

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN DICK KNOX**, on January 27, 1993, at 3:00 p.m.

ROLL CALL

Members Present:

Rep. Dick Knox, Chairman (R)
Rep. Rolph Tunby, Vice Chairman (R)
Rep. Jody Bird (D)
Rep. Vivian Brooke (D)
Rep. Gary Feland (R)
Rep. Mike Foster (R)
Rep. Bob Gilbert (R)
Rep. Hal Harper (D)
Rep. Scott Orr (R)
Rep. Bob Raney (D)
Rep. Dore Schwinden (D)
Rep. Jay Stovall (R)
Rep. Emily Swanson (D)
Rep. Howard Toole (D)
Rep. Doug Wagner (R)

Members Excused: Rep. Russ Fagg (R)

Members Absent: None

Staff Present: Todd Everts, Environmental Quality Council
Michael Kakuk, Environmental Quality Council
Roberta Opel, Committee Secretary

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

Committee Business Summary:

Hearing: HB 205 and HB 192
Executive Action: HB 64 and HB 171

HEARING ON HB 205

Opening Statement by Sponsor:

REP. ED DOLEZAL, HD 34, Great Falls, said HB 205 would eliminate the recreational use license currently required for use of state lands. He noted the \$5 recreational use license had been adopted by the 52nd Legislature.

Proponents' Testimony:

REP. BOB RANEY, HD 82, Livingston, testified he did not believe the recreational use license was created on behalf of Montana citizens as was stated by proponents to the recreational use license.

REP. DOUG WAGNER, HD 8, Hungry Horse, was urged by constituents to vote to remove the \$5 recreational use license.

Ken Hoovestall, Montana Snowmobile Association, said the \$5 recreational license fee was designed to benefit hunters and fishermen.

Opponents' Testimony:

John Bloomquist, on behalf of the Montana Stockgrowers Association, submitted testimony opposing the bill. EXHIBIT 1

Bud Clinch, Commissioner, Department of State Lands, opposed HB 205. EXHIBIT 2

Jim Goetz, Bozeman, stated that during the last school budgeting cycle, the state school trust lands ordinance demanded a return for land use. Grazing fees were considered a means to meet this return but thus far, have not been initiated. Mr. Goetz said there was concern about unleased state forest land in north-western Montana. He said HB 205 is best summed up in the fiscal note which depicts revenue received from the sale of 30,000 licenses at \$5 each.

REP. DAVE BROWN, HD 72, Butte, opposed HB 205.

Questions From Committee Members and Responses:

REP. HARPER asked REP. BROWN if he thought grazing and leasing fees should be increased even if HB 205 is not passed? REP. BROWN said grazing fees are presently inadequate so there would be no merit in raising them if HB 205 did not pass.

REP. RANEY asked if the \$5 recreational use license applied to hunting lands? REP. FOSTER replied yes.

REP. FOSTER asked if by eliminating the \$5 fee, the noxious weed problems in the state could still be addressed? REP. DOLEZAL replied there was nothing to substantiate a need for the weed control program to collect revenue from the recreational use license. REP. DOLEZAL noted that noxious weeds aren't spread driving down the road.

REP. FOSTER asked REP. DOLEZAL if fences were damaged during state land access, does the responsibility for fence repair lie with the lease holder? REP. DOLEZAL replied yes, the lease holder would be responsible.

REP. GILBERT said it was significant that there were no sportsmen from eastern Montana to testify regarding HB 205 and noted that state lands in northern Montana were not leased.

REP. GILBERT asked Mr. Clinch what would be done with the noxious weed account. Jeff Hagener, Lands Administration Division, Department of State Lands, reported there was \$48 in the noxious weed account. Mr. Hagener stated he was unable to report, at this time, what would be done about the account.

REP. GILBERT said he felt there was an obvious introduction of weeds transported through recreational use.

REP. GILBERT asked if the county would make periodic checks to determine if the weed control problem in the state was being addressed. Mr. Hagener said the county was required to access state lands once during each weed term.

REP. GILBERT asked Mr. Bloomquist if weed assessment during the weed term would change as a result of HB 205. Mr. Bloomquist said a study currently being conducted would shed light on weed assessment.

REP. GILBERT asked if the current study indicated a need to increase the recreational license fee, would a fee increase to \$12 be appropriate? Mr. Bloomquist stated there was a need to look at present grazing conditions and then make determinations regarding possible fee increases.

Mr. Bloomquist said the Stockgrowers Association had met with approximately eight to eleven members of agricultural groups, including farmers, to discuss the recreational use license.

REP. GILBERT noted there were about 60,000 sportsmen in Montana. He added negotiations seemed to have been conducted with groups rather than with the individuals actually paying the fee. Mr. Bloomquist said under most leases, the lessee is in charge of controlling noxious weeds.

Closing by Sponsor:

REP. DOLEZAL told the committee there would be additional bills this legislative session regarding the recreational use license. He also said the implication that most states impose this type of fee is untrue.

HEARING ON HB 192

Opening Statement by Sponsor:

REP. MIKE FOSTER, HD 32, Townsend, said HB 192 would allow high hazard dam inspections to be done by DNRC engineers. REP. FOSTER proposed an amendment to the bill. EXHIBIT 3 Water quality

people have opposed the idea of designating dams high hazard. REP. FOSTER said DNRC engineers would provide fair and complete inspections. He noted there was no fiscal note on the bill.

Proponents' Testimony:

Jo Brunner, Montana Water Resources Association (MWRA), stated that some MWRA members were owners of structurally sound dams. She said the cost of inspection should not be incurred by these dam owners. At the very least, Ms. Brunner estimated the cost of a single dam inspection to be approximately \$2,000.

Norman Voldseth, Martinsdale, testified in support of HB 192.
EXHIBIT 4

Jeff Doggett, White Sulphur Springs, said he resides near a high hazard dam on Canvas Creek, a tributary of the Smith River. He said he has spent more than \$30,000 repairing this dam which continues to seep. Mr. Doggett said passing HB 192 would make the cost of dam inspection more affordable.

Opponents' Testimony:

Gary Fritz, Manager, Water Resources Division, DNRC, said the department should not be conducting dam inspections. EXHIBIT 5

Questions From Committee Members and Responses:

REP. FAGG said he was opposed to the bill because of the possibility of a huge lawsuit.

Mr. Doggett said dam inspection costs were not affordable to farmers. He wondered what the outcome would be if his experience with a high hazard dam was compounded by farmers across the state.

REP. FAGG noted he was trying to keep Montana out of lawsuits.

REP. HARPER stated the idea of the DNRC doing dam inspections was never addressed by the water policy committee.

Michael Kakuk, EQC attorney, noted the issue was addressed by the subcommittee.

REP. FOSTER said he believed that the state should be directly involved in dam inspection.

Mr. Fritz noted DNRC is not naturally meant to perform dam inspections, according to the DNRC engineer's report.

Mr. Voldseth noted there are problems with dam inspections that are not covered by HB 192.

Closing by Sponsor:

REP. FOSTER told the committee that DNRC had decided to walk away from inspections, unlike other agencies willing to take on similar issues. He said the DNRC's position on HB 192 was illogical and irresponsible. He asked how important water storage is to the state? REP. FOSTER explained that the citizens of Montana are saying if they are required to pay for inspection of high hazard dams on their property, they will be unwilling to store water. REP. FOSTER referred to this as bogeyman liability.

EXECUTIVE ACTION ON HB 171

Motion: REP. FAGG MOVED HB 171 DO PASS AS AMENDED. REP. FELAND called for the question.

Discussion: REP. HARPER said he opposed the amendment.

Vote: HB 171 DO PASS AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 64

NOTE: Executive action on HB 64 started on January 20 and was delayed twice, once on January 20 and once on January 22.

Motion/Vote: REP. TUNBY moved to adopt his amendments to HB 64. EXHIBIT 6 Motion carried with REP. RANEY opposed.


Discussion: Michael Kakuk, EQC staff attorney, noted the amendments were committee amendments not EQC staff amendments. EXHIBIT 7 Mr. Kakuk distributed a HB 64 Bill Summary to the committee. EXHIBIT 8

REP. TUNBY stated that fees for solid waste disposal would be established by the Department of Health and Environmental Sciences (DHES).

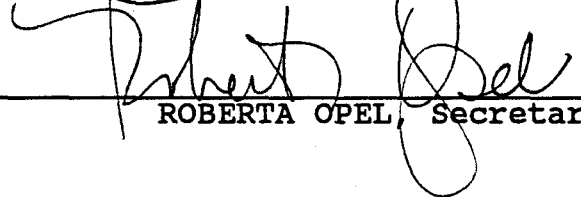
Motion/Vote: REP. TUNBY MOVED HB 64 DO PASS AS AMENDED. Motion carried 15 to 1 with REP. RANEY opposed.

ADJOURNMENT

Adjournment: 6:05 p.m.



DICK KNOX, Chairman



ROBERTA OPEL, Secretary

DK/ro

HOUSE OF REPRESENTATIVES

Natural Resources

COMMITTEE

ROLL CALL

DATE 11/27/93 BILL NO. HB 205 NUMBER _____

MOTION: _____

ROLL CALL

NAME	AYE	NO
Jody Bird	✓	
Vivian Brooke	✓	
Russ Fagg		✓
Gary Feland	✓	
Mike Foster	✓	
Bob Gilbert	✓	
Hal Harper	✓	
Scott Orr	✓	
Bob Raney	✓	
Dore Schwinden	✓	
Jay Stovall	✓	
Emily Swanson	✓	
Howard Toole	✓	
Doug Wagner	✓	
Rolph Tunby, Vice Chairman	✓	
Dick Knox, Chairman	✓	

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HOUSE STANDING COMMITTEE REPORT

January 28, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that House Bill 171 (first reading copy -- white) do pass as amended .

Signed: _____
Dick Knox, Chair

And, that such amendments read:

1. Page 19, line 23.

Following: "or"

Strike: "major revision"

Insert: "amendment, other than an incidental boundary revision,"

2. Page 20, line 3.

Following: "or"

Strike: "major revision"

Insert: "amendment, other than an incidental boundary revision,"

6. Page 2, lines 1 through 4.

Following: "1 and 2." on line 1

Strike: "This bill" on line 1 through "1995." on line 4.

Insert: "It is the intent of the legislature that, until July 1, 1995, the fee established by the department under 75-10-204(8) apply to all solid waste imported from out of state to solid waste incinerators and solid waste disposal facilities in this state. Effective July 1, 1995, the fee established by the department under 75-10-204(8) applies only to solid waste imported from out of state to solid waste disposal facilities that receive less than 25,000 tons of solid waste annually. Also effective July 1, 1995, solid waste disposal facilities receiving 25,000 tons or more of solid waste annually and all solid waste incinerators, regardless of tonnage amounts, must be charged a fee of \$5 per ton, pursuant to 75-10-118, on each ton of solid waste imported from out of state."

7. Page 2.

Following: line 14

Insert:

"Section 2. Section 75-10-118, MCA, is amended to read:

"75-10-118. (Effective July 1, 1993) Solid waste management fee -- out-of-state waste. (1) A Notwithstanding the fee established pursuant to 75-10-204(8) and except as provided in subsection (2) of this section, a person who owns an incinerator that burns solid waste or a solid waste disposal facility that is licensed pursuant to 75-10-221 and to rules adopted under 75-10-221 shall pay to the department a quarterly fee of \$5 for each ton of solid waste generated outside Montana and incinerated or disposed of at the facility.

(2) A person who owns a solid waste disposal facility that is licensed pursuant to 75-10-221 and to rules adopted under 75-10-221 that receives less than 25,000 tons of solid waste annually shall pay the department a quarterly fee, determined by the department pursuant to 75-10-204(8), for each ton of solid waste generated outside Montana.

~~(2)~~ (3) All fees must be deposited in the solid waste management account provided for in 75-10-117."

Renumber: subsequent sections

8. Page 3, line 21.

Following: "a"

Insert: "quarterly"

Following: "on the"

Insert: "justifiable"

9. Page 3, line 24 through page 4, line 1.

Following: "rules" on line 24
Strike: ":" through "(a)" on line 25.
Following: "by" on line 25
Strike: "October"
Insert: "August"
Following: "1993"
Strike: ";" on line 25 through "1995" on page 4, line 1.

10. Page 5.
Following: line 1
Insert:

"NEW SECTION. Section 5. Effective date. [Section 3 and this section] are effective on passage and approval."

EXHIBIT 1
DATE 1-27-93
HB 205

TESTIMONY ON HOUSE BILL 205

by: John Bloomquist, Montana Stockgrowers Association

Good afternoon members of the committee. Thank you for the opportunity to testify on H.B. 205. My name is John Bloomquist and I represent the Montana Stockgrowers Association and the Montana Wool Growers Association. Today I rise in strong opposition to this bill which will eliminate the recreational use license.

It was only last session--with a lawsuit pending--that we sat down at the negotiating table with sportsmen and negotiated a compromise on recreational access that was difficult for both sides. There was give and take on nearly every issue--including the fee. Initially, we supported full market value of recreational use which had recently been assessed at \$85 per hunter day. (Appendix D page 19 of Ruby EIS.) The \$5 fee was eventually agreed upon and that was overwhelmingly supported by the committee, the legislature, the Governor and the Land Board.

The reason? For starters, these 5.2 million acres of land are not "Public" land. State lands were designated for a special purpose which sets them apart from other types of public lands. When the federal government established the state of Montana, it anticipated a need for services, such as schools, which would be necessary for the growth and development of our state. Instead of directly funding needed services, the U.S. Government gave up certain lands that would generate income for the new state. The federal government granted land to be held in trust, primarily for public education, and Article 10, Section 11, of our 1972 Montana Constitution reflects this trust concept. While there is wide

latitude in how state lands are managed and used, it is clear that the state public lands differ from federal public lands in that state lands must generate income for public schools while federal lands may be used to benefit the public generally. To the extent that state lands are capable of making money to support the schools, it is incumbent upon the State Land Board to see that the income earned is channeled to the proper trusts.

When the \$5 fee is collected for the licenses, \$3 is appropriated to the various school trusts and the remaining \$2 is divided between various administrative costs of the program, a damage compensation account and a noxious weed account. The two damage accounts cover actual damage to lessee improvements which may be caused by recreational users and controls noxious weeds spread by recreation use.

Another essential component to this delicate compromise was an economic analysis of the market value of a variety of the uses conducted on school lands. This analysis was funded despite the state's budget crunch because of the constitutional responsibility of the Land Board to determine the value of this new use. The study has been completed, however it has not yet been made public. It is our belief that this study will show that the value of this recreational access license is 4 to 5 times greater than \$5.

Finally, to put a little perspective on this premature effort to amend the compromise Recreational Access Program--last fall was the first season the license has been offered. There were approximately 25,000 licenses sold and approximately 19 objections registered. Of those, not a single one mentioned the high cost of

the permit. For an entire season of access to school lands for hunting and fishing, it seems only fair that the school trust be compensated for activities that have already been proven to have significant value. In fact, earlier this session the President of Flathead Wildlife, Warren Illi, testified before the Senate Fish and Game Committee that an elk hunting day in the Flathead was valued at \$60 to \$80 per day. The \$5 recreational access license is the best bargain out there.

The Montana Stockgrowers Association and the Montana Wool Growers Association strongly urges this committee to reject House Bill 205.

Again, thank you for the opportunity to voice our objection to this Bill.

EXHIBIT 1
DATE 1-27-93
HB 205

EXHIBIT 2
DATE 1-27-93
HB 205

TESTIMONY OF BUD CLINCH
COMMISSIONER OF STATE LANDS

On

House Bill 205

House Natural Resources Committee

Wednesday, January 27, 1993

As you've heard, House Bill 205 would eliminate the recreational use license and the \$5.00 license fee for the general recreational use of state lands. It would allow general recreational use of state lands without compensation. In my estimation, passage of this bill would have adverse economic and legal consequences for the state and violates federal law and the Montana Constitution.

First, the economic consequences. Last year the Department received \$160,000 in license revenues. This figure would probably increase in future years as the availability of the license becomes better known. Of this \$160,000, \$96,000 goes to the school equalization account and \$48,000 goes to reimburse lessees for damages caused by recreationists, to control weed infestation, and to pay for administration of the recreational use program.

Although the bill eliminates the income from general recreational use of state lands, it retains the Department's duty to administer a recreational use program. These administrative

duties include processing of closure and restrictions, petitions, processing open road designation requests, investigating and prosecuting violations of the recreational use restrictions, paying damage compensation to state lessees suffering damages to improvements, and paying for control of noxious weeds caused by recreational use. In other words, most of DSL's costs will continue.

Thus, the fiscal impact of this bill has a direct \$144,000 impact on the general fund, because the \$96,000 loss in income to the school equalization account and the \$48,000 in expenses would have to be offset with general fund appropriations.

Second, this bill has a serious legal defect. The lands administered by the Department of State Lands were granted to the state of Montana in 1889 under the Montana Enabling Act, which is the federal law under which Montana became a state. The federal courts and the Montana Supreme Court have held that the Enabling Act and the state's acceptance of these lands creates a trust in favor of the trust beneficiaries, which are the state public schools and other state institutions.

With respect to these trusts, the United States Supreme Court and the Montana Supreme Court have held:

- (1) That the state is held to the same standards as the trustee of a private trust.

- (2) That the land must be administered solely for the benefit of the trust beneficiaries.
- (3) That the trust land must be administered so as to achieve the largest legitimate monetary return for the trust beneficiaries.
- (4) That the state cannot adopt a law in violation of the trust responsibilities.
- (5) That any time an interest in the land is given up, the state must receive full market value for that interest.

Thus it follows that in this day and age when private landowners charge for the right to hunt on their land and hunters and sportsmen pay for that use, the granting of the comparable right to recreate on state lands requires compensation. Therefore, by allowing a valuable use of these lands without requiring compensation, this bill violates the trust responsibility and full market value requirements of the Montana Enabling Act and the Montana Constitution.

Another potential fiscal consequence stems from this legal analysis. Should this bill pass, it is entirely possible that the department could find itself in an lawsuit alleging violation of the duties I have just described. Defense of this lawsuit could be costly and would in all likelihood be unsuccessful.

As you all well know, the recreational use access license has only been instituted for one season. While proponents may contend massive problems with the system -- I think it is important to keep in perspective that the actual reported complaints were quite minimal in relation to the leased acreage and the number of sportsmen who utilized these lands.

In respect to the recreational fee of \$5.00, I think it quite pertinent that the committee be informed that the results of an economic study of surface uses of state lands will be presented at a Special Land board meeting on Wednesday, February 3rd. Specifically the study will address the economic values of recreation on state lands.

In conclusion, I think it is most important to remember that HB-778, which established this fee, was an artfully negotiated bill in which neither proponents or opponents were granted all their requests. But rather a delicate compromise that brought both parties closer and provided an implementable process to move forward on this issue. I feel a single season is hardly ample time to fully evaluate the success or ramifications of HB-778.

For all of these reasons the Department of State Lands respectfully requests a DO NOT PASS on HB-205.

Amendments to House Bill No. 192
First Reading Copy

Requested by Rep. Foster
For the Committee on Natural Resources

Prepared by Michael S. Kakuk
January 25, 1993

1. Page 2, line 3.

Following: "the"

Strike: "full"

Insert: "justifiable direct and indirect"

2. Page 2, line 7.

Following: "section."

Insert: "The department may decline to conduct an inspection required under this chapter based on available department resources or other reasonable considerations. A department decision not to conduct an inspection does not relieve a dam owner from the responsibility to complete the periodic dam inspections required under this chapter."

EXHIBIT 4
DATE 1-27-93
HB 192

I am Norman Voldseth of Martinsdale MT. and I am here to support HB 192.

I own and live on a ranch near the almost extinct town of Lenep, near Martinsdale in Meagher County.

I remember well the drought years of the "dirty thirties" when streams and springs dried up and providing feed and water for livestock and ranch owners reached crisis proportions. Many operators simply had to walk away from their ranches and their land was sold at delinquent tax sales.

It was the beginning of government programs encouraging soil and water conservation. Larger projects received government assistance toward engineering and financing their dams, but most of the smaller dams were built without governmental help. About the only help my family received toward dam building was the suggestion to build the water side of the dam at a two and a half to one slope and the downstream side at one and a half to one slope. Very little attention was given to the geology of the dam site except that storage should be cost effective.

Construction on my dam was commenced in 1937 and the fact that it is still serviceable after 55 years would indicate that it is a safe structure.

With the failure of the Teton Dam there was a sudden impulse to check on the safety of all dams -- and rightly so. Montana's Dam Safety Act requires high hazard dams be inspected at least once every five years by a professional engineer, - with the dam owner responsible for inspection costs.

The cost of services of a professional engineer in areas such as mine can exceed what the dam owner can afford to pay. Because of the fear of a malpractice judgment, he may specify changes which may not add to the safety of the structure but might add to the costs.

House Bill 192 would allow dam owners to select either professional engineers or DNRC engineers to make said inspections.

Full cost of DNRC inspections to be paid by the dam owner. As a dam owner I favor inspection by the DNRC engineers because I feel that they will only specify corrective measures that are essential to the safety of the dam. It will ensure that all dams are judged by the same criteria.

There is general agreement as to the value of these head-water reservoirs in flood control, delayed spring runoff, irrigation and stock water, recharge of the late season stream-flow, and boating and fishing opportunities. There remain many feasible small dam sites in Montana but they may not be developed if inspection costs are not kept under control.

In closing I urge your support of HB 192.

EXHIBIT 7
DATE 1-27-93
HB 192

TESTIMONY OF THE
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
ON HOUSE BILL 192, FIRST READING

BEFORE THE HOUSE NATURAL RESOURCES COMMITTEE

JANUARY 27, 1992

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING PRIVATE ENGINEERS OR ENGINEERS EMPLOYED BY THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO INSPECT HIGH-HAZARD DAMS; REQUIRING THE DEPARTMENT TO RECOVER THE FULL COSTS OF INSPECTIONS CONDUCTED BY DEPARTMENT ENGINEERS; AND AMENDING SECTION 85-15-213, MCA."

The Department of Natural Resources and Conservation (DNRC) supports the position adopted by the Legislative Water Policy Committee regarding DNRC inspections of high-hazard dams. That is, in view of state liability and expense implications as well as concern over competition with private sector interests, they should not be conducted by DNRC engineers.

State Liability

If damage results from a dam that has been previously inspected by a DNRC employee it is highly likely that the damaged party would pursue a claim against the state simply on the premise that the state has "deep pockets". While the state may successfully refute such an allegation, significant legal costs would result. It is also possible that the state could be found partially or completely liable for damages. As you know, the state is self-insured and faces the potential for a \$3.7 million unfunded liability [see page A-186 of the LFA report]. Failure of a high-hazard dam will, by definition, cause significant damages and possibly loss of life. Being found partially or fully liable for such damages would be expensive for Montana.

The statute provides some liability protection to the dam owner. However, this relief may not apply to the state if a dam inspection proves to have misled a dam owner into believing the dam structure was safer than it actually was.

State Expense

If DNRC performs these inspections, the expense to the state would include the cost of not doing work that would otherwise be done by these employees. Another cost consideration is that the inspection duties may eventually lead to upgrades for the engineers. A typical justification for an upgrade is additional duties that have been added over a period of time.

The cost to the state would not only include the cost of the engineer's time but also secretarial costs to type, copy, and mail inspection reports, supervisory time if decisions on conflicting work priorities arise, and overhead costs. In addition, it is very likely that the dam owner would have continuing questions of the department inspector and some expectation that the inspector would continue to be available for consultation and assistance. This would particularly be the case if remedial work is involved.

Governmental programs often grow through a process of evolution and accretion. That is, over a period of time, a small, seemingly cost-free task slowly grows into other related activities. If the state begins to inspect high-hazard dams we can expect that the dam owners will find additional ways to use our service, and eventually we may conclude that additional employees are needed to handle the additional work.

Private Sector Competition

The DNRC should not be in direct competition with professional engineers in the private sector. As mentioned at the hearing, the charges assessed by the Department would be significantly less than that charged by private engineers because items such as profit, overhead, and liability insurance are not included in the estimate of Department charges. Unless the DNRC increased its fee to a level commensurate with the private sector, we can expect that most, if not all, inspections would be done by DNRC staff. While the inspections themselves do not generate large amounts of business (perhaps 1,400 hours), the inspections may lead to remedial work which would require additional engineering expertise that would be provided by private engineers.

In conclusion, the DNRC believes that the Legislative Water Policy Committee has adopted a wise position in requiring dam owners to hire private engineers to inspect their dams. The Department concerns with House Bill 192 would be greatly alleviated if the amendments by Representative Foster would allow the department discretion in determining whether to conduct dam inspections as well as whether to charge both direct and indirect costs are reasonable.

Amendments to House Bill No. 0064
First Reading Copy

Requested by Rep. Tunby
For the Committee on Natural Resources

Prepared by Todd Everts
January 11, 1993

1. Title, line 5 through 7.

Following: "ACT"

Strike: "DELAYING THE EFFECTIVE DATE OF THE LAW ESTABLISHING A
SOLID WASTE MANAGEMENT FEE ON WASTE GENERATED OUT OF STATE;"

2. Title, line 10.

Following: "SECTIONS"

Insert: "75-10-118,"

3. Title, lines 11 and 12.

Following: "MCA"

Strike: ",AND SECTION 8, CHAPTER 398, LAWS OF 1991"

4. Page 1, lines 23 and 24.

Following: "on the"

Insert: "identifiable"

Following: "direct"

Strike: "and indirect"

5. Page 2,, line 11 through 14.

Strike: section 1 in its entirety.

Insert: " Section 1. Section 75-10-118, MCA, is amended to read:

"75-10-118. (Effective July 1, 1993) **Solid waste management fee -- out-of-state waste.** (1) A person who owns an incinerator that burns solid waste or a solid waste disposal facility that is licensed pursuant to 75-10-221 and to rules adopted under 75-10-221 shall pay to the department a quarterly fee of ~~\$5 for each ton of solid waste generated outside Montana and incinerated or disposed of at the facility as determined by the department in accordance with 75-10-204(8).~~

(2) All fees must be deposited in the solid waste management account provided for in 75-10-117."

{Internal References to 75-10-118:

75-10-104 (2) 75-10-105 75-10-116 75-10-117}"

6. Page 3, line 21.

Following: "on the"

Insert: "identifiable"

Following: "direct"

Strike: "and indirect"

7. Page 3, line 24.

Following: "rules"

Strike: ":"

Insert: "must be adopted by July 1, 1993."

8. Page 3, line 25 and Page 4 line 1.

Strike: subsections (a) and (b) in their entirety.

Amendments to House Bill No. 64
First Reading Copy

For the Committee on Natural Resources

Prepared by EQC Staff
January 22, 1993

1. Title, line 10.

Following: "MONTANA;"

Strike: "AND"

Insert: "LIMITING THE LENGTH OF TIME THE FEE IS APPLICABLE TO
SOLID WASTE INCINERATORS AND CERTAIN SOLID WASTE DISPOSAL
FACILITIES;"

Following: "SECTIONS"

Insert: "75-10-118,"

2. Title, line 11.

Following: "75-10-204"

Insert: ", "

3. Title, line 12.

Following: "1991"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

4. Page 1, line 17.

Following: "[section"

Strike: "2"

Insert: "3"

5. Page 1, line 23.

Following: "on the"

Insert: "justifiable"

6. Page 2, lines 1 through 4.

Following: "1 and 2." on line 1

Strike: "This bill" on line 1 through "1995." on line 4.

Insert: "It is the intent of the legislature that, until July 1, 1995, the fee established by the department under 75-10-204(8) apply to all solid waste imported from out of state to solid waste incinerators and solid waste disposal facilities in this state. Effective July 1, 1995, the fee established by the department under 75-10-204(8) applies only to solid waste imported from out of state to solid waste disposal facilities that receive less than 25,000 tons of solid waste annually. Also effective July 1, 1995, solid waste disposal facilities receiving 25,000 tons or more of solid waste annually and all solid waste incinerators, regardless of tonnage amounts, must be charged a fee of \$5 per ton, pursuant to 75-10-118, on each ton of solid waste imported from out of state."

7. Page 2.

Following: line 14

EXHIBIT 1
DATE 1-27-93
HB 64

Insert:

"Section 2. Section 75-10-118, MCA, is amended to read:

"75-10-118. (Effective July 1, 1993) Solid waste management fee -- out-of-state waste. (1) A Notwithstanding the fee established pursuant to 75-10-204(8) and except as provided in subsection (2) of this section, a person who owns an incinerator that burns solid waste or a solid waste disposal facility that is licensed pursuant to 75-10-221 and to rules adopted under 75-10-221 shall pay to the department a quarterly fee of \$5 for each ton of solid waste generated outside Montana and incinerated or disposed of at the facility.

(2) A person who owns a solid waste disposal facility that is licensed pursuant to 75-10-221 and to rules adopted under 75-10-221 that receives less than 25,000 tons of solid waste annually shall pay the department a quarterly fee, determined by the department pursuant to 75-10-204(8), for each ton of solid waste generated outside Montana.

~~(2)~~ (3) All fees must be deposited in the solid waste management account provided for in 75-10-117."

{Internal References to 75-10-118:

x 75-10-104 (2) x 75-10-105 x 75-10-116 x 75-10-117

Renumber: subsequent sections

8. Page 3, line 21.

Following: "a"

Insert: "quarterly"

Following: "on the"

Insert: "justifiable"

9. Page 3, line 24 through page 4, line 1.

Following: "rules" on line 24

Strike: "i" through "(a)" on line 25.

Following: "by" on line 25

Strike: "October"

Insert: "August"

Following: "1993"

Strike: "i" on line 25 through "1995" on page 4, line 1.

10. Page 5.

Following: line 1

Insert:

"NEW SECTION. Section 5. {standard} Effective date. [Section 3] is effective upon passage and approval.

EXHIBIT 8
DATE 1-27-93
HB 64

January 23, 1993

TO: House Natural Resource Committee Members

FROM: EQC Staff

RE: HB 64 Bill Summary - As Amended

HB 64, with the amendments dated January 22, 1993, (document name hb006401.amk, copy attached) accomplishes the following:

1. Requires the department to establish justifiable fees on imported solid waste by August 1, 1993.
2. These fees apply to solid waste imported from out of state to all solid waste incinerators and all solid waste disposal facilities until July 1, 1995.¹
3. Effective July 1, 1995, all solid waste incinerators, and solid waste disposal facilities receiving 25,000 tons or more of solid waste annually, will be charged a \$5.00 per ton fee on imported solid waste.
4. Solid waste disposal facilities receiving less than 25,000 tons of solid waste annually will continue to be charged the fee established by the department on imported solid waste.

¹ Again, please note that under state law and department rule, incineration is not a method of disposal, it is a method of treatment.

**HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER**

Natural Resources COMMITTEE BILL NO. 192, 205

DATE 1/27/93 SPONSOR(S) REPS. FOSTER(192); DOLEZAL(205)

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Garth Jacobson	Sec of State 205		✓
DAVE BROWN	H.D. 72 205		✓
Norman Voldseth	Self 192	✓	
Jeff Daggett	Self 192	✓	
J. P. Hanna	WMA 192	✓	
Ken Houestal	Mt Snow mob. 205	✓	
George Schunk	Attorney General 205		
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Chuck Rein	Self HB 205		✓
GEORGE OCHENSKI	Self HB 205		

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

Doug Wagner Rep HD 8

constituents

HB 205

✓
SUPPORT