be "dictated by fanaticism" and asked him if he considered the Montana Environmental Policy Act and the Montana Major Facility Siting Act to be fanatical acts?

Menger stated that he did not consider either act to be fanatical.

Senator Doherty asked Dennis Winters what environmental groups Montana had been targeted against, as he suggested earlier in his testimony.

Winters asked if answering that question was germane to HB 377.

Senator Doherty stated he felt that it was.

Winters told Senator Doherty that environmental groups are "taking away grazing, stopping people from logging and stopping people from getting oil wells dug."

Senator Doherty asked Winters to provide him with instances where Montana has been targeted. Winters stated that he would provide the requested information.

Senator Weeding asked Joyce Almy to define "intentional roadblocks."

Almy stated that she felt the proposed fees, the two year permitting limits, and the failure of the bill to extend nd to 500,000 tons.

Closing by Sponsor:

Representative Raney told the committee that HB 377 follows existing Montana law and "was not drafted on a whim."

The bill is a technical one, Raney said, and creates mechanisms for solving problems. The bill is not a Fallon County bill but rather, a bill for Montana, Raney added. "We have a responsibility to site in the right places," Raney told the committee.

HEARING ON HB 383

Presentation and Opening Statement by Sponsor:

Representative Bob Raney, District 82, told the committee that there were presently no rules in place for storing hazardous waste. HB 383 would set up rules for storage and the Department of Health and Environmental Sciences would provide rules for the regulation of this waste, Raney said.

Proponents' Testimony:

Jim Jensen, Director of the Montana Environmental Information Center, testified in support of HB 383. Cement kilns may be the best method of destruction of hazardous waste, Jensen said.

Opponents' Testimony:

There were no opponents' to HB 383.

Questions From Committee Members:

Senator Bianchi asked Don Vidrine, DHES, if solid waste could be burned and still meet Montana's air quality standards?

Vidrine explained that air quality standards would be more stringent regarding hazardous waste.

Charles Homer, Environmental Specialist, Air Quality Bureau, Montana Department of Health and Environmental Sciences, told the committee kiln at Trident was currently in compliance with air quality standards.

Closing by Sponsor:

Representative Raney offered no further comments on HB 383.

HEARING ON HB 607

Presentation and Opening Statement by Sponsor:

Representative Raney, District 22, stated that HB 607 was the next step following HB 383 and would address laws regarding the burning of hazardous waste. Raney noted that even the strictest of the burning laws still did not apply to hazardous waste. The bill was drafted at the request of DHES, Raney said.

Proponents' Testimony:

Brian McNitt, representing Montana Environmental Information Center, asked the committee if the 200 lb limit was acceptable or if it should it be lowered?

Charles Homer, Environmental Specialist, Air Quality Bureau, DHES, provided testimony to the committee in response to McNitt's question. (EXHIBIT #1).

Opponents' Testimony:

There were no opponents' to HB 607.

Questions From Committee Members:

Senator Tveit asked for a definition of "negligible risk," language found within the bill.

Representative Raney stated that the House wanted that language used in the bill and added that DHES has developed a risk basis standard that could be applied.

Senator Bianchi asked about the 200 lbs/hr figure and how big 200 lbs would be.

Homer stated that the 200lbs/hr figure came from DHES experience with the incinerators. 200 lbs/hr is an amount that will capture most large medical waste incinerators but would not cover the small incinerators, Homer said.

Closing by Sponsor:

Representative Raney told the committee that the purpose of HB 607 is to protect the public and their health. Senator Rea will carry both HB 383 and 607, he said.

HEARING ON HB 891

Presentation and Opening Statement by Sponsor:

Representative Stickney, District 26, presented HB 891 which would require anyone operating a megalandfill to put up a bond for financial assurance sufficient to ensure the replacement or restoration of any natural resource damage or impairment as a result of the megalandfill.

Proponents' Testimony:

Kate Blehm, Yellowstone Valley Citizen Council, told the committee that megalandfills pose serious threats to the state's groundwater. 86% of landfills studied had water supplies beyond

the boundaries of the landfills, Blehm said. HB 891 would provide protection for future generations of Montanans, Blehm said.

Tom Breitbach, Northern Plains Resource Council, testified in support of HB 891. (EXHIBIT #1 and EXHIBIT #1a).

Chris Kaufman, MEIC, testified that "Montana needs HB 891."

Linda Lee, Montana Audubon Legislative Fund, offered support for HB 891, noting that the proper handling of solid waste and landfills is one of the most controversial issues in Montana today.

Deborah Hanson, Custer Resource Alliance, submitted testimony in support of HB 891. (EXHIBIT 2).

Opponents' Testimony:

There were no opponents' to HB 891.

Questions From Committee Members:

Senator Grosfield stated that although he believes in research necessary to determine the proper handling of solid waste, he was concerned there wouldn't be enough money for reclamation or restoration because there were no guidelines within the bill to appropriate spending.

Tony Grover, DHES, stated that portion of the bill could be rewritten to establish spending guidelines.

Senator Keating noted that if the 200,000 ton mark was exceeded, how much would the bond be?

Grover stated that his "his best guess" would be that the bond would be tied to post-closure and corrective action costs.

Senator Keating stated that a bond obligation wouldn't be required for smaller towns because they were not within the 200,000 ton guideline "so Breitbach's county wouldn't be hurt because they'll never have that kind of a dump ground. But we do," Keating said. "Are you presupposing no growth, no economic or population growth?" Keating asked.

Grover stated that he was presupposing a 25% waste reduction as called for in HB 160.

Senator Tveit asked how this reduction might be achieved.

Grover told the committee that the best way would be to keep lawn clippings out of the landfills and also to recycle.

Senator Tveit suggested that if there were cases of improper dumping in landfills, perhaps the city council could implement a

fine.

Closing by Sponsor:

Stickney told the committee that HB 891 would be "good for us and best for our grandchildren."

EXECUTIVE ACTION ON HB 161

Motion:

Senator Grosfield moved his amendments to HB 161. (EXHIBIT #1).

Discussion:

Senator Grosfield stated that the amendments were in response to the Great Falls health officer who wanted mandatory laws regarding a sewer district. The amendment states that DHES will suggest to the county commission that a sewer district be created according to current law.

Amendments, Discussion, and Votes:

Grosfield's amendments to HB 161 were moved unanimously.

Senator Anderson stated that he was concerned about how expensive it would be to establish sewer districts in the Flathead Lake area.

Senator Grosfield replied that there would be an election process required to establish a sewer district.

Recommendation and Vote:

Senator Doherty moved that HB 161 BE CONCURRED IN as amended.

Motion HB 161 BE CONCURRED IN carried unanimously.

EXECUTIVE ACTION ON HB 918

Motion:

Senator Bianchi moved that HB 918 BE CONCURRED IN.

Discussion:

There was no discussion.

Recommendation and Vote:

Motion that HB 918 BE CONCURRED carried unanimously.

EXECUTIVE ACTION ON HB 237

Motion:

Motion by Senator Doherty that HB 237 BE CONCURRED IN.

Discussion:

None.

Amendments, Discussion, and Votes:

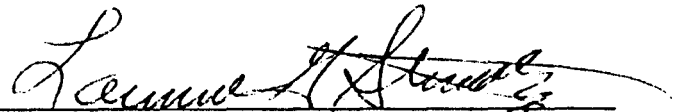
None.

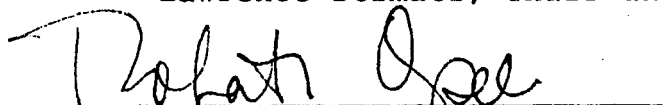
Recommendation and Vote:

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

ADJOURNMENT

Adjournment at: 8:30 pm


Lawrence Stimatz, Chairman


Roberta Opel, Secretary

ls/ro

DATE

3-13-91

COMMITTEE ON

Natural Resources

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Rich Menger	Fallon County	377		✓
Marion Hanson	Fallon Co. Development Co.	377		✓
Kristin Page	MontPIRG	377	✓	
"	MontPIRG	858	✓	
Jayneal Almy	Fallon Co. Dev. Corp	377		✓
Nichelle LeFevre	Fallon Co.	377		✓
Nancy Schillinger	Fallon Co. Dev. Corp	377		✓
Lynnette Hintze	Richland County	377		✓
Charles Homers	MT Dept of Health	607/383	✓	
Charles Madler	Fallon County	377		✓
Tom Breitbach	NPRC	891/377	✓	
Kay Biehn	YUCC	858/891/377	✓	
Ann Vickme	MDHES	383		
Linda Lee	Montana Audubon	891/377	✓	
Linda Lee	MAudubon	858	✓	
Christine Kaufman	MEIC	858 377 891 383	✓	
Ronnie J. Hansore	MSCA	443-5341	✓	
Nancy Matheson	AERO	46240	✓	
Brian McIntosh	MEIC	858 377 891 383		

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
HSE 10-10-10

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration House Bill No. 277, third reading copy, do hereby respectfully report that House Bill No. 277 be so amended as

REPORTED

Reported by the Committee on Natural Resources
COMMITTEE ON NATURAL RESOURCES

And, Coord.

14 11
Sec. of Senate

REPORTED

SENATE STANDING COMMITTEE REPORT

House of Representatives
March 21, 1994

HON. PRESIDENT:

We, your committee on Natural Resources, having had and given consideration House Bill No. 161 (third reading copy) do hereby respectfully report that House Bill No. 161 be amended and the amended be concurred in.

1. Title, line 2

Following: "OF"

Insert: "STATE OF"

2. Title, line 2

Following: "THE"

Insert: "STATE OF"

3. Page 1, line 27

Following: "of"

Insert: "state of"

4. Page 1, line 24

Following: "commission,"

Strike: "or"

5. Page 1, line 24

Following: "municipality,"

Insert: "or state agency,"

6. Page 2, line 5

Following: "of"

Insert: "state of"

7. Page 2,

Following: line 7

Insert: "(3) The department may include in an order issued to a county commission pursuant to subsection (1) a request that the commission create a sewer district in the applicable area affected by the order for the purpose of establishing a public sewer system in accordance with the petition and election procedures provided by 2-13-2294 and 2-13-2295, the state 2-13-2214."

Attest

Handwritten signature
Clerk of the Senate

Handwritten signature
And Concurred

Handwritten signature
Sec. of Senate

EXHIBIT NO.

DATE

3-13-91

BILL NO.

HB 377

WITNESS STATEMENT

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

Dated this 13 day of March, 1991.

Name: Lynnette Hintze

Address: 123 W. Main
Sidney, MT

Telephone Number: 482-4679

Representing whom?

Greater Richland County Econ. Dev. Corp.

Appearing on which proposal?

HB 377

Do you: Support? ☐ Amend? ☐ Oppose? ☒

Comments:

This bill will prohibit the development
of mega landfills, even though places like
Fallon County have ideal sites for imported
solid waste.

Please vote No on HB377 and give Eastern
MT a chance to develop what it can.

SENATE NATURAL RESOURCES

EXHIBIT NO. 3

DATE 3-13-91

BILL NO. HB 891

March 13, 1991

To: Members/Senate Natural Resources Committee

Re: 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

This bill is one that we have worked hard and long on so it is with regret that I am not before your committee in person.

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 35,000 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.

Amendments to House Bill No. 161
Third Reading CopyEXHIBIT NO. 1
DATE 3-13-91
HB 161Requested by Sen. Grosfield
For the Committee on Natural ResourcesPrepared by Gail Kuntz
March 9, 1991

1. Title, line 8.
Following: "OF"
Insert: "STATE OR"
2. Title, line 9.
Following: "THE"
Insert: "STATE OR"
3. Page 1, line 22.
Following: "of"
Insert: "state or"
4. Page 1, line 23.
Following: "commission,"
Strike: "or"
5. Page 1, line 24.
Following: "municipality,"
Insert: "or state agency,"
6. Page 2, line 5.
Following: "of"
Insert: "state or"
7. Page 2.
Following: line 7
Insert: "(3) The department may include in an order issued to a county commission pursuant to subsection (2) a request that the commission create a sewer district in the geographic area affected by the order for the purpose of establishing a public sewer system in accordance with the petition and election procedures provided by 7-13-2204 and 7-13-2208 through 7-13-2214."

Montana Audubon Legislative Fund

Testimony on HB 858
Senate Natural Resources Committee
March 15, 1991

SENATE NATURAL RESOURCES
EXHIBIT NO. 1
DATE 3-13-91
BILL NO. HB 858

Mr. Chairman and Members of the Committee,

My name is Linda Lee and I represent 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.

I would like to read you the first couple of paragraphs in this pamphlet put out by the Water Pollution Control Federation in Alexandria Virginia.

"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."

Please notice the common household products being indicated as a hazardous waste and consider what your family does with these products.

Audubon supports the education program suggested in HB 858. The average household stores from 3-10 gallons of material that is hazardous to human health and the environment. Household hazardous wastes include everything from paint thinner, car and disposable batteries, glues and oven cleaners to disinfectants, motor oil, and shoe polish.

The best way to deal with household hazardous waste is to focus on the purchasing habits of the general public. The education program that could come out of this bill must address the fact that the most effective way of dealing with hazardous wastes is to reduce the quantity used. The public must be educated about alternative less-toxic, less-hazardous products available.

(Notice the Household Hazardous Waste Wheel offers alternatives.)

Audubon urges you to vote a "do pass" on HB 858.

Northern Plains Resource Council

SENATE NATURAL RESOURCES

EXHIBIT NO. 1

DATE

3-13-91

FILE NO.

HB 891

March 13, 1991

Testimony before the Senate Natural Resources Committee
in support of HB 891, sponsored by Rep. Stickney.

Submitted by Tom Breilbach on behalf of the Northern
Plains Resource Council.

My name is Tom Breilbach. I live in McCone County where one of the megalandfills have been proposed. I am here today to urge your strong support for HB 891 and I applaud Representative Stickney for sponsoring it.

Unfortunately conditions of low agricultural prices and a depressed rural economy create a climate where every community is looking for any type of development and jobs. This places a great deal of pressure on trying to protect the environment and health. If financial assurance through bonding is not required of these operators of a megalandfill, we may have the additional tax burden of cleaning up, replacing or restoring a damaged natural resource and maintaining water supplies for any community. I am sure your desire to raise taxes is no greater than my reluctance to pay them.

The bonding requirements of this bill are similar to the bonding requirements of other major facilities, such as hazardous waste. Therefore, the Department already has experience in how to implement similar legislation. This bill provides an incentive for the operator to do the job right in the first place.

Northern Plains Resource Council

SENATE NATURAL RESOURCES

EXHIBIT NO. 19

DATE 3-13-91

BILL NO. HB 891

HOUSE BILL 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



TESTIMONY ON
H.B. 607

SENATE NATURAL RESOURCES
EXHIBIT NO. 1
DATE 3-13-91
BILL NO. HB 607

BEFORE THE NATURAL RESOURCES
COMMITTEE OF THE MONTANA
SENATE

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:

BY CHARLES HOMER,
ENVIRONMENTAL SPECIALIST
AIR QUALITY BUREAU
MONTANA DEPARTMENT OF HEALTH
AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE LAWS RELATING TO PERMIT REQUIREMENTS FOR SOLID WASTE INCINERATORS; EXTENDING THE PERMIT REQUIREMENTS TO HAZARDOUS WASTE INCINERATORS, AMENDING SECTION 75-2-215, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

The Department of Health and Environmental Sciences has requested the submittal of this bill to respond to a growing trend of incineration of solid and hazardous waste.

The main purpose of this bill is to clarify the implementation of Section 75-2-215, MCA, the section that details the permitting requirements for solid waste incinerators.

In addition, this bill extends the additional permitting requirements currently applicable to solid waste incinerators to hazardous waste incinerators. Since solid and hazardous wastes are defined separately, the stricter permitting requirements are not currently required for hazardous waste incinerators. Due to the increased interest in hazardous waste incineration in Montana, and to the potential for toxic air emissions from hazardous waste incinerators, the department believes that stricter permitting requirements should also be applicable to hazardous waste incinerators.

The bill also makes several small changes to the existing law to bring it in line with air quality permitting authority found in the Montana Clean Air Act and to clearly define the intent of the legislature.

The first change clarifies that construction or modification of an incinerator cannot occur until an air quality permit has been obtained. The current law requires a permit for an incinerator be obtained prior to operation. All other state and federal air quality permitting rules require a permit prior to construction or modification of a source.

The term "commercial" is removed from the incinerator definition since it was undefined and therefore very difficult to implement. This requirement was replaced by a size cutoff of 200 pounds per hour of incineration capacity for new incinerators required to obtain a permit. This would still require an air quality permit for virtually all municipal waste incinerators, hazardous waste incinerators, and large medical waste incinerators while exempting most small grocery store incinerators and some small quantity medical waste incinerators. The department believes that these small incinerators have a minimal impact on air quality and should not be pulled into permitting requirements.

This bill also clarifies that additional permitting requirements apply to existing non-permitted (i.e., grandfathered) incinerators that change the type or amount of waste they currently incinerate. The current law applies only to existing permitted incinerators. This change would make incinerator permitting consistent with other state and federal permitting rules that apply to sources which change the type or amount of their emissions.

The bill would also add a section to the statement of intent requiring that the Board of Health and Environmental Sciences define "negligible risk" to public health, safety, welfare, and the environment be demonstrated. Since "negligible risk" was not previously defined, it was virtually impossible for the department to complete the demonstration. This left the department open to challenge or potential litigation if any permit was issued, regardless of the potential health impact. We are also proposing to apply the Best Available Control Technology (BACT) standard to all pollutants to ensure that the proper level of emission controls is installed on an incinerator.

In conclusion, the department believes that these changes to the current law will clarify legislative direction regarding the permitting of solid and hazardous waste incinerators by the department.

The Department of Health and Environmental Sciences urges passage of this bill.

ROLL CALL
Natural Resources
COMMITTEE

DATE 3-13-91

52

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.

Northern Plains Resource Council

March 13, 1990

SENATE NATURAL RESOURCES
EXHIBIT NO. 1
DATE 4-11-91
BILL NO. HB 377

**Testimony in support of HB 377, sponsored by Rep. Raney,
"Montana Megalandfill Siting Act"**

**Submitted by Tom Breitbach on behalf of Northern Plains
Resource Council to the Senate Natural Resources
Committee**

My name is Tom Breitbach and I am here to testify in support of HB 377 on behalf of the Northern Plains Resource Council. This bill is one of the most important pieces of legislation before this legislature regarding solid waste issues in Montana. NPRC strongly supports this bill which establishes a certification and licensing process for megalandfills.

A "megalandfill" is defined as one which takes at least 200,000 tons of waste per year or 35,000 tons of incinerator ash. I might note that it is not inconceivable that a landfill in Montana will someday be that large, with the trend toward the consolidation of solid waste management throughout the state. Therefore this bill is not specifically targetted at imported waste, because Montana's landfills must also meet these requirements. The bill also, however, addresses some of the proposals for importation of waste. In my county, for example, there is talk of a huge landfill for a million tons per year of incinerator ash from Minnesota. Those types of proposals are certainly much too large to merely meet the normal permitting requirements.

A few of the important provisions of the bill include the following:

- * Applicants must identify the proposal in a long-range plan submitted to the Board of Health and Environmental Sciences (BHES) and the Dept. of Health and Environmental Sciences (DHES) at least 2 years prior to acceptance of an application by the Department. Public notice of that proposal must be given. This provision ensures that an applicant has a bona fide and well thought-out proposal.

- * In order to apply for a "certificate of site acceptability," an applicant must provide the following: summaries of studies made on the economic, social, environmental impact of the facility; a description of at least 3 alternate sites; the pros and cons of those

Miles City, Mt.
March 13, 1991

NATURAL RESOURCES COMMITTEE

SENATE NATURAL RESOURCES

EXHIBIT NO. 19

DATE 3-13-91

BILL NO. 377

Dear

We of the Custer Resource Alliance sincerely hope you can support House Bills, 377 and 391, pertaining to the importation o out of state garbage. We have a clean state and would like to see it stay that way.

I have been drilling water wells and test holes in South-eastern Montana for almost fifty years. The area where they are prposing to dispose of their garbage is the most fragile in the state. It is made up of variated shales and is very unconsolidated. It is not uncommon for a 200' hole to take 2000 gallons of water to drill unless you use mud. That water will wind up in the Yellowstone River. There is no other pleace for it to go.

That is what will happen to anything that leaks out of a landfill, and is has been proven they all leak.

There wouldn't be enough bond money to cover a contaminated river from which so many towns get their water.

I hope Mr. Richardson isn't claiming to represent all the people from Miles City, he does not. He is a part of the Plains and Prairie Developement Corp.

If they dump those millions of tons of garbage on Montana our kids and grandkids won't have a helluva lot to work with, will they?

Sincerely,

CUSTER RESOURCE ALLIANCE

Floyd Higgins
Miles City, Montana